FACULTY OF LAW

NASARAWA STATE UNIVERSITY, KEFFI

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NSU/LAW/LLM/032/14/15

COMPARATIVE ANALYSIS OF CONTROL OF POLICE POWERS IN NIGERIA AND THE U.S.A

BEING A DISSERTATION SUBMITTED TO THE SCHOOL OF POST GRADUATE STUDIES,

FACULTY OF LAW,

NASARAWA STATE UNIVERSITY, KEFFI

IN PARTIAL FULFILMENT OF THE REQUIREMENT OF

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BY

ESSON SAMSON MADAKI

NSU/LAW/LLM/032/14/15

IN PARTIAL FULFILLMENT OF THE REQUIREMENTS FOR THE AWARD OF MASTER OF LAWS (LL.M)

FACULTY OF LAW

NASARAWA STATE UNIVERSITY, KEFFI

CERTIFICATION

I, ESSON SAMSON MADAKI, hereby certify that apart from references to other people's work which has been duly acknowledged, this work is the result of my own research and that this research has never in whole or in part been submitted for an award of another degree elsewhere.

.....

APPROVAL PAGE

This project has been read and approved as meeting the requirements of the Faculty of Law Nasarawa State University Keffi, for the award of Master of Laws LL.M Degree.

....

Dr. Abdulkarim Kana (Supervisor) Date

....

Dean, Faculty of Law Date

....

External Examiner Date

DEDICATION

To Mrs. Keziah Samson Madaki, my beloved mother.

ACKNOWLEDGMENT

First and foremost I would like to thank God, for giving me strength to undertake this project. Without His blessings this work would never have seen the light of day.

Among the countless people to whose contributions in various ways the birth of this work is attributable to, deserve mention:

A special gratitude to my supervisor, Dr. A. Kana for his patience and support in guiding me and providing constructive ideas that acted as guides throughout the project.

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TABLE OF CONTENTS

I. TITLE PAGE.....i
II. DECLARATION PAGE.....ii
III. APPROVAL PAGE.....iii
IV. DEDICATION.....iv
V. ACKNOWLEDGEMENT.....v
VI. TABLE OF CONTENTS.....vi-vii
VII. TABLE OF CASES.....viii
VIII. TABLE OF STATUTES/ENACTMENTS.....ix
IX. ABBREVIATIONS .....x-xi
X. ABSTRACT.....xii

CHAPTER ONE

1.0 INTRODUCTION.....1
1.1 BACKGROUND TO THE STUDY.....1-6
1.2 STATEMENT OF PROBLEM.....6-8
1.3 AIMS AND OBJECTIVES OF THE STUDY.....8
1.4 SCOPE OF STUDY.....8
1.5 LIMITATIONS OF THE STUDY.....9
1.6 SIGNIFICANCE OF THE STUDY.....9-10
1.7 RESEARCH METHODOLOGY.....10
1.8 LITERATURE REVIEW.....11-12
1.9 CHAPTER ANALYSIS.....12-13

CHAPTER TWO

2.0 THE NIGERIA POLICE FORCE.....14
2.1. OVERVIEW OF THE NIGERIA POLICE FORCE.....14-16
2.2. LEGAL FRAMEWORK OF THE POLICE IN NIGERIA.....16-18
2.3. STRUCTURE OF THE NIGERIA POLICE FORCE.....18-20
2.4. FUNCTIONS OF THE NIGERIA POLICE.....21-26
2.5. POWERS OF THE NIGERIA POLICE.....26
2.6 OTHER INSTITUTIONS IN NIGERIA WITH QUASI-POLICE POWERS.....27
2.6.1 ECONOMIC AND FINANCIAL CRIMES COMMISSION.....27-30
2.6.2 INDEPENDENT CORRUPT PRACTICES AND OTHER RELATED OFFENCES COMMISSION.....30-32
2.6.3 NATIONAL DRUGS LAW ENFORCEMENT AGENCY.....32-35
2.6.4 NIGERIA SECURITY AND CIVIL DEFENSE CORPS.....35-37

CHAPTER THREE

3.0 THE POLICE IN THE UNITED STATES OF AMERICA.....38
3.1 OVERVIEW OF THE POLICE IN THE U.S.A.....38-39

3.1.1 FUNCTIONS OF THE POLICE IN THE U.S.A.....39-40
3.2 THE FEDERAL POLICE.....40-42
3.2.1 THE US MARSHALS.....42-43
3.2.2 THE FEDERAL BUREAU OF INVESTIGATION.....43-44
3.2.3 THE DRUG ENFORCEMENT AGENCY.....44-46
3.3 THE STATE POLICE.....46-47
3.4 THE COUNTY POLICE.....47-48
3.5 THE SHERRIFS.....48-49
3.6 OTHER INSTITUTIONS WITH QUASI-POLICE POWERS IN THE U.S.A.....49
3.6.1 THE SECRET SERVICE.....49
3.6.2 TRANSPORT SECURITY AGENCY.....49-50
3.6.3 BUREAU FOR ALCOHOL, TOBACCO AND FIREARMS.....50
3.6.4 THE U.S COAST GUARD.....51

CHAPTER FOUR

4.0 COMPARISON OF CONTROL OF POLICE POWERS IN NIGERIA AND THE U.S.A.....52
4.1 CONTROL OF POLICE POWERS IN NIGERIA 52-53
4.1.1 SEPARATION OF POWERS.....53-54
4.1.2 TERRITORIAL CONTROL.....54-55
4.1.3 FUNDING.....55-56
4.1.4 PROSECUTION OF OFFENCES.....56
4.2 CONTROL OF POLICE IN THE UNITED STATES OF AMERICA...57
4.2.1 CONTROL OF POLICE POWERS IN THE USA.....57-58
4.2.2 SEPARATION OF POWERS.....58-60
4.2.3 TERRITORIAL CONTROL.....60
4.2.4 FUNDING.....60-61
4.2.5PROSECUTION OF OFFENCES.....61-62
4.3 SIMILARITIES.....62
4.4 DIFFERENCES.....62-63
4.5 CASES OF ABUSE OF POWERS: AN OVERVIEW.....64-67
4.6 ENFORCEMENT OF JUDGMENT AGAINST THE POLICE: A COMPARATIVE APPRAISAL.....67-69

CHAPTER FIVE

5.0 CONCLUSION.....70
5.1 SUMMARY OF FINDINGS.....70-71
5.2 OBSERVATIONS.....71-73
5.3 RECOMMENDATIONS.....73-74
5.4 CONTRIBUTION TO KNOWLEDGE.....75
5.5 CONCLUSION.....75-76
BIBLIOGRAPHY.....77-82

TABLE OF CASES

MARSHALL V KANSAS CITY 355 S.W.2D 877, 883

MIRANDA V ARIZONA (1966) 384 U.S 436

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TABLE OF STATUTES

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The Police Act, Cap. P19, LFN 2004.

The Economic and Financial Crimes Commission Act, 2004.

The Corrupt Practices and Other Related Offences Act, 2000.

Nigeria Security and Civil Defence Corps Act, 2007.

TABLE OF ABBREVIATIONS

ACP	-	Assistant Commissioner of Police
AIG	-	Assistant Inspector-General of Police
BATF	-	Bureau of Alcohol, Tobacco and Firearms
BOP	-	Bureau of Prisons
CP	-	Commissioner of Police
CPA	-	Criminal Procedure Act
CSR	-	Corporate Social Responsibility
DEA	-	Drug Enforcement Agency
DHS	-	Department of Homeland Security
DOJ	-	Department of Justice
DIG	-	Deputy Inspector-General
DPO	-	Divisional Police Officer
Ed.	-	Editor
Edn.	-	Edition
EFCC	-	Economic and Financial Crimes Commission
FBI	-	Federal Bureau of Investigation
FCT	-	Federal Capital Territory
FATF	-	Financial Action Task Force
ICPCI Commission	-	Independent Corrupt Practices and Other Related Offences
IGP	-	Inspector General of Police

LFN	-	Laws of the Federal Republic of Nigeria
NDLEA	-	National Drugs Law Enforcement Agency
NIPOST	-	Nigeria Postal Service
NSCDC	-	Nigeria Security and Civil Defence Corps
OPC	-	O'dua People's Congress
TSA	-	Transport Security Agency
U.S.A	-	United States of America
U.S.C.	-	United States Code

Abstract

This thesis examines, in comparative terms, Nigerian and American laws relating to the control of the powers of the police in the exercise of their mandate. A delineation of the concept police and Policing is made in order to distinguish between the two seemingly identical but often confused terms. The key functions and powers are comparatively discussed, with highlights of the similarities and differences under both Nigerian and American laws. A comparative appraisal of Nigerian and American laws reveals certain areas of convergence and other areas of uniqueness. This work demonstrates that the duties and powers of the police available in the two jurisdictions are very similar in nature and, in most cases, known by the same names. There are some differences bordering on, among other things, territorial control, funding and prosecutorial powers in both countries. For instance, while under Nigerian law the police are entirely controlled by the Federal Government; American laws permit the ownership and control of police by the different levels of government and in some cases, public institutions. The study also finds that the decentralization of control of police powers in the U.S.A allows for better efficiency and the absence of the rather cumbersome, slow and inefficient system that obtains in Nigeria. The thesis observes that some legal provisions on the control of police in Nigeria have negatively affected the efficiency and effectiveness of the police for example, section 214(3) of the 1999 Constitution of Nigeria just to mention a few. Consequently, the thesis recommends amongst other things the amendment of Section 214(3) of the Constitution to effect that a Governor of a State being the Chief Security Officer can give lawful directives to commissioner of police. This thesis also advocates a reconsideration of the over-centralisation of the control of the Nigerian Police at the centre and recommends the sharing of control amongst the three tiers of government in Nigeria. It is further suggested that an amendment of the Constitution of the Federal Republic of Nigeria be done and States and Local Governments be allowed to have their own police, so as to enable them have wider and better control over safety of lives and properties within their territories.

CHAPTER ONE

1.0 INTRODUCTION

1.1 BACKGROUND OF THE STUDY

In the governance of any polity as a defined structure, the role of the constitution as the legal framework within which policies and laws are fashioned is sacrosanct. It is the document that is often said to be the reference point especially in a democracy as it sets out the parameters for ensuring good governance through the rule of law.

Every sovereign nation has as part of its core responsibilities, the preservation of law and order, the protection of lives and properties and the enforcement of laws and regulations. Without this, society will be inhabitable, chaotic and without order. Nigeria and the United States of America (U.S.A), both operating Federal Systems of government, are no exception to this continuing aspiration.

In the pursuit of a society governed by rule of law and devoid of chaos, the Nigerian and U.S.A constitutions have provided for the creation of the police force or policing agencies to help preserve law and order, protect lives and properties and enforce existing laws.[1]

The police universally are primarily responsible for the maintenance of public order, detection and prevention of crimes, the protection of the lives, properties and the liberty of people. As society grows and becomes more complex, the need for effective and efficient police forces around the world also increases. In achieving this, the role of the state in controlling and directing the affairs of police becomes more tasking. The constitution of the different countries of the world also plays a vital role in accomplishing this.

Police refers to a socio-political and quasi-legal institution state agency charged primarily with the enforcement of criminal law and the maintenance of order. Police in this sense carry out the

[1] S. 214 (1) of the Constitution of the Federal Republic of Nigeria (CFRN), 1999.

functions of law enforcement, maintenance of order and gathering of information. Thus, the police are the major representatives of the legal system in their transactions with citizens.

Police power in Constitutional Law refers to the rights and capacity of component units of a Sovereign State to regulate behaviour and enforce order within their territory for the general good of their citizens.

Policing involves coercive and/or ideological regimentation of social life through the activities of police and sundry state intelligence and security forces, and through other measures aimed at deducting and suppressing behaviours, actions, and orientations that threatens the prevailing social order.[2] Policing involves conflict resolution. Analytically, policing refers to measures and actions taken by a variety of institutions and groups (both formal and informal) in society to regulate social relations and practices in order to secure the safety of members of community as well as conformity to the norms and values of society. It is, therefore, a sub-set of control processes which involves "the creation of systems of surveillance coupled with the threat of sanctions for discovered deviance, either immediately or in terms of the initiation of penal process or both".[3]

The term police powers triggers varying connotation in different legal cultures. In the context of indirect expropriation, it stems from a principle of U.S constitutional law.[4] The black's law dictionary offers a concise explanation of this doctrine as "the inherent and plenary power of a sovereign to make all laws necessary and proper to preserve public security, order, health,

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[2] Alemika, E. O. (1995). Criminology and the Philosophy of Policing, in Tamuno, T.N. et al (Eds.). Policing in Nigeria: Past, Present and Future. Lagos: Malthouse.

[3] Reiner, R. (2000). The Politics of the Police. Oxford University Press.

[4] Gebhard Bucheler, Proportionality in Investor-State Arbitration (2015) Oxford University Press, at 128 accessed at https://books.google.com.ng>books on 8/2/16

morality and justice. It is a fundamental power essential to government, and it cannot be surrendered by the legislature or irrevocably transferred away from government.[5]

It is an authority conferred by the American Constitutional system in the Tenth Amendment, upon the individual states, and, in turn, delegated to local governments, through which they are enabled to establish a special department of police; adopt such laws and regulations as tend to prevent crime, and secure generally, the comfort, safety, morals, health and prosperity of the citizenry by preserving the public order, preventing a conflict of rights in the common intercourse of the citizens, and insuring to each other an uninterrupted enjoyment of all the privileges conferred upon him or her by the general laws.[6]

It is also viewed as the power of the State to place restraints on the personal freedom and property rights of persons for the protection of the public safety, health and morals or the promotion of public convenience and general prosperity. The police power is subject to the limitations of the federal and State constitutions, and especially to the requirement of due process. Police power is the exercise of the sovereign right of a government to promote order, safety, security, health, morals and general welfare within constitutional limits and is an essential attribute of government.[7]

Federalism is an arrangement whereby powers within a multi-national country are shared between a federal or central authority, and a number of regionalized governments in such a way that each unit including the central authority exists as a government separately and independently from the others, operating directly on persons and property within its territorial area, with a will of its own and its own apparatus for the conduct of affairs and with an authority in some matters

[5] Bryan A. Garner, Black's Law Dictionary, Pocket Edition(2006), at 544
[6] Bryan [illegible]ck's Law Dictionary, Sixth Edition (1990) p.1156
[illegible] W.2d 877, 883

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[5] Bryan A. Garner, Black's Law Dictionary, Pocket Edition(2006), at 544
[6] Bryan A. Garner, Black's Law Dictionary, Sixth Edition (1990) p.1156
[7] Marshall v Kansas City 355 S.W.2d 877, 883

exclusive of all others. In a federation, each government enjoys autonomy, a separate existence and independence of the control of any other government. Each government exists, not as an appendage of another government (e.g. of the federal or central government) but as an autonomous entity in the sense of being able to exercise its own will on the conduct of its affairs free from direction by any government. Thus, the Central government on the one hand and the State governments on the other hand are autonomous in their respective spheres.[8]

Federalism is a constitutional arrangement which divides the lawmaking powers and functions between two levels of government in such a way that each within its respective spheres of jurisdiction and competence, is independent and coordinate.[9]

A Federal State has been defined as one where there is "explicit and constitutional demarcation of powers and functions among national and sub-national units. Moreover, the powers and responsibilities are distributed in such a manner as to protect the existence of authority of both levels of polity each of which is independent within its own sphere... Federalism refers to the doctrine which advocates and promotes the form of organization of a state in which power is dispersed or decentralized by contract as a means of safeguarding local identities and individual liberties".[10]

The debate on the question of control of police powers in Nigeria has never been this loud. This has manifested itself mostly in the form of the agitation for the creation of state and local police. This debate has been taking place against the background of a rapidly changing atmosphere of general insecurity and violence that has enveloped the land.

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[8] B.O. Nwabueze, Federalism in Nigeria Under the Presidential Constitution Sweet & Maxwell, 1983, p. 1

[9] K.C. Wheare, Federal Government, 4th Ed., Oxford, 1963, Pg.10

[10] Babalawe, T. (1998). "The Impact of the Military on Nigerian Federalism" Re-inventing Federalism in Nigeria: Issues and Perspectives. Kunle Amuwo and Tunde Babalawe (eds.) Ibadan: Spectrum Books

The debate as to what appropriate control structure to adopt for policing the Federation of Nigeria, that is whether to establish or not establish separate state police forces operating side by side of the currently centralized Nigerian Police Force, why, and to what consequences, is not new but goes back considerably in time, and even before Nigeria became independent. For example, just before the 1958 London Constitutional Conference, it had been among the knotty constitutional questions that the nationalist leaders had debated. The question about the creation of state police was to resurface by the beginning of '80's, stimulated this time by the uses to which centralized police powers inherited from the previous military regime came to be put by the Federal authorities under the Shehu Shagari civilian presidency (1979-83).

There have been arguments canvassed regarding the desirability or otherwise of State policing in Nigeria. The arguments marshaled in support of the decentralization of control of police powers and those against can be briefly summarized thus: That Nigeria needs, and should have, Federal Police, State Police, and Local Police, not just for the purpose of mirroring the structure and processes of policy-making and policy implementation at the three tiers of government Federal, State, and Local, and ensuring their smooth and harmonious running, as a limited and shared system of rule established by and recognized under the Nigerian Constitution. But the territorial expanse of the country, size and heterogeneity of its population, and complexity of customs and traditions of the various component groups, which have been among the major factors and forces initially propelling the evolution of federalism here, also necessitate the need for this decentralized structure of police organization. Besides bringing policing functions closer to the local areas and communities where such functions are needed, a decentralized system of police powers along the lines suggested has the additional advantage of making areas and communities so involved in the business of providing security and welfare for citizens stakeholders and

partners in policing, and creating a more community-friendly environment for policing. Above all, a considerably decentralized system of policing has the potential of producing better and more positive results, by delivering cheaper, more effective, and more efficient service, than has been the case under the currently centralized police organization.

Some of the arguments put forth against the divesting of control of police powers are that owing to Nigeria's history and the oppressive uses to which were put the previous regional combined with provincial and local police forces in some of the regions that had them under the Balewa era, plus the many years of military rule and their centralizing impact on policing functions, make a return to the past near impossible and even undesirable. Besides, at this conjuncture of things in the country's development, and against the background of rising ethnic, religious, and communal tensions and conflicts, including extremely violent and bloody ones, the idea of creating state police is unwise and ill-advised. Already, the Security agencies have had problem coping with the plethora of armed ethnic militias dotting the country's civil-military landscape, such as the O'Dua People's Congress (OPC) in the South-West, the Bakassi Boys in the South East, the Egbesu Boys and the Militants in the South-South and the Ombo'atse in the North Central among others. Central to the argument against the decentralization of the Nigerian Police is the likelihood of sectionalisation of policing functions, that the establishment of State and Local police forces portends, which may encourage further fragmentation of the body politic, with the danger of this leading to balkanization and even disintegration.

1.2 STATEMENT OF THE PROBLEM

This research work is a comparative legal research on American and Nigerian laws on control of police powers. The two jurisdictions share certain features in common. First, the legal systems of

both countries have a common origin in the English common law system. Secondly, both jurisdictions operate the federal system of government, have large population and territory.

The purpose of this research is to let the insights from theory and the facts from Comparative analysis with the American experience to speak on the issue and allow for an adoption of measures that best suit our nation. Some of issues that will be advocated are that "decentralized police powers are more compatible with the essence of federalism"; "that bringing policing functions closer to local areas and communities has the advantage of making areas, that are involved in the business of providing security and welfare, stakeholders and partners in policing; "that involvement of local areas and communities creates a more community-friendly environment for policing"; "that a considerably decentralized system of policing has the advantage of producing better and more positive results, by delivering cheaper, more effective, and more efficient service, than has been the case under the currently centralized police organization"?. The questions this research sets out to ask and for which attempts are to be made to provide answers to in the course of the analysis to include the following:

1. What is the essence of control of police powers in a federal state?
2. What is the appropriate form of policing in a federal system?
3. Why and how is the control mechanism for policing in Nigeria different from the U.S.A?
4. What is Nigeria's own experience in the area?
5. Why and how do we say that the requirements for military organization in federal society cannot be the same as those for policing in federal society?
6. What are some of the consequences of using an over-centralized police for the maintenance of order, safety and welfare of citizens in a federal system?

7. How do the comparative experiences from and insights into the organization and operations of systems of police powers under federalism in the U.S.A help in answering some of these questions.

1.3 AIMS AND OBJECTIVES OF THE STUDY

The aims of this study is to compare the control of police powers in Nigeria and the U.S.A, and in the final analysis decipher how such comparison stands to benefit the Nigerian Police. The objectives of the study are:

1. To identify and examine the nature and scope of controlling police powers in Nigeria and the U.S.A.
2. To evaluate the effectiveness of such control in both jurisdictions.
3. To analyse the similarities and differences in the control of police in Nigeria and the U.S.A.
4. To make useful recommendations from the comparison.

1.4 SCOPE OF THE RESEARCH

This research is limited to the control of Police and the U.S.A and how it affects the functioning of the police in both countries. It will also look into the structure, functions and powers of the police in both jurisdictions. Each system and its style of control of police will be discussed separately and the different levels of policing will be brought to the fore. A comparison of both the Nigerian police system and the American system will also be made. The thesis is not aimed at discussing the intricacies of the police as an institution but its focus shall strictly be on control of police powers.

1.5 LIMITATIONS OF THE STUDY

The U.S.A operates a federal system of government which comprises fifty states and a capital in Washington D.C. The various state governments in the U.S.A have their independent parliaments with powers to enact laws, including statutes relating to the control of police powers within their territorial jurisdictions. Nigeria also operates a federal system of government comprising thirty six (36) states and the Federal Capital Territory, Abuja. Although the legislatures of these component states of the U.S.A have powers to make laws applicable within their state territories, there are certain legislative subjects over which only the federal legislature in Nigeria is empowered by the constitution to legislate.[11] One of such is the right and ownership of police. Unlike in the U.S.A, there are only two statutes in Nigeria on control of police with nationwide application – The Constitution and the Police Act. Given the limited time and space available for this research work, it is impossible to compare the legislations on control of police powers at the federal, respective states, and counties in the U.S.A with that of Nigeria which is a less complex system.

1.6 SIGNIFICANCE OF THE STUDY

The significance of this research cannot be over emphasized, as it dwells on the control of the police in Nigeria and the U.S.A. The primary responsibility of government is to protect its citizens and their properties

This research will highlight the laws in Nigeria that relates to control of police powers. The study will expose the reader to the laws and policies put in place for the development of the police as a security apparatus, the current policy in force and what it entails.

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[11] Part A, Schedule II to the *Constitution of the Federal Republic of Nigeria*, 1999.

Furthermore, the research will mostly benefit researchers, law practitioners and other active stakeholders interested in policing and police reforms. They will be informed on the laws and policies that apply to this relevant aspect of our national life and in what ways the laws and policies are put in place can ensure the enhancement of policing in the federation.

This study shall also assist the Nigerian legislature in areas of amending or enacting new laws. It shall serve as a guide into the knowledge of existing laws and areas that needs to be amended, changed or where supplemental laws need to be enacted.

1.7 METHODOLOGY

The research methodology adopted in this work is the doctrinal or library based method based on primary and secondary sources of materials. The primary source will include the 1999 Constitution of the Federal Republic of Nigeria[12], the Police Act and the Constitution of the U.S.A. A lot of secondary sources including text books, journals, articles, policy papers, the internet and relevant Law Reports on the subject matter and issues to be addressed in the course of completing the thesis.

There is also the use of comparative methodology. Comparative methodology is a research methodology that aims to make comparisons across different countries or cultures. In other words, it is the act of comparing two or more different cultures with a view to discovering something about one or all of the things being compared.[13] However, this thesis only indulges in micro-comparison which is the comparison of particular object within each system (control of police powers) rather than comparing two legal systems.

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[12] As amended 2011.

[13] Geoffrey Samuel, "Comparative Law and its Methodologies" in Research Methods in Law, Dawn Watkins and Mandy Burton ed (New York: Routledge, 2013) at 103.

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1.8 LITERATURE REVIEW

This work examines an institution of great historical and political interest and significance. Together with the judiciary, civil services and the military, the police constitute one of the key institutions of a modern state. In particular, the origins, development and role of the police have not only prevented, detected and prevented crime, they have also maintained law and order, preserved public safety and generally buttressed the existing governments, which were at first British and later Nigerian.

Okonkwo, C.O, in his book: 'The Police and the Public in Nigeria'[14] raised invaluable issues of the role of police in the prevention, detection and enforcement of crime. Though he addressed the Nigerian Police in detail, with focus on the operations and public perception, he did not make a comparison of the control of police powers in Nigeria and the U.S.A.

Ibiziako, S.M. also in his book: 'Police Powers in Nigeria' [15]addressed the scope of the powers of the police in the prevention and detection of crimes; an enhancement to the identification and appreciation of the powers of the police, but only relevant to a large extent in four decades, as there is little relevance to the present police institution in Nigeria. George F. C and Christopher E. S[16] wrote on the American Criminal Justice System in details and did some comparison but mostly with western countries only. Batten, Ed. Donna[17] extensively dealt with the various levels of policing in the U.S.A but did not contemplate a comparison with the Nigerian system. Alemika. E.O and Chukwuma, I.C[18] extensively dealt with the Police and policing in Nigeria and

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[14] Okonkwo, C.O., *The Police and the Public in Nigeria* (Sweet and Maxwell, Publication, London, 1966),p.18.
[15] Ibiziako, S.M., *Police Powers in Nigeria*, (Ph.D Thesis, University of London, 1963).
[16] The American System of Criminal Justice, by George F. Cole and Christopher E. Smith, 2004, 10th edition, Wadsworth/Thomson Learning law enforcement in the U.S.A
[17] Batten, Ed. Donna (2010). "Community-Oriented Policing." Gale Encyclopedia of American Law. (3 edition). Detroit. Policing in the usa
[18] Etannibi E.O. Alemika And Innocent C. Chukwuma Analysis of Police and Policing in Nigeria: A Desk Study On The Role Of Policing As A Barrier To Change Or Driver Of Change In Nigeria, Prepared For The Department for International Development (Dfid)at The Cleen Foundation, Lagos.

the role of police in driving change but did not compare it with any other system. Alemika E. E.[19] also thrashed the issue of policing in Nigeria but focused mainly on public perception of the Police in Nigeria. Ahire, P. T.[20] also discussed the Nigerian police but in a historical sense, dealing specifically with the Native Authority police in Northern Nigeria. Ehindero, S. G.[21] worked on the organization and command structure of the Nigeria Police but did not do a comparison. Adekanye, J. B. elaborately dealt with police powers in Nigeria and compared it with the U.S.A but scantily.[22]

The internet was also consulted where the researcher got very useful information and update of the role of the police in the twenty first century. Olusola, K. O, and Adebukola, F did a comparative analysis of police accountability in Nigeria and the U.S.A but did not mention control of police powers.[23]

1.9 ORGANISATIONAL LAYOUT

Chapter one deals with the general introductions. It consists of introduction, statement of the problems, aims and objectives, justification, scope of the study, methodology, literature review and organizational layout.

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[19] Alemika E. E. (1988) "Policing and Perceptions of Police in Nigeria" Police Studies 11(4): 161-176.
[20] Ahire, P. T. (1993) "Native Authority Police in Northern Nigeria : End of an Era." in T. N. Tamuno et al. eds. Policing Nigeria.
[21] Ehindero, S. G. (1993) "The Organization and Command Structure of the Nigeria Police Force" in T. N. Tamuno, et al eds. Policing Nigeria.
[22] Adekanye, J. B. (2011) Police Powers and Federal Systems: The Nigerian Case in Comparative Perspective Delivered as the Fourth Matriculation Lecture, Achievers University, Owo, Ondo State, Nigeria, Thursday, February 10,
[23] Olusola, K. O, and Adebukola, F (2012) A Comparative Analysis of Police Accountability in Nigeria and United States in International Journal of Humanities and Social Science Vol. 2 No. 11

Chapter two deals with the Nigeria Police; its history and development of the police force, organization of the police force, the objectives of the establishment of the police force, the statutory powers, duties and functions of the police.

Chapter three focuses on the police in the United States of America, the powers, functions and levels of policing in the U.S.A. It also discusses the relevant policing agencies at the federal level in the U.S.A under the Department of Justice and Department for Homeland Security.

Chapter four is dedicated to a comparative analysis of the Police in Nigeria and the U.S.A. Focus will be on the nature of control,

Chapter five concludes the research by way of observations, findings, recommendations and relevance of the thesis to the body of law.

CHAPTER TWO

2.0 THE NIGERIA POLICE FORCE

2.1 OVERVIEW OF THE NIGERIA POLICE FORCE

Nigeria police began with a thirty-member consular guard formed in Lagos Colony in 1861.[24] In 1879 a 1,200 member armed parliamentary Hausa constabulary was formed.[25] In 1896, the Lagos Police was established.[26] A similar force for the Niger Coast constabulary was formed in Calabar in 1894 under the newly proclaimed Niger Coast Protectorate[27] in the North, the Royal Niger Company set up the Royal Niger Constabulary in 1888 with headquarters in Lokoja.[28] The Police is a unit of armed forces established for the maintenance of law and order. It is a branch or department of government which is charged with preservation of public order and tranquility, enforcement of laws, the promotion of public health, safety and morals; the prevention, detection and prosecution of offenders.[29] The Nigeria Police, which is charged with these enormous responsibilities in the geo-political entity called "Nigeria", has been under intense public criticism in the last three decades over its apparent inability to effectively prevent and control crime.[30] In the words of Dambazau:

> *"So many factors have been attributed to this failed situation. Firstly, there is the issue of lack of professionalism, generally attributed to recruitment policy, which has effect on the quality of manpower; the problem of poor training and general*

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[24] www.nigeriapolice.com. Accessed on 19/7/11, 3:02pm.
[25] Ibid
[26] Ibid
[27] Ibid
[28] Ibid
[29] Black's Law Dictionary, (5th ed.), Minnesota: West Publishing Co., 1979, p.1041.
[30] Dambazau, A.B., *Criminology and Criminal Justice*, (Spectrum Books Limited, Ibadan, Nigeria 2007), p.221.

atmosphere of indiscipline. Secondly, corruption in the Nigeria Police is said to be endemic, and has eaten deep into the very fabric of the system"[31]

Okereke observed that many Nigerians see the policeman as a "lazy, corrupt, inefficient, bribe-taking, money-extorting officer".[32] Whatever the perceived inadequacies in the police system are, the Nigeria Police Force still remains the biggest, most viable and important sub-sector of the criminal justice system. The police present the entry point into the criminal justice system either through reports from the public or its own discovery.[33] The average citizen has contact with the police more than with any other organ or agency for administration of criminal justice. The history of the present Nigeria police dates back to 1881. Before this period, there were some features of police organization amongst every tribal community in Nigeria.[34] Traditional rulers, therefore, had able-bodied men attached to them with the aim of guarding them, and in some instances assist in arresting wrong doers. This practice was common amongst the majority of tribes inhibiting the geographical areas now known as Nigeria.[35] It has also been shown that, the traditional law enforcement institutions that were in place in most communities during the pre-colonial time or period discharged their responsibilities creditably in ensuring the existence of a lawful and orderly society.[36]

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[31] Ibid
[32] Okereke O.G., "*Public Attitude towards the Police Force in Nigeria*" Police Studies Vol. 16, Bo. 3, 1993, pp.113-121.
[33] Dambazau, A.B., op. cit. 2, p. 178.
[34] In Hausa States of Northern Nigeria, there were "dogarai" as the police and their leader, the "sarkin dogarai" i.e. the commander of the police the dogaris perform all the functions of the modern police.
[35] www.org/nigeriapolice Accessed on 3/7/11, 10:00am
[36] www.cleen.org/policing Accessed on 5/7/11, 12:00pm

As stated earlier, the modern and unified Nigeria Police started in 1861. It started as a consular guard of thirty men in Lagos, in 1963, the guard became known as the "Hausa Police".[37] The force was later reorganized in 1879 by an Ordinance creating the constabulary of Lagos[38] In 1894, the Niger constabulary was formed in Calabar.[39] The Royal Niger Company formed another constabulary in 1888; landmark development in the history of Nigeria police came in 1930, when the Northern and Southern Police were merged to form the Nigeria Police Force with Lagos as the force Headquarters.[40] Upon attainment of independence in 1960, the independent Nigeria re-organized the Nigeria police force as a Federal Force under the 1960 Constitution. The Constitution also set up two bodies, the Police Council and the Police Service Commission.[41] The Constitution of Nigeria 1963, 1979 and 1999 also empowers the Nigeria Police to operate as a single Federal Force.[42]

2.2 THE LEGAL FRAMEWORK OF THE POLICE IN NIGERIA

The Nigeria Police Force is designated by the Constitution of the Federal Republic of Nigeria as the National Police of Nigeria with exclusive jurisdiction throughout the country.[43] Constitutional provisions also exist, however, for the establishment of separate Nigeria Police Force branches forming part of the armed forces of the federation or for the protection of harbours, waterways, railways and airfields. One of such branch was the Port Security Police.

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[37] Adebayo, W., "*Nigeria Police: Structure and Functions*" in T.F. Yerima and B. Abeghunde (eds). *Essays on Administrative Law in Nigeria,* Ado-Ekiti: (Peteo Educational Publishers, 2006), P.251.
[38] Ibid
[39] Dambazau, A.B., op. cit. p.227.
[40] Ibid., p. 228.
[41] Adebayo W., op. cit. pp.251-252.
[42] For instance Section 214 Constitution of the Federal Republic of Nigeria 1999, which provides that, there shall be a police for Nigeria ... and no other police force shall be established for the federation or any part thereof.
[43] Section 194 of the 1999 Constitution of the Federal Republic of Nigeria as amended.

The growth of the country was accompanied with the development of her police force. As already stated, by 1906, the Southern and Northern Protectorates of the force were merged together. That means by 1914 which was the year of amalgamation of the country, the police had already grown towards a central system of control. In April 1930, when the Nigeria Police Force was established, the government had encouraged the development of separate police forces in the colony and protectorates under its administrative control. Local conditions and the requirements of the separate administrations dictated the pace of police developments and the nature of their functions in these territories. Being that there must be a "Police System/Force" to keep the administration going, in consonance with this principle, the colonial master of Nigeria, the British Government introduced in this country a system of police force as already stated in 1943 however, the Police Ordinance[44] was promulgated and came into force on April 1 of that year.

It was an Ordinance which made provision for the organisation, discipline, powers and duties of the police. Section 3 of the Ordinance is to the effect that the Force was to be known as the Nigeria Police Force, Section 4 also provides that the Police shall be employed for the preservation of Law and order, the protection of life and property and the due enforcement of all laws and regulations with which they are directly changed. With the centralization of the Nigeria Police Force, its command flow followed the same pattern. The Force consisted of an Inspector General who is in-charge and such other officers of such ranks as may from time to time be approved by the government according to Section 5 of the Nigeria Police Ordinance. By the new formation a single force was intended, for the country, nonetheless, there were in both the defunct Western and Northern regions several Local Authority and Native Authority forces. For instance the Federal Territory of Lagos[45] was policed only by the Nigeria Police Force, the

[44] Now Chapter 154 of the Laws of the Federation of Nigeria, 2004 and Lagos 1958.
[45] Section 105(5), (6) of the 1963 Constitution, though powers conferred not exercised.

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Eastern Region of that time, had neither local nor native authority police though the 1963 Constitution in its section 104(7) permitted the legislature of a region to make provision for the maintenance by any authority or local government authority established for a province or any part of a province a Police Force for employment within the province. Though the provision appear clearly to preclude a Regional Government from organizing a Police Force, on a regional basis, in **OLAJIRE V. SUPERINTENDENT-GENERAL OF LOCAL GOVERNMENT POLICE FORCE,**[46] it was held that it did not prevent the creation by a Western Region law a superintendent-General of Local Government Police who had General supervisory functions over local forces.

Apart from these few exceptions, section 105(4) of the constitution[47] expressly forbade the establishment for Nigeria or any part thereof of any Police Force other than the Nigeria Police Force. In line with this provision of the 1963 Constitution, the 1979 Constitution[48] in section 194(1) established for the whole country a single police force, "the Nigeria Police Force, and specifically prohibited the establishment of any other Police Force in the Federation. To ensure efficiency and effectiveness of the Police Force, there are in place the vision and mission statements and strategies of the Force.

2.3 STRUCTURE OF THE NIGERIAN POLICE

Adebayo rightly observed that the structure of the Police is fashioned along the federal system in such a way that the unit of command at the federal, state and local level is placed under a police officer in order of seniority. The Inspector General (IGP) being the Head at the Federal level, the Commissioner of Police (CP) at the State level and the Divisional Police Officer (DPO) at the

[46] (1961) ALL NLR 826.
[47] 1963 Constitution.
[48] 1979 Constitution on the Establishment of a single Police Force for the Federation of Nigeria.

Local level.[49] The Constitution provides that the Nigeria Police Force shall be organized and administered in accordance with such provisions as may be prescribed by the Act of the National Assembly in the exercise of the powers vested on it by the Constitution as aforementioned the National Assembly enacted the Police Act.[50] The Police Act clearly provides for the command structure of the force. This is to clearly identify flow of command and channel of discipline in the force. The Police Act creates the office of the Inspector General and that of a number of Deputy Inspector Generals and Assistant Inspectors General as the Police Council may deem necessary.[51] The Police Act also vests the Inspector General with enormous powers over the command of the entire Nigeria Police Force.[52]For administrative convenience, the Nigeria Police Command structure is divided into three categories, as shown and illustrated below:

a. The Command structure at the Force Headquarters

b. The structure at the Zonal Command; and

c. The Structure at the State Command.

A.

ORGANISATION OF FORCE HEADQUARTERS

As stated earlier, at the helm of affairs is the Inspector General of Police who is appointed by the President. Below the Inspector General of Police (IGP) are six specialized offices of the Deputy Inspectors-General (DIG) in charge of different specialized departments. DIG "A" Department is in charge of Finance and Administration of the Force. DIG "B" Department is in charge of operations. DIG "C" Department is in charge of Logistics and supply. DIG "D" Department is in charge of investigation and intelligence. DIG "F" Department is in charge of research and

[49] Adebayo W, op. cit. pp.152-153.
[50] Section 3, Police Act, L.F.N. 2004 which provides that, there shall be established for the Nigeria Police Force, the Nigeria Police Act.
[51] Section 5 Police Act Ibid.
[52] Section 6 Police Act Ibid.

planning, and an AIG is the Force Secretary who is directly under the office of the IGP vested with the responsibility of attending to matters relating to appointment, promotion, discipline and posting of officers. From the organisation at the Force Headquarters, the Force is further organized into twelve zones with each zone comprising of two to four State Commands under the leadership of AIG who is answerable directly to the IGP.

B.

ORGANISATION OF ZONAL COMMANDS

There are 12 zones of the Nigeria Police Force in the country, each comprising of at least 3 states and is headed by an Assistant Inspector-General of Police. The Zonal Command is a supervisory formation. The AIG in-charge of each zone coordinates and supervises the activities of the respective state commands headed by a Commissioner of Police under his jurisdiction.

C.

ORGANISATION OF STATE COMMANDS

In all the thirty-six states of the federation and the Federal Capital, the Command structure of the force is headed by a Commissioner of Police (CP); followed by a deputy Commission of police who assists the CP in the day to day administration of the command. Like the organisation at the Force Headquarters, the State Command has five Assistant Commissioner of Police (ACP), heading specialized departments of the force and Assistant Commissioner of Police in charge of Area Commands. AC 'A' Department is in charge of finance and administration; 'B' department in charge of operations, 'C' department in charge of logistics and supply, 'D' department in charge of investigation and intelligence and 'F' department in charge of research and planning with other AIGs in charge of Area Commands.

2.4 FUNCTIONS OF THE NIGERIAN POLICE FORCE

The Constitution of the Federal Republic of Nigeria provides that "the members of the Nigeria Police Force shall have such powers and duties as may be conferred upon them by law"[53] that such powers and duties "may be prescribed by an Act of the National Assembly".[54] Now in the furtherance of the above stipulation the Police Act (which is now an Act of the National Assembly) Cap 359 laws of the Federation of Nigeria provides in section 4 part 11 as follows: that the primary function of the police is the prevention and detection of crimes, the apprehension of offenders, the preservation of

law and order, the protection of life and property and the due enforcement of all laws and regulations with which they are directly charged and shall perform such other military duties within or without Nigeria as may be required of them under the authority of this or any other Act. An authoritative conclusion can be deduced from the provision above, that the prime functions of the police are the protection of lives, and property as well as the preservation of law, peace and order in and outside Nigeria.

The functions of the police were first outlined statutorily in the Police Act of 1967. However, corresponding adjustments have been made in the currently amended Act to stipulate police functions as follows:[55]

A. The prevention and detection of crime;

B. The protection of lives and property;

C. The preservation of law and order;

D. The due enforcement of law regulations;

E. Apprehension of offender; and

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[53] Section 214(1)(b) of the 1999 Constitution of the Federal Republic of Nigeria (as amended)
[54] Section 214(2)(A) Ibid.
[55] Section 4 of the Police Act of 1976 Cap 3259 LFN.

F. The performance of such other military duties within and without Nigeria as may be required of them by or under the authority of any other Act.

Now the relationship between the police and the society as well the system (that is, the law and the constitution) which are parties in this big social contract shall be clearly understood in a sequential elucidation of their functions as stipulated above.

A. THE PREVENTION AND DETECTION OF CRIMES [56]

Statutorily speaking, it is conclusive that most of our law enforcement laws tend to give priority to the prevention and detection of crime, this is because of the dire importance attached to "nipping a crime in the bud" rather than expending tireless efforts (usually in futility) investigating the crime afterwards. Furthermore "deterrence" mechanisms have proven more effective in the maintenance of law and order in highly civilized societies. It is rather unfortunate that societal development in knowledge and technology is often greeted with a corresponding advancement in the pattern and mechanisms for perpetrating crimes. Consequently, insecurity of lives and property in a developing nation like Nigeria is always on a steady increase, hence the need for the police to be alert by taking several steps towards evolving policies, strategies and the technological know-how for suppressing the environment, as well as the possibilities of criminal intentions before they are outwardly manifested. And to that effect, section 53 of the Criminal Procedure Act (CPA) provides that every police officer may interpose for the purpose of preventing and shall to the best of his ability prevent the commission of any offence. A police officer may of his authority interpose to prevent any injury attempted to be committed in his view to any public property, moveable or immovable.

[56] Section 153(i)(m) of the 1999 Constitution (as amended)

Furthermore, section 54 of the same Act provides that every police officer receiving information of a design to commit any offence shall communicate such information to the police unit, to which he is subordinate and to any other police officer whose duty is to prevent or take cognizance of the commission if the offence cannot otherwise be prevented. It can be deduced from the above cited sections that the law appears to give law enforcement officers (and the police in particular) the necessary legal backing to use all lawful means to avert or suppress the commission of crimes, in fact, beyond mere statutory provisions, the police have (for operational efficiency) institutions empowered to ensure state security through intelligence and investigation bureau (F.I.I.B); ably assisted by all the various state intelligence and investigation bureau (S.I.I.B), the Divisional Crime Offices (D.C. Os) in all the various local government areas of the federation. Also in the security web are the Special Anti-Robbery Squads, the Police Finger Prints Unit, the Photographic Unit, as well as the Handwriting Unit.

All these security intelligence agencies are highly specialized; and their establishment is calculated towards preventing and suppressing of crimes and criminal activities, through intelligence information investigation, and operations.

B. PROTECTION OF LIVES AND PROPERTY[57]

The police are charged with the responsibility of protecting the lives and property of all the citizens within their respective precincts and jurisdiction. They are expected to discharge this responsibility by posting men on guard duties, giving special escorts to banks, parting orderlies to senior civil servants and judges, as well as to other important personalities and places.

Section 28(1) of the Police Act gives police officer the authority to break barriers in search of suspected illegally acquired property. It allows a police officer to enter any house, shop,

[57] Section 153 of the 1999 Constitution

warehouse or other premises in search of stolen property, search therein, seize and secure any such property he may reasonably believe to have been stolen. Thus he may do in the same manner, as he would be authorized to do it he had a search warrant, and the property seized, if any, corresponded to the property described in such search warrant. Similarly, sub sections (3) and (4) of the same section as well as all the subsections of section 31 of the Police Act, all give the 50 Section 153 of the 1999 Constitution of the Federal Republic of Nigeria with amendments, 2004, police the authority to retrieve stolen property and secure same for the legitimate owners.

C. PRESERVATION OF LAW AND ORDER

Section 10 of the Police Act vests a duty on the police under the directive of the president to ensure public safety and public order. This may be executed in several ways such as enforcement of laws and regulations governing unlawful assemblies. Also by suppression, not of public meetings (as guaranteed by the constitution) nor of public processions as guaranteed by the public order decree of 1979; but rather, by ensuring order; through the apprehension and prosecution of offenders who intend to provoke civil unrest from such public processions. Avory, J stressed the importance and value of the police to possess preventive powers in order to be able to preserve the peace.

D. DUE ENFORCEMENT OF ALL LAWS AND REGULATIONS[58]

i) **Duties not directly Charged with**: The police do not just enforce any law; they enforce only those with which they are directly charged. For instance, the police do to enforce civil matters,

[58] Ibid

agreements or contracts between individuals. Otherwise they would be exceeding the statutory limitations of their powers as stipulated by law.

ii) **Duties directly Charged with:** The police are mandated to enforce all crime laws as contained in both the criminal and penal codes, as well as all those contained in other subordinate criminal legislations such as traffic laws, Drug Law enforcement Decree and so on.

E. PERFORMANCE OF SUCH MILITARY DUTIES REQUIRED OF THEM[59]

The police shall perform such military duties within and without Nigeria as may be required of them, by or under the authority of any Act as part of their functions. Section 4 of the Police Act states that they shall perform such military duties within or without Nigeria as may be required by them by or under the authority of this or any other Act. Section 12 further states that "when required to perform military duties in accordance with the provisions of section 4 of this Act, such duties entailing service with the armed forces of Nigeria or any force for the time being attached there-to acting there-with, the police shall be under the command and subject to the orders of the officer in command of the forces in Nigeria...".

Therefore, apart from enforcing laws the police are also charged with the duty of performing military functions particularly during states of emergency, either nationally or internationally. Consequently, the Nigerian police force has on several occasions, in the past been deployed to serve in various nations particularly in Africa. In 1960 they assisted in the peacekeeping campaign in the Democratic Republic of Congo, later on in Angola, Namibia, and Cambodia.

The Nigeria police in the discharge of its constitutional duties through the instrumentality of officers and men of the force have in amount of cases violated the wordings and spirit of the constitution it was meant to protect. Most officers and men of the force have the orientation of

[59] 153 of the 1999 Constitution (as amended)

brutality and corruption. This may not be unconnected with the colonial heritage of the force as it relates to brutality and poor welfare of the force.

2.5 POWERS OF THE NIGERIA POLICE FORCE

The police in Nigeria have the power to conduct prosecutions subject to the powers of the Attorney General of the Federation or State as the case may be. The police also have the power to arrest without warrant, to arrest without warrant where a warrant is issued but is not in the possession of the police officer, the power to serve summons issued by courts, grant bail to persons arrested without warrant, the power to search, power to detain and search suspected persons and the power to take finger-prints.[60]

2.6.0 OTHER INSTITUTIONS WITH QUASI POLICE POWERS IN NIGERIA

2.6.1THE ECONOMIC AND FINANCIAL CRIMES COMMISSION

The Economic and Financial Crimes Commission (EFCC) is a Nigerian law enforcement agency that investigates financial crimes such as Advanced Fee Fraud and Money Laundering. The EFCC was established in 2003 partly in response to the pressure from the Financial Action Task Force (FATF) which named Nigeria as one of the 23 non cooperative countries in the international effort against money laundering.[61]

The Economic and Financial Crimes Commission (Establishment) Act was first enacted in 2002 setting up the EFCC. An amended version of the bill was however presented before the National

[60] S. 23-30 Police Act.
[61] "The Establishment Act; Economic and Financial Crimes Commission" http://www.efccnigeria.org/index.php?

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[61] "The Establishment Act; Economic and Financial Crimes Commission" http://www.efccnigeria.org/index.php?

Assembly for an Act to repeal the 2002 EFCC Act which culminated into the EFCC (Establishment) Act 2004. The Act amongst other things established the EFCC as the agency responsible for the administration of the Act and other principal legislations bothering on economic and financial crimes such as The Money Laundering (Prohibition) Act, 2004 and the Advanced Fee Fraud & Other Related Offences Act, 2006.[62]

EFCC is an inter-agency Commission comprising of a 22 member Board drawn from all Nigerian Law Enforcement Agencies (LEA's) and regulators. The EFCC has the five units[63] namely The General and Asset Investigation Unit,The Legal and Prosecution Unit, The Research Unit, The Administrative Unit and The Training Unit.

The major functions of the EFCC as set out in the enabling Act includes; enforcement of the due administration of the provisions of the EFCC Act, 2004,[64] investigating all financial crimes such as advanced fee fraud, money laundering, counterfeiting, illegal charge transfer, computer credit cards fraud etc.,[65] enforcing all laws against economic and financial crimes in all its ramifications,[66] the Commission is also designated as the Financial Intelligence Unit (FIU) in Nigeria, which is charged with the responsibility of coordinating the various institutions involved in the fight against money laundering and the enforcement of all laws dealing with economic and financial crimes in Nigeria,[67] adoption of measures to identify, trace, freeze, confiscate or seize proceeds derived from terrorist activities, economic and related offences or the properties, the value of which corresponds to such proceeds,[68] adoption of measures to eradicate and prevent the

[62] Section 7 EFCC Act, Ibid
[63] Section 12(1)(a)-(e) EFCC Act, Op.Cit
[64] Section 6(a), ibid
[65] Section 6(b), ibid
[66] Section 6(c), ibid
[67] Section 1(2)(c), ibid
[68] Section 6 (d), ibid

commission of economic and financial crimes with a view to identifying individuals, corporate bodies or groups involved,[69] facilitating and rapid exchange of scientific and technical information geared towards the eradication of economic and financial crimes,[70] determination of the extent of financial loss and such other losses by government, private individuals or organizations, [71] collaboration with government bodies within and outside Nigeria carrying out the functions wholly or partly analogous with those of the Commission,[72] dealing with matters connected with extradition, deportation and mutual legal or other assistance between Nigeria and any other country involving economic and financial crimes,[73] collection of reports relating to suspicious financial transactions, analyze and disseminate to all relevant government agencies,[74] maintaining liaison with the office of the Attorney General of the Federation, the Nigerian Customs Service, the Immigration and Prison Service Board, the CBN,NDIC,NDLEA and such other financial supervisory institution involved in the eradication of economic and financial crimes,[75] carrying out and sustaining rigorous public enlightenment campaign against economic and financial crimes within and outside Nigeria,[76] taking charge of, supervising, controlling and coordinating all the responsibilities, functions and activities relating to the current investigation and prosecution of all offences connected with or relating to economic and financial crimes,[77] the coordination of all existing, economic and financial crimes investigating units in Nigeria[78] and

[69] Section 6(e) and (f), ibid
[70] Section 6(g), ibid
[71] Section 6(i), ibid
[72] Section 6(j), ibid
[73] Section 6(k), ibid
[74] Section 6(l), ibid
[75] Section 6(o), ibid
[76] Section 6(p), ibid
[77] Section 6(m), ibid
[78] Section 6(n), ibid

carrying out such other activities as are necessary or expedient for the full discharge of all or any of the functions conferred on it under the Act.[79]

The EFCC is specifically empowered by the Act to Cause investigation to be conducted as to whether any person, corporate body or organization has committed an offence under the Act or other law relating to economic and financial crimes;[80] Cause investigation to be conducted into the property of any person if it appears to the Commission that the person's lifestyle and extent of the properties are not justified by his source of income.[81] The Commission is also charged with the responsibility of coordinating the enforcement of the provisions of: The Money Laundering (Prohibition) Act, 2004; The Advanced Fee Fraud And Other Related Offences Act, 2006; The Failed Banks (Recovery of Debts) and Financial Malpractices in Bank Act, 1994 (as Amended); The Bank and Other Financial Institutions Act, 1991, and Miscellaneous Offences Act and other law or regulation relating to economic and financial crimes including the Criminal Code and Penal Code.[82]

It is worthy of mention that all officers of the Commission, in carrying out their functions as contained in the EFCC Act, 2004, have the same powers as police officers.[83] That is they can arrest suspects, detain suspects and even carry arms. Simply put, this provision makes the powers of the EFCC to be parallel with that of The Nigerian Police.

Apart from the powers conferred on the Commission by the Act, the Attorney-General can also transfer some of his powers to the EFCC. In **FRN V. IYANG**[84], the Court stated that "the ability

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[79] Section 6(q) ibid
[80] Section 7(1)(a), ibid
[81] Section 7(1)(b), ibid
[82] Section 7(2)(a)-(f)
[83] Section 8(5), EFCC Act, op.cit
[84] (2006) 2 EFCLR p.198

of the Attorney-General to exercise power bestowed on him by the Constitution personally or through his subordinates including the power to donate such power has never been in doubt". However, the Commission can prosecute directly without going through the Attorney General's office.[85]

2.6.2 THE INDEPENDENT CORRUPT PRACTICES AND OTHER RELATED OFFENCES COMMISSION

The Corrupt Practices and Other Related Offences Act, 2000 set up the Independent Corrupt Practices and Other Related Offences Commission (ICPC) with wide-ranging powers. The ICPC was inaugurated on September 29th, 2000 by the Nigerian President, Chief Olusegun Obasanjo. It brought a fresh and decisive perspective to the fight against corruption in the form of a holistic approach encompassing enforcement, prevention and educational measures. It captures in a single document, a host of corrupt offences in their old and sophisticated guises. The Act brings under its purview all Nigerians, in the private and public sectors and even those public officers with constitutional immunity.[86]

The commission is one of the quasi-police agencies at the hub of Nigeria's fight against corruption. In the order set out at Section 6 of the Act 2000, the first duty of the commission is to receive complaints, investigate and prosecute offenders. Other duties include reviewing and modifying the systems and procedures of public bodies as well as educating the public and

[85] See Section 7(2) EFCC Act, Op.Cit

[86] http://www.icpc.gov.ng/ accessed on 14th July, 2016.

fostering their support in combating corruption. ICPC's mandate is to prohibit and prescribe punishment for corrupt practices and other related offences. The mission of the ICPC is to rid Nigeria of corruption through lawful enforcement and preventive measures, while its vision is to make Nigeria free from all forms of corruption and corrupt practices.

As provided for in Section 3(3) of the Act[87] 2000, the Commission consists of a Chairman and twelve (12) Members, two of whom represent each of the six geo-political zones of the country. The membership is drawn from the following categories of Nigerians as spelt out by the Act: a retired Police Officer not below the rank of Commissioner of Police; a legal practitioner with at least 10 years post-call experience; a retired Judge of a superior court of record; a retired Public Servant not below the rank of a Director; a woman; a youth not being less than 21 or more than 30 years of age at the time of his or her appointment; and a chartered accountant. The Departments and Units of the Commission include: Investigation; Prosecution; Planning, Research and Review; Education and Public Enlightenment departments; Special Duties Department; Chairman's Special Unit; Special Investigation Team; Financial Investigation Unit; Asset Tracing & Recovery Management Unit and Intelligence Security and Support Unit.

Section 6 (a-f) of the ICPC Act[88] sets out the duties of the Commission as paraphrased in the following:

- To receive and investigate complaints from members of the public on allegations of corrupt practices and in appropriate cases, prosecute the offenders.
- To examine the practices, systems and procedures of public bodies and where such systems aid corruption, to direct and supervise their review.

[87] The Corrupt Practices and Other Related Offences Act, 2000
[88] Ibid

- To instruct, advise and assist any officer, agency, or parastatal on ways by which fraud or corruption may be eliminated or minimized by them.
- To advise heads of public bodies of any changes in practice, systems or procedures compatible with the effective discharge of the duties of public bodies to reduce the likelihood or incidence of bribery, corruption and related offences.
- To educate the public on and against bribery, corruption and related offences.
- To enlist and foster public support in combating corruption.

With respect to the prosecution of cases, the Act provides that every prosecution for offences under it shall be deemed to be done with the consent of the Attorney-General. Furthermore, it is provided that the Chief Judge of a State or the Federal Capital Territory shall designate a court or judge to hear and determine all cases arising under the Act.

2.6.3 NATIONAL DRUGS LAW ENFORCEMENT AGENCY

The establishment of the National Drugs Law Enforcement Agency (NDLEA) by the promulgation of Decree Number 48 of 1989, now Act of Parliament, was aimed at exterminating illicit drug trafficking and consumption in the Nigerian society. The establishment of the NDLEA was Nigeria's deliberate attempt at joining the rest of the world in getting rid of this cankerworm within her borders.[89] In pursuance of the objectives contained in the statute establishing the National Drug Law Enforcement Agency, the Agency's activities are anchored on six functionaldivisions,namely;

i.Investigation

ii.Prosecution

[89] http://www.ndlea.gov.ng/v1/?q=content/about-ndlea-0 accessed on 14th July, 2016.

iii.DrugDemandReduction

iv.Training,ResearchandDevelopment

v.AssetsLaundering

vi.Intelligence

NDLEA apart from enforcing the responsibility of the provision of Decree 48 of 1989 is also responsible for coordinating all drug laws and policies previously conferred on any statutory body in the country including campaign to check the abuse of narcotics and psychotropic substances. Some of these are:

i) The coordination of all drug law and enforcement functions conferred on any person or authority; including Ministers in the Government of the Federation by any such laws;

ii) Adoption of measures to identify, trace, freeze, confiscate or seize proceeds derived from drug related offences or property whose value correspond to such proceeds.

iii) Adoption of measures to eradicate illicit cultivation of narcotic plants and to eliminate illicit demand for narcotic drugs and psychotropic substances with a view of reducing human suffering and eliminating financial incentives for illicit traffic in narcotic drugs and psychotropic substances.

iv) Taking such measures, which might require the taking of reasonable precautions to prevent the use of ordinary means of transport for illicit traffic in narcotic drugs including making special arrangement with transport owners and operators.

v) Strengthening and enhancing effective legal means of international cooperation in criminal matters for suppressing international activities of illicit traffic in

vi) Collaborating with governmental and non-governmental bodies, both within and outside Nigeria in carrying out functions wholly or in part analogous to those of the Agency, etc

vii) Taking charge, supervising, controlling, and coordinating all the responsibilities, functions and activities relating to arrest, investigation and prosecution of all offences connected with or relating to illicit traffic in narcotic drugs or psychotropic substances notwithstanding any law to the contrary. All drug units under existing institutions dealing with offenders or offences connected or relating to illicit traffic in narcotic drugs or psychotropic substances shall relate and be responsible to the Agency in performance of their duties. The Agency has powers:

a. To cause investigation to be conducted as to whether any person has committed an offence under this Decree.

b. With a view of ascertaining whether any person has been involved in offences under this Decree or in the process of such offences to cause investigations to be conducted into the properties of any person if it appears to the Agency that the person's life-style and properties worth do not match his ostentatious living.

c. For the purpose of inquiring into and ascertaining whether an ;offence under paragraph (h) of sub-section (i) of this section has been committed, the Agency may by notice in writing call upon any one to furnish it within a time specified in the notice, with information, returns, accounts, books or other documents in custody of such persons as the Agency may consider fit and proper in the circumstances.

d. The Agency shall not exercise the power conferred upon it by paragraph (b) of sub-section (i) of this section without first obtaining the approval of the Attorney General of the Federation.

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i.Investigation

ii.Prosecution

iii.DrugDemandReduction

iv.Training,ResearchandDevelopment

v.AssetsLaundering

vi. Intelligence

2.6.4 NIGERIA SECURITY AND CIVIL DEFENCE CORPS.

The Nigeria Security And Civil Defence Corps (NSCDC) is another quasi-police institution in Nigeria. Nigeria Security and Civil Defence Corps Act of 2003[90] established the NSCDC. The NSCDC has the power to enter and search any premises and seize any material suspected to be used in vandalization or suspected proceed of vandalization; enter and search premises of any suspected illegal dealer in petroleum products or material used by Power Holding Company of Nigeria, Postal Services, Nigeria Telecommunication or for any other public utility or infrastructure; have power to arrest with or without a warrant , detain , investigate and institute legal proceedings by or in the name of the Attorney-General of the Federation in accordance with the provisions of the constitution of the Federal Republic of Nigeria against any person who is reasonably suspected to have committed an offence under this Act or is involved in any criminal activity, chemical poison or oil spillage nuclear waste, poisoning, industry espionage or fraud, activity aimed at frustrating any government program or policy, riot, civil disorder, revolt, strike, or religious unrest, power transmission lines, oil pipelines, NIPOST cables, equipment, water board pipes or equipment vandalisation.[91]

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[90] The act has been amended by Nigeria Security and Civil Defence Corps Act of 2007.

[91] http://www.nscdc.gov.ng/index.php/about-nscdc/history-of-nscdc accessed on 14th July, 2016.

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[91] http://www.nscdc.gov.ng/index.php/about-nscdc/history-of-nscdc accessed on 14th July, 2016.

The functions of the NSCDC includes amongst other things:[92]

a) Monitor the activities of religious bodies and trade associations, monitor, investigate, and take every necessary step to forestall any planned Act of terrorism particularly.
b) Cult and Ethnic militia activities
c) Criminal activities aimed at depriving citizens of their properties or lives
d) Syndicate activity aimed at defrauding the Federal, State or Local Government.
e) Monitor, investigate, and take every necessary step to forestall any act of terrorism and report same to appropriate Federal Security Agency.
f) Provide necessary warning for the civilian population in times of danger
g) Evacuate the civilian population from danger areas.
h) Provide and manage shelters for civilians during period of emergency.
i) Assist in the decontamination and in the taking of precautionary measures during any period of emergency.
j) Carry out rescue operations and control volatile situations.
k) Assist in the provision of emergency medical services, including first aid, during any period of emergency.
l) Detect and demarcate any danger area.
m) Assist the Federal and State Fire Service in Fire-fighting operation.
n) Assist in the distribution of emergency supplies.
o) Provide assistance to restore and maintain order in distressed areas in any period of emergency.

[92] Abolurin, A. (2008): "*The role of Nigeria Security and Civil Defense Corps in Safeguarding Collective Security in Nigeria*". Paper Presented at the National Conference of the Society for Peace Studies and Practice (SPSP)

p) Assist in repairing indispensable public utilities during any period of emergency

q) Provide intelligence information to the Ministry on any matter relating to crime control generally;

CHAPTER THREE

3.0 THE POLICE IN THE UNITED STATES OF AMERICA

3.1 OVERVIEW OF THE POLICE IN THE UNITED STATES OF AMERICA

The police institution in the USA is one that is very vast and quite complex. There are approximately 18, 760 separate Local, State and Federal policing agencies in the USA, with more than 1.1 million employees and a combined operating cost of nearly $99 billion.[93] The United States has more police departments than any other nation in the world. The major reason for this is that local control is highly regarded in the United States. Thus, like many other services, even small communities that can barely afford police service provide it locally. Much of this derives from the American Constitution which empowers States to legislate on matters not expressly delegated to the Federal Government. The Tenth Amendment to the U.S Constitution provides thus:

> "*The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people*"[94]

Law enforcement in America is fragmented, locally controlled, limited in authority and is structurally and functionally different. Virtually no two police agencies in America are structured alike or function in the same way. Police officers themselves are young and old; well-trained and ill-prepared; educated and uninformed; full-time and part-time; rural, urban, and suburban; generalists and specialists; paid and volunteer; and public and private. This practice is primarily

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[93] Kyckelhahn, T. (2010). Justice Expenditure and Employment Extracts, 2007. Washington D.C: U.S. Department of Justice, Bureau of Justice Statistics.

[94] See the Tenth Amendment, U.S Constitution, amended in 1791. The first ten amendments are also known as the Bill of Rights.

responsible for the disparity in the quality of American police personnel and service. These differences lead to the following generalizations about law enforcement in the United States:

1. The quality of police services varies greatly among states and localities across the nation.

2. There is no consensus on professional standards for police personnel, equipment, and practices.

3. Expenditures for police services vary greatly among communities.

4. Obtaining police services from the appropriate agency is often confusing for crime victims and other clients.

3.1.1 FUNCTIONS OF THE POLICE IN THE U.S.A

The four primary roles over which the police in the U.S.A have are:[95]

a. Law enforcement.

b. Maintenance of law and order

c. Provision of miscellaneous services

d. Convenience norm enforcement.

The basic objectives which are common to the various police departments in the U.S.A are:[96]

1. To prevent and control conducts widely recognized as threatening to life and property;
2. To protect constitutional guarantees, such as the right to free speech and assembly;
3. To aid individuals who are in danger of physical harm, such as the victim of a criminal attack;
4. To facilitate the movement of people and vehicles;
5. To assist those who cannot care for themselves;

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[95] Gaines, L. K, Kapeller, V.E (2015). Policing in America, (8th Ed), Boston; Anderson Publishing p. 15
[96] Goldstein, H. (1977). Policing a Free Society. Cambridge, MA; Ballinger Press.

6. To resolve conflicts, whether it is between individuals, groups of individuals or individuals and the government;
7. To identify problems that have the potential for becoming more serious problems for the individual citizen, for the police, or for the government; and
8. To create and maintain a feeling of security in the community.

3.2 FEDERAL POLICE

The police system at the federal level in the U.S.A is very unique. There is no single police force that exercises control as a single body. At the federal level, there exist both federal police, who possess full federal authority as given to them under United States Code (U.S.C.), and federal law enforcement agencies, which are authorized to enforce various laws at the federal level. Both police and law enforcement agencies operate at the highest level and are endowed with police roles; each may maintain a small component of the other. These agencies have nationwide jurisdiction for enforcement of federal law. All federal agencies are limited by the U.S. Code to investigating only matters that are explicitly within the power of the federal government. However, federal investigative powers have become very broad in practice, especially since the passage of the USA PATRIOT Act in 2001.

The Department of Justice (DOJ)[97] is responsible for most law enforcement duties at the federal level. It includes the Federal Bureau of Investigation (FBI), the Drug Enforcement Administration (DEA), the Bureau of Alcohol, Tobacco, Firearms, and Explosives (BATF), the United States Marshals Service, the Federal Bureau of Prisons (BOP) and others.[98] The U.S.

[97] www.justice.gov accessed on 23/4/2016
[98] Langeluttig, A. : (1927) The Department of Justice of the United States. John Hopkins Press.

Department of Justice (DOJ), also known as the U.S. Justice Department, is a federal executive department of the U.S. government responsible for the enforcement of the law and administration of justice in the United States, equivalent to the Justice or Interior Ministries of other countries. The Department is headed by the Attorney General, who is nominated by the President and confirmed by the Senate and is a member of the Cabinet.[99]

Federal law enforcement agencies and police powers in the USA evolved in response to specific political needs. Consequently, federal police agencies in the USA have restricted responsibilities focusing on a limited number of criminal acts. Previously, most federal police agencies in the USA were either under the Department of Justice or Department of Treasury. However, in November 2002, President George W. Bush signed a legislation creating the Department of Homeland Security.[100] The legislation shifted most of the federal police agencies from other departments to the new Department of Homeland Security. Emphasis shall be placed on Justice Department and Homeland Security Department agencies where the major federal policies agencies shall be discussed.

The Department of Justice of the USA was created in 1870 and is charged with enforcing most of the criminal laws created the U.S Congress. The major police/policing agencies under it are:

a. The U.S Marshals Service.
b. The Federal Bureau of Investigation (FBI).
c. Drug Enforcement Administration (DEA).

The U.S. Congress responded to the terrorist attacks of September 11, 2001, by enacting the Homeland Security Act of 2002. As a result of the creation of the Department of Homeland

[99] http://www.justice.gov accessed on 23/4/2016
[100] Gaines, L.k, Kapeller, V.E, 8th Edn, Anderson publishing

Security (DHS) in 2002 by the U.S Federal Government, more than 100 units and bureaus from other departments were transferred to the new department. The mission of the DHS includes the following:

a. Prevent terrorism and enhance security.
b. Secure and manage U.S borders.
c. Enforce and administer U.S immigration laws.
d. Safeguard and secure cyberspace.
e. Ensure resilience to disasters.

Some of the major police/policing agencies under the DHS are U.S Secret Service, Transportation Security Agency (TSA), U.S Coast Guard etc.

3.2.1 U.S. MARSHALS SERVICE

The first federal law enforcement agents in the United States were the U.S. Marshals, a product of the Judiciary Act of 1789.[101] The act fleshed out details of the new federal judicial system as provided for in the U.S. Constitution. Duties of the federal Marshals and their deputies included protecting the federal courts, supporting their operation, and enforcing federal court decisions and federal laws. In supporting the operation of the federal courts, U.S. Marshals served summonses, subpoenas, writs, warrants and other process (that is, proceedings in any action or prosecution) issued by the courts; arrested people suspected of committing federal crimes; were responsible for all federal prisoners; disbursed funds as ordered by the federal courts; paid the fees and expenses of court clerks, U.S. Attorneys, jurors, and witnesses; rented courtrooms and jail space and hired bailiffs, court criers, and janitors; and made sure that prisoners were present, jurors were available, and witnesses were punctual. Unlike other federal law enforcement

[101] http://www.justice.gov/agencies/index-list.html#USMarshal accessed on 23/4/2016

agencies, the U.S. Marshals have not been restricted by legislation to specific, well-defined duties and jurisdictions. Today, their major responsibilities include:

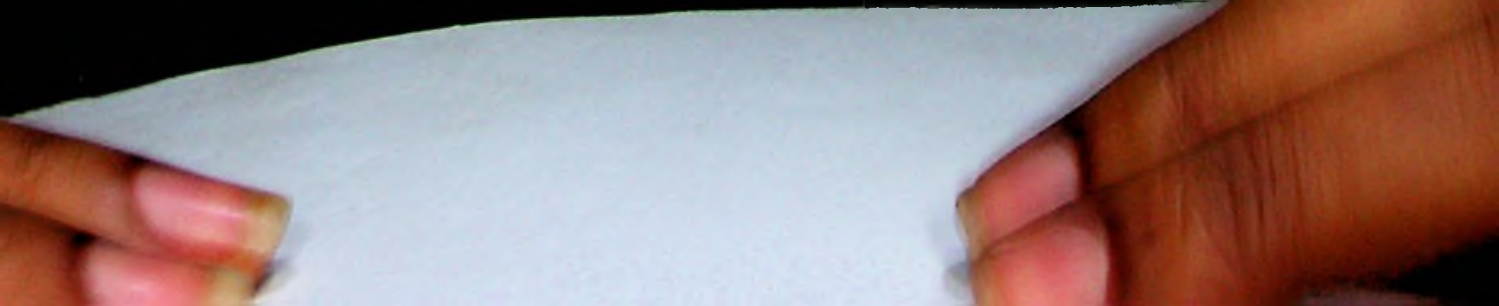
- Judicial security
- Fugitive investigations
- Witness security
- Prisoner services (for example, detaining pre-sentenced federal prisoners)
- Transporting federal prisoners and criminal aliens
- Managing and disposing of seized and forfeited property
- Serving federal court criminal and some civil process
- Conducting special operations (for instance, providing security assistance when Minuteman and cruise missiles are moved between military facilities)

3.2.2 THE FEDERAL BUREAU OF INVESTIGATION

The Federal Bureau of Investigation (FBI) was created in 1908 as the Bureau of Investigation.[102] Before then, the Justice Department drew most of its law enforcement staff from the Treasury Department. Presently, the FBI operates 56 field offices throughout the USA and has approximately 13, 913 special agents and 22, 161 other employees. The FBI's annual budget stands at about $8.1 billion and covers salaries, operations and expenses. The Bureau also has the investigative responsibility of approximately 250 different criminal offences.

Today, the mission of the FBI is "to protect and defend the United States against terrorist and foreign intelligence threats, to uphold and enforce the criminal laws of the United States, and to

[102] http://www.fbi.gov accessed on 23/4/2016



provide leadership and criminal justice services to federal, state, municipal, and international agencies and partners." Its priorities are these:

1. Protect the United States from terrorist attack.
2. Protect the United States against foreign intelligence operations and espionage.
3. Protect the United States against cyber-based attacks and high-technology crimes.
4. Combat public corruption at all levels.
5. Protect civil rights.
6. Combat transnational/national criminal organizations and enterprises.
7. Combat major white-collar crime.
8. Combat significant violent crime.
9. Support federal, state, local, and international partners.
10. Upgrade technology to successfully perform the FBI's mission.

3.2.3 THE DRUG ENFORCEMENT ADMINISTRATION

The Drug Enforcement Agency (DEA) traces its history through several Treasury Department bureaus:[103] the Bureau of Internal Revenue (1915–1927), the Bureau of Prohibition (1927–1930), and the Bureau of Narcotics (1930–1968), and the Justice Department's Bureau of Narcotics and Dangerous Drugs (1968–1973). The federal law that inaugurated America's War on Drugs was the Harrison Narcotics Tax Act of 1914. The Act provided that all persons who produced, imported, manufactured, compounded, dealt in, dispensed, sold, distributed, or gave away opium or coca leaves, their salts, derivatives (such as morphine, heroin, and cocaine), or preparations had to register with the Bureau of Internal Revenue, pay a special tax, and keep records of all transactions. The Act further authorized the Commissioner of Internal Revenue, with the

[103] http://www.justice.gov/DEA accessed on 23/4/2016

approval of the Secretary of the Treasury, to appoint such agents as necessary to enforce the provisions of the Act.

In carrying out its mission, the agency's primary responsibilities include:

• Investigation and preparation for the prosecution of major violators of controlled substance laws operating at interstate and international levels.

• Investigation and preparation for prosecution of criminals and drug gangs who perpetrate violence in our communities and terrorize citizens through fear and intimidation.

• Management of a national drug intelligence program in cooperation with federal, state, local, and foreign officials to collect, analyze, and disseminate strategic and operational drug intelligence information.

• Seizure and forfeiture of assets derived from, traceable to, or intended to be used for illicit drug trafficking.

• Enforcement of the provisions of the Controlled Substances Act as they pertain to the manufacture, distribution, and dispensing of legally produced controlled substances.

• Coordination and cooperation with federal, state, and local law enforcement officials on mutual drug enforcement efforts and enhancement of such efforts through exploitation of potential interstate and international investigations beyond local or limited federal jurisdictions and resources.

• Coordination and cooperation with federal, state, and local agencies, and with foreign governments, in programs designed to reduce the availability of illicit abuse-type drugs on the United States market through non-enforcement methods such as crop eradication, crop substitution, and training of foreign officials.

• Responsibility, under the policy guidance of the secretary of state and U.S. ambassadors, for all programs associated with drug law enforcement counterparts in foreign countries.

• Liaison with the United Nations, Interpol, and other organizations on matters relating to international drug control programs.

3.3 STATE POLICE

In the United States, state police are a police body unique to each U.S. state, having statewide authority to conduct law enforcement activities and criminal investigations. Each of the United States, retain their own police and domestic law-making powers. Most states operate statewide government agencies that provide law enforcement duties, including investigations and state patrols.[104] They may be called state police or highway patrol, and are normally part of the state Department of Public Safety. In addition, the Attorney General's office of each state has its own state bureau of investigation.

The most common law enforcement agencies are the State Police or Highway Patrol. States in the U.S.A with the exception of Hawaii have either a state police or the highway patrol. There are 26 highway patrols and 23 state police departments in the U.S.A, in addition to the 35state investigative agencies or segments of agencies that are not part of a state police or highway patrol agency.[105]

For the most part, each state has chosen one of two models for providing law enforcement services at the state level. The first model is the state police model in which the agency and its officers have essentially the same enforcement powers as local police in the state and can work cases and enforce the law anywhere within the state's boundaries.

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[104] Gaines, L.k, Kapeller, V.E, Op.Cit
[105] Gaines, L.k, Kapeller, V.E, Op.Cit

The second model for state law enforcement services is the highway patrol model in which officers focus almost exclusively on highway traffic safety, enforcement of the state's traffic laws, and investigation of accidents on the state's roads and highways. Even Highway Patrols retain responsibility for investigating criminal violations on state property and in state institutions or for conducting drug interdictions. States that employ the highway patrol model often have other state law enforcement agencies with narrow service mandates, such as these:

- Bureaus of criminal investigation (to investigate white-collar and organized crime, narcotics, and so on).
- State criminal identification services.
- Forest, game, and watercraft protection services.
- Alcoholic beverage control and enforcement.
- Crime laboratory services.
- Driver's license examinations.
- Drug interdiction activities.
- Peace officer training and certification.

Both state police and highway patrol agencies help regulate commercial traffic, conduct bomb investigations, protect the governor and the capital grounds and buildings.

3.4 COUNTY POLICE

County Police departments are police organizations that report to a County Commission or other form of County Government and are generally independent of the Sheriff. [106]Counties create county police departments when the population and the workload in the county become too large

[106] Gaines, L.k, Kapeller, V.E, Op.Cit p. 53

for the sheriff to handle adequately or when the county officials want to exercise more control over law enforcement operations. County police tend to exist only in metropolitan counties and have countywide jurisdiction. In some areas, there is a sheriff's department which only handles minor issues such as service of papers and security for the local courthouse. In other areas, there are no county police and the local sheriff is the exclusive law enforcement agency and acts as both sheriff and county police, which is more common than there being a separate county police force. County police tend to fall into three broad categories:

- Full-service - provide the full spectrum of police services to the entire county, irrespective of local communities, and may provide contractual security police services to special districts within the county.

- Limited service - provide services to unincorporated areas of the county (and may provide services to some incorporated areas by contract), and usually provide contractual security police services to special districts within the county.

- Restricted service - provide security police to county owned and operated facilities and parks. Some may also perform some road patrol duties on county built and maintained roads, and provide support to state police departments in the county.

3.5 THE SHERIFFS

Sheriffs are sworn law enforcement officers whose duties vary across counties and states. A sheriff is an elected county official robed with the powers of policing unincorporated areas, maintaining county jails, providing security to courts in the county, and in some states serving of court processes. In addition to these powers, the sheriff is also responsible for enforcing civil law

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within his/her jurisdiction. The law enforcement agency headed by a sheriff is commonly referred to as a "sheriff's office" or "sheriff's department".

3.6 OTHER INSTITUTIONS IN THE U.S.A WITH QUASI-POLICE POWERS

3.6.1 THE SECRET SERVICE

In 1865, the United States Secret Service was created as a branch of the Treasury Department to combat the counterfeiting of U.S. currency. 25 Prior to the assassination of President McKinley in 1901, no federal agency was responsible for the protection of the U.S President. From then on, the U.S Congress directed the Secret Service to carry out that duty and it has remained till today. The Secret Service was transferred from the Treasury Department to the Department of Homeland Security in 2003. Today, "the mission of the United States Secret Service is to safeguard the nation's financial infrastructure and payment systems to preserve the integrity of the economy, and to protect national leaders, visiting heads of state and government, designated sites and National Special Security Events."[107]

3.6.2 TRANSPORTATION SECURITY AGENCY

The Transport Security Agency (TSA) has as its primary responsibility the onus of protecting the nation's transport systems, including aviation, waterways, rail, highways, public transportation and pipelines. The agency ensures the freedom of movement of people and commerce. The TSA is most visible at airports where they screen passengers and their luggage and air cargo. They also conduct background checks on transportation related employees to ensure that they do not

[107] http//www.secretservice.gov accessed on 23/4/2016

compromise the transport system and its safety. The TSA employs about57, 000 staff with an annual budget of over $7.6 billion.[108]

3.6.3 BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

The Bureau of Alcohol, Tobacco and Firearms (BATF) was created in 1972 by order of the U.S Treasury Department with the mandate to enforce all Treasury Laws relating to alcohol, tobacco, firearms and explosives. Historically, the BATF has had two primary functions:[109]

1. Regulation and collection of taxes related to alcohol and tobacco.
2. Investigation of crimes related to firearms and explosives.

The establishment of the Department of Homeland Security resulted in BATF's operations being moved to the Department of Justice while the tax collection department remained in the Treasury Department.

The BATF is engaged in a number of programs to accomplish its objectives. It has experts in improvised explosive devices and has canines trained explosives and accelerant detection. It also keeps a database of bomb and arson incidents, traces and tracks firearms through its eTrace program. The Bureau conducts federal firearms compliance inspections and maintains information on some firearms sales.

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[108] TSA (2010). Welcome to What We Do. Washington, D.C.: U.S. Department of Homeland Security, Transportation Security Administration. www.tsa.gov/what_we_do/index.shtm accessed on 23/4/2016
[109] http://www.justice.gov/agencies/index-list/html#ATF accessed on 23/4/2016

3.6.4 THE U.S COAST GUARD

The U.S. Coast Guard is responsible for enforcing maritime laws pertaining to the Atlantic and Pacific oceans as well as inland waterways. In all, the U.S.Coast Guard protects more than 361 ports and 95, 000 miles of coastline. Its duties have been expanded to include watching and protecting acts considered threats to the U.S.A by protecting the ports, the flow of commerce and marine transportation from terrorism; maintaining maritime border security against illegal firearms, illegal drugs, illegal immigrants and weapons of mass destruction; protecting against illegal fishing and indiscriminate destruction of marine resources and preventing and responding to oil and hazardous materials spills, whether accidental or intentional etc.

In addition to the agencies discussed above which fall mostly under the Department of Justice or Homeland Security, there are other agencies with police or investigative powers. The Department of Defense for instance has several agencies such as the Naval Criminal Investigative Service, the Military police in the Army, the Air Police in the Airforce and the Defense Criminal Investigative Service.

CHAPTER FOUR

4.0 COMPARISON OF CONTROL OF POLICE POWERS IN NIGERIA AND THE U.S.A

4.1 CONTROL OF POLICE POWERS IN NIGERIA

The Nigerian Constitution places the task of policing the entire country on the shoulders of the federal government. The operation, control, discipline and promotion of the police force are under the powers of the federal government of Nigeria. Section 214 of that Constitution provides that the Nigerian Police Force shall be under the full and exclusive control of the Federal Government. Section 215 further establishes that the police force is owned and controlled exclusively by the Federal Government and that the authority and powers of the force extends to the whole country. This is also contained under Item 45 of the Exclusive Legislative List in Part 1 of the second schedule of the 1999 Constitution.

The Nigerian Police Force is controlled by the Nigeria Police Council. The council is a supervisory body and is composed of the President of the Federation as Chairman and has a member each from the Police Service Commission and the Inspector-General of Police.[110] The functions of the Council are:

a. The organization and administration of the Nigeria Police Force 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 members of the Force);
b. The general supervision of the Nigeria Police Force;

[110] S. 9 (1), para (a)-(d), Police Act.

c. Advising the President on the appointment of the Inspector General of Police. [111]

It is noteworthy that the Council is an executive body headed by the President of the Nigeria himself. The council exercises full control over the Police Force and to a large extent determines how the Force is organized and administered. The constitution grants limited concessions to the Governor of the State as regards giving directions to the Commissioner of Police in his/her state with respect to maintaining and securing public safety and order within his State, but same must be made with recourse to the President or any Minister appointed by the President responsible for granting such directions. There is also the Police Service Commission which is responsible for the discipline and promotion of all police officers in Nigeria with the exception of the Inspector-General of Police.

4.1.1 SEPARATION OF POWERS

Separation of powers is an important concept in modern democracies. It denotes the division of governmental powers among the different branches of government. Whereas it can be said that there is horizontal separation of powers amongst the three branches of government in Nigeria, there is no vertical separation of powers in the same regard.

On the horizontal separation of powers in relation to control of police powers, the executive arm is responsible for the funding and control of the police, the legislature (in this case the National Assembly) makes the laws regulating the powers and functions of the police while the judiciary interprets the laws and ensures that the powers of the police are not abused.

There is however no vertical separation of powers between the Federal, States and Local Governments in Nigeria. The police force is headed by an Inspector General who is appointed by

[111] S. 9 (2) a-c, Police Act.

the President on the advice of the Nigeria Police Council.[112] It is the same President or any Minister authorised by the President that gives the IGP such lawful directions with respect to the maintenance and securing of public safety and public order as he may consider necessary and same shall be complied with by the IGP or caused them to be complied with.[113]

Although the Governor of a State is designated as the Chief Security Officer of his state, the law creates some form of contradiction as he is merely given responsibility without power in relation to control over the police in his state. The Constitution provides that the Governor of a State or a Commissioner of the State so authorised, may give such lawful directions with respect to the maintenance of peace and order within the state as he may consider necessary and the Commissioner of Police shall comply with those directions or caused them to be complied with, provided that before such directions, the Commissioner may request that such matter be referred to the President or any such Minister so authorised by the President for his directions.[114] This proviso greatly undermines the authority of a Governor over the security situation in his State as his directives are subject to approval by the President or his Minister.

The situation is even far worse off at the Local Government Areas as the Chairman is not in a position to give directives to the Area Commander or Divisional Police Officer as the case may be without them reverting to their superiors at the State Command for directives.

4.1.2 TERRITORIAL CONTROL

The authority of the police in Nigeria is not restricted to any specific area of Nigeria. Although the police force is entirely owned by the Federal Government, it exercises its powers and

[112] S. 215 (1) (a)
[113] S. 215 (3)
[114] S. 215 (4)

performs its function across the length and breadth of the country. The Constitution of the Federal Republic of Nigeria, 1999 provides thus:

> *"There shall be a Police Force for Nigeria which shall be styled the Nigerian Police Force and subject to the provision of this section; no other police force shall be established for the federation or any part thereof. The members of the Nigeria Police Force shall have such powers and duties as may be conferred upon them by law"* [115]

Although the Nigeria Police Force has State Commands in every state of the federation including the Federal Capital Territory (FCT), Zonal Commands in the six geo-political zones and Divisional Police Offices scattered across Local Government Areas, their authority is strictly derived from the Police Force Headquarters. Such delineation is only for administrative convenience and does not confer on State Governors or Local Government Chairmen any sort of direct control over the police.

4.1.3 FUNDING

The Nigeria Police Force is funded single-handedly by the Federal Government. The funds used for running the police force is budgeted for in the annual Appropriation Act of the Federation as prepared and passed by the National assembly, the law making organ of the Federal Government of Nigeria. Although State Governments across the federation usually make monetary and hardware donations to the police, it does not qualify as funding the activities of the police force.

[115] Section 214 (1) CFRN, 1999.

Also, various corporate institutions do make donations to the Nigeria Police as part of their corporate social responsibility (CSR) drive.

4.1.4 PROSECUTION OF OFFENCES

In the business of public prosecution, certain personnel and institutions of government are very visible and they play a significant role in the process. The Ministry of Justice at both the states and federal levels are at the forefront of public prosecution in Nigeria usually the personnel of these Ministries in the Department of Public Prosecution conduct prosecution of criminal cases.44 The Attorney General is the Chief Prosecutor of the State. He is conferred with powers to initiate, conduct, take over or discontinue any criminal prosecution in any court of law in the country except in the court martial.45 The Director of Public Prosecution (DPP) and other counsel often assist the Attorney General in his chambers.

Section 23 of the Police Act provides:

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

By the foregoing provision, the police have powers to prosecute cases in all courts in the Federation.

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4.2.0 CONTROL OF POLICE IN THE UNITED STATES OF AMERICA

4.2.1 CONTROL OF POLICE POWERS IN THE USA

One unique feature of the U.S Constitution is the Federal System of Government which it provides for. By this, certain powers are vested in the Federal Government, others in the State Government, and the others in Local Governments. One of the powers vested in the State Governments is the ability to allow the formation and regulation of units of local government. Although the Tenth Amendment to the U.S Constitution reserves police powers for the states, law enforcement agencies have evolved at each of the three levels of government, with different operational responsibilities.

The subdivision of government along federal lines has certain implications for the police. First, Police Power is distributed among several levels of government and administration of police is divided among these levels. This helps to ensure that no single police agency accumulates too much power and leads to various types of police organisations, each with unique laws to enforce and a unique set of responsibilities. Second, because government in the U.S.A is decentralized, the police institution is also decentralized. Police power is shared among the Federal, States and Local Governments. Third, the principle of federalism provides members of the American society with dual citizenship-citizenship of the United States of America and citizenship of the respective states one resides. This also means that the police must respond to the dual rights of citizens. Fourth, federalism in the U.S.A results in a creation of a unique web of overlapping jurisdictions of law enforcement agencies.

Owing to the unique system of policing in the U.S.A, the measure of control over the police is intricately tied to the mother Federal government agency of a federal police outfit or the respective State executive arms for the different state police and by extension the respective

Local Government authorities. Beyond the statutes that create and direct law enforcement agencies, the procedural law derived from U.S. Supreme Court decisions also imposes limitations on the authority of those agencies. Giving arrested suspects the familiar *Miranda*[116] warnings before questioning is a good example of the Court's role in limiting the authority of the police. In addition, police civilian review boards, departmental policies and procedures, and civil liability suits against officers who have abused their authority curtail the power of the police in the United States.

Thus, there is a great difference between law enforcement with limited authority, operating under the rule of law in a democratic nation, and law enforcement in countries where the law is by decree and the police are simply a tool of those in power. Even in comparison with other democratic nations of the world, however, the United States has remarkably more police agencies that operate under far more restrictions on their authority.

4.2.2 SEPARATION OF POWERS

The term "police powers" had a particularly critical meaning for the founding fathers of the U.S Constitution tó whom police powers belonged primarily to the States of the Union. If the federating units had consented to hand over all the matters regarding the external relations, such as war, peace, defence, negotiation, and foreign affairs to the Federal government, the one transcending advantage belonging to the jurisdiction of state governments that could not and ought be taken away was the power of law enforcement touching the lives of, liberties, and property of the ordinary people. This explains why in the United States, police powers have been and remain the province of the state units. Of the fifty (50) states that make up the United States of America, twenty-three (23) use the term "State Police" to describe their law enforcement

[116] Miranda v Arizona (1966) 384 U.S 436

agencies, while for the remaining twenty-seven (27) others, the names of their State Police vary from "State Highway" and "Highway Patrol" to "State Patrol". But an even more remarkable thing about the case is that organization of police powers is further decentralized. Most of the local government units in the United States, including counties, major cities, townships, and even special districts and school districts, have their own autonomous police departments.

The U.S Constitution creates three branches of government: the executive, the judiciary and the legislature. The Constitution also provides for the separation of powers among the three branches. Ideally, each of the branches operates independently, acting as a source of checks and balances on government power and authority. The police in the U.S.A come under the administrative control of the executive branch of government but fulfil the will of all branches of the government. Police officers enforce laws enacted by the legislature and also abide by procedural guidelines laid down by the courts. In addition, they submit themselves to the authority of the courts especially when their actions are challenged. Beyond the statutes that create and direct law enforcement agencies, the procedural law derived from U.S. Supreme Court decisions also imposes limitations on the authority of those agencies. Giving arrested suspects the familiar *Miranda* warnings before questioning is a good example of the Court's role in limiting the authority of the police. In addition, police civilian review boards, departmental policies and procedures, and civil liability suits against officers who have abused their authority curtail the power of the police in the United States.

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democratic nations of the world, however, the United States has remarkably more police agencies that operate under far more restrictions on their authority.

4.2.3 TERRITORIAL CONTROL

The authority of each agency—whether it is the FBI, a state highway patrol, or a county sheriff's department—is carefully limited by law. The territory within which an agency may operate is also restricted. The city police, for example, may not patrol or answer calls for service outside the city's boundaries unless cooperative pacts have been developed. Jurisdiction, which is defined as a specific geographical area, also means the right or authority of a justice agency to act with regard to a particular subject matter, territory, or person. It includes the laws a particular police agency is permitted to enforce and the duties it is allowed to perform. The Oklahoma Highway Patrol, for example, has investigative and enforcement responsibilities only in traffic matters, while the Kentucky State Police have a broader jurisdiction that includes the authority to conduct criminal investigations throughout the state. Each of the 70 federal law enforcement agencies, large and small, has a specific jurisdiction, although one criminal event may involve crimes that give several federal agencies concurrent jurisdiction. For example, in a bank robbery, if mail of any sort is taken, both the Postal Inspection Service and the FBI are likely to investigate the case.

4.2.4 FUNDING

Whereas each department of police in the U.S.A gets its funding from the relevant authority, that is the Federal Government through the justice department and department of homeland security, the various state governments, county councils, metropolitan authorities etc, the Federal

Government actively supports state and local police as well. Before the attacks of September 11, 2011, the funding for state and local police came mostly through the department of justice grants. The Edward Byrne Memorial Justice Assistance Grant is the largest source of Department of Justice funding for State and Local police. Recipient states may use the grants for policing programs, training and equipment, increase personnel and purchase weapons.

Other forms of funding by the Federal Government to State and local Police in the U.S.A are the Urban Areas security Initiative which grants money to dozens of high risk metro areas and shared with surrounding counties and partners and State Homeland Security Program which allocates monies to states based on their population, program proposals and a formula that determines a minimum for each State coordinated by the Department of Homeland Security which began after September 11, 2001.

There is also the Military Surplus Program coordinated by the Department of Defense through its 1033 Program which was created in the early 90's in response to the rising crime levels and drug violence. Here, states and local police departments obtain free military surplus equipment.[117]

4.2.5 PROSECUTION OF OFFENCES

One of the most important police function across the world is that of law enforcement. The police through their roles serve as the gateway to the criminal justice system. Their role in subduing offenders, determining what offences to be charged or otherwise and serving as witnesses in the chain of criminal justice administration need not be over-emphasized.

[117]http://www.nytimes.com/interactive/2014/08/23/us/flow-of-money-and-equipmentoto-local-police.html accessed on 23/7/16

What obtains in the U.S.A is entirely different. The federal police agencies investigate only federal offences and the prosecution is done through the office of the Attorney General, while the respective state police departments also carry out investigations while the State Attorneys prosecute offences in their states. At the Local level, prosecution is done by the District Attorney. The federal police agencies exercise legal control over offences committed against the federal government and prosecute offenders. The states exercise total legal control over offences within the ambit of state law and cannot prosecute federal offences committed in their states.

4.3 SIMILARITIES

There are three marked similarities between the police in Nigeria and the U.S.A. these are:

I. Both operate under a federal system of government.

II. Both exist for the same purpose. That is the protection of lives and properties, maintenance of law and order and the enforcement of law.

III. Both have similar powers.

IV. They both make infractions on the rights of citizens.

4.4 DIFFERENCES

Certain differences also exist between the police in the U.S.A and Nigeria. It is evident from the foregoing discussion that police powers and functions remain virtually the same in the U.S.A and Nigeria. The core of which is the preservation of law and order, the detection and prevention of crime and protection of lives and property. All these functions are directed at creating orderly societies that guarantee human liberty and peaceful co-existence.

What differs is basically in the area of establishment, administration and control. The two countries that have been discussed have established police forces in line with their people's aspiration for a safe society. The difference is in terms of the ownership of the police force and the measure of control exercised over same.

While the Nigerian constitution creates a force that is controlled strictly by the federal government, the U.S constitution provided for police both at the states and at the federal level. The federal government police are in charge of enforcement of all federal laws and the protection of federal property while the respective state police agencies are responsible for the enforcement of state laws and the protection of state properties.

The difference in control mechanism can to a large extent be said to be responsible for the efficient and effective performance of the police in the U.S.A. A simple distress call to the popular toll-free police emergency number 911 is usually responded to with enviable attention. That however is not the case in Nigeria where the police are overwhelmed by security demands and usually respond late, if they ever do.

The system of control of the police under the Nigerian constitution vests too many powers in the federal government leaving the states with no control at all over security challenges in their territories. State Governors can hardly give instruction to the respective state police commands in their states without first resorting to the President. This unfortunate bureaucratic bottleneck has greatly affected the security situations in states.

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4.5 CASES OF ABUSE OF POWERS: AN OVERVIEW

Oftentimes police officers get involved in undesirable situations in the course of their day to day duties. These actions may be deliberate or unintentional. Where such acts are deliberate and against the laid down code of conduct or rules of engagement, it amounts to abuse of powers.

In Nigeria, the police are reputed to be in constant derogation of their powers which often results in the abuse of rights of citizens. Policemen in Nigeria are given wide powers under the Police Act, Criminal Procedure Act and Penal Code in the performance of their duties. These powers include the power of arrest, search, seizure, detention and the power to use force in certain circumstances. The exercise of each of these powers affects the fundamental rights of the citizen more directly. Personal freedom, physical and psychological integrity are abused by unlawful arrests, detention and coercive interrogations.

Other factors also contribute to abuse of powers by the police can be attributed to the training and basic educational background of the policeman, his knowledge of his powers and duties, the facilities available to him, and the citizen's awareness of his rights and duties. The most common forms of police abuse of power in Nigeria include unlawful arrests, handcuffing, binding or subjecting a criminal suspect to unnecessary restraint in the course of arrest, unlawful detention over and beyond constitutional limits, torture, the disproportionate use of violence and deadly force by the police in its dealings with the public. They are situations of "crime control" and "crowd control",[118] taking relatives and family members of suspects as hostage until the suspect presents himself for arrest and even murder.

One other chocking form of abuse of police powers in Nigeria is the discriminatory practices by the police defined along class lines and the place one occupies in Nigerian society. Wealthy

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[118] Akin Ibidapo-Obe, "Police Brutality: Dimensions and Control in Nigeria", paper presented at a workshop on Law Enforcement and Human Rights in Nigeria held in Badagry, Lagos, May 30-June 1,1994, at 9.

people and top public officials are rarely arrested or detained for any offence, unless the arrest is based on political motives. This is rarely the scenario for poor persons, who are abused and maltreated at every turn by the police. Even when a wealthy person is detained, he or she is usually kept in a separate place, a VIP section, from poor people held on similar charges. This differential and highly discriminating treatment or selective enforcement of the law can also be seen in the police handling of brutality cases involving rich people and top government functionaries in Nigeria. For instance, if a victim of police abuse turns out to be someone of "importance" in the society, police inquiry of such abuse is usually faster and, more importantly, productive.

A disturbing aspect of abuse of powers by police in Nigeria is the contempt policemen have for the rule of law and the legal process. In handling cases of criminal suspects, they often take up the roles of prosecutors and adjudicators. Both the Nigerian Constitution and the Police Act permit the derogation of personal liberty for the sole purpose of arraigning a suspect before a court of law.[119] These provisions have been perverted by the police, who now arrest people merely to intimidate and extort money from them. A Nigerian jurist writing on this subject matter noted that:

> *The irony of the situation is that the courts do not always have the opportunity to examine most of these violations because the police hardly proceed beyond harassment and intimidation levels. The objective is never to prosecute. The victims of these violations are themselves not equipped to be able to go to court and seek a judicial examination of their cases.*[120]

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[119] S.35 (1) (c) of the Constitution of the Federal Republic of Nigeria, S.29 of Police Act,

[120] M.A.Ikhariale, "Justice in the Accusation: A Constitutional Evaluation of the Nigerian Criminal Justice System", paper presented in a workshop on Law Enforcement and Human Rights in Nigeria Lagos, May 30-June 1, 1994.

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Under Nigerian law, an accused is supposed to have a trial within three months of arrest.[121] The suspect is also entitled to bail for certain categories of offences. It is sometimes the case that the Nigerian Police detain people for several years without trial or court appearance.[122]

The police in the U.S.A also have incidences of abuse of power by the police. While theirs may not take the form and manner it does in Nigeria, they have come under severe criticism and scrutiny for one major form of abuse-the excessive use of power. The use of excessive force by the police in the U.S.A seems commonplace and is one of the most significant problems facing police departments in the U.S.A today. Each year, police officers kill a large number of citizens and fatally injure others through the use of deadly or excessive force. There are abundant cases of use of deadly force by the police in the U.S.A which always turn out fatal. This form of abuse of power by the police force in the U.S.A may not be unconnected with the excessive militarisation of the police and America's flexible gun laws.

The U.S Supreme Court in **TENNESSE V. GARNER**[123] laid down rules for circumstances in which the police can use excessive or deadly force to effect an arrest. In the instant case, a 15 year old juvenile who had broken into an unoccupied house and stole a ring was shot dead by a Memphis police officer while trying to run away. The police officer's action was consistent with Tennesse statute which allowed officers to use deadly force against a fleeing felon. The Supreme Court held that police officers could not use deadly force to prevent the escape of a felon unless the suspect posed a significant threat of death or physical injury to the officer or others. The Garner decision established a uniform national standard regulating when officers could use deadly force.[124]

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[121] S.35(4) (b) of the Constitution of Federal Republic of Nigeria,
[122] Chukwuemeka Gahia, Human Rights in Retreat Civil Liberties Organisation, Lagos, 1993.
[123] 1985 771 U.S 1.
[124] Gaines, L. K, Kapeller, V.E Op.Cit at page317

While not all cases of use of excessive or deadly force are entirely the fault of police officers, there appears to be a growing pattern of abuse of discretion by officers in the U.S.A especially while engaging persons of African-American descent. The police in the U.S.A have a shocking record of using deadly force when dealing with blacks than with other members of the American society. In the year 2015 alone, 1, 134 died in the hands of law enforcement officers.[125] The rate of police-involved deaths for blacks was five times higher than the number of whites. 25% of the blacks killed were totally unarmed.

4.6 ENFORCEMENT OF JUDGMENT AGAINST THE POLICE: A COMPARATIVE APPRAISAL

Although the Nigerian Constitution entitles victims of human rights abuse by the police (especially unlawful arrest and detention) to compensation and a public apology, a combination of factors undermine the effective exercise of this right by the victims or by their immediate families.

First, there is little incentive for victims of police abuses in Nigeria to file lawsuits. The reasons include considerations of cost, the difficulty of finding a willing lawyer, long court delays and fear of harassment. It is only due to the efforts of human rights organisations and a few committed lawyers that the number of civil actions against the police has increased slightly in the past few years. Second, even when a victim or his immediate family succeeds in getting a favourable ruling from the court on compensation, law enforcement agencies and the government rarely honour such rulings in a timely fashion. The situation is further compounded by the provisions of the Sheriffs and Civil Processes Act which requires the Federal or State Attorney General to approve all attachment of money against government bodies before such

[125] https://www.theguardian.com/us-news/2015/dec/31/the -counted-police-killings-2015-young-black-men

funds can be released, regardless of the fact that a court of competent jurisdiction has made such awards.[126] The act specifically stipulates, in Section 84:

> *Where money liable to be attached by garnishee proceedings is in the custody or under the control of a public officer in his official capacity or in custodial legis, the order nisi will not be made under the provisions of the last preceding section unless consent to such attachment is first obtained from the appropriate officer (Federal orState Attorney General)....*[127]

This provision of the Sheriffs and Civil Processes Act is further strengthened by Decree 107 of 1993 which added in its second schedule a new subsection 4 to section 251 of the 1979 Constitution. It states:

> *Notwithstanding the provisions of this section, no person shall enforce a judgment against a Ministry or extra-ministerial Department without the fiat of the Attorney General of the Federation or the Attorney General of a state whether or not he was, in either case, a party to the proceedings.*

The Sheriffs and Civil Processes Act and Decree No. 107 allow officials of the executive to indirectly veto court orders if they so desire. They also make the Attorney General both a party and judge in an adversarial system of adjudication.[128] For the victim of police abuse there is little hope of compensation. The laws therefore violate the International Covenant on Civil and

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[126] Eze Onyekpere, "Executive Disobedience to Court Orders: What is to be Done", L&M Alert, CLO, Lagos, vol. 2 Jan-March, 1995, at3.

[127] Section 84 of the Sheriffs and Civil Processes Act.

[128] Eze Onyekpere, Op.Cit

Political Rights. Article 2(3) calls on member states to ensure that victims of human rights abuse have an enforceable effective remedy determined by competent judicial, administrative or legislative authorities.

Enforcement of judgments against the police in the U.S.A appears to be a much simpler tax mostly because of the regard to civil liberty and also because the monies which are often paid as compensation for police abuse are paid by the respective city, municipal or federal government as the case may be. The Washington Post reported on October, 2014 that the city had spent $5.7 million in the past four years on settlements and awards.[129] The Chicago-Sun Times reported that in the past decade, the city of Chicago had paid half a billion dollars in compensation for police violation of citizens' rights.[130]

[129] https://www.washingtonpost.com/news/the-watch/wp/2014/10/01/u-s-cities-pay-out-millions-to-settle-police-lawsuits accessed on 7/25/2016/

[130] http://chicago.suntimes.com/article/chicago/city-pays-the-price-police-brutality/fri-04112014-1002pm/

CHAPTER FIVE

5.0 CONCLUSION

5.1 FINDINGS

From the foregoing study, the following findings and were made:

It is clear that the Nigerian Police and the various Police Agencies in the U.S.A, more than any other agency have important roles to play in the maintenance of law and order, protection of lives and properties and the administration of justice. The police in both countries have the widest powers when it comes to protection of lives and properties as well as maintenance of law and order and these powers are derived find their basis in existing legislations.

A centralized police force has not always been the structure of police powers in operation. Police powers have been decentralized at some points in the life of Nigeria as a nation.

The study also found that abuse of police powers exists both in Nigeria and the U.S.A. However, what differs is the promptness and seriousness with which cases of police abuse of power are handled in the U.S.A unlike in Nigeria where little attention is paid to same and even where it is, it is usually a slow and frustrating process.

Another finding is that a considerably decentralized system of policing as is obtains in the U.S.A has the potential of producing better and more positive results, by delivering cheaper, more effective, and more efficient service, than has been the case under the currently centralized police organization in Nigeria.

It was also found that for policing functions to be brought closer to the local areas and communities where such functions are needed, a decentralized system of police powers along the lines suggested has the additional advantage of making areas and communities so involved in the

business of providing security and welfare for citizens stakeholders and partners in policing, and creating a more community-friendly environment for policing.

Improving the quality of the Nigerian police in the administration and provision of security cannot be resolved by proliferation of ad hoc committees, panels or task force. What is required is to put in place a permanent mechanism as have been recommended herein to address the challenges of law enforcement and administration justice in Nigeria.

5.2 OBSERVATIONS

This study equally observed that there exist legal and constitutional problems with regard to the role of crime prevention by the Nigeria Police Force. For example, section 215(1) of the 1999 Constitution provides that "there shall be Inspector-General of Police who subject to Section 216(2) of the same Constitution shall be appointed by the President on the advice of the Nigerian Police Council from among serving members of the Nigeria Police Force. Section 215(1) of the same Constitution empowers the President to exercise control over the Inspector-General of Police, while subsection four subjects the power of a State Governor to issue directives to a Commissioner of Police to the approval of the President or his delegated minister. This is improper and undesirable because State Governor is the Chief Security Officer of his State, subjecting the power of the State Governor to issue directives to a Commissioner of Police to the approval of the President or Minister will undermine the power of the Governor who may be required by circumstance to take action to prevent the breakdown of law and order. In this regard Professor Nwabueze rightly said:

In a situation of danger to public safety and public order in a state, whereby on the part of the police commissioner to comply or not to comply with the governor's directions as he likes is incompatible with the autonomy of the state government, and is a recipe for trouble and eventual collapse of the system.[131]

This study also observed that the Nigeria Police lack adequate working tools in term of logistic and equipment compared to the Police in U.S.A. The sheer size of the force and its highly centralized structure gives little room for proper planning and supervision. Equally deplorable, is the welfare and condition of the police in Nigeria. The police are very critical in administration of justice. Unfortunately this institution which is expected to be a front runner in administration of justice has over the years been neglected in Nigeria. The Nigerian police force is characterized by lack of adequate modern tools to fight crime; policemen live in poorly maintained and overcrowded barracks. And these combine to affect, negatively, the morals of the police which in turn has encouraged corruption. Police corruption in Nigeria has been exacerbated by poor working conditions, poor training, inadequate pre-recruitment screening, and non compliance with merit in promotion, inadequate supervision and weak leadership.

The territorial expanse of the country, size and heterogeneity of its population, and complexity of customs and traditions of the various component groups, which have been among the major factors and forces initially propelling the evolution of federalism here, also necessitate the need for this decentralized structure of police organization. Even language differences constitute another major barrier to effective policing in Nigeria. In a plural and semi-illiterate society, people take recourse to their 'mother tongue' in their day-to-day socialization. In such a society

[131] Nwabueze, B.O., Reflections on the 1999 Constitution: A Unitary Constitution for a Federal System of Government Being a paper delivered at a seminar 14-16 February, 2000, p. 35.

it is difficult for a 'foreigner' or an 'outsider' (non native speaker of the given language) to effectively communicate with the indigenes. This situation is true in Nigeria where as an example, a Hausa speaking police officer in the multi linguistic Nigeria Police would find it difficult to perform his duty of preventing social disorder in non Hausa-speaking Yorubaland or Igboland.

Also observed is that the ever increasing need for Police services and presence is overstretching the strength of the police in its current form. This tends not only to place huge demands on the Force but also give rise to a decline in its performance as it grapples with the suddenness of the situation. The training of officers is no longer thorough and adequate, and to further compound the situation, successive governments have failed to provide the Police with adequate equipment, transport facilities and other crucial incentives. The concomitant result of this is a general decline in performance.

5.3 RECOMMENDATIONS

If Nigeria must retain its single-tier national police, there is need to amend the provisions of Section 215(3) and (4) of the 1999 Constitution of Nigeria. These provisions relate to the powers of the Federal Government regarding the control of the police relative the state governments. These provisions have been a source of controversy as well as conflict between the governors and the federal police authority. The provisions of section 215(4) of the Constitution appear to undermine the powers of the state governor relative to the management of the police. Thus, it is recommended that the provision be amended to confer on the state governors being the chief security officers of their respective states power to be able to give directive to the Nigeria police

for the contingent in their states and such directives to be promptly carried out without seeking approval from either the president or ministers.

Serious consideration should be given to the removal of Police Powers from the Exclusive Legislative List to the Concurrent Legislative List so as to allow States to have the powers to legislate on establishment of police. Nigeria needs, and should have, Federal Police, State Police, and Local Police, not just for the purpose of mirroring the structure and processes of policy making and policy implementation at the three tiers of government Federal, State, and Local, but ensuring their smooth and harmonious running, as a limited and shared system of rule established by and recognized under the Nigerian Constitution.

The police should be insulated from politics. The appointment of the Inspector General of Police should be subject to the approval of the senate or other similar institutions since lawmakers are elected representatives of the people. The President should not have absolute authority in appointing the I.G. There should be a guarantee of the tenure of service of the Inspector- General of the Police Force such that a police officer could outlive the government that appointed him as a way of ensuring that his allegiance is to the constitution and the Nigerian state and not to the president who appointed him. The appointment should be for a fixed period of time.

The control of the police should be decentralized to give room for the force to be responsive, especially in terms of issues peculiar to certain parts of the country at a particular period. To improve the efficiency of the police, a decentralized, well-trained, adequately equipped and well-remunerated police should be maintained as against the present situation whereby the force is centralized, composed of a large number of poorly-trained and ill equipped personnel. The welfare and remuneration package should be improved upon through an enhanced salary structure, provision of adequate infrastructures and the provision of adequate retirement benefits.

5.4 CONTRIBUTION TO KNOWLEDGE

Without prejudice to other research works on the Constitutional Law Concept of Police Powers of a State, most of the theoretical works on Police Powers have been silent on or did not sufficiently address the enforcement dimension to federalism. Scholars and experts working in the area are either silent on or have not sufficiently addressed the enforcement dimension of law making, law implementing and law adjudication functions that necessarily go with the division and distribution of power and responsibilities in a federal state; although there are bits and pieces on the subject that can be gleaned from a few of the works.

This research thus has been able to considerably address the constitutional law concept of police power in Nigeria in comparison to U.S.A, both practicing the federal system of government and constitutional democracy. It has also brought to the fore meaningful findings on the experiences of Policing in Nigeria and the U.S.A and how Nigeria stands to gain from taking leaf from the American model of financing. Also, valuable suggestions as to how to improve our Police Force from its current state of inefficiency and ineffectiveness was proffered.

This research is an addition to the existing body of knowledge on Police but from the perspective of comparative federalism and comparative constitutional law.

5.5 CONCLUSION

It is axiomatic that the Nigeria Police are striving to maintain peace, order and good governance over the years, but they are seriously saddled with a lot of challenges. Government is also very much concerned with the issues of security and makes it a constant priority. The general public is perturbed with lack of efficient maintenance of law and order and blames both the police and the

government for not providing adequate security for the protection of lives and properties. Although the government is trying their best to satisfy these yearnings by embarking on several reforms of the Police Force, it still isn't prepared to take the bold decision of decentralizing the Police. It is my opinion that control of police powers in Nigeria should be shared between states and the federal government. It will greatly eliminate the current bureaucratic challenges faced. It will also enhance efficiency, effectiveness and guarantee better protection for the citizens and society. It will also be of better advantage to the police officers whose welfare will greatly improve. That way, the government, the citizens and the police are winners.

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