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# THINKING GLOBALLY, POLICING LOCALLY: A MODEL FOR DECENTRALIZED LAW ENFORCEMENT IN CÔTE D'IVOIRE

Hugh M. Mundy\*

## INTRODUCTION

During a 2009 speech in Ghana, President Barack Obama said, “Africa doesn’t need strongmen. It needs strong institutions.”<sup>1</sup> Obama credited Ghana’s “impressive rates of growth” to the country’s “repeated peaceful transfers of power even in the wake of closely contested elections.”<sup>2</sup> Free elections and non-violent power transfers, he said, “may lack the drama of the twentieth century’s liberation struggles” but “will ultimately be more significant.”<sup>3</sup>

Côte d’Ivoire offers a stark example of the instability wrought when an unseated leader refuses to cede power.<sup>4</sup> Once hailed as a model of stability in Africa, the country has devolved into turmoil over the last 15 years due to election-related violence.<sup>5</sup> In 2010, then-president Laurent Gbagbo resisted defeat after national elections, sparking a civil war during which 3,000 civilians were killed.<sup>6</sup> Gbagbo was later charged with war crimes and is now awaiting trial at the International Criminal Court in The Hague.<sup>7</sup> His wife, Simone, was convicted by the same court in March 2015 and sentenced to twenty years in prison for “her part in the planned murders ‘and other inhuman acts’ orchestrated by the Gbagbo administration.”<sup>8</sup>

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<sup>1</sup> *Remarks by the President to the Ghanaian Parliament*, THE WHITE HOUSE (July 11, 2009), <https://www.whitehouse.gov/the-press-office/remarks-president-ghanaian-parliament>; Philip Gourevitch, *Coming to Terms*, THE NEW YORKER (June 22, 2015), <http://www.newyorker.com/magazine/2015/06/22/coming-to-terms-africas-succession-problem>. Gourevitch discusses the history of entrenched regimes in several African countries, including Burkina Faso, the Democratic Republic of Congo, Rwanda, and Burundi. He describes Nigerian President Goodluck Jonathan’s peaceful relinquishment of power following his recent electoral defeat as “the ultimate act of leadership.” *Id.*

<sup>2</sup> *Remarks by the President to the Ghanaian Parliament*, *supra* note 2.

<sup>3</sup> *Id.*; Ron Elving, *Could President Obama Win a Third Term?*, NAT’L PUB. RADIO (Jul. 29, 2015, 6:03 AM), <http://www.npr.org/sections/itsallpolitics/2015/07/29/427207032/could-president-obama-win-a-third-term>. In July 2015, President Obama made similar remarks during a speech in Kenya as to the pre-election stalemate in Burundi. *Id.* “When a leader tries to change the rules in the middle of the game,” Obama said, “it risks instability and strife.” *Id.*

<sup>4</sup> *General Information on Ivory Coast*, N.Y. TIMES, <http://topics.nytimes.com/top/news/international/countriesandterritories/ivorycoast/index.html> (last visited Oct. 26, 2015). The country’s official name is Republic of Côte d’Ivoire. *Id.* In English-speaking countries, it is often referred to as Ivory Coast. *Id.*

<sup>5</sup> *Africa: Ivory Coast Profile*, BBC.COM (May 5, 2015), <http://www.bbc.com/news/world-africa-13287216>.

<sup>6</sup> *Ivory Coast Charges Ex-Rebels for Election Violence*, BBC.COM (Jul. 8, 2015), <http://www.bbc.com/news/world-africa-33440208>.

<sup>7</sup> *Id.*

<sup>8</sup> See Marilia Brocchetto, *Ivory Coast’s Simone Gbagbo Sentenced to 20 Years in Prison*, CNN.COM (Mar. 10, 2015), <http://www.cnn.com/2015/03/10/africa/ivory-coast-first-lady/>.

Five years removed from the crisis, the country is still recovering.<sup>9</sup> In post-election riots, looters ransacked police stations requiring the military to assume control of law enforcement.<sup>10</sup> In addition, the roads, power lines and water supplies in the most war-ravaged communities were severely damaged.<sup>11</sup> The fallout also reverberates within the current presidential administration. In July 2015, twenty rebels backing the election's winner, Alassane Ouattara, were charged with offenses stemming from the civil war.<sup>12</sup> The charges signal that both parties – not just Gbagbo and his aggrieved supporters– shoulder blame for the atrocities, leaving the country without a clear vision for its national governance.<sup>13</sup>

Still, Côte d'Ivoire's prospects are "quite good," in large part due to steadfast international support.<sup>14</sup> The United States has played a central role in providing both financial and humanitarian aid for Ivorian restoration efforts.<sup>15</sup> On June 9, 2015, I received an invitation from WorldChicago, a non-profit organization working with the U.S. Department of State, to speak to a small delegation of officers from the Ivorian National Police.<sup>16</sup> The parameters of the request were broad: to "present an overview of the United States system of government, its decentralized nature, and the decision making process that flows from the system."<sup>17</sup> The officers were most interested in a discussion of "how federalism affects law enforcement in the United States."<sup>18</sup> Additionally, they sought an introduction to the American law enforcement model "with the aim of potentially implementing American law enforcement best practices into the Ivorian policing system."<sup>19</sup>

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<sup>9</sup> See S.C. Res. 2226 (June 25, 2015), [http://www.un.org/en/ga/search/view\\_doc.asp?symbol=S/RES/2226%282015%29](http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/2226%282015%29).

<sup>10</sup> Nicolas Cook, *Côte d'Ivoire Post-Gbagbo: Crisis Recovery*, CONG. RESEARCH SERV. (Apr. 20, 2011), <https://www.fas.org/spp/crs/row/RS21989.pdf>. Currently, the military continues to handle the bulk of local policing duties. S.C. Res. 2226, *supra* note 10, ¶ 9-10.

<sup>11</sup> Adam Nossiter, *Political Crisis in Ivory Coast Cripples a City*, N.Y. TIMES (Mar. 1, 2011), <http://www.nytimes.com/2011/03/02/world/africa/02ivorycoast.html>; *Improving Côte D'Ivoire's Scarred Public Services*, JICA'S WORLD, 8 (Jan. 4, 2015), [http://www.jica.go.jp/english/publications/j-world/c8h0vm000091cwcsc-att/1501\\_04.pdf](http://www.jica.go.jp/english/publications/j-world/c8h0vm000091cwcsc-att/1501_04.pdf) [hereinafter JICA'S WORLD].

<sup>12</sup> *Ivory Coast Charges Ex-Rebels for Election Violence*, *supra* note 7.

<sup>13</sup> *Id.*

<sup>14</sup> Pascal Yembiline, Bakary Traoré & Luis Padilla, AFRICAN ECONOMIC OUTLOOK, CÔTE D'IVOIRE 2 (2014), [http://www.africaneconomicoutlook.org/fileadmin/uploads/aeo/2014/PDF/CN\\_Long\\_EN/Cote\\_divoire\\_EN.pdf](http://www.africaneconomicoutlook.org/fileadmin/uploads/aeo/2014/PDF/CN_Long_EN/Cote_divoire_EN.pdf); Cook, *supra* note 10, at 1.

<sup>15</sup> U.S. Relations with Côte d'Ivoire, U.S. DEP'T OF STATE (Apr. 13, 2015), <http://www.state.gov/r/pa/ei/bgn/2846.htm>. (The United States participates in the international effort to assist Ivory Coast "providing more than a quarter of the funding for the U.N. Operations....").

<sup>16</sup> According to its annual report, WorldChicago "facilitates professional and personal interactions for international leaders during official visits to Chicago." 2014 WORLDCHICAGO ANN. REP. 1. In 2014, the organization brought 68 groups of "accomplished young professionals" to Chicago through the U.S. Department of State's International Visitor Leadership Program. *Id.*

<sup>17</sup> E-mail from Virginia Russell, Assoc. Dir., Centers for International, Real Estate, Tax & Employee Benefits, The John Marshall Law Sch. to Hugh M. Mundy, Assistant Professor of Law, The John Marshall Law Sch. (June 9, 2015, 18:29 EST) (on file with author).

<sup>18</sup> *Id.*

<sup>19</sup> E-mail from Chelsea Kendall, Program Coordinator, WorldChicago to Hugh M. Mundy, Assistant Professor of Law, The John Marshall Law Sch., (June 16, 2015, 13:49 p.m. EST) (on file with author).

The United States model of law enforcement is among the most decentralized in the world.<sup>20</sup> Indeed, the United States Supreme Court has held the Constitution contains “no better example” of “what is truly local” than police power to suppress crime and vindicate victims.<sup>21</sup> The American system of “extreme” decentralization, however, has contributed to multiple, overlapping and conflicting layers of law enforcement and investigation.<sup>22</sup> Tracking the various forces in the fragmented system is a “complicated endeavor,” inhibiting oversight and increasing bureaucracy at all levels.<sup>23</sup> More troublingly, sporadic federal efforts to curb police abuse and corruption at the local level have proven mostly fruitless.<sup>24</sup> Over the past eighteen months, the fatal police shootings of unarmed teenagers in Cleveland and Ferguson, Missouri and the beating death of an arrestee in Baltimore have heightened calls for greater federal monitoring of local police departments.<sup>25</sup>

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<sup>20</sup> SEBASTIAN ROCHÉ, GENEVA CTR. FOR THE DEMOCRATIC CONTROL OF ARMED FORCES, FEDERALISM AND POLICE SYSTEMS 18-19 (2011); LEONARD A. STEVERSON, *POLICING IN AMERICA: A REFERENCE HANDBOOK* 99 (2008).

<sup>21</sup> *United States v. Morrison*, 529 U.S. 598, 599 (2000).

<sup>22</sup> STEVERSON, *supra* note 20, at 99 (“The American system has federal, state, county and municipal agencies that often overlap by geographical jurisdiction . . . and this overlap routinely causes conflict of police law enforcement and investigation.”). In 2013, the Federal Bureau of Investigation survey reported over 900,000 full-time federal, state, and local law enforcement officers in the United States representing more than 13,000 agencies and departments. *Full-time Law Enforcement Employees*, FED. BUREAU OF INVESTIGATION (2013), [https://www.fbi.gov/about-us/cjis/ucr/crime-in-the-u.s/2013/crime-in-the-u.s.-2013/tables/table-74/table\\_74\\_full\\_time\\_law\\_enforcement\\_employees\\_by\\_population\\_group\\_percent\\_male\\_and\\_female\\_2013.xls](https://www.fbi.gov/about-us/cjis/ucr/crime-in-the-u.s/2013/crime-in-the-u.s.-2013/tables/table-74/table_74_full_time_law_enforcement_employees_by_population_group_percent_male_and_female_2013.xls); *Police Employee Data*, FED BUREAU OF INVESTIGATION (2013), <https://www.fbi.gov/about-us/cjis/ucr/crime-in-the-u.s/2013/crime-in-the-u.s.-2013/police-employee-data/police-employee-data>. The report states “a total of 13,051 law enforcement agencies provided data on the number of full-time law enforcement employees.” *Id.* Notably, the wording of the report implies that the process was elective and the FBI relied on the agencies to provide data without an independent mechanism to confirm the actual number of employees. *Id.*

<sup>23</sup> STEVERSON, *supra* note 20, at 99 (“America has more separate police forces than any other nation in the world. It is such a highly fragmented and decentralized system that even counting the number of individual forces is problematic”); Chuck Canterbury, *The Future of Law Enforcement in America*, NAT’L FRATERNAL ORDER OF POLICE (2010) (“We have a vast range of law enforcement agencies at every level of government. There is not even a consensus as to how many police agencies exist in the United States.”), <http://www.fop.net/labor/icpra/3TheFutureofLawEnforcementintheUnitedStatesofAmerica.pdf>.

<sup>24</sup> Kami Chavis Simmons, *Cooperative Federalism and Police Reform: Using Congressional Spending Power to Promote Police Accountability*, 62 ALA. L. REV. 351, 375 (2013) (“Since the enactment of [federal legislation designed to increase police accountability] in 1994, the [U.S. Department of Justice] has conducted 33 investigations, only seven of which resulted in a consent decree filed in federal court. Many of the initial investigations that culminated in a negotiated agreement were in smaller cities, while major urban areas seemed to avoid [enforcement].”); Kim D. Chanbonpin, *Truth Stories: Credibility Determinations at the Illinois Torture Inquiry and Relief Commission*, 45 LOY. U. CHI. L.J. 1085, 1087 (2014) (documenting “[r]evelations of corruption, abuse, and misconduct by police and other law enforcement officers through the country,” including in New York, Los Angeles, and New Orleans.) In Chicago, Commander Jon Burge and Chicago Police Department (CPD) officers working under him tortured African- American suspects to extract confessions for over a decade until Burge’s termination in 1993. *Id.* A federal investigation led to Burge’s 2010 conviction for offenses related to the torture. *Id.*

<sup>25</sup> See, e.g., Simmons, *supra* note 25, at 390-91 (proposing an amendment to federal law mandating that “receipt of federal money related to training and hiring police officers” by state and local law enforcement agencies “should be given only with the assurance that agencies will set “minimum standards for police accountability.”); Eugene Robinson, *What America’s Police Departments Don’t Want You to Know*, WASH. POST (Dec. 1, 2014), [https://www.washingtonpost.com/opinions/eugene-robinson-its-a-crime-that-we-dont-know-how-many-people-police-shoot-to-death/2014/12/01/adcdcb00-7998-11e4-b821-503cc7efed9e\\_story.html](https://www.washingtonpost.com/opinions/eugene-robinson-its-a-crime-that-we-dont-know-how-many-people-police-shoot-to-death/2014/12/01/adcdcb00-7998-11e4-b821-503cc7efed9e_story.html) (calling for stricter and more comprehensive federal accounting of police shootings

Additionally, longstanding domestic crime control strategies, epitomized by the thirty-plus year War on Drugs, bear little resemblance to law enforcement “best practices.” Rather, the approach has led to bloated prisons and budgetary crises, while doing little to strengthen communities or prevent recidivism.<sup>26</sup> Only recently has a serious movement begun to backtrack from the failed strategies.<sup>27</sup> The movement signals an emerging consensus that the “best practices” of law enforcement are not directed towards arrest and incarceration rates, but towards pro-active strategies to address conditions that contribute to public safety issues.<sup>28</sup> Broadly stated, these strategies embody the tenets of “community policing.”<sup>29</sup>

Côte d’Ivoire’s government structure and socio-political realities cast doubt on the viability of adopting a highly decentralized law enforcement system. Additionally, cost-intensive and disproportionately punitive crime control methods like the ones historically employed in the United States are similarly inefficacious. As this article will propose, a modified approach to decentralized policing – one that includes a modicum of central government oversight, invests in a manageable and empowered local police force, and builds trust within the community – may be most effective in Côte d’Ivoire. Part I will provide a brief history of Côte d’Ivoire with a focus on the aftermath of the 2010 election. Part II will discuss the benefits and challenges of decentralization and explain core principles for implementation of an effective decentralized law enforcement system. Part III will highlight the efficacy of community policing as contrasted with prevailing U.S. criminal control strategies. Finally, Part IV will propose a partially decentralized model of law enforcement for Côte d’Ivoire, with an emphasis on community policing. Côte d’Ivoire: A Disputed Election and a Daunting Recovery<sup>30</sup>

Côte d’Ivoire claimed independence from France in 1960 and enjoyed relative stability in the thirty years that followed.<sup>31</sup> Unlike the Marxist leanings of nearby regimes, the country’s first president, Félix Houphouët-Boigny, espoused the political and economic philosophies of the West.<sup>32</sup> In addition, Houphouët-Boigny displayed a deft touch at forging compromise – if not trust – among Côte d’Ivoire’s multitude of religious and ethnic factions.<sup>33</sup>

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that requires “[a]ll law enforcement agencies to report all uses of deadly force to the [Federal Bureau of Investigation], using a standardized format that allows comparisons and analysis.”).

<sup>26</sup> Jennifer Steinhauer, *Bipartisan Push Builds to Relax Sentencing Laws*, N.Y. TIMES (July 28, 2015), <http://www.nytimes.com/2015/07/29/us/push-to-scale-back-sentencing-laws-gains-momentum.html?hp&action=click&pgtype=Homepage&module=first-column-region&region=top-news&WT.nav=top-news>.

<sup>27</sup> *Id.*

<sup>28</sup> NICOLE FORTIER & IMANI CHETTIAR, BRENNAN CTR. FOR JUSTICE AT N.Y. U. SCH. OF LAW, SUCCESS-ORIENTED FUNDING: REFORMING CRIMINAL JUSTICE GRANTS 1, 3 (2015).

<sup>29</sup> Tracey L. Meares, *Praying for Community Policing*, 90 CAL. L. REV. 1593, 1600 (2002) (“Community policing, regardless of its specific scholarly definition, stands in direct contrast to reform policing.”)

<sup>30</sup> Côte d’Ivoire is located in Western Africa. The country neighbors Liberia to the west and Ghana to the east. Guinea, Mali, and Burkina Faso surround the northern border. To the south lies the Atlantic Ocean. *Ivory Coast Profile*, *supra* note 6, at 1. The country’s population is approximately 22 million. *Id.*

<sup>31</sup> Xan Rice, *Ivory Coast’s Turbulent Recent History*, THE GUARDIAN (Apr. 6, 2011, 1:51 PM), <http://www.theguardian.com/world/2011/apr/06/ivory-coast-history>.

<sup>32</sup> *Id.*

<sup>33</sup> *Id.*

After Houphouët-Boigny's death in 1993, the divide between the country's Christian south and Muslim north deepened.<sup>34</sup> The new president, Henri Konan Bédié, ushered in an era of xenophobia, encouraging "Ivory" and marginalizing immigrant populations.<sup>35</sup> Bédié's may have been less nationalistic than political in motivation; the father of his chief rival, Alassane Ouattara, hailed from neighboring Burkina Faso.<sup>36</sup> Regardless, his stance further imbalanced Côte d'Ivoire's fragile social equilibrium.<sup>37</sup>

In 1999, soldiers led by General Robert Guéï toppled Bédié in a bloodless coup and established military rule.<sup>38</sup> The coup proved the harvest of seeds sown by Bédié's pursuit of shortsighted political aspirations. Worse still, it moved Côte d'Ivoire into turbulence which resonates today. Without effective central governance, the country became pockmarked with localized violence.<sup>39</sup> After a year of ineffectual military rule, Laurent Gbagbo challenged Guéï in a free, if controversial, election.<sup>40</sup> With polling indicating that Gbagbo held a decisive lead, Guéï "cried fraud" and asserted himself the victor.<sup>41</sup> Guéï's self-proclaimed victory was short-lived. He was overthrown in a coup and Gbagbo rose to power.<sup>42</sup>

Given its origins, Gbagbo's tenure was predictably contentious. In 2002, insurgents attempted a coup, which, though unsuccessful, split the country into a "government-run south" and a rebel-held north.<sup>43</sup> The fracture sparked the bloodiest decade in the country's history, a period during which thousands were killed.<sup>44</sup> Over the next eighteen months, the government and the so-called "New Forces" rebels attempted to broker a series of ceasefire agreements, none of which took hold.<sup>45</sup>

In 2004, United Nations peacekeeping forces intervened in an effort to quell the escalating violence.<sup>46</sup> The U.N. resolution authorizing action expressed "deep concern" over the deteriorating economic conditions and the "threat to international peace and security in the region."<sup>47</sup> The peacekeeping forces provided a measure of stability, though spasms of

<sup>34</sup> *Id.*

<sup>35</sup> *Id.*

<sup>36</sup> *Id.*

<sup>37</sup> Rice, *supra* note 31.

<sup>38</sup> *Id.*

<sup>39</sup> See Cook, *supra* note 10.

<sup>40</sup> Rice, *supra* note 31, at 1. Gbagbo was no stranger to political controversy. After receiving a Ph.D. in history from Paris Diderot University, he returned to Côte d'Ivoire and became one of the few outspoken critics of Houphouët-Boigny. Sam Sanders, *Ivory Coast Conflict: Who are Gbagbo and Ouattara?*, WASH. POST (Apr. 1, 2011), [https://www.washingtonpost.com/blogs/worldviews/post/ivory-coast-conflict-who-are-gbagbo-and-ouattara/2011/04/01/AFpbqvJC\\_blog.html](https://www.washingtonpost.com/blogs/worldviews/post/ivory-coast-conflict-who-are-gbagbo-and-ouattara/2011/04/01/AFpbqvJC_blog.html). He was imprisoned in the early 1970s for "subversive" teaching and spent six years in French exile in the 1980s after publishing a series of anti-government writings. *Id.* He returned to form the Ivorian Popular Front. Against Guéï, Gbagbo campaigned as an alternative to the political establishment and drew widespread public support for his candidacy. *Id.*

<sup>41</sup> Rice, *supra* note 31, at 1.

<sup>42</sup> *Id.*

<sup>43</sup> *Id.*; *Africa: Ivory Coast Profile*, *supra* note 5.

<sup>44</sup> *Ivory Coast Timeline*, NBCNEWS.COM, <http://www.nbcnews.com/id/42376906/t/ivory-coast-timeline/#.VaZ40ektAqM> (last visited Oct. 27, 2015).

<sup>45</sup> *Africa: Ivory Coast Profile*, *supra* note 5.

<sup>46</sup> S.C. Res. 1528 (Feb. 27, 2004), [http://www.un.org/en/ga/search/view\\_doc.asp?symbol=S/RES/1528%20%282004%29](http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/1528%20%282004%29).

<sup>47</sup> *Id.*

violence continued to erupt throughout the country.<sup>48</sup> The northern and southern factions officially reunited in 2007.<sup>49</sup> The accord, however, was generally viewed as a pyrrhic victory for the nation.<sup>50</sup>

By 2010, Gbagbo's "political maneuvering" and thinly-veiled election postponements had extended his legal term in office by a half-decade.<sup>51</sup> In the hopes that a popular election would advance the peace process, the U.N. certified a contest between Gbagbo and Ouattara, Bédié's former rival.<sup>52</sup> The candidates stood in sharp geographical, ideological and religious contrast, setting the stage for tension in the electorate. The challenger Ouattara, a former International Monetary Fund official, represented the interests of the Muslim North.<sup>53</sup> Gbagbo, a practicing Christian, enjoyed support from southern Côte d'Ivoire (and, perhaps unsurprisingly, from a number of prominent conservatives in the United States).<sup>54</sup>

Far from uniting the Côte d'Ivoire, the election plunged the country deeper into chaos.<sup>55</sup> Gbagbo and Ouattara both claimed victory following a disputed vote count, setting off sectarian violence.<sup>56</sup> In the country's commercial capital of Abidjan, Gbagbo wrapped himself in the Ivorian flag and took an oath for another term in office.<sup>57</sup> Within hours, Ouattara reported from the northern stronghold of Bouake that he had taken the same oath.<sup>58</sup>

<sup>48</sup> The bloodiest engagements included a 2004 attack on rebel forces during which nine French soldiers were killed. France responded with air attacks that destroyed Côte d'Ivoire's small air force. *Africa: Ivory Coast Profile*, *supra* note 5. Sectarian violence and orchestrated attempts to unseat Gbagbo persisted in the years prior to the controversial 2010 election. *Id.*; see, e.g., THE ASSOCIATED PRESS, *Ivory Coast: Army Says It Foiled a Coup*, N.Y. TIMES (Dec. 13, 2006), [http://www.nytimes.com/2006/12/13/world/africa/13briefs-ivorycoastcoup.html?\\_r=0](http://www.nytimes.com/2006/12/13/world/africa/13briefs-ivorycoastcoup.html?_r=0) (reporting on an alleged plot to "assassinat[e] political authorities and military leaders, notably the president of the republic and the army chief of staff.").

<sup>49</sup> Rice, *supra* note 31.

<sup>50</sup> Monica Mark, *Ivory Coast's Disputed Presidential Election*, TIME.COM (Dec. 6, 2010), <http://content.time.com/time/world/article/0,8599,2035342,00.html>.

<sup>51</sup> Adam Nossiter, *Election Results Challenged in Ivory Coast*, N.Y. TIMES (Dec. 2, 2010), [www.nytimes.com/2010/12/03/world/africa/03ivory.html](http://www.nytimes.com/2010/12/03/world/africa/03ivory.html).

<sup>52</sup> See generally Cook, *supra* note 10.

<sup>53</sup> Sanders, *supra* note 40; see also Rice, *supra* note 31 at 1; *Africa: Ivory Coast Profile*, *supra* note 5; U.N. OPERATION IN CÔTE D'IVOIRE, <http://www.un.org/en/peacekeeping/missions/unoci/> (last visited Oct. 27, 2015). Though he never previously held elected office, Ouattara's political aspirations dated back to Bédié's presidency. Ouattara, whose father hailed from Burkina Faso, was the rival who provoked Bédié's anti-immigrant stance. *Id.* After the pro-Bédié General Assembly passed a law forbidding candidates with foreign-born parents from seeking national office, Ouattara provided documentation claiming that both of his parents were born in Ivory Coast. *Id.* He was accused of forgery, but was eventually cleared to run against Gbagbo. *Id.*

<sup>54</sup> Mark Oppenheimer, *A Strongman Found Support in Prominent U.S. Conservatives*, N.Y. TIMES (Apr. 11, 2011), [http://www.nytimes.com/2011/04/11/us/12evangelical.html?\\_r=0](http://www.nytimes.com/2011/04/11/us/12evangelical.html?_r=0).

<sup>55</sup> Nossiter, *supra* note 51.

<sup>56</sup> *Id.* ("A historic presidential election intended to unify this long-divided nation slipped further into uncertainty . . . as a heated tug of war emerged over who had the power to proclaim a winner."); *Mediators Try to Intervene in Ivory Coast Chaos*, U.S. TODAY (Dec. 5, 2010, 11:42 AM), [http://usatoday30.usatoday.com/news/world/2010-12-05-ivory-coast-election\\_N.htm](http://usatoday30.usatoday.com/news/world/2010-12-05-ivory-coast-election_N.htm).

<sup>57</sup> See *Mediators Try to Intervene in Ivory Coast Chaos*, *supra* note 56. But see Mark, *supra* note 51 (reporting that a climactic moment in the dispute occurred "[w]hen an electoral-commission spokesperson . . . prepared to read partial results [declaring Ouattara the victor], a pro-Gbagbo representative tore the papers from his hand and crumpled them.").

<sup>58</sup> *Mediators Try to Intervene in Ivory Coast Chaos*, *supra* note 56.

The “normally timid” United Nations, perhaps chastened by its failure to engender harmony through the election, declared Ouattara the winner.<sup>59</sup> Gbagbo remained defiant, going so far as to give a nationally televised inauguration speech.<sup>60</sup> The speech was replayed continuously on Radiodiffusion Télévision Ivoirienne (RTI), the state-run television network.<sup>61</sup> At the same time, Gbagbo suppressed media reports of Ouattara’s victory and accused the U.N. of “meddling” in its sovereign affairs.<sup>62</sup> In a particularly bloody confrontation, soldiers opened fire on a crowd of Ouattara supporters who attempted a takeover of RTI in the midst of the stridently pro-Gbagbo broadcasts.<sup>63</sup> An estimated twenty demonstrators were killed and several others injured.<sup>64</sup>

Gbagbo’s willingness to use deadly force against his own countrymen presaged a period of unprecedented violence in Côte d’Ivoire.<sup>65</sup> By early 2011, Abidjan “once famed for its Parisian-style boulevards, glass-clad skyscrapers and fashionable shops,” sat on the precipice of ruin.<sup>66</sup> Heavily-armed crime squads threatened journalists who attempted to report on the city’s rapid decline.<sup>67</sup> Marauding gangs of rock-wielding Gbagbo loyalists set up roadblocks to prevent entry into the capital.<sup>68</sup> International sanctions crippled the country’s economy.<sup>69</sup>

As the central infrastructure crumbled, Ouattara remained barricaded in a dilapidated hotel that doubled as a makeshift presidential headquarters.<sup>70</sup> Rebel forces fortified the grounds surrounding the hotel, creating a tense standoff with soldiers positioned behind improvised barriers.<sup>71</sup> Although Abidjan remained the epicenter of the conflict, violence spread throughout the country “signal[ing] that a new Ivorian civil war was under way.”<sup>72</sup> Local factions clashed, with sides drawn based on presumed ethnic or religious affiliation.<sup>73</sup> Looting, rioting, and gang warfare became commonplace.<sup>74</sup>

In March 2011, the New Forces, with U.N. and French backing, initiated a sustained attack on Abidjan.<sup>75</sup> The siege provided the conflict’s climactic – and deadliest – chapter.<sup>76</sup>

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<sup>59</sup> Mark, *supra* note 50.

<sup>60</sup> *Id.*

<sup>61</sup> *Id.*; see also Cook, *supra* note 10, at 24, 85 (explaining RTI is the state-run television network.).

<sup>62</sup> Mark, *supra* note 50.

<sup>63</sup> Cook, *supra* note 10, at 24.

<sup>64</sup> *Id.* at 24.

<sup>65</sup> *Ivory Coast Timeline*, *supra* note 45. Gbagbo’s brutality against civilians was especially stark. On March 3, 2011, his forces opened fire on a group of unarmed female demonstrators, killing seven. *Id.* Later in the month, Gbagbo’s forces were blamed for an attack in Abidjan that claimed 25 lives. ASSOCIATED PRESS, *Ivory Coast: Attack on Market May Be War Crime*, N.Y. TIMES, (Mar. 18, 2011), <http://www.nytimes.com/2011/03/19/world/africa/19briefs-ART-Ivorycoast.html>.

<sup>66</sup> Mark, *supra* note 50.

<sup>67</sup> *Political Crisis in Ivory Coast Cripples a City*, *supra* note 11.

<sup>68</sup> *Id.*

<sup>69</sup> *Id.*

<sup>70</sup> Adam Nossiter, *Ivory Coast Leader’s Rival Remains Under Blockade*, N.Y. TIMES (Jan. 5, 2011), <http://www.nytimes.com/2011/06/world/africa/06ivory.html>.

<sup>71</sup> *Id.*

<sup>72</sup> Cook, *supra* note 10, at 28.

<sup>73</sup> *Id.* at 26.

<sup>74</sup> *Id.* at 28.

<sup>75</sup> Adam Nossiter, *Hundreds of Thousands Flee Ivory Coast, U.N. Says*, N.Y. TIMES (Mar. 25, 2011), <http://www.nytimes.com/2011/03/26/world/africa/26ivory-coast.html> [hereinafter *Hundreds of Thousands Flee*].



"Fueled by fears of all-out war," hundreds of thousands of civilians fled from Abidjan to neighboring cities.<sup>77</sup> On April 11, 2011, rebels stormed Gbagbo's residence and arrested him.<sup>78</sup> Adam Nossiter of The New York Times described Gbagbo's surrender as the end of "a four-month standoff that left hundreds dead in this once-prosperous West African nation, put international diplomacy to a severe test and ultimately dragged the country back into civil war."<sup>79</sup> Currently, Gbagbo awaits trial in The Hague.<sup>80</sup> Ouattara remains the country's president. An election is slated for October 2015.<sup>81</sup>

Even after the prolonged civil war, Côte d'Ivoire has the second largest economy in West Africa.<sup>82</sup> As its economic backbone, the country is a leading exporter of cocoa and cashew nuts.<sup>83</sup> According to the World Bank, the Ouattara administration has engineered "substantial progress" towards renewed economic stability.<sup>84</sup> Côte d'Ivoire has enjoyed double-digit growth rates in Gross Domestic Product (GDP) over the last three years.<sup>85</sup> Inflation rates over the same period have remained a modest 2.5%.<sup>86</sup> The economic growth and low inflation stand in sharp contrast to the same indicators following the post-election chaos.<sup>87</sup> The rapid upswing and potential for continued ascension has transformed the war-torn country into "a new darling of frontier investors."<sup>88</sup>

Additionally, Côte d'Ivoire held a nationwide election in April 2013 designed to form governments at regional and municipal levels.<sup>89</sup> Though marred by isolated violence, the

*Ivory Coast*]; Adam Nossiter, *Strikes by U.N. and French Corner Leader of Ivory Coast*, N.Y. TIMES (Apr. 4, 2011), <http://www.nytimes.com/2011/04/05/world/africa/05ivory.html>.

<sup>76</sup> Nearly 500 people died in the days culminating with Gbagbo's arrest, bringing the post-election death toll to approximately 3,000. Matt Wells, *Côte d'Ivoire: Dispatches – a Look At Human Rights in the News Today*, GENOCIDE WATCH (July 13, 2013), [http://www.genocidewatch.org/images/Cote\\_d\\_Ivoire\\_2013\\_07\\_31\\_UN\\_presses\\_country\\_to\\_examine\\_war\\_crimes\\_during\\_post\\_election\\_period.pdf](http://www.genocidewatch.org/images/Cote_d_Ivoire_2013_07_31_UN_presses_country_to_examine_war_crimes_during_post_election_period.pdf); see also U.N. Official: *Ivory Coast Death Toll Up to 462*, VOICE OF AMERICA (Mar. 23, 2011), <http://www.voanews.com/content/un-official-ivory-coast-death-toll-up-to-462-118580879/136988.html>. In addition to the casualties, "as many as 1 million refugees" fled the country during the conflict. Sanders, *supra* note 40.

<sup>77</sup> *Hundreds of Thousands Flee Ivory Coast*, *supra* note 75.

<sup>78</sup> Adam Nossiter, Scott Sayere & Dan Bilefsky, *Leader's Arrest in Ivory Coast Ends Standoff*, N.Y. TIMES, (Apr. 11, 2011), <http://www.nytimes.com/2011/04/12/world/africa/12ivory.html>.

<sup>79</sup> *Id.*

<sup>80</sup> The charges against Gbagbo involve his sanctioning of "widespread and systematic" use of deadly force against unarmed civilian demonstrators. Adam Nossiter, *Arrest Warrant Issued for Wife of Ivory Coast President*, N.Y. TIMES, (Nov. 22, 2012), <http://www.nytimes.com/2012/11/23/world/africa/criminal-court-issues-arrest-warrant-for-simone-gbagbo.html>.

<sup>81</sup> John Mukum Mbaku, THE BROOKING INST. AFRICA GROWTH INITIATIVE, AFRICAN ELECTIONS IN 2015: A SNAPSHOT FOR CÔTE D'IVOIRE, TANZANIA, BURKINA FASO, AND SUDAN 52 (2015), <http://www.brookings.edu/~media/Research/Files/Reports/2015/01/foresight%20africa/african%20elections%20mbaku%20FINAL.pdf>.

<sup>82</sup> *Ivory Coast Overview*, THE WORLD BANK, <http://www.worldbank.org/en/country/cotedivoire/overview>.

<sup>83</sup> *Id.*

<sup>84</sup> *Id.*

<sup>85</sup> The country's GDP growth rate was 10.7% in 2012, 8.7% in 2013, and between 9 and 10% in 2014. *Id.*

<sup>86</sup> *Id.*

<sup>87</sup> *Id.* In 2011, GDP growth rate was in "steep decline" at -4.7%. *Id.*

<sup>88</sup> Joe Bavier, *Gunmen Kill Two Soldiers in Attack on Ivory Coast Border Town*, REUTERS.COM (Jan. 10, 2015, 9:31 AM), <http://www.reuters.com/article/2015/01/10/us-ivorycoast-attacks-idUSKBN0KJ0EY20150110>.

<sup>89</sup> A.R., *The Calm and the Storm*, THE ECONOMIST (Apr. 26, 2013, 4:22 PM), <http://www.economist.com/blogs/baobab/2013/04/c-te-d-ivoire>.

election established local governance for the ongoing restoration of public services.<sup>90</sup> Still, the World Bank cites the need for structural reforms needed to sustain growth, including improving local governance in the most vulnerable communities.<sup>91</sup> Poverty has risen over the last fifteen years and remains high, especially in rural areas.<sup>92</sup> More problematically, there is evidence that Côte d'Ivoire has not learned from "old mistakes" vis-à-vis corruption within the presidential administration.<sup>93</sup> In the lead-up to the charges against several key Ouattara allies, the central government was widely accused of engaging in "victor's justice" by shielding its supporters from prosecution.<sup>94</sup> Public confidence in the administration remains tepid.<sup>95</sup>

The U.N. and international community continue to provide support to Côte d'Ivoire.<sup>96</sup> A June 22, 2015 U.N. Resolution "welcomes the progress being made towards reconciliation" but states that the country "bears primary responsibility for ensuring peace, stability and the protection of [its] civilians."<sup>97</sup> The Resolution encourages the nation to "further strengthen the rule of law."<sup>98</sup> Additionally, it calls for "prioritizing efforts to implement completely [a] security sector reform strategy, with a special attention to the training and equipment of the police."<sup>99</sup> Such training, the Resolution highlights, must be "accelerated" and geared towards restoring police performance of "public order tasks currently performed by the army."<sup>100</sup> In light of the country's tenuous infrastructure, the doubts undermining the Ouattara administration, and the nation's embedded ethnic and religious divisions, the task of adequately training and sustaining a viable police force on any timetable is formidable. To expedite and enhance the process, the systems of law enforcement used in other countries – including the United States – present options for implementation.

<sup>90</sup> JICA'S WORLD, *supra* note 11, at 8; Yembiline, Traoré, & Padilla, *supra* note 14, at 9.

<sup>91</sup> *Ivory Coast Overview*, *supra* note 82 (noting that Ivory Coast has made halting progress in improving social services and creating jobs in the areas most affected by the civil war.).

<sup>92</sup> *Ivory Coast Overview*, *supra* note 82 (stating that the poverty level rose from 36% in 1998 to 50% in 2008, largely due to "the succession of multifaceted crises that the country has experienced since the beginning of the decade.").

<sup>93</sup> Adam Nossiter, *In Troubled States, New Government With the Same Old Problems*, N.Y. TIMES (Apr. 1, 2014), <http://www.nytimes.com/2014/04/02/world/africa/in-troubled-states-new-governments-with-the-same-old-problems.html> (describing the Ouattara administration as "stuffed with patronage appointments and relatives of leaders.").

<sup>94</sup> THE ASSOCIATED PRESS, *Ivory Coast President's Allies Charged Over Election Dispute*, N.Y. TIMES (July 11, 2015), <http://www.nytimes.com/aponline/2015/07/11/world/africa/ap-af-ivory-coast-justice.html>.

<sup>95</sup> Mbaku, *supra* note 82, at 52; OVERSEAS SEC. ADVISORY COUNCIL, U.S. DEP'T OF STATE, COTE D'IVOIRE 2015 CRIME AND SAFETY REPORT (Jan. 29, 2015), <https://www.osac.gov/pages/ContentReportPDF.aspx?cid=17008> [hereinafter 2015 CRIME AND SAFETY REPORT] ("The government has made economic and commercial development its top priority and has achieved significant growth rates in 2013 and 2014. Nonetheless, the average Ivoirian has not yet benefited from this growth and renewed investor confidence in the economy.").

<sup>96</sup> S.C. Res. 2226, *supra* note 9, ¶ 6; *U.S. Relations with Côte d'Ivoire*, *supra* note 15.

<sup>97</sup> S.C. Res. 2226, *supra* note 9. As evidence that violence persists, the Resolution condemned two attacks in January 2015 along the border with Liberia, believed to have been carried out by Gbagbo loyalists. *Id.*

<sup>98</sup> *Id.*

<sup>99</sup> *Id.* at 2.

<sup>100</sup> *Id.* at 5.

## I. DECENTRALIZED LAW ENFORCEMENT: BENEFITS, CHALLENGES AND OUTCOMES

Decentralization refers to the redistribution of power from a central authority to regional and local authorities.<sup>101</sup> Commonly, decentralization results in the allocation of power or division of responsibility between multiple layers of government.<sup>102</sup> The delegation of power typically breaks down along geographical boundaries over which local governments exercise authority and perform public functions.<sup>103</sup> Programmatically, decentralization may target a discreet component of government – such as public education, policing, or health care – or address multiple, overlapping components.<sup>104</sup> To be sure, strategies for decentralization must be tailored both to the specific entity at issue and the type of delegation taking place.<sup>105</sup>

Further, the goals of decentralization matter. In some cases, the objectives are purely pragmatic: to curtail bureaucracy, streamline processes, or promote efficiency.<sup>106</sup> For instance, in East Asia, the pressing need to improve service delivery to an ever-escalating population has hastened decentralization.<sup>107</sup> In other cases, the chief aim of decentralization is community empowerment. That is, if a community is entrusted to determine its own affairs through local governance, its residents will feel secure, independent, and self-directed.<sup>108</sup> To this end, decentralization “speaks to the aspirations of people and communities who simply want government to be closer and more attentive to their needs.”<sup>109</sup>

At their best, decentralized systems facilitate opportunities for residents to participate in community life and to monitor government functions.<sup>110</sup> In turn, leaders, keenly

<sup>101</sup> ROCHÉ, *supra* note 20, at 8 (explaining decentralization and federalism are related, but distinct, concepts. Federalism is a system in which the power to govern is shared between national and provincial/state governments, usually as defined in a constitution. Decentralization is a more flexible arrangement and “can typically be revoked by the central [government].”).

<sup>102</sup> *Decentralization and Subnational Regional Economics: What, Why, and Where*, THE WORLD BANK GRP., <http://www1.worldbank.org/publicsector/decentralization/what.htm> (last visited, Oct. 28, 2015) [hereinafter THE WORLD BANK GRP.] (describing decentralization as a full or partial “transfer of authority and responsibility for public functions . . . to local governments.”).

<sup>103</sup> ROCHÉ, *supra* note 20, at 13.

<sup>104</sup> THE WORLD BANK GRP., *supra* note 102; Cheryl Saunders, COMPARATIVE CONSTITUTION PROJECT, OPTIONS FOR DECENTRALIZING POWER: FEDERALISM TO DECENTRALIZATION 1 (2006), <http://comparativeconstitutionsproject.org/files/federalism.pdf> (“There is almost an infinite variety of decentralized agreements.”).

<sup>105</sup> THE WORLD BANK GRP., *supra* note 102; ROCHÉ, *supra* note 20, at 12 (“Decentralization ranges from de-concentration – its weakest form characterized by the existence of a local representative of the central state – to devolution – in its stronger form, powers are allotted to the local level”).

<sup>106</sup> THE WORLD BANK GRP., *supra* note 102.

<sup>107</sup> *Id.*

<sup>108</sup> Larry Diamond, *Why Decentralize Power in a Democracy?*, Conference on Fiscal & Admin. Decentralization (Feb. 12, 2004), [https://web.stanford.edu/~ldiamond/iraq/Decentralize\\_Power021204.htm](https://web.stanford.edu/~ldiamond/iraq/Decentralize_Power021204.htm).

<sup>109</sup> *Id.*; see also Saunders, *supra* note 104, at 2 (“Decentralization aims to distribute public power broadly so as to achieve more effective and responsive government, to broaden access to government services and economic resources, to encourage greater public participation in government, to provide a basis on which often diverse groups can live together peacefully, and to underpin the stability of the state, by persuading groups to remain within it.”).

<sup>110</sup> Diamond, *supra* note 108, at 3; see also ROCHÉ, *supra* note 20, at 11 (“Political decentralization assumes that decisions made with greater participation will be better informed and more relevant to diverse interests in society than those made only by national political authorities.”).

aware of the close watch of the community, are motivated to make decisions that reflect the good of the people.<sup>111</sup> To function effectively, there must be both a “credible incentive” for residents to become engaged and a system for accountability of local officials.<sup>112</sup> Resident engagement relies, in large part, upon trust in the commitment of leadership to pursue the public good and to manage efficiently.<sup>113</sup> Accountability is measured both by the transparency of the system and the existence of a sanctioned set of rules, processes and procedures for inviting public feedback.<sup>114</sup> While a community may at first measure decentralization favorably against the intransigencies of central government, lasting public support relies on mechanisms for meaningful participation.<sup>115</sup> Moreover, effective decentralization requires a levelling of the traditional “top down” bureaucratic paradigm.<sup>116</sup> This shift is particularly critical in countries with scant history of local governance; the tendency being toward domination by an “all-powerful mayor with no meaningful role for the elected local council.”<sup>117</sup>

To the contrary, “high functioning” decentralized governance emphasizes collaborative decision-making among multiple representatives – or between representatives and community members.<sup>118</sup> This approach has myriad benefits, both tangible and intangible.<sup>119</sup> In the context of policing, a collaborative model discourages compartmentalized responses to community ills – or “fragmented silos or stove-pipes, with each department or unit working alongside one another.”<sup>120</sup> Instead, the model prizes cross-sectional collaboration in which multiple departments work together to address complex, intertwined issues.<sup>121</sup>

Though decentralization disburses power to the local level, the creation of a network of self-sufficient independent local authorities can forge national stability and unity.<sup>122</sup> This

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<sup>111</sup> Diamond, *supra* note 108.

<sup>112</sup> THE WORLD BANK GRP., *supra* note 102.

<sup>113</sup> Ronald W. Johnson & Henry P. Minnis, Jr., RESEARCH TRIANGLE INST., TOWARD DEMOCRATIC DECENTRALIZATION: APPROACHES TO PROMOTING GOOD GOVERNANCE 9 (1996), [https://rti.org/pubs/Toward\\_demo\\_decen.pdf](https://rti.org/pubs/Toward_demo_decen.pdf) (providing a framework for more responsive and accountable democratic systems in developing countries, especially those with a history of “abuses of authoritarian regimes.”).

<sup>114</sup> *Id.* at 2.

<sup>115</sup> *Id.*

<sup>116</sup> Deborah Kimble, Jamie Boex & Gina Kapitinova, URBAN INST. CTR. ON INT’L DEV. & GOVERNANCE, MAKING DECENTRALIZATION WORK IN DEVELOPING COUNTRIES: TRANSFORMING LOCAL GOVERNMENT ENTITIES INTO HIGH-PERFORMING LOCAL GOVERNMENT 1 (2012), [http://www.urban.org/research/publication/making-decentralization-work-developing-countries-transforming-local-government/view/full\\_report](http://www.urban.org/research/publication/making-decentralization-work-developing-countries-transforming-local-government/view/full_report).

<sup>117</sup> *Id.* at 3.

<sup>118</sup> *Id.* at 4.

<sup>119</sup> See generally *id.* (explaining the benefits of decentralized governance.).

<sup>120</sup> *Id.* at 3.

<sup>121</sup> *Id.* at 3-4; see also Saunders, *supra* note 104, at 4 (“Mechanisms to encourage unity and co-operation balance mechanisms for autonomy in all decentralized systems and are particularly important in states with deep social divisions.”).

<sup>122</sup> THE WORLD BANK GRP., *supra* note 102; see also Saunders, *supra* note 104, at 5 (Decentralization gives minority groups “a sense of ownership of the state as a whole . . . [and] provides the means through which political leaders of minority groups can play a formally recognized leadership role, thus providing them with the incentive to work constructively within the state.”).

notion is especially true in countries with diverse ethnic and religious populations.<sup>123</sup> Lower levels of office offer an entry point for the recruitment, training and development of new leaders who may be historically underrepresented in national government, especially women and minorities.<sup>124</sup> In addition, through decentralization, local entities may devise programs and processes that best fit the particular needs of the community.<sup>125</sup> More broadly, decentralization promotes a “best practices” ethos in which regional programs may become national models.<sup>126</sup>

Several African countries exemplify decentralization as a means to spur increased participation in the political process.<sup>127</sup> In Ethiopia, pressure from regional and ethnic groups seeking a stronger voice in national decision-making resulted in the decentralization of government services and programs.<sup>128</sup> A “variation on this theme” involves countries, like Côte d’Ivoire, affected by civil wars that destabilized the central government or split the country into warring factions.<sup>129</sup> In this scenario, decentralization provides a certain therapeutic effect as disparate sides may play a role in restoring order at the local level.<sup>130</sup> Moreover, an increasing number of studies indicate that decentralized local leadership can play an important role in a post-conflict environment in improving governance and boosting public safety.<sup>131</sup>

## 1. The Challenges of Decentralization

Decentralization also presents certain obstacles.<sup>132</sup> Untethered from federal oversight, local governments are at risk of becoming “fiefdoms” dominated by political

<sup>123</sup> Saunders, *supra* note 104, at 5.

<sup>124</sup> *Id.* Importantly, the most recent U.N. Resolution for Ivory Coast “[reiterated] the vital role of women in conflict resolution and peace-building, the importance of their equal participation and full involvement in all efforts for the maintenance and promotion of peace and security and their key role in re-establishing the fabric of societies recovering from conflict[.]” S.C. Res. 2226, *supra* note 9.

<sup>125</sup> Saunders, *supra* note 104, at 5. The World Bank describes this potential for shared political and economic benefits. Decentralization can “increase political responsiveness and participation at the local level” while advancing “the economic objectives of better decisions about the use” and methods of distribution of services. THE WORLD BANK GRP., *supra* note 102.

<sup>126</sup> See Saunders, *supra* note 104, at 5 (“Decentralization necessarily involves some diversity in rules, standards and procedures across the country” but “because all belong to a single state, the stability of which is important, they must all work collaboratively, within a framework that serves the needs of the people of the state as a whole.”).

<sup>127</sup> THE WORLD BANK GRP., *supra* note 102.

<sup>128</sup> *Id.* at 3.

<sup>129</sup> *Id.* (citing Uganda and Mozambique as examples of post-civil war nations in which decentralization has created “political opportunities at the local levels [and] allowed for greater participation by all former warring factions in the governance of the country.”).

<sup>130</sup> *Id.*

<sup>131</sup> JAMIE BOEX, DEBORAH KIMBLE & JULIANA PIGEY, URBAN INST. CTR. ON INT’L DEV. & GOVERNANCE, DECENTRALIZED LOCAL GOVERNMENTS AS A MODALITY FOR POST-CONFLICT RECOVERY AND DEVELOPMENT: AN EMERGING NATURAL EXPERIMENT IN NORTHERN UGANDA 1 (2010), <http://www.urban.org/sites/default/files/alfresco/publication-pdfs/412217-Decentralized-local-governments-as-a-modality-for-post-conflict-recovery-and-development-An-emerging-natural-experiment-in-Northern-Uganda.PDF>.

<sup>132</sup> THE WORLD BANK GRP., *supra* note 103 (“[D]ecentralization is not a panacea, and it does have potential disadvantages.”).

bosses and poisoned by corruption, intimidation, and self-interest.<sup>133</sup> The results may be disastrous, especially for countries emerging from civil war and susceptible to splintering into a loose collection of one-party strongholds.<sup>134</sup> A 2011 Urban Institute report on decentralization in developing countries describes this phenomenon aptly: “The fundamental nature of the public sector does not change through decentralization if the ‘big man’ at the top of the central government pyramid is merely supplemented by smaller ‘big men’ at the top of each local government pyramid.”<sup>135</sup>

Decentralized police forces may become similarly disfigured, mutating from entities designed to protect citizens to ones prone to abuse them – especially religious, ethnic or other minorities. Even in countries with strong federal governments, like the United States, police corruption at the local level has proved insidious and pervasive.<sup>136</sup> To thwart these eventualities, decentralization need not constitute an “all or nothing” proposition.<sup>137</sup> Its implementation may be partial or incremental, with the federal government retaining certain powers or ceding jurisdictional control over a period of time.<sup>138</sup> Such arrangements reflect a kind of “cooperative federalism” or “cooperative decentralization.”<sup>139</sup>

An additional challenge of decentralization involves the incapacity of local entities to take on central government responsibilities.<sup>140</sup> This obstacle is acute in Côte d’Ivoire.<sup>141</sup> Almost five years since the war’s apex, public services remain inadequate.<sup>142</sup> While the April 2013 elections created regional and local governments to manage public services, the process has suffered from funding shortages, ill-trained officials, and communication lapses.<sup>143</sup>

Nonetheless, reasons for hope exist.<sup>144</sup> Unlike other countries in which infighting toppled the central government, the Ivorian government is intact and solvent.<sup>145</sup> Though

<sup>133</sup> Diamond, *supra* note 108; see also Saunders, *supra* note 104, at 6 (The process of decentralization may be complicated “by self-interest on the part of political leaders. Effective decentralization requires commitment by leaders at each level of government.”).

<sup>134</sup> Diamond, *supra* note 108.

<sup>135</sup> KIMBLE, BOEX & KAPITINOVA, *supra*, note 116 at 1.

<sup>136</sup> Chanbonpin, *supra* note 24, at 1088.

<sup>137</sup> THE WORLD BANK GRP., *supra* note 102; See also Saunders, *supra* note 104, at 6 (noting the challenge of balancing the amount of power and decision-making authority between the central government and the decentralized system.).

<sup>138</sup> THE WORLD BANK GRP., *supra* note 102 (“Even when national governments decentralize responsibilities, they often retain important policy and supervisory roles. They must create or maintain the ‘enabling conditions’ that allow local units of administration or non-government organizations to take on more responsibilities.”); see also Saunders, *supra* note 104, at 1 (stating decentralization may entail delegation “in which the [center] retains authority to withdraw the delegated power or to direct its use.”).

<sup>139</sup> Roché, *supra* note 20, at 9, 15. “Cooperative federalism,” a term coined in the United States in the 1930s, emphasizes that there are many areas where federal and state responsibilities overlap and encourages a workable division of resources. *Id.*

<sup>140</sup> Saunders, *supra* note 104, at 7,8.

<sup>141</sup> *Id.* at 8 (“The challenge of capacity may be particularly severe where decentralization takes place as a response to armed conflict, especially where the state has effectively collapsed.”).

<sup>142</sup> JICA’S WORLD, *supra* note 11, at 8 (reporting that “[t]he lack of government services due to the war has left 55% of Ivorian water supply facilities in nonworking order.”).

<sup>143</sup> *Id.*; Saunders, *supra* note 104, at 8 (A challenge to decentralization is “adequately inform[ing], involv[ing] and engag[ing] the people.”).

<sup>144</sup> *Ivory Coast Overview*, *supra* note 82 (stating that Ivory Coast has made “great leaps in development since 2011” and “has great economic potential” in the coming years).

<sup>145</sup> *Id.*; Cook, *supra* note 10, at 6-7.

weakened by the presidential election fallout, the government remains capable of funding, training, and the “phased transfer” of responsibilities to local authorities.<sup>146</sup> At the same time, there is broad international backing for decentralization.<sup>147</sup> The United States, Japan, France and other nations have provided funding, support, and consultation to facilitate the process.<sup>148</sup>

International urging aside, decentralization is in the country’s best long-term national interest.<sup>149</sup> The considerable undertaking of restoring utility lines, water supply, and other basic services demands manpower at the local level.<sup>150</sup> The same holds true in law enforcement, especially when police stations must be rebuilt from the ground up.<sup>151</sup> While military control of police powers made sense in the aftermath of the disputed election, continued policing by the national army is a costly, cumbersome and ineffective stopgap.<sup>152</sup>

## 2. Making Decentralization Work: An Essential Checklist for Law Enforcement<sup>153</sup>

Amid transition in Nepal from a centralized governmental system to a federal republic, a 2011 report by the Geneva Centre for the Democratic Control of Armed Forces assessed “the readiness and ability of the Nepalese police force to engage readily in the federalization process.”<sup>154</sup> Drawing upon models of policing used in other countries, the report enumerates a checklist of “core principles” for “good implementation and functioning” of a police system in a newly democratized – or post-war – nation.<sup>155</sup> While the political, religious, and economic backdrops in Nepal and Côte d’Ivoire differ markedly, the checklist provides a useful framework for establishing – or rebuilding – a police system.<sup>156</sup>

<sup>146</sup> Saunders, *supra* note 104 at 8; *Ivory Coast Overview*, *supra* note 82.

<sup>147</sup> Cook, *supra* note 10 at 7; *U.S. Relations with Côte d’Ivoire*, *supra* note 15.

<sup>148</sup> Cook, *supra* note 10 at 7; *U.S. Relations with Côte d’Ivoire*, *supra* note 15; JICA’S WORLD, *supra* note 11, at 9.

<sup>149</sup> JICA’S WORLD, *supra* note 11, at 9.

<sup>150</sup> *Id.*

<sup>151</sup> See Roché, *supra* note 20, at 29 (The temporary utilization of a national army or police force to restore order after a domestic crisis is not atypical but should be reserved for “extraordinary circumstances.”).

<sup>152</sup> *Id.*; See also Sabine Wenz, *Police Programme Africa – Côte d’Ivoire*, GIZ GMNH, <https://www.giz.de/en/worldwide/19314.html> (last visited Oct. 29, 2015) (“The capacity of the Ivorian security forces remains limited and people’s trust in the police has declined.”).

<sup>153</sup> While checklists invoke images of rudimentary clerical tasks, their importance should not be underestimated. In *The Checklist Manifesto: How to Get Things Right*, Dr. Atul Gawande argues that checklists improve performance and reduce the likelihood of catastrophic error in such complex arenas as medicine and airline travel. ATUL GAWANDE, *THE CHECKLIST MANIFESTO: HOW TO GET THINGS RIGHT* (2011). Gawande cautions, “[W]e believe our jobs are too complicated to reduce to a checklist.” *Id.* at 35. For instance, in medicine, “mapping out the proper steps for every [diagnosis] is not possible.” *Id.* Nevertheless, a simple checklist – in the case of medicine, measuring blood pressure, pulse rate, body temperature and respiratory rate – sets out the “minimum necessary steps” for sophisticated endeavors and “makes them explicit.” *Id.* at 36. As Gawande writes, “[c]hecklists] not only offer the possibility of verification but also instill a kind of discipline of higher performance.” *Id.*

<sup>154</sup> Roché, *supra* note 20, at 1.

<sup>155</sup> *Id.* at v, 2.

<sup>156</sup> *Id.* at 1 (noting that at the time of the report’s publication, Nepal was “in the process of drafting a new composition.”); BOEX, KIMBLE & PIGEY, *supra* note 131, at 1 (explaining that while “there is no one-size-fits-all solution when it comes to the role of local governments in failed states and (post-)conflict environments,” there are traits common to successful decentralization efforts.).

The report examines models of law enforcement in countries with varying degrees of decentralized law enforcement, ranging from the United States (“very high”) and Switzerland (“high”) to India (“low”) and Spain (“very low”).<sup>157</sup> Despite widely disparate law enforcement models in the profiled countries, the report identifies shared principles essential to the process of decentralization.

Based on these principles, the report offers a “decentralization checklist” comprised of four questions:

1. What is the desired distribution of police competences (or “public authority over the police force”) to different levels of governments?
2. What are the powers given by law to a police force?
3. How centralized should the organization of daily police forces be?
4. If opting for local control, should there be a national police law, national recruiting procedure and training standards, a national penal and criminal procedure code, a national information system – or some combination of all four?<sup>158</sup>

To effectively “institutionalize or upgrade a police system,” a central government must answer all four questions.<sup>159</sup>

In the United States, for instance, the “balance of competence is clearly favorable” to the local level.<sup>160</sup> Secondly, local law enforcement agencies have broad autonomy and power to enforce the laws within their respective jurisdictions.<sup>161</sup> This power extends to internal departmental functions; each agency has its own procedures, rules and disciplinary system.<sup>162</sup> While federal agencies – such as the Bureau of Alcohol, Tobacco and Firearms – routinely work in tandem with local law enforcement to investigate interstate crimes, there is no “definition of a federal police peace officer” as such.<sup>163</sup> Thirdly, as stated above, law enforcement in the U.S. is extraordinarily decentralized.<sup>164</sup> Approximately eighty percent of law enforcement personnel work at the local level.<sup>165</sup> The United States does not have a national police law, uniform recruiting or training protocols, or a national information

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<sup>157</sup> Roché, *supra* note 20, at 18.

<sup>158</sup> *Id.* at vi-vii, 49-51.

<sup>159</sup> *Id.* at vi, 2 (“Based on this checklist [...] decisions can be made in a systematic and organized manner on the constitutional requirements for establishing a legal basis for and the organization of a police system . . .”).

<sup>160</sup> *Id.* at 26-27 (“The maintenance of peace, conduct of orderly elections, and prosecution of unlawful actions are all state responsibilities, pursuant to the states’ primary job of exercising police power and maintaining law and order.”).

<sup>161</sup> *Id.* at 35 (“[N]o police agency can give instructions to another police agency”); see also *United States v. Lopez*, 514 U.S. 549, 564 (1995) (In “criminal law enforcement, States historically have been sovereign.”).

<sup>162</sup> Roché, *supra* note 20, at 42.

<sup>163</sup> *Id.* at 28, 40. The Commerce Clause vests authority in federal law enforcement agencies to participate in the investigation of crimes affecting interstate commerce. *Id.* at 28.

<sup>164</sup> Roché, *supra* note 20, at 34. Switzerland utilizes a model comparable to the U.S. There, competences are divided using the so-called “principle of subsidiary,” *i.e.*, all authority not explicitly assigned to the federal level belongs to the local level. *Id.* at 25. Like the U.S., the Swiss balance of authority favors the local level police system is “extremely fragmented.” *Id.* at 27. No uniformed police serve at the federal level and “public order and investigation of crimes” is a largely local undertaking. *Id.* at 27. The central government, however, retains exclusive authority over a small number of crimes. *Id.* at 28.

<sup>165</sup> *Id.* at 35.



system.<sup>166</sup> Finally, though a federal criminal code applies nation-wide, all fifty states have a system of criminal laws which, in some cases, clash with federal statutes.<sup>167</sup>

By contrast, law enforcement in Spain is tightly centralized. Police competences and delegation of power are both “exclusive” duties of the federal government.<sup>168</sup> Moreover, “forces are mainly affiliated to the central level.”<sup>169</sup> Two national police forces – accounting for 90% of all police personnel – are nationally recruited, trained, appointed and managed.<sup>170</sup> Additionally, the country has a single penal code and code of criminal procedure.<sup>171</sup>

India offers an interesting intermediate example of decentralized law enforcement.<sup>172</sup> There, state authority to create and maintain police forces is tempered with “considerable uniformity in structure and functioning” under federal law.<sup>173</sup> Each of the 28 Indian states and 7 union territories has autonomy to establish rules relating to the police force and its functioning.<sup>174</sup> Additionally, state police have considerable discretion to enforce the law.<sup>175</sup> Yet the central government retains ability to take control over police powers “in case of a crisis.”<sup>176</sup> The “quasi-federal” relationship is also reflected in the central government’s “coordinating and counseling role” in police matters and authority to “set up certain central police organizations.”<sup>177</sup> India employs a mid-line approach to decentralization, that is, the majority of law enforcement functions are at the state level.<sup>178</sup> Every state police force is divided into two groups: “armed police,” who deal with “emergency law and order situations,” and “civil police,” who handle all other matters.<sup>179</sup> The civil police comprise roughly three-quarters of the total force.<sup>180</sup> Moreover, the Indian Penal and Criminal Procedure Codes are utilized by every state in like fashion.<sup>181</sup> Lastly, despite the

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<sup>166</sup> While the U.S. does not have a “national information system” for law enforcement, the federal government has attempted to bolster interagency communication and create national databanks in certain areas, including sex offender registration and national security. See, e.g., *Sex Offender Registration and Notification Act*, U.S. DEP’T OF JUSTICE, <http://www.justice.gov/criminal-ceos/sex-offender-registration-and-notification-act-soma> (last updated June 3, 2015); *Law Enforcement Information Sharing*, INFO. SHARING ENV’T, <http://www.ise.gov/mission-and-vision>.

<sup>167</sup> Roché, *supra* note 20, at 40. Importantly, where federal and state law overlap or conflict (or when state high courts disagree with the U.S. Supreme Court), federal law and Supreme Court decisions predominate. *Id.*

<sup>168</sup> Roché, *supra* note 20, at 26.

<sup>169</sup> *Id.* at 28.

<sup>170</sup> *Id.* at 34.

<sup>171</sup> *Id.* at 40.

<sup>172</sup> *Id.* at 41.

<sup>173</sup> *Id.* at 39.

<sup>174</sup> *Id.* at 26. Although Indian law enforcement works predominantly at the state level, India has local levels of government and power is devolved by states in accordance with the Constitution. SAUNDERS, *supra* note 105 at 21-22.

<sup>175</sup> Roché, *supra* note 20, at 26.

<sup>176</sup> *Id.*

<sup>177</sup> *Id.*; Saunders, *supra* note 103, at 22 (“There are some other limitations on the autonomy of the Indian states. . . which make India . . . somewhat centralized. . . .” “In particular, the Governor of each state is appointment by the President of India, and the center may intervened in state affairs in a range of emergency-type situations.”).

<sup>178</sup> Roché, *supra* note 20, at 37. As a point of comparison, only ten-percent of law enforcement personnel in the U.S. work at the state level. *Id.* at 35.

<sup>179</sup> *Id.* at 37.

<sup>180</sup> *Id.*

<sup>181</sup> *Id.* at 40.

concentration of law enforcement at the state level, recruitment, training and appointments are operated by central government.<sup>182</sup>

### 3. Côte d'Ivoire's History of Centralized Law Enforcement

Even before the military's assumption of policing duties, Côte d'Ivoire employed a heavily centralized law enforcement system.<sup>183</sup> The Ivorian system follows the French colonial model in which three central ministries – the Ministry of Internal Security, the Ministry of Defense and Maritime Affairs, and the Ministry of Interior– share responsibility for policing.<sup>184</sup> Under the country's 2000 Constitution, the National Assembly “votes the law” and establishes the rules with respect to the national police force.<sup>185</sup> The Ministry of Internal Security is charged with state security and national police functions.<sup>186</sup> In addition, a *Gendarmerie* operated through the Ministry of Defense is responsible for general law enforcement, internal security and maintenance of public order.<sup>187</sup> After the 2002 rebellion that split the country, the *Gendarmerie* was fully integrated into the more-than-30,000 man Ivorian Defense and Security Forces (FDS) which includes the army, navy and other military branches.<sup>188</sup> Presently, the unit comprises more than one-third of the FDS and is commanded by a major general.<sup>189</sup> Finally, local police are controlled through the Ministry of Interior.<sup>190</sup> In keeping with the centralized model, Côte d'Ivoire uses a single national penal code and code of penal procedure.<sup>191</sup>

Historically, police recruiting and training have been conducted through the central government.<sup>192</sup> Fifteen years of civil unrest has contributed to a sharp decline in the quality of training, preparation and equipment for Ivorian police.<sup>193</sup> Notably, the government's insufficient investment is glaring in the area of “crime fighting” on the local level.<sup>194</sup> Equipment-wise, many police departments lack appropriate documentation systems, basic technology for crime scene investigation, and other essential tools.<sup>195</sup> Moreover, training deficiencies are heightened due to the integration of “a large number of untrained rebels” into

<sup>182</sup> *Id.* at 41.

<sup>183</sup> ROBERT WINSLOW, PH.D, CRIME AND SOCIETY: A COMPARATIVE CRIMINOLOGY TOUR OF THE WORLD, [http://www-rohan.sdsu.edu/faculty/rwinslow/africa/cote\\_divoire.html](http://www-rohan.sdsu.edu/faculty/rwinslow/africa/cote_divoire.html); LARRY E. SULLIVAN ET AL., ENCYCLOPEDIA OF LAW ENFORCEMENT 1028, (2004).

<sup>184</sup> SULLIVAN ET AL., *supra* note 183, at 1028-29.

<sup>185</sup> CÔTE D'IVOIRE CONST., Title V, Art. 71; SULLIVAN ET AL., *supra* note 183, at 1028 (noting that the Côte d'Ivoire Constitution was revised in 2004 but suspended after the war.).

<sup>186</sup> WINSLOW, *supra* note 183.

<sup>187</sup> *Id.*; Côte D'Ivoire Profile, U.S. DEP'T OF STATE, <http://www.state.gov/outofdate/bgn/cotedivoire/123201.htm>.

<sup>188</sup> Côte D'Ivoire Profile, *supra* note 187.

<sup>189</sup> *Id.*

<sup>190</sup> *Id.*

<sup>191</sup> Kouable Clarisse Gueu, *The Legal System in Côte D'Ivoire: Where Do We Stand?*, GLOBALEX ¶ 5.1 (2009), [http://www.nyulawglobal.org/globalex/Cote\\_dIvoire.htm#\\_5\\_Sources\\_of](http://www.nyulawglobal.org/globalex/Cote_dIvoire.htm#_5_Sources_of) (“Within its national jurisdiction Côte d'Ivoire has a Constitution, laws, and rules.”).

<sup>192</sup> WINSLOW, *supra* note 183.

<sup>193</sup> Wenz, *supra* note 152.

<sup>194</sup> *Id.*

<sup>195</sup> *Id.*

the police force.<sup>196</sup> On a more positive note, Côte d'Ivoire's internal security sector has been "progressing steadily" since 2011, albeit at a rate slower than its economic growth.<sup>197</sup> The country also enjoys international support – much of which has yielded funding for new computers, evidence collection kits, and structural upgrades.<sup>198</sup>

Futhermore, the post-war era presents a chance for the Ivorian government to rethink its highly centralized law enforcement model and consider more effective alternatives for delegation of police authority and powers, officer recruitment and training, and departmental practices. These questions, however, are best answered as part of a broader discussion about the crime control strategies that will best address the country's particular needs.

## II. COMMUNITY POLICING AS A BEST PRACTICE FOR LAW ENFORCEMENT

### 1. The U.S. War on Drugs and the Era of Mass Incarceration

The Ivorian delegation's central inquiry involved the "best practices" in the United States for effective law enforcement and crime control, especially at the local level. In reality, the criminal justice strategies employed in the U.S. over the last four decades are far removed from theoretical "best practices." While crime rates have dipped in many cities, the economic cost and human toll of the "vast, costly social experiment" to clamp down on offenders is significant.<sup>199</sup>

Nearly 2.2 million Americans, a disproportionate share who are minorities, are currently incarcerated.<sup>200</sup> Most never received a trial, choosing to plead guilty rather than risk a substantially lengthier period of incarceration if convicted by a jury.<sup>201</sup> Further, the number

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<sup>196</sup> *Id.*

<sup>197</sup> *Id.*

<sup>198</sup> Many of the improvements to police departments have taken place in Abidjan. Though the economic hub was hard-hit during the civil war, outlying localities in the country also require substantial assistance. *Id.*

<sup>199</sup> ELIZABETH KNEEBONE & STEVEN RAPHAEL, THE BROOKING INST., METRO. POLICY PROGRAM: CITY AND SUBURBAN CRIME TRENDS IN METROPOLITAN AMERICA 1 (2011), [http://www.brookings.edu/~media/research/files/papers/2011/5/26-metropolitan-crime-kneebone-raphael/0526\\_metropolitan\\_crime\\_kneebone\\_raphael.pdf](http://www.brookings.edu/~media/research/files/papers/2011/5/26-metropolitan-crime-kneebone-raphael/0526_metropolitan_crime_kneebone_raphael.pdf) (reporting that both violent and property crime rates dropped by almost 30 percent in the 100 largest U.S. metropolitan areas between 1990 and 2008.); OLIVER ROEDER, LAUREN-BROOKE EISEN & JULIA BOWLING, BRENNAN CTR. FOR JUSTICE AT N.Y. U. SCH. OF LAW, WHAT CAUSED THE CRIME DECLINE IN CRIME? 3 (2012), [https://www.brennancenter.org/sites/default/files/publications/What\\_Caused\\_The\\_Crime\\_Decline.pdf](https://www.brennancenter.org/sites/default/files/publications/What_Caused_The_Crime_Decline.pdf) (Though crime rates have fallen since 1991, the United States "has incarcerated a higher percentage of its people, and for a longer period, than any other democracy.").

<sup>200</sup> Bill Keller, *Prison Revolt: A former law-and-order conservative takes a lead on criminal-justice reform*, THE NEW YORKER, 22-23 (June 29, 2015) ("African-Americans are nearly six times as likely as whites to be incarcerated, and Latinos are more than twice as likely.")

<sup>201</sup> In 2011, 101,149 defendants were charged in U.S. federal courts. Almost 90,000 defendants – about 90-percent of those charged – entered pleas of guilty. Strikingly, only 274 defendants – less than one percent – were acquitted after a jury trial. See *Judicial Facts and Figures*, U.S. COURTS (Sept. 20, 2011), <http://www.uscourts.gov/uscourts/Statistics/JudicialFactsAndFigures/2011/Table505.pdf>. In many states, the percentages of criminal defendants who plead guilty approximate federal totals. For example, in Illinois, between 2000-2010, the Illinois Sentencing Policy Advisory Council reported that "trials accounted for less than 5% of felony convictions in eighty-two of Illinois' 102 counties; looked at the other way, guilty pleas accounted for 95% or more of felony convictions in eighty-two of Illinois' 102 counties." ILL. SENTENCING

of criminal defendants subject to federal prosecution nearly doubled, from 54,980 in 1995 to 101,049 in 2011, in twenty years.<sup>202</sup> State prosecutions sharply increased during the same period.<sup>203</sup> Though the United States contains less than five-percent of the world's population, it claims one-quarter of the worldwide prison population.<sup>204</sup>

The spike in prosecutions is mainly attributable to the so-called War on Drugs, an amalgam of punitive urban crime control tactics that began in the mid-1980s.<sup>205</sup> A decrease in crime into the early-1990s emboldened lawmakers to pass the Violent Crime Control and Law Enforcement Act of 1994.<sup>206</sup> In many ways, the law represents the apex of the “tough on crime” era.<sup>207</sup> By any measure, it remains the most expansive crime bill in the history of the United States.<sup>208</sup> The law provided billions of discretionary dollars to local law enforcement,<sup>209</sup> increased funding for prison construction,<sup>210</sup> and enhanced penalties for various drug-related offenses.<sup>211</sup>

In the early 2000s, the George W. Bush administration capitalized on continued public support for aggressive law enforcement.<sup>212</sup> In 2003, Attorney General John Ashcroft issued a directive to federal prosecutors to “charge and pursue the offense or offenses that generate the most substantial sentence” and to “vigorously oppose” any proposed sentencing reductions.<sup>213</sup> At the same time, the Bush administration continued to pour funding into state and local law enforcement to hire more police officers, especially in urban areas.<sup>214</sup> The Department of Justice steadily increased federal prosecutions of street-level drug and firearm possession crimes.<sup>215</sup> These policies achieved “truly staggering rates of incarceration” in the

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POLICY ADVISORY COUNCIL, RESEARCH BRIEFING UPDATE: ILLINOIS FELONY SENTENCING – A RETROSPECTIVE 4 (2011), <http://www.icjia.state.il.us/spac/pdf/A%20Retrospective.%20March2012.pdf> [hereinafter ILLINOIS FELONY SENTENCING]

<sup>202</sup> U.S. COURTS, JUDICIAL FACTS AND FIGURES (2011), <http://www.uscourts.gov/uscourts/Statistics/JudicialFactsAndFigures/2011/Table505.pdf>.

<sup>203</sup> See, e.g., ILLINOIS FELONY SENTENCING, *supra* note 202.

<sup>204</sup> Keller, *supra* note 201.

<sup>205</sup> Claire Suddath, *The War on Drugs*, TIME.COM (Mar. 25, 2009), <http://content.time.com/time/world/article/0,8599,1887488,00.html>. A strong statistical correlation exists between the advent of the War on Drugs and the decline in criminal jury trials. Specifically, in 1980, the rate of federal cases proceeding to trial was five times higher than it was thirty years later. HINDALANG CRIMINAL JUSTICE RESEARCH CTR. & UNIV. OF ALBANY, SOURCEBOOK OF CRIMINAL JUSTICE RESEARCH STATISTICS ONLINE tbl.5.22 (Kathleen Maguire ed., 2010), <http://www.albany.edu/sourcebook/pdf/t5222010.pdf>.

<sup>206</sup> Violent Crime Control and Law Enforcement Act of 1994, Pub. L. No. 103-322, 108 Stat. 1796 (1994), reprinted in 1 BERNARD D. REAMS, JR., LEGISLATIVE HISTORY OF THE VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT OF 1994, at v (1997) [hereinafter Violent Crime Control and Law Enforcement Act of 1994].

<sup>207</sup> KNEEBONE & RAPHAEL, *supra* note 199.

<sup>208</sup> *Id.*

<sup>209</sup> Violent Crime Control and Law Enforcement Act of 1994, *supra* note 206.

<sup>210</sup> *Id.*

<sup>211</sup> *Id.*

<sup>212</sup> ALICE GOFFMAN, ON THE RUN: FUGITIVE LIFE IN AN AMERICAN CITY 1 (2014).

<sup>213</sup> Memorandum from Attorney Gen. John Ashcroft to All Federal Prosecutors (Sept. 22, 2003), [http://www.justice.gov/archive/opa/pr/2003/September/03\\_ag\\_516.htm](http://www.justice.gov/archive/opa/pr/2003/September/03_ag_516.htm).

<sup>214</sup> GOFFMAN, *supra* note 212, at 1 (citing JONATHAN SIMON, GOVERNING THROUGH CRIME 241(2007)).

<sup>215</sup> *Id.* at 2.

United States.<sup>216</sup> Today, one in 100 adults in the United States is incarcerated; one in 30 adults is under some form of court-ordered supervision.<sup>217</sup>

A direct correlation between escalated crime control policies and the drop in crime, though, is dubious.<sup>218</sup> Various “social, economic, and environmental factors,” such as an aging population, decreased unemployment, and modest income growth have contributed to overall crime reduction.<sup>219</sup> To the contrary, the salutary effect of mass incarceration on lower crime is negligible.<sup>220</sup> Likewise, increased police numbers have yielded only marginal benefits.<sup>221</sup> Moreover, U.S. crime control methods over the last three decades are neither economically nor sociologically sustainable.<sup>222</sup> American taxpayers spend \$260 billion per year on criminal justice, with minimal enduring returns.<sup>223</sup> Almost half of offenders released from prison are re-arrested and incarcerated within three years.<sup>224</sup> In effect, the system recirculates the same offenders in and out of prison, to parole or other forms of supervision, and back again.<sup>225</sup> From a sociological perspective, the toll extracted by the War on Drugs – especially in poorer communities – is incalculable.<sup>226</sup> Punitive crime control and mass incarceration has fractured families, disenfranchised millions of offenders, and created entrenched social inequality.<sup>227</sup>

<sup>216</sup> *Agency Perspective: Hearing on Over-Criminalization Task Force of 2014 Before the H. Comm. on the Judiciary, Jud. Comm. on Over-Criminalization*, 113th Cong. 65 (2014) [hereinafter Patton] (statement of David E. Patton, Exec. Dir. Federal Defenders of New York).

<sup>217</sup> *Id.*

<sup>218</sup> ROEDER, EISEN & BOWLING, *supra* note 199, at 25.

<sup>219</sup> *Id.*

<sup>220</sup> *Id.* at 7, 15. According to the report, incarceration has been declining in effectiveness as a crime control tactic since before 1980. Since 2000, the effect of increasing incarceration on the crime rate has been “essentially zero.” While the incarceration rate jumped by more than 60 percent from 1990 to 1999, while the rate of violent crime dropped by 28 percent. *Id.*

<sup>221</sup> *Id.* at 8.

<sup>222</sup> See Suddath, *supra* note 205 (reporting that the Bush administration’s 2002 goal of reducing all illegal drug use by 25% resulted in an “unprecedented number of marijuana-related arrests,” while “pot use only declined 6%” and use of other drugs increased – “causing officials to play a never ending game of narcotic whack-a-mole.”).

<sup>223</sup> ROEDER, EISEN & BOWLING, *supra* note 199, at 1; Marc Santora, *City’s Annual Cost Per Inmate Is \$168,000: Study Finds*, N.Y. TIMES (Aug. 23, 2013), <http://www.nytimes.com/2013/08/24/nyregion/citys-annual-cost-per-inmate-is-nearly-168000-study-says.html> (citing a 2010 Vera Institute study calculating an aggregate cost of \$39 billion to house inmates in the 40 states participating in the study and an average taxpayer cost of \$31,286 per inmate).

<sup>224</sup> Keller, *supra* note 200, at 23; Howard Becker, in his review of *ON THE RUN: FUGITIVE LIFE IN AN AMERICAN CITY*, <http://press.uchicago.edu/ucp/books/book/chicago/O/bo18039324.html> (last visited Oct. 27, 2015) (describing the recidivism among minorities rate as “[being] trapped on the wrong side of the law with no way out – the situation of so many young Black Americans today.”).

<sup>225</sup> GOFFMAN, *supra* note 212, at 17-18. Goffman details the plights of several young black men who personify this cycle, including “Mike” who, in the span of five years, spent three and a half years in jail or prison and “out of the 139 weeks he was not incarcerated, he spent 87 weeks on probation or parole for five overlapping sentences. *Id.* He spent 35 weeks with a warrant out for his arrest, and had a total of ten warrants issued on him. He also had at least 51 court appearance over the five-year period[.]” *Id.*

<sup>226</sup> *Id.* at 3 (“Since the 1980s, the War on Crime and War on Drugs have taken millions of Black young men out of school, work, and family life, sent them to jails and prisons, and returned them to society with felony convictions.”)

<sup>227</sup> *Id.*

Presently, a marked philosophical shift away from costly and punishment-focused crime control, especially among conservatives, has taken hold. Since the genesis of the mass incarceration movement, progressive counter-arguments have centered on the disproportionate focus and deleterious effects on low-income urban neighborhoods.<sup>228</sup> A growing chorus on the Right has now joined the movement towards sensible reforms to the criminal justice system.<sup>229</sup> The impetus for change varies in Republican circles with budgetary concerns, interests in personal liberty, and consideration of the “moral and spiritual dimensions” of mass incarceration all cited as bases for reform.<sup>230</sup> Regardless of its primary motivation, the turnabout has generated bipartisan support for a new approach.

## 2. The Reemergence of Community Policing as an Alternative to the War on Drugs

Since the inception of the War on Drugs, the federal government has distributed block grants to police departments.<sup>231</sup> Presently, the Department of Justice provides between \$300 and \$500 million annually to state and local law enforcement agencies.<sup>232</sup> Spending by police departments is discretionary, and used on “everything from military grade hardware to officer overtime.”<sup>233</sup> To the extent that the grants measure outcomes, metrics for success are largely quantitative and based on arrest, conviction, and incarceration numbers.<sup>234</sup> Moreover,

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<sup>228</sup> MICHELLE ALEXANDER, *THE NEW JIM CROW: MASS INCARCERATION IN THE AGE OF COLORBLINDNESS* (2010). Alexander writes that crime control practices over the last 30 years created a “racial caste system” in which “it is perfectly legal to discriminate against criminals in nearly all the ways that it was once legal to discriminate against African Americans, [including] employment discrimination, housing discrimination, denial of the right to vote, denial of educational opportunity, denial of food stamps and other public benefits, and exclusion from jury service[.]” *Id.*

<sup>229</sup> Keller, *supra* note 200, at 23; Patton, *supra* note 216 at 1.

<sup>230</sup> Patton, *supra* note 216, at 1 (“Conservatives denounce the unnecessary and unwise fiscal costs, the assault on personal liberty, and the harshness of a system that has become unmoored from foundational religious principles such as redemption and mercy.”); *see also* Keller, *supra* note 201, at 25. Patrick J. Nolan, a former Republican congressman who served 25-months in prison for a racketeering conviction, describes cost containment as “ancillary” and “human dignity” as the driving force for change. *Id.* at 25. Nolan, by his account, became disillusioned with the lack of emphasis on inmate education, job training, and other rehabilitative efforts (“The implication is: you’re worthless, you come from nothing, you are nothing, you’ll never be anything”) and the corresponding high rate of recidivism (“[W]hen prisoners were released, the guards would say, ‘See you in a few months.’”) *Id.*

<sup>231</sup> FORTIER & CHETTIAR, *supra* note 28, at 3 (“Today, a complex web of federal crime-fighting grants funnels billions of dollars across the country each year. Many of these programs were created during the height of the War on Drugs.”).

<sup>232</sup> The Edward Byrne Memorial Justice Assistance Grant (JAG) administered by the Department of Justice provides the principal source of funding for law enforcement. *Id.* at 3.

<sup>233</sup> Radley Balko, *The Drug War’s Profit Motive*, WASH. POST, (Feb. 17, 2014), <https://www.washingtonpost.com/news/the-watch/wp/2014/02/17/the-drug-wars-profit-motive/>; *see also* Simmons, *supra* note 24, at 381 (discussing provisions of the Violent Crime Control and Law Enforcement Act that enable the Attorney General to make grants to local law enforcement that “may be used for numerous purposes.”).

<sup>234</sup> FORTIER & CHETTIAR, *supra* note 28, at 1 (discussing grant metrics that “encourage[d] states to increase arrests, prosecutions, and incarceration, all in the belief that harsher punishment would better control crime”); Michelle Alexander, *Why Police Lie Under Oath*, N.Y. TIMES (Feb. 2, 2013), <http://www.nytimes.com/2013/02/03/opinion/sunday/why-police-officers-lie-under-oath.html> (“In the War on Drugs, federal grant programs like the Edward Byrne Memorial Justice Assistance Grant Program have

in the War on Drugs era, the Department of Defense has given an additional \$4 billion in surplus military equipment to local police departments.<sup>235</sup> The program has transformed police forces into domestic armies, with departments securing missiles and armored personnel vehicles.<sup>236</sup> Like other federal grants, the giveaways come with “few strings attached” and are rarely need-based.<sup>237</sup>

Amidst shifting views about effective crime control, there is little debate over the amount of federal dollars given to law enforcement agencies.<sup>238</sup> Rather, the salient question asks how to redirect those dollars from practices that tear away at communities and contribute to high incarceration rates toward ones that incentivize sustainable public policy goals.<sup>239</sup> One popular approach involves tying federal grants to policies and programs that promote community-based policing strategies.<sup>240</sup> Generally speaking, community policing embodies the ideal that police can rarely solve public safety problems alone.<sup>241</sup> Consequently, the model encourages partnerships with community leaders, local politicians, school teachers, and the public at large.<sup>242</sup> These partnerships are designed to develop solutions through collaboration and trust-building.<sup>243</sup> To this end, police are seen less as armed adversaries and, to a greater

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encouraged state and local law enforcement agencies to boost drug arrests in order to compete for millions of dollars in funding. Law enforcement has increasingly become a numbers game.”).

<sup>235</sup> Hank Johnson, *The Failed “War on Drugs” is Militarizing Law Enforcement*, HUFFINGTON POST (Oct. 24, 2014, 2:42 PM), [http://www.huffingtonpost.com/rep-hank-johnson/the-failed-war-on-drugs-i\\_b\\_6043558.html](http://www.huffingtonpost.com/rep-hank-johnson/the-failed-war-on-drugs-i_b_6043558.html).

<sup>236</sup> Radley Balko, *Congratulations! Your Tiny Town Has an MRAP and is Ready for War*, WASH. POST (Apr. 28, 2014), <https://www.washingtonpost.com/news/the-watch/wp/2014/04/18/congratulations-your-tiny-town-has-an-mrap-and-is-ready-for-war/> (reporting that towns with modest crime rates and populations under 15,000 have received MRAPs and other military-grade equipment).

<sup>237</sup> THE ASSOCIATED PRESS, *Little Restraint in Military Giveaways*, NAT’L PUB. RADIO (July 31, 2013, 7:32 PM), <http://www.npr.org/templates/story/story.php?storyId=207340981> (reporting that an Associated Press investigation shows unfettered access to government military equipment by local police departments has led to a “belly-up-to-the-open-bar mentality.”).

<sup>238</sup> FORTIER & CHETTIAR, *supra* note 28, at 1 (“The question is not whether police should have more money or less money, but rather what they do with that money.”).

<sup>239</sup> FORTIER & CHETTIAR, *supra* note 28, at 5. A critical related issue is whether receipt of federal grants should hinge on police accountability. In her fascinating recent article, Professor Kami Chavis Simmons argues that, to receive grants, state and local police departments should be required to “implement mechanisms to monitor and track complaints against officers, develop and implement citizen complaint procedures, or implement policies related to the investigation of uses of force.” Simmons, *supra* note 25, at 390-91.

<sup>240</sup> FORTIER & CHETTIAR, *supra* note 28, at 2 (“Law enforcement grants should be tied to specific goals that . . . keep communities safe – without encouraging unnecessary arrests or force.”); Radley Balko, *Rise of the Warrior Cop*, WALL ST. J. (Aug. 7, 2013), <http://www.wsj.com/articles/SB10001424127887323848804578608040780519904> [hereinafter *Rise of the Warrior Cop*] (“Many longtime and retired law-enforcement officers . . . worry that the trend toward militarization is too far gone. Those who think there is still a chance at reform tend to embrace the idea of community policing, an approach that depends more on civil society than brute force.”); Radley Balko, *After Ferguson, How Should Police Respond to Protests?* (August 14, 2014), <https://www.washingtonpost.com/news/the-watch/wp/2014/08/14/after-ferguson-how-should-police-respond-to-protests/> [hereinafter *After Ferguson, How Should Police Respond to Protests?*] (Several law enforcement officers surveyed believe that responses to civilian protests that emphasize “proximity,” “personalization,” and “interaction over reaction,” are superior to those involving direct confrontation.).

<sup>241</sup> U.S. DEP’T OF JUSTICE, OFFICE OF COMMUNITY ORIENTED POLICING SERV. (COPS), COMMUNITY POLICING DEFINED (March 2014), <http://www.cops.usdoj.gov/pdf/vets-to-cops/e030917193-CP-Defined.pdf> [hereinafter COPS].

<sup>242</sup> *Id.*

<sup>243</sup> *Id.*

degree, allies in crime prevention and problem solving.<sup>244</sup> As author and criminologist Radley Balko writes, community policing is “all about a baton-twirling ‘Officer Friendly’ rather than a Taser-toting RoboCop.”<sup>245</sup>

Community policing strategies are not new.<sup>246</sup> The Community Oriented Policing Statute (COPS) was an “important feature” of the Violent Crime Control and Law Enforcement Act of 1994.<sup>247</sup> As part of COPS, the Department of Justice created an office to oversee the hiring of 100,000 new community-policing officers, help police departments build community policing infrastructure, and promote community policing techniques throughout the country.<sup>248</sup> Though the DOJ reached its hiring benchmark, reactive “arrest first” police practices remained the norm.<sup>249</sup> In 2010, as momentum for crime control reform gained steam, the White House issued its first clear repudiation of arrest-driven policing when Gil Kerlikowske, the nation’s “drug czar,” admitted, “We can’t arrest our way out of the drug problem.”<sup>250</sup>

Now, in the wake of recent clashes between police and civilians in Ferguson, Baltimore, and other U.S. cities, community-based law enforcement strategies are trending anew.<sup>251</sup> In a May 2015 speech in Camden, New Jersey, President Obama heralded the city as a “new model of community policing” in recognition of its successful crime-reduction efforts.<sup>252</sup> The President commended officers who “[got] to know the residents” rather than

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<sup>244</sup> *Id.*; Matthew Harwood, *How Did America’s Police Get So Militarized?*, MOTHER JONES (Aug. 14, 2014, 3:09 PM), <http://www.motherjones.com/politics/2014/08/america-police-military-swat-ferguson-westcott-tampa> (“If community policing rests on mutual trust between the police and people, militarized policing operates on the assumption of ‘officer safety’ at all costs and contempt for anyone who sees things differently. The result is an ‘us versus them’ mentality.”).

<sup>245</sup> *Rise of the Warrior Cop*, *supra* note 240.

<sup>246</sup> *After Ferguson, How Should Police Respond to Protests?*, *supra* note 241 (“One of the pioneers of community policing is Jerry Wilson, who was appointed police chief for Washington, D.C. in 1969.”); Meares, *supra* note 29, at 1596 (“Since the late sixties, involving communities in policing has become a priority, as documents like the 1967 President’s Commission on Crime attest.”).

<sup>247</sup> Simmons, *supra* note 24, at 381; Barry Goetz, Ph.D., *Community Policing: An Alternative Drug Strategy?*, NAT’L DRUG STRATEGY NETWORK (Jan. 1995), <http://ndsn.org/jan95/guest.html>.

<sup>248</sup> Meares, *supra* note 29, at 1596.

<sup>249</sup> *Id.* at 1598 (citing research reporting “wide variations in the extent to which policing organizations participate in collaborative opportunities for police and citizens.”); Bonnie Bucqueroux, *11 Reasons Community Policing Died*, LANSING ONLINE NEWS (Dec. 7, 2014), <http://lansingonlinenews.com/news/11-reasons-community-policing-died/>. Bucqueroux, a co-author of the 1990 study, COMMUNITY POLICING: A CONTEMPORARY PERSPECTIVE, cites the War on Drugs as a key reason for the failure of COPS to take hold. *Id.* Bucqueroux discusses her experience as a member of a training team organized by the Community Policing Consortium. The Department of Justice, she says, rejected her team’s proposal to refocus policing in public housing developments on collaborative solutions to crime in favor of an arrest-based approach. *Id.*

<sup>250</sup> *Drug Control Policy Director Talks Prevention*, NAT’L PUB. RADIO (July 16, 2010), <http://www.npr.org/templates/story/story.php?storyId=128567349>.

<sup>251</sup> President Barack Obama, Remarks at the Salvation Army Ray and Joan Krock Corps Community Center, OFFICE OF THE PRESS SEC’Y (May 18, 2015), <https://www.whitehouse.gov/the-press-office/2015/05/18/remarks-president-community-policing> [hereinafter *Remarks by the President*]. See also EOA Staff, *County Police, Officials Participating in White House Programs on Community Policing*, EYE ON ANNAPOLIS (Aug. 3, 2015), <http://www.eyeonannapolis.net/2015/08/03/county-police-officials-participate-in-white-house-program-on-community-policing/> (reporting on national and local White House forums with police departments as part of a “national conversation” on community policing.).

<sup>252</sup> *Remarks by the President*, *supra* note 251.



just “walking the beat.”<sup>253</sup> He also touted the administration’s “new policies” to regulate military-style equipment, which “can alienate and intimidate local residents, and send the wrong message.”<sup>254</sup> Finally, he cited “concrete proposals” of a national task force on community policing aimed at “building trust between law enforcement and the communities they serve while enhancing public safety.”<sup>255</sup>

Though community policing’s central aim is developing positive relationships between law enforcement and residents, its success requires more than a mere shift in attitudes and interactions between police and the communities they serve.<sup>256</sup> At a minimum, community policing requires thoughtful organization of police departments. “The ‘community’ for which a patrol officer is given responsibility should be a small, well-defined geographical area.”<sup>257</sup> In turn, “beat” boundaries correspond to neighborhood or other local government divisions to preserve “the unique geographical and social characteristics” of communities.<sup>258</sup> Officers remain in a single location or neighborhood over long-term assignments.<sup>259</sup> Ideally, these assignments help forge strong working relationships between officers and residents, promoting mutual accountability.<sup>260</sup>

From an institutional standpoint, effective community policing also requires implementation of clear, comprehensive and current departmental protocols – especially for searches, custodial interrogations, use of force and other invasive measures.<sup>261</sup> At the same time, departments must institute comparably detailed standards to review alleged violations of such protocols.<sup>262</sup> To enhance “external legitimacy,” soliciting public input in the creation of the policies is essential.<sup>263</sup> Once finished, the policies and procedures must be available for public inspection.<sup>264</sup>

Moreover, community policing demands progressive officer recruitment, hiring, and training methods.<sup>265</sup> Recruitment and hiring practices should emphasize race, gender, and socio-economic diversity and aim to create police departments that reflect community demographics.<sup>266</sup> By the same token, employment descriptions, applications, and interviews

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<sup>253</sup> *Id.*

<sup>254</sup> *Id.*

<sup>255</sup> *Remarks by the President, supra* note 251; *see also Fact Sheet: Creating Opportunity for All Through Stronger, Safer Communities*, OFFICE OF THE PRESS SEC’Y (May 18, 2015), <https://www.whitehouse.gov/the-press-office/2015/05/18/fact-sheet-creating-opportunity-all-through-stronger-safer-communities>.

<sup>256</sup> COPS, *supra* note 241, at 4.

<sup>257</sup> BUREAU OF JUDICIAL ASSISTANCE, UNDERSTANDING COMMUNITY POLICING: A FRAMEWORK FOR ACTION, U.S. DEP’T OF JUSTICE 13 (1994), <https://www.ncjrs.gov/pdffiles/commpp.pdf>.

<sup>258</sup> *Id.*

<sup>259</sup> COPS, *supra* note 241, at 7.

<sup>260</sup> *Id.* at 7.

<sup>261</sup> OFFICE OF CMTY. ORIENTED POLICING SERV., DEP’T OF JUST., FINAL REPORT OF THE PRESIDENT’S TASK FORCE ON 21ST CENTURY POLICING 20 (2015), [http://www.cops.usdoj.gov/pdf/taskforce/TaskForce\\_FinalReport.pdf](http://www.cops.usdoj.gov/pdf/taskforce/TaskForce_FinalReport.pdf) [hereinafter FINAL REPORT OF THE PRESIDENT’S TASK FORCE ON 21ST CENTURY POLICING]

<sup>262</sup> *Id.* at 21.

<sup>263</sup> *Id.* at 16.

<sup>264</sup> *Id.* at 20.

<sup>265</sup> *Id.* at 17.

<sup>266</sup> *Id.*

must incorporate core community policing principles.<sup>267</sup> As officers move through the ranks, performance evaluations and promotion criteria should remain closely linked to problem-solving skills and relationship building.<sup>268</sup> Finally, as community policing prizes versatility – or *despecialization* – training must encompass a multitude of abilities and attributes.<sup>269</sup>

At bottom, the long-term prospects for community policing – like any other crime reduction strategy – hinge on increasing public safety.<sup>270</sup> As President Obama acknowledged, the early returns in Camden and other high-crime cities warrant cautious optimism.<sup>271</sup> To build upon successful practices, the President’s task force recommends that the Department of Justice identify “replicable factors that could be used to guide law enforcement agencies in other communities.”<sup>272</sup> In fact, the community policing strategies that have lowered crime domestically also hold promise in Côte d’Ivoire.

### III. A PROPOSAL FOR DECENTRALIZED LAW ENFORCEMENT IN CÔTE D’IVOIRE

Since the civil war, Côte d’Ivoire has managed considerable progress in combating crime.<sup>273</sup> The U.N. and European Union currently supply troops to assist with issues of national security.<sup>274</sup> Nonetheless, crime rates remain critically high.<sup>275</sup> A significant percentage of offenses are “crimes of opportunity,” including robberies, car thefts, and home invasions.<sup>276</sup> With rare exception, law enforcement is ill-equipped and poorly trained to deal with such street-level crime.<sup>277</sup> Much like the chasm between the country’s ongoing economic recovery and its continued high poverty indicators, the security improvements at the national level have not translated to local gains.<sup>278</sup>

To confront its most pressing crime problems, Côte d’Ivoire is well-positioned to implement a partially decentralized law enforcement system with an emphasis on community policing. First, since the civil war, the central government has stabilized and initiated “calm dialogue” with its political opposition.<sup>279</sup> In addition, the robust economy, improved business climate, and plentiful foreign funding provide a spending platform for “national cohesion

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<sup>267</sup> COPS, *supra* note 241, at 7 (“The principles of community policing need to be infused throughout the entire personal system of an agency, including recruitment, hiring selection, and retention of all law enforcement agency staff . . .”).

<sup>268</sup> COPS, *supra* note 241 (“Personal evaluations, supervision, and training must also be aligned with the agencies’ community policing views.”).

<sup>269</sup> *Id.* (“To achieve community policing goals, officers have to be able to handle multiple responsibilities and take a team approach to collaborative problem solving and partnering with the community.”).

<sup>270</sup> BUREAU OF JUDICIAL ASSISTANCE, *supra* note 257, at 13 (“The goal of community policing is to reduce crime and disorder . . .”).

<sup>271</sup> *Remarks by the President*, *supra* note 251.

<sup>272</sup> FINAL REPORT OF THE PRESIDENT’S TASK FORCE ON 21ST CENTURY POLICING, *supra* note 261, at 44.

<sup>273</sup> 2015 CRIME AND SAFETY REPORT, *supra* note 95.

<sup>274</sup> *Id.*

<sup>275</sup> *Id.*

<sup>276</sup> *Id.*

<sup>277</sup> *Id.*

<sup>278</sup> *Id.*; Yembiline, Traoré, & Padilla, *supra* note 15, at 2, 10. (“Structural challenges still prevent [economic] growth from being inclusive and long-lasting.”).

<sup>279</sup> Yembiline, Traoré, & Padilla, *supra* note 14, at 2.

efforts,” like improving education, bolstering law enforcement.<sup>280</sup> Also, the April 2013 elections established a basic, if imperfect, framework for regional and local governance.<sup>281</sup> Finally, the U.N. and its member nations have pledged support to the Ivorian government to assist in continuing security improvements.<sup>282</sup> These factors, in totality, provide Côte d’Ivoire a foundation to reshape its system of law enforcement to more effectively respond to local needs.

How should a new system look? Côte d’Ivoire’s adoption of a highly decentralized model, like the U.S. system of law enforcement, is infeasible. The Ivorian national police and *Gendarmerie* are clustered tightly around the national government, with both authority and police power vested in three central ministries. Full decentralization, whether to the regional or local level, would necessitate a massive paradigm shift. Additionally, despite the progress made in rebuilding, local police departments still lack the capacity and resources to handle recruitment, training, and management of officers without national assistance. Lastly, in light of Côte d’Ivoire’s deep religious and ethnic differences and still-percolating political tension, a clean break from the central government risks setting the country on a slippery slope towards renewed chaos or even dissolution.

A partially decentralized law enforcement model presents a better option. Under this system, the Ivorian government would delegate limited and uniform power to local police departments. In addition, the administration – via the Ministry of Defense – would promulgate guidelines to promote officer accountability, including use-of-force standards and disciplinary protocols. Funding would stream from the central government, but local police departments would control month-to-month spending decisions and resource allocation. Local departments would have additional opportunities for self-governance, including office management, interpretation and enforcement of internal policies, and decisions related to officer hiring, promotions or dismissals. Though the country’s single penal code would remain “the law of the land,” local officers would have discretion with respect to arrests, charge-selection, and other aspects of enforcement. Officer recruitment would take place at the local level, but training would be conducted through the central government.

A system of shared policing duties and responsibilities will not require a radical transformation of Côte d’Ivoire’s current law enforcement structure. More critically, the proposed divisions will vastly improve the existing model. For instance, centralized training will enable law enforcement to take advantage of expertise at the national level and create a structured program for new candidates. At the same time, local officer recruitment will increase the likelihood that police departments are demographically representative of the communities served. Plus, partial decentralization mitigates risks that distribution of power may allow certain regions or religious factions to ignore national mandates. Further, such a system will allow the central administration to offer additional assistance and manpower to poorer or higher-crime regions unable to serve their residents. Most important, delegating a measure of authority to the local level will improve policing efficiency and effectiveness, boosting public confidence in the process.

In addition to the proposed structural changes to its law enforcement model, Côte d’Ivoire must shore up deficiencies in officer training and organization.<sup>283</sup> Here, integration of

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<sup>280</sup> *Id.*

<sup>281</sup> A.R., *supra* note 89.

<sup>282</sup> S.C. Res. 2226, *supra* note 9.

<sup>283</sup> 2015 CRIME AND SAFETY REPORT, *supra* note 95, at 7 (“Police need significant training.”).

a comprehensive training program centered on community policing strategies will complement the restructured system and address multiple needs. In many ways, community policing represents decentralization at its most local. Law enforcement officers work with residents to formulate solutions to local problems and, in doing so, construct a network of safer neighborhoods. From a pure crime-fighting perspective, this strategy is a logical fit for Côte d'Ivoire. Most notably, training officers to patrol a specific "beat," initiate constructive dialogue with community leaders, and maintain a conspicuous presence will help combat the country's high volume of street-level crime. In the same vein, community-based policing assignments will create an interconnected law enforcement presence throughout the country. In contrast to monocentric, top-down systems, evened officer distribution will improve response time and coordination of emergency services, especially in rural and underserved areas.

In addition, use of community policing techniques will facilitate organizational transparency and, in so doing, help restore diminished public trust in government. Moreover, collaborative policing practices will empower residents to become involved as "stakeholders" in the growth, progress and security of their communities. By inviting the participation of residents in cities and towns throughout the country, community policing will advance the U.N.'s goal of achieving "national reconciliation and social cohesion."<sup>284</sup> As a related benefit, such strategies will also enliven the U.N. mandate to involve ethnic and religious minorities and women "in all efforts for the maintenance and promotion of peace and security."<sup>285</sup>

#### IV. CONCLUSION

The Ivorian officials with whom I spoke in June 2015 described the country's policing restoration efforts in terms of both challenges and opportunities. On one hand, rebuilding damaged departments, returning power to the police, and reducing skyrocketing crime are herculean tasks. The process, however, also presents a meaningful chance to improve upon the law enforcement model in place prior to post-election violence.

Towards this goal, partial decentralization of the police force is sensible and attainable. By implementing a partially decentralized system, Côte d'Ivoire will enrich the quality of law enforcement, strengthen communities at the local level, and join a worldwide trend towards greater decentralization of government and social services. In addition, the country's integration of community policing practices into the revamped structure will improve its prospects for lowering crime while cultivating public trust.

Though Côte d'Ivoire remains deeply frayed after fifteen years of political, religious, and social unrest, the two complementary strategies will help restore its once-vibrant national fabric community by community.

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<sup>284</sup> S.C. Res. 2226, *supra* note 9, at 2.

<sup>285</sup> *Id.* at 2.

