



Commission on Justice in Wales
Crown Buildings
Cathays Park
Cardiff
CF10 3NQ

18th June 2018

Dear Sirs,

Re: Commission on Justice in Wales – Call for Evidence

The four Welsh Chief Constables welcome the opportunity to make a submission to the Commission but we are, and must be seen to be, politically neutral. We are not in a position where we can be seen to promote or lead any debate on the issue of devolution of policing. We have therefore adopted the approach of identifying some key delivery issues arising in the current devolved environment as well as some possible future developments with the aim of enhancing the work of the Criminal Justice System and policing in Wales. Some of these also reflect areas identified in our previous submissions to the Commission on Devolution (Silk Commission) and to the Commission on Public Service Governance (Williams Commission).

What problems face the people who work within the justice system in Wales and the people who are affected by it?

Since the Silk Commission was published in 2014, the demands upon policing within Wales have changed significantly. This evolving and expanding need presents a key challenge for the four Welsh police forces. Some “traditional” crimes such as burglary and car crime have reduced over the last few decades however complaints of rape and serious sexual offences have more than doubled. There has also been an increase in terrorism threats, as well as internet enabled crime and cyber-crime. Digital evidence is also becoming a significant challenge for the justice system and this will only increase, having an impact both in terms of criminal investigations and in respect of the disclosure of evidence - a relatively straightforward case can now have evidence that includes thousands of text messages or posts on social media.

To illustrate current demand, Dyfed Powys Police has seen a 29% increase in recorded crime since 2014, at a time when its civilian employee numbers have fallen from 713 to 649. Similarly, South Wales Police receive over one million calls each year with only approximately 100,000 of those resulting in a reported crime. In 2017/18, the force dealt with 188,251 emergency (999) calls, 518,883 non-emergency (101 calls), recorded 358,922 occurrences, and carried out 27,810 arrests making it the 13th busiest force in England and Wales (outside of London) in terms of crimes per 1000 population.



Welsh police forces are currently dealing with the emerging threat presented by cross border criminality – the term ‘county lines’ refers to organised crime groups from outside a force area, travelling into the force areas to expand their criminal enterprises. This is generally characterised by the dealing of drugs in local communities and the exploitation of the vulnerable. It also presages an increase in violent crime and, of note, instances of knife crime are escalating. There is engrained local drug misuse in our communities, and this is exacerbated with drug gangs coming into communities from London, Merseyside and Birmingham which has increased significantly since 2013. Whilst the sexual exploitation of children is not the primary focus of these gangs, this is often used as part of the grooming or control methodology exercised. In North Wales, this threat is exacerbated by its link to the motorway infrastructure of England by the A55 Expressway which feeds the port of Holyhead (the second busiest in the UK). Within the South Wales area alone, Neath Port Talbot and Swansea are now within the top ten locations for drug deaths in the United Kingdom. This issue emphasises that crime does not recognise national borders or administrative boundaries, and underlines the need for a cooperative and cohesive approach to address the same.

Our capital city, Cardiff, is one of the fastest growing cities in Europe and attracts over 18 million visitors per year. The city is home to the Principality Stadium, Cardiff International Airport, a Premier League football team, the SWALEC cricket stadium and over 94,000 students. As the home of Welsh Government it necessitates the provision of a dedicated policing unit from the forces to support the same. Despite these demands, Cardiff is not recognised for capital city funding, unlike London and Edinburgh. It is estimated to cost an additional £3.5 million to police a capital city but these are currently unfunded costs.

Reference should also be made to the strategic assets held by South Wales Police - delivering not only a local service but also providing support for major national events outside the force area. The force polices approximately 500 events each year including national and international sporting events, royal visits and demonstrations. In 2017, Cardiff successfully hosted the UEFA Champions League, the largest single sporting event in the year. This aspect is not expected to decrease with the Welsh Government’s continued drive to encourage future large-scale events to come to Wales.

This evolving picture in terms of demand comes against a background of austerity in the public sector generally. Since 2011 police resources have been reduced by 20% e.g. North Wales Police has already made savings of £29.625m with a further £8.85m required over the next five years (before 2022/23). Since the 2010 comprehensive spending review, central grant funding to Dyfed Powys Police has reduced by 22 percent (or £14.16million) and the force has been required to make savings of £24.7million. South Wales Police has reduced its staff by one thousand people and had its budget reduced by £50 million. The impacts of such austerity measures upon the wider Criminal Justice system also need to be considered due to the interrelated nature of our service provision.



There is an increasing need to work together both on a regional and national basis. Police forces are forming ever closer partnerships to protect vulnerable people through multi agency hubs. Both South Wales and North Wales Police forces have established tri-service centres with the Fire and Rescue Services and the Wales Ambulance Service Trust. All four Welsh forces are working with the other forces and partners (both within and outside the justice sector) to deliver services collaboratively to their communities, and it remains important that the governance and accountability arrangements for these are robust.

What is working well in the justice system in Wales? What is not working well? Are there examples of innovation and good practice, both in and beyond Wales, which should be adopted and shared?

The Welsh police forces have built up cohesive and strong working relationships with local authorities and partners. This has been structured through the Public Service Boards (PSB), which were created as a result of the Wellbeing of Future Generations Act. As the police service is not devolved, we are statutory invitees of these PSBs by virtue of Section 30. Despite this, the police service have played a key role in the operation of the same and in the development of the Wellbeing Plans. In terms of improvements that would benefit us, having a full partner status in this devolved setting would only enhance the existing partnership approach.

The relative size of Wales within the United Kingdom remains a benefit in terms of the relationships forged; it enables the police service to enjoy a close working relationship with both the Welsh Government and the Crown Prosecution Service (CPS). Active relevant conversations can be held at a senior level, which has proved beneficial to effective problem solving and information sharing. We have developed a joint vision with the Future Generations Commissioner and we work closely with third sector organisations such as Women's Aid, Barnados and the NSPCC. Public Health Wales and the WLGA are now members of the All Wales Criminal Justice Board which provides oversight of the partnership work being undertaken and specifically the Adverse Childhood Experiences work referenced below.

There has developed within the police service a strong emphasis on holistic preventative work, and early intervention. This is in part due to the demographic profile of our communities e.g. 14 percent of the Gwent population is defined as 'most deprived' with average gross weekly earnings below the UK average and the South Wales Police area includes two thirds of Wales' most deprived communities. South Wales Police worked with Public Health Wales and the NSPCC to understand the effect that Adverse Childhood Experiences have. The research showed that those who have suffered adverse childhood experiences are 20 times more likely to end up in prison and 15 times more likely to have committed a violent act within the last twelve months.

In 2017 an All-Wales collaborative bid between Public Health Wales, the four Police and Crime Commissioners and four Police forces across Wales, as well as key partners, was



submitted to the Police Transformation Fund for a three year period from 2017-2020. In November 2017, the Home Office awarded the project £6.87million. The programme will address the lack of early intervention and preventative activity when adverse childhood experiences are evident and families are at risk of poor outcomes, as well as the associated impacts on policing and partners in terms of vulnerability and crime. In the long term it is anticipated that the benefits arising from this work will extend to the wider partnership landscape as well as to the communities we serve.

There are many well established examples of partnership working within the criminal justice system e.g. the Criminal Justice Act 2003 provided for the establishment of Multi Agency Public Protection Arrangements in each of the 42 criminal justice areas in England and Wales. The Welsh forces already participate in the All Wales Criminal Justice Board at which the relevant agencies in the criminal justice sector in Wales are represented and which promotes collaborative working. The four forces are also represented at the local Criminal Justice Boards in their respective areas.

The Multi-Agency Safeguarding Hub (MASH) evidences how the police work with partners effectively and at a local level. The Cwm Taf MASH in South Wales is the first point of contact for new safeguarding concerns and has significantly improved the sharing of information between agencies, helping to protect the most vulnerable children and adults from harm, neglect and abuse. The Cwm Taf MASH is one of only a handful of MASH's nationally that handle concerns about children and adults at high risk of domestic abuse. Nearly fifty staff from the Police, Health, National Probation Service, Community Rehabilitation Company, Education, Children's Social Care and Adult Safeguarding are working together in the MASH.

There is increasing interoperability through technology and combined specialist resources within the Police Service - Programme Fusion is a progressive digital policing and information technology programme aimed at improving service delivery to communities across Southern Wales. In terms of procurement, 65% of addressable non-pay spend across Dyfed Powys, Gwent and South Wales forces is spent through collaborative arrangements. When this is set against the 50% benchmark outlined in the McClelland Review of Procurement in Wales, it places the police as one of the best performing sectors in Wales.

Partnership working between the Police Forces throughout England, Scotland, Northern Ireland and Wales is working well, especially in areas such as Counter Terrorism and the National Crime Agency. Mutual Aid between forces nationally is also worthy of mention with eight thousand officers being deployed to police the 2014 NATO summit (held in Newport and Cardiff) from across the UK. Access to such national assets and infrastructure therefore remains key to our service delivery.



There are, however, also challenges which, whilst not of our making, we are working closely with our criminal justice partners to address. Many of these are not specific to Wales. Recent changes to bail provisions led to a surge in the number of suspects “Released Under Investigation” (RUI) and proceeding by way of ‘postal requisition’ (PCR) instead of being released on police bail before returning to the police station (to be charged and bailed, or remanded in custody for hearing). It was apparent from an early stage that the widespread adoption of RUI and PCR would have a significant impact on the court service in Wales. Statistically there has been a significant increase in the number of defendants who fail to attend the first hearing in the Magistrates Courts (nationally 19% fail to attend in response to a PCR and warrants then have to be issued). There is no system or database available to record failure to attend in response to a PCR, and if a defendant reoffends whilst subject to RUI or PCR this is not recorded – both of these could however inform future bail decisions or be taken into account when sentencing. The Court Service have raised concerns that the use of RUI and PCR has resulted in longer delays for defendants, and for vulnerable witnesses and victims – this is currently estimated as adding between 3 and 6 months in the pre-charge process and, in the event of a not guilty plea in the Crown Court, trials not being listed until at least 12 months after the incident (which can impact upon the willingness of witnesses to give evidence). The Youth Court have also noted that young offenders subject to RUI and PCR are not being referred for consideration by the bureau for pre-court diversion schemes (as they would when bailed following charge). Magistrates do adjourn cases to allow such young offenders opportunity to be considered for the scheme, but this adds to the cumulative delay and if they reach the age of 18 they also cease to be eligible for the scheme. The police service has tried to introduce mitigating measures (e.g. sending defendants reminder texts to attend the Magistrates Court) but the wider service remain concerned about these issues.

Does the justice system in Wales currently provide access to all who require its services, including advice? How would you improve access to justice in Wales?

It is important to highlight that Neighbourhood Policing, and specifically Police Community Support Officers (PCSO's), for which funding is received from the Welsh Government, have helped to build community relationships. PCSO's work on a micro level in “wards areas”, and form relationships with key individuals in the community, including the most vulnerable. They act as a bridge between services, and provide a visible “on the ground” resource. The role of such Community Support Officers in improving visibility and access to police forces has been key to community reassurance.

Technology also has a key role to play in our evolving service delivery and the access afforded to our customers - South Wales and Gwent Police have invested heavily in technology with the effect that police officers can now spend 80% of their time out of police stations providing visible policing. Data and forms are available on handheld devices, risk is better managed in our Public Service Centres and police officers can be deployed to the right place at the right time.



In order to develop our accessibility whilst meeting financial challenges – work is ongoing in all force areas to co-locate with other services (both devolved and other) to ensure that the access points to our services reflect our community demands and facilitate access to more than one provider e.g. in the Gwent Police area the fire and rescue service, the ambulance service and the police will operate from a joint emergency station in Abertillery. The police forces in Wales place importance on locality of service but must balance this (within a finite pot of resources) with the pressure to deliver visible policing that addresses the vulnerability agenda and which meets the increasing strategic policing threats.

In terms of the wider criminal justice service, our partners have identified that the closure of courts is an issue for rural forces - making access to the same more challenging for victims, witnesses and defendants. The reduction in these access points can mean that our public can sometimes feel a long way from the services they need – this perceived isolation is important in Wales due to the rural nature of many of our communities.

What are the economic, social, geographical, technological, constitutional and other barriers to improvement, and how can this be overcome?

The divergence in the legislative framework between England and Wales is a reality and one within which Welsh police forces must operate. This will increasingly present a challenge for the Crown Prosecution Service and us to be able to work within a potentially conflicting framework – a recent example is the proposed law within Wales in relation to lawful chastisement.

On a separate issue, and despite the many good examples of partnership working, the absence of IT convergence and a common platform (with appropriate safeguards on data accessibility) that can be accessed by all partners remains an issue. As referenced in our responses to the Williams Commission, despite the increasing collaboration between the police service on technology, proactive engagement by all partners on technology issues remains critical to improving the wider service (both qualitatively and in terms of efficiency).

More work is required in terms of digitalisation within the Criminal Justice System. Increasingly material is being captured digitally and it is imperative that it remains in this format so that we stay as effective and efficient as possible. A pilot scheme with HMCTS was discontinued at an early stage but this issue needs to be re-examined - improvements are vital to ensure that we have a modern and effective system. The police service is handling many more cases with digital material. There are disclosure issues tied to this, for example there was recently a case in North Wales with over 90 million pages of digital material. The capture, retention and production of such material presents a challenge not just for the police, but also for the CPS and the Courts. The only way to address this is investment in a cohesive technological solution.



Increasingly much of our work is 'incidental' to our core policing purpose, as demonstrated by the ACE's project, the work of the PSB's and the MASH. We have operated as if we are a devolved service in respect of elements of our front line policing for the last decade. Despite many examples of jointly funded initiatives, the police service must continue to deliver its statutory functions and it could become increasingly difficult to sustain such 'non-front line' projects from the core policing budget. By way of a specific illustration of this point, mental health issues are increasingly putting a heavy demand on our public sector partners and the police service; the four Welsh forces undertook an assessment of mental health demand over a week in October 2017, this highlighted that on average 4.5 hours is spent dealing with each mental health related occurrence with roughly 60% of the subjects already being known to mental health services. Every 13 minutes South Wales Police receives a report relating to a mental health issue. That adds up to over one hundred mental health related incidents each day, and of those incidents only 4% require the exercise of police powers. Well-evidenced interventions are often falling to the already-challenged policing budget where arguably these should legislatively sit with our partners e.g. the provision of mental health nurses within the Gwent Police control room is currently being met from police budget.

We would therefore welcome a more formal framework for ensuring the funding of such projects from all relevant devolved stakeholders. An area for improvement could therefore be a mechanism for the formal pooling of budgets, requiring our partners to make financial commitments to these diversionary projects that are consistent with Welsh Government goals. We strongly believe such early intervention and preventative work will remain key to both assisting our customers and to better managing future demand on public services generally.

We also identified in our responses to the Commission on Devolution that there is a danger that Westminster tends to set policies and develop initiatives that are based on the English partnership landscape and which do not fully take account of the Welsh dynamic. There remain tensions for the police service as a non-devolved body operating within a devolved environment. There is a real risk that policing is seen as secondary in the devolved context, and that devolved arrangements in Wales are seen as secondary in Whitehall.

The current position is that police funding is dependent upon two distinct locations with different policies and agendas. Whilst we acknowledge and appreciate that the ability for Police and Crime Commissioners within Wales to increase the precept has assisted us in terms of our economic flexibility, we should be able to plan for the long term with reliable and sustainable central funding that allows us to be as effective as possible. The governments in Westminster and Cardiff Bay need to harmonise their approaches in order to de-conflict strategies as they emerge and not reactively when the police service identifies imminent problems – one current example is the Police Degree Apprenticeship – the latter being a matter of Police Regulation with which we must comply. Whilst our English counterparts can access apprenticeship levy funding, Welsh forces are currently unable to do so. This financial gap for Welsh forces, if unresolved, will mean additional pressure to reduce our



front-line resources which in turn could impact negatively on the accessibility of the service to our communities. Additionally, our Regional Organised Crime Unit (TARIAN) until recently received a million pounds a year in funding from Welsh Government. This amount was however gradually reduced and at short notice funding has now stopped.

We are in discussions with Welsh Government regarding the future funding for our School Liaison Officers. We currently receive funding support from Welsh Government under the All Wales Schools Liaison Programme and in terms of the planned preventative work (e.g. the ACES project) currently being undertaken, the continuation of this funding is vital. Any reduction of this resource will represent a significant challenge to the delivery of the anticipated improvements, as these officers undertake a key engagement role.

This structural tension between the two governments is also evident in other areas e.g. responsibility for domestic homicide reviews sit with the community safety boards through legislation, however the same are overseen by the Home Office with no legislative role for Welsh Government. There are also examples of duplication and overlap between the various reviews commissioned that could potentially hinder the process of learning lessons and partnership engagement.

There remains concern, as with the examples identified earlier (e.g. Mental Health advisors) that the ongoing austerity measures are already causing our partners to work in a more insular way and that this will continue to work against partnership engagement.

What impact has devolution had on the justice system in Wales? What impact do you believe devolution will have in the future?

Policing is essentially local in terms of its delivery, as whilst the legislative and ministerial responsibility for policing is not devolved to Wales, the four police forces operate in a devolved environment with accountability for delivery sitting with the four elected Police and Crime Commissioners. Operational leadership remains with the respective Chief Constables. Any decisions regarding the future of policing must preserve this operational independence and not impose any additional bureaucracy as the current fluidity and responsiveness of decision making is vital to the delivery of the service.

The general picture in terms of how policing is working within a devolved environment has already been referenced above. On a local level, the partnerships are strong, and although policing remains non-devolved we work closely with our devolved partners. Co-terminosity of boundaries for Local Authorities, Health Boards and Police Forces continues to present a challenge (as we previously identified in our response to the Williams Commission) although we are performing well overall.



The four Welsh police forces are committed to partnership working and have strong links with the Welsh Government. They have a permanent police presence at the Welsh Government in the form of a Police Liaison Team. This provides a single point of contact for the four Welsh forces and they work closely with the Community Safety Division, engaging on policing and community safety related matters with officials from across Welsh Government and the National Assembly.

We continue to present our views to Welsh Government where we think that our experience would assist in debate, for example in response to the recent consultation on planning law changes we emphasised that the Crime and Disorder legislation places clear obligations upon public bodies in Wales to consider crime and disorder issues and that this could be reflected in any future planning legislation in Wales. We advocated a provision that applicants for planning consent would carry out a Community Safety Audit/Impact Assessment which would recognise and assess the impact on crime, disorder and anti-social behaviour of any proposed applications/plans so that suitable provision can be made for the same. As any proposed development can place extra pressure on the social, physical and economic infrastructure which exist in an area and can present new evolving policing challenges – we asked to be fully consulted and have the opportunity to ensure that such impacts (and any measures required) are reflected in any planning conditions imposed.

Devolution of policing would mean that we would be closer to policy decisions, and could build on existing partnerships. It would also mean that we would have a clearer direction politically and our proximity to local democratic structures would be improved. There would however, inevitably, be cost implications to any proposed changes at a time of fiscal challenge and this would be of concern as the police service continues to face acute funding pressures that could adversely impact upon our front line and the delivery of our core policing service.

In the event of devolution, further clarity would be needed as to how the policing budget would remain ring-fenced to ensure that adequate accessible funding is available to meet the increasing demands and challenges faced by us. We appreciate that Ministers need to make difficult decisions but policing would need to have an appropriate sponsor and infrastructure within Welsh Government so as not to be disadvantaged in financial settlements with established devolved departments. We note that the increasing pressures upon Welsh Government to meet substantial future commitments in key devolved areas (e.g. Health) may be proportionately more challenging than for Her Majesty's Government with its wider budget and responsibilities, but we would want to ensure that such pressures do not impact upon any budget allocation to policing.

The Home Office (and Ministry of Justice) capacity in Wales is limited and whatever the future holds in terms of devolution, the Welsh police forces need further capacity to support our work in a divergent legislative landscape and to afford us a degree a pragmatism (with the associated fora and structures) to make our 'current work' better. As things currently



stand, both central and Welsh governments need to demonstrate greater policy flexibility and discretion to enable us to work as effectively as possible within the current environment.

It is therefore acknowledged that devolution may not be a binary solution and that, even without wholesale devolution, there are practical measures that could improve the service provided to our communities e.g. the requirement to pool budgets on specific issues. This investment of resources in partnership interactions with policing could support diversionary projects which are consistent with Welsh Government goals e.g. on health and education. We previously identified that this work would benefit from a cross-governmental working group which could address and resolve practical issues as they arise. Whilst this work would also need continued political interface, the officials within such working group could focus on the detailed measures required. Following attendance by the First Minister at a police 'visioning day' in November 2017, a recent meeting with the Cabinet Secretary for Communities and Local Government confirmed commitment to future engagement **through a 'Policing Board'** structure which would be police-led and resourced accordingly. It is hoped that such forum will offer a means a potentially navigating the existing structural tension in the devolved/non-devolved setting and in enhancing the understanding of Welsh Government of the contributions being made by the Welsh police forces and the pressures faced, and will improve the way in which issues are coordinated and advanced. In this respect, representation from the Home Office and the Ministry of Justice would be beneficial. Similarly discussions have been held with the Assembly Member, Chair of the Assembly's Communities and Local Government Committee, and agreement secured to create a cross-party group on policing in the Senedd. Both of these developments are welcomed.

The review undertaken by the Wales Audit Office in 2016 in relation to Community Safety within Wales identified that the Welsh Government had no single strategy for community safety. It also noted that the plans of all local authorities and Commissioners must be consistently aligned to ensure the best use of resources, to avoid duplication and to maximise impact. The limited capacity of the Welsh Government to deal with community safety does not match its ambition (nor that of key stakeholders). A serious commitment to community safety at both a governmental level and within the Public Service Boards remains key. The four Chief Constables and Commissioners have approached Welsh Ministers (in conjunction with the Welsh Government and the WLGA) to suggest that the coordination of good practice at an All Wales level is led jointly by the forces and local government. The focus will therefore be on local action and partnership working to inform strategy.

Any form of devolution in terms of policing would have to avoid isolationism. UK strategic threat assessments identify risks and threats that are international in nature (including counter terrorism and cyber-crime) and which cannot be managed effectively without strong interoperability both nationally and internationally. It is imperative that our utilisation of national assets and cross-border services is preserved. Crime does not observe borders. We would need to maintain our current access to national services including



PNC/LED, Airwave, NPAS and the College of Policing in terms of operational effectiveness and economies of scale. It is also essential that the four Welsh forces maintain contact with the National Crime Agency (whose remit includes serious and organised crime, fraud, cyber-crime, border protection and child exploitation). Whilst we would continue to benefit from the expertise offered by the HMICFRS and the IOPC, there may be benefit in having greater regulation, inspection and improvement arrangements in partnership with other agencies as opposed to this being undertaken in isolation. This could include greater engagement with the Public Services Ombudsman for Wales and other inspectorates. We consider it fundamentally important however that there continues to be a Welsh office of the IOPC, with an understanding of the police service within Wales and the environment within which we operate.

Policing and the Criminal Justice System are intrinsically linked, and one should not be devolved without the other. Police are at the heart of the Criminal Justice System, and changes affecting other bodies involved in the criminal justice system would directly impact upon the delivery of policing. This in turn effects the outcomes for the victims and communities that we serve.

We hope that the above submission will be of assistance to the Commission in its deliberations.

Yours faithfully,

M Jukes
Chief Constable, South Wales Police
Chair of the Welsh Chief Officers Group