

Submission to Commission on Justice in Wales

1. I am a Lecturer in Criminology and Criminal Justice at the University of South Wales. My research interests include policing and community safety, and specifically the governance of these two policy areas. In 2017 I was awarded my Doctorate from Cardiff University, for my thesis on the impact of the election of Police and Crime Commissioners on community safety policy in England and Wales.
2. I welcome the opportunity to submit evidence to the Commission on Justice in Wales. My evidence focuses on how the devolved matter of community safety, and the non-devolved matter of policing, necessarily co-exist since the 2012 election of Police and Crime Commissioners (PCCs).¹ The evidence submitted focuses primarily on South Wales.²
3. This submission provides a context to current community safety policy in Wales, outlining key actors and institutions, before discussing the widely stated prospects and concerns for PCCs. The impact of PCCs in Wales on the funding for community safety, community safety priorities, and accountability for community safety related activities are considered in turn.

Community Safety Context in Wales

4. The Crime and Disorder Act (1998) created statutory local Community Safety Partnerships (CSPs) in Wales. With representatives from the police and police authority, the local council, and other responsible authorities, such as the fire, health, and probation services, the partnerships aimed to collaboratively develop and implement strategies to protect local communities from crime, disorder and anti-social behaviour, and to reduce fear of crime. These partnerships resulted from the acknowledgement in the PACE Act (1984), that the police and criminal justice agencies are unable to comprehend and prevent crime and disorder issues alone
5. Community safety is a devolved matter. There are currently 22 community safety partnerships (CSPs) in Wales, operating at the local government level. Prior to imposed austerity in 2010, and the introduction of PCCs in 2012, CSPs in Wales received 40-50% of their funding from the Home Office; around 30% from the Welsh Government through the Safer Communities Fund; and around 30% from local authorities.³

¹ For the purpose of this submission, Gordon Hughes' definition of community safety as 'a strategy which seeks to move beyond a police-driven crime prevention agenda, to involve other agencies and generate greater participation from all sections of the "community"' is used. G. Hughes 'Community Safety' in McLaughlin and Muncie (eds) *The Sage Dictionary of Criminology*, (London: Sage, 2006).

² Alun Michael was elected PCC of South Wales Police in 2012 and 2016, the only PCC in Wales to serve consecutive terms. Embedded practices can therefore be identified in South Wales, and it is from this that much of the data is drawn. S. Chambers *The impact of police and crime commissioners on community safety agendas in England and Wales: a comparative study of South Wales and Avon and Somerset, 2012–2016*. (PhD Thesis, Cardiff University 2017).

³ K. Williams and M. Feilzer Welsh Devolution and Civil Society: Shaping the Future? *European Journal of Current Legal Issues* 19(4) (2013). Others have stated that the Safer Communities Fund provided approximately 20% of local CSP budgets: G. Hughes, S. Case, A. Edwards, K. Haines, M. Little, A. Smith and S. Wright, 'Evaluation of the Effectiveness of the Safer Communities Fund 2006 -2009' July (2009) <https://gov.wales/docs/caecd/research/100205-effectiveness-safer-communities-fund-2006-09-en.pdf>

6. The election of PCCs in 2012 altered the community safety policy landscape in Wales. Introduced by the Police Reform and Social Responsibility Act 2011, PCCs have a range of responsibilities to govern a police force. These include the power to hire and fire the Chief Constable, set the annual force budget, set local policing priorities in a Police and Crime Plan, and commission local community safety related projects. In addition to engaging with the local public, via the ballot box and local consultation, the 2011 Act states that PCCs must 'have regard' for the priorities of relevant local authorities, and vice versa (Police Reform and Social Responsibility Act 2011 s.10). PCCs therefore have significant financial and agenda-setting responsibility in relation to local community safety.
7. The 2011 Act was criticised for being rushed through parliament, resulting in a vague list of responsibilities for actors in the new quadripartite structure, rather than 'tight boundaries'.⁴ In addition, this major reform led to 'incoming PCCs [having] no blueprint to work from as there is no equivalent post elsewhere in the world or in any other public services in the UK'.⁵
8. Advocates of the reform claimed that the introduction of PCCs offered 'an opportunity for strengthening neighbourhood policing, [and] developing holistic local crime reduction', while incorporating evidence-based policing.⁶ In addition, through local election, PCCs would possess 'soft power' which could be used to persuade different agencies to work together more effectively.⁷
9. However, critics argued that PCCs could further fragment service delivery at the local level, rather than enable mutual 'regard', given the regional positioning of PCCs covering several counties, and even more councils and wards. This statutory responsibility to 'have regard' could cause 'democratic confusion', due to the multi-faceted nature of community safety and contrasting mandates of elected officials.⁸
10. Further criticisms considered the impact of an elected official on the content of the agenda, arguing that it would be subject to radical changes 'depending on the priorities and judgements of each individual PCC'.⁹ Political affiliation of PCCs was a key concern for many, who argued that the politicisation of the police may result in punitive tackling of a particular crime, or the targeting a particular group, to appeal to the general public in an attempt to guarantee their re-election.¹⁰ Importantly for community safety, the election of an individual

⁴ B. Caless and J. Owens, *Police and Crime Commissioners. The transformation of police accountability*. (Policy Press 2016) page 162

⁵ A. Longstaff, *The Home Affairs Committee's enquiry on Police and Crime Commissioners: The Police Foundation's response*. www.police-foundation.org.uk/uploads/holding/policy/pccs_resp.pdf (2013) Page 8

⁶ I. Loader and R. Muir *Embracing Police and Crime Commissioners: Lessons from the Past, Directions for the Future* The Police Foundation, (2016)

⁷ Ibid

⁸ S. McCabe, (2011) in P. Joyce, 'Police Reform: From police authorities to Police and Crime Commissioners' *Safer Communities* Vol. 10(4) (2011) Page 10.

⁹ M. Maguire, 'Response 1: Big Society, the Voluntary Sector and the Marketization of Criminal Justice', *Criminology and Criminal Justice*, Vol. 12(5) (2012) page 489

¹⁰ R. Reiner, 'Power to the People? A social democratic critique of the Coalition Government's police reforms' in S. Lister and M. Rowe (eds) *Accountability of Policing*. (London: Routledge, 2016); S. Lister 'The New Politics of the Police: Police and Crime Commissioners and the 'Operational Independence' of the Police' *Policing* Vol. 7(3) (2013)

figurehead for local police governance could result in the deploying of resources 'first and foremost for reactive, old-fashioned police led "crime fighting"', and ignoring ground gained on recognising that crime and its motivation is complex, requiring versatile responses.¹¹

11. The remainder of this submission will consider several of these prospects and concerns within the context of South Wales, focussing on the impact of the election of the PCC on community safety funding, community safety priorities, and accountability.

Community Safety Funding in Wales

12. The election of PCCs changed the funding arrangements for community safety in Wales. Funding which previously passed from central government to Welsh Government for community safety, now bypasses Welsh Government and is received by the PCC. In the final year of the previous arrangement, Welsh Government received £3,476,000 from central government for community safety related services in South Wales. In the following year, this same amount went to the South Wales PCC for community safety related services, and has remained at that level since.
13. Despite Welsh Government no longer being in receipt of this funding, it remains committed to funding community safety related services, providing almost £50million in 2015-16.¹² This is an increase of over £40million since PCCs were elected in 2012-13.
14. Welsh Government's financial investment in community safety policy can also be seen at the local level. Prior to the election of PCCs, Welsh Government provided the Cardiff CSP £496,937 from the then named Safer Communities Fund (2011-2012). In 2013, the year PCCs were elected, it provided almost a third more, £740,353, to the CSP through the newly named Youth Crime Prevention Fund. In the same year, South Wales PCC commissioned approximately £148,985 to the Cardiff CSP, and this level of funding has been maintained since. Therefore, despite the loss of funding from central government, Welsh Government continue to be the majority funder for specific community safety related services across Wales (discounting funding for general police work).
15. A key concern of critics of the election of PCCs was the potential to replace the 'community safety' narrative with a populist 'crime fighting' focus. The South Wales PCC's renaming of the Community Safety Fund for Community Safety Partnerships and Youth Justice Services across South Wales, to the 'Police and Crime Reduction' Funding in 2015 seems to reduce and subsume community safety and crime prevention into police-related policy concerns, rather than seeing policing as an element of community safety.

¹¹ D. Gilling *et al* 'Powers Liabilities and Expertise in Community Safety: Comparative Lessons for 'Urban Security' from the United Kingdom, and the Republic of Ireland', *European Journal of Criminology*, Vol.10(3) (2013) page 5

¹² Calculated from Figure 8 Page 47 <http://www.assembly.wales/laid%20documents/agr-ld10777/agr-ld10777-e.pdf>. Calculation includes Road Safety Grant, Substance Misuse Action Fund, Community Cohesion Grant, Community Fire Safety, Domestic Abuse Service Grant, Youth Crime Prevention Fund, Community Support Officers and Youth Justice Service. Calculation does not include Flood and coastal erosion or Lead Local Flood Authority Grant.

Community Safety Priorities in Wales

16. As the majority funders of community safety services in Wales, Welsh Government appear to have their hands on the levers of control. However, PCCs have the responsibility to produce Police and Crime Plans, which include their priorities for community safety.
17. In their inaugural financial year (2013-14), PCCs in Wales tended to do little other than roll over local community safety priorities of the local CSPs from the previous year, maintaining associated levels of funding.
18. In South Wales, where the Labour PCC shared broad ideology with the Police and Crime Panel, local authorities and Welsh Government, convergence on priorities was evident. However, the South Wales PCC included within his 2013-17 'Police and Crime Reduction Plan'¹³ the promotion of the use of Anti-Social Behaviour Orders (ASBOs), arguing that they have been 'successful and efficient' and should be continued to meet his 'outcomes' of reducing the level of anti-social behaviour, reducing the number of repeat victims and improving public confidence in the police.¹⁴
19. An abundance of academic literature views ASBOs as being a punitive response to largely normal youth behaviour.¹⁵ During 2000-2011, South Wales had the lowest rate of issuing ASBOs per 10,000 population across England and Wales,¹⁶ argued to be due to a 'rejection' of the use of ASBOs within Wales.¹⁷ This 'rejection' is apparent in the Welsh Government 2011-2016 Programme for Change priorities, which include reducing and preventing young offending by continuing 'funding to community safety partnerships for projects related to education, training, leisure, arts, sports, restorative justice and initiatives to combat substance misuse'.¹⁸
20. The South Wales PCC's promotion of the use of the ASBO, therefore indicates a punitive shift in the rhetorical response to young people in South Wales, and potentially signifies a

¹³ Alun Michael changed the prescribed title 'Police and Crime Plan' to 'Police and Crime Reduction Plan', stating that the former 'is potentially misleading – I do not intend to commission crime' Police and Crime Reduction plan, 2013-17: 6 : <http://apccs.police.uk/wp-content/uploads/2013/11/Police-and-Crime-Reduction-Plan-2013-17.pdf>

¹⁴ South Wales Police and Crime Reduction Plan 2013-17 pp. 22 n.14

¹⁵ For example: A. Gask 'Anti-Social Behaviour Orders and Human Rights' Liberty (2004) <https://www.libertyhumanrights.org.uk/sites/default/files/asbos-and-human-rights-2004.pdf> ; E. Burney 'Out with yobs!' *Criminal Justice Matters* Vol 67 (2007); P. Squires (ed) ASBO Nation: The Criminalisation of Nuisance (Bristol Policy Press, 2008)

¹⁶ Courts in the South Wales Police Force area issued 441 ASBOS during 2000-2011. The mean average was 518. Community & Adult Services Scrutiny Committee (2013) The Structure and Approach of Cardiff Council in Tackling Anti-Social Behaviour Page 69 <https://www.cardiff.gov.uk/ENG/Your-Council/Councillors-and-meetings/Scrutiny/Scrutiny-reports/Documents/CASSC-%20Tackling%20Anti-Social%20Behaviour.pdf>

¹⁷ Edwards, A., Hughes, G. 'Resilient Fabians? Anti-social behaviour and community safety work in Wales', in P. Squires (ed.), ASBO Nation: The Criminalization of Nuisance, (Bristol Policy Press, 2008).

¹⁸ Welsh Government 2011-2016 Programme for Change Page 26 <http://www.assembly.wales/Research%20Documents/The%20Welsh%20Government%E2%80%99s%20Legislative%20Programme%202011%20-%202016%20-%20Research%20paper-25072011-220590/11-048-English.pdf>

narrowing of the community safety agenda.¹⁹ However, this is not merely a rhetorical shift: in July 2017, South Wales were in the top 12 of forces issuing Criminal Behaviour Orders (which replaced ASBOs in 2014).²⁰

21. The South Wales Annual Police and Crime Reduction Plans have not referred to Anti-Social Behaviour Orders, or their successors, Criminal Behaviour Orders, since the 2013-17 Plan. Reducing and preventing anti-social behaviour remains a priority, and is identified as fitting well with the Well-being Goals of Future Generations Act (Wales) 2015.²¹ The 2016 -21 plan states a particular focus restorative justice by giving victims 'a say in the types of punishment their perpetrators face'.²² However, given the 'ill-informed, punitive' tendencies of the general public, this may be problematic.²³
22. Therefore, despite the political ideological similarities of the South Wales PCC and the local political context, there is divergence in particular approaches and responses to community safety. Welsh Government's (at least) rhetorical commitment to social justice has become somewhat disjointed since the introduction of the new regional actor for police governance. More widely, North Wales PCC Arfon Jones is the only PCC in Wales to not include anti-social behaviour as a priority in the current (2017-2021) Police and Crime Plan, instead aiming to reduce the number of young people being drawn into the Criminal Justice System.²⁴

Accountability of community safety in Wales

23. The 2011 Social Responsibility and Police Reform Act, aimed to improve democratic accountability and public participation in local policing through the introduction of PCCs. Specifically, the legislation sets out that a PCC must obtain 'the views of victims of crime in that area about matters concerning the policing of the area'.²⁵
24. However, the post-2011 quadripartite structure of 'local' police governance is not adequate to produce relations that necessitate genuine methods of consultation and accountability. The regional positioning of PCCs limits the opportunities to seek views of local public on policing. It is the contingencies of PCC's background and expertise, and who they perceive as the audience for their strategy (who they view as holding them to account), which influences

¹⁹ A. Crawford, 'Police, policing and the future of the policing family' in J. Brown, (ed.) *The Future of Policing*. (Abingdon: Routledge, 2013)

²⁰ R. West 'Court orders criminalising homeless, charity claims' (2017) <https://www.bbc.co.uk/news/uk-england-norfolk-40571673>

²¹ South Wales Police and Crime Reduction Plan 2016-21 Page 48 <http://pcclivewww.blob.core.windows.net/wordpress-uploads/Police-and-Crime-Reduction-Plan-2016-21-English.pdf>

²² Ibid Page 3

²³ I. Loader and R. Sparks *Public Criminology?* (London: Routledge, 2011) Page 15

²⁴ North Wales Police and Crime Plan 2017-2021 Page 15 <https://www.northwales-pcc.gov.uk/Document-Library/Information/Publication-Scheme/What-are-priorities-are-and-how-we-are-doing/Police-and-Crime-Plan/Police-and-Crime-Plan-2017-2021.pdf>

²⁵ Police Reform and Social Responsibility Act 2011, s.14(2)

how they involve the public, rather than their necessary legislative responsibilities.²⁶

25. The complicated architecture of community safety in Wales therefore makes it difficult for the general public to know who is responsible for what, and to be able to hold them to account. Such problems were found by the Wales Audit Office, which argued that if accountability does exist, it is unclear who is being held accountable for what.²⁷

Conclusion

26. This submission to the Commission on Justice in Wales has highlighted some of the key issues concerning the necessary co-existence of devolved community safety policy and non-devolved policing, in South Wales.
27. The asymmetry of the wider architecture of community safety limits the adequacy of the 2011 Act in Wales. Given the existence of multiple actors, at local, regional and sub-national levels, with differing constitutional-legal powers, geographical reach and electoral mandates, and the vague stipulations of the 2011 Act to 'have regard' to other relevant authorities, it is unsurprising that the arrival of a PCC did not lead to a unifying policy presence in the context of community safety. The PCCs' agenda is one of many, and the least resourced.
28. In terms of local community safety policy setting, PCCs do not represent a 'monocratic' form of governance. Rather, pre-existing ad-hoc relationships continue. Importantly, where there is common political ideology between key actors and institutions, these relationships have the potential to be constructive rather than conflictual.

²⁶ S. Chambers *The impact of police and crime commissioners on community safety agendas in England and Wales: a comparative study of South Wales and Avon and Somerset, 2012–2016*. (PhD Thesis, Cardiff University 2017)

²⁷ Wales Audit Office 'Community Safety in Wales' (2016)

<https://www.audit.wales/system/files/publications/Community-Safety-2016-English.pdf>