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GENERAL COMMITTEES

Public Bill Committee

CRIMINAL JUSTICE BILL

Third Sitting

Thursday 14 December 2023

(Morning)

CONTENTS

Examination of witnesses.
Adjourned till this day at Two o'clock.

No proofs can be supplied. Corrections that Members suggest for the final version of the report should be clearly marked in a copy of the report—not telephoned—and must be received in the Editor’s Room, House of Commons,

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Monday 18 December 2023

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The Committee consisted of the following Members:

Chairs: HANNAH BARDELL , SIR GRAHAM BRADY , DAME ANGELA EAGLE , MRS PAULINE LATHAM , † SIR ROBERT SYMS

Costa, Alberto (<i>South Leicestershire</i>) (Con)	† Mann, Scott (<i>Lord Commissioner of His Majesty's Treasury</i>)
† Cunningham, Alex (<i>Stockton North</i>) (Lab)	† Metcalfe, Stephen (<i>South Basildon and East Thurrock</i>) (Con)
Dowd, Peter (<i>Bootle</i>) (Lab)	† Norris, Alex (<i>Nottingham North</i>) (Lab/Co-op)
† Drummond, Mrs Flick (<i>Meon Valley</i>) (Con)	Phillips, Jess (<i>Birmingham, Yardley</i>) (Lab)
† Farris, Laura (<i>Parliamentary Under-Secretary of State for the Home Department</i>)	† Philp, Chris (<i>Minister for Crime, Policing and Fire</i>)
Firth, Anna (<i>Southend West</i>) (Con)	Stephens, Chris (<i>Glasgow South West</i>) (SNP)
† Fletcher, Colleen (<i>Coventry North East</i>) (Lab)	
† Ford, Vicky (<i>Chelmsford</i>) (Con)	
Garnier, Mark (<i>Wyre Forest</i>) (Con)	Sarah Thatcher, <i>Committee Clerk</i>
Harris, Carolyn (<i>Swansea East</i>) (Lab)	
† Jones, Andrew (<i>Harrogate and Knaresborough</i>) (Con)	† attended the Committee

Witnesses

Nick Smart, Acting President, Police Superintendents' Association of England and Wales

Councillor Sue Woolley, Conservative Lead Member for the LGA's Safer and

Stronger Communities Board, Local Government Association

Emily Spurrell, PCC Criminal Justice portfolio lead, Association of Police and Crime Commissioner

David Lloyd, PCC Criminal Justice portfolio lead, Association of Police and Crime Commissioner

Mark Fairhurst, National Chair, POA (the Union)

Public Bill Committee

Thursday 14 December 2023

(Morning)

[SIR ROBERT SYMS *in the Chair*]

Criminal Justice Bill

11.30 am

The Chair: Good morning, everybody. We will start with the Opposition for the first five minutes, then go to the Ministers and then open questions up to others. Anybody not on the Front Bench who wants to ask a question, please signify—send up a rocket.

Examination of Witness

Nick Smart gave evidence.

11.32 am

The Chair: We start with Nick Smart, acting president of the Police Superintendents' Association of England and Wales. Did you put in written evidence?

Nick Smart: No, I just have some notes to refer to.

The Chair: Okay. Would you like to introduce yourself?

Nick Smart: Good morning, everybody. I am Nick Smart, acting president of the Police Superintendents' Association. We represent superintendents and chief superintendents in England and Wales; we have approximately 1,500 members nationally.

Q1 Alex Norris (Nottingham North) (Lab/Co-op): Thank you for your time and expertise this morning. They are much appreciated.

The nuisance rough sleeping provisions in clauses 51 to 62 are likely to have an impact on police officers and the work that they have to do. Does the association have a view on that, and on its resourcing implications?

Nick Smart: Yes. With the repeal of the Vagrancy Act 1824, the new measures are welcome. The powers give officers the ability to move people on in certain circumstances, be it rough sleeping or begging. As Mr Stephens from the National Police Chiefs' Council said, this is a wider societal issue, not necessarily just a police matter. We would encourage the use of these powers in line with our community safety partners to address the issues. We would look at this as a positive step for police officers.

Q2 Alex Norris: Do you have concerns that this will be one of those multifactorial societal problems that ends up with an enforcement-type approach, where we ask you to police our way out of what are deeper social challenges?

Nick Smart: A lot of the individuals who end up in this situation are vulnerable; I am sure you have heard evidence of that. Will it address the root causes of rough sleeping and begging? That remains to be seen. We note that with the one-month imprisonment, there

is a potential risk of people being arrested subject to notices and then yo-yoing in and out of the criminal justice system, prisons and so on. If they are in prison for a short time, they are not able to access all the help that they may need. Where sleeping and begging also has that harassment or nuisance element, however, that is an appropriate power.

Q3 Alex Norris: Do you have a view on the desirability of the provisions relating to the police, particularly clauses 73 and 74 on ethical policing and appeals to police appeals tribunals? Would you add anything to them?

Nick Smart: On the police appeals tribunals, it makes perfect sense to us as an association that where officers need to be dismissed, or it is believed that officers should be dismissed, chief constables have the right to appeal to the tribunal rather than going through the rather litigious and expensive route of judicial review.

We are supportive of the duty of candour and code of ethics. Nobody in policing wants bad cops within the organisation. We are overtly cognisant of the trust and confidence issues in policing and of the legitimacy that we all—the public—seek and desire. We believe that the College of Policing needs to come up with some clear and unambiguous guidance for all police officers. If you were to ask a PC, at 2 am, what “duty of candour” means, I think they might struggle to answer, but if the College of Policing is clear with that guidance and rolls it out in an unambiguous manner that everybody can understand, which I believe it will, we do not have an issue. We support that 100%.

Q4 Alex Norris: Finally, you may have seen from the evidence we took on Tuesday that there is quite a lot of interest in vetting. I think we came out with more solutions, in different ways, than we had perhaps anticipated. Where do you sit on what is an appropriate vetting regime that is practical and that gives confidence to the public about the people who are protecting us?

Nick Smart: The purpose of vetting is to make sure that the right people get into the organisation. There is certainly a reputational risk in having the wrong officers in the organisation; we have seen the damage it can do to trust and confidence in the police service. I believe that the measures that the College of Policing will instigate for licence and vetting units are a positive step to make sure that they adhere to a certain standard.

Having His Majesty's inspectorate of constabulary review vetting units as part of its inspections is a sensible way of safeguarding and making sure that they are working effectively. As with any issue, if you want to enhance the vetting it will mean more staff, which will cost more. The current budgets are set, so if you put more people and resources into more robust vetting, which is a sensible idea, something at the other end will have to give, because there is no endless money pit for the police budget.

Yes, we welcome it and we believe that it is the right thing to do. As an observation, an officer is vetted at the time of joining, but you could have repeat vetting at some point during their service, to make sure that they still have the appropriate vetting. Also, when you get promoted to superintendent level, for example, you go to management-level vetting, which is slightly more intrusive. If you are a counter-terrorism officer, you

may get some even more enhanced and developed vetting that takes more time and resources. We would welcome more robust vetting, and I think most chief constables would welcome it, but it is a question of resourcing and staffing to make sure that the process is fit for purpose.

Q5 The Parliamentary Under-Secretary of State for Justice (Laura Farris): Can I pick up on the issues around police conduct? Clauses 73 and 74 create both a right and a duty on chief constables: a duty to oversee the duty of candour and the relevant code that will ensure it, and a right to submit an appeal of their own device. Is that consistent with feedback that you have heard from chief constables about how they could better manage their subordinates?

Nick Smart: In terms of the appeals process?

Laura Farris: In terms of the two things. Do you think that that is the range of tools that they need in order to better manage?

Nick Smart: In terms of the appeals process, having a JR is really expensive and takes time. If the officer is to be dismissed, a JR prolongs the period unnecessarily. An appeals tribunal should be swifter, so if the officer is dismissed the process is more satisfactory for everybody concerned. We believe that this is an appropriate tool for chief constables.

Q6 Laura Farris: There are some new powers in the Bill. The power relating to the seizure of bladed articles is consistent with powers that already exist, but is an expansion of them; there just needs to be a reasonable belief that the bladed article may be used in the commission of a further crime. What is your view on that?

Nick Smart: It plugs a gap. Previously, officers who were lawfully on premises could not seize knives that were essentially held there—we all have knives in our house—but there are examples of domestic situations in which a knife could be used to commit a heinous offence. This provision allows us to seize that knife if there are reasonable grounds to believe that a criminal act will be committed. We would support this.

Q7 Laura Farris: In the past, have you heard that officers have had a reasonable suspicion but have found that they lacked the requisite power to act?

Nick Smart: Basically, yes. There are examples of officers who have attended various incidents, perhaps with people with mental health problems, in domestic situations where knives had been lawfully bought but could be used in a criminal act, and the officers have not been able to seize them properly. Again, where there are reasonable grounds to suspect that a criminal act may be committed with a bladed article—a weapon—it is entirely appropriate that we have the power to seize it and stop that from happening.

Q8 Laura Farris: Right next to that in the Bill is clause 19, which relates to the power to enter premises without a warrant. Police can enter without a warrant when there is a reasonable suspicion that stolen goods are on the premises. Can you comment on that?

Nick Smart: I think it is a reasonable belief rather than a suspicion. Giving that power to our officers is welcome. It comes with the caveat that there is a legitimacy angle. Officers not having to obtain warrants to enter

premises presents a big trust and confidence issue for the public, and rightly so. That is where the quality of policing comes in with respect to officers' guidance, understanding and application, and with respect to His Majesty's inspectorate of constabulary making sure that those powers are used appropriately and that there is accountability.

It plugs a gap. For example, we all have an iPhone, and we all have Find My Friends on it. If somebody has lost a bit of tech and the app can pinpoint an address, that, along with other reasonable lines of inquiry, gives the officer the reasonable belief to enter the premises and recover the property. That seems appropriate.

Q9 Laura Farris: Do you have confidence that the threshold test of reasonable belief would be uniformly applied across police forces?

Nick Smart: Yes, I do. On the scale of reasonable suspicion to reasonable belief, you have to have virtually no doubt that the item is in that property before you enter it. Rather than reasonable suspicion, where you can just have a hunch, there have to be active lines of inquiry based on intelligence to justify a reasonable belief, but if it is there, it is entirely appropriate for an officer to enter and recover a member of the public's stolen property.

Q10 Laura Farris: Finally, the new package of measures in clauses 65 to 71, which deal with antisocial behaviour, is an expansion of existing powers in the 2014 legislation, such as enabling the police to put in place a public safety protection order. What impact do you think that will have on the police's ability to respond to antisocial behaviour?

Nick Smart: I think it gives us the flexibility and dynamism we need to address issues that occur, fight crime, deter crime and reassure the public. In my force, West Yorkshire, public spaces protection orders have been used against nuisance vehicles where individuals have been wolf-whistling at females, so they link to the violence against women and girls agenda and they have been used quite successfully. Our power to create PSPOs is entirely appropriate in the circumstances and is very welcome.

Q11 Laura Farris: What about bringing the age limit down to bring in children of 10, up to adulthood?

Nick Smart: Again, it relates to the accountability for everybody's actions. It is not just older people who commit antisocial behaviour; it is often youth-related and it is linked to families. We welcome the provision allowing social housing providers to remove nuisance tenants, but we understand that they have an obligation to rehouse them, so it is not just about moving them from one place to another and the same behaviour happening. There has to be community safety partnership work to ensure that there is the health, education and social care provision to change their behaviour. Otherwise, you are just displacing the problem from one area to another.

Q12 Stephen Metcalfe (South Basildon and East Thurrock) (Con): I would like to go back to the issue of knife crime, which I am particularly interested in. You mentioned clause 18, but are there any other measures

in the Bill that will help to tackle knife crime? There was a recent national police initiative to tackle knife crime. Could you tell us how that went?

Nick Smart: On the powers, possession with intent is a really useful operational tool for officers. It is similar to firearms legislation, in which there is an offence of possession of firearms with intent to endanger life. Having an offence for knives with a similar intent is welcome. We have seen gangs taunting each other with knives on social media, on podcasts and things like that. Possession with intent is a welcome operational tool, used in line with intelligence and obviously monitored with the usual safeguards. Operationally it is very welcome, and if it saves lives we are all for it.

Q13 Stephen Metcalfe: Absolutely. And how did the operation go?

Nick Smart: I cannot comment on that, because I am not aware of it. I can get you a written response if you would like me to come back to you.

Q14 Stephen Metcalfe: That is fine. You said that the measures in the Bill are welcome. Are there any other measures that you would have liked to see in it that would help to tackle knife crime? I realise that it needs a holistic approach and that you need to work with others, but we can only give you the powers.

Nick Smart: The powers on sale and manufacture are welcome in addressing those who use social media such as Snapchat to sell knives to groups. The prohibited knives in a public place distinction is welcome. We have tried for some time to do that. For example, you have to prove three different elements to prove that something is a zombie knife, but now there is a provision in the Bill. I guess an aggravating factor that might be linked to the sentencing guidance is having that prohibited knife in your possession. Again, taking that into account in a court of law is welcome. The set of provisions around knife crime is very welcome.

Q15 Alex Cunningham (Stockton North) (Lab): We have plenty of time, so I would like to read you a quote. In the first evidence session on Tuesday, I asked Nicole Jacobs, the Domestic Abuse Commissioner for England and Wales, what we could build on in the Bill. She said:

“Police-perpetrated domestic abuse related issues—and that means three key things to me. One is being more proactive about removing warrant cards if someone is under investigation for crimes relating to violence against women and girls or domestic abuse. The second is the specified offences that I believe should be listed that would constitute gross misconduct; again, I think they should be defined as domestic abuse, sexual harassment, assault and violence, so-called honour-based abuse, and stalking. The third is stronger provisions in relation to police vetting—requiring that every five years, and ensuring that if there is a change in force, police vetting takes place. Tightening up those provisions is not currently in the Bill and I think it should be.”—[*Official Report, Criminal Justice Public Bill Committee*, 12 December 2023; c. 24, Q55.]

Do you agree?

Nick Smart: If we take the last point first, vetting more frequently during an officer’s service is welcome, and if they change force, entirely appropriate. We agree with that.

On gross misconduct, if you permit me, I have some data to share. We are talking about not just domestic-based issues, but superintendents served gross misconduct

papers in the past few years for various things. In 2018-19, 19 of our members were served and two sacked; in 2019-20, 19 were served and four sacked; in ’20-21, nine gross misconducts, two sacked; and in ’21-22, 12 with one sacked.

What that shows about gross misconduct is that roughly 80% of officers who are served with gross misconduct papers have NFA—no further action—taken against them. We suggest looking at cases on a case-by-case basis and, if it involves serious wrongdoing, that should be a matter for the appropriate authority to look at a severity assessment and to make that assessment straightaway. We believe we find that a quarter of our professional standards departments go to gross misconduct almost immediately, and if 80% to 85% of officers have no further action taken when they are given those gross misconduct papers, that indicates to us that the severity assessment is wrong in the first place. If there is wrongdoing and it is clear, however, then gross misconduct papers should be served.

We would say, again, that at the merest hint of a suggestion, police professional standards departments serve a gross misconduct, but we think that there should be more of an investigation to establish the facts before gross misconduct papers are served. But where there is a clear chain of evidence that relates to an individual and wrongdoing, it is entirely appropriate, and we support gross misconduct papers being served.

Q16 Alex Cunningham: That is helpful. Is there anything that the Bill Committee can do to improve this piece of legislation to assist police forces across the country in dealing with such issues?

Nick Smart: I think that the way in which we as a service approach gross misconduct could do with a refresh. We have discussed that as a Police Superintendents’ Association, because our colleagues are usually the heads of professional standards departments making those assessments. Culturally, I think we go in low, so it is easy to give somebody a gross misconduct paper, whereas some work with the College of Policing to refresh how we approach that might be welcome, so that gross misconduct is served appropriately to the right individuals and we do not clutter professional standards departments with investigations that are going nowhere ultimately.

Alex Cunningham: That is helpful, thank you.

Q17 The Chair: We have a minute or two left. Do you want to share with the Committee anything you have not been asked about, but think would be helpful?

Nick Smart: If I may, there is one item—the powers of entry—which I think you alluded to. An issue that we looked at was that of immediacy. Section 18 of the Police and Criminal Evidence Act 1984 allows the police to search after arrest, and that requires an inspector’s authority. In certain circumstances, if the inspector is not available or there is a policing need, the constable can go in and get retrospective authority.

In the circumstances outlined in the Bill’s powers of entry, nothing in there regards that immediacy. If the officer at the time needs to go in to recover the property but cannot get hold of the inspector—for example, if the inspector is in custody dealing with a review, or they are dealing with a complaint or a critical incident, and

because they need to review what is going on and then give that authority—it would be helpful to have that provision in so that the officer can seek that respective authority from the inspector as per section 18 of PACE. The precedent is there, but a provision would tackle immediacy—

Q18 Laura Farris: Can I ask you a follow-up question? If you remove the need for a warrant, do you not think that it is important to have some form of safeguard before the door is opened?

Nick Smart: Absolutely. I think in 99% of the cases the inspector's authority would be granted.

Q19 Laura Farris: But even in that 1%, would it not have a corrosive effect on public trust if an officer took the decision and then would not have been authorised?

Nick Smart: There is always the potential when you go through somebody's door without a warrant for that. I think Andy Cooke from HMIC said that mistakes will be made. However, if there is a genuine belief that you are at a property, you have somebody with a mobile phone, they have seen you and you think that they will run out the back door of the property, or try to hide or destroy that property, you must wait for the inspector to give you the authority. That gives the individual time to act and potentially lose, damage, alter or destroy that property, so that when you go through the door you do not find it for whatever reason. It is an observation; we are not saying that it should be in there, but it is a consideration. As I say, the precedent is there in section 18 of PACE, which I think certainly we, and HMIC, would say has not been abused over time.

Laura Farris: That is really helpful. Thank you very much, Mr Smart.

The Chair: Thank you for your evidence. If there is anything you would like to add or that you feel you have missed when you go back on the tube, you can always write to the Clerk.

Examination of Witnesses

Councillor Sue Woolley, Emily Spurrell and David Lloyd gave evidence.

11.55 am

The Chair: We welcome the three witnesses: Councillor Sue Woolley, Conservative lead at the Local Government Association and Safer and Stronger Communities; Emily Spurrell, a Police and Crime Commissioner and justice portfolio lead; and David Lloyd, a PCC and criminal justice portfolio lead. Can you start by introducing yourselves, please? We will start with David.

David Lloyd: Thanks very much, Sir Robert. Thank you for the courtesy of extending invitations to the Association of Police and Crime Commissioners to attend. You realise that PCCs have a strategic role in setting plans and budgets and holding their chief constable to account. We are not operational, and therefore any remarks we will make will be more about strategy—I suppose budgets, specifically—but we are also proudly victims champions. I suppose that is what we have brought to the criminal justice system—there is bias in favour of criminals. I am David Lloyd, and I am the PCC in Hertfordshire.

Emily Spurrell: I am the PCC in Merseyside. To echo what David said, scrutiny and partnership working in particular are some of the areas that we are keen to look at.

Councillor Sue Woolley: I am Councillor Sue Woolley. Today I am representing the Local Government Association. As you have already said, I am a member of the Safer and Stronger Communities Board. As a representative of local government, you will know, and I would suggest, that we are probably the bit of the jam that brings everything together, so that we have the opportunity to work with all those wider partners, including the PCCs, local government and the police force.

Q20 Alex Norris: Thank you for your time and the distances that you have come to be with us today; it is really valuable to us in our consideration. I will start where you finished, Commissioner Spurrell, on partnership. Can you give me your reflections on community safety partnerships and your experience of them? We can go from left to right as I look at the panel.

Councillor Sue Woolley: The community safety partnerships are absolutely important for partnership working at that local level—I must impress that on you—and provide the opportunity to bring together those other agencies that work particularly in the wider scheme of things. For example, under local government you will have public health, which sits with upper tier authorities; of course, they are responsible for things such as drug and alcohol services. While you may have the sharp end, if you like—the police force and the PCC—working with those who have broken the law, it is then the turn of local government and its wider partners to pick it up and put some restoration into the process.

Emily Spurrell: As I said, I think partnership is a key part of the work we are trying to do. As police and crime commissioners, it is certainly very much in our job description that we bring partners together, and community safety partnerships are a good tool to do that.

They have probably had some challenges since they were first introduced many years ago, particularly around capacity in some areas—partly because of funding and because they do not sit on a statutory footing. In Merseyside, I fund the five CSPs that sit within the five local authorities. I give them funding to try to help them drive some of the really local issues that we see. It is also important that, as PCCs, we try to bring them together at the Merseyside force footprint level, so we can try to join that up. We want to try to get the balance of giving the local CSPs the powers and funding to do some really local issues while ensuring that we do not lose sight of how we get consistency and a joined-up approach at the force level.

In terms of some of the issues that the Criminal Justice Bill talks about—antisocial behaviour, nuisance begging and those kinds of issues—we absolutely need to use the powers of partners. We cannot rely on the police to do that job, for many reasons. The CSPs are the place where we can try to bring those people together and say, “It does not meet a police threshold, but we have other powers that we can use.” That is the value of the CSPs all coming together to do that work.

David Lloyd: Emily is quite right: they are very good idea. I think they are variable. In Hertfordshire I have 10, based on the borough council footprint. Some very much want to work alongside policing. They are a very good idea, because community safety is clearly not just a policing issue; that is the most extreme end of it, but most of it is further upstream. But they are variable, and a lot of it is to do with the funding that they choose to put in or not. It is very easy to spend other people's money on something; it is far more difficult to spend one's own money on something. Frankly, that can be an issue, so we need to think about that funding and how it happens.

We also have to think about how they can influence the police and crime plan and how we can influence what they are doing. Even though they are fairly mature organisations, things still do not always join up as much as you might expect, especially if there are different political beliefs and different political leaderships.

Q21 Alex Norris: Thank you for all those answers. I want to pick up on that final point. Clause 72 gives PCCs the ability to essentially say to the CSP, "This is what you should be prioritising," and the CSP has to take that on board and, if it is not acceptable, come back in a formal process to say why not. I am not sure whether that is needed. You have talked about culture, mutual trust and realising that local government tackles the same problems as policing. Is the power necessary? As PCCs, is it one that you would expect to exercise? From a local government point of view, Councillor Woolley, would you be impressed if your PCC or Mayor was to exercise it with you?

Councillor Sue Woolley: I couldn't possibly comment!

David Lloyd: When they were originally brought in under the Labour Government in the '90s, I think they were missing teeth, if you like. Perhaps there was more accessible funding in those days, but to an extent I think that they do not have the teeth. Clearly, there is now a democratically elected corporation sole: a person who has that very direct role around community—a direct mandate from the public. So being able to sweep up into what the local council is doing would be very helpful, because we need some way of ensuring that, where common persuasion does not work enough, there are some teeth within it.

Q22 Alex Norris: Should that perhaps cut both ways? As you say, the PCC has a democratic mandate. The local authority does as well. It is elected differently, but it is still drawn from the people—of the people. Are you not concerned that it creates a power imbalance, where the PCC can make that mandate, but the other partners cannot?

Emily Spurrell: From my point of view, if the system was working as it should—again, I am reflecting on my own experience in Merseyside—you should all be talking about the same things anyway. When I look at my CSPs in Merseyside, if they are not all talking about serious organised crime, something has gone wrong. They are all talking about it, because it is an issue in all their areas. There will be some really specific issues that I think CSPs need to be able to look at but, generally speaking, if they are not talking about those issues, something else has gone wrong further upstream. It could be helpful to put this in because then, as David says,

there is a reminder that you need that connection. The reality is that if they are not really talking about those things, there are bigger issues at play, in terms of why those same priorities are not being picked up.

Councillor Sue Woolley: I think that if at all possible, when you have partners around a table and they are equal partners, that is a conducive way to good practice and working. I am quite sure that works really well in some places. In my own area, that works particularly well. All partners are equal around the table; everybody works together. I am quite sure that in other areas, that bond may not be as strong. Rather than just legislating for something, I would suggest that, if at all possible, there could be something around a duty to work together. You will know the language better than me.

Emily Spurrell: That actually already exists for PCCs. It is within our duty to work in partnership as well.

Q23 Laura Farris: Mr Lloyd, I want to go back to what you were saying at the beginning about your role in relation to the police—in standing up for victims. With the new powers that are extended to chief constables, and particularly the new duty of candour, how do you see the role of PCCs in ensuring that is effective?

David Lloyd: We of course hold the chief constable to account in a variety of ways and in different places. Realising that there is a duty of candour is another part of the armoury, because it is something that we can push back. I know that this was very much part of the post-Hillsborough legacy. Clearly, that whole lack of candour was one of the things that went wrong. We are good at holding the chiefs to account, and it should happen locally. With this extra duty there, it is something that we will need to be reminded about—it is helpful for us to be reminded that there is a duty of candour—but we can then ask those questions as well.

Q24 Laura Farris: I want to pick up on the repeal of the Vagrancy Act again. It is an ambition of this Bill to fill the gap that would otherwise be left by that Act, by addressing the nuisance element that may exist within those matters. Does this Bill provide a helpful tool for filling the gap that would otherwise be left by the repeal of the Vagrancy Act?

David Lloyd: Clearly, there are people who are homeless, who are also almost aggressively begging; there are people on the streets who are aggressively begging, and are almost aggressively homeless, if that does not sound like a strange thing to say. However, I think we do need a great deal of care. I suspect that the vast majority of people who are homeless on the streets would not be seen as committing a criminal offence by any court, police officer or PCC. They require care and a way of ensuring that any drug and alcohol addiction or mental health issues are supported. It is a difficult area.

Q25 Laura Farris: To pin you down a bit more—please, any of you jump in—do you think there is a distinction between nuisance begging and nuisance rough sleeping? They are treated differently in the Act, but it sounds as if you are driving at two different things

David Lloyd: I think there is a distinction. We have heard evidence, and I am sure that you have heard evidence, of people sleeping in doorways who cannot be moved on by the local authority and there is nothing that can be done.

I suppose my real concern within this is that, especially as budgets get tighter and tighter, the duty around homelessness may change from being a duty on the local authority to a police issue. I do not think that that would be overly helpful if it were not structured in the right way—that it is seen that the principal duty is on the local authority rather than it being a policing issue. I think that there is a real danger of getting to the point that the police need to pick this up. Clearly, policing is not going to be able to deal with anything other than the very sharp and focused bit about this moment; there is far more to it than just this moment.

Laura Farris: Councillor Woolley, given your role, do you have a view on that?

Councillor Sue Woolley: I think we have to be very careful that we do not unnecessarily criminalise rough sleeping. As you are probably aware, through their various services, councils work very closely with those people that might be rough sleeping. There is a combination of rough sleeping and begging.

If we go down the road of criminalising something, then we run the risk of not being able to support those people and the one thing that we do want to do as a society is to support those people. I would just play back that, during covid, we got those people off the street. When we got them off the street, we were able to put services in for them and work with them. I would love to see that happen again. However, we do have a cohort of those who engage in nuisance begging, and we also have a situation of organised gangs sitting behind those who are begging. It is not a black and white answer at all.

Q26 Laura Farris: Thank you. That is very helpful. My final question is for Ms Spurrell—I have not asked her anything yet—and is about antisocial behaviour and the new power for a victim who is dissatisfied with the response to ask their local PCC to conduct a review. In the context of the work that you have done and how frequently antisocial behaviour occurs and how it is not always easy to tackle, how do you see that part of your role unfolding? Do you think it would be useful?

Emily Spurrell: I think it would be useful. We obviously already have the community trigger process in place at the minute, where if someone is dissatisfied with the response from the local authority, they can ask for a review from the PCC's office to check whether the process was followed sufficiently. I think there are challenges around that in terms of public awareness; I do not think we are seeing huge numbers of that in some areas because much of the public are not aware that that is an option.

It comes back to what we were talking about at the beginning: it is not about the PCC trying to instruct or direct; it is about being able to have the powers to question, challenge and say, "As a partnership, are we doing enough to tackle this issue?" There will be times when actually it will be the police that need to step up in that response, but there will also be times when the local authority have not made a good enough response to that particular incident. It is about having someone who has the power to take another look and say, "Actually, I think we have missed something here. How do we put that right?" and then giving reassurance and saying,

"Actually, the local authority or the partnership have done everything possible and there is no more that we can do." It is a helpful check, and it probably is just an expansion of what we already do at the minute around the community trigger.

Q27 Laura Farris: Do you think it is a meaningful enhancement of victims' rights?

Emily Spurrell: It is a step in the right direction, yes. It is useful just to ensure that those victims of ASB are not dismissed as low level and are considered. We do see incidents where, if victims of ASB are not taken seriously at that first stage, things can escalate and become quite serious, so it is important that victims feel as though they have been heard and that everyone is working towards trying to find a solution, which is not always the case.

Laura Farris: Thank you. That is all from me.

Q28 The Chair: Do either of the Opposition spokesmen want to come back? No. Can each witness give me a couple of minutes on something you have not been asked about that you think ought to be in the Bill, or something you think is good in the Bill? Let us start with you, David.

David Lloyd: I am broadly supportive of the Bill. I am particularly interested in suspending short custodial sentences. I think that makes a great deal of sense and I would highly recommend that. I have covered the piece on nuisance begging and rough sleeping that I was interested in. As a real victims champion and someone who has pushed hard on violence against women and girls since 2012, the aggravating factor for murder at the end of a relationship and MAPPA for controlling and coercive behaviour is something that, again, I highly commend and think that we need to do.

The other thing I picked up from the earlier session was the question around vetting. We need to just consider whether we need to, in many ways, vet to values. We are clearly doing it more and more in our recruitment process, but it strikes me that there are very few officers who have met the criminal threshold and therefore are likely to have on their file a criminal conviction. That does not mean to say that we do not have misogynists or racists or homophobes within the organisations. We have much to do around that. We need to just think about what else we might be able to do to vet to values, so that we make sure we have police forces that are fit for the public. I think that the very vast majority are fit, by the way—I am not suggesting for one moment that they are anything other than that—but we might want to look at that quite closely.

Emily Spurrell: I echo some of what David said there about some of those challenges. To go back to the begging point, which is a wider issue and I know that it is linked with what is going through the Sentencing Bill, there is a real emphasis and a real push to try to reduce the number of short-term sentences and we want more people in the community. I worry whether some of the provisions for the Criminal Justice Bill, such as the aggressive begging provisions, will actually see an increase in that, which is not what we want, and the two will work counter to each other. I would just say to be mindful around that.

As for some of the bits that David alluded to around vetting and some of the work that is under way to try and increase trust and confidence, there is probably scope to go further. I know there is work being done. The Mayor of London has been quite keen to push some of that and I think he has been working with Harriet Harman on an additional level of scrutiny around the ability to dismiss officers who have been convicted of serious criminal offences and more flexibility around pension forfeiture, for example. There is more scope to do more around that building of trust and confidence within policing in terms of that scrutiny.

Around the vetting, there is work under way. I am aware that there is a national project to try and increase vetting. Echoing what the superintendent said in the previous session, trying to make sure that there is that regular touch base, particularly when officers are crossing forces, is really helpful.

The only other thing I will say around that is that the big challenge we face is around how long these things are taking. It would not matter so much that people were going through a process if it was resolved quickly. Instead, we see some of the examples the superintendent was referring to, where officers accused of gross misconduct sit for years waiting for an outcome and then it gets an NFA or gets downgraded. There is a real challenge here around capacity in the system, both internally in professional standards and with the Independent Office for Police Conduct, and how we can speed up those processes so that we have a robust system that is not taking up so much time and taking officers off the streets.

My only other comment would be in relation to the introduction of the express power for the courts to direct prisoners to attend their sentencing hearings. You will obviously be aware that this came up quite strongly after Olivia was murdered on Merseyside and her family have been very clear about the insult to her mum and her family when the offender did not turn up to hear the victim's personal statement. I really welcome this, notwithstanding some of the logistical challenges, because it is a really welcome change: offenders should be expected to listen to the impact of their crimes on their victims and their families.

Councillor Sue Woolley: Very briefly, and following on from the point that Emily just made, I would just make a point about the capacity issue, particularly around child sexual abuse reporting. We must be very careful that justice needs to be seen to be swift. What has been shown with various reports on child sexual abuse is that reports have been made but it is taking too long for those individuals—those young people—to be supported when they have then been taken through a process.

Therefore, although it is laudable and the right thing to do to ensure that reports are made in a timely fashion, let us make sure that we have the capacity at the other end to be able to support those young people.

Q29 Stephen Metcalfe: I recognise that you are strategic rather than operational, all three of you. However, as you may have heard in the previous session, I am particularly interested in knife crime, as I am sure all of you are, as well. Are you content that the provisions in the Bill and the powers that they confer will make a difference in tackling knife crime? Is there anything else

that you would have liked to have seen in the Bill to assist you in representing—well, in the case of the PCC, the people who elect you, and of course you, Sue, although I am sure that all of you are equally concerned about knife crime?

Emily Spurrell: From my perspective, the way that we tackle knife crime is actually not through the criminal system; I think it has got to be through that early intervention space. I welcome the provisions in the Bill. Again, the comments made by the superintendent about better provision for identifying zombie knives, getting weapons off the streets and strengthening things like the sale of knives, which has been done in recent months, is all very welcome. But for me, it comes down to that early intervention space: the investment in youth services. The work we are doing on violence reduction units, for example, which is being led by PCCs, is very positive. I will say that it needs to come with long-term, stable funding.

The Minister will have heard me say that many times before, but it is something that we really need, because that long-term, public health approach is how you really tackle knife crime, although I think the provisions in the Bill are very welcome, just in terms of giving police that extra ability to seize those weapons and identify those individuals who are likely to pose a threat.

David Lloyd: I agree entirely. Clearly, I am not operational, so to that extent I do not know. But clearly there is a fear of knife crime among the public. We do need to do something about that. And zombie knives and the work of one of the members of this Bill Committee on them is noted.

However, it strikes me—this relates to Emily's point—that there was a case some years back, where 80% of the bladed injuries in a hospital in Buckinghamshire were not known of by the police, because there is not the sharing of data between health and the criminal justice system. In many ways, if we want to get up the line, we need to be able to find where some of these problems are happening, and better sharing of data might do a lot more than even some of the provisions in this Bill.

Councillor Sue Woolley: I suppose that what I would say to you is that I would probably like to take one step back and go a little bit more upstream, and probably not see knives getting on to the street in the first place. That may mean taking out the ability to order one through the post, as it were, etc. I would feel more comfortable if they were not there in the first instance.

From the council's point of view, we would therefore plead that trading standards is the obvious arena for making sure that that happens. Anything that supports trading standards officers to be able to take those weapons off market stalls, etc. would be very helpful.

Emily Spurrell: I will just add one other point on the police powers. Again, we always have a balance to strike. We welcome giving the police the tools to do the job better, but this is where our role as scrutineers is really important, so that we make sure that where they are using those additional powers, they are being used in a fair and proportionate way. That is very much something that we would look to focus on as well.

Q30 Stephen Metcalfe: Sue, you mentioned trading standards. Are you saying that you do not think they do have the powers? As a constituency MP, I have reported

to the police the sale of these knives. They have then got trading standards involved, and trading standards went and seized vanloads of this stuff.

Councillor Sue Woolley: Sorry, I am not saying trading standards staff do not have the power. I think, again, it is a capacity issue. We could do with 10 times the number, and that would go a long way towards stopping these knives getting on to the streets in the first place.

Q31 Andrew Jones (Harrogate and Knaresborough) (Con): May I pick up on a point that you made earlier, Councillor Woolley? It was about rough sleeping. You mentioned that this is often about dealing with people with very complex issues; often, having access to addiction services is critical, and progress is made by different agencies working together. I agree very strongly about how making progress and helping those on our streets is most important. Do the provisions in this Bill help or hinder that work?

Councillor Sue Woolley: It helps, but more could be done. On the duties, it would be good if we could have language that said, “We expect, as members of the public, that you will work together.” It would be good if the language, rather than telling various agencies, “You have to do this and you have to do that,” was, “Our expectation is that as organisations, in the first instance, you will work as a team, as a community safety partnership.” If you work as a partnership, everybody has an equal responsibility, and that is the bit that I would really like to see emphasised.

David Lloyd: To underline the concern that I had earlier, there is a real danger, if it is seen that the police have the power to do something about homelessness or rough sleeping, that it might be left for only the police to pick that up. In Hertfordshire, we really believe in, and the whole of our policing is based on, prevention first. In many ways, it would be best if we did not have to use the police at all and everything was done further up the line. I think that if we end up at a point where councils can say, “Well, this is not entirely our responsibility; the police have a responsibility for it,” there is a danger, in the same way as with mental health.

We had the issue with mental health authorities not picking up the issue of people who were mentally unwell. It ended up with the police doing far too much and mental health nurses not enough. I fear that, especially in a time of tight budgets, we may well find that this is pushed more towards the police, so we just need to recognise that. It might be that by working even better through community safety partnerships we get over it. But it is better to go in with our eyes open to it.

Andrew Jones: Thank you.

The Chair: Thank you very much, all three of you, for giving evidence to the Committee. I am sure that the Committee will find it useful when we go into line-by-line scrutiny of the Bill.

Examination of Witness

Mark Fairhurst gave evidence.

12.29 pm

The Chair: We now welcome Mark Fairhurst. Would you like to introduce yourself to start with?

Mark Fairhurst: Sure. I am Mark Fairhurst, the national chair of the Prison Officers Association. I am also a serving prison officer, and have been since 1992.

Q32 Alex Cunningham: Good afternoon, Mark. Thank you for giving up your time for us this afternoon. The stresses and strains within our prisons are well documented. Recent legislation has added to them with an increased demand for prison places. For the record, could you outline what is happening in our prison system that has led to the Government coming forward with the proposal to send prisoners abroad?

Mark Fairhurst: We are really short of space at the moment. That is why the Government introduced an earlier release scheme to relieve some of the pressure. As it stands today, we probably have about 850 spaces left in the adult closed male estate. At the time the Government introduced these temporary measures, we had less than 200 spaces left. As the backlog in the courts gets dealt with, and we see more people getting sent to prison, we are really struggling for space. That means we now have to overcrowd already overcrowded prisons. There is a really big strain on the system at the moment. I believe that, come next spring—March or April time—we will be in crisis again with prison spaces as things start to ramp up.

Q33 Alex Cunningham: Did the Government consult the POA about their proposal? If they did, what was your response?

Mark Fairhurst: No, they did not consult us at all. It was on the backburner for some time, but we were not made aware of it until it was actually going to be announced and put into action. Our response to it would have been the same no matter what: you need to look at sentencing first and foremost, particularly for those serving the shorter sentences. That would free up a lot of space. Overcrowding prisons even more just puts more pressure on the system. We need to look at prisoners serving sentences of imprisonment for public protection as well. We have about 3,000 people who are serving indeterminate prison sentences. They are not all a risk to the public. We need to look at that as well, to free up some space.

Q34 Alex Cunningham: The Government have put forward proposals on how we treat short sentences, and the presumption against short sentences, which I personally think is quite positive. How do you envisage that this proposal to send prisoners abroad would actually work? What issues will arise from that?

Mark Fairhurst: The problems I can foresee are that, for one, you have to have the agreement of the country you are going to deport them to. Secondly, you need to know the identity of the person and what country they are actually from—a lot of people do not divulge what country they are from. Thirdly, if you are going to send foreign criminals back to their country of origin and not insist that they finish their prison sentence in that country, there is not much of a deterrent to foreign offenders committing crimes in this country, because they will get a shorter prison sentence and will be sent back home at the taxpayer's expense. Those are the problems I can foresee.

Q35 Alex Cunningham: I meant specifically sending British prisoners to see their sentence out in a foreign prison.

Mark Fairhurst: Again, it is all about cost. How much is it going to cost the taxpayer? Is it practical? How do we get them there? How many are we going to send? Our budgets are getting cut year on year through His Majesty's Prison and Probation Service and the Ministry of Justice. Are we going to be given additional funding for it? The Government have promised 20,000 additional prison spaces. That is all well and good, but we cannot build prisons quickly enough and we cannot staff them because we are in a staffing crisis—we just cannot retain people.

Q36 Alex Cunningham: You mentioned that sentencing could be part of the solution to the problem. I am struggling to think of alternative ideas to reduce the demand on our prison system. Perhaps the Government are right to send prisoners abroad if they can rent space.

Mark Fairhurst: It is welcome that the Government have decided that there is a presumption against shorter sentences. If they focused more on community sentences that the public have confidence in, that would help. If they focused on a re-sentencing exercise for IPP prisoners, as the Justice Committee recommended, that would free up a lot of space. But again, have we got enough probation staff in our communities to supervise offenders given community sentences? That is another big issue.

Q37 Alex Cunningham: You just answered my next question. We cannot expand community provision if we do not have support in the community for defendants. What do you think will be the likely impact of the scheme on your members?

Mark Fairhurst: We will just see more and more pressure heaped upon us because prisons are already overcrowded. It will heap even more pressure on people. We cannot retain staff; most of them leave within the first two years of service. We do not have the infrastructure in many Victorian jails in inner cities to accept more people, so how quickly will we build new prisons and when will they be ready? More importantly, how will we staff them? For everybody's notation, we are seeing a ramp-up in violence against staff, and more and more incidents of concerted indiscipline. It is only going to get worse the more we crowd prisons.

Q38 Alex Cunningham: Everybody around the table will recognise the tremendous work that prison officers do, and the increase in stresses and strains that they are facing. We need to be able to deal with violence against prison officers as well. Your members play an important role in through-the-gate services, helping prisoners prepare for release. How does the scheme impact that? I think the idea is that the Government would bring prisoners back before final release, but does that work?

Mark Fairhurst: Not really. It works in the open estate. The open estate is very successful at preparing people for release and for getting back into their communities, but it is not practical in inner city local jails because we simply do not have the resources to do that. I would rather the Government focused on increasing community sentences with the correct supervision, and expanding the open estate so we could prepare people for release and hopefully rehabilitate them.

You have to understand that unfortunately in the prison system, rehabilitation is just a word—a headline. We do not have the resources to rehabilitate anybody

because we do not have enough activity spaces or workspaces. We struggle to recruit teachers and give everybody a purposeful workspace in our prisons. That really needs to be addressed.

The other focus is that a lot of people in prison really should not be there because they have severe mental health disorders. They would be better suited serving their sentence in secure mental health institutions, so maybe we need to look at investing in that as well.

Q39 Alex Cunningham: Thank you. I have one final question on a different subject. A provision in clause 22 of the Bill compels defendants to appear in court for sentencing. How does that affect your staff? You will not necessarily be transporting defendants, but in some cases you will be.

Mark Fairhurst: It is quite easy for prison officers to force someone to attend court; we restrain them on to a cellular vehicle and then they are taken to court. The problem arises at the other end because the courts are run by private security firms now. Have they got the staffing levels needed to take someone who has been recalcitrant off a bus and into a cell in the court? Have they got the resources to drag them into the dock if they are still displaying violent tendencies? Will that disrupt proceedings in the court? Will they be abusive to victims? Will it be distressing for the victims of crime to witness that in the dock? There are a lot of issues we need to look at.

Alex Cunningham: Thank you very much.

Q40 Laura Farris: Can I pick up on that final point about getting defendants into the dock for sentencing? I am sure you are aware that the discretion as to whether that order will be made will sit with the judge, so there will be an assessment of the defendant's conduct. If the judge deems that it is appropriate to bring the defendant into the dock, the parameters for the use of force will be a decision that remains with the prison authorities. Do you think that is the right approach?

Mark Fairhurst: Judges have always had the discretion to order a defendant into the dock. When we used to run a court in the '90s, there was many a time that we would have used force on a prisoner to get them in front of a judge. That discretion has always been there. It is the right way to do things—we are best suited to decide when it is appropriate and proportionate to use force.

I would like to see dialogue between the staff in the courts and the judge because, if the prisoner is being extremely violent or aggressive, I do not think sitting them in front of a judge is the right way to do things. Maybe we could do it remotely, in a secure room, so the victim still has the opportunity to read out their impact statement, rather than proceedings being disrupted—when you do things remotely, you have the ability to mute. We could still force the prisoner to address those victims, and the victims would feel as if they were getting some sort of justice.

Q41 Laura Farris: I think that is under consideration, actually. I do not know whether you have experience of this, but I wanted to ask you about the fact that, certainly in the public perception, there have been a spate of cases—very serious cases, actually; you could probably go through the half dozen most high-profile offences of the last one or two years—where it seems

that almost every defendant has declined to attend their sentencing hearing. Among the people you represent, is there a perception that that has now become something of a trend? Sorry, there is probably a better word than “trend”—has it become something of a prevailing behaviour?

Mark Fairhurst: Yes, there have been some really high-profile cases over the past couple of months in particular. It does seem to be a trend, because there is no deterrent. If you are already getting a lengthy sentence, then really, in your eyes, as the perpetrator of the crime, you are untouchable.

As well as sentencing people for failing to appear, maybe we need to look at what we can do when they are serving their sentence. What privileges can we take off them? Can we stop them getting face-to-face visits from family and friends, or force them to do the visits remotely, as a consequence of their actions? Let’s take some privileges off them while they are serving their sentence so it really hits them hard, and so that people think that justice is actually being served—“You are not untouchable, and we are going to affect the way you serve your sentence.”

Laura Farris: Thank you; that is very helpful.

Q42 The Chair: Mr Fairhurst, I asked our other witnesses if they wanted to volunteer any further information to the Committee that they had not been asked about.

Are there any other points you would like to make to the Committee, while you are online, about how the Bill could be improved or any concerns you have?

Mark Fairhurst: There is just one concern in particular with this Bill, where you are forcing serious offenders—particularly sexual offenders—to serve their entire sentence.

Laura Farris: That is in the Sentencing Bill.

Mark Fairhurst: Usually, they get released at the two-thirds point for good behaviour. If there is no incentive to behave in prison, that could have a knock-on effect on staff. Also, if you force someone to serve their entire sentence, we must remember that they are no longer subject to a licence in the community, so there is no supervision for them when they are released after serving their entire sentence. That is another consideration.

The Chair: Thank you very much for your contribution, and have a good day.

Mark Fairhurst: Thank you very much, everyone.

Ordered. That further consideration be now adjourned.—(*Scott Mann.*)

12.43 pm

Adjourned till this day at Two o’clock.

