

Justice Committee

British Transport Police

Written submission from the British Transport Police

1. Introduction

1.1 British Transport Police (BTP) would like to thank the Committee for inviting evidence relating to this important structural and policy area. BTP recognises and acknowledges the decision taken by elected members in Westminster and the Scottish Parliament following their evaluation of the recommendations made by the Smith Commission, and the Force wishes to signal its commitment to working constructively with Police Scotland and the Scottish Government in its objective to devolve matters related to transport policing in Scotland. BTP's intention is to offer constructive, professional and where appropriate expert opinion, to help present a credible devolved position which avoids any detriment to Scotland or other component parts of the UK, minimises risk to passengers, staff and the transportation of freight and does not increase costs to train operating companies.

1.2 It is suggested that in matters of policing the majority of intentions to transform the approach to delivery of services are eminently possible and the police service has a credible reputation of demonstrating that it can be responsive and capable of adapting to change. The introduction of legislation to bring about changes to organisational structures, logistics and staff terms and conditions is reasonably straightforward, however it is arguably more complex to replicate organisational culture and attitude, and maintain focus on critical interdependencies. One immediate question arising from the position as outlined in the Scottish Government's consultation paper¹ is how in practice will the plans to merge the two forces in Scotland embed and sustain BTP's specialist 'transport policing ethos' within a significantly larger, more complex and diverse organisation. In short, how will Police Scotland ensure that it is able to preserve and act effectively in the interests of the industry when faced with potentially higher profile community concerns? It might be that it proves unrealistic to meet the challenge of tackling high-impact crimes such as domestic abuse, violent and anti-social behaviour and increases in domestic burglary, all critical drivers of public confidence, and also meet the expectations of the rail industry by providing consistent visible patrols by officers attuned to the specific risks of the railway as well as deliver integrated joint problem-solving activities at locations that can affect the free-running of the network (e.g. level crossings, trespass hotspots, fatality scenes). Police Scotland will need to consider how it retains a dedicated transport command unit to maintain the service expectations that currently provided by BTP's Scottish division. In order to help colleagues better understand and work through the complexity of the issues surrounding the provision of railway policing, BTP has arranged a workshop to apprise Scottish policing, transport

¹ https://consult.scotland.gov.uk/police-division/transport-police/user_uploads/j432616.pdf

and political interests of the principal challenges associated with the devolution proposals.

- 1.3 BTP's formal response to the consultation addressed the majority of the issues that it believes officials will need to take into account for the Government's stated ambition is taken forward. These points have been summarised below to assist Members' consideration of those factors to be established in future provision of services.

2. Maintenance of the Specialist, Risk-Based Policing Approach in Scotland

- 2.1 There is a distinctly recognised difference between policing in a transport environment and that in 'geographic' forces. This has been acknowledged by each of the various government, industry and police-related reviews that have inspected BTP and BTPA over the last fifteen years². For example in 2006 when the Transport Select Committee examined the reforms to BTP's governance arrangements, including the creation of BTPA, it concluded that:

"The railways are a specialised environment, with specialised needs, and need a specialised Force..."

- 2.3 The rationale for this conclusion was primarily founded on consideration of BTP's effective national role and coordinated approach to tackling terrorism, its deep-rooted understanding of railway policing and the ability of the Force to apply a consistent, network-wide approach that recognised the implications and impacts to the railway industry.

- 2.4 More recently, the 2014 Triennial Review of BTPA agreed with these findings:

"It is difficult to see how the national plans and strategies which are essential for the delivery of effective policing across a national network could be readily developed where 43 different forces were involved in delivering the service. The review therefore has not found any reason to dissent from the conclusion of previous reviews that a national police force for the railway should be retained."

- 2.5 BTP offers discretionary, value-adding services over and above those which it is statutorily obliged to provide. For example, BTP's approach to managing fatal incidents on the railway includes the setting of demanding national and local response and hand-back targets, use of sensitive categorisation processes to determine level of suspicion, body retrieval strategies (including complex recovery), management plans for people that are vulnerable or in crisis, preventative analysis and focussed target hardening activities, couple with close engagement with the Crown Office and Procurator Fiscal Service to develop national agreements to meet coronial expectations. BTP is able to

² e.g. HMIIC (2004): *British Transport Police – A report by Her Majesty's Inspectorate of Constabulary*
House of Commons Transport Committee 12th Report of Session 2003-04 (2004): *British Transport Police*
DfT (2004): *Government Response to the Twelfth Report of the Committee: British Transport Police*
DfT (2006) *Transport Select Committee Future of the British Transport Police*
DfT (2014) *Triennial Review of the British Transport Police Authority Part 1 Report*

offer these through its specialist function, focus on safeguarding and commercial awareness, whilst still meeting its statutory and 'traditional' policing responsibilities.

- 2.6 The success of this approach developed over many years, underscored by industry confidence in the Force, helps define the specialist 'ethos' of transport policing that allows the Force to retain a deep and clear understanding of the requirements of the railway and its stakeholders. At the most strategic level, organisational direction is set in close consultation with stakeholders, and is driven by the priorities of the railway industry, its passengers and staff. At the operational level train operating companies have an explicit confidence in BTP's ability to respond swiftly to incidents affecting the railway and restore services promptly and safely.
- 2.7 Repeated threats have resulted in BTP developing the experience to promptly risk assess and safely manage critical events on the network using highly focused judgement and validation techniques, perhaps evidenced most acutely through the effective handling of unattended items or bomb threats, an activity which must be managed proportionately if the railways are not to be brought to a standstill daily.
- 2.8 The success of this approach is unparalleled when compared against other transport policing organisations across the world. Over a 10 year period, of the 2.5 million unattended items assessed observing BTP's carefully developed procedures, all but 36,000 were immediately eliminated as not being suspicious by BTP's specialists and major station closures have been averted. Since 1992, BTP has assessed almost 10,000 threat messages. Of these, only 53 led to large-scale evacuation with just half of that number subsequently linked to an explosion or the discovery of a bomb. These outcomes are in stark contrast to still current experiences where geographic forces have carried out the assessment and immediately closed stations or platforms and introduced wide-reaching restrictive cordons.
- 2.9 Undoubtedly the threat from terrorism remains the most fundamental risk to both the public and the critical national infrastructure for the UK as a whole, and the longstanding threat to transport infrastructure is very real. Analysis of CT incidents shows that transport-related targets account for almost a third of all high-profile attacks, with 35% of these attacks involving bombs placed on trains or buses.
- 2.10 By raising the threat level in August 2014 to 'severe', the Home Secretary confirmed the reality of this risk and signalled that there are significant examples of UK-based terrorist groups planning attacks against the West, as well as an escalation in extremist left and right-wing groups and the still real threat from dissident republican groups in Northern Ireland. Furthermore, the nature of the threat is changing, with intensified danger from 'lone-actors' using low sophistication, high impact attacks in crowded places including railway carriages and stations (e.g. Leytonstone attack in 2015 and North-Greenwich suspicious device in 2016).
- 2.11 These developments have underlined the importance of ensuring there is an integrated approach to counter-terrorism, which is cross-border and closely

coordinated, to ensure that there is a swift response to any developing intelligence or actual risk – an attack in Scotland may well be prevented in England. Equally, any perceived vulnerability arising from disjointed protective arrangements could be exploited by those planning an attack. It is therefore important for officials to consider how a devolved model could retain the current seamless counter terrorism approach and awareness of the impact any incident may have to other parts of the infrastructure, as well as enable a swift and assured tactical response.

- 2.12 The benefits of BTP’s approach to reducing disruption and the significant costs attributed to delays can also be illustrated by how it manages railway-specific incidents such as fatalities on the network and cable theft incidents. BTP’s risk-based approach, coupled with a deep understanding of the commercial imperatives of the network, has ensured that passengers are kept safe (for example, by not exiting stationary trains) and are faced with the minimum of disruption to their journeys. Analysis³ has shown that incidents last between 33% (cable theft) and 50% (fatality incidents) longer if BTP does not attend first and a more generalist approach is adopted by geographic forces. The specialisms developed in these respects will need to be preserved in any new model.
- 2.14 Although in the short term it is believed that the transfer of current BTP staff would help preserve the transport policing ethos and retain specialist knowledge, together with the related performance and relationship benefits, there is the potential that this would not be sustainable in the long term without the continued direct strategic leadership and protection of the transport policing model.

3. End-to-End Network Policing

- 3.1 BTP’s current cross-border jurisdiction enables very effective consequence management when incidents occur. This is important as the after-effects of an incident on the network can often have a much wider impact with delays, disruption and risk occurring far from the initial point of impact. 21 million journeys are made between Scotland and England each year and BTP’s cross-border functionality allows all movements between the two nations to be policed in a manner that is unconstrained by the geographic boundaries or legal frameworks that the railway cuts across.
- 3.3 As detailed in BTP’s submission to the consultation paper, one important area which is currently policed in a seamless manner is the policing implications involved in the high volume and frequently unpredictable behaviour of football supporters. These regular and significant passenger movements are coordinated between BTP Scottish Division and BTP’s B and C Divisions which guarantees seamless command and control arrangements, intelligence sharing and with no question over jurisdictional powers. Another example of interdependent cross-border activity is the policing of late night trains leaving Carlisle and travelling to Dumfries and further north which is currently coordinated by BTP’s Scottish Division and Pennine Sub Division in a joined up manner which not only provides continuity of reassurance to passengers

³ BTP 2013 incident analysis

and rail staff, but is also highly valued by the industry as an operational commitment to reducing anti-social behaviour and crime.

- 3.4 During the recent Euro 2016 tournament, BTP's capability to minimise the likelihood of anti-social behaviour or more serious levels of public disorder was recognised by the French authorities who requested that BTP officers escort football fans through the entirety of their journey in France, not just up to the point that they entered French jurisdiction. This approach took into account the importance of consistent and continuous monitoring of fans' behaviour in order to quickly spot any escalation of behaviour that could be missed by more than one police service being responsible for different points of a single journey.
- 3.5 This approach is also important in terms of victim care as when crime or disorder occurs on the railway, often the exact location of the incident cannot be pinpointed. Currently, as BTP is responsible for policing the whole network, it is less relevant where the crime happened in order for the necessary processes to be put into action immediately. If another force became responsible this could introduce a degree of discussion over legitimacy of jurisdiction or some debate may occur over who would record, respond and investigate a crime. This could be distressing for victims and therefore cause breakdown in the obligations set out in the Victim Code and introduce unnecessary delay in delivering justice.
- 3.6 Officials may wish to take account of the importance of retaining this uninterrupted chain of command and oversight when considering how to ensure the effective policing of cross jurisdictional journeys in the future.

4. Infrastructure Policing Review

- 4.1 In November of last year, the Government published the Strategic Defence and Security Review which included a commitment to "*integrate infrastructure policing further and to review the options to do this*". The functions of BTP, the Ministry of Defence Police, the Civil Nuclear Constabulary, Highways England Traffic Officer Service and the Home Office police forces' strategic road network and airports policing capabilities are all within scope of the review. Subsequently, Phase 1 of the Review, which took place during last autumn, recommended that the following two options be explored:
 - i. establishment of a National Infrastructure Constabulary which would combine the functions of Civil Nuclear Constabulary, the Ministry of Defence Police, British Transport Police, Highways England Traffic Officer Service, the Home Office police forces' strategic road network and airports policing capabilities
 - ii. establishment of both a Transport Infrastructure Constabulary and an Armed Infrastructure Constabulary. The Transport Infrastructure Constabulary would bring together the functions carried out by BTP, Highways England Traffic Officer Service and the roads and airport policing elements of Home Office forces. The Armed Infrastructure

Constabulary would involve the incorporation of functions currently carried out by the MDP and the CNC.

4.2 It is not yet clear how the Scottish Government's proposals would complement this model of coordinated national policing which is based on the principle of even greater integration of infrastructure policing, rather than what might be seen as a regionalised model as proposed within the consultation paper. It is perhaps important to consider how the final devolved model in Scotland will be consistent with UK Government's policy in this area.

5. Transfer of Staff

5.1 BTP officers and staff are contracted employees and its officers are appointed as constables rather holding the status of Crown Servants. It is important that the legal and contractual issues accompanying any transfer of staff are fully understood and comprehensively stipulated in order to provide certainty for staff and to prevent unwarranted cost to funding stakeholders.

5.2 It is also not yet clear what legal mechanisms will be used to achieve these particular ambitions of the consultation paper. If it is felt that TUPE Regulations are unlikely to be applicable and there are long standing and complex terms and condition (including provision of free travel, redundancy and resettlement entitlements) that will need to be factored into any remuneration package. It would be helpful if the Scottish Government was able to provide clarity on the intended design of the workforce transfer process as soon as possible to help BTP manage staff expectations and anxieties with regard to these personal and highly emotive issues.

6. Pension Arrangements

6.1 This is another area where the provision of timely and detailed information would assist in reassuring those members of staff that will be affected by the devolved arrangements. There appear to be two broad options associated with the arrangement for future pensions:

- i. that the existing pension funds are left structurally unchanged, with transferees continuing to pay into their schemes post-devolution
- ii. that the benefits (and corresponding assets) for the affected Scottish members are transferred into a new scheme.

The Scottish Government will need to consider how to provide appropriate benefits to protected members in the future.

6.2 The Scottish Government should also recognise the interests of the constituent pensions stakeholders, for example trustees of the Schemes, those in receipt of pensions, contributing staff and representatives of staff associations. These bodies will need to be satisfied that any new arrangements will not introduce any detrimental impact to officers and staff, either in Police Scotland or for those in receipt of a BTP pension in England

and Wales, or BTP's Scottish Division. There are also ancillary safeguarded legacy travel rights that apply to some serving officers, staff and pensioners and arrangements that safeguard and protect these rights should also be detailed.

7. Stakeholder Relations

- 7.1 BTP's strategic direction is decided in consultation with its principal stakeholders and operational delivery is driven by the priorities of the railway. On a day-to-day basis operational issues can and are raised by stakeholders with Chief Officers to have a direct focus on railway policing issues. This includes the East and West Coast mainlines that have key termini in London and Scotland. Factors affecting any part of those routes will ordinarily be raised with the strategic delivery team at force headquarters. Similar arrangements will need to be created for matters occurring in Police Scotland's jurisdiction.
- 7.2 At a local level BTP's Scottish Division is sensitive to the priorities and requirements of their railway community. Policing priorities are determined following consultation with the rail industry, passenger groups and rail staff representatives. Stakeholder consultation events are held on a regular basis with specific policing priority presentations taking place in November and December so that joint policing priorities can be decided for the year ahead.
- 7.3 This flexibility to manage significant concerns, that might not always be rooted in a policing or crime concern, at all levels of the organisation, and the level of dynamic responsiveness that this brings is highly valued by stakeholders. BTP's approach to protecting vulnerable people on the network is an example of this. As a national police service dealing with a largely transient population, BTP encounters significant numbers of vulnerable people suffering from mental health conditions, behavioural disorders and learning difficulties on a daily basis. Some of these individuals present a significant risk of harm to themselves which all too often results in tragedy with the loss of life by suicide on the rail network.
- 7.4 In 2015-16, 2,397 vulnerable people were monitored and assisted through suicide prevention plans, 1,317 suicidal adults were subject of Care Act 2014 referrals and over 2,500 mental health interventions took place. BTP also recorded almost 1,300 life-saving interventions. The primary focus of BTP is to save lives. Nonetheless the railway does face a substantial number of fatalities each year and as well as the obvious human tragedy and anguish associated with fatal incidents, each case has a substantial disruptive effect to rail operators and the traveling public. Network Rail estimates the average cost of a fatality is £198k (£230k with all associated operational costs). Indeed, it is estimated that the total cost of suicide related disruption to the rail industry exceeds £60m per year. The potential cost avoidance to the rail industry through life-saving interventions carried out during 2015-16 has been

estimated between £239m and £251m⁴ with a further societal saving of over £2bn⁵.

7.5 A challenge for any new model will be how this level of safeguarding can be maintained in the face of the competing and diverse public and community requirements that Police Scotland will inevitably be required to manage. If a high level of dedicated public protection in this regard cannot be guaranteed this will arguably cause detriment to the Scottish railway industry and travelling community.

8. Options to Achieve Devolved Status

8.1 In order to assist the Scottish Government, in 2015 BTP and the BTPA assessed how some of the intended benefits of devolution might be achieved by examining three possible alternative approaches that meet the objectives of the Smith Commission. These options are outlined in full in the '*Options for the devolution of transport policing in Scotland*' discussion document, produced in January 2015⁶. A summary of each is outlined below for reference.

8.2 Option 1 presents an arguably simpler route to achieve devolution through administrative means, rather than legislation. It seeks to achieve some of the essential components of devolution in a relatively simple, cost-effective way, whilst placing an obligation on the British Transport Police Authority (BTPA) to defray the cost of BTP to the rail industry and retain responsibility for delivery of obligations in respect of employment matters and pensions. This option could introduce measures to increase BTP's accountability to Scottish institutions on its responsibilities and initiatives in place to keep the people of Scotland safe. It also outlines the greater role the Scottish Police Authority (SPA) could play in new arrangements for scrutiny and performance monitoring. It recommends a change of branding for the BTP in Scotland, with a renewed Scottish identity.

8.3 Option 2 introduces a hybrid of measures, both legislative and administrative, to support devolution of transport policing in Scotland. Statutory amendments would guarantee that BTP continue to align to principles set in Scottish Law as well as to Strategic Police Priorities set by Scottish Ministers. It would enshrine in statute the arrangements by which the Scottish Government would give direction to the British Transport Police Authority and ultimately stipulate the direction for policing of the railways in Scotland. In essence, the option would make explicit the requirement for the Chief Constable of the BTP to engage with, and be accountable to, Scottish institutions in much the same way as their counterpart in Police Scotland.

8.4 Whilst anticipating that under this option the BTPA would retain its responsibilities for pensions, employment contracts and for defraying the costs of policing to the rail industry, this option proposes that planning and strategy-setting for railways policing in Scotland be reviewed to enable greater

⁴ Based on Network Rail and TfL estimates

⁵ Knapp, M., McDaid, M., Parsonage M. (eds) (2011) Mental Health Promotion and Mental Illness Prevention: The Economic case. PSSRU, LSE and Political Science

⁶ <http://www.btp.police.uk/pdf/BTP-Scottish%20Options%20Paper%202017-4-2015-Appendix.pdf>

involvement by the SPA. Option 2 also identifies and describes the changes needed to allow for greater cooperation and mutual assistance between the BTP and Police Scotland. As with Option 1, this model would potentially bring about a renewed image and identity for the BTP's presence in Scotland (which could be known as Transport Police Scotland).

8.5 Option 3 (Scottish Government proposed option) is the most complex route to devolution as it would in effect involve dismantling BTP and absorbing its Scottish operations into Police Scotland. The challenges associated with providing duplicate central support functions and the dual accountability to the industry and public for service provision appear excessive and are considered likely to add additional costs.

9. Summary

9.1 BTP remains fully committed to safeguarding the protection of all of those who use the railways in Scotland, England and Wales and will continue to work with our partners, the Scottish Parliament and the UK Parliament to implement any approved outcome swiftly and efficiently.

**British Transport Police
25 October 2016**