LOCAL GOVERNMENT AND REGENERATION COMMITTEE

POLICE AND FIRE REFORM (SCOTLAND) BILL

SUBMISSION FROM PROFESSOR NICHOLAS FYFE, DIRECTOR, SCOTTISH INSTITUTE FOR POLICING RESEARCH & UNIVERSITY OF DUNDEE

Introduction

This written evidence is provided in my capacity as Director of The Scottish Institute for Policing Research (SIPR), a strategic collaboration between twelve of Scotland’s universities and the Scottish police service, supported by investment from the Association of Chief Police Officers in Scotland (ACPOS), the Scottish Funding Council and the participating universities. SIPR’s key aims are:

- To undertake high quality, independent and relevant research;
- To support knowledge exchange between researchers and practitioners and improves the evidence base for policing policy and practice;
- To expand and develop the research capacity in Scotland’s universities and the police service.

In this written evidence I highlight three areas: the importance of the Bill in terms of reshaping the landscape of police governance and accountability; using a set of democratic criteria to assess the implications for local government of the proposals around police governance; and identifying some of the challenges for local government in relation to their engagement with local policing.

Context: reshaping the landscape of police governance and local accountability in Scotland

The proposals set out in the Bill will bring about a radical restructuring in relation to existing structures of police governance and accountability which has significant implications for local government. There are two broad points I want to make in relation to this:

- **Arrangements for police governance and accountability in democratic societies have deep symbolic importance:** There is a unique relationship between the police and institutions of democracy. Give the police have formidable powers to preserve order, they way in which a society regulates ands controls the powers of the police is a crucial indicator of the nature of the political and social order. The arrangements for governance and accountability are expected to represent and foster a legitimating philosophy of ‘policing by consent’, safeguard the political neutrality of the office of constable, and the operational independence of the chief constable. The Bill’s proposals recognise this. There is, for example, a requirement on local police commanders to work with local authorities to produce local policing plans and there is clarity around the fact that Scottish Ministers may not give any direction in respect of specific operations carried out by the Police Service.
Police governance in democratic societies should allow choices over priorities and styles of policing which reflect the wishes of citizens as well as professional experts: Democratic societies have developed very different institutional means for realising the goal of involving citizens and professional experts in decisions about policing policy while also recognising the need to balance community opinion with the protection of minority rights. In the USA there is a strong link between the accountability of policing and the local electoral process with local police chiefs answerable to the mayor. With the introduction of elected Police and Crime Commissioners in England and Wales later this year, this type of arrangement will soon to be a feature of the police governance landscape in other areas of the UK. In other countries (including France and the Netherlands) the influence of electoral politics is restricted partly because of concerns about the threats to minority interests. In Northern Ireland, the Police Board comprises both elected and appointed members (the latter having relevant professional expertise) but there is an elected majority which Lord Patten argued strongly was essential if the new Board was to command respect and credibility.

In Scotland, the so-called tripartite system of police governance established by the Police (Scotland) Act 1967 has been the way of balancing the different interests of national and local government and of the police over the last forty five years. The approach outlined in the Bill significantly shifts the balance of power towards the professional expertise of members of the Scottish Police Authority, the Chief Constable and local commanders and away from local government. In relation to local government involvement, the Government’s position outlined in the Policy Memorandum is that the Bill’s proposals offer the opportunity to increase the number of local councillors participating in policing matters at a local level. This emphasis on the quantity of locally elected representatives involved should not however obscure the significant changes to the more qualitative dimensions of local engagement. Stripped of powers in relation to local police budgets and the appointment of local chief officers, local councillors are left with having to approve and monitor the local policing plans drawn up by the local police commander.

Against this background, the next sections explore in more detail the ways in which the Bill raises important questions about the nature and scope of local government involvement in shaping the delivery of policing in Scotland.

The governance of policing: issues and implications for local government

The complex relationship between accountability and democratic policing has prompted policing scholars to identify a set of democratic criteria that might be used to assess police governance¹. These criteria relate to equity, service delivery, responsiveness, the distribution of power, information and participation. In the table below each criterion is used to identify a set of issues which have important implications for local government within the new arrangement for police governance in Scotland.

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<th>Democratic criteria</th>
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| **Equity**  
*Policing services should be fairly distributed between geographical areas, groups and individuals.* | How will decisions about levels of resourcing for local authority areas be determined?  
How will conflicts between local and national views on ‘appropriate’ resourcing be resolved?  
How will local access to specialist assets and expertise be facilitated in an equitable manner? |
| **Service Delivery**  
*The police should deliver services as efficiently and effectively as possible* | How will the nature and scope of local service delivery be determined?  
To what extent will delivery be shaped by nationally determined performance indicators and will there be local democratic input in setting these? |
| **Responsiveness**  
*The police should be responsive to the views of representative bodies in determining priorities, allocating resources and choice of policing methods.* | How will disagreements between local commanders and local authorities be resolved?  
How will local authorities engage with local communities to establish their concerns about policing, crime and disorder? |
| **Distribution of power**  
*The power to influence policing policy should be distributed across institutions.* | How will the local authorities exert influence when the Bill largely concentrates power in the hands of the chief constable, local commanders and the Scottish Police Authority? |
| **Information**  
*There should be clear and accurate information about funding, activities, and outcomes of policing.* | How will the information needs of local authorities be addressed, particularly in relation to local performance indicators and how can an exclusive reliance on police provided information be avoided? |

**Engaging with ‘local policing’: key questions for local government**

The proposals in the Bill around local policing are to be welcomed. It has long been recognised by researchers that much crime and disorder is rooted in the characteristics of localities and police effectiveness in dealing with such problems is related strongly to levels of trust, cooperation and legitimacy at a local level. Furthermore, SIPR’s review of the evidence of the impact of police mergers in other
countries highlighted issues around declining citizen satisfaction with local policing in the initial period following force amalgamations. By placing obligations on the chief constable to make ‘adequate arrangements’ for local policing and on local commanders to ensure that local policing is delivered in close consultation with local authorities, there is the basis for developing a strong framework within which local policing can develop. Nevertheless, there are several areas which are of relevance to local government where there are important questions as to how local policing will develop within the new Police Service for Scotland.

- **What is ‘local policing’?** The reconfiguration of policing associated with the reform programme means that there is now close scrutiny of how different aspects of policing are delivered, from specialist operations and training to tackling crime and partnership activity. As a result some activities and assets may be based nationally or at a regional level rather than locally. Against this background, it is important to achieve some clarity around what constitute ‘local policing’ matters and what are regional or national issues. To take a simple example: while providing a visible and accessible local presence and community engagement are clearly local policing issues, is providing an armed response, tackling drug dealing or searching for missing people, matters for local policing or the responsibility of more specialist regional or national units? Without some definitional clarity around what is meant by ‘local policing’, local authorities will be left unsure as to what they can expect in terms of resourcing local policing and what should be included in a local policing plan.

- **How will levels of local resources be determined?** Understanding what local policing is for is important because of the likely tensions between ‘national’ and ‘local’ around resources and assets made available at a local level. The Bill makes clear that this is a matter for the Chief Constable to ensure there are ‘adequate arrangements in place for the policing of each local authority’ (45(1)) but if there are disputes over the level of resources available at a local level, how will these be resolved and within what forum? A related issue is the determination of the rank of officer designated as a local commander. It is likely that this will vary across Scotland depending on the nature and complexity of the policing requirements of different areas but it may result in some local authorities that in the past have dealt with a chief officer now engaging with somebody of lower rank which may have implications in negotiations for resources;

- **How will local police plans be developed and evaluated?** the Bill makes clear the requirement on a local commander to submit a local police plan to the relevant local authority for approval. Given that such a plan must have regard to the national strategic police plan as well as priorities identified by local community planning there are areas of potential tension around the balance between a ‘bottom up’ and a ‘top down’ approach to setting priorities and objectives. Similar tensions may also exist in relation to performance measurement and performance reporting. For example, to what extent will national reporting requirements be allowed to shape local performance measurement?
• **How will the local authority execute its role in local policing?** The Bill clearly proposes that the local authority play a key role in setting priorities and objectives in consultation with the local commander. In order to execute this role effectively it is important that local authorities develop effective *structures* for engagement with their local commander and the *capacity and capability* to monitor and scrutinise local policing issues in ways which do not rely exclusively on information provided by the local police. In relation to structure, the Policy Memorandum makes clear that it is for local authorities to determine the most appropriate local mechanism for exercising their role. Given that there already exist a number of local forums in which policing issues are discussed with representatives of local authorities (for example, Community Planning Partnerships, Community Safety Partnerships and Community Councils) the challenge will be to ensure that there is not duplication of effort nor the creation of a confusing and cluttered landscape of different settings where police and local authorities interact. In relation to issues of capacity and capability, local authorities need to develop the ability to engage with their local communities in order to better understand their policing needs and concerns over crime and disorder so that these can be included in discussions about priorities and objectives along side information provided by the local police.

• **What happens to local Community Policing initiatives?** There has been a significant revival of interest in community policing in Scotland over the last five years, prompted by a combination of the publication of the ACPOS Public Reassurance Strategy (2007), the Scottish Government’s Community Policing Engagement Principles (2009) and the Scottish Parliament’s Justice Committee report into community policing (2009). As a result, most police forces have made significant changes to the way community policing is organised, resourced and delivered. SIPR has undertaken a programme of research evaluating the operation of these different approaches so that there is now an evidence base that provides insights into the strengths and weaknesses of different community policing activity. What happens to the diversity of community policing arrangements within a single police service will be an important test of the relationships between the Chief Constable, Scottish Police Authority, local commanders and local authorities. A single service clearly creates opportunities to share ‘good practice’ but there may also be local concerns about any attempts to impose a ‘top down’ approach to community policing.

Professor Nicholas Fyfe

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