

Holding the police to account: A critical analysis of the structures of police accountability
and the introduction and operation of Police and Crime Commissioners

Simon Cooper

A thesis submitted for the degree of Doctor of Philosophy (PhD)

School of Law

University of Essex

October 2017

Contents

Acknowledgments	pg iii
Table of abbreviations	pg iv
Abstract	pg 1
Chapter 1: Introduction	pg 2
Chapter 2: The incremental development of policing and police accountability ...	pg 25
Chapter 3: Policing and police accountability in the twentieth century	pg 49
Chapter 4: The present structure and model of police accountability	pg 79
Chapter 5: Methodology	pg 108
Chapter 6: The accountability of Chief Constables and ineffectual PCPs	pg 120
Chapter 7: Electoral, vertical accountability and PCCs removing Chief Constables	pg 143
Chapter 8: Conclusions	pg 161
Appendix A: Copy of Application for Ethical Approval of Research	pg 173
Appendix B: Participant Information and Consent Form	pg 180
Appendix C: Letters of invitation	pg 181
Appendix D: Blank copy of PCC Accountability Thematic chart	pg 183
Bibliography	pg 194

Acknowledgements

I owe a huge debt of gratitude to the participants who kindly agreed to be interviewed as part of this thesis. Although they cannot be named, their involvement and contributions were invaluable. My sincere thanks to my supervisors at the University of Essex, Professor David O'Mahony and Dr Karen Brennan for their concise guidance and constructive criticism throughout. Their support and guidance was unparalleled. I would also like to thank Professor Sabine Michalowski for chairing all my supervisory boards. Additionally, I wish to formally acknowledge the support and encouragement kindly offered by Professor Andrew Le Sueur, Professor Maurice Sunkin and Professor Lorna Fox O'Mahony. Finally, I would like to thank my family for their love and support, especially my parents John and Eileen Cooper and my partner Carina.

Table of abbreviations

ACPO	Association of Chief Police Officers
APCC	Association of Police and Crime Commissioners
CPS	Crown Prosecution Service
CSPL	Committee on Standards in Public Life
HASC	Home Affairs Select Committee
HMIC	Her Majesty's Inspectorate of Constabulary
IPCC	Independent Police Complaints Commission
NPCC	National Police Chiefs' Council
NPM	New Public Management
PACE	Police and Crime Evidence Act 1984
PCC	Police and Crime Commissioner
PCP	Police and Crime Panel
PRSRA	Police Reform and Social Responsibility Act 2011
SDS	Special Demonstration Squad

Abstract

This thesis critically examines structures of police accountability, in particular the introduction and operation of Police and Crime Commissioners [PCCs].

The first chapter begins by identifying accountability as the very bedrock of policing. Accountability is then defined before examining its key facets, why a suitable structure is imperative and how accountability carries the burden of securing police legitimacy.

The second and third chapters highlight how the system of police developed while identifying critical 'turning points' in police accountability. The fourth chapter explores the present structure and model of police accountability. This chapter also examines reports which highlight potential teething problems and imperfections.

The fifth chapter outlines the methodology for the qualitative study involving elite research interviews with senior stakeholders in policing at a regional and national level, including relevant persons in Government.

The sixth chapter analyses this data and argues that whilst PCCs may lead to efficiency gains, there are important questions about the quality of accountability. Additionally, the accountability of Chief Constables is contended to vary considerably and in practice likely frustrated by the 'one to one' accountability relationship between Chief Constable and PCC. Police accountability is also identified as possibly over dependent on this relationship. Moreover, PCCs are argued to lack accountability between elections.

The seventh chapter contends that using elections to achieve democratic police accountability is fraught with difficulties and potentially carries significant risks for policing. Additionally, the PCCs power to remove Chief Constables is argued to cause two possibly corrosive impacts on policing and police accountability. This power is also identified as a mechanism of disempowerment which may in practice lead to Chief Constables being displaced by PCCs.

Concluding, the present structure and model of police accountability is argued to be risky, maybe defective and possibly unsuitable for police accountability and policing in the longer term.

Chapter 1: Introduction

The first chapter of this thesis will argue that accountability is the very bedrock of policing. The chapter will contend that if the police are not accountable their legitimacy weakens and the British model of policing by consent would struggle to function. In forming these arguments the first chapter considers, analyses and provides the theoretical framework for this thesis. The theoretical framework of this first chapter has multiple stages.

Initially the chapter explores why the police must be accountable prior to analysing how accountability has been defined. The chapter then proceeds to explore whether the concept of accountability has expanded in theory and practice. At this point the chapter will offer an analysis of the theories of accountability and explore whether evidence exists of their application in the police.

After this analysis the chapter explores the key facets of accountability. Here the chapter examines how the mechanisms of accountability have been categorised prior to offering an analysis of whether, in the context of the police, the mechanisms of accountability operate independently or concurrently. The chapter proceeds to explore how the police are in theory held individually and institutionally accountable. Following this, the chapter offers an analysis of the related important theme of legitimacy. Here the analysis considers why the police must be seen to be legitimate prior to examining how they can secure legitimacy. Here, the vital role that accountability has to securing police legitimacy is assessed.

The theoretical framework contained in this first chapter is applied and developed as the thesis progresses. The second chapter of this thesis describes the evolution of the police from what is described as an amateur, unaccountable, decentralised system to a more professional, accountable, centralised one. While highlighting this evolution, the second chapter will also apply the theoretical framework developed in the first. The theoretical framework will be applied to offer a broader analysis of whether the theories and structures of accountability played an integral role in this evolution.

The third chapter explores the system of policing throughout the twentieth century and offers an analysis of how the structures and models of police accountability adapted and whether they in practice succeeded. This chapter also offers an analysis of whether the structures and models of police accountability played a role in the system of policing which developed throughout the twentieth century.

The chapters which follow offer a critical analysis of the introduction and operation of Police and Crime Commissioners [PCCs]. These chapters also apply the framework of the first chapter and use new empirical evidence from elite research interviews with the most senior stakeholders in policing at a regional and national level to argue that the present structure and model of police accountability may carry significant risks for policing and police accountability into the future.

The police are an organ of the state, however they are the specialist carriers of state power and possess the ability to infringe liberties in a way that almost no other organisation can.¹ The police are but one of a handful of state organs who are entrusted with state force² which, when exercised, they must be accountable for.³ The police also exercise law policy made by the executive.⁴ This exercise of policy has led some to describe policing itself as a politically contentious as it involves the exercise of state power over citizens.⁵

This state power exercised by the police over its citizens is considerable.⁶ These powers are provided and intended to be used by the police to preserve order and protect fundamental liberties.⁷ The most contentious powers vested in the police include the use of lawful force which, as evidenced by the death of Ian Tomlinson, was lethal in nature. During the G20 protests in 2009 Tomlinson was pushed and struck by a Metropolitan Police Officer later identified as PC Simon Harwood of the Territorial Support Group.⁸ Although initially not charged PC Harwood was later charged but found not guilty of Ian Tomlinson's manslaughter.⁹ Other contentious powers exercised by the police include the taking of individual liberty, when persons are placed under arrest and the power of stop and search. The police powers of stop and search are also highly contentious and have been highlighted as a key concern for legitimacy and public trust in the police as when exercised they can lead to an invasion of the person's privacy.¹⁰ The ongoing contentious nature of the police powers of stop and search is evidenced by the introduction of a new code of conduct in 2014.¹¹ This new code of conduct was introduced following the annual review of policing by Her Majesty's Inspectorate of Constabulary (HMIC) which found that 27% of stop and searches examined did not have sufficient grounds,¹² making the searches unjustifiable in law.¹³

In addition to these arguments the police, in exercising their powers, represent an exercise of sovereign power and as such there is a strong democratic justification needed to ensure that the power is exercised accountably and open to check by those from whom the power is ultimately sourced.¹⁴ Further, although the powers provided to the police are provided with the intention of preserving order and protecting liberties the opportunity does arise for these powers to be abused.¹⁵ Therefore, given their intrusive nature, the potential for abuse of

¹ Reiner, R and Spencer, S, in R. Reiner and S. Spencer (eds) (1993) pg 1

² Waddington, P.A.J, Wright, M, (2010) pg 79

³ Her Majesty's Inspectorate of Constabulary (HMIC) State of Policing, The Annual Assessment of Policing in England and Wales 2012-2013, pg 54, published 31st March 2014. Available at <http://www.hmic.gov.uk/wp-content/uploads/2014/03/state-of-policing-12-13.pdf> Accessed 19th August 2014. Hereafter cited as HMIC State of Policing.

⁴ Marshall, G, in T. Newburn (eds) (2005) pg 634

⁵ Jones, T, in T. Newburn (eds) (2008) pg 695

⁶ HMIC State of Policing pg 53

⁷ Jones, T, in T. Newburn (eds) (2008) pg 695

⁸ The Territorial Support Group defines itself as the Metropolitan Polices Strategic Reserve for public disorder and critical incident response see <http://content.met.police.uk/Site/tsg> Accessed 11th September 2014

⁹ See <http://www.iantomlinsonfamilycampaign.org.uk/> Accessed 26th September 2014

¹⁰ HMIC State of Policing pg 121

¹¹ New Codes of Practice for Stop and Search available at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/346922/Best_Use_of_Stop_and_Search_Scheme_v3.0_v2.pdf Accessed 28h August 2014

¹² HMIC State of Policing pg 121

¹³ HMIC State of Policing pg 121

¹⁴ Sengupta, A, (2014) at 260

¹⁵ Jones, T, in T. Newburn (eds) (2008) pg 695

power, the fact that policing itself is prone to error¹⁶ and that police powers are exercised with a wide discretion¹⁷ theorists including Marshall and Reiner argue that the police must be open to challenge¹⁸ and be fully accountable.¹⁹ The police being open to challenge and accountable is argued by Waddington to be an essential component of policing in a democracy.²⁰ Indeed, if the police are not accountable the risk is that democracy ends and a police state begins.²¹

Kirby has argued that holding the police to account may also secure public confidence and therefore promote trust in the policed, crucial for a system of policing uniquely based on public consent.²² Institutionally the police are an integral part of and possibly the most visible and accessible branch of the criminal justice system. Jackson and Bradford argue that gaining the trust and confidence of the policed is crucial to the operation of the wider criminal justice system as it relies on an active and cooperative relationship with the public.²³ The public's ability to hold the police to account promotes this active and cooperative relationship.²⁴

Therefore in a democratic society the police must be accountable, if the police are not accountable democracy ends and a police state begins.²⁵ The vital importance of accountability to the police has been stressed in a number of recent reports, reviews and investigations.²⁶ This chapter now proceeds to consider some of the most recent and important of these reports prior to offering an analysis of how the concept of accountability has been defined.

Recent reports into policing have highlighted the importance of having an accountable police force. The Macpherson report, more commonly associated with findings of institutional racism, was commissioned by then Home Secretary the Rt. Hon Jack Straw MP in response to the murder of Stephen Lawrence.²⁷ Macpherson found that a lack of accountability spread distrust in the police²⁸ and concluded that, in order for the police to move forward, the maximum degree of accountability was needed.²⁹ Another review commissioned by the

¹⁶ Waddington, P.A.J, Wright, M, (2010) pg 89

¹⁷ Fyfe, J, Greene, J, Walsh, W, Wilson, O and McLaren, R, (1997), pg 48

¹⁸ Marshall, G, in T. Newburn (eds) (2005) pg 628

¹⁹ Reiner, R, in R. Reiner and S. Spencer (eds) (1993) pg 6

²⁰ Waddington, P.A.J, Wright, M, (2010) pg 79

²¹ Fyfe, J, Greene, J, Walsh, W, Wilson, O and McLaren, R, (1997) pg 483

²² Kirby, S, (2013) pg 1

²³ Jackson, J, Bradford, B, Stanko, B, and Hohl, K, (2013) pg 215

²⁴ Jackson, J, Bradford, B, Stanko, B, and Hohl, K, (2013) pg 215

²⁵ Fyfe, J, Greene, J, Walsh, W, Wilson, O and McLaren, R, (1997) pg 483

²⁶ Examples include: (i) The Stephen Lawrence Inquiry, Report of an Inquiry by Sir William Macpherson of Cluny, (1999) available at

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/277111/4262.pdf Accessed 19th August 2014. Hereafter cited as The Stephen Lawrence Inquiry. (ii) The Review of Policing, By Sir Ronnie Flanagan, published 7th February 2008, available at

http://webarchive.nationalarchives.gov.uk/20080910134927/http://police.homeoffice.gov.uk/publications/police-reform/Review_of_policing_final_report/flanagan-final-report?view=Binary Accessed 19th August 2014.

Hereafter cited as The Review of Policing. (iii) A New Beginning: Policing in Northern Ireland,

<http://cain.ulst.ac.uk/issues/police/patten/patten99.pdf> accessed 20th August 2014, hereafter cited as The Patten Commission.

²⁷ The Stephen Lawrence Inquiry, Report of an Inquiry by Sir William Macpherson of Cluny, (1999) available at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/277111/4262.pdf Accessed 19th August 2014. Hereafter cited as The Stephen Lawrence Inquiry.

²⁸ The Stephen Lawrence Inquiry pg 372

²⁹ The Stephen Lawrence Inquiry pg 371

Home Secretary, The Review of Policing conducted by Sir Ronnie Flanagan, concluded that public trust in the police had to be enhanced and the starting point for this was accountability.³⁰ Flanagan's review of policing also argued that strengthening accountability was key to rebuilding public confidence.³¹ The recent Independent Commission on Policing unequivocally argued that the police have to be accountable.³² Similarly another report that emphasised the importance of police accountability was the Independent Commission on Policing for Northern Ireland, commissioned in 1998 as part of the Belfast Agreement. The Independent Commission on Policing stated that accountability had to run through the bloodstream of the whole body of the police.³³ Although these recent reports and reviews had different terms and parameters of investigation, for example the MacPherson report is more normally associated with findings of institutional racism whilst the Patten Commission was predominantly concerned with investigating policing in a complex post conflict environment, they all share a common theme, the police must be accountable to function effectively in a democratic society.

In addition to these reports and reviews two reports in 2014 which attracted national press coverage also highlight the vital importance of accountability in the police. First, Operation Herne was tasked to investigate the controversial practice of police officers who worked in the Metropolitan Police's Special Demonstration Squad (SDS)³⁴ using the names of deceased children to create 'legends' and covert identities suitable for undercover police work.³⁵ The aim of the investigation was to ensure that those involved were made accountable for their conduct.³⁶ Second, The House of Commons Home Affairs Committee report on Child sexual exploitation and the response to localised grooming.³⁷ The Committee investigated the institutional response to cases of child sexual exploitation in Rotherham, in particular addressing the accountability of PCCs.³⁸ The link here between the two was that Shaun Wright, prior to his appointment as PCC for South Yorkshire, was Rotherham Council's cabinet member responsible for services for children and young people.³⁹ Following

³⁰ The Review of Policing pg 54

³¹ The Review of Policing pg 54

³² The Independent Police Commission, An independent inquiry focusing on the future of policing in England and Wales, (2013) pg 33. Available at <http://independentpolicecommission.org.uk/uploads/37d80308-be23-9684-054d-e4958bb9d518.pdf> Accessed on the 19th August 2014. Hereafter cited as The Stevens Commission.

³³ The Patten Commission pg 25

³⁴ The SDS was an undercover police unit which operated from 1968 to 2008 which infiltrated and reported on groups concerned in violent protest. Operation Herne, 2014 pg 2, available at <http://www.derbyshire.police.uk/Documents/About-Us/Herne/Operation-Herne---Report-1---Covert-Identities.pdf> Accessed 26th August 2014. Hereafter cited as Operation Herne Report 1

³⁵ Operation Herne, 2014, pg 1, available at <http://www.derbyshire.police.uk/Documents/About-Us/Herne/Operation-Herne---Report-2---Allegations-of-Peter-Francis.pdf> Accessed 27th August 2014 Hereafter cited as Operation Herne Report 2

³⁶ Operation Herne, 2014, pg 80, available at <http://www.derbyshire.police.uk/Documents/About-Us/Herne/Operation-Herne---Report-2---Allegations-of-Peter-Francis.pdf> Accessed 21st August 2014. Hereafter cited as Operation Herne Report 2

³⁷ House of Commons Home Affairs Committee report on Child Sexual Exploitation and the response to localised grooming. Available at <http://www.publications.parliament.uk/pa/cm201415/cmselect/cmhaff/203/203.pdf> Accessed 20th October 2014 Hereafter cited as Report on Child Sexual Exploitation

³⁸ Report on Child Sexual Exploitation pg 4

³⁹ Report on Child Sexual Exploitation pg 8

publication of the Jay Report⁴⁰ Wright was under considerable pressure to resign, from amongst others, the Home Secretary.⁴¹ However Wright refused and publicly announced that he intended to remain in his role as PCC for South Yorkshire.⁴² However a mere week after making his announcement and following a vote of no confidence in light of the Jay Report, Wright resigned as PCC for South Yorkshire.⁴³ Not only does this episode highlight that currently a limited power exists to dismiss PCCs⁴⁴ but it also demonstrates two important qualities of accountability. First, accountability can be argued to be irrebuttable. Second, accountability has transcending qualities. These qualities are evidenced as Wright resigned his post as PCC for South Yorkshire on the basis that he was accountable for failings in his previous occupation as a Rotherham's cabinet member who had responsibility and therefore accountability for the services for children and young people. Wright did not resign due to performance in his current occupation as a PCC. Therefore, an argument that arises here, is that accountability is not a role specific and time limited principle but an irrebuttable and transcending one. These qualities mean that in practice holders of public officer, like Wright, can be held accountable retrospectively.

The importance of accountability was also stressed in 2013 by Sir Hugh Orde, the last president of the Association of Chief Police Officers [ACPO].⁴⁵ In one address Orde stressed that the police must above all other considerations be accountable⁴⁶ whilst in another it was argued that the police was founded upon the very notion of accountability.⁴⁷

However, despite the vital importance of accountability, and the assertion by Loveday and Sir Robert Mark that the police in England and Wales are highly accountable,⁴⁸ if not the most accountable police service in the world,⁴⁹ there has been substantial difficulty in defining what police accountability actually means. Indeed the above cited reports, reviews, investigations and statements which themselves collectively and emphatically state the vital importance of accountability actually fail themselves to define the meaning of accountability.

This, combined with the problem of how to render an institution created and empowered by the executive to regulate conflict, by force if necessary,⁵⁰ has led some, including Sklar, to

⁴⁰ Independent Inquiry into Child Sexual Exploitation in Rotherham (1997 – 2013), available at http://www.rotherham.gov.uk/downloads/file/1407/independent_inquiry_cse_in_rotherham Accessed 23rd October 2014 Hereafter cited as the Jay Report

⁴¹ Report on Child Sexual Exploitation pg 8

⁴² Office of Shaun Wright, statement from the South Yorkshire Police and Crime Commissioner, available at <http://www.southyorkshire-pcc.gov.uk/News-and-Events/News-Archive/2014/Statement-from-the-South-Yorkshire-Police-and-Crime-Commissioner.aspx> Accessed 20th October 2014

⁴³ Report on Child Sexual Exploitation pg 9

⁴⁴ Report on Child Sexual Exploitation pg 10

⁴⁵ ACPO defined itself as an independent, professionally lead strategic body of Chief Police Officers from the United Kingdom that coordinates the direction and development of the police service. See, <http://www.acpo.police.uk/About/AboutACPO.aspx> Accessed 26th August 2014

⁴⁶ Sir Hugh Orde, current president of ACPO, Available at <http://www.acpo.police.uk/ContentPages/Speeches/SirHughOrdeSpechtoLiberty.aspx> Accessed 22nd August 2014.

⁴⁷ Sir Hugh Orde Speech The Fog of Transition in the U.K Policing: Major Changes Abound. Available at <http://www.acpo.police.uk/ContentPages/Speeches/201208PoliceChiefSHOarticle.aspx> Accessed 22nd August 2014

⁴⁸ Loveday, B, in R.I. Mawby (eds) (1999) pg 133

⁴⁹ Sir Robert Mark, Dimpleby Lecture (1973) pg 2

⁵⁰ Reiner, R, in M. McConville and G. Wilson (eds) (2002) pg 23

argue that police accountability is complex in both theory and practice.⁵¹ Whilst others, such as Lord Stevens, have argued that accountability of the police has been a contested territory since the inception of the police.⁵² The nature of police accountability has led some to describe achieving accountable policing as extremely difficult and an enormous challenge.⁵³ Whilst others, including Day and Lambert, have described police accountability as an elusive⁵⁴ and imprecisely defined concept.⁵⁵ McLaughlin describes police accountability as a complicated web of obligations and responsibilities,⁵⁶ whilst Brogden and Ellison have described it as a peculiar,⁵⁷ elastic concept⁵⁸ lost in a fog of mechanisms aimed to secure it.⁵⁹

The police are a state organ and as evidenced previously in this chapter exercise considerable power. The power bestowed on the police by the state means that the police have the ability to infringe individuals' liberty and, at the extremities of their power have in the cases like Ian Tomlinson, exercised lethal force. A core argument is that the police must be accountable. However despite arguments presented in this chapter that accountability is the bedrock of the police, the actual practice of accountability of the police is highly contested and not well undefined. Here lies a central issue that will be subject to analysis in this thesis. Indeed, given the grave implications of an unaccountable police it is a paradox that so far it has proved so difficult to define and implement satisfactory structures of police accountability.

This thesis will seek to provide a critical analysis of the structures of police accountability and the introduction and operation of PCCs. In exploring the structures of police accountability this thesis will, over the proceeding chapters prior to analysing the introduction and operation of PCCs, offer a critical analysis of the structures and mechanisms of police accountability, their development and how the theories and structures of accountability played an integral role in the evolution of policing. However, prior to these chapters, this chapter offers an analysis of the literature on accountability and explore how accountability has been defined. After focusing on the definition of accountability the chapter will proceed to explore whether the concept of accountability has expanded and whether theories have sufficiently developed to explain how accountability, in practice, is applied. Whilst considering the theories of accountability this chapter will also offer an analysis of whether, in the context of the police, these theories can be applied.

Defining Accountability

Accountability has been described as comprehensive,⁶⁰ fashionable and⁶¹ an iconic word⁶² which many have become preoccupied with as it conjures up images of good governance and clean administration.⁶³ However at its core the concept of accountability does imply a system whereby an institution, person or organisation is accountable and answerable to another or

⁵¹ Sklar, R in A. Schedler, L.Diamond, M.Plattner (eds) (1999) pg 53

⁵² The Stevens Commission pg 92

⁵³ Walker, S Archbold, C, (2014) pg 8

⁵⁴ Day, P, (1987) pg 1

⁵⁵ Lambert, L, (1986) pg 18

⁵⁶ McLaughlin, E, (2007) pg 173

⁵⁷ Brogden, M and Ellison, G, (2013) pg 104

⁵⁸ Brogden, M and Ellison, G, (2013) pg 104

⁵⁹ Brogden, M and Ellison, G, (2013) pg 51

⁶⁰ Schedler, A, in A. Schedler, L.Diamond, M.Plattner (eds) (1999) pg 14

⁶¹ Day, P (1987) pg 1

⁶² Sengupta, A, (2014) at 253

⁶³ Sengupta, A, (2014) at 252

others.⁶⁴ Thus accountability, in this core literal sense, means an institution, person or organisation being answerable⁶⁵ and giving accounts or explanations⁶⁶ to other institutions, persons or organisations. Accountability has been defined by Schedler, Marshall and Sengupta as an appealing,⁶⁷ explanative,⁶⁸ relational concept⁶⁹ which creates a dialogical relationship.⁷⁰

Oliver and Day suggest that there are two branches of the accountability relationship. The first branch, the one vested with certain powers regarding the exercise of which accountability is sought, has been referred to by Oliver and Day as the accountant⁷¹ or governor.⁷² This body is normally either asked to inform or explain decisions⁷³ and is usually accountable for the exercise of public power only.⁷⁴ The rationale for this is straight forward, a strong democratic justification exists to ensure that when public power is exercised it is done so accountably and subject to appropriate checks by the people or institution from whom the power is ultimately sourced.⁷⁵ The second branch of the accountability relationship and the one to which the accountant or governor owes accountability and therefore must explain or justify action or inaction has been referred to by Oliver and Day as the accountee⁷⁶ or governed.⁷⁷ Normally, and certainly in the case of the police, this dialogical accountable relationship is formed between holders of public office, the accountors or governors and its citizens, the accountees or governed.⁷⁸ However, due to the wide ranging nature of the power held and exercised by those in public office, including the office of police, accountors are usually accountable to a number of accountees.⁷⁹

The accountability relationship described above is considered necessary for a number of reasons. First, all aspects of conduct related to the exercise of public power must be held accountable.⁸⁰ The argument here is that those that exercise public power must be held accountable as the power is exercised vicariously on behalf of the state over its citizens. In other words the exercise of public power by accountors or governors must be open to check by those from whom the power is sourced,⁸¹ the accountees or governed. Second, there exists a democratic imperative to respond to demands from politicians and the public.⁸² The rationale for this being that public power is ultimately sourced from the later and there normally exists some degree of control from the former. Third, the existence of a dialogical accountable relationship between accountors or governors and the accountees or governed promotes a healthy dialectical relationship which, as argued by Mulgan, is an essential

⁶⁴ Day, P, Tavistock, (1987) pg 1

⁶⁵ Sengupta, A, (2014) at 251

⁶⁶ Chan, J, (1999) pg 252

⁶⁷ Schedler, A, (1999) pg 13

⁶⁸ Marshall, G, (2005) pg 633

⁶⁹ Sengupta, A, (2014) at 247

⁷⁰ Schedler, A, in A. Schedler, L.Diamond, M.Plattner (eds) (1999) pg 15

⁷¹ Oliver, D, (2013) pg 290

⁷² Day, P, Tavistock, (1987) pg 1

⁷³ Schedler, A, in A. Schedler, L.Diamond, M.Plattner (eds) (1999) pg 14

⁷⁴ Sengupta, A, (2014) at 251

⁷⁵ Sengupta, A, (2014) at 264

⁷⁶ Oliver, D, in N. Bamforth and P. Leyland (eds) (2013) pg 290

⁷⁷ Day, P, (1987) pg 1

⁷⁸ Mulgan, R, (2000) pg 556

⁷⁹ Oliver, D, in N. Bamforth and P. Leyland (eds) (2013) pg 292

⁸⁰ Sengupta, A, (2014) at 251

⁸¹ Sengupta, A, (2014) at 260

⁸² Mulgan, R, (2000) pg 559

component of a democracy.⁸³ This dialectical relationship is seen as an essential component of a democracy as it leads to the giving of answers, explanations and justifications and has thus become equated with principles of deliberative democracy.⁸⁴ It has also been argued that accountability promotes good administration,⁸⁵ is an exercise in self-regulation, enhances the ability of citizens to challenge decisions and reinforces that every action be justified by law.⁸⁶ Further in the context of policing as, discussed later in this chapter, accountability has a vital reciprocal relationship with legitimacy and arguably carries the burden of democratic police governance.

The expansion and application of accountability

Theorists, including Mulgan, contend that the scope and meaning of accountability has extended beyond the previously identified core literal meaning of answerability, being called to account or giving explanations to carrying the major burden of democratic governance. The argument proposed is that accountability, once a concept of restricted meaning, is now liberated. Mulgan argues that the expansion of accountability can be categorised under four headings. First accountability and responsibility, second accountability and control, third accountability and responsiveness, and, finally, accountability and dialogue.⁸⁷ This chapter now turns to consider these headings in turn prior to offering an analysis of the theories of accountability.

Accountability and responsibility, the first category under which accountability is said to have expanded beyond its restricted meaning, means in practice that accountability now includes a sense of individual responsibility and concern for the public interest.⁸⁸ Under this extension to the theory of accountability the argument is that individuals, although subject to external scrutiny, are internally morally responsible and accountable for their conduct.⁸⁹ This extension of accountability is evidenced in the police as individual police officers are held responsible and accountable via an internal code of ethics containing moral values such as honesty and integrity.⁹⁰ Crucially, if the code of ethics were broken by individual police officers, they would in theory be held externally accountable as disciplinary proceedings or criminal action would be taken against them.⁹¹ The external bodies responsible for taking disciplinary or criminal action are the Independent Police Complaints Commission (IPCC)⁹² and the Crown Prosecution Service (CPS).⁹³

This form of internalised accountability is linked to the second heading under which the extension of accountability has been categorised, accountability and control.⁹⁴ This extension to accountability means that accountability has extended beyond its restricted meaning to

⁸³ Mulgan, R, (2000) pg 569

⁸⁴ Mulgan, R, (2000) pg 569

⁸⁵ Cane, P, (2011) pg 409

⁸⁶ Le Sueur, A, (2004) pg 89

⁸⁷ Mulgan, R, (2000) pg 556

⁸⁸ Mulgan, R, (2000) pg 556

⁸⁹ Mulgan, R, (2000) pg 561

⁹⁰ Code of Ethics: principles and standards of professional behaviour for the policing profession of England and Wales pg 4 – 15. Available at http://www.college.police.uk/en/docs/Code_of_Ethics.pdf Accessed 30th July 2014 Hereafter cited as Code of Ethics

⁹¹ Code of Ethics pg 20

⁹² see <https://www.ipcc.gov.uk/> Accessed 20th October 2014

⁹³ see http://www.cps.gov.uk/legal/a_to_c/allegations_of_criminal_offences_against_the_police/ Accessed 20th October 2014

⁹⁴ Mulgan, R, (2000) pg 563

become a feature of various institutional checks and balances,⁹⁵ which have as their aim, the control of those who exercise public power.⁹⁶ Mulgan argues that this extension to accountability means that these institutional checks and balances enable democracies to control the actions of the governments even when there is no interaction or exchange between governments and the institutions that control them.⁹⁷

Accountability and responsiveness, the third category under which accountability is said to have expanded beyond its restricted meaning, means that in practice accountability is now linked with the extent to which the wishes or needs of the public are pursued, regardless of whether they are induced to do so through processes of authoritative exchange and control.⁹⁸ This form of responsive accountability is vital when decisions in question involve the exercise of public power as legitimacy is contingent on being in accord with the views of the respective public, the actor in question is meant to serve.⁹⁹

Accountability and dialogue, the final category under which accountability is said to have expanded beyond its restricted meaning, means in practice that accountability has evolved into a dialectical activity whereby answers, explanations and justifications are given.¹⁰⁰ Under this extension accountees hold accountors to account by questioning, assessing and criticising their decisions. Thus this form of accountability has been equated with the principles of deliberative democracy and democratic dialogue as, in practice, a dialectical exchange results between the accountors and accountees as these bodies deliberate and matters of public interest.¹⁰¹

The scope and meaning of accountability has extended beyond the restrictive literal sense of answerability initially identified in this chapter to include the above four identified categories. This extension, coupled with the democratic governance burden that accountability now carries, has led to new theories of accountability. Although some theorists, such as Sengupta, have argued that these theories have in fact themselves led to accountability being saddled with multiple meanings thus rendering it a fuzzy catchall concept¹⁰² there are four identified theories of accountability that this chapter will consider. The four theories of accountability that this chapter proceeds to consider are vertical accountability, horizontal accountability, hybrid accountability and societal accountability. Whilst considering these theories of accountability in turn the chapter will also offer an analysis of whether the theories can be applied to the police.

Vertical Accountability

The theory of vertical accountability has been defined as accountability to the people and is traditionally enforced through elections.¹⁰³ This form of accountability has, as its mechanisms of control, both the individual citizen's exercise of electoral choice and the collective exertion of pressure by organisations.¹⁰⁴ The basic principle of this theory of accountability is that citizens, the accountees in the accountability relationship previously explained, can punish or

⁹⁵ Mulgan, R, (2000) pg 556

⁹⁶ Mulgan, R, (2000) pg 563

⁹⁷ Mulgan, R, (2000) pg 556

⁹⁸ Mulgan, R, (2000) pg 556

⁹⁹ Sengupta, A, (2014) at 252

¹⁰⁰ Mulgan, R, (2000) pg 569

¹⁰¹ Mulgan, R, (2000) pg 569

¹⁰² Sengupta, A, (2014) at 252

¹⁰³ Sengupta, A, (2014) at 249

¹⁰⁴ Goetz, A, Jenkins, R, (2001) pg 364

reward elected office holders by voting for or against them or the candidates they endorse at subsequent elections.¹⁰⁵

However this basic principle of vertical accountability also provides the platform for critics who assert that, in practice, it is unclear how elections are truly an instrument by which voters can punish, reward and hold elected accountors accountable.¹⁰⁶ Further, some including Sengupta and Goetz, argue that the theory of vertical accountability fails in practice as accountors are elected on such an infrequent basis¹⁰⁷ and inevitably pursue policies across the full spectrum of public issues that no individual accountee would be likely to agree with in their entirety.¹⁰⁸

In the context of policing the theory of vertical accountability is currently evidenced by the election of PCCs. Although the introduction and operation of PCCs in England and Wales will be subject to greater analysis later in this thesis¹⁰⁹ their office will be considered here as evidence of vertical accountability in the police.

The office of PCC was established by s.1 (1) Police Reform and Social Responsibility Act (2011) [PRsRA]. The first cohort of PCCs were elected to office on the 15th November 2012¹¹⁰ and are subject to re-election every four years.¹¹¹ Thus under the system introduced by the PRsRA, PCC's are the accountors and accountable to the electorate, the accountees. The electorate, applying the requirements of the theory of vertical accountability, are the accountees as they have the ability to hold PCCs to account by voting for or against them in subsequent elections. However, uniquely, PCCs also have the statutory duty under the PRsRA to hold Chief Constables to account.¹¹² Therefore PCCs are also accountees as their office has the statutory duty to hold Chief Constables to account.¹¹³ Thus under the theory of vertical accountability PCCs hold both accountor and accountee functions as they are democratically accountable to the electorate but also themselves hold Chief Constables to account as, under statute, PCCs are required to ask Chief Constables to inform or explain their decisions.¹¹⁴ The PRsRA itself reinforces the explanative accountability relationship between Chief Constables and PCCs as Chief Constables are required under statute to assist PCCs in their duties.¹¹⁵ Therefore, in the context of policing, the theory of vertical accountability is evidenced by the election of PCC's.

Horizontal Accountability

Horizontal accountability has been defined as accountability between or amongst governmental organs¹¹⁶ and the state's internal process of review and auditing.¹¹⁷ This form of accountability includes state agencies that monitor other arms of the state.¹¹⁸ This theory of accountability rests on the existence of a network of state agencies that are in theory legally

¹⁰⁵ O'Donnell, G, in A. Schedler, L. Diamond, M. Plattner (eds) (1999) pg 29

¹⁰⁶ O'Donnell, G, in A. Schedler, L. Diamond, M. Plattner (eds) (1999) pg 30

¹⁰⁷ Sengupta, A, (2014) at 249

¹⁰⁸ Goetz, A, Jenkins, R, (2001) pg 363

¹⁰⁹ see chapter (s) 4, 6 and 7 of this thesis

¹¹⁰ s.50 (2) PRsRA (2011)

¹¹¹ s.50 (1)(b) PRsRA (2011)

¹¹² s.1 (7) and s.1(8) PRsRA (2011)

¹¹³ s.1 (8a-h) PRsRA (2011)

¹¹⁴ s.1 (8a-h) PRsRA (2011)

¹¹⁵ s.2 (5) PRsRA (2011)

¹¹⁶ Sengupta, A, (2014) at 249

¹¹⁷ Goetz, A, Jenkins, R, (2001) pg 363

¹¹⁸ Goetz, A, Jenkins, R, (2001) pg 364

enabled and empowered, and in practice, willing and able to take action that ranges from routine oversight to the instigation of criminal proceedings relating to actions or omissions that may be considered unlawful.¹¹⁹ Therefore, for horizontal accountability to be effective state agencies must have legal authority and sufficient autonomy to oversee, control and sanction the unlawful actions of other state agencies.¹²⁰ Under this theory of accountability it is argued that state agencies can shape public opinion, however, the agencies are reliant upon the work and support of the Courts and legislative commissions as mechanisms of enforcement.¹²¹ Further the agencies of horizontal accountability either rule authoritatively based on their findings and judgments or advise elected officials on a course of action.¹²²

However, like vertical accountability, the theory of horizontal accountability has attracted criticism. Some, including Goetz and Sengupta, argue that the institutions and agencies of horizontal accountability have been ultimately ineffective¹²³ and, due to their nature, operate under a cloak of political manipulation which hinders their ability to function effectively and enforce accountability.¹²⁴ Whilst others, including O'Donnell, contend that the incentives for pursuing horizontal accountability are ultimately weak and subject to violation in two ways.¹²⁵ The first way that O'Donnell argues that horizontal accountability can be discredited is when one state agency unlawfully encroaches on another.¹²⁶ The second way that horizontal accountability can be discredited is when public officials unlawfully gain advantages for themselves or their associates.¹²⁷ However a counter argument that arises here, on both arguments presented by O'Donnell, is that state agencies and public officials are both subject to internal processes of review and auditing. This means that the ability of state agencies and public officials to violate horizontal accountability is in practice more limited and less prone to success than O'Donnell argues.

In the context of policing the theory of horizontal accountability is evidenced in practice by the annual national inspection of policing carried out by Her Majesty's Inspectorate of Constabulary [HMIC]. As required by the theory of horizontal accountability HMIC is legally empowered¹²⁸ and independent.¹²⁹ Further HMIC has review and auditing functions as it examines the efficiency and effectiveness of every police force maintained for a police area.¹³⁰ The report of HMIC has to be published,¹³¹ submitted before the Secretary of State and laid before Parliament for inspection.¹³² Thus for the purpose of analysing horizontal accountability it can be argued that HMIC is a state organ which monitors, reviews and reports on another state organ, the police. Indeed it could be argued that HMIC, as required by the theory of horizontal accountability, is the agency by which the state internally reviews and audits the police. The only area where the argument is conceptually weak is that HMIC, as a mechanism of horizontal accountability, cannot itself initiate criminal proceedings. However the counter argument here is that the reports published by HMIC can activate the

¹¹⁹ O'Donnell, G, (1999) pg 38

¹²⁰ O'Donnell, G, (1999) pg39

¹²¹ Sengupta, A, (2014) at 249

¹²² Goetz, A, Jenkins, R, (2001) pg 364

¹²³ Goetz, A, Jenkins, R, (2001) pg 364

¹²⁴ Sengupta, A, (2014) at 249

¹²⁵ O'Donnell, G, in A. Schedler, L. Diamond, M. Plattner (eds) (1999) pg 45

¹²⁶ O'Donnell, G, in A. Schedler, L. Diamond, M. Plattner (eds) (1999) pg 41

¹²⁷ O'Donnell, G, in A. Schedler, L. Diamond, M. Plattner (eds) (1999) pg 41

¹²⁸ s.15 County and Boroughs Police Act (1856)

¹²⁹ s. 54 (1) Police Act (1996)

¹³⁰ s.54 (2) Police Act (1996)

¹³¹ s.55 (1) Police Act (1996)

¹³² s.55 (2) Police Act (1996)

operation of other mechanisms of accountability. This activation is evidenced by the 2014 HMIC report which found, on examination, 27% of stop and searches conducted by the police did not have sufficient grounds,¹³³ therefore making them unjustifiable in law.¹³⁴ In response to this finding a new code of conduct was introduced by arguably another agency of horizontal accountability, the College of Policing in conjunction with the Home Office.¹³⁵ This code of conduct was introduced in 2014 by these agencies of horizontal accountability due to the shortcomings identified by HMIC.

Hybrid Accountability

The theory of hybrid accountability has developed in an attempt to plug the gap in the weaknesses and criticisms identified in the theories of vertical and horizontal accountability. Hybrid forms of accountability represent a break away from traditional vertical theories.¹³⁶ The essence of this theory of accountability is that citizens monitor or participate directly in the workings of oversight institutions which, under more traditional vertical and horizontal forms of accountability, they would have been barred or excluded from.¹³⁷ Thus hybrid accountability means in practice that citizens are given standing and accordingly integrate or insinuate themselves into previously closed institutions.¹³⁸

Advocates of hybrid accountability argue that five characteristics are needed for more institutional form.¹³⁹ First, legal standing for non-governmental observers within institutions of public sector oversight. Second, a continuous presence for these observers throughout the process of the agencies work. Third, well defined procedures for the conduct of encounters between citizens and public sector actors in meetings. Fourth, structured access to the flow of official documentary information and lastly the right of observers to issue dissenting reports directly to legislative bodies.

In the context of policing the Independent Custody Visiting Scheme, initially recommended as part of the Scarman Report and now subject to statutory footing¹⁴⁰ evidences the application of hybrid accountability. Further, PCC's although previously considered as evidence of vertical accountability, may also be considered as evidence of hybrid accountability. Each will be considered in turn.

Members of the Independent Custody Visiting Scheme are independent¹⁴¹ and their work is supported by a code of practice.¹⁴² The code of practice states that independent custody visits be carried out unannounced,¹⁴³ that the visitors be admitted immediately and only delayed if

¹³³ HMIC State of Policing pg 121

¹³⁴ HMIC State of Policing pg 121

¹³⁵ New Codes of Practice for Stop and Search available at

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/346922/Best_Use_of_Stop_and_Search_Scheme_v3.0_v2.pdf Accessed 28h August 2014

¹³⁶ Goetz, A, Jenkins, R, (2001) pg 363

¹³⁷ Goetz, A, Jenkins, R, (2001) pg 364

¹³⁸ Goetz, A, Jenkins, R, (2001) pg 363

¹³⁹ Goetz, A, Jenkins, R, (2001) pg 369

¹⁴⁰ s.51 Police Reform Act (2002)

¹⁴¹ s.51 Police Reform Act (2002)

¹⁴² Code of Practice on Independent Custody Visiting available at

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/237395/Independent_custody_visitors_code_of_practice.pdf Accessed 9th September 2014. Hereafter cited as Code of Practice on Independent Custody Visiting

¹⁴³ Code of Practice on Independent Custody Visiting pg 9

there is danger in the custody suite of a police station.¹⁴⁴ The code of practice also sets out the role of independent custody visitors. The visitors may check the custody record¹⁴⁵ but must clarify with those detained in the custody suite of a police station whether they have been offered their rights and entitlements under PACE and confirm whether the conditions of detention are adequate.¹⁴⁶ The appointment of independent custody visitors evidences the application of the theory of hybrid accountability in the police as citizens, in the form of independent custody visitors, are monitoring the police's standards of detention and participating in an oversight institution, the Independent Custody Visiting Association. Thus, according to the requirements of hybrid accountability, citizens have successfully integrated themselves into an oversight agency and monitor a previously closed institution, the police.

PCCs, already considered as evidence of vertical accountability in the police, could also be considered as evidence of the application of hybrid accountability. Although elected and therefore previously considered as evidence of vertical accountability, PCCs are citizens that have been appointed to office and participate, monitor and have responsibility for the totality of policing within the police area.¹⁴⁷ Therefore, PCCs fulfil the stated criteria of hybrid accountability integration into what was previously a closed institution: the police.

The five requirements of hybrid accountability, required for more institutional form, are also evidenced by the office of PCC. PCCs have legal standing and are independent, having sworn an oath of impartiality on appointment.¹⁴⁸ PCCs are intended to have a continuous presence throughout the police as they are accountable for the totality of policing within their area.¹⁴⁹ PCCs are, as required by the theory of hybrid accountability, engaged with the public and other public sector actors as PCCs have a statutory responsibility to work and cooperate with other responsible authorities.¹⁵⁰ The galvanising effect of s.10 PRSRA means that PCCs are under a statutory duty to work and cooperate with other agencies including the CPS and various victim support schemes, as defined by the Crime and Disorder Act (1988).¹⁵¹ The Police Federation recognised the importance of PCCs working with other responsible authorities as the Federation argued that PCCs needed a mandate to liaise with all groups in the Criminal Justice System.¹⁵² Further, Chief Constables have a statutory responsibility, under the PRSRA, to assist PCC's in their duties.¹⁵³ This statutory duty, if adhered to, potentially fulfils the fourth requirement for more institutional form of hybrid accountability. PCC's also have the ability to issue dissenting reports, a further requirement of hybrid accountability. Therefore, although PCC's were initially considered as evidence of vertical accountability in the police their office may also evidence application of the theory of hybrid accountability.

¹⁴⁴ Code of Practice on Independent Custody Visiting pg 10

¹⁴⁵ Code of Practice on Independent Custody Visiting pg 10

¹⁴⁶ Code of Practice on Independent Custody Visiting pg 11

¹⁴⁷ Role of the PCC available at <http://apccs.police.uk/role-of-the-pcc/> Accessed 17th September 2014

¹⁴⁸ Statutory Instrument (2012) No.2553, The Police and Crime Commissioner Elections (Declaration of Acceptance of Office) Order 2012 available at

http://www.legislation.gov.uk/ukSI/2012/2553/pdfs/ukSI_20122553_en.pdf Accessed 17th September 2014.

¹⁴⁹ Role of the PCC available at <http://apccs.police.uk/role-of-the-pcc/> Accessed 17th September 2014

¹⁵⁰ see s.10 PRSRA 2011

¹⁵¹ see s.5 (1 to 3) Crime and Disorder Act 1998

¹⁵² See House of Commons Home Affairs Committee Policing : Police and Crime Commissioners available at

www.publications.parliament.uk/pa/cm201011/cmselect/cmhaff/511/51102.htm Accessed 20th October 2014

¹⁵³ s.2 (5) PRSRA (2011)

Societal Accountability

Societal accountability, although more closely linked with Latin American accountability literature, is an emerging rights oriented form of accountability. The theory of societal accountability is gaining traction in accountability literature due to the weaknesses of the more traditional structures and theories of accountability¹⁵⁴ previously considered in this chapter. Societal accountability is defined as a non-electoral but vertical mechanism of accountability which rests on the actions of citizen associations, social movements and media exposures.¹⁵⁵ Thus societal accountability derives its legitimacy from actions such as its right to petition.¹⁵⁶

Societal accountability differs from vertical accountability as it does not rely on individual voters or a traditional system of checks and balances to achieve control. Instead, to be effective, societal accountability requires an organised civil society able to exert influence on the political system and on political bureaucracies. A further distinguishing feature of societal accountability is that it is activated 'on demand' and can be directed towards the control of single issues, policies or functionaries.¹⁵⁷ Like horizontal accountability, mechanisms of societal accountability can oversee the procedures followed by politicians and public officials whilst making policy. However, unlike horizontal mechanisms, societal accountability performs a watchdog function without the need for majorities or constitutional entitlements.¹⁵⁸ This means that societal accountability mechanisms can operate in a decentralised and piecemeal way and thus avoid the problems beset with other forms of accountability, specifically vertical accountability.¹⁵⁹

Societal accountability can employ both institutional and non-institutional mechanisms. Institutional mechanisms include the activation of legal actions or claims before oversight agencies whilst social mobilisations, media and public exposures illustrate some of the non-institutional mechanisms.¹⁶⁰ Thus advocates of societal accountability argue that it provides a more efficacious form of accountability,¹⁶¹ and that citizen action, social movements and media exposures unmask wrongdoing and promotes otherwise procedurally barred issues to the public agenda.¹⁶² This exposure and promotion, in practice, leads to the activation of horizontal state agencies and their mechanisms of accountability.¹⁶³

Societal accountability offers a different form of accountability as it is often selective and does not necessarily evaluate entire policies, but focuses on individual actions, individuals, specific areas and politicians.¹⁶⁴ As a model of accountability it is most effective when social mobilisations interact with legal action and media exposures.¹⁶⁵ Societal accountability is reliant upon the intensity of the claim and the impact on public opinion. This, as argued by

¹⁵⁴ Smulovitz, C, Peruzzotti, E, (2000) pg 148

¹⁵⁵ Smulovitz, C, Peruzzotti, E, (2000) pg 150

¹⁵⁶ Smulovitz, C, Peruzzotti, E, (2000) pg 150

¹⁵⁷ Smulovitz, C, Peruzzotti, E, (2000) pg 150

¹⁵⁸ Smulovitz, C, Peruzzotti, E, (2000) pg 150

¹⁵⁹ Smulovitz, C, Peruzzotti, E, (2000) pg 151

¹⁶⁰ Smulovitz, C, Peruzzotti, E, (2000) pg 150

¹⁶¹ Sengupta, A, (2014) at 250

¹⁶² Smulovitz, C, Peruzzotti, E, (2000) pg 152

¹⁶³ Smulovitz, C, Peruzzotti, E, (2000) pg 150

¹⁶⁴ Smulovitz, C, Peruzzotti, E, (2000) pg 151

¹⁶⁵ Smulovitz, C, Peruzzotti, E, (2000) pg 152

Smulovitz and Peruzzotti, is a flaw in the theory of societal accountability as it may produce undemocratic results that have the effect of overstepping constitutional arrangements.¹⁶⁶ Further, O'Donnell argues that societal accountability can lead to the reputation of public officials being tainted or condemned by public opinion without those persecuted having access to due process in their defence.¹⁶⁷

The mechanisms of societal accountability also differ from horizontal and vertical accountability mechanisms as the sanctions they entail are not mandatory and legal but symbolic.¹⁶⁸ Thus societal accountability utilises mechanisms of accountability including citizen participation and public hearings or enquires.¹⁶⁹ However the symbolic nature of societal accountability has led some to argue that, as a form of accountability, it is toothless as it merely conveys public disapproval and has no real restraint on power.¹⁷⁰ Thus the argument presented here is that under societal accountability the media becomes a surrogate court which lacks the important trigger of action.¹⁷¹ However advocates of societal accountability contend that it is far from toothless and has resulted in the destruction of reputation through public exposure of wrongdoing and unlawful conduct.¹⁷²

Societal accountability employs both institutional and non-institutional mechanisms. In the context of policing both forms have been recently evidenced. Institutional mechanisms of societal accountability include the activation of legal actions or claims before oversight agencies. The activation of legal actions is evidenced in the context of policing by the public outrage following the death of Ian Tomlinson. Following the death of Ian Tomlinson at the G20 protest in London a campaign was founded to secure justice. The campaign had several stated aims including a full investigation into the death, to see that criminal charges be brought against any police officer whose actions or failure of duty resulted in his death and to campaign for a change to any police policies.¹⁷³

The campaign evidences the application of institutional mechanisms of societal accountability in the context of policing as a full investigation was carried out into the death of Ian Tomlinson which resulted in legal action being taken. This legal action had two forms. First, a criminal trial and second a civil lawsuit against the police that resulted in an undisclosed sum in compensation being awarded. Further, a review of public order policing was ordered by the Commissioner of the Metropolitan Police.¹⁷⁴ Although the review itself largely distanced itself from the death of Ian Tomlinson it did make a series of recommendations concerning the exercise of force by the police in public order and protest scenarios.¹⁷⁵ Specifically, the review recommended that the police must apply non-violent methods before resorting to any use of force which must be as minimal as possible according

¹⁶⁶ Smulovitz, C, Peruzzotti, E, (2000) pg 156

¹⁶⁷ O'Donnell, G, in A. Schedler, L. Diamond, M. Plattner (eds) (1999) pg 30

¹⁶⁸ Smulovitz, C, Peruzzotti, E, (2000) pg 151

¹⁶⁹ Sengupta, A, (2014) at 254

¹⁷⁰ Moncrieffe, J, (2011) pg 10

¹⁷¹ O'Donnell, G, in A. Schedler, L. Diamond, M. Plattner (eds) (1999) pg 30

¹⁷² Schedler, A, in A. Schedler, L. Diamond, M. Plattner (eds) (1999) pg 16

¹⁷³ The Ian Tomlinson Campaign, available at

http://www.iantomlinsonfamilycampaign.org.uk/2009/06/contacts_405.html Accessed 9th September 2014.

Hereafter cited as the Tomlinson Campaign

¹⁷⁴ HMIC, Adapting to Protest – Nurturing the British Model of Policing, available at

<http://www.statewatch.org/news/2009/nov/uk-hmic-adapting-to-protest.pdf> Accessed 9th September 2014.

Hereafter cited as Adapting to Protest

¹⁷⁵ Adapting to Protest pg 151

to the circumstances.¹⁷⁶ The Adapting to Protest review evidences the application of institutional mechanisms of societal accountability as the campaign into the death of Ian Tomlinson also resulted in a review of public order policing.

Non institutional mechanisms of societal accountability are, as previously stated, social mobilisations, media and public exposures.¹⁷⁷ In the context of policing these non-institutional mechanisms are also evidenced in the police and have resulted in the abrupt end to a number of careers. For example, the affair concerning The Rt. Hon Andrew Mitchell, more commonly known as ‘plebgate’ evidences the application of non-institutional mechanisms of societal accountability. At the time The Rt. Hon Andrew Mitchell was the Government’s chief whip and attempted to exit through the gates of Downing Street on his bicycle in 2012. Whilst trying to exit through the gates of Downing Street he was asked by police officers to dismount from his bicycle. According to official police records in the exchange with officers he swore at officers and called them ‘plebs.’ There was considerable media coverage of the affair. The Rt. Hon Andrew Mitchell later resigned his position but maintained his innocence. He was later visited at his Constituency office by members of the Police Federation who, on leaving his office, told the gathering media that he had refused to give an explanation of his side of events. However, unknown to those members of the Police Federation, the meeting was recorded by Mitchell and was subsequently released by him to the media.

In the recording Mitchell was heard to give a full explanation. This leak combined with other factual inaccuracies led to an enquiry¹⁷⁸ which led to the arrest of a number of police officers for offences including, amongst others, misconduct in a public office.¹⁷⁹ As a consequence of the enquiry one officer was sentenced to a term of imprisonment of 12 months,¹⁸⁰ whilst three others appeared before misconduct hearings and faced a range of disciplinary procedures, including dismissal.¹⁸¹

The ‘plebgate’ incident demonstrates the application and nature of societal accountability in the context of policing as, initially, the career of Mitchell was brought to an abrupt end. The media and public exposure led to issues surrounding police malpractice being promoted to the public agenda. The promotion of such procedurally barred issues to the public agenda is, as argued by Smulovitz and Peruzzotti, evidence of societal accountability.¹⁸² Further, as a consequence of the media and public exposures corrupt police officers were either convicted or dismissed from office.¹⁸³

Thus the theories of vertical, horizontal, hybrid and societal accountability not only demonstrate the new found depth and reach of accountability but also importantly show that police accountability itself should not be considered a static, one dimensional, catch all concept which has been evident in much of the literature in the subject to date. Rather, the

¹⁷⁶ Adapting to Protest pg 151

¹⁷⁷ Smulovitz, C, Peruzzotti, E, (2000) pg 150

¹⁷⁸ Operation Alice, Closing Report, available at

<http://www.met.police.uk/pressbureau/Bur01/Operation%20Alice%20Closing%20Report.pdf> Accessed 10th September 2014. Hereafter cited as Operation Alice

¹⁷⁹ Operation Alice pg 37

¹⁸⁰ Operation Alice pg 53

¹⁸¹ Operation Alice pg 54 - 56

¹⁸² Smulovitz, C, Peruzzotti, E, (2000) pg 153

¹⁸³ Operation Alice pg 54 - 56

argument presented in this chapter is one of context. All the theories of accountability are actually evidenced to some extent and applied in the police. Further, as evidenced by the analysis of vertical and hybrid theories of accountability in the context of PCCs, the theories of accountability are not mutually exclusive and in practice can operate concurrently.

This chapter proceeds to explore the key facets and mechanisms of accountability. After this the vital role that accountability has in securing police legitimacy is examined.

The key facets and mechanisms of accountability

The key facets of accountability are answerability,¹⁸⁴ enforceability¹⁸⁵ and the possibility of sanctions.¹⁸⁶ Further, the ever present threat of being called to account ensures compliance.¹⁸⁷ Therefore, given their importance, appropriate mechanisms of accountability are crucial,¹⁸⁸ as are the structures and organisation of the institutions created for the purpose of securing accountability.¹⁸⁹ The mechanisms and structures of accountability are crucial as if they fail, legitimacy of the accountor or governor will weaken¹⁹⁰ and may be ultimately undermined.¹⁹¹

The actual mechanisms of enforcing accountability vary and are dependent on the institution to be held accountable and the institution to which accountability is ultimately owed.¹⁹² However the police, as previously argued in this chapter, are the specialist carriers of state power and must be held accountable. Therefore the mechanism for holding the police to account is vital. The mechanisms of accountability have been defined as hard and soft.¹⁹³

Malleson argues that hard mechanisms of accountability are defined and evidenced by the removal from office of public officials, disciplinary proceedings, public censure and civil or criminal liability.¹⁹⁴ In the context of policing these forms of hard accountability have been recently evidenced. For instance, prior to completion of the Levinson enquiry,¹⁹⁵ Sir Paul Stephenson resigned as Commissioner of the Metropolitan Police citing the public outcry surrounding the corrupt relationship between the police and the press. The removal of police officers from office has also been recently evidenced by the previously mentioned ‘plebgate’ affair as one officer was sentenced for misconduct in a public office,¹⁹⁶ whilst others were subject to public censure and disciplined or dismissed from their office on the grounds of gross misconduct.¹⁹⁷ The other form of hard accountability, that of criminal and civil liability, has also been recently evidenced in the context of policing by the case of Ian Tomlinson. The officer that pushed Ian Tomlinson was subject to a high profile criminal trial. The police officer was acquitted of manslaughter but later dismissed from the police. Civil proceedings

¹⁸⁴ Schedler, A, in A. Schedler, L. Diamond, M. Plattner (eds) (1999) pg 14

¹⁸⁵ Schedler, A, in A. Schedler, L. Diamond, M. Plattner (eds) (1999) pg 15

¹⁸⁶ Sengupta, A, (2014) at 252

¹⁸⁷ Mulgan, R, (2000) pg 567

¹⁸⁸ Oliver, D, in N. Bamforth and P. Leyland (eds) (2013) pg 304

¹⁸⁹ Lambert, L, (1986) pg 19

¹⁹⁰ Oliver, D, in N. Bamforth and P. Leyland (eds) (2013) pg 292

¹⁹¹ Oliver, D, in N. Bamforth and P. Leyland (eds) (2013) pg 305

¹⁹² Sengupta, A, (2014) at 253

¹⁹³ Malleson, K, (1999) pg 38

¹⁹⁴ Malleson, K, Ashgate (1999) pg 39

¹⁹⁵ An Enquiry into the Culture, Practices and Ethics of the Press, available at http://www.official-documents.gov.uk/document/hc1213/hc07/0780/0780_i.pdf Accessed 9th September 2014. Hereafter cited as the Levinson Enquiry.

¹⁹⁶ Operation Alice pg 54 - 56

¹⁹⁷ Operation Alice pg 54 - 56

were also commenced against the Metropolitan Police which resulted in an award of money in compensation and a formal apology.¹⁹⁸

Malleson argues that soft mechanisms of accountability have developed as an alternative to the crude and sometimes ineffective mechanisms of hard accountability, described as such due to their ineffectual means of imposing ongoing duties.¹⁹⁹ Soft mechanisms of accountability are defined and evidenced by the qualities of openness and representativeness.²⁰⁰ The mechanisms of soft accountability are linked to the requirement for decision makers to justify and explain their decisions meaning they have become more procedurally transparent.²⁰¹ Thus this form of accountability requires decision makers to be more demographically representative or culturally reflective of the community they serve.²⁰² It is argued that this development has made the make-up, background and social attitudes of decision makers such as Members of Parliament, civil servants and police officers more open to scrutiny.²⁰³

Mechanisms of soft accountability are defined by the qualities of openness and responsiveness.²⁰⁴ These qualities mean that decision makers are required to justify and explain their decisions, which in turn, makes their decisions more procedurally transparent.²⁰⁵ The qualities of soft accountability are evidenced in the police by the questioning of police commanders and members of ACPO before the House of Commons Home Affairs Committee.²⁰⁶ Evidence of openness, responsiveness and explanations is evidenced in the minutes of evidence contained in the Committee's report. The Chair of the Committee questioned a senior police commander on police tactics during protests, and draw reference to the death of Ian Tomlinson.²⁰⁷ In response to the question a police Commander explained in detail how police officers are trained for public protest and instructed to record any use of force, making them accountable for the use of force.²⁰⁸ The Commander, in responding to the committee's questions, was seeking to provide transparency around issues of use of force.²⁰⁹

In the context of policing the mechanisms of hard and soft accountability although categorised separately often work concurrently. This is evidenced by the investigation into the death of Ian Tomlinson. During this investigation both hard and soft mechanisms of accountability were clearly evidenced. The hard mechanisms of accountability were evidenced by the criminal and civil action taken against the police whilst the soft mechanisms of accountability were evidenced by police Commanders giving explanations of police tactics before the House of Commons Committee.

¹⁹⁸ See Ian Tomlinson's family win apology from Met Police over death in 2009
<http://www.theguardian.com/uk-news/2013/aug/05/ian-tomlinson-apology-met-police> Accessed 23rd October 2014

¹⁹⁹ Malleson, K, (1999) pg 38

²⁰⁰ Malleson, K, (1999) pg 41

²⁰¹ Malleson, K, (1999) pg 38

²⁰² Malleson, K, (1999) pg 42

²⁰³ Malleson, K, (1999) pg 42

²⁰⁴ Malleson, K, (1999) pg 41

²⁰⁵ Malleson, K, (1999) pg 38

²⁰⁶ House of Commons Home Affairs Committee, Policing of the G20 Protests, Report, together with formal minutes, oral and written evidence, available at

<http://www.publications.parliament.uk/pa/cm200809/cmselect/cmhaff/418/418.pdf> Accessed 11th September 2014. Hereafter cited as Policing of the G20 Protests

²⁰⁷ Policing of the G20 Protests pg 83 - 87

²⁰⁸ Policing of the G20 Protests pg 84

²⁰⁹ Policing of the G20 Protests pg 84

This chapter now turns to consider the mechanisms of institutional and individual police accountability before offering an analysis of the vital role that accountability has in securing police legitimacy.

Mechanisms of institutional and individual police accountability

Theorists such as Day contend that the police need to be accountable both individually and institutionally.²¹⁰ In theory police officers are individually accountable for the exercise of specific powers.²¹¹ This form of accountability is evidenced, for example, by the new code of conduct for stop and search.²¹² This code of conduct has the stated aim of encouraging accountability in the police.²¹³ The code also contains, what has been termed, a community complaints trigger.²¹⁴ This trigger in practice means that members of the community, on observing officers using stop and search powers, have the ability to raise concerns or complaints on how the police exercise these contentious powers.²¹⁵ However a potential limiting factor and one that may have been overlooked which may affect the success of this new code of conduct is that individual police forces are left with the absolute discretion of how to implement this important mechanism of accountability. Leaving the method of implementation in the hands of individual police forces may actually diminish the potential for scrutiny of how the contentious powers of stop and search is actually exercised by the police. Further the discretion of implementation afforded to individual police forces could lead to different mechanisms of scrutiny. An argument arises that the different mechanisms in turn may themselves lead to a more confused and foggy national picture of police accountability.

Individual officers are also in theory held accountable via a code of ethics containing moral values such as honesty and integrity.²¹⁶ Importantly if the code of ethics is broken by individual officers then this could lead to enforcement and disciplinary proceedings.²¹⁷ However, in practice, there are limitations as to how accountable the police truly are through this mechanism of accountability. This is evidenced by the national figures on police complaints and resulting actions which appear to show very little actual enforcement.²¹⁸

Waddington and Reiner contend that the police are also held accountable organisationally.²¹⁹ Here, the argument is that the police are said to be held accountable by the publication of annual reports,²²⁰ and, as argued by Reiner, an almost mystical sense of identification with

²¹⁰ Day, P, (1987) pg 115

²¹¹ Mulgan, R, (2000) pg 560

²¹² New Codes of Practice for Stop and Search available at

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/346922/Best_Use_of_Stop_and_Search_Scheme_v3.0_v2.pdf Accessed 15th September 2014. Hereafter cited as Best Use of Stop and Search Scheme

²¹³ Best Use of Stop and Search Scheme pg 3

²¹⁴ Best Use of Stop and Search Scheme pg 5

²¹⁵ Best Use of Stop and Search Scheme pg 5

²¹⁶ Code of Ethics pg (s) 4 - 15

²¹⁷ Code of Ethics pg 20

²¹⁸ Annual Police Complaints Statistics show only 5 % of recorded complaints relate to breaches of this code of ethics. Annual Police Complaints Statistics pg 20. Available at

https://www.ipcc.gov.uk/sites/default/files/Documents/research_stats/complaints_statistics_11-12.pdf Accessed 15th September 2014

²¹⁹ Waddington, P.A.J, Wright, M, (2010) pg 86

²²⁰ Her Majesty's Inspectorate of Constabulary, State of Policing, The Annual Assessment of Policing in England and Wales 2012/2013. Available at <http://www.hmic.gov.uk/wp-content/uploads/2014/03/state-of-policing-12-13.pdf>. Accessed 31 July 2014

the British people, not the state.²²¹ Reiner asserts that the police are supposedly in tune with the popular will because of their social representativeness.²²² Reiner supports this argument by drawing reference to the recruitment policies of the police. Here, it is contended that the police have historically recruited from manual working-class backgrounds thus making the police representatives of the people.²²³ Further, although considered to be ineffective,²²⁴ the police are also in theory accountable to the law as their action is reviewable by the Courts in four ways:²²⁵

- (i) Police officers may be prosecuted for crimes, for example arising out of serious complaints
- (ii) Civil actions may be brought against the police for damages
- (iii) At trial, judges, as defined by s.76 PACE (1984), have the discretion to exclude evidence obtained in violation of police powers. However this discretion to exclude evidence could be argued to be a weak form of accountability as its exercise does not hold the police accountable for any breaches as it simply excludes the evidence obtained.
- (iv) Police policy decisions are judicially reviewable when they are deemed to be ultra vires.²²⁶

This chapter now turns to consider legitimacy, and the role of accountability in securing legitimacy.

Legitimacy

Legitimacy has been described as the most important new concept in policing²²⁷ and central to the exercise of all forms of authority.²²⁸ Police legitimacy can be defined as the right of the police to govern and the recognition by the policed of the right. Indeed, in support of this argument, Tyler argues that the police are only legitimate if people defer to their decisions and follow their directives,²²⁹ be this individual or organisational legitimacy.²³⁰ Therefore, following this logic, the argument is that a democratic nation can only be policed with the consent of the policed and for this to occur the police must be legitimate.²³¹

In addition to this argument, police legitimacy is important for several reasons. First, legitimacy is a key antecedent for obtaining cooperation of the policed.²³² The argument here is that if the police are seen as legitimate by the policed they become more willing to cooperate.²³³ The policed seeing the police as legitimate increases cooperation as it draws on inherent feelings of responsibility and obligation held by the policed.²³⁴ Second, perhaps more radically, it has been argued that if the police are not seen as legitimate by the policed then institutionally the police would actually have difficulty enforcing the law as the police

²²¹ Reiner, R, in M. McConville and G. Wilson (eds) (2002) pg 25

²²² Reiner, R, (2010) pg 74

²²³ Reiner, R, in M. McConville and G. Wilson (eds) (2002) (2002) pg 34

²²⁴ Reiner, R, in M. McConville and G. Wilson (eds) (2002) (2002) pg 34

²²⁵ Reiner, R, in M. McConville and G. Wilson (eds) (2002) (2002) pg 25

²²⁶ Reiner, R, in M. McConville and G. Wilson (eds) (2002) (2002) pg 34

²²⁷ Walker, S Archbold, C, (2014) pg 9

²²⁸ Tyler, T, (2004) pg 87

²²⁹ Tyler, T, (2010) pg 34

²³⁰ Tyler, T, (2010) pg 35

²³¹ Kirby, S, (2013) pg 46

²³² Tyler, T, (2004) pg 90

²³³ Tyler, T, Fagan, J, (2008) pg 263

²³⁴ Tyler, T, (2004) pg 88

rely on the widespread cooperation from the policed.²³⁵ Thus a legitimate police is institutionally important as the police seek to leverage the trust and cooperation of the policed.²³⁶

An accepted argument is that the police must be legitimate or seen to be legitimate for the British model of policing by consent to exist and function effectively. However this does beg the question of how the police obtain legitimacy. There are two propositions that can be put forward. The first concerns a model rooted in the discipline of procedural justice.²³⁷ The second which is of more relevance to this thesis is linked to accountability. Amongst others, Baldwin argues that accountability has the unbearable burden in securing legitimacy in the police.²³⁸ The burden carried by accountability has led some theorists such as Baldwin and Chan to argue that police claims to legitimacy are problematic,²³⁹ weak²⁴⁰ and have repeatedly failed the policed.²⁴¹ Therefore, following this logic, the mechanisms and structures of accountability have fallen short of their intended goal of providing accountability and making the police legitimate. Walker argues that the reasons for these failings are complex.²⁴² Some of the failings are attributable to the inherent nature of policing. The argument presented here by Waddington and Wright is that the police have themselves successfully managed to inflict considerable damage on their organisation, certainly more than any other type of organisations have.²⁴³ Walker argues that another reason for the failing of police claims to legitimacy is that the political system has itself failed to address the problem in a meaningful way.²⁴⁴

A further argument that arises for the failing claims to police legitimacy is that police accountability itself is a multi-faceted polycentric concept which is subject to constant and increasingly complex challenges. The argument that arises here, and one that will be developed and explored over the proceeding chapters, is that the police, at the point of their inception, were tasked with a relatively monopolistic and unchallenged function when compared to the varied and almost unrecognisable functions carried out by the police today. The initial monopolistic and unchallenged function of the police led to little or easily suppressed challenges to their accountability and thus their legitimacy. However, as the functions of the police became increasingly multi-faceted the challenges for accountability in terms of making the police legitimate have become more varied and increasingly complex. These challenges, combined with the arguments that the police have become ever increasingly closed and that the policed have become better informed has led to wave after wave of challenges to police accountability and legitimacy. Therefore, following this logic through, accountability, which is demanded more aggressively when the policed have lost

²³⁵ Tyler, T, Fagan, J, (2008) pg 262

²³⁶ Tyler, T, Fagan, J, (2008) pg 239

²³⁷ Advocates of the procedural justice model include Tyler, Fagan and Huo. The argument is that the Police can obtain the trust and legitimacy of the policed if five principles are followed. First, the Police are friendly and approachable. Second, the Police treat people with respect. Third, the Police show fairness in their decision making. Fourth, the Police take time to explain their decision making. Finally, the Police appear neutral and provide citizens with an opportunity to present their views. See Tyler, T, Huo, Y, Trust in the Law, (2002) and Tyler, T, Fagan, J, (2008)

²³⁸ Baldwin, R, (1987) pg 97

²³⁹ Baldwin, R, (1987) pg 105

²⁴⁰ Baldwin, R, (1987) pg 102

²⁴¹ Chan, J, (1999) pg 266

²⁴² Walker, S, (2001) pg 9

²⁴³ Waddington, P.A.J, (2010) pg 85

²⁴⁴ Walker, S, (2001) pg 9

trust in the integrity of the police,²⁴⁵ bears an ever increasing burden in justifying support and legitimacy for the police.²⁴⁶

Accountability has the burden of securing legitimacy in the police.²⁴⁷ Satisfactory mechanisms and structures of accountability are vital to securing legitimacy in the police. If accountability is not present, or perceived not to be present, police legitimacy will weaken.²⁴⁸ Weakened legitimacy will have the effect of ultimately undermining the police.²⁴⁹ Weakened and undermined legitimacy would have grave consequences as the police are an organ of the state²⁵⁰ entrusted with exercising force on behalf of the state over its citizens.²⁵¹

Conclusion

This chapter has made several interconnected and important arguments that will be developed as this thesis progresses. This chapter has demonstrated that the concept of accountability has evolved. This evolution means that accountability, once a concept equated with the restricted meaning of answerability, has a far greater depth and reach. Here, the chapter referred to the four theories of accountability. The theories of vertical, horizontal, hybrid and societal accountability are conceptually different and therefore demonstrate the greater depth and reach of accountability. Indeed, as argued in this chapter, the depth and new found reach of police accountability is evidenced as each of the four theories are found in the British model of policing. Further, and importantly, this chapter has argued that the theories of accountability, when applied in the context of policing, can operate concurrently. Indeed, it has also been argued in this chapter, that the hard and soft mechanisms of accountability also operate concurrently in the police. Thus the concurrent nature of police accountability means that it should not be considered a static, one dimensional, catch all concept but a fluid, multifaceted, relational, polycentric concept. These qualities of police accountability will be subject to further analysis as the thesis progresses.

This chapter has argued that accountability is the very bedrock of policing. In support of this argument this chapter cited a number of recent and significant reports and reviews including the Stephen Lawrence Inquiry, The Review of Policing and the Patten Commission. Although these reports and reviews have different terms of reference and parameters of investigation they all conclude that the police must be accountable. Indeed, as Patten argued in his review of policing arrangements in Northern Ireland, accountability must run through the bloodstream of the whole body of the police. This chapter, in supporting the argument that accountability is the very bedrock of policing, also made reference to two reports published in 2014, Operation Herne and the House of Commons Home Affairs Committee report on child sexual exploitation. Operation Herne's stated aim was the accountability of those officers involved in the highly contentious and controversial practice of using the names of deceased children to create legends suitable for covert identities. The House of Commons Home Affairs Committee report on child sexual exploitation, an equally contentious, controversial and emotionally driven topic, demonstrates that accountability has powerful and

²⁴⁵ Chan, J, (1999) pg 266

²⁴⁶ Baldwin, R, (1987) pg 103

²⁴⁷ Baldwin, R, (1987) pg 97

²⁴⁸ Reiner, R, in M. McConville and G. Wilson (eds) (2002) (2002) pg 30

²⁴⁹ Oliver, D, in N. Bamforth and P. Leyland (2013) pg 305

²⁴⁹ Sengupta, A, (2014) at 253

²⁵⁰ Reiner, R, in R. Reiner and S.Spencer (eds) (1993) pg 1

²⁵¹ Fyfe, J, Greene, J, Walsh, W, Wilson, O and McLaren, R, Fifth Edition (1997) pg 48

transcending qualities as a PCC resigned but not for oversights in his role as a PCC but for oversights he was made accountable for in his previous occupation as a cabinet member.

This chapter also acknowledged that in a democracy the police must be open to challenge and be accountable. The link argument made here was that if the police are not accountable democracy ends and a police state begins. In support of these propositions, the chapter made reference to a number of arguments. These arguments included the intrusive nature of police power, the potential for abuse or misuse of power, the fact that the police have a wide discretion in executing their powers and finally that the police must be open to check by those from whom their power is ultimately sourced. Given these arguments police accountability and the debate which surrounds it is critically important as an unaccountable police would have far reaching consequences. However, given the far reaching consequences of an unaccountable police, police accountability has itself been described as a highly contested, elusive, peculiar, elastic and complicated concept.

This description of police accountability is deeply concerning for several reasons. First, the police are conceivably founded upon the notion of accountability. Indeed, the Patten Commission argued that accountability must run through the bloodstream of the whole body of the police. However, put simply, if police accountability is such a peculiar, elusive and elastic concept how can the police be founded upon it? Second, as argued in this chapter, accountability has ever increasing burden in justifying legitimacy for the police. Therefore, logically, if police accountability is peculiar, elusive and elastic how can it provide the basis for making the police legitimate.

The argument that arises here is that the structures and mechanisms created for the purpose of enhancing and securing police accountability, which in turn builds legitimacy, have proved elusive. Further, the structures and mechanisms of police accountability would also appear to have repeatedly failed the police and the policed. Importantly, a weakened and undermined legitimacy not only threatens the British model of policing but also substantially weakens the foundations of a fundamental organ of the state. Weakened foundations in a state organ is especially concerning when the state organ in question is the police as the police are empowered and entrusted with, amongst other powers, the legitimate exercise of force which can be lethal in nature.

The police accountability debate is one that must be embraced. Previous enquires, reports and reviews may not have embraced the debate satisfactorily as police accountability is, as evidenced in this chapter, considered peculiar and elusive. There can be no doubt that the police must be accountable in order to be seen as legitimate. Satisfactory mechanisms and structures of police accountability are vital to securing police legitimacy. Yet, as argued in this chapter, satisfactory mechanisms and structures of accountability have proved elusive. Over the following chapter this thesis will develop the core arguments in this chapter by exploring and offering a critical analysis of the structures and mechanisms of police accountability. The thesis also offers a critical analysis of the present structure and model of police accountability. Using empirical evidence derived from interviews as part of field work for this thesis, it will seek to examine whether the present structure and model of police accountability is satisfactory or whether it creates significant risks for policing and police accountability in the future.

Chapter 2: The incremental development of policing and police accountability

This second chapter will argue that the system of policing has developed incrementally from an amateur, unaccountable, decentralised system to a more professional, accountable centralised one which focuses on the prevention of crime. In exploring this incremental development the chapter begins by considering the fragmented and unaccountable system of police prior to the series of reforms which, although singularly did not establish a new system of police, but collectively contributed to the establishment of a new, more professional centralised and accountable system of police in 1829. The series of reforms considered in this chapter derive primarily from William Pitt, Patrick Colquhoun and Sir Robert Peel.

This chapter will offer an analysis of the structures and mechanisms of police accountability which developed and whether they played an integral role in securing 'legitimacy' in the new system of police. The chapter will also offer a broader analysis of other structures and mechanisms of accountability that were introduced at the time of inception of the new police and explore their importance to the success of the new system of police in its infancy.

Additionally this chapter will offer an analysis that sheds light on why the new system of police was initially introduced into the metropolis and then expanded to the whole country and the legislative and regulatory framework for this. Here the chapter will draw reference from a number of Select Committees appointed to investigate the state of the police and how the Committees contributed to the development of the new police and the structures of police accountability.

Prior to concluding this chapter will explore whether the theories and key facets of accountability, explored and analysed in the first chapter of this thesis, played a significant role in the evolution, expansion and consolidation of the new system of police.

An incremental evolution of the police

Police reform, in the late 18th century, became part of wider concerns at the failings of the criminal justice system, specifically increasing rates of crime.²⁵² Large, rapidly growing cities and industrial development contributed to the increasing rates of crime, disorder and social conflict.²⁵³ The early system of police has been described as amateur in nature²⁵⁴ and prone to high levels of corruption.²⁵⁵ At the heart of this system of police was a fragmented and largely unaccountable system of parish constables, beadles and watchmen.²⁵⁶

Under this fragmented system of police those who discharged duties may not have been termed constables²⁵⁷ but they were locally appointed and self-governing.²⁵⁸ Further, their powers were derived from the common law.²⁵⁹ As the term constable evolved those in office became representatives of their parishes and townships and subject to its responsibilities.²⁶⁰ The parish constables also became units of local governance as they kept the peace.²⁶¹ The constables, who were locally accountable, were aided in their duties by beadles who held a wide range of duties including keeping the streets clear of beggars and vagrants by day and by night acting as supervisors of the watchman.²⁶² The watchman were local agents of law enforcement, paid by local rate payers²⁶³ and as such accountable to local magistrates.²⁶⁴ Despite complaints concerning the inefficiency²⁶⁵ of beadles and accusations of corruption,²⁶⁶ neglect of duty,²⁶⁷ drunkenness²⁶⁸ and indiscipline of watchman,²⁶⁹ they along with constables formed the foundations of law enforcement in the early 18th century.²⁷⁰

The Home Office, established in 1782, gave a focal point for those who wanted reform of the criminal justice system.²⁷¹ With the establishment of the Home Office police reform models gathered pace. The aim of the most radical was a system of street policing conceived as part of a new bureaucratic ideology of the police that was intended to be honest, accountable and impartial.²⁷²

The proposed reforms to the system of policing considered by the Home Office varied and alternative mechanisms to make the police accountable also differed. However, it will be shown each contributed to the evolution of the police and the eventual adoption of a more professional, accountable, centralised system. Further, whilst considering the reforms, this

²⁵² Reynolds, E, (1998) pg 71

²⁵³ Reiner, R, (2010) pg 41

²⁵⁴ Reiner, R, (2010) pg 41

²⁵⁵ Reynolds, E, (1998) pg 72

²⁵⁶ Reynolds, E, (1998) pg 73

²⁵⁷ Simpson, H.B, (1895) pg 631

²⁵⁸ Simpson, H.B, (1895) pg 626

²⁵⁹ Simpson, H.B, (1895) pg 635

²⁶⁰ Simpson, H.B, (1895) pg 630

²⁶¹ Simpson, H.B, (1895) pg 638

²⁶² Reynolds, E, (1998) pg 10

²⁶³ Emsley, C, (1996) pg 9

²⁶⁴ Reynolds, E, (1998) pg 11

²⁶⁵ Reynolds, E, (1998) pg 18

²⁶⁶ Reynolds, E, (1998) pg 63

²⁶⁷ Reynolds, E, (1998) pg 16

²⁶⁸ Reynolds, E, (1998) pg 62

²⁶⁹ Reynolds, E, (1998) pg 65

²⁷⁰ Reynolds, E, (1998) pg 10

²⁷¹ Reynolds, E, (1998) pg 60

²⁷² Reynolds, E, (1998) pg 61

chapter will offer an analysis on whether the mechanisms of accountability proposed at each stage of reform played an integral role in the evolution of the police. The chapter will also explore whether some of the early proposed mechanisms of accountability were later adapted and used to secure accountability in the new system of police.

The first attempt to establish a professional system of police emerged in 1785. Prompted by the Gordon Riots of 1780 and with the help of the Bow Street Magistrates,²⁷³ Pitt's government, under the guardianship of Solicitor General Sir Archibald McDonald, introduced a radical Police Bill in 1785.²⁷⁴ This Bill was radical because it represented the first attempt to establish a professional police force and propose mechanisms for securing accountability in the police.²⁷⁵

The Bill made clear that a professional system of police was needed to combat increasing levels of crime and help better prevent the perpetration of crime. The Bill stated 'in recent years offences have increased to the great danger and insecurity of the inhabitants'²⁷⁶ and 'further regulations and provisions are necessary for procuring a vigilant and steady execution of the law and for better preventing the perpetration of crimes'.²⁷⁷ Pitt's Bill placed emphasis on accountability and a professionalised uniform centralised system of police,²⁷⁸ stating 'cities and boroughs should be united and made subject to the same provisions and regulations...and be called *The District of the Metropolis* for the better carrying into execution the laws now in being'.²⁷⁹

The Bill aimed to establish for the first time a system of police to act throughout the whole of the metropolitan area. Pitt's Bill proposed that the metropolitan area be divided into nine divisions, within each division there was to be a force of petty constables who would be under the command of chief constables who were in turn under the command of the Police Commissioner.²⁸⁰ Thus Pitt's Bill proposed, for the first time, a chain of command that intended to make police officers accountable for their actions. The Bill also stated that constables, who were to be regarded as ministerial officers of the peace, were to patrol on foot and horseback and forbidden to receive tips or other rewards.²⁸¹ Thus Pitt intended to eradicate the inefficiency, neglect of duty and corruption associated with the existing fragmented, decentralised and unaccountable system of police. The Bill proposed the retention of existing parish constables and watchman but insisted that their duties had to be co-ordinated with the constables.²⁸² Pitt's Bill also had the aim of codifying powers of search and arrest.²⁸³

Pitt's 1785 Bill had supporters who, citing fears over rising crime, were willing to displace traditional fears over increasing executive power.²⁸⁴ However opponents saw the Bill as

²⁷³ Critchley, T.A, (1967) pg 36

²⁷⁴ A Bill For The further Prevention of Crimes, and for the more speedy Detection and Punishment of Offenders against the Peace, in the Cities of London and Westminster, the Borough of Southwark, and certain Parts adjacent to them. (1785) Hereafter cited as Police Bill (1785)

²⁷⁵ Police Bill (1785) pg 3-5

²⁷⁶ Police Bill (1785) pg 1

²⁷⁷ Police Bill (1785) pg 2

²⁷⁸ Reynolds, E, (1998) pg 73

²⁷⁹ Police Bill (1785) pg 2

²⁸⁰ Police Bill (1785) pg 3-5

²⁸¹ Critchley, T.A, (1967) pg 36

²⁸² Critchley, T.A, (1967) pg 36

²⁸³ Police Bill (1785) pg 13

²⁸⁴ Reynolds, E, (1998) pg 74

subversive to liberty²⁸⁵ and claimed that the Bill would inherently give too much power to the executive.²⁸⁶ Opposition to the Bill grew and by June 1785 the Middlesex Justices and the Court of Common Council were preparing their opposition.²⁸⁷ Pitt himself admitted that he was not a master of the subject²⁸⁸ and was only slightly acquainted with it.²⁸⁹ The Bill was subsequently withdrawn from Parliament and the first attempt to create a uniform, centralised, professional accountable system of police ended without success. Had the Bill passed through Parliament it could have drastically altered the system of policing changing it from an amateur unaccountable one to what could be argued a more professional and accountable one.²⁹⁰

Crucially, despite the abortive nature of Pitt's Bill, the momentum of reform was not entirely lost. In Ireland, the Bill was enacted in its original form in 1786.²⁹¹ The Dublin Police Act 1786 laid the slender foundations of a national police force, the Royal Irish Constabulary. Sir Robert Peel, when Chief Secretary for Ireland, introduced a series of police reforms foreshadowing his work in creating the Metropolitan Police in 1829.²⁹² In England, Pitt's aborted Bill spurred reform. Although opponents to the Act cited the potential for government abuse and the invasion of liberties, the Middlesex Justices Act 1792 created 21 paid magistrates controlling 7 police officers.²⁹³ However the police organisation established by the Act has been considered too small and decentralised to have any noticeable effect on the state of the metropolis.²⁹⁴ The Act was also considered timid, reactionary and of little effect.²⁹⁵

Patrick Colquhoun built on the foundations of Pitt's aborted 1785 Police Bill. Colquhoun throughout his twenty five years as a London Magistrate held a dominant interest, reform of the police.²⁹⁶ He was the first person to carry out a systematic survey of London's policing arrangements²⁹⁷ and in 1797 published 'A Treatise on the Police of the Metropolis'.²⁹⁸ Colquhoun, persistent advocate of centralised uniformed policing,²⁹⁹ followed the abortive proposals of Pitt's 1785 Police Bill and insisted on the separation of judicial and police powers.³⁰⁰ He proposed the creation of a professional police and, for the first time, a central police board.³⁰¹ Colquhoun envisaged that with 'the establishment of a general police system, it will become the duty of one class of men to watch over the general delinquency of the

²⁸⁵ Critchley, T.A, (1967) pg 74

²⁸⁶ Reynolds, E, (1998) pg 74

²⁸⁷ Reynolds, E, (1998) pg 75

²⁸⁸ Critchley, T.A, (1967) pg 37

²⁸⁹ Reynolds, E, (1998) pg 75

²⁹⁰ Reynolds, E, (1998) pg 73

²⁹¹ Critchley, T.A, (1967) pg 38

²⁹² Leonard, D, (2008) pg 185

²⁹³ Reynolds, E, (1998) pg 85

²⁹⁴ Gash, N, (1961) pg 311

²⁹⁵ Critchley, T.A, (1967) pg 37

²⁹⁶ Critchley, T.A, (1967) pg 38

²⁹⁷ Critchley, T.A, (1967) pg 31

²⁹⁸ Colquhoun, R, A Treatise on the Police of the Metropolis: a Detail of the Various Crimes and Misdemeanours By which Public and Private Property and Security are, at present, inured and endangered: and Suggesting Remedies for their Prevention, see 6th edition available at <http://www.gutenberg.org/ebooks/35650>, accessed 12th December 2013. Hereafter cited as A Treatise on the Police of the Metropolis.

²⁹⁹ Reynolds, E, (1998) pg 84

³⁰⁰ Critchley, T.A, (1967) pg 39

³⁰¹ A Treatise on the Police of the Metropolis pg 561

Metropolis, and the country'.³⁰² The police boards proposed by Colquhoun would 'establish a general responsibility which does not now exist, and which never has existed, with respect to the evils arising from the multiplication of crimes'.³⁰³ Thus the boards proposed by Colquhoun would have provided accountability in his new system of police as they would have, for the first time, held responsibility and been accountable for increasing rates of crime. Further, under Colquhoun's proposals, police officers would have been paid and controlled by the police boards and the boards themselves would have been controlled by the Home Secretary.³⁰⁴ Thus police officers would have been accountable to the police boards who in turn would have been accountable to the Home Secretary.

Colquhoun intended to revolutionise the amateur and fragmented system of police and replace it with a professional body under the direction and co-ordination of the Home Secretary.³⁰⁵ Colquhoun proposed making the system of police accountable by the appointment of police boards. The boards would have controlled and paid the police officers and would have been accountable to the Home Secretary.³⁰⁶ Therefore under Colquhoun's proposals the police boards control of officers itself would have provided the mechanism of securing accountability and legitimacy. Further, the Home Secretary would have provided accountability to Parliament.

The proposals did receive support but opponents to Colquhoun argued that he inflated statistics on crime and failed to censure voices of the rich.³⁰⁷ Other opponents argued that Colquhoun's proposals were an assault on the liberties of the English people.³⁰⁸ Additionally, opponents argued that Colquhoun's proposals were 'a new engine of power and authority so enormous and extensive as to threaten a species of despotism and inquisition without a parallel in this country'.³⁰⁹ This battle, between the responsibility of the state and individual liberty, dodged the creation of a centralised police system for decades to come and has been described by Critchley as the greatest of all human issues.³¹⁰

After Colquhoun published his *Treatise on the Police of the Metropolis* he appeared before a Select Committee of the House of Commons on Finance in 1798.³¹¹ The Committee was appointed by William Pitt to consider the system of police. The Committee stated that the system of policing was not efficient³¹² and examined in depth the expenses of the system of policing.³¹³ Colquhoun, whilst under examination by the Select Committee, stated that it would be 'vain to expect crimes to be wholly prevented, yet every system which has for its object their diminution, cannot fail to operate favourably to the Finances of the Country'.³¹⁴

³⁰² A *Treatise on the Police of the Metropolis* pg 562

³⁰³ A *Treatise on the Police of the Metropolis* pg 562

³⁰⁴ A *Treatise on the Police of the Metropolis* pg 563

³⁰⁵ Critchley, T.A, (1967) pg 40

³⁰⁶ A *Treatise on the Police of the Metropolis* pg 563

³⁰⁷ Reynolds, E, (1998) pg 91

³⁰⁸ Harris, A, (2004) pg 58

³⁰⁹ Observations on a late publication, intituled, A *Treatise on the Police of the Metropolis*, by P Colquhoun, Esq, by a Citizen of London: but no Magistrate (1800)

³¹⁰ Critchley, T.A, (1967) pg 45

³¹¹ Twenty – Eighth Report from the Select Committee on Finance, Police, Including Convict Establishments (1798) available at http://0-gateway.proquest.com.serlib0.essex.ac.uk/openurl?url_ver=Z39.88-2004&res_dat=xri:hcpp&rft_dat=xri:hcpp:rec:rhc-000243 accessed 17th December 2013. Hereafter cited as Select Committee on Finance Report (1798)

³¹² Select Committee on Finance Report (1798) pg 5

³¹³ Select Committee on Finance Report (1798) pg 7 - 14

³¹⁴ Select Committee on Finance Report (1798) pg 45

In essence, Colquhoun argued for the first time that any system of police established for the prevention and reduction of crime had to be also economically efficient.

The Select Committee, taking marginal account of the evidence of Colquhoun and the Treatise on the Police of the Metropolis, proposed a range of measures to meet the accumulating burdens which the Committee considered were the result of errors in the system of police.³¹⁵ The recommendations as argued by the Committee were solely economic³¹⁶ and were calculated to reduce the expense of maintaining, what the Committee termed, a very inefficient Police.³¹⁷ This led some critics, including Critchley, to argue that Colquhoun's reform proposals were not only misunderstood but were introduced at a time when nobody wished to truly understand them.³¹⁸

Following the publication of the Finance committees report in 1798 the government prepared a further Bill which had the aim of establishing a modern police system. However, the Bill was abandoned and the potential was again lost.³¹⁹ However, despite these early setbacks, the momentum for reform was not lost and these incremental developments would be reframed and used again.

Prior to considering the next stages in the incremental evolution of the police this chapter will offer an analysis of the importance of Pitt and Colquhoun's reforms. Further, at this stage in the evolution of the police, this chapter will also draw reference from the first chapter of this thesis and explore whether Pitt and Colquhoun intended an accountability relationship to be formed. This chapter will also offer an analysis of whether the theories and key facets of accountability are evidenced in the reforms proposed by Pitt and Colquhoun.

The proposals made by Pitt and Colquhoun mark the first important steps in the evolution of the police from an amateur, unaccountable, decentralised system to a more professional accountable centralised system. The structures proposed by Pitt and Colquhoun to secure accountability would in part be recycled and used by reform advocates in the nineteenth century, specifically Peel in 1829.

Pitt's aborted bill of 1785 was the first attempt to establish a professional, accountable system of police. For the first time Pitt argued that a new system of police was needed to combat rising crime and better prevent the perpetration of crime. Had Pitt's Bill not been withdrawn it would have made the system of police, for the first time, centralised, professional and accountable. Pitt intended to introduce a clear command structure, whereby petty constables would have been accountable to chief constables who would have in turn been accountable to the police commissioner.³²⁰ The Bill would have also made individual officers within a more centralised system of police accountable as the contentious police powers of search and arrest would have been codified for the first time.³²¹ The effect of these provisions would have been, for the first time, uniformity. These features of Pitt's Bill mark a significant step in the evolution of the police and ones that would be adapted and used by Peel himself.

Colquhoun in 1797, like Pitt before him, proposed the creation of a centralised professional system of police. However, importantly, Colquhoun differed from Pitt as he proposed for the

³¹⁵ Select Committee on Finance Report (1798) pg 31

³¹⁶ Select Committee on Finance Report (1798) pg 31 - 32

³¹⁷ Select Committee on Finance Report (1798) 33

³¹⁸ Critchley, T.A, (1967) pg 42

³¹⁹ Critchley, T.A, (1967) pg 40

³²⁰ Police Bill (1785) pg 3-5

³²¹ Police Bill (1785) pg 2

first time the creation of central police boards. The police boards proposed by Colquhoun would have been the mechanism of securing accountability. The boards proposed by Colquhoun would have secured accountability in the police as they would have held the police to account as officers would have been accountable to the boards. The boards themselves would have also been accountable to the Home Secretary, who in turn would have been accountable to Parliament.³²² Colquhoun's proposal to create central police boards was an important step in the evolution of the police as they would have, for the first time, held a general responsibility for the rates of crime and thus would have been accountable for any increase. This method of accountability proposed by Colquhoun is one that would be recycled and used by later advocates as a method of securing accountability in the police. However, Colquhoun, like Pitt before him, failed to contain the argument that a new system of police would lead to increasing state control.

The 1798 report of the Select Committee of the House of Commons on Finance recognised the deficiencies within the system of police but did not offer any exploration of police accountability or propose any mechanisms to achieve it. However the Select Committee did, for the first time, frame police accountability within a financial sense, stating that the system of police was not financially efficient.³²³ Thus the Committee argued that any system of policing had to also be economically efficient and sustainable if it was to succeed. This explicit recommendation by the Select Committee represents another important step in the evolution of the police. Not only was it the first time that this argument was presented but it would be one that would be adapted and developed by Peel in 1828 when he put forward arguments supporting the establishment of a new system of police.³²⁴ Further, economic sustainability would form a structure for securing accountability in the police almost two hundred years later.³²⁵

Accountability, in its core literal sense, as defined in the first chapter of this thesis, means a system whereby an institution, person or organisation is accountable and answerable to another or others.³²⁶ Therefore, accountability in this core sense, means an institution person or organisation being answerable³²⁷ and giving accounts or explanations³²⁸ to other institutions, persons or organisations. The first chapter of this thesis also argued that there are two branches formed within the accountability relationship. The first branch, the one vested with certain powers regarding the exercise of which accountability is sought, was defined as the accountant³²⁹ or governor.³³⁰ The second branch, the one to which the accountant or governor owes accountability and therefore must explain or justify action was defined as the accountee³³¹ or governed.³³²

Pitt's 1785 Police Bill proposed, for the first time, a clear command structure. The structure intended by Pitt would have resulted in petty constables being accountable to chief constables who in turn would have been accountable to the police commissioner.³³³ Importantly the

³²² A Treatise on the Police of the Metropolis pg 563

³²³ Select Committee on Finance Report (1798) pg 33

³²⁴ HC Deb, 28 February 1828, vol 18, cols 795

³²⁵ see chapter three of this thesis pg (s) 77 to 79

³²⁶ Day, P, (1987) pg 1

³²⁷ Sengupta, A, (2014) at 251

³²⁸ Chan, J, (1999) pg 252

³²⁹ Oliver, D, in N. Bamforth and P. Leyland (eds) (2013) pg 290

³³⁰ Day, P, (1987) pg 1

³³¹ Oliver, D, N. Bamforth and P. Leyland (eds) (2013) pg 290

³³² Day, P, (1987) pg 1

³³³ Police Bill (1785) pg 3–5

command structure intended by Pitt evidences, for the first time, the proposed formation of a accountable relationship within which a key facet and mechanism of hard accountability would have been present, answerability.³³⁴ The accountable relationship intended by Pitt would have also been multi-layered. The relationship would have been multi layered as the petty constables would have been the accountors as they would have owed explanations and thus would have been accountable to their accountees, the chief constables. However, the chief constables would have also performed a accountor function as they would have been answerable to the police commissioner, who would have been the accountee.

The multi-layered accountability relationship proposed by Pitt is also evidenced by the police boards proposed by Colquhoun in 1797. The boards would have, for the first time, held responsibility for holding the police to account as officers would have been answerable and thus accountable to them. Thus, the boards envisaged by Colquhoun, at this level of the accountability relationship, would have been the accountee and the police the accountor. However, Colquhoun's police boards would have also been accountable and answerable to the Home Secretary. Thus, the boards, at this level of the accountability relationship, would have been the accountor and the Home Secretary would have been the accountee. The Home Secretary would have also been accountable to Parliament. Thus, at this level of the accountability relationship, the Home Secretary would have owed accountability to Parliament and thus would have performed accountor functions as he would have owed explanations to Parliament. Thus, Parliament would have been the accountee.

Colquhoun's proposal to create central police boards, in addition to evidencing the multi-layered nature of the police accountability relationship, also evidences a key facet and mechanism of hard accountability, that of answerability.³³⁵ Colquhoun's police boards also evidence, for the first time, the theory of horizontal accountability. Horizontal accountability, defined in the first chapter of this thesis, means accountability between or amongst government organs³³⁶ and the state's internal process of review and auditing.³³⁷ Therefore, as argued in the first chapter of this thesis, horizontal accountability is evidenced when state agencies monitor one another.³³⁸ The argument that arises here is that the accountability framework proposed by Colquhoun evidences, for the first time in the police, the application of horizontal accountability as the police boards would have monitored the police. However the boards in turn would have themselves been monitored. Thus the monitoring requirements of horizontal accountability would have been fulfilled by Colquhoun's police boards.

This chapter now turns to explore a number of Parliamentary Select Committees, appointed to investigate the state of the system of police. The Select Committee of 1828 ultimately gave approval to the establishment of a more professional accountable centralised system of police. However, prior to exploring this Select Committee the chapter will consider the proceeding Committees.

Successive select committees of 1812, 1816 and 1818 failed to produce a method for improving, what was later considered, a defective police system.³³⁹ Peel, who was chief secretary of Ireland from 1812 to 1818, created a centrally controlled uniformed police system in order to stem Ireland's high levels of crime.³⁴⁰ Peel in 1822, after he had been

³³⁴ Schedler, A, in A. Schedler, L. Diamond, M. Plattner (eds) (1999) pg 14

³³⁵ Schedler, A, in A. Schedler, L. Diamond, M. Plattner (eds) (1999) pg 14

³³⁶ Sengupta, A, (2014) at 249

³³⁷ Goetz, A, Jenkins, R, (2001) pg 363

³³⁸ Goetz, A, Jenkins, R, (2001) pg 364

³³⁹ HC Deb 15 April 1829, vol 21, cols 868

³⁴⁰ Reynolds, E, (1998) pg 126

appointed Home Secretary, requested another select committee on the Police of Metropolis.³⁴¹

However, despite Peel's intention, the select committee of 1822 recommended only minor changes to the policing structures of the metropolis.³⁴² The committee concluded 'it is difficult to reconcile an effective system of police, with that perfect freedom of action and exemption from interference, which are the great privileges and blessings of society in this country; and Your Committee think that the forfeiture or curtailment of such advantages would be too great a sacrifice for improvements in the police'.³⁴³

Thus, Peel's first attempt at reforming the police of the metropolis and establishing a professional, accountable, centralised system of police ended without success. Frustratingly for Peel, the 1822 Select Committee again cited the battle between the state and individual liberty. Despite this setback his passion for reform remained. Peel re-focused his attention on the areas of the police that were under the direct control of the Home Office and the wider criminal justice system, where he recognised the interdependence of crime, police and penal reform.³⁴⁴

Just six years later, in 1828, a further Select Committee on the Police of the Metropolis was secured.³⁴⁵ Before the 1828 select committee evidence was given detailing the failings of the amateur, unaccountable and decentralised system of police. Evidence given by those called before the Committee as witnesses was unambiguous; 'we have gone as far as an imperfect system will admit'.³⁴⁶ The 1828 Select Committee reported that 'there will be a manifest advantage in considering the whole force, of whatever determination it may consist, as one united establishment'.³⁴⁷ Additionally, the Committee stated 'the system as a whole is defective; and in the opinion of Your Committee the time is now come when determined efforts ought to be made to effect a decisive change... a better system can be adopted and with no new restraint on the liberty of the subject'.³⁴⁸ Further, the Select Committee argued 'the presumption is very strong that the present system... is in principle defective'.³⁴⁹ The Select Committee recognised that the problem was decentralised control and local diversity versus centralised control and uniformity.³⁵⁰

The 1828 Select Committee's conclusion and recommendation represents a clear departure from the previously held and successively reinforced position. The committee's conclusion was important for several reasons. First, and perhaps most importantly, their conclusion gave Peel the parliamentary endorsement he needed to set about creating a new system of police.

³⁴¹ Report from the Select Committee on the Police of the Metropolis (1822) available at http://0-parlipapers.chadwyck.co.uk.serlib0.essex.ac.uk/fulltext/fulltext.do?area=hcpp&id=1822-007659&source=&pagenum=1&resultNum=1&entries=1&queryId=.%2Fsession%2F1389018542_15403&backto=FULLREC&fromSearchHistory=&searchWithin=&showall=&enlarge=&gotoFirstHit=&SEARCHSTRING= Accessed 6th January 2014. Hereafter cited as Select Committee Report on the Police (1822)

³⁴² Reynolds, E, (1998) pg 127

³⁴³ Select Committee on the Police (1822) pg 11

³⁴⁴ Reynolds, E, (1998) pg 129

³⁴⁵ Report from the Select Committee on the Police of the Metropolis (1828) available at http://0-parlipapers.chadwyck.co.uk.serlib0.essex.ac.uk/fullrec/fullrec.do?area=hcpp&resultNum=2&entries=6&source=config.cfg&queryId=../session/1389022635_26422&fulltexthits=28811 accessed 3rd January 2014. Hereafter cited as Select Committee on the Police (1828)

³⁴⁶ Select Committee on the Police (1828) pg 260

³⁴⁷ Select Committee on the Police (1828) pg 30

³⁴⁸ Select Committee on the Police (1828) pg 21

³⁴⁹ Select Committee on the Police (1828) pg 22

³⁵⁰ Reynolds, E, (1998), pg 131

Second, the Committee's conclusion that there would be an advantage in considering the whole force as one united establishment mirrors, almost precisely, the language of Pitt's 1785 Bill. This mirroring demonstrates the incremental nature of how the system of police developed and why its development was considered necessary. Third, the Committee concluded, for the first time, that a new system of police could be achieved without any adverse interference on liberty. This conclusion by the 1828 Select Committee is at stark contrast with the view previously held and argued successfully individually against Pitt and Colquhoun that a new system of police would lead to an increase in executive power and adversely interfere with individual liberty. Therefore, for these reasons the 1828 Select Committee conclusions and recommendations represent a defining moment in the evolution of the police.

Following the Select Committee's report Peel, in the House of Commons in 1828 on the causes of increased crime, stated 'an amendment of the police system, although it cannot prevent the evils we complain of, may yet go far towards correcting them'.³⁵¹ Peel continued and stated the 'distinct and discordant jurisdictions tend to produce...rather than decrease crime'³⁵² and 'the defect proceeds from the want of a uniformity of system...separate establishments must be imperfect'.³⁵³ Peel concluded by stating 'the country has outgrown her police institutions, and that the cheapest and safest course will be found to be the introduction of a new mode of protection'.³⁵⁴ Peel in the House of Commons referred extensively to the increasing levels of crime³⁵⁵ and highlighted the substantial increase in crime from 1823 to 1828.³⁵⁶ Peel also argued that police reform offered the cheapest and safest way to combat the rising levels of crime.³⁵⁷

Peel, by referring to the increasing levels of crime, successfully pitched reform of the police as a protection against ordinary crime.³⁵⁸ The new uniform system of police envisaged by Peel would have the task of correcting the high levels of crime. Thus Peel, in the House of Commons and at this stage in the evolution of the police, placed the control of crime and not accountability as the central reason for reforming the system of police. Peel, in forming this argument, was treading the well-worn path of his predecessors Pitt and Colquhoun. Pitt, in 1785, argued that professional system of police was needed to combat increasing levels of crime and help better prevent the perpetration of crime while Colquhoun in 1797 focused on the creation of central police boards which would have held responsibility for increasing rates of crime. Peel also drew reference from the Select Committee of 1798 as he argued that reform of the police offered the most economical way to combat rising crime,³⁵⁹ thus the new system of police envisaged by Peel would be economically sustainable.

However Peel differed from his predecessors on one fundamental issue, how to secure accountability and build legitimacy in the new system of police. Peel viewed the moral fibre of his police officers as a central issue. Peel realised that police officers of the new police had to be beyond attack, they had to be accountable and seen by the policed as legitimate. Prior to exploring the Metropolitan Police Act 1829 this chapter proceeds to explore a Treatise

³⁵¹ HC Deb 28 February 1828, vol 18, cols 793

³⁵² HC Deb 28 February 1828, vol 18, cols 793

³⁵³ HC Deb 28 February 1828, vol 18, cols 794

³⁵⁴ HC Deb 28 February 1828, vol 18, cols 796

³⁵⁵ HC Deb 28 February 1828, vol 18, cols 795-798

³⁵⁶ HC Deb 28 February 1828, vol 18, cols 796

³⁵⁷ HC Deb 28 February 1828, vol 18, cols 795

³⁵⁸ Reynolds, E, (1998) pg 130

³⁵⁹ HC Deb 28 February 1828, vol 18, cols 795

published just before the Act, which importantly endorsed Peel's centralised policing model.³⁶⁰ Such an endorsement was surprising as the author, John Wade, was one not normally associated with endorsing the extension of government power.³⁶¹

Wade's Treatise recognised that there had been little development in police reform since the Middlesex Justices Act 1792³⁶² and considered the police system as corrupt, inefficient, divided and diminutive.³⁶³ The Treatise argued that the police system was in a very imperfect state.³⁶⁴ Wade asserted that the decentralised police system had many disadvantages. Of the most concerning were an absence of uniformity, consistency and the existence of obstacles to a prompt execution of the legal process.³⁶⁵ The Treatise considered inconsistency as a serious and almost unaccountable defect which had to be addressed by the legislature in order to establish a uniform and consistent police practice.³⁶⁶ Further, the treatise considered the police's inadequate numerical force a disadvantage.³⁶⁷

The Treatise concluded that the decentralised policing system created an ill-defined mass of duties which in turn created the temptation for negligence and a screen for misconduct.³⁶⁸ The Treatise considered that Peel's proposed centralised policing system would establish a uniform and consistent code of regulation and discipline, a lack of regulation and discipline was seen as one of the great defects in the decentralised system.³⁶⁹ Wade's Treatise argued that further advantages of the centralised policing system was the codification of the police's responsibility,³⁷⁰ the abolition of the parochial constabulary³⁷¹ and the anticipated declining expense of preventative justice.³⁷²

One area of contention was the creation of a board of magistrates, as proposed by the 1828 Select Committee. The treatise considered the boards to be inefficient and of vague and undefined accountability,³⁷³ arguing that one responsible authority, the Home Secretary, should have responsibility for the police department.³⁷⁴

The Treatise concluded with an emphatic endorsement of Peel's proposed centralised policing system, stating 'some honest people may feel alarmed on account of the additional patronage thrown into the hands of the government; but on this ground we see no cause for apprehension'.³⁷⁵ Further, Wade argued that the proposed centralised policing system would provide accountability. Wade's Treatise represents an important step in the evolution of the

³⁶⁰ Wade, John, *A Treatise on the Police and Crimes of the Metropolis: also an account of the courts of justice and prisons of London; and an enquiry into the causes of the increase in crime; the tendency of the debtor laws; and into the present state of the licensed victuallers' trade; with suggestions for the improvement of the protective institutions of the metropolis, and the prevention of offences*, London: Longman, Rees, Orme, Brown and Green (1829). Hereafter cited as *A Treatise on the Police and Crimes of the Metropolis* (1829).

³⁶¹ Reynolds, E, (1998) pg 132

³⁶² *A Treatise on the Police and Crimes of the Metropolis* (1829) pg 73

³⁶³ *A Treatise on the Police and Crimes of the Metropolis* (1829) pg 75

³⁶⁴ *A Treatise on the Police and Crimes of the Metropolis* (1829) pg 69

³⁶⁵ *A Treatise on the Police and Crimes of the Metropolis* (1829) pg 70

³⁶⁶ *A Treatise on the Police and Crimes of the Metropolis* (1829) pg 71

³⁶⁷ *A Treatise on the Police and Crimes of the Metropolis* (1829) pg 73

³⁶⁸ *A Treatise on the Police and Crimes of the Metropolis* (1829) pg 91

³⁶⁹ *A Treatise on the Police and Crimes of the Metropolis* (1829) pg 91

³⁷⁰ *A Treatise on the Police and Crimes of the Metropolis* (1829) pg 92

³⁷¹ *A Treatise on the Police and Crimes of the Metropolis* (1829) pg 93

³⁷² *A Treatise on the Police and Crimes of the Metropolis* (1829) pg 94

³⁷³ *A Treatise on the Police and Crimes of the Metropolis* (1829) pg 87

³⁷⁴ *A Treatise on the Police and Crimes of the Metropolis* (1829) pg 87

³⁷⁵ *A Treatise on the Police and Crimes of the Metropolis* (1829) pg 98

police. The Treatise unequivocally endorsed Peel's proposed new system and, importantly, argued that the current system lacked uniformity, consistency, discipline and regulation.³⁷⁶ These were considered as serious and almost unaccountable defects,³⁷⁷ which had to be addressed.

Following Wade's Treatise Peel presented his Police Bill before the House of Commons on the 15th April 1829. Although Peel acknowledged that the 1828 Select Committee had not been able to offer a satisfactory conclusion about the causes of crime he insisted that a decentralised, unaccountable and fragmented policing structure was an influential course.³⁷⁸ Peel explicitly cited the very unsatisfactory state of the system of police.³⁷⁹ His main focus in the House of Commons was the structural defectiveness of the decentralised policing system³⁸⁰ and the incitement of criminals who were tempted by the lax system of police.³⁸¹ Peel, at this stage of his evolution of the police, remained on the path set by his predecessors Pitt and Colquhoun.

Peel concluded by stating that fears over crime are 'entirely inconsistent with the free enjoyment of liberty and peace. It was the duty of the legislature to afford protection against the causes which gave rise to such apprehensions, it was the duty of Parliament to afford to the inhabitants of the metropolis and its vicinity, the full and complete protection of the law, and to take prompt and decisive measures to check the increase of crime, which was now proceeding at a frightfully rapid pace; and it was upon such grounds, with such objects, and for the purpose of providing a more efficient police for the metropolis, that he now begged to move for leave to bring in a bill for the Improvement of the Police of the Metropolis.'³⁸²

As highlighted so far in this chapter, there was a prolonged and substantial resistance to the establishment of an accountable, centralised professional system of police yet the Metropolitan Police Act 1829 passed without opposition and substantial debate.³⁸³ There are several main reasons suggested for this. First, Peel excluded the City of London from the Act and thus avoided the confrontation experienced by predecessors.³⁸⁴ Second, Peel placed police reform as a protection against ordinary crime,³⁸⁵ which he successfully argued in the House of Commons was rising.³⁸⁶ Third, Peel successfully argued that police reform was the cheapest and safest way to combat the rising tide of crime.³⁸⁷ Finally, those who actually held responsibility for administering the police were more convinced that a new system of police would improve efficiency.³⁸⁸ Here, as previously argued in this chapter, is the link to the conclusions of the 1798 Select Committee of the House of Commons of Finance.

³⁷⁶ A Treatise on the Police and Crimes of the Metropolis (1829) pg 63

³⁷⁷ A Treatise on the Police and Crimes of the Metropolis (1829) pg 91

³⁷⁸ HC Deb 15 April 1829, vol 21, cols 871-872

³⁷⁹ HC Deb 15 April 1829, vol 21, cols 872

³⁸⁰ HC Deb 15 April 1829, vol, 21, cols 868-881

³⁸¹ HC Deb 15 April 1829, vol 21, cols 881

³⁸² HC Deb 15 April 1829, vol 21, cols 881

³⁸³ Critchley, T.A, (1967) pg 50

³⁸⁴ Emsley, C, (2010) pg 236

³⁸⁵ Reynolds, E, (1998) pg 130

³⁸⁶ HC Deb 28 February 1828, vol 18, cols 796

³⁸⁷ HC Deb 28 February 1828, vol 18, cols 795

³⁸⁸ Reynolds, E, (1998) pg 135

The Metropolitan Police Act 1829 drew upon the recommendations of the 1828 Select Committee and created an Office of Police³⁸⁹ under the immediate authority of the Secretary of State for the Home Department who was responsible for directing and controlling the new system of police.³⁹⁰ Thus Peel's new police were accountable both individually and institutionally. The Act stated that the new system of police was needed as the local establishments were found to be inadequate to the prevention of crime.³⁹¹ This section of the Act represents a clear link to Peel's predecessor Pitt.³⁹² Further, the Act stated that the local establishments were inadequate due to unfitness and insufficiency of number, an endorsement of the 1828 select committee's report.³⁹³ The Act also stated that local establishments had a limited sphere of authority and a lack of co-operation between each other, a further endorsement of the 1828 select committee report.³⁹⁴

Peel's new system of police was established incrementally. Peel drew reference from his predecessors Pitt and Colquhoun and placed the necessity for police reform as a protection against rising crime. Peel also argued that a new system of police offered the cheapest method to combat rising crime, a clear adoption of the economic sustainability arguments of the 1798 Select Committees. Thus Peel, to this point in the evolution of the police, trod the well-worn path of his predecessors. Indeed, Peel like Pitt and Colquhoun before him argued successfully that a new system of police was necessary to control the increasing levels of crime.³⁹⁵ Thus crime control and not accountability was Peel's argument for establishing a new system of police. However, as argued previously in this chapter, Peel knew that the new police had to be accountable and that the starting point for this was the police themselves. Therefore, at the point of the new polices inception, new structures and mechanisms of accountability were introduced. These new structures and mechanisms were introduced with the intention of building and enhancing legitimacy in the country's newest state organ. These structures and mechanisms are considered in turn prior to an analysis of how they could be argued to be vital to the expansion of the new system of police.

Accountability in the new police

Peel's new police were accountable to the Home Secretary by way of two newly established Commissioners of the Metropolitan Police.³⁹⁶ The Commissioners over time were delegated increased powers by the Home Secretary,³⁹⁷ who was in turn accountable to Parliament.³⁹⁸ The term and creation of the office of Commissioners was a significant step as it enforced the appointee's position as executive heads of the Metropolitan Police who controlled the direction of the force³⁹⁹ and thus accountable for it. Further, to ensure that the new system of police was economically sustainable and to avoid critics attacking Peel's new police as extravagant, costs were prepared, calculated, published and laid before Parliament for

³⁸⁹ s.1 Metropolitan Police Act 1829

³⁹⁰ s. 5 Metropolitan Police Act 1829

³⁹¹ s. 1Metropolitan Police Act 1829

³⁹² see Police Bill 1785 pg 2

³⁹³ see Select Committee on the Police (1828) pg 21

³⁹⁴ see Select Committee on the Police (1828) pg 30

³⁹⁵ HC Deb 28 February 1828, vol 18, cols 795-798

³⁹⁶ Gaunt, R, (2010) pg 69

³⁹⁷ Hurd, D, (2007) pg 105

³⁹⁸ Emsley, C, (2009) pg 40.

³⁹⁹ Gash, N, (1961) pg 498

inspection.⁴⁰⁰ This was the first time that the expenses of a functioning system of police were made available for Parliamentary scrutiny. Laying the expenses before Parliament for scrutiny represented an important step in securing legitimacy for Peel's new police. The 1834 Select Committee, which will be considered in more detail later in this chapter, stated that laying the expenses before Parliament was admirable and promoted accountability and transparency in the police.⁴⁰¹

A year after Peel established the new police The Constables Pocket Companion and Guide was published.⁴⁰² This guide contained a detailed list of instructions for constables and outlined the duties for the new police.⁴⁰³ This list of instructions was considered necessary as it was believed that it would impose on constables the nature and importance of their office.⁴⁰⁴ Further, the guide also intended to provide accountability and transparency in the new police as it made it clear that disobedience would not be tolerated and stated that Constables should not take rewards.⁴⁰⁵ Additionally, the guide also made it clear that if constables in the new police did take rewards they themselves would be disciplined and fined.⁴⁰⁶ The guide also stated for the first time, that it was for all persons, not just the police, to prevent crime.⁴⁰⁷ The argument that arises here is that extending the requirement for the prevention of crime to all persons represents an important development in the evolution of the police, as it represents the first attempt to incorporate citizens into the work of the police and therefore the wider criminal justice system.

Prior to considering the next stages in the incremental evolution of the police this chapter will again draw reference from the first chapter of this thesis and explore whether at the point of the new police's inception accountability relationships were formed. This chapter will also offer an analysis of whether the theories and key facets of accountability are evidenced at this point in the evolution of the police.

The accountant and accountee relationship is evidenced at the point of the new polices inception in 1829. The newly established Police Commissioners were the executive heads of the new police and were responsible, answerable and accountable to the Home Secretary for the new polices direction. Thus, in terms of the accountability relationship explored in the first chapter of this thesis, the Commissioners were the accountees and the Home Secretary was the accountant. However, like the multi layered accountability relationship intended by Pitt and Colquhoun, the Home Secretary was also answerable and thus accountable to Parliament. Therefore the Home Secretary fulfilled both accountee and accountant functions. This multi layered accountability relationship formed at the point of the new polices inception also evidences a key facet and mechanism of hard accountability, answerability.⁴⁰⁸

The Peelian principles

Although there is uncertainty surrounding their origins as some including Lentz, Susan and Charles argue that the principles were authored by twentieth century scholars⁴⁰⁹ whilst others

⁴⁰⁰ Select Committee on the Police (1834) pg 6

⁴⁰¹ Select Committee on the Police (1834) pg 6

⁴⁰² The Constables Pocket Companion and Guide (1830)

⁴⁰³ The Constables Pocket Companion and Guide (1830) pg 127 - 131

⁴⁰⁴ The Constables Pocket Companion and Guide (1830) pg 127

⁴⁰⁵ The Constables Pocket Companion and Guide (1830) pg 131

⁴⁰⁶ The Constables Pocket Companion and Guide (1830) pg 131

⁴⁰⁷ The Constables Pocket Companion and Guide (1830) pg 13

⁴⁰⁸ Schedler, A, in A. Schedler, L. Diamond, M. Plattner (eds) (1999) pg 14

⁴⁰⁹ Lentz, Susan A, Charles, R, (2007) pg 35

including Reith argue that they were visualised by the first Commissioners of the Metropolitan Police in 1829⁴¹⁰ in order to gain public approval, respect and legitimacy⁴¹¹ the Peelian principles have been described as the foundations for policing and police accountability. The nine Peelian principles of policing are:⁴¹²

1. The basic mission for which the police exist is to prevent crime and disorder.
2. The ability of the police to perform their duties is dependent upon the public approval of police actions.
3. Police must secure the willing co-operation of the public in voluntary observation of the law to be able to secure and maintain the respect of the public.
4. The degree of co-operation of the public that can be secured diminishes proportionately to the necessity of the use of physical force.
5. Police seek and preserve public favour not by catering to public opinion, but by constantly demonstrating absolute impartial service to the law.
6. Police use physical force to the extent necessary to secure observance of the law or to restore order only when the exercise of persuasion, advice, and warning is found to be insufficient.
7. Police, at all times, should maintain a relationship with the public that gives reality to the historic tradition that the police are the public and the public are the police; the police being only members of the public who are paid to give full-time attention to duties which are incumbent upon every citizen in the interests of community welfare and existence.
8. Police should always direct their action strictly towards their functions, and never appear to usurp the powers of the judiciary.
9. The test of police efficiency is the absence of crime and disorder, not the visible evidence of police action in dealing with it.

Reiner argues that accountability in the new police was rooted in the traditions of communal self-policing,⁴¹³ linked to the seventh principle of policing, the police are the public and the public are the police. However, as previously highlighted, the new police were also made accountable at the point of their inception by the creation of new structures intended to help secure legitimacy.

The new system of police

The new system of police has been described as a rational reform of an outdated system whose old, decrepit, drunk and useless constables and watchman were unable to deal with the new and rising levels of crime.⁴¹⁴ Peel created for the first time a reliable and efficient police force without opening the door to oppressive political control.⁴¹⁵ Due to its success the new system of police was extended within one year to the whole of the metropolis.⁴¹⁶ Accordingly

⁴¹⁰ Reith, C, (1948) pg 61

⁴¹¹ Reith, C, (1948) pg 63

⁴¹² Reith, C, (1948) pg 64

⁴¹³ Reiner, R, (2010) pg 44

⁴¹⁴ Emsley, C, (2009) pg 8

⁴¹⁵ Leonard, D, (2008) pg 187

⁴¹⁶ Ramsay, A.A.W, (1928) pg 88

the number of officers under the central control of the Home Office and accountable via the newly created Commissioners to the Home Secretary increased from 1000 to 3300.⁴¹⁷

The new system of police has also been described by Critchley as democratically accountable.⁴¹⁸ There were political challenges to the model but they were defeated, the defeat itself being seen as a triumph over bureaucratic arrogance. However, despite such positive assertions and the extension of the new police combined with the increase in police officer numbers, there was initially substantial resistance.⁴¹⁹ The resistance being symbolised by a wealth of derogatory labels for Peel's new police including 'Peel's Bloody gang', 'Crushers' and 'Blue locusts'.⁴²⁰ There was also resistance from a range of political and philosophical interests as evidenced by the inquest finding of 'justifiable homicide' following the fatal stabbing of PC Culley during the violent National Political Union riots in 1831.⁴²¹ Rate payers also objected to the new system of police as they conceived that they were paying for police officers who were not under their direct control⁴²² and therefore not accountable to them. A Parliamentary Committee also recognised the growing evidence of jealousy between the constables of the old and new police.⁴²³ However within a few years influential public opinion began to favour the new police⁴²⁴ and in 1834 Peel's new police received significant endorsement from a Parliamentary Select Committee appointed to consider its state, the 1834 Select Committees.⁴²⁵

The 1834 Select Committee recognised that some of the objections raised against the police in the metropolis in 1828 had resurfaced.⁴²⁶ However the Committee stated that the objections were of no practical value when considered against the strong and frequent expressions of public opinion.⁴²⁷ The Committee argued, as evidenced by the falling crime rates and the greater detection in crimes,⁴²⁸ that an efficient and systematic police had been established.⁴²⁹ The Committee also praised the new structures and mechanisms of accountability, arguing that the newly appointed Commissioners of Police had in very difficult circumstances exercised sound discretion and had been open and honourable.⁴³⁰ The Committee also praised the way that the duties of the constables in the new police were clearly defined,⁴³¹ making them accountable. The Committee praised the transparency of the Police's accounts which were laid before Parliament and 'therefore open to the most perfect

⁴¹⁷ Emsley, C, (2009) pg 39

⁴¹⁸ Critchley, (1978) pg 50

⁴¹⁹ Gash, N, (1961) pg 501

⁴²⁰ Reiner, R, (2010) pg 68

⁴²¹ Reiner, R, (2010) pg 43

⁴²² Emsley, C, (2009) pg 42

⁴²³ Select Committee on the Police (1834) pg 16

⁴²⁴ Gash, N, (1961) pg 504

⁴²⁵ Report from the Select Committee on the Police of the Metropolis (1834) available at <http://0-parlipapers.chadwyck.co.uk.serlib0.essex.ac.uk/fulltext/docdownload.jsp?id=1834-014954&numpages=520&megabytes=52&sessno=1834&paperno=%28600%29&title=Report%20from%20the%20Select%20Committee%20on%20the%20Police%20of%20the%20Metropolis%3B%20with%20the%20minutes%20of%20evidence%2C%20appendix%20and%20index.&volpage=XVI.1> accessed 15th January 2014

Hereafter cited as Select Committee on the Police (1834)

⁴²⁶ Select Committee on the Police (1834) pg 3

⁴²⁷ Select Committee on the Police (1834) pg 3

⁴²⁸ Select Committee on the Police (1834) pg 7

⁴²⁹ Select Committee on the Police (1834) pg 4

⁴³⁰ Select Committee on the Police (1834) pg 6

⁴³¹ Select Committee on the Police (1834) pg 6

freedom of animadversion'.⁴³² The 1834 Committee's endorsement and the explicit recognition of these institutions evidences how important these structures of accountability were for securing legitimacy in the new police. These structures would prove integral to the expansion of the new police.

The Committee, like Peel after the 1822 Select Committee, also recognised the importance of an interdependent system of crime, police and penal reform.⁴³³ The Committee acknowledged that individual members of the police had abused their authority but concluded that when members abused their authority they were promptly punished.⁴³⁴ The Committee concluded that any abuse was far less aggravated in character and numerically lower than expected.⁴³⁵ Critically, the 1834 Committee put to rest the argument that a professional accountable centralised system of police could only be attained at the expense of liberty and against the principles of the Constitution. The Committee contended that this argument was dispelled by the volume of evidence to the contrary. The Committee concluded 'the Metropolitan Police has imposed no restraint, either upon public bodies or individuals, which is not entirely consistent with the fullest practical exercise of every civil privilege, and with the most unrestrained intercourse of private society'.⁴³⁶ Accordingly, the Committee recommended the extension of the uniform and consistent system of police⁴³⁷ stating that its extension would create the greatest impediment to the commission of crime and increase rates of detection.⁴³⁸ In conclusion, the Committee endorsed the new police and described it as 'one of the most valuable of modern institutions and deserves the confidence and support of The House'.⁴³⁹ The Committees recommendations formed the next steps in the evolution of the police.

Analysis of the 1834 Select Committee

The 1834 Committee emphatically endorsed the new police and the new structures and mechanisms of accountability created to secure legitimacy. The Committee endorsed and praised the Commissioners of Police stating that they exercised sound discretion and were open and honourable.⁴⁴⁰ Thus not only did the Commissioners provide accountability in the new police but also, as acknowledged by the Committee, led to new forms of principles and practice. The Committee also praised the new police for laying their accounts before Parliament for inspection.⁴⁴¹ This endorsements by the Select Committee not only exemplifies how Peel's new police were being accountable to Parliament but also demonstrates how important economic sustainability and financial accountability was in the new police, a point considered earlier in this chapter. The Committee endorsed and praised the manner in which the duties of constables in Peel's police were clearly defined⁴⁴² and where abuses of authority occurred they were investigated and promptly punished.⁴⁴³

⁴³² Select Committee on the Police (1834) pg 6

⁴³³ Select Committee on the Police (1834) pg 7

⁴³⁴ Select Committee on the Police (1834) pg 8

⁴³⁵ Select Committee on the Police (1834) pg 8

⁴³⁶ Select Committee on the Police (1834) pg 13

⁴³⁷ Select Committee on the Police (1834) pg 14

⁴³⁸ Select Committee on the Police (1834) pg 15

⁴³⁹ Select Committee on the Police (1834) pg 6

⁴⁴⁰ Select Committee on the Police (1834) pg 6

⁴⁴¹ Select Committee on the Police (1834) pg 6

⁴⁴² Select Committee on the Police (1834) pg 6

⁴⁴³ Select Committee on the Police (1834) pg 8

The endorsement by the 1834 Committee of the new police is an important stage in the evolution of the police as it represents a clear break between the old and new system of police. Further, the Committee acknowledged the importance of the new structures of accountability and endorsed the new police as accountable and legitimate. This endorsement would result in the expansion of the new centralised system of police. This chapter now proceeds to consider this expansion.

Prior to considering the legislation introduced after the 1834 Select Committee which led to the expansion of the new system of police the Lighting and Watching Act 1833 allowed for, what has been termed, cheap implementation of policing for small towns and parishes.⁴⁴⁴ The Act gave rate payers power over appointment and control of their police, this being referred to as the principle of rate payer democracy.⁴⁴⁵ However some found the rate payer principle as too democratic in nature.⁴⁴⁶ The alternative to this formalised democratic process was a voluntary subscription force, however, this in turn led to vulnerability and lack of unanimous support.⁴⁴⁷

The Municipal Corporations Act 1835 gave effect to the 1834 Select Committee recommendations. The Act represented a significant development in the evolution of the police as it required each borough in the Metropolis to establish a Watch Committee.⁴⁴⁸ These Committees were the collective structure of police accountability introduced into every Borough in London. The Committees were a collective structure as they were composed of elected councillors and a Mayor who was also a Justice of the Peace.⁴⁴⁹ The Committees framed regulations⁴⁵⁰ and, as advocated by Colquhoun in his Treatise of 1797, were accountable to the Secretary of State as they were required to send reports on matters of policing.⁴⁵¹

Standing Joint Committees, established in 1888,⁴⁵² were the collective structure of police accountability introduced for the later established County police forces.⁴⁵³ The Standing Joint Committees were also a collective structure of police accountability as membership was equally divided between Magistrates and elected County Councillors.⁴⁵⁴

However the powers vested in the watch committees by the Municipal Corporations Act were arguably not used as intended as some chose not to appoint professional police officers and instead appointed watchman and fee earners.⁴⁵⁵ The rationale for this was financial as watchman and fee earners provided a cheap and readymade source of labour.⁴⁵⁶ The practical effect of this was, initially at least, that the old traditions survived and the majority of borough forces were inferior to the Metropolitan Police, which after the 1829 Act, admitted

⁴⁴⁴ Philips, D & Storch R, (1999) pg 94

⁴⁴⁵ Philips, D & Storch R, (1999) pg 94

⁴⁴⁶ Philips, D & Storch R, (1999) pg 94

⁴⁴⁷ Philips, D & Storch R, (1999) pg 99

⁴⁴⁸ s. 76 Municipal Corporations Act 1835

⁴⁴⁹ s.76 Municipal Corporations Act 1835

⁴⁵⁰ s.77 Municipal Corporations Act 1835

⁴⁵¹ s.86 Municipal Corporations Act 1835

⁴⁵² s. 9 (1) Local Government Act 1888

⁴⁵³ s.30 (1) Local Government Act 1888

⁴⁵⁴ s. 30 (1) Local Government Act 1888

⁴⁵⁵ Critchley, T.A, (1967) pg 64

⁴⁵⁶ Critchley, T.A, (1967) pg 64

predominantly new recruits.⁴⁵⁷ Lustgarten argues that the watch committees also went beyond their regulatory powers and were in operational control of the police.⁴⁵⁸ This resulted in what has been termed by Critchley as a master and servant relationship,⁴⁵⁹ whereby and according to Emsley, the Committees would give direct operational orders to their head constable and ignore his expertise.⁴⁶⁰ Additionally, Emsley argues that Watch committees lacked clearly defined supervisory powers⁴⁶¹ and Critchley asserts that the Committees had only limited responsibility to central government as their only requirement was to send quarterly reports to the Home Office.⁴⁶²

Despite these criticisms the creation and establishment of watch committees by the Municipal Corporations Act represents an important development in the evolution of the police. Not only did the committees have to establish and supervise a police force in their area they, like the Standing Joint Committees which will be discussed later in this chapter, were the sole regulatory mechanism for policing in the boroughs of the metropolis until their replacement with Police Authorities in 1964.⁴⁶³ This Act, Police Authorities and the impact for police accountability will be considered in the next chapter of this thesis.

The 1836 Commission, further expansion of the centralised system of police

Following the success of the new police and its expansion another Commission was appointed in 1836 and tasked to consider the best means of establishing an efficient Constabulary force in the counties of England and Wales.⁴⁶⁴ The Commission's report represented a fundamental step in the evolution of the police as it recommended the establishment of a paid constabulary force.⁴⁶⁵ Indeed, the Commission recommended that constabulary forces be trained, appointed and organised on the principles of management recognised by the legislature in the appointment of the Metropolitan Police force.⁴⁶⁶

The Commission's report recommended that constables in the constabulary forces be accountable to local Magistrates⁴⁶⁷ and funded primarily from County rates, the remaining 25% of funding being from the national consolidated fund.⁴⁶⁸ Thus the 1836 Commission recommended the creation of County police forces on the same lines as the Metropolitan model. The County Police Act 1839, although considered far less comprehensive than the commission's report,⁴⁶⁹ embodied the recommendations and enabled the counties throughout England to establish a similar effective police force to Peel's Metropolitan Police.⁴⁷⁰

⁴⁵⁷ Critchley, T.A, (1967) pg 65

⁴⁵⁸ Lustgarten, L, (1986) pg 38

⁴⁵⁹ Critchley, T.A, (1967) pg 66

⁴⁶⁰ Emsley, C, (1996) pg 90

⁴⁶¹ Emsley, C, (1983) pg 67

⁴⁶² Critchley, T.A, (1967) pg 66

⁴⁶³ s.12 Police Act 1964

⁴⁶⁴ Commissioners Report on the establishment of a Counties Force in England and Wales (1839), available at http://0-gateway.proquest.com.serlib0.essex.ac.uk/openurl?url_ver=Z39.88-2004&res_dat=xri:hcpp&rft_dat=xri:hcpp:rec:1839-018274 accessed 10th January 2014. Hereafter cited as Commissioners Report (1839)

⁴⁶⁵ Commissioners Report (1839) pg 184

⁴⁶⁶ Commissioners Report (1839) pg 184

⁴⁶⁷ Commissioners Report (1839) pg 184

⁴⁶⁸ Commissioners Report (1839) pg 184

⁴⁶⁹ Emsley, C, (2009) pg 74

⁴⁷⁰ Emsley, C, (2010) pg 227

Accordingly some Counties looked to the Metropolitan Police model whilst others looked to the Royal Irish Constabulary model.⁴⁷¹ However cautious County ratepayers and anti-authoritarian prejudices made the evolution of a national police network a slow and painful process.⁴⁷² Despite the slow process Peel himself had no doubt of the need for a professional police force in the Counties and, after time, the concept became more accommodated.⁴⁷³ The County Police Act represents an important step in the evolution of the police as it became a touchstone constricting the space for further ad hoc experimentation and ensured that, even in the Counties that did not immediately support the implementation, this would only be temporary.⁴⁷⁴ However the Act's enabling framework limited the development and spread of the new police to the Counties, these limitations were addressed by a further select committee in 1853.

The 1853 Select Committee was appointed to consider the expediency of adopting a more uniform system of police.⁴⁷⁵ Evidence given before the Committee was unanimous. Under examination, Captain Harris, who commanded the county of Hampshire, stated that a general uniform system of police would work and could conceive no reason as to why it would not.⁴⁷⁶ William Stanley, a Magistrate in Hampshire, endorsed the creation of a national system of police throughout the whole country and stated that compulsory enforcement would be beneficial to all counties and that the Government should have some central control.⁴⁷⁷

Another witness called to be examined before the select committee was the Chief Constable of Essex Police, John McHardy. The Chief Constable of Essex was asked whether the establishment of a uniformed national system would be beneficial. McHardy replied emphatically, stating that its establishment would be the greatest blessing conferred upon the country.⁴⁷⁸ The Chief Constable also stated that that the present system was inefficient and expensive and that no other means, apart from a uniform national system, should be adopted.⁴⁷⁹ Another witness, John Fawcett a Magistrate in Carlisle, endorsed the establishment of a general system of police stating that it would be less expensive and would better prevent crime.⁴⁸⁰ A further witness, Reverend Arthur Talbot, when asked whether a uniform system of police would be desirable replied emphatically that it would.⁴⁸¹ Another witness called and examined before the select committee was Edwin Chadwick. Chadwick was one of the Commissioners appointed in 1839 and tasked to inquire as to the best means of establishing a constabulary force.⁴⁸² Under examination Chadwick acknowledged that the

⁴⁷¹ Emsley, C, (2010) pg 249

⁴⁷² Gash, N, (1972) pg 358

⁴⁷³ Gash, N, (1972) pg 359

⁴⁷⁴ Philips, D & Storch R, (1999) pg 165

⁴⁷⁵ First Report from the Select Committee on Police (1853) available at <http://0-parlipapers.chadwyck.co.uk.serlib0.essex.ac.uk/search/search.do>. Accessed 20th January 2014. Hereafter cited as Select Committee on Police, First Report (1853)

⁴⁷⁶ Select Committee on Police, First Report (1853) pg 18

⁴⁷⁷ Select Committee on Police, First Report (1853) pg 23

⁴⁷⁸ Select Committee on Police, First Report (1853) pg 54

⁴⁷⁹ Second Report from the Select Committee on Police, First Report (1853) available at <http://0-parlipapers.chadwyck.co.uk.serlib0.essex.ac.uk/search/search.do>. Accessed 20th January 2014. Hereafter cited as Select Committee on Police, Second Report (1853) pg 54

⁴⁸⁰ Select Committee on Police, Second Report (1853) pg 30

⁴⁸¹ Select Committee on Police, Second Report (1853) pg 8

⁴⁸² Commissioners Report on the establishment of a Counties Force in England and Wales (1839), available at http://0-gateway.proquest.com.serlib0.essex.ac.uk/openurl?url_ver=Z39.88-2004&res_dat=xri:hcpp&rft_dat=xri:hcpp:rec:1839-018274 accessed 10th January 2014.

County Police Act 1839 had not been constituted uniformly which in turn led to separation and inaction of general purpose.⁴⁸³ Chadwick stated that a uniform police system would lessen expense, double efficiency⁴⁸⁴ and better prevent the occurrence of crimes.⁴⁸⁵

The 1853 Select Committee recommended a number of resolutions⁴⁸⁶ and argued that the current system, established by the County Police Act 1839, failed to provide a general and uniform constabulary force required for the prevention of crime and security of property.⁴⁸⁷ The Committee stated that any system of police mainly dependent on the aid of parochial constables was ineffectual for the protection of property and the pursuit and detection of offenders.⁴⁸⁸ Further the Committee argued that the current system was not sufficient, was impaired by a lack of cooperation⁴⁸⁹ and concluded that legislative measures should be introduced to render the failings of the fragmented system.⁴⁹⁰ The Committee stated unequivocally that the adoption of a uniform police force throughout the country was imperative.⁴⁹¹

The recommendations of the 1853 Select Committee were incorporated into the County and Borough Police Act 1856. This Act was important as it imposed uniformity throughout the whole county and obliged all rate paying authorities to establish a police force. Significantly, the Act established an Inspector of Constabulary.⁴⁹² The Inspectors had the power to award grants to police forces which were certified as sufficient. Emsley argues that this certification is further evidence of an ever-increasing centralised system of police.⁴⁹³

Following the County and Borough Police Act the Local Government Act 1888 removed executive and judicial powers that were in the hands of local justices, a requirement of the County Police Act 1839, and placed the powers in the hands of Standing Joint Committees.⁴⁹⁴ Standing Joint Committees were the collective structure of police accountability introduced for the County police forces.⁴⁹⁵ The Standing Joint Committees were a collective structure of police accountability as membership was equally divided between Magistrates and elected County Councillors.⁴⁹⁶ The Standing Joint Committees and the structure established by the Local Government Act 1888 endured in their essential aspects until their replacement with Police Authorities in 1964.⁴⁹⁷ This Act and the implications for police accountability will be explored in the next chapter of this thesis.

This chapter has highlighted that the new system of police developed incrementally and was established to prevent rising levels of crime. Prior to offering a conclusion, this chapter offers

⁴⁸³ Select Committee on Police, Second Report (1853) pg 82

⁴⁸⁴ Select Committee on Police, Second Report (1853) pg 82

⁴⁸⁵ Select Committee on Police, Second Report (1853) pg 86

⁴⁸⁶ Second Report from the Select Committee on Police (1853) pg 3 - 4

⁴⁸⁷ Select Committee on Police, Second Report (1853) pg 3

⁴⁸⁸ Select Committee on Police, Second Report (1853) pg 3

⁴⁸⁹ Select Committee on Police, Second Report (1853) pg 4

⁴⁹⁰ Select Committee on Police, Second Report (1853) pg 4

⁴⁹¹ Select Committee on Police, Second Report (1853) pg 4

⁴⁹² Emsley, C, (1996) pg 90

⁴⁹³ Emsley, C, (1996) pg 91

⁴⁹⁴ s.86 Municipal Corporations Act 1835

⁴⁹⁵ s.30 (1) Local Government Act 1888

⁴⁹⁶ s. 30 (1) Local Government Act 1888

⁴⁹⁷ s.12 Police Act 1964

an analysis of whether, during this development, the key facets and theories of accountability are evidenced.

The first chapter of this thesis defined accountability, in its core literal sense, as a system whereby an institution, person or organisation is accountable and answerable to another or others.⁴⁹⁸ Thus accountability in its core sense means an institution, person or organisation being answerable⁴⁹⁹ and giving accounts or explanations⁵⁰⁰ to other institutions, persons or organisations. The first chapter of this thesis also argued that two branches are formed within the accountability relationship. The first branch, the one vested with certain powers regarding the exercise of which accountability is sought, was defined as the accountant⁵⁰¹ or governor.⁵⁰² The second branch, the one to which the accountant or governor owes accountability and therefore must explain or justify action was defined as the accountee⁵⁰³ or governed.⁵⁰⁴ The second chapter of this thesis, whilst arguing that the system of police developed incrementally, also evidenced that the above detailed accountability relationship was formed, or intended to be formed at each stage in the evolution of the police. This is evidenced, in particular, by Colquhoun's proposal to create central police boards.

The boards proposed by Colquhoun in 1797 would have held the police to account as officers would have been answerable and thus accountable to them. The boards envisaged by Colquhoun, at this level of the accountability relationship, would have been the accountee and the police the accountant. The boards would have also been accountable and answerable to the Home Secretary. Thus the boards, at this level of the accountability relationship, would have been the accountant and the Home Secretary would have been the accountee. The Home Secretary, under Colquhoun's proposals would have also been accountable to Parliament. Thus, at this level of the accountability relationship, the Home Secretary would have owed accountability to Parliament and thus would have been the accountant and Parliament who would have, under Colquhoun's proposals, been the accountee. Colquhoun's proposal to create central police boards, in addition to evidencing the accountability relationship, also demonstrates that the relationship when applied within the context of policing appears to be multi layered.

Colquhoun's police boards also evidence the application of the theory of horizontal accountability. Horizontal accountability, as defined in the first chapter of this thesis, means accountability between or amongst government organs⁵⁰⁵ and the state's internal process of review and auditing.⁵⁰⁶ Therefore horizontal accountability is evidenced when state agencies monitor one another.⁵⁰⁷ The argument that arises here is that the accountability framework envisaged by Colquhoun and detailed in the above paragraph evidences, for the first time, the application of horizontal accountability in the police as Colquhoun's police boards would have monitored the police. However the boards in turn would have themselves been

⁴⁹⁸ Day, P, (1987) pg 1

⁴⁹⁹ Sengupta, A, (2014) at 251

⁵⁰⁰ Chan, J, (1999) pg 252

⁵⁰¹ Oliver, D, in N. Bamforth and P. Leyland (eds) (2013) pg 290

⁵⁰² Day, P, (1987) pg 1

⁵⁰³ Oliver, D, in N. Bamforth and P. Leyland (eds) (2013) pg 290

⁵⁰⁴ Day, P, (1987) pg 1

⁵⁰⁵ Sengupta, A, (2014) at 249

⁵⁰⁶ Goetz, A, Jenkins, R, (2001) pg 363

⁵⁰⁷ Goetz, A, Jenkins, R, (2001) pg 364

monitored. Thus the monitoring requirements of horizontal accountability would have been fulfilled by Colquhoun's police boards.

The accountant and accountee relationship is also evidenced by the mechanisms and structures of accountability introduced at the commencement of the new police in 1829. The Police Commissioners, as executive heads of the new police, were accountable to the Home Secretary for the direction of the new police. Thus, under this accountability relationship, the Commissioners were the accountors and the Home Secretary was the accountee. However, the Home Secretary was answerable and accountable to Parliament and therefore also fulfilled an accountee role.

As Peel's newly established system of police consolidated and expanded across the Country new collective structures of police accountability were introduced. Established in 1835, Watch Committees⁵⁰⁸ were the collective structure of police accountability introduced into every Borough in London. The Committees were a collective structure as they were composed of elected councillors and a Mayor who was also a Justice of the Peace.⁵⁰⁹ The Committees framed regulations⁵¹⁰ and were accountable to the Secretary of State as they were required to send reports on matters of policing.⁵¹¹ Standing Joint Committees, established in 1888,⁵¹² were the collective structure of police accountability introduced for the later established County police forces.⁵¹³ The Standing Joint Committees were also a collective structure of police accountability as membership was equally divided between Magistrates and elected County Councillors.⁵¹⁴

Conclusion

This chapter has made several interconnected arguments. The chapter argued that the old system of police was amateur in nature, prone to high levels of corruption and had, at its heart, a decentralised, fragmented and largely unaccountable system of parish constables, beadle and watchmen. The new system of police was established incrementally, and by comparison, was centralised, integrated and accountable. Peel created the new police and thus succeeded where his predecessors failed. However Peel's success was, in part, down to the work of his predecessors as he drew reference from their work and applied it to his own. Peel, like Pitt and Colquhoun before him, argued that the new police was needed to combat rising crime. Thus the need to combat rising crime and not concerns of police accountability lead to the establishment of a new system of police. Therefore, unsurprisingly, the new police was introduced with the primary responsibility, as intended by Pitt, Colquhoun and Peel, to prevent crime.

However, with the establishment of the new police accountability and legitimacy became a primary concern. Peel, the architect of the new system of police, realised that the new police had to be accountable and legitimate in order to succeed. Thus, at the commencement of the new police, new structures and mechanisms of accountability were introduced. First, Police Commissioners were the executive heads of the new police, responsible, answerable and thus

⁵⁰⁸ s.76 Municipal Corporations Act 1835

⁵⁰⁹ s.76 Municipal Corporations Act 1835

⁵¹⁰ s.77 Municipal Corporations Act 1835

⁵¹¹ s.86 Municipal Corporations Act 1835

⁵¹² s. 9 (1) Local Government Act 1888

⁵¹³ s.30 (1) Local Government Act 1888

⁵¹⁴ s. 30 (1) Local Government Act 1888

accountable to the Home Secretary for the direction of the police. The appointed Commissioners also ensured that there was a buffer between the state, the police and the policed. The newly created and appointed Commissioners also ensured that the state did not have direct control of the police, therefore removing the potential for oppressive political control. The second mechanism of accountability was financial as the new police made themselves financially accountable for the first time as expenses were laid before Parliament for scrutiny. These new mechanisms and structures of accountability led, in part, to the 1834 Select Committee endorsing the new police as the most valuable of modern institutions.

The newly created structures and mechanisms of accountability also proved crucial for the development of the police as the structures and mechanisms of accountability introduced at the commencement of the new police had the intention of making the police legitimate. This was important for two reasons. First, the new police, particularly in its infancy, had to be distinguishable from the old system of police. Distinguishing the old from the new meant that the new police were not labelled with the criticisms of the old. This, in part, resulted in the new police gaining the trust of the policed. Second, the mechanisms and structures of accountability lead to the new police receiving a significant Parliamentary endorsement soon after its establishment. The Select Committee's endorsement of the new police in 1834 paved the way for the new system of police to be expanded and consolidated. With this period of expansion and consolidation new structures were needed to regulate the police and provide accountability. Watch and Standing Joint Committees were the first collective structures of police accountability established with the intention of regulating and making the police accountable at a local, democratically accountable level.

Police accountability and the structures used to secure legitimacy evolved and developed as the system of police evolved and developed. Therefore the structures and mechanisms introduced at each stage in the evolution of the police reflect what was perceived as necessary at that time to secure legitimacy. The old system of police was amateur in nature, decentralised and fragmented. The system was largely unaccountable as no central, compelling reason existed for it to be accountable. By contrast the new system of police established by Peel needed structures of accountability to secure legitimacy. However Peel, unlike his predecessors, secured the establishment of the new police prior to introducing the structures and mechanisms of accountability that would in turn enhance and secure legitimacy.

This chapter has also argued that the accountability relationship, defined in the first chapter of this thesis, is evidenced at specific stages in the evolution of the police. Further, it was argued that an accountability relationship was formed between the policed and the police at the point of the new polices inception. The chapter has also argued that the key facets, hard mechanisms of accountability and the theories of horizontal and vertical accountability are, for the first time, evidenced in the police. The theories of hybrid and societal accountability are not evidenced at this stage in evolution of the police. However, in the next chapter, which explores the turbulent system of policing throughout the twentieth century, this thesis will consider whether these theories of accountability are evidenced and offer a critical analysis of how the mechanisms and structures of police accountability developed in an attempt to maintain police legitimacy.

Chapter 3: Policing and police accountability in the twentieth century

This third chapter explores the development of police accountability throughout the twentieth century. The chapter begins by examining the impact of the Desborough Committee, appointed in 1919 following a series of police strikes. Here the chapter will argue that the Committee represented the first drive for change in police accountability. The chapter will also argue that the Committee made three important contributions to police accountability. First, the Committee's appointment evidenced a disengaged and turbulent system of police. Second, the Committee recommended greater standardisation through the medium of the Home Office. Here it will be argued that standardisation through the medium of the Home Office not only laid the foundations for an indirect nationalised system of police but also introduced the Home Office as the principal mechanism through which police accountability would be administered. Third, the chapter will argue that standardisation and centralisation through the Home Office also dramatically altered one layer of the accountability relationship in the police.

After considering the inter war years the chapter proceeds to explore what has been described as the 'golden age of policing.' While exploring this age the chapter offers an analysis of the factors which led to the public confidence haemorrhage in the police and forced police accountability into the public domain and onto the national agenda. The chapter then considers the resulting appointment of a Royal Commission on Police in 1959 and its recommendations for police accountability. Here the chapter will offer a critical analysis of the tripartite structure of police accountability established by the Police Act 1964.

Following an analysis of the tripartite structure of police accountability the chapter explores the implementation, adoption and rebranding of police accountability under the banner of 'alternative models of police governance.' Here, this chapter will examine three key points. First, the effectiveness of these models of police governance in their attempt to enhance police accountability. Second, how the alternative models of police governance made subtle changes to the multi layered nature of police accountability will be considered. Third, it will be argued that the position of the Home Office as the mechanism through which police accountability was administered became further entrenched.

This chapter connects with and draws upon the previous two chapters in four main ways. First, while exploring the evolution in police accountability throughout the twentieth century, this chapter will draw upon the first chapter of this thesis and offer an analysis of whether the theories and key facets of accountability are evidenced and their effect. Second, it will offer an analysis of how the multi layered nature of police accountability, defined and explored in the first and second chapter of this thesis, changed and its impacts. Third, it will draw upon the first chapter of this thesis by offering an analysis of how the concept of police accountability expanded dramatically throughout the twentieth century. Fourth, this chapter will argue that the incremental development of the system of police, explored in the second chapter of this thesis, ceased and in its place a much more rapid, reactive system developed due to the relentless and pressing challenges to police accountability.

The Desborough Committee 1919

The tensions which led to the formation of the Desborough Committee has been described by Critchley as unparalleled.⁵¹⁵ Police strikes in 1918 and 1919 which had resulted from poor pay led some to live in poverty and the dismissal of a police officer for unionist activity.⁵¹⁶ Following the strikes a liberal settlement was reached which increased police pay but the Government refused to recognise the Police Union, a specific requirement made by the police.⁵¹⁷ The Government's failure to recognise the Police Union led to further police strikes.⁵¹⁸ The police strikes and the factors which led to them resulted in the appointment of the Desborough Committee in 1919.⁵¹⁹ The Committee was tasked to consider whether changes should be made to the method of recruiting for, the conditions of service of, and the rates of pay, pensions, and allowances of the Police Forces of England, Wales and Scotland.⁵²⁰ The Committee carried out an extensive analysis of pay⁵²¹ and concluded that the police held an unfavourable position on their current rates.⁵²² Further the Committee acknowledged that the system of police was in a state of disarray and argued that the system of police was disengaged, discontented and turbulent.⁵²³ When the Committee reported two interrelated points were argued. First, police officers, although carrying out the same work throughout England, Wales and Scotland were subject to different rates of pay and conditions of service.⁵²⁴ Second, the difference in rates of pay and conditions of service contributed to the wide unrest and dissatisfaction that prevailed in the police.⁵²⁵ These two arguments led the Committee to conclude that the material differences contributed to the wide unrest and dissatisfaction that prevailed in the police.⁵²⁶

Desborough, in an attempt to resolve these material differences, briefly revisited the argument of nationalising the system of police⁵²⁷ believing that a fully nationalised police service with central control would result in unified rates of pay and conditions of service.⁵²⁸

⁵¹⁵ Critchley, T.A, (1967) pg 190

⁵¹⁶ Critchley, T.A, (1967) pg 185

⁵¹⁷ Critchley, T.A, (1967) pg 186

⁵¹⁸ Critchley, T.A, (1967) pg 187

⁵¹⁹ Part 1, Report of the Committee on the Police Service of England, Wales and Scotland available at <http://0-parlipapers.chadwyck.co.uk.serlib0.essex.ac.uk/fullrec/fullrec.do?id=1919-022569&DurUrl=Yes> accessed 19th February 2013. Hereafter cited as Desborough Committee Report Part 1

⁵²⁰ Desborough Committee Report Part 1 pg 2

⁵²¹ Desborough Committee Report Part 1 pg 20 - 29

⁵²² Desborough Committee Report Part 1 pg 9

⁵²³ Desborough Committee Report Part 1 pg 5

⁵²⁴ Desborough Committee Report Part 1 pg 5

⁵²⁵ Desborough Committee Report Part 1 pg 6

⁵²⁶ Desborough Committee Report Part 1 pg 5

⁵²⁷ Minutes of evidence, Report of the Committee on the Police Service of England, Wales and Scotland available at http://0-parlipapers.chadwyck.co.uk.serlib0.essex.ac.uk/imageserver/pdf_download.cgi?FROMHOST=parlipapers.chadwyck.co.uk&MLCOUNT=%280+items%29&USERAUTH=uessex%3AzEDFRyluFy4pg%3AeZzyY5n.gOUow%3AUe5.x61oZgw7A%3Aeaw4PiQAgEmLY%3ATCVNWNoleYm1s&SUBSCRIBED=C18C19C20&WARNING=Y&DOWNLOAD=Y&PAGES=1-514&RECORD=1920-023766&PAPERNO=%5BCmd.+874%5D&SESSNO=1920&TITLE=Committee+on+the+Police+Service.+Minutes+of+evidence+of+the+committee+appointed+to+consider+and+report+whether+any+and+what+changes+should+be+made+in+the+method+of+recruiting+for%2C+the+conditions+of+service+of%2C+and+the+rates+of+pay%2C+pensions%2C+and+allowances+of+the+police+forces+of+England%2C+Wales+and+Scotland.&VOLPAGE=XXII.573&NUMPAGES=514&SELECTION=ALL&RANGE=1-514 accessed 19th February 2013 pg 34 - 35. Hereafter cited as Desborough Committee minutes of evidence

⁵²⁸ Desborough Committee Report Part 1 pg 5

However the Committee refused to be drawn on this highly contentious issue. As explained in the second chapter of this thesis, fears about the establishment of a nationalised police service led to repeated failures to create a professional, more accountable and centralised system of police.⁵²⁹ However, in addition to the arguments explored against nationalisation in the second chapter of this thesis, Desborough urged that a nationalised system of police would also alter the basis of policing and prejudice ‘the intimate and happy relationship between the police and the public’.⁵³⁰ Here, to expand on his argument, Desborough stated that a nationalised system of police would be foreign to, what he termed, the constitutional principle that police officers were citizens and representatives of their local community.⁵³¹ However the Committee did conclude that the system of police lacked uniformity and acknowledged that inconsistencies had developed to an undesirable degree.⁵³² In order to rectify the system of police Desborough recommended greater centralisation,⁵³³ the introduction of a standard system of pay increases, allowances, pensions⁵³⁴ and conditions of service that should be prescribed by the Home Office.⁵³⁵ These recommendations were based on the desire for improving the police system as a whole⁵³⁶ and as such should be legislated on without delay.⁵³⁷

The Police Act 1919 gave effect to the Committee’s central recommendations. Given the factors that led to the Committee’s formation, namely police strikes and the apparent strength of the Police Union, the Police Act 1919 also made it a criminal offence for police officers to strike or join any trade union. Further, the Act also suppressed the Police Union, established the Police Federation in its place, and extended the Home Secretary’s power to regulate police pay and conditions of service.⁵³⁸ The Act also created a permanent police department in the Home Office where regulations were set.⁵³⁹

Although it would first appear that the Desborough Committee and the Police Act which gave effect to the Committee’s central recommendations were of little importance to developments in police accountability, the Committee’s recommendations do in fact represent the first important development to police accountability in the twentieth century. The developments introduced by Desborough ran deep and its course would prove to be permanent. The Committee and the Police Act which gave effect to the Committee’s recommendations did not directly introduce new structures and mechanisms of police accountability. Thus Watch Committees and Standing Joint Committees remained the structure and mechanism of police accountability. However the Committee did emphatically state that the system of police was far from satisfactory.⁵⁴⁰ Therefore the Committee acknowledged that a method had to be found to rectify what was termed was an unsatisfactory system of police.⁵⁴¹ In this regard Desborough argued that greater standardisation and centralisation was needed. Desborough

⁵²⁹ see chapter 2 of this thesis

⁵³⁰ Desborough Committee Report Part 1 pg 6

⁵³¹ Desborough Committee Report Part 1 pg 4

⁵³² Desborough Committee Report Part 1 pg 6

⁵³³ Desborough Committee Report Part 1 pg 6

⁵³⁴ Desborough Committee Report Part 1 pg 18

⁵³⁵ Part 2, Report of the Committee on the Police Service of England, Wales and Scotland available at <http://0-parlipapers.chadwyck.co.uk.serlib0.essex.ac.uk/saveditems/myArchive.do> accessed 19th February 2013. Pg 23

Hereafter cited as Desborough Committee Report Part 2

⁵³⁶ Desborough Committee Report Part 2 pg 25

⁵³⁷ Desborough Committee Report Part 2 pg 23

⁵³⁸ Critchley, T.A, (1967) pg 194

⁵³⁹ Critchley, T.A, (1967) pg 194

⁵⁴⁰ Desborough Committee Report Part 1 pg 6

⁵⁴¹ Desborough Committee Report Part 1 pg 6

recommended that the Home Office be the principal mechanism for delivering greater standardisation and centralisation.⁵⁴²

The Desborough Committee's recommendation that the Home Office be the principal mechanism for delivering standardisation and centralisation leads to the argument that the Committee did actually introduce a new and vitally important mechanism of police accountability, albeit indirectly. The new administrative responsibilities of the Home Office are important for two reasons. First, the Home Office's responsibility for administering the police does in itself give rise to the argument that the system of police was being nationalised, albeit indirectly through the medium of the Home Office. As explored in the previous chapter, this nationalisation argument was one that inhibited the actual creation of the police until its introduction by Sir Robert Peel in 1829. The argument that the Home Office's administration of the police led to an indirect nationalisation of the system of police is supported by a number of critics including Lustgarten, Jefferson and Grimshaw. Lustgarten argues that the Police Act gave central government unprecedented legal power and administrative capability.⁵⁴³ Additionally, Jefferson and Grimshaw contend that the Police Act 1919 evidences increased centralised bureaucratic control and the continuous and growing involvement of the Home Office in the administration of the police.⁵⁴⁴

Second, the recommendations of the Desborough Committee arguably introduced the principal mechanism that would be used to deliver police accountability throughout the twentieth century: the Home Office. This mechanism, in addition to being the method by which the system of police was indirectly nationalised, also affected one layer of the accountability relationship in the police. The second chapter of this thesis argued that police accountability is itself multi-layered. The multi-layered nature of police accountability means that the accountant, as defined in the first chapter of this thesis, can also discharge accountee responsibilities. Thus, the argument that arises here is that the police would develop accountant responsibilities as they would be answerable and thus accountable to their accountee, the Home Office. The police's accountant responsibilities to the Home Office would become more onerous with the explosion of alternative models of police governance.⁵⁴⁵

The accountant responsibilities of the police to the Home Office also evidences the initial presence and subsequent growth, under the alternative models of police governance, of horizontal accountability. As explored in the first chapter of this thesis, this theory of accountability has been defined as accountability between or amongst government organs⁵⁴⁶ and the state's internal process of review and auditing.⁵⁴⁷ Thus horizontal accountability includes state agencies which monitor other arms of the state⁵⁴⁸ and have the ability to oversee, control, redress and sanction unlawful actions.⁵⁴⁹ Therefore the argument that arises here is that the Home Office, as the principal mechanism for delivering greater standardisation and centralisation, led to the review, monitoring and overseeing of the police.

⁵⁴² Desborough Committee Report Part 2 pg 23

⁵⁴³ Lustgarten, L, (1986) 1986 pg 43

⁵⁴⁴ Jefferson, T & Grimshaw, R, (1984) pg 36

⁵⁴⁵ See this Chapter pg (s) 23 to 28

⁵⁴⁶ Sengupta, A, *Judicial accountability: a taxonomy*, Public Law (2014) at 249

⁵⁴⁷ Goetz, A, Jenkins, R, *Hybrid Forms of Accountability*, Public Management Review, Vol 3, Issue 3 (2001) pg 363

⁵⁴⁸ Goetz, A, Jenkins, R, (2001) pg 364

⁵⁴⁹ O'Donnell, G, in A. Schedler, L. Diamond, M. Plattner (eds) (1999) pg39

These horizontal accountability responsibilities would become further entrenched with the introduction and implementation of alternative models of police governance.⁵⁵⁰

The Desborough Committee's guiding principle was that any developments to the system of police should not prejudice 'the intimate and happy relationship between the police and the public.'⁵⁵¹ Although, with a degree of hind sight this statement could be seen as naïve, the happy relationship envisaged by Desborough is arguably evidenced by what Reiner describes as the 'the golden age for policing' witnessed in the 1950's.⁵⁵² Prior to exploring this golden age of policing, and its importance for police accountability, it is important to note that in the years between the Desborough Committee and the 1950's 'golden age for policing' issues of police accountability fell off the agenda due to pressing national issues, including the Second World War.⁵⁵³ After exploring the golden age for policing this chapter will proceed to offer an analysis of the factors that forced police accountability into the public domain and onto the national agenda.

Reiner argues that the 1950's golden age for policing witnessed almost universal acceptance of the police and the doctrine of policing by consent reaching its highest possible attainable degree.⁵⁵⁴ Agreeing, Loader and Mulcahy contend that post war social harmonised Britain represented the historical high water mark for police legitimacy⁵⁵⁵ as the police was seen as a 'sacred' institution⁵⁵⁶ and totems of national pride.⁵⁵⁷ Jackson, Branford, Stanko and Holh observe that the golden age meant that the police stood almost unchallenged as protectors of law and order and were seen as representatives of the community and the nation.⁵⁵⁸ However, as convincing as these arguments first appear, some contend that the golden age of policing lacked substance and was more myth than reality.⁵⁵⁹

The public confidence haemorrhage in policing

Irrespective of whether the 1950's did constitute a golden age in policing, any illusion was shattered by a number of factors including two high profile scandals, riots, the reality of rising crime and allegations of police brutality. The combination of these factors led to what is often termed the public confidence haemorrhage in the police, which in turn led to the establishment of a Royal Commission in 1959. The events which led to the public confidence haemorrhage and the establishment of the Royal Commission in 1959 will now be explored. After exploring these related issues the chapter will offer an analysis of the importance of the public confidence haemorrhage to police accountability.

The first factor that contributed to the increasing public and political recognition of the need for better structures and mechanisms of police accountability was in the form of two high profile scandals. These scandals rocked public confidence in the police and brought public and political attention to the lack of suitable structures and mechanisms of police

⁵⁵⁰ See this Chapter pg (s) 23 to 29

⁵⁵¹ Desborough Committee Report Part 1 pg 6

⁵⁵² Reiner, R, (2010) pg 68

⁵⁵³ Although it has been argued that the Second World War resulted in a strengthening of links between central government and the police, see Newburn, T, (2008) pg 85

⁵⁵⁴ Reiner, R, (2010) pg 70

⁵⁵⁵ Loader, I, Mulcahy, A, (2003) pg 3

⁵⁵⁶ Loader, I, Mulcahy, A, (2003) pg 3

⁵⁵⁷ Loader, I, Mulcahy, A, (2003) pg 6

⁵⁵⁸ Jackson, J, Bradford, B, Stanko, B and Hohl, K, (2013) pg 29

⁵⁵⁹ Reiner, R, (2010) pg 68

accountability. The first scandal involved the Chief Constable of Brighton and the second involved the Chief Constable of Nottingham. Each are now explored in turn.

Public confidence in the police was shaken in 1957 by the arrest and charge of the Chief Constable of Brighton, Charles Ridge, for corruption and conspiracy to obstruct the course of public justice.⁵⁶⁰ Although the criminal prosecution against Ridge was ultimately dismissed and the challenge against his dismissal by the Watch Committee under s.191 (4) Municipal Cooperation Act 1882 successful,⁵⁶¹ the effects of the case were profound. Prior to leaving the dock in the Old Bailey the trial Judge, Judge Donovan, told Ridge in unusually strong language that the Brighton police force needed a new leader and one that would set a different example from that which he had set.⁵⁶² Judge Donovan also stated that until a new leader of the Brighton police force was found, evidence given by its officers in future prosecutions would be discredited.⁵⁶³ In addition to these criticisms the case also drew criticism from Members in the House of Commons. The MP for Leeds West, Chris Pannell, argued that the case represented one of the great scandals of all time,⁵⁶⁴ and called for nothing less than public accountability of the police.⁵⁶⁵ Pannell also argued that Chief Constables were a hybrid person who lacked accountability.⁵⁶⁶ The Ridge case also gained the attention of Members in the House of Lords as Lord Winterton urged that the Brighton Watch Committee was plainly ignorant as they failed to see what was happening under their noses.⁵⁶⁷

Diminishing public confidence and the lack of suitable structures and mechanisms of police accountability is further demonstrated by the Popkess affair. Popkess, the Chief Constable of the Nottingham City Police from 1930 to 1959, was suspected of corruption by the Nottingham Watch Committee. On his command the Metropolitan Police was tasked to investigate and, after no prosecutions were brought by the Director of Public Prosecutions, the Nottingham Watch Committee demanded to see the report. Popkess refused and was subsequently suspended by the Watch Committee on the grounds that he was unfit for office. However, following the Chief Constable's suspension the Home Secretary stepped in and ruled that the Watch Committee had acted incorrectly and ordered that Popkess be reinstated.⁵⁶⁸ The Chief Constable was subsequently reinstated by the Watch Committee. The Popkess affair is important for two reasons. First, the Home Secretary stepped in and ordered the reinstatement of the Chief Constable which arguably undermined the credibility,

⁵⁶⁰ Unreported case available at

http://Ofind.galegroup.com.serlib0.essex.ac.uk/ttda/newspaperRetrieve.do?qrySerId=Locale%28en%2C%2C%29%3AFQE%3D%28tx%2CNone%2C26%29Brighton+police+conspiracy%3AAnd%3ALQE%3D%28da%2CNone%2C11%291957+-+1958%3AAnd%3ALQE%3D%28MB%2CNone%2C8%29%22TTDA-1%22%24&retrieveFormat=MULTIPAGE_DOCUMENT&sort=DateAscend&docLevel=FASCIMILE&inPS=true&prodId=TTDA&userGroupName=essex&tabID=T003&resultListType=RESULT_LIST&searchId=R1&docId=CS34560402¤tPosition=1&docId=&docLevel=FASCIMILE&workId=&relevancePageBatch=&contentSet=LTO&callistoContentSet=UDVIN&docPage=article&mcode=&issueNum=&recNum=CS34560402&newScale=0.33&newOrientation=0&searchTypeName=BasicSearchForm&fromContentPage=articleOnThisPage&articleContentLink=enable Accessed 24th February 2014

⁵⁶¹ Ridge v Baldwin (1961) 2 W.L.R 1054

⁵⁶² Ridge v Baldwin (1961) 2 W.L.R 1054

⁵⁶³ Ridge v Baldwin (1961) 2 W.L.R 1056

⁵⁶⁴ HC Deb 9 May 1963, vol 677 cols 755

⁵⁶⁵ HC Deb 9 May 1963, vol 677, cols 756

⁵⁶⁶ HC Deb 9 May 1963, vol 677, cols 755

⁵⁶⁷ HL Deb 8 Dec 1958, vol 213 cols 12

⁵⁶⁸ Brain, T, (2010) pg 5

sustainability and legitimacy of Watch Committees as a mechanism to hold Chief Constables to account. Second, the affair like the Ridge case merely two years before, brought public and political attention to the inadequacy of accountability structures in the police. In the House of Commons Members urged that the affair resulted in great stress to the people of Nottingham and discredited the reputation of Popkess, a Chief Constable with a nationwide reputation.⁵⁶⁹ The affair was described as deplorable⁵⁷⁰ and the nearest thing the country has seen to fascism in public life.⁵⁷¹

The second factor that contributed to the public confidence haemorrhage in the police around this time was race riots in Nottingham and London. Although some, including the MP for Durham, Charles Grey, argued that ‘the press more or less magnified the position out of all perspective’⁵⁷² and that ‘it would have been better if the press had not used the words race riots’⁵⁷³ Reiner argues that the riots further undermined the public’s confidence in the police.⁵⁷⁴

The third factor which drew attention to the state of policing and the need for greater accountability was the significant increase in recorded crime, which was described by the then Chief Inspector of Constabulary as an upsurge and the later 1959 Royal Commission as a crisis. The increase in recorded crime again drew the attention of Members in the House of Commons. The MP for Brixton, Marcus Lipton, argued that levels of crime were, beyond doubt, worsening and that this resulted in falling public confidence in the police.⁵⁷⁵ Whilst others, including the MP for Walsall Mr William Wells, urged that diminishing public confidence in the police was of paramount importance.⁵⁷⁶ Further, members of the House of Commons tentatively linked the increasing levels of gang related crime with high levels of public anxiety.⁵⁷⁷ Here, in addition to the increases in gang related crime, the MP for Walsall, urged that high levels of public anxiety had three causes. First, a lack of democratic control over the police.⁵⁷⁸ Second, the inadequacy of inspections and third the unfettered powers of Chief Constables.⁵⁷⁹

The fourth factor which contributed to the growing awareness of the need for reform of the structures of police accountability were allegations of police brutality. These allegations were important for three reasons. First, the allegations evidence falling public confidence in the police. Second, the allegations pushed police accountability into the public domain. Third, the allegations further forced police accountability onto the national agenda. In the House of Commons in 1959 a case of police brutality was brought to the attention of the Joint Under Secretary of State for the Home Department.⁵⁸⁰ The MP for Islington East, Mr Eric Fletcher, told the House that his constituents had been ‘brutally assaulted, beaten, disfigured and kicked by a police sergeant and three or four police constables’.⁵⁸¹ Fletcher argued that the

⁵⁶⁹ HC Deb 30 July 1959, vol 610 cols 682

⁵⁷⁰ HC Deb 30 July 1959, vol 610 cols 682

⁵⁷¹ HC Deb 9 May 1963, vol 677 cols 756

⁵⁷² HC Deb 5 Dec 1958, vol 596 cols 1566

⁵⁷³ HC Deb 5 Dec 1958, vol 596 col 1567

⁵⁷⁴ Reiner, R, (2010) pg 68

⁵⁷⁵ HC Deb 21 June 1956, vol 554 cols 1619

⁵⁷⁶ HC Deb 20 Feb 1959, vol 600 cols 755

⁵⁷⁷ HC Deb 20 Feb 1959, vol 600 cols 755

⁵⁷⁸ HC Deb 20 Feb 1959, vol 600 cols 755

⁵⁷⁹ HC Deb 20 Feb 1959, vol 600 cols 755

⁵⁸⁰ HC Deb 16 July 1959, vol 609 cols 723 - 729

⁵⁸¹ HC Deb 16 July 1959, vol 609 cols 723

unprovoked attack on his constituents resulted in their wounds and injuries being treated and dressed at the Royal Northern Hospital.⁵⁸² Additionally, Fletcher told the Commons that one of the victims had ‘obvious signs that he had recently suffered considerable violence. His eyes were badly swollen, he had cuts on his face and forehead, and other bruises on his face. His neck showed signs of serious bruising and he complained of having been kicked in the ribs by one of the police officers at the police station.’⁵⁸³ Fletcher also told the Commons that one of the victims saw the other being ‘held by two police constables while two others proceeded to punch and batter him until he collapsed on the ground, where he was violently kicked by one of the officers.’⁵⁸⁴ Fletcher stated that his constituents thought that the brutal assault and beating-up administered to them in the police station was entirely unprovoked and was so severe that they feared for their lives.⁵⁸⁵ The Member stated that one of the victims was clutched so violently by the throat that he thought he would be choked whilst another officer said to him "I will kill you, you bastard".⁵⁸⁶ The member confirmed that both victims of the attack by the police were of high repute and unblemished records.⁵⁸⁷

Fletcher urged that public interest required an independent inquiry to ensure that public confidence in the police was restored.⁵⁸⁸ Fletcher argued that an inquiry was in the interests of justice⁵⁸⁹ and the police themselves as it would ensure that officers would not be tempted to cover up any dereliction in duty.⁵⁹⁰ In response to these calls the Under Secretary for the Home Department stated that the Member’s constituents already had appropriate machinery available to them to initiate an investigation⁵⁹¹ and described an independent inquiry as unnecessary.⁵⁹² However, merely 14 days later, another Member of the House queried whether the deteriorating relationship and lack of public confidence in the police was due to the volume of representations surrounding police brutality.⁵⁹³ This case of police brutality not only demonstrates the falling levels of public confidence in the police but again forced the police accountability debate into the public domain and onto the national agenda.

The Ridge and Popkess scandals, riots, rising crime and allegations of police brutality led not only to the public confidence haemorrhage in the police but also cumulatively indicated that the police were not properly accountable. Further, public and political attention was drawn to the fact that Watch and Standing Joint Committees, as the principal mechanism and structure of police accountability, were failing to make the police accountable.

The Ridge and Popkess scandals pushed the issue of police accountability into the public domain and onto the national agenda. The scandals drew the attention of both the House of Commons and House of Lords. In the Commons the Ridge scandal led one member, the MP for Leeds West Chris Pannell, to argue for nothing less than public accountability of the police.⁵⁹⁴ Pannell also urged that Chief Constables were a hybrid person⁵⁹⁵ who lacked

⁵⁸² HC Deb 16 July 1959, vol 609 cols 723

⁵⁸³ HC Deb 16 July 1959, vol 609 cols 724

⁵⁸⁴ HC Deb 16 July 1959, vol, 609 cols 724

⁵⁸⁵ HC Deb 16 July 1959, vol 609 cols 724

⁵⁸⁶ HC Deb 16 July 1959, vol 609 cols 724

⁵⁸⁷ HC Deb 16 July 1959, vol 609 cols 724

⁵⁸⁸ HC Deb 16 July 1959, vol 609 cols 725

⁵⁸⁹ HC Deb 16 July 1959, vol 609 cols 726

⁵⁹⁰ HC Deb 16 July 1959, vol 609 cols 727

⁵⁹¹ HC Deb 16 July 1959, vol 609 cols 728

⁵⁹² HC Deb 16 July 1959, vol 609 cols 729

⁵⁹³ HC Deb 30 July 1959, vol 610 cols 683

⁵⁹⁴ HC Deb 9 May 1963, vol 677, cols 756

accountability.⁵⁹⁶ In the House of Lords Winterton argued that Watch Committees were plainly ignorant for failing to see what was happening under their noses.⁵⁹⁷ The argument that arises here is that such strong condemnations undermined the credibility, sustainability and legitimacy of Watch Committees as the principal mechanism and structure of police accountability. This argument was echoed in the Popkess scandal. In addition to being described by as the nearest thing that the country had seen to fascism in public life⁵⁹⁸ the credibility, sustainability and legitimacy of Watch Committees were further undermined by the Home Secretary stepping in and ordering that the Committee reinstate Popkess as Chief Constable.

The first chapter of this thesis argued that the police must be accountable and that accountability is the very bedrock of policing. It was argued that accountability carries responsibility for ensuring that the police are legitimate. The link argument made here was that if the police are not accountable their legitimacy is undermined and weakened, which in the case of the police is especially concerning as the police are a state organ. Given these arguments the Ridge and Popkess scandals represent important developments. The scandals demonstrate that the police were not accountable and that Watch Committees, as the existing mechanism and structure of police accountability, were insufficient and were in practice being ignored. This denunciation, along with the undermining of Watch Committees evidenced in the Ridge affair, leads to the conclusion that Watch Committees, as the principal structure of police accountability lacked credibility and legitimacy. A further argument explored in the first chapter of this thesis was that the structures and mechanisms of police accountability are crucial to securing legitimacy. The argument that arises here is that Watch and Standing Joint Committees, as the principal structure intended to make the police accountable and secure their legitimacy, were failing, spectacularly.

The Ridge Scandal led to Chief Constables being described as a hybrid person who lacked accountability.⁵⁹⁹ As defined in the first chapter of this thesis accountability in its core sense means answerability. Within the answerability facet of accountability lies the accountability relationship and its two branches, the accountor and the accountee. The first chapter of this thesis highlighted that the accountor was the body normally either asked to inform or explain decisions whilst the accountee was the body to whom the accountor owes accountability and therefore must explain or justify action or inaction. The Ridge scandal and the description of Chief Constables as lacking accountability is important for three reasons. First, it leads to the argument that the accountability relationship, considered itself to evidence accountability, was deficient as Chief Constables were fulfilling neither an accountor or accountee role. Second, the scandal evidences a lacuna in the existing structure and mechanisms of accountability. Third, the scandal drew public and political attention to this lacuna and was part of the catalyst that led to the appointment of the Royal Commission in 1959.

Increases in recorded crime, the third factor which drew attention to the state of policing and the need for greater accountability, not only drew public and political attention again to the lack of satisfactory structure and mechanism of police accountability but seemingly humanised the issue by arguing that public confidence and high levels of public anxiety resulted from a lack of accountability. Intriguingly, as explored in the second chapter of this

⁵⁹⁵ HC Deb 9 May 1963, vol 677, cols 755

⁵⁹⁶ HC Deb 9 May 1963, vol 677, cols 755

⁵⁹⁷ HL Deb 8 Dec 1958, vol 213 cols 12

⁵⁹⁸ HC Deb 9 May 1963, vol 677 cols 756

⁵⁹⁹ HC Deb 9 May 1963, vol 677, cols 755

thesis, the humanisation argument was advanced by Peel in the House of Commons in 1828 when he was seeking to establish the new police. Peel humanised police reform by placing it as a protection against crime which he successfully argued in the House of Commons was rising.⁶⁰⁰ The same argument was made in the Commons in 1959. Echoing Peel's humanisation argument the MP for Brixton, Marcus Lipton, argued that rising crime resulted in falling public confidence.⁶⁰¹ The MP for Walsall, William Wells, agreed and argued that falling public confidence was of paramount importance.⁶⁰² Therefore, arguably, the Commons, in 1959, mirrored Peel's humanisation argument of 1828 by linking fears over rising crime with public anxiety thus necessitating the need for reform. However, perhaps unsurprisingly, Wells' urged that in addition to the fears of rising crime the causes for public anxiety were threefold. The first was a lack of democratic control over the police, the second was the inadequacy of inspections and the third was the unfettered powers of Chief Constables.⁶⁰³ Wells's argument that the police lacked any form of democratic control further cements the argument that Watch and Standing Joint Committees, as the principal mechanism and structure of police accountability, were failing. This, as previously explored in this chapter, was especially concerning as the structures and mechanisms of police accountability are crucial to securing police legitimacy. Wells's third argument, that the powers of Chief Constables were unfettered also reinforces the arguments made after the Ridge and Popkess scandals, namely that Chief Constables lacked accountability.⁶⁰⁴

The public confidence haemorrhage in the police at this time represents an important stepping stone for developments in police accountability. The haemorrhage drew public and political attention to the lack of suitable mechanisms of accountability, resulting in the appointment of a Royal Commission on Police in 1959.

The Royal Commission on Police

Announcing the Commission, Prime Minister Harold Macmillan told the House of Commons that the Commission's terms of reference were to review the constitutional position of the police throughout Great Britain, the arrangements for their control and administration.⁶⁰⁵ Macmillan stated that the Commission was tasked to consider four main points. First, the constitution and functions of local Police Authorities. Second, the status and accountability of members of police forces, including Chief Officers of Police. Third, the relationship of the police with the public and the means of ensuring complaints by the public against the police were effectively dealt with. Finally, the broad principles of remuneration of the Constable.⁶⁰⁶

The Royal Commission acknowledged that the factors explored previously in this chapter led to what was described as a public confidence haemorrhage.⁶⁰⁷ The Commission also urged that in the tide of rising crime the police faced a critical situation.⁶⁰⁸ In support of this argument the Commission cited, perhaps unconvincingly, the increase in recorded indictable crime and argued that this in itself evidenced a crisis. To demonstrate the increase in recorded

⁶⁰⁰ HC Deb 28 February 1828, vol 18, cols 796

⁶⁰¹ HC Deb 21 June 1956, vol 554 cols 1619

⁶⁰² HC Deb 20 Feb 1959, vol 600 cols 755

⁶⁰³ HC Deb 20 Feb 1959, vol 600 cols 755

⁶⁰⁴ HC Deb 9 May 1963, vol 677, cols 755

⁶⁰⁵ HC Deb 16 Dec 1959, vol 615 cols 1452

⁶⁰⁶ HC Deb 16 Dec 1959, vol 615 cols 1452

⁶⁰⁷ Royal Commission on the Police pg 4

⁶⁰⁸ Royal Commission on the Police pg 43

indictable crime the Commission cited the years 1935 to 1939. Here the Commission reported that there were 267,286 recorded indictable offences.⁶⁰⁹ The Commission, to draw a comparison and demonstrate the increase in recorded indictable crime, referred to the number of offences recorded in 1958. Here the Commission reported that there were 626,509 recorded crimes.⁶¹⁰ The Commission further sought to demonstrate their argument by asserting that violent crime in particular was rising. Here the Commission argued that offences against the person had increased in 1958 by 22,590 whilst offences against property with violence had increased by 88,419.⁶¹¹ Taken on a literal interpretation the case appears to be that crime was indeed rising and crimes involving violence against people were also rising.

Arguably recorded crime is not necessarily a reliable indicator of crime levels but the apparent increase presented by the Commission was significant and further entrenched the view, especially when considered in conjunction with the humanisation argument explored previously in this chapter, that public confidence in the police was falling. Indeed, this argument was acknowledged by Macmillan when he announced the appointment of a Royal Commission in the House of Commons.⁶¹² To further assess the relationship between the public and the police and to investigate the question of whether public confidence in the police had diminished, thus necessitating a change to an institution of the country,⁶¹³ the Commission tasked the Central Office of Information to conduct a public survey. The chapter explores this survey, and its limitations, before offering an analysis of how the recommendations of the Royal Commission impacted upon police accountability.

The Central Office of Information

The Office reported that 68% of the survey's respondents agreed that the public's opinion of the police had changed for the worse.⁶¹⁴ Of this 68% almost half stated that the main reason for the decline was due to the public becoming more knowledgeable about the law.⁶¹⁵ The survey argued that other factors which led to the declining relationship included the arguments that young people were being more antagonistic towards the police, lenient court sentences and the enforcement of petty regulations which antagonised the public.⁶¹⁶ The survey also questioned police officers, 88% stating that measures should be taken by the police to improve relations with the public.⁶¹⁷ The Commission acknowledged the survey's findings and urged that there were several contributory factors which led to a general decline in the relationship between the police and the public. It argued that these factors were, social changes, a decay in the respect for police authority and a tendency to question the justification for measures which would have formally had been adopted without challenge.⁶¹⁸

The Central Office of Information survey also reported that 44% of respondents believed that the general public behaved worse than they did ten years ago.⁶¹⁹ The Commission acknowledged this finding and concluded that there was a decline in the standards of the

⁶⁰⁹ Royal Commission on the Police, Minutes of Evidence, 1-7, pg 123, paragraphs 108 (1960)

⁶¹⁰ Royal Commission on the Police, Minutes of Evidence, 1-7, pg 123, paragraphs 108 (1960)

⁶¹¹ Royal Commission on the Police, Minutes of Evidence, 1-7, pg 123, paragraphs 108 (1960)

⁶¹² HC Deb 16 Dec 1959, vol615 cols 1452

⁶¹³ Royal Commission on the Police pg 49

⁶¹⁴ Royal Commission on the Police, Minutes of Evidence, 8-10 and Appendices 1 -4, Appendix 4, pg 30

⁶¹⁵ Royal Commission on the Police, Minutes of Evidence, 8-10 and Appendices 1 -4, Appendix 4, pg 30

⁶¹⁶ Royal Commission on the Police, Minutes of Evidence, 8-10 and Appendices 1 -4, Appendix 4, pg 30

⁶¹⁷ Royal Commission on the Police, Minutes of Evidence, 8-10 and Appendices 1 -4, Appendix 4, pg 39

⁶¹⁸ Royal Commission on the Police pg 101

⁶¹⁹ Royal Commission on the Police, Minutes of Evidence, 8-10 and Appendices 1 -4, Appendix 4, pg 11

public themselves.⁶²⁰ The survey also found that 75.2% of public respondents thought that the public did not give the police sufficient help.⁶²¹ The survey interviewed police officers on this point and reported that 87% stated that the public did not help the police enough.⁶²² In addition to the Central Office of Information survey the Commission heard evidence from a number of stakeholders, including the Law Society, the Bow Group and the National Council for Civil Liberties. These stakeholders unanimously argued that the relationship between the police and the public was deteriorating and highlighted two main reasons for this deterioration. The first, according to the Law Society, was the ability of the police to exaggerate and fabricate evidence.⁶²³ Statistical support for the Law Society's evidence is actually found in the survey conducted by the Central Office of Information. The survey concluded that, in the opinion of the public, 32% thought that the police might distort evidence.⁶²⁴ Further, the survey reported that of this 32%, 20% thought that this happened very rarely, 7.9% thought it happened fairly often and 1.9% thought that it happened very often.⁶²⁵ The second, according to the Bow Group, was the ability of the police to occasionally commit perjury in order to secure the conviction of prisoners who they believe to be guilty.⁶²⁶ Further evidence of the deteriorating relationship between the police and the public was presented by the National Council for Civil Liberties. The Council argued that the relationship was radically wrong⁶²⁷ and listed a number of causative factors including police incompetence, the use of unnecessary violence and the inability of the police to deal with political and industrial demonstrations.⁶²⁸

However, the Commission arguably sought to dismiss the significance of this evidence by arguing that the Law Society and the Bow Group were themselves preoccupied with the deteriorating relationship between the police and the public.⁶²⁹ The Commission urged that this preoccupation led to their evidence being exaggerated.⁶³⁰ The evidence given by the Law Society, Bow Group and the National Council for Civil Liberties appears to be poles apart from the findings of the survey conducted by the Central Office of Information at the request of the Royal Commission. The report concluded, in spite of its own evidence and the evidence given by stakeholders, that there was an overwhelming level of public confidence in the police.⁶³¹ In support of their conclusion the Commission relied upon the report from the Central Office of Information which found that 82.7% of informants had great respect for the police, 15.9% had mixed feelings and only 0.5% stated they had little respect for the police. The remaining 0.9% of informants gave no opinion.⁶³²

The overwhelming level of public confidence is not only surprising but, on a closer analysis, potentially misleading. One of the most concerning limitations of the survey commissioned by the Royal Commission was the under representation of young people. This underrepresentation is of critical importance for three reasons, all of which were

⁶²⁰ Royal Commission on the Police, Minutes of Evidence, 8-10 and Appendices 1 -4, Appendix 4, pg 13

⁶²¹ Royal Commission on the Police, Minutes of Evidence, 8-10 and Appendices 1 -4, Appendix 4, pg 19

⁶²² Royal Commission on the Police, Minutes of Evidence, 8-10 and Appendices 1 -4, Appendix 4, pg 33

⁶²³ Royal Commission on the Police, Minutes of Evidence, 11-27, pg 1077, paragraphs 36 - 37 (1961)

⁶²⁴ Royal Commission on the Police, Minutes of Evidence, 8-10 and Appendices 1 -4, Appendix 4, pg 17

⁶²⁵ Royal Commission on the Police, Minutes of Evidence, 8-10 and Appendices 1 -4, Appendix 4, pg 17

⁶²⁶ Royal Commission on the Police, Minutes of Evidence, 11-27, pg 1300, paragraph 6 (1961)

⁶²⁷ Royal Commission on the Police, Minutes of Evidence, 11-27, pg 761, paragraph 161 (1961)

⁶²⁸ Royal Commission on the Police pg 102

⁶²⁹ Royal Commission on the Police pg 102

⁶³⁰ Royal Commission on the Police pg 102

⁶³¹ Royal Commission on the Police pg 102

⁶³² Royal Commission on the Police, Minutes of Evidence, 8-10 and Appendices 1 -4, Appendix 4, Table 4, pg 6

acknowledged by the Commission in their report. First, young people were more antagonistic towards the police.⁶³³ Second, young people made more criticisms of police conduct.⁶³⁴ Third, 62% of the informants thought that teenagers were most resentful to the police.⁶³⁵ Indeed, on this point, the Commission concluded that teenagers were more antagonistic towards the police than they had ever been before.⁶³⁶ Therefore the argument that arises here is a logic one. Had a more proportionate number of young people been interviewed by the Central Office of Information the Royal Commission would not have been able to conclude so easily that a large majority of the public had great respect and confidence in the police.⁶³⁷

In forming their sample the Central Office of Information used the electoral roll to recruit respondents. Therefore teenagers were automatically excluded. Furthermore, of those surveyed, only 3.8% were between the ages of 18 and 21 whereas 68% of respondents were aged between 40 and 65 or 65 and over.⁶³⁸ The high proportion of respondents within the age brackets of 40 and 65, 65 and over is concerning as this is an obvious over representation. The Commission acknowledged this limitation, yet effectively overlooked it by stating that further study to incorporate the views of the younger generations was 'advisable'.⁶³⁹

The Royal Commission's objectives

The Royal Commission urged that it had three objectives. First, to secure a system of control over the police which would enable the police to perform their duties impartially and achieve maximum efficiency.⁶⁴⁰ Second, to provide an adequate means within the system of bringing the police to account, and so keeping a constitutional check on mistakes and errors in judgment.⁶⁴¹ Third, to ensure that complaints against the police by the public were effectively dealt with.⁶⁴² The Commission stated that the system of police did not secure the first two of its stated objectives and posed a matter of great constitutional importance.⁶⁴³

The Commission acknowledged that the police should be strong and effective in preserving the law and preventing crime, but stated that police power should be controlled and confined so as not to interfere with personal freedom.⁶⁴⁴ The Commission stated that the basic function of the police was to enforce the rule of law and, like everyone else, police officers were accountable to the law.⁶⁴⁵ However, the Commission acknowledged that a public confidence haemorrhage led to the inference that the police were not subject to adequate accountability and that their constitutional position in the state was ill defined.⁶⁴⁶ Here the Commission argued that the police lacked accountability as their constitutional structure was born out of early Victorian political sagacity and their genius to compromise.⁶⁴⁷ On this point the Commission observed that during the Victorian age the policing landscape was one of

⁶³³ Royal Commission on the Police, Minutes of Evidence, 8-10 and Appendices 1 -4, Appendix 4, pg 30

⁶³⁴ Royal Commission on the Police, Minutes of Evidence, 8-10 and Appendices 1 -4, Appendix 4, pg 9

⁶³⁵ Royal Commission on the Police, Minutes of Evidence, 8-10 and Appendices 1 -4, Appendix 4, pg 27

⁶³⁶ Royal Commission on the Police, Minutes of Evidence, 8-10 and Appendices 1 -4, Appendix 4, pg 28

⁶³⁷ Royal Commission on the Police, Minutes of Evidence, 8-10 and Appendices 1 -4, Appendix 4, pg 23

⁶³⁸ Royal Commission on the Police, Minutes of Evidence, 8-10 and Appendices 1 -4, Appendix 4, pg 3

⁶³⁹ Royal Commission on the Police, Minutes of Evidence, 8-10 and Appendices 1 -4, Appendix 4, pg 43

⁶⁴⁰ Royal Commission on the Police pg 7

⁶⁴¹ Royal Commission on the Police pg 7

⁶⁴² Royal Commission on the Police pg 7

⁶⁴³ Royal Commission on the Police pg 7

⁶⁴⁴ Royal Commission on the Police pg 9

⁶⁴⁵ Royal Commission on the Police pg 21

⁶⁴⁶ Royal Commission on the Police pg 5

⁶⁴⁷ Royal Commission on the Police pg 6

localised supervision.⁶⁴⁸ Further, the Commission urged that the structure of the police and its legal basis echoed the requirements of policing a century earlier and therefore contained the inherent fears and prejudices of that era.⁶⁴⁹ However, despite acknowledging these problems the Commission paradoxically concluded that the system of police actually worked well and provided the country with an effective police service.⁶⁵⁰ This led the Commission to urge that it was for those who sought radical change to show that it was actually necessary.⁶⁵¹ This argument leads to a conclusion that the Royal Commission was itself reluctant to make fundamental changes to the organisation of policing. Indeed this argument is evidenced in its report, stating ‘we have borne in mind that it is the tradition of this country to allow institutions to evolve and change gradually...we think that this tradition is sound, particularly in relation to the police.’⁶⁵²

The Commission acknowledged, as previously explored in the second chapter of this thesis, that the evolution of the system of police from an amateur, unaccountable decentralised system to a professional accountable centralised one led to a confused administration with blurred and overlapping areas of power and authority. This, the Commission argued, meant that the Home Secretary was scarcely called upon to provide any accountability before Parliament.⁶⁵³ The Commission also recognised, as highlighted in the second chapter of this thesis, that although the Metropolitan Police was under the control of the Secretary of State the rural constabularies were for some time ill-defined and fragmented.⁶⁵⁴ The Commission argued that the confused system of police that the country inherited reflected not merely the “British habit of adapting old institutions to meet new needs but the interplay of conflicting principles of great constitutional importance which human minds still find the most difficult to reconcile.”⁶⁵⁵ The Commission cited a vague relationship between central government, local government, the police and the judiciary⁶⁵⁶ and stated that although it would be considered intolerable elsewhere it was tolerated and even applauded as it was seen to work.⁶⁵⁷

In the course of its investigations the Commission revisited the contentious and long standing argument of nationalising the system of police. On this occasion, the argument made was that a nationalised system of police would provide for greater parliamentary supervision and increased effectiveness.⁶⁵⁸ However, like Desborough before, the argument was dismissed. Displacing fears over endangering liberty and the fear of police states associated with totalitarian regimes,⁶⁵⁹ the Royal Commission argued that placing the police under the direct control of the government would be a notable constitutional change and concluded emphatically that the system of police should not be nationalised.⁶⁶⁰ Related to the nationalisation argument the Commission urged that the Country’s institutions should be allowed to evolve and change gradually.⁶⁶¹ Here, interestingly, the Commission urged that

⁶⁴⁸ Royal Commission on the Police pg 6

⁶⁴⁹ Royal Commission on the Police pg 6

⁶⁵⁰ Royal Commission on the Police pg 6

⁶⁵¹ Royal Commission on the Police pg 6

⁶⁵² Royal Commission on the Police pg 49

⁶⁵³ Royal Commission on the Police, Minutes of Evidence, 11-12, pg 691 (1960)

⁶⁵⁴ Royal Commission on the Police pg 15

⁶⁵⁵ Royal Commission on the Police pg 20

⁶⁵⁶ Royal Commission on the Police pg 15

⁶⁵⁷ Royal Commission on the Police pg 15

⁶⁵⁸ Royal Commission on the Police pg 45

⁶⁵⁹ Royal Commission on the Police pg 45

⁶⁶⁰ Royal Commission on the Police pg 141

⁶⁶¹ Royal Commission on the Police pg 49

the any change to the country's institutions had to be encouraged and supported by public opinion.⁶⁶²

The accountability of Chief Constables

The Royal Commission explored the accountability of Chief Constables in some depth. The Commission concluded that Chief Constables held a confusing administrative role,⁶⁶³ an unfettered discretion and were effectively accountable to no one.⁶⁶⁴ The Commission argued that these characteristics resulted in informal working arrangements which were readily adapted to avoid a close analysis.⁶⁶⁵ This was argued to be an untenable position as Chief Constables must be open to challenge and be held accountable.⁶⁶⁶

The Commission proposed three ways of making Chief Constables accountable. First, empowering regulatory committees to submit reports on questions of police practice,⁶⁶⁷ if reports were disregarded and flouted Chief Constables' fitness for office could then be challenged.⁶⁶⁸ Second, the creation of a more effective system of Government inspection.⁶⁶⁹ The Commission argued that the combined effect of these two measures would provide a more formal structure of accountability and leave the present legal status of the Chief Constable unaltered.⁶⁷⁰ Third, placing Chief Constables under the direct control of either local or central government and thus converting their legal status from local authority to Crown servants.⁶⁷¹ However, this proposal was emphatically rejected as the Commission itself did not consider it a desirable course and argued that no evidence favoured such a conversion.⁶⁷²

Conclusions of the Royal Commission

Despite the limitations and the arguably misleading conclusions of the Central Office of Information survey, the Commission concluded, without seeking to make radical change, that no adequate means of holding the police to account existed.⁶⁷³ The Commission urged that the purpose of their recommendations was to bring the police under more effective control by making them more fully accountable.⁶⁷⁴ Further, the Commission concluded that the system of control over the police did not achieve maximum possible efficiency and urged that more effective central control was needed to achieve a more efficient police service.⁶⁷⁵ To achieve this the Commission recommended an expanded role for the Inspectors of Constabulary⁶⁷⁶ and urged increased coordination between police constabularies.⁶⁷⁷ Additionally, the Commission recommended the increase of central Government responsibility for the

⁶⁶² Royal Commission on the Police pg 49

⁶⁶³ Royal Commission on the Police pg 27

⁶⁶⁴ Royal Commission on the Police pg 31

⁶⁶⁵ Royal Commission on the Police pg 28

⁶⁶⁶ Royal Commission on the Police pg 32

⁶⁶⁷ Royal Commission on the Police pg 32

⁶⁶⁸ Royal Commission on the Police pg 32

⁶⁶⁹ Royal Commission on the Police pg 32

⁶⁷⁰ Royal Commission on the Police pg 32

⁶⁷¹ Royal Commission on the Police pg 33

⁶⁷² Royal Commission on the Police pg 33

⁶⁷³ Royal Commission on the Police pg 140

⁶⁷⁴ Royal Commission on the Police pg 7

⁶⁷⁵ Royal Commission on the Police pg 140

⁶⁷⁶ Royal Commission on the Police pg 78

⁶⁷⁷ Royal Commission on the Police pg 84

promotion of efficiency in the police.⁶⁷⁸ Here the Commission recommended that the Secretary of State being accountable to Parliament for the efficient policing of the whole country.⁶⁷⁹ Further it recommended the establishment of a central unit with responsibility for planning and research⁶⁸⁰ and, critically, the establishment of Police Authorities.⁶⁸¹ The Commission recommended that the role, composition and appointment of police authorities be made obligatory by statute.⁶⁸²

The impact of the Royal Commission on Police Accountability

Lambert argues that the Royal Commission's report represents a watershed in policing.⁶⁸³ Certainly, the Commission acknowledged the rolling crisis of police accountability and urged that one of the main criticisms of the police was that they were not subject to adequate accountability.⁶⁸⁴ The Commission also recognised that Chief Constables had an unfettered discretion and were accountable to no one.⁶⁸⁵ The unfettered and unaccountable nature of Chief Constables led to the development of informal working practices that were readily adapted to avoid any close analysis.⁶⁸⁶ This finding was concerning as the exercise of discretion should be challenged through some mechanism of accountability.⁶⁸⁷

The Commission's report leads to the logical conclusion that the police and Chief Constables were far from answerable and accountable. The unanswerable and unaccountable nature of the police and Chief Constables also leads to the conclusion that the accountability relationship, explored in the first chapter of this thesis, was deficient as neither the police nor Chief Constables were answerable and thus accountable to an accountee. To build this argument the Commission argued that informal working practices were readily adapted to avoid a close analysis.⁶⁸⁸ The argument that resurfaces here is that avoiding a close analysis means that the police and Chief Constables were not open to challenge, they were not accountable through a mechanism of accountability. Further, the first chapter of this thesis argued that the key facets of accountability are answerability, enforceability and the possibility of sanctions. The argument that arises here is that informal working practices may have resulted in the key facets of accountability not being present.

The Commission urged that it was for those who sought radical change to show that it was actually necessary.⁶⁸⁹ Not only does this in itself evidence a reluctance to make fundamental reforms to the system of police but also leads to the argument that the Commission, by making this statement and using the term 'radical change', possibly raised the bar for change to an artificial and insurmountable level. The police, as highlighted in the first chapter of this thesis, are a state organ.⁶⁹⁰ Therefore, arguably, they predominantly align themselves with main stream conservative views and, for the purpose of the policing by consent doctrine, the views of the policed. The argument presented here is that the Commission chose to use the

⁶⁷⁸ Royal Commission on the Police pg 89

⁶⁷⁹ Royal Commission on the Police pg 98

⁶⁸⁰ Royal Commission on the Police pg 144

⁶⁸¹ Royal Commission on the Police pg 143

⁶⁸² Royal Commission on the Police pg 143

⁶⁸³ Lambert, J, (1986) pg 30

⁶⁸⁴ Royal Commission on the Police pg 5

⁶⁸⁵ Royal Commission on the Police pg 136

⁶⁸⁶ Royal Commission on the Police pg 28

⁶⁸⁷ Marshall, G, in T. Newburn (eds) (2005) pg 628

⁶⁸⁸ Royal Commission on the Police pg 28

⁶⁸⁹ Royal Commission on the Police pg 6

⁶⁹⁰ Waddington, P.A.J, Wright, M, (2010) pg 79

term ‘radical’ for a reason. When used in conjunction with the adjective change the term radical, implies a change that would conflict with main stream conservative views and the views of the policed. Further, the Commission urged that any change must be encouraged and supported by public opinion.⁶⁹¹ Thus the Commission placed the burden for any change on public opinion. Arguably, in placing the burden for change on public opinion, the Commission outsourced responsibility to the Central Office of Information. In doing so the Commission effectively dodged one of the main purposes for which they were established in 1959, namely, to assess themselves the relationship between the police and the public. This chapter has already explored the report from the Central Office of Information and argued that its findings of public confidence in the police were not only overwhelming but potentially highly misleading. Nevertheless the Commission relied upon the Central Office’s report and in doing so concluded that public opinion did not favour radical change.

Prior to introducing its recommendations to fix what it itself termed was an unaccountable police,⁶⁹² the Royal Commission concluded that more effective central control was needed to achieve a more efficient police service.⁶⁹³ The Commission’s use of the term efficient is interesting for two reasons. First, it implicitly recognises the conclusions of the 1798 Select Committee on Finance, which as explored in the second chapter of this thesis, framed police accountability for the first time in a financial sense by arguing that the police had to be economically efficient.⁶⁹⁴ The 1959 Royal Commission urged that control was needed to make the police more efficient. Thus the Commission were adopting and applying the argument of the 1798 Select Committee. Second, the Royal Commission in framing control and efficiency in the same sentence arguably cemented the foundations of a mechanism of accountability that would gain prominence and go on to haunt the police in the last decades of the twentieth century. Examined later in this chapter, this mechanism of accountability has been labelled by Reiner and Spencer as contractual and calculative.⁶⁹⁵

In making their recommendations the Commission stated that the purpose of their recommendations was to make the police ‘more fully accountable’.⁶⁹⁶ This intriguing choice of words arguably leads to a conclusion that the Commission were acknowledging that it was in fact impossible to make the police entirely accountable, but *merely more* accountable. To make the police more, not entirely accountable, the Commission recommended the establishment of Police Authorities as the principal mechanism and structure of accountability.⁶⁹⁷ Police authorities would form part of what would become labelled the tripartite structure of police accountability. This chapter proceeds to explore this structure before offering an analysis of how successful Police Authorities and the tripartite structure of police accountability was in practice.

Police Authorities and the tripartite structure of accountability

The Royal Commission’s central recommendations were given effect by the Police Act 1964. The Act altered for the first time in over seventy years the principal structures and mechanisms of police accountability as it introduced what became labelled the tripartite structure of police accountability. In practice the tripartite structure meant that police accountability rested between three stakeholders: the Home Secretary, the Chief Constable

⁶⁹¹ Royal Commission on the Police pg 49

⁶⁹² Royal Commission on the Police pg 5

⁶⁹³ Royal Commission on the Police pg 140

⁶⁹⁴ Select Committee on Finance Report (1798) pg 33

⁶⁹⁵ Reiner, R and Spencer, S (1993) pg 2

⁶⁹⁶ Royal Commission on the Police pg 7

⁶⁹⁷ Royal Commission on the Police pg 143

and the Police Authority. The roles each of these stakeholders is considered in turn prior to offering an analysis of how the tripartite structure changed the accountability relationship in the police. After this analysis the issue of whether the tripartite structure was successful will be explored.

The Police Act made the Home Secretary responsible and accountable to Parliament for the overall efficiency of the police service.⁶⁹⁸ Additionally, the Home Secretary was given the power to require Chief Constables to submit a report on matters connected with policing.⁶⁹⁹ The Act also required Chief Constables to submit annual reports to the Home Secretary⁷⁰⁰ and the Police Authority.⁷⁰¹ Police Authorities, two thirds of which were composed of members of the local council⁷⁰² and the remaining third being made up by magistrates,⁷⁰³ were required by the Act to maintain an efficient police force for their area,⁷⁰⁴ appoint⁷⁰⁵ and where grounds of inefficiency existed call upon the Chief Constable to retire.⁷⁰⁶ The Act also provided Police Authorities with a mechanism by which they could hold the Chief Constable to account. In accordance with the Act, Police Authorities were empowered to submit reports to Chief Constables seeking explanations on matters of policing.⁷⁰⁷ Thus, in theory, Chief Constables were answerable and accountable to Police Authorities. However the power of Police Authorities to hold Chief Constables to account was itself undermined by the Act itself as Chief Constables could refuse requests on two broad grounds. First, if Police Authorities requested information which was not in the public interest to disclose.⁷⁰⁸ Second, if the information requested was deemed unnecessary for the functioning of the Police Authority.⁷⁰⁹

Thus Police Authorities would have a pivotal role within the tripartite structure, holding Chief Constable to account. Accountability, as argued in the first chapter of this thesis, creates a dialogical accountable relationship containing two branches. The first branch, the accountant, is the body normally either asked to inform or explain decisions. The second branch, the accountee, is the body to whom the accountant owes accountability and therefore must explain or justify action or inaction. Thus Police Authorities, at this level of the police accountability relationship introduced by the tripartite structure, were the accountee and Chief Constables the accountant. The second chapter of this thesis argued that the dialogical accountable relationship in the police was itself multi layered. To demonstrate the multi layered nature of police accountability the second chapter of this thesis explored how Pitt in 1785, Colquhoun in 1797 and Peel in 1829 sought to make the police accountable by recommending new structures and mechanisms of accountability. Each of their reforms, especially those of Pitt and Peel, introduced multiple layers of accountability into the police. The tripartite structure also continued with this tradition as it again introduced a multi layered accountability relationship.

The role of Police Authorities within the tripartite structure also evidences the theory of hybrid accountability. This theory of accountability is evidenced when citizens monitor or

⁶⁹⁸ s.28 Police Act 1964

⁶⁹⁹ s. 30 (1) Police Act 1964

⁷⁰⁰ s. 30 (1) Police Act 1964

⁷⁰¹ s.12 (1) Police Act 1964

⁷⁰² s. 2 (2) (a) Police Act 1964

⁷⁰³ s. 2 (2) (b) Police Act 1964

⁷⁰⁴ s.4 (1) Police Act 1964

⁷⁰⁵ s. 4 (2) Police Act 1964

⁷⁰⁶ s. 5 (4) Police Act 1964

⁷⁰⁷ s. 12 (2) Police Act 1964

⁷⁰⁸ s. 12 (3) Police Act 1964

⁷⁰⁹ s. 12 (3) Police Act 1964

participate directly in the workings of oversight institutions.⁷¹⁰ Thus, hybrid accountability means that citizens are given standing and accordingly integrate or insinuate themselves into previously closed institutions.⁷¹¹ The Police Act 1964 required two thirds of Police Authorities members to be elected members of the local council⁷¹² and the remaining third be Magistrates.⁷¹³ This requirement meant that council members and magistrates, who previously would have been excluded from monitoring the police, were given a statutory footing and accordingly monitored and participated directly in an oversight institution, namely Police Authorities. However Police Authorities became the subject of relentless criticism. These criticisms not only undermined the credibility of Police Authorities and the tripartite structure of police accountability but also possibly demonstrates the inherent limitations of hybrid accountability.

As explored above, Chief Constables were the accountor in their accountability relationship with Police Authorities as the Authorities were empowered to ask Chief Constables for explanations on matters relating to policing.⁷¹⁴ However, as previously identified in this chapter, Chief Constables retained a powerful veto power whereby the requests from Police Authorities could be refused.⁷¹⁵ This veto power not only made Police Authorities impotent in some potential conflicts with Chief Constables but importantly meant that this layer of the accountability relationship established by the Police Act 1964 was undermined. In addition to their accountability relationship with Police Authorities Chief Constables also fulfilled accountee responsibilities in their relationship with the Home Secretary.⁷¹⁶ Arguably, the accountee responsibilities of Chief Constables to the Home Secretary was one that grew with the introduction and implementation of New Public Management models of accountability in the police.⁷¹⁷

The tripartite structure of accountability should have led to what Marshall terms an ‘explanatory and co-operative’ mode of accountability.⁷¹⁸ This model of accountability was differentiated by Marshall from ‘subordinate and obedient, mode which led to a supervisory form of accountability accompanied by administrative control and the ability to direct and veto.’⁷¹⁹ However, even prior to its introduction, the new tripartite structure of police accountability was attracting criticism. Some protested that the powers of the Home Secretary and Chief Constable were being enhanced and constitutionally clarified at the expense of Police Authorities.⁷²⁰ This led critics such as McLaughlin to argue that the Act led not to a tripartite structure of police accountability but a bipartite one.⁷²¹ Others, such as Graville and Rogers, contend that the tripartite structure of accountability was entirely unbalanced which allowed the Home Secretary to exert significant pressure on Chief Constables to direct their resources.⁷²² Agreeing, Warburton argued that the tripartite structure was in fact nothing more than a convenient smokescreen for the Government to retain de facto national control of

⁷¹⁰ Goetz, A, Jenkins, R, (2001) pg 364

⁷¹¹ Goetz, A, Jenkins, R, (2001) pg 363

⁷¹² s. 2 (2) (a) Police Act 1964

⁷¹³ s. 2 (2) (b) Police Act 1964

⁷¹⁴ see s.12 (2) Police Act 1964

⁷¹⁵ see s.12 (3) and s.12 (4) Police Act 1964

⁷¹⁶ see s. 30 (1) Police Act 1964

⁷¹⁷ see this chapter pg (s) 23 to 29

⁷¹⁸ Marshall G, (1960), Marshall, G, (1965) pg (s) 105 to 120, and Marshall, G, in T. Newburn (eds) (2005) pg 632 to 634

⁷¹⁹ Marshall, G, in T. Newburn (eds) (2005) pg 633

⁷²⁰ McLaughlin, E, (2007) pg 180

⁷²¹ McLaughlin, E, (2007) pg 180

⁷²² Graville. J, & Rogers. C, (2011) at 320

the police.⁷²³ McLaughlin, Edwards and Oliver heaped further criticism on the tripartite structure. McLaughlin urged that the system was inherently weak and had no tangible meaning for the public.⁷²⁴ Edwards argued that the tripartite system failed to provide any form of accountability⁷²⁵ while Oliver urged that the tripartite structure led to the entanglement of responsibilities and uncertain lines of accountability, which in turn, led to difficulties in calling any of the stakeholders to account.⁷²⁶

Of the three stakeholders created by the Police Act 1964 Police Authorities were the subject of damning criticisms. This is concerning for two reasons. First, as previously explored in this chapter, Police Authorities were intended to be the accountee and hold the Chief Constable to account. Second, Police Authorities were introduced as the principal mechanism and structure of police accountability with the intention of ensuring that the views of local people were reflected in policing strategy. The first chapter of this thesis argued that appropriate structures and mechanisms of accountability are crucial.⁷²⁷ Further, the chapter argued that the structure and organisation of the institutions created for the purpose of securing accountability are also critical.⁷²⁸ Here, the link argument made in the first chapter of this thesis was that the actual mechanism and structure of accountability are crucial as if they fail, the police's legitimacy could be undermined and ultimately weakened. The argument made here is that the criticism directed at Police Authorities, which this chapter proceeds to explore, not only undermined their credibility and suitability as the principal mechanism and structure of police accountability but also, applying the argument in the first chapter of this thesis, leads to the conclusion that police legitimacy may have been undermined and weakened by the failure of Police Authorities.

Although some critiqued the role of the Home Secretary within the tripartite structure, contending that they were accountable to Parliament for a police service which they had no direct responsibility for,⁷²⁹ it was Police Authorities that appear to be the weakest link. Jones, Newburn and Smith argue that the Authorities lacked expertise and were undermined in their role by the Home Office.⁷³⁰ This argument was further raised by Oliver, asserting that the Home Secretary, through the use of informal and bureaucratic Home Office circulars, was able to set the strategic direction of policing.⁷³¹ These informal and bureaucratic circulars were at the expense of local accountability.⁷³² Lambert urges that the weaknesses of Police Authorities meant that they were unable or unwilling to use their statutory powers to hold Chief Constables to account.⁷³³ This, Lambert urges, is evidenced by two facts. First, Chief Constables failed to report regularly to their Police Authority.⁷³⁴ Second, Authorities infrequently used their powers under the Act to call for reports from Chief Constables on matters relating to policing issues.⁷³⁵ Lambert argues that the inability of Police Authorities to hold Chief Constables to account led to Chief Constables becoming virtually autonomous.⁷³⁶

⁷²³ Warburton, D, (2004) at 135

⁷²⁴ McLaughlin, E, (2007) pg 189

⁷²⁵ Edwards, A, (2012) at 821

⁷²⁶ Oliver, I, (1997) pg 41

⁷²⁷ Oliver, D, in N. Bamforth and P. Leyland (eds) (2013) pg 304

⁷²⁸ Lambert, L, (1986) pg 19

⁷²⁹ Oliver, I, (1997) pg 40

⁷³⁰ Jones, T, Newburn, T, Smith, D.J, (1994) pg 145

⁷³¹ Oliver, I, (1997) pg 40

⁷³² Jones, T, Newburn, T, Smith, D.J, (1994) pg 145

⁷³³ Lambert, J, (1986) pg 39

⁷³⁴ Lambert, J, (1986) pg 39

⁷³⁵ Lambert, J, (1986) pg 39

⁷³⁶ Lambert, J, (1986) pg 10

Further, Lambert argues that the annual report which Chief Constables were required to provide to the Police Authorities represented a very weak form of accountability as there was no process of actual consultation placed on Chief Constables.⁷³⁷ This led to the report being more of an informative document rather than a mechanism by which Police Authorities could hold Chief Constable to account. Oliver, agreeing with Lambert, argues that Police Authorities discharged their statutory duty with limited effect meaning that the views of local people were rarely reflected in the strategic direction of the police.⁷³⁸ Mirroring the arguments of Lambert and Oliver, the Scarman report urged that Police Authorities seemed to be uncertain of themselves and failed to exercise their responsibilities which the Act envisaged.⁷³⁹ Furthermore, a Home Office report heaped further criticisms on Police Authorities.⁷⁴⁰ The Home Office report found that the vast majority of the public had not previously heard of Police Authorities and those that had did not know what they were or what their role was within the tripartite structure.⁷⁴¹ Additionally, the report from the Home Office found that there was a very low level of democratic dialogue between the policed and the Police Authorities.⁷⁴² Moreover, the report found that the majority of the public were sceptical as to whether Police Authorities were effective, largely because of their low public profile.⁷⁴³

In addition to the criticisms made by Lambert, Oliver, Scarman and the Home Office, Jones and Newburn contend that there was a notable decline in popular legitimacy of the police, so crucial to public consent and compliance.⁷⁴⁴ Agreeing, Graville and Rogers furthered the argument contending that Police Authorities lacked any form of transparency and thus were simply not legitimate.⁷⁴⁵ In support of their argument Graville and Rogers contend that although Police Authority members were appointed representatives the majority were not directly appointed by the public.⁷⁴⁶ Linked to this transparency argument Gilling asserts that the invisibility of Police Authorities led to a democratic deficit in police accountability.⁷⁴⁷ The democratic deficit argument asserted by Gilling gained some degree of traction with others, urging that the deficit surrounding Police Authorities resulted in an increase in the public disconnection with the police.⁷⁴⁸ This disconnection argument was also raised by Reiner, advocating that public disconnection with the police was compounded by the perceived alienation of police officers who had previously been seen as citizens in uniform.⁷⁴⁹

The combined effect of these criticisms led to the tripartite structure being condemned as inadequate, leading to a number of proposals for reform and the development of alternative models of police accountability. These models of accountability were used to supplement the

⁷³⁷ Lambert, J, (1986) pg 39

⁷³⁸ Oliver, I, (1997) pg 40

⁷³⁹ Scarman Report pg 149

⁷⁴⁰ Public Perceptions of Police Accountability and decision making, Home Office Report 38/03 (2003).

Hereafter cited as Public Perception of Police Accountability

⁷⁴¹ Public Perceptions of Police Accountability pg 6

⁷⁴² Public Perceptions of Police Accountability pg 9

⁷⁴³ Public Perceptions of Police Accountability pg 6

⁷⁴⁴ Jones, T & Newburn, T, (2006) pg 54

⁷⁴⁵ Graville, J, & Rogers, C, (2011) at 320

⁷⁴⁶ Graville, J, & Rogers, C, (2011) at 320

⁷⁴⁷ Gilling, D, (2010) at 195

⁷⁴⁸ Graville, J, & Rogers, C, (2011) at 320

⁷⁴⁹ Reiner, R, (1992) 761 – 781

tripartite structure, which until its replacement with PCCs in 2012,⁷⁵⁰ was the principal mechanism and structure to hold the police accountable. This chapter now proceeds to explore the proposals for reform and offers a critical analysis of the effectiveness of these alternative models of police accountability.

Alternative models of police governance

The weaknesses of the tripartite structure of police accountability led to a series of proposals and reforms which had the aim of making the police accountable. However, from the outset, it is important to note that the intention of these reforms was not to replace the tripartite structure of police accountability but to supplement it. The first reform this chapter explores is Police Consultative Committees, which were born out of the Scarman Report.⁷⁵¹ After exploring how Scarman developed the issue of police accountability the chapter proceeds to consider the radical proposal for directly elected Commissions of Police. The chapter then proceeds to explore the development of what Reiner and Spencer labelled calculative and contractual models of police accountability.⁷⁵² These models will be considered alongside models of New Public Management [NPM].

The Brixton riots of April 1981 resulted in the appointment of an inquiry under the guardianship of Lord Scarman, the report was presented to Parliament November 1981 and it represents a milestone for police accountability. The report argues strongly that accountability is an absolute and essential ingredient for policing. Scarman urged that accountability was the mechanism that ensures that the police are made responsible to the community they police.⁷⁵³ Indeed, accountability was framed as the key to consultation and socially representative policing.⁷⁵⁴ Scarman stated that accountability renders the police answerable and avoids them slipping into an enclosed fortress of inward thinking and isolation.⁷⁵⁵ This fortress, Scarman urged, would lead to a siege mentality meaning that the police, so long as their fortress remained secure, would be happy. However Scarman urged that the police's fortress would mean that those on the outside, the policed, would be unhappy and insecure.⁷⁵⁶ For the first time in English police history Scarman argued that the law did not make the police accountable, therefore recommending that accountability itself be placed on a statutory footing.⁷⁵⁷

Police Consultative Committees represent Scarman's attempt to place accountability on a statutory footing.⁷⁵⁸ The Committees, a form of participatory democratic policing, were intended to provide a platform on which public consultation could take place leading to opinions being offered and views being shared. The argument made was that the Committees would give the opportunity for local representatives to influence policing policy,⁷⁵⁹ therefore counteracting the siege mentality. However the Committees were argued to be limited in both

⁷⁵⁰ S. 1 (9) PRSRA states 'the police authorities established for police areas under section 3 of the Police Act 1996 are abolished'

⁷⁵¹ The Scarman Report, The Brixton Disorders 10 – 12 April 1981: Report of an Inquiry by the Right Honourable Lord Scarman. Hereafter cited as The Scarman Report

⁷⁵² Reiner, R and Spencer, S (1993) pg 23

⁷⁵³ The Scarman Report pg 147

⁷⁵⁴ The Scarman Report pg 147

⁷⁵⁵ The Scarman Report pg 147

⁷⁵⁶ The Scarman Report pg 147

⁷⁵⁷ The Scarman Report pg 147

⁷⁵⁸ see s.106 Police and Criminal Evidence Act 1984 and s.96 Police Act 1996

⁷⁵⁹ Newburn, T, Jones, T, (1996) pg 124

principle and practice.⁷⁶⁰ Newburn and Jones also argue that the Committees led to pressures to enhance political accountability within the tripartite structure.⁷⁶¹ Morgan contends that the Committees were a failure for two reasons. First, there was limited contact with the Police. Second, public attendance at Committee meetings was poor.⁷⁶² Thus, in spite of Scarman's profound statements that the police must be accountable, an effective mechanism to achieve police accountability remained elusive. Accordingly, the search for a suitable mechanism and structure of police accountability continued.

Prior to exploring the proposal that directly elected Commissions of Police be appointed to hold the police to account it is important to briefly consider the miners' strikes of 1984, specifically its impact on the state of policing. The strikes led to a period of renewed politicisation of the police. Although Boateng questions whether the police were being used to preserve law and order during the strikes or to implement government policy⁷⁶³ others, such as Friend and Uglow, were more definitive arguing that the police pursued the political objectives of the Government.⁷⁶⁴ This pursuance resulted in the police losing their neutrality⁷⁶⁵ and no longer being representatives of the people.⁷⁶⁶ Brain, in agreement with the political pursuance and neutrality arguments made by Friend and Uglow, asserts that the police became inextricably identified with the Thatcher government⁷⁶⁷ leading to the police being labelled as 'Maggie's army'.⁷⁶⁸ In addition to the neutrality and politicisation of the police, Boateng argues that the miners' strikes resulted in falling public confidence in the police.⁷⁶⁹ This argument was furthered by Loader and Mulcahy, contending that the strikes caused intense damage to the image of policing.⁷⁷⁰ The strikes also led Boateng to argue that the checks and balances on policing were being whittled away⁷⁷¹ and that the police were accountable to no one but themselves.⁷⁷²

In 1984 socio legal theorists Jefferson and Grimshaw proposed a radical alternative to the tripartite structure of police accountability. Their reform was radical as they proposed the establishment of elected Commissions of Police who, had their proposal reached fruition, would have controlled and held the police to account.⁷⁷³ Thus the police would have been accountable to a single elected person. Jefferson and Grimshaw argued that there was no risk associated with the Commission's lack of policing expertise, so long as they were guided by the best legal advice.⁷⁷⁴ The Commissions of Police would have held a duty to uphold and interpret the general legal duty of the police and issue instructions to the police on local matters.⁷⁷⁵ Further, the Commissions would also have had the power, subject to approval by Home Secretary, to appoint Chief Constables. Under Smith and Grimshaw's model the

⁷⁶⁰ Newburn, T, Jones, T, (1996) pg 124

⁷⁶¹ Newburn, T, Jones, T, (1996) pg 124

⁷⁶² Morgan, R, *Police Quarterly* pg 83 – 88

⁷⁶³ Boateng, P, in J. Baxter and L. Koffman (eds) (1985) pg 239

⁷⁶⁴ Friend, Richard and Uglow, S, in J. Baxter and L. Koffman (eds) (1985) pg 69

⁷⁶⁵ Friend, Richard and Uglow, S, in J. Baxter and L. Koffman (eds) (1985) pg 65

⁷⁶⁶ Friend, Richard and Uglow, S, in J. Baxter and L. Koffman (eds) (1985) pg 69

⁷⁶⁷ Brain, T, (2010) pg 98

⁷⁶⁸ Brain, T, (2010) pg 98

⁷⁶⁹ Boateng, P, in J. Baxter and L. Koffman (eds) (1985) pg 258

⁷⁷⁰ Loader, I and Mulcahy, A, (2003) pg 11

⁷⁷¹ Boateng, P, in J. Baxter and L. Koffman (eds) (1985) pg 237

⁷⁷² Boateng, P, in J. Baxter and L. Koffman (eds) (1985) pg 237

⁷⁷³ Jefferson, T & Grimshaw, R, (1984) pg 175 - 176

⁷⁷⁴ Jefferson, T & Grimshaw, R, (1984) pg 176

⁷⁷⁵ Jones, T, (1995) pg 28

positions of Police Authorities and Home Secretary would remain. This was not the first time that the option of making the police fully accountable to the electorate was proposed. The option was considered, but dismissed, by the conservative recommendations of the 1962 Royal Commission on Police.⁷⁷⁶ Jefferson and Grimshaw's model of elected Commissions of Police suffered a similar fate. Dismissing the model Jones argues that Jefferson and Grimshaw's Commissions of Police represented a vague model of police accountability with a heavy reliance on utopian concepts.⁷⁷⁷ Additionally, Jones argued that the model elevated only one value of democracy, equality of outcome.⁷⁷⁸ Jones advocates that all the values of democracy have to be carefully balanced. The values of democracy proposed for testing whether governance in the police was democratic were equity, responsiveness, distribution of power, information, redress and participation.⁷⁷⁹ Ensuring that these criteria are present and equally balanced is vital as the police have a majority share for maintaining, under the Peelian principles, the social fabric of society.⁷⁸⁰

Prior to exploring mechanisms of contractual and calculative accountability it is interesting to briefly acknowledge the parallels between Jefferson and Grimshaw's 1984 model of Police Commissions and the present model of police accountability, the PCC.⁷⁸¹ Although PCC's differed as they replaced Police Authorities,⁷⁸² the core functions are strikingly similar to the functions intended for Jefferson and Grimshaw's Police Commissions. PCC's, like Jefferson and Grimshaw's Police Commissions, are elected to hold Chief Constables to account.⁷⁸³ PCC's are also empowered to appoint⁷⁸⁴ and remove Chief Constables.⁷⁸⁵ Jefferson and Grimshaw's Police Commissions were intended to have the same power. Jefferson and Grimshaw proposed Police Commissions would also issue instructions to the police on local matters. Mirroring this responsibility PCC's are required to issue instruction to the police on local matters through their Police and Crime Plans.⁷⁸⁶ This analysis, which will be developed in the fourth chapter of this thesis which partially focuses on why the proposal for a democratically elected lay person appointed with the intention of holding Chief Constables to account succeeded, demonstrates again how ideas, practices and reforms to police accountability have developed in a circular fashion.

Briefly touched upon previously in this chapter, mechanisms of contractual and calculative accountability and models of NPM represented a significant shift in police accountability. These forms of accountability dominated policing in the last decades of the twentieth century. Consecutive Conservative and Labour Governments were determined to solve the dilemma of police accountability by using marked orientated solutions. Contractual and calculative models of accountability sought to make the police accountable via consumer based models which incorporated market based disciplines.⁷⁸⁷ NPM models of accountability sought to make the police more accountable by ensuring an efficient, economic and effective service.⁷⁸⁸

⁷⁷⁶ Royal Commission on the Police pg 7

⁷⁷⁷ Jones, T, (1995) pg 31

⁷⁷⁸ Jones, T, (1995) pg 31

⁷⁷⁹ Jones, T, (1995) pg 44

⁷⁸⁰ Jones, T, (1995) pg 44

⁷⁸¹ see s.1 (1) PRSRA (2011)

⁷⁸² s.1(9) PRSRA (2011)

⁷⁸³ see s.1(7) and s.1(8) PRSRA (2011)

⁷⁸⁴ see s.38 PRSRA (2011)

⁷⁸⁵ see part 2 of Schedule 8 PRSRA (2011)

⁷⁸⁶ see generally s.7 PRSRA (2011)

⁷⁸⁷ Reinner, R and Spencer, S (1993) pg 23

⁷⁸⁸ Jones, T, (1995) pg 30

To achieve this, NPM injected the police and other major public services with private sector concepts and structures,⁷⁸⁹ such as costing concepts, performance tables and the externalisation of non-essential responsibilities.⁷⁹⁰ NPM also led to the police becoming more consumer focused and accountable via public service agreements, citizen charters and targets.⁷⁹¹

NPM models of accountability were utilised by both the Conservative and Labour administrations during the 1990's in their attempts to make the police more accountable. Brain argues that Major was such a keen advocate of NPM that his last Conservative Government of the 1990's represented the highest point for NPM.⁷⁹² Under Major's approach NPM models of accountability was delivered in the police through the medium of citizen charters. The charters delivered no less than seventeen national quality standards and forty five key performance indicators for the police. If police forces achieved these standards and indicators charter marks were awarded. The standards and indicators were deemed to hold the police to account as they were intended to reflect public demand. However, Brain argues that they simply did not and therefore could not possibly be used to assess or make the police more accountable.⁷⁹³ In addition to Major's use of NPM the Conservative Home Secretary also endorsed NPM as the mechanism to obtain an accountable police. Brain argues that using NPM models led to police accountability becoming even more business-like, as evidenced by the Police and Magistrates Court Act 1994, later consolidated by the Police Act 1996.⁷⁹⁴ Additionally, Brain argues that these Acts evidence the most radical shift in police governance since the Act which formed Peel's new police in 1829.⁷⁹⁵ The Acts impacted upon the constitutional settlement of the police in two ways. First, Police Authorities became free standing corporate entities. Second, the Audit Commission and Her Majesty's Inspector of Constabulary [HMIC] were given expanded roles and more responsibility by central government.⁷⁹⁶

The commitment to NPM models as the mechanism for improving police accountability was continued by New Labour. The first New Labour administration extended considerably the implementation of NPM in the police. Centralised managerial accountability remained fundamental to New Labour's overall framework of improving police efficiency. The Local Government Act (1999) gave a statutory footing to the best value audit process, which institutionalised a performance framework of continuous improvement and ensured that the police and the police authorities were driven by Whitehall defined best value and crime reduction targets.⁷⁹⁷ Brain argues that Labour's commitment to NPM became almost obsessive under Home Secretary David Blunkett.⁷⁹⁸ Shortly after taking office Blunkett published Policing a New Century,⁷⁹⁹ the forerunner of the Police Reform Act 2002. The

⁷⁸⁹ McLaughlin, E, (2007) pg 182

⁷⁹⁰ Leishman, F, Loveday, B, Savage S, (2000) pg 56

⁷⁹¹ Cane, P, (2004) pg 311

⁷⁹² Brain, T, (2013) pg 51

⁷⁹³ Brain, T, (2013) pg 53

⁷⁹⁴ Brain, T, (2013) pg 54

⁷⁹⁵ Brain, T, (2013) pg 54

⁷⁹⁶ McLaughlin, E, (2007) 183

⁷⁹⁷ McLaughlin, E, (2007) pg 184

⁷⁹⁸ Brain, T, (2013) pg 15

⁷⁹⁹ Policing a New Century: A Blueprint for Reform, available at <https://www.gov.uk/government/publications/policing-a-new-century-a-blueprint-for-reform> Accessed 27th March 2014. Hereafter cited as Policing a New Century

intention was clear, outdated and outmoded attitudes and regulations would be swept away.⁸⁰⁰ Blunkett made it clear that a national framework of standards and accountability would shape the police service.⁸⁰¹ This national framework took form in the Police Reform Act 2002. The Act expanded the powers of the Home Secretary as it allowed for the setting of national objectives through National Policing Plans with monitoring being undertaken by the newly formed Police Standards Unit, which operated in addition to the pre-existing HMIC and the Audit Commission.⁸⁰² A further controversial power included within the Police Reform Act 2002 was the empowerment of the Home Secretary to suspend Chief Constables. Although this power was unsuccessfully used by Blunkett on two separate occasions critics, including Brain, urge that the power itself represents an ever-increasing central control and form of accountability.⁸⁰³ New Labour's obsession on increasing regulation, centralisation and the standardisation of the police was delivered through the medium of NPM. However New Labour also delivered NPM through ACPO and the Home Office.⁸⁰⁴ The Home Office, as argued at the beginning of this chapter, was initially and indirectly introduced by the 1919 Desborough Committee as the mechanism for delivering standardisation and centralisation.⁸⁰⁵ However Brain argues that the use by the New Labour administration of ACPO and the Home Office led to an over politicisation of the police which resulted in institutional damage.⁸⁰⁶

The adoption and implementation of calculative, contractual and NPM models as mechanisms of police accountability was a monumental shift for police accountability. However, it was one which not only would haunt the police but arguably stifled accountability and conceivably led to a further deficit in accountability. Newburn and Jones argue that the Police and Magistrates Court Act 1994 and the Police Act 1996, introduced under the guardianship of the Conservative Home Secretary Michael Howard, led to an enhancing of political accountability⁸⁰⁷ whilst McLaughlin argues that the Acts evidence the increasing control of central government over the police.⁸⁰⁸ The Audit Commission was also subject to criticism, Wight arguing that the Commission's increased scrutiny actually failed to reassure some sectors of the public that the police were either effective, accountable or legitimate.⁸⁰⁹ Additionally, Reiner argues that New Labour's commitment to NPM led to the police becoming increasingly regulated by central government.⁸¹⁰ Moreover, Brain argues that the Police Standards Unit, introduced by Blunkett's Police Reform Act 2002 was highly intrusive,⁸¹¹ whilst it appears that the New Labour administration failed to form any principled discussion on the forms of police accountability and governance.

Critics of 'contractual and calculative accountability' and NPM argue that market based accountability models were vague and simply did not work.⁸¹² Reiner also argues that

⁸⁰⁰ Policing a New Century pg 3

⁸⁰¹ Policing a New Century pg 43

⁸⁰² Brain, T, (2013) pg 15

⁸⁰³ Brain, T, (2013) pg 17

⁸⁰⁴ Brain, T, (2013) pg 16

⁸⁰⁵ Desborough Committee Report Part 2 pg 23

⁸⁰⁶ Brain, T, (2010) pg 362

⁸⁰⁷ Newburn, T, Jones, T, (1996) pg 125

⁸⁰⁸ McLaughlin, E, (2007) pg 183

⁸⁰⁹ Wright, A, Managing the future: an academic's view in Leishman, F, Loveday, B and Savage S (ed) Core Issues in Policing (2000) pg 288

⁸¹⁰ Reinner, R, (2010) pg 103

⁸¹¹ Brain, T, (2013) pg 15

⁸¹² Jones, T, (1994) pg 66

calculative and contractual mechanisms of police accountability were over directed and controlled by central government.⁸¹³ McLaughlin, in support of Reiner, argues that these structures and mechanisms of accountability led to a gulf between the public and the police.⁸¹⁴ Additionally, Reiner contends that these methods of governance were in the short term an assault on the professional cultures and power relations in the police and in the long term an unprecedented shift in police governance.⁸¹⁵ Calculative and contractual models of accountability were also argued by Reiner to corrupt the unique ethos of British policing by transforming the police into a crime controlling business.⁸¹⁶ The value for money concepts of NPM were also argued by Reiner to blur the distinction between the police and the private security sector, thereby facilitating market dictated policing.⁸¹⁷ Further criticisms of contractual and calculative models of accountability are that policy makers may deny responsibility for aspects of government policy for which they are accountable for by stating that they are matters for the policy executant.⁸¹⁸ Furthermore, while models of contractual accountability provide a basis for holding service providers to account, they actually fail to secure accountability for the decisions about which services would be provided.⁸¹⁹

As highlighted, calculative, contractual and NPM models of accountability apparently failed in their efforts to make the police accountable. This failure led critics, such as Hillyard and Tomlinson, to argue that policing should be decentralised with every level being democratically accountable.⁸²⁰ In support McLaughlin contends that decentralisation should be understood as the first step towards the democratic governance of the police.⁸²¹ As explored in this chapter alternative models of police accountability, particularly calculative, contractual and NPM not only evidence the theory of horizontal accountability but further entrenched the administrative responsibilities of the Home Office. However these models of accountability failed to make the police accountable. These failures led to reforms. At the centre of these reforms was the argument that police accountability should be decentralised, democratically accountable and pluralised with nodal conceptions. PCCs are the present structure of police accountability and arguably fall within this category and evidence again the circular nature of how police accountability has developed. The introduction, operation and merits of the PCC structure of accountability will be explored in the following chapters of this thesis.

Conclusion

The police could be described as a ‘zombie institution’, implying it has been dead for a long time but is unable to die.⁸²² This assertion, on the basis of some of the arguments made in this chapter, does appear at the outset to have some merit. The first major change to police accountability in the twentieth century was made, albeit indirectly, by the Desborough Committee. To amend the unsatisfactory and inconsistent system of police Desborough allocated new responsibilities to the Home Office which resulted in the Home Office

⁸¹³ Reiner, R, (2010) pg 79

⁸¹⁴ McLaughlin, E, Pg 189

⁸¹⁵ Reiner, R, (2010) pg 205

⁸¹⁶ Reiner, R, (2010) pg 206

⁸¹⁷ Reiner, R, (2010) pg 208

⁸¹⁸ Cane, P, (2004) pg 313

⁸¹⁹ Cane, P, (2004) pg 312

⁸²⁰ Hillyard, P and Tomlinson, M, (2000) pg 399

⁸²¹ McLaughlin, E, (2007) pg 188

⁸²² Beck, U, (1997) pg 140

becoming the principal mechanism through which policing was to become administered. The administrative role of the Home Office, initially as intended by Desborough, was limited to the standardisation and centralisation of policing. However due to the inherent weaknesses of the tripartite structure of accountability introduced by the Police Act 1964 alternative models of police governance, specifically models of NPM, led to the Home Office's role conceivably expanding beyond its original administrative responsibilities as prescribed by Desborough. This expansion not only led to the contention that policing were being politicised but also arguably resulted in the creation of an accountability deficit. This deficit spurred further reform. However, representing a break with previous practices, the main thrust of these reforms was that state centred police governance had to be replaced by more localised models of police accountability. The recycling of police accountability evidenced in this chapter does indeed lend itself to the argument that this period does present the police as a zombie institution but also, crucially, that the mechanisms and structures created for the purpose of securing accountability in the police have evolved in a circular fashion. This argument is demonstrated in part by the recommendations of the 1919 Desborough Committee. The Committee set the tone for developments in police accountability: standardisation and centralisation. Thus standardisation and centralisation were the guiding principles for police accountability for the majority of the twentieth century. However, towards the latter end of the century, this trend changed and in its place reformers urged that the standard and centralised models of police accountability had to be replaced by decentralised, nodal and localised models of accountability.

This chapter has argued that there were three main milestones in the development of police accountability. First, as explored, the effect of the new administrative responsibilities allocated to the Home Office. Second, the tripartite structure of police accountability introduced by the Police Act 1964. The structure led to police accountability being shared between the Home Secretary, Chief Constable and Police Authorities. However, the tripartite structure was inherently weak and led to an entanglement of responsibilities and uncertain lines of accountability. Further Police Authorities, conceivably intended to be the heartbeat of accountability within the tripartite structure, were the weakest link as they failed to exercise their responsibility and hold Chief Constables to account. The public also saw Police Authorities as invisible, resulting in an accountability deficit and a growing disconnection between the public and the police. The weaknesses of the tripartite structure led to the third milestone for police accountability, namely alternative models of police governance. These models, specifically calculative, contractual and NPM not only rebranded police accountability as police governance but dominated policing towards the latter end of the twentieth century. In the quest for an efficient, economic and effective police service NPM models of accountability resulted in an expansion to the Home Office's administrative responsibilities and seemingly lead to a de facto centralised system of police.

The three milestones for police accountability explored in this chapter also demonstrate the dramatic expansion of accountability beyond its initial conceptual and artificial boundaries of answerability to carrying the burden for democratic governance. The extension of accountability is in theory evidenced by the linking of accountability with the principles of responsibility, control, responsiveness and democratic dialogue.

The expansion of accountability to incorporate the principles of responsibility and responsiveness means that the police should have become concerned with public interest. This extension to accountability is arguably evidenced by the creation of Police Consultative Committees and Police Authorities. In addition to their responsibility to hold Chief

Constables to account, Police Authorities were intended to provide the platform through which the views of local people were reflected. Similarly, Scarman's Police Consultative Committees were intended to provide the opportunity for local representatives to influence policing. Therefore, in principle, the police should have become concerned with public interest. However, in practice, Police Authorities failed to reflect the views of local people whilst Scarman's Committees were considered limited in both principle and practice and ultimately considered a failure.

The expansion of accountability to incorporate the principle of control meant that the police should have become subject to more checks and balances, the aim of these checks and balances being to control the exercise of public power. Evidence of this extension to accountability should have been provided by the tripartite structure and NPM models of police accountability. The tripartite structure introduced by the Police Act 1964 in theory led to a system of checks and balances as the three main stakeholders were intended to hold each other to account, thereby giving accountability. However, the tripartite structure was inherently weak and actually had the reverse effect and led to the entanglement of responsibilities and uncertain lines of accountability. Calculative, contractual and NPM models of accountability should have also evidenced the extension of accountability to incorporate the principle of control. The argument made in this chapter was that the police became subject to a series of checks and balances as they had to ensure that they were delivering a service that was efficient, economic and effective. NPM models of accountability attempted to make the police accountable to a series of service agreements, performance targets, standards and key performance indicators. However, this chapter argued that these checks and balances not only failed to make the police accountable but compounded the accountability deficit as they were vague, speculative and led to a gulf between the police and the public. Therefore the extension of accountability to incorporate the principle of control also failed to stand up to scrutiny.

The expansion of accountability to incorporate the principle of democratic dialogue meant that police accountability should have evolved into a dialectical activity whereby explanations and justifications were given. The dialectical extension of accountability should have been evidenced by the tripartite structure introduced by the Police Act 1964. However, the tripartite structure was to prove inherently weak. Police Authorities should have been the heartbeat of any dialectical exchange, instead they were profoundly ineffective. The ineffective nature of Police Authorities led to the conclusion that not only did they fail as a mechanism and structure of police accountability but that the extension of accountability to include the principle of democratic dialogue also fails to stand up to scrutiny.

Thus it appears that developments in police accountability, in terms of making the police accountable and evidencing the extension of accountability are in theory sound but in practice fail. The three milestones for police accountability, the administrative role of the Home Office, the tripartite structure and the alternative models of governance all ultimately failed to deliver police accountability and legitimacy. Indeed, a conclusion that can be drawn is that for all their promise the structures and mechanisms of accountability explored in this chapter ultimately failed in their aim to make the police accountable. Thus a suitable mechanism and structure of police accountability remained elusive.

This conclusion has made three important interrelated arguments. First, during the twentieth century the structures and mechanisms of police accountability evolved dramatically. The structures and mechanisms of police accountability were initially guided by the principles of

standardisation and centralisation. However, due to repeated failings reformers stressed that these principles had to be replaced by decentralised, nodal and localised models of accountability. Second, the developments in police accountability led to the argument that accountability extended to incorporate the principles of responsibility, control, responsiveness and democratic dialogue. However, evidence leads to the conclusion that this extension to accountability is difficult in practice to substantiate. Third, despite the developments explored in this chapter a suitable mechanism and structure of accountability, so critical for police legitimacy, remained elusive. In addition to these three interrelated arguments one final but incredibly important one must be made. This chapter has explored and thus demonstrated the breadth, depth and sheer number of reforms to the structures and mechanisms of police accountability throughout the twentieth century. All of these reforms were intended to make the police accountable. However, for the reasons explored in this chapter, they failed. This failure does lead to the argument that, despite the nature of reform, there is a lack of understanding as to what is actually required to make the police accountable, indeed, if it is actually possible to make the police entirely accountable. This argument was of course addressed by the Royal Commission on Police in 1962. In their report the Commission stated clearly that the purpose of their recommendations was to make the police more fully accountable. Therefore the fourth and final conclusion to be drawn here, on the basis of the Royal Commission's report and the arguments made in this chapter, is that it may not actually be possible to make the police fully accountable. Indeed, it may only be possible to make the police merely more accountable. This thesis proceeds to explore these conclusions in the context of the present structure and model of police accountability.

Chapter 4: The present structure and model of police accountability

This chapter explores the path which led to the abolition of the tripartite structure of police accountability established by the Police Act 1964 and its replacement with the present structure and model of police accountability as established by the Police Reform and Social Responsibility Act 2011. The fourth chapter of this thesis connects with and draws upon the previous chapter in two ways. First, it briefly explores why the tripartite structure, the models of NPM and the calculative and the contractual models of accountability were seen as defective. Second, it briefly re-examines why these models in turn led to the argued deficit in police accountability. After exploring these related issues and having outlined the context for change the analysis explores why the present structure was introduced and why a replacement of Police Authorities and the tripartite structure was deemed necessary. Here relevant reports published by Policy Exchange, a Westminster think tank, are considered and analysed.

This chapter then focuses on the 2010 general election and the coalition Government's plan for police accountability. Here, the Government's White Paper containing the pledge to make the police accountable to a elected PCCs is explored. After considering the Government's white paper the Home Affairs Select Committee [HASC] report of 2010 is considered before exploring the present structure of police accountability and the Policing Protocol 2011, issued by the Home Secretary to all PCCs, Chief Constables and Police and Crime Panels [PCPs].

The first PCC elections held in 2012 are then examined. The impact and questions raised by the lowest recorded electoral turnout is explored by reference to a report published by the Electoral Commission in 2013. The profile of the first cohort of PCCs is then scrutinised with reference made to a further report from HASC and a research paper published by the House of Commons. Finally, a number of reports which have highlighted some teething problems with the present structure and model of police accountability are assessed. The reports and reviews examined include 'Policing for a Better Britain' published by the Independent Police Commission in 2013, 'Police and Crime Commissioners: progress to date' published by HASC in 2014 and 'Tone from the top: Leadership, ethics and accountability in policing' published by the Committee on Standards in Public Life in 2015.

The tripartite structure was intended to make the police ‘more fully accountable.’⁸²³ The intention was that three stakeholders would achieve this, namely the Home Secretary⁸²⁴ the Chief Constable⁸²⁵ and the Police Authority.⁸²⁶ Arguably Police Authorities, created with the intention of holding the Chief Constable to account,⁸²⁷ had the pivotal role. However, Police Authorities were in practice the weakest link. Lacking expertise,⁸²⁸ an inherent uncertainty⁸²⁹ and an apparent unwillingness and inability to use their statutory power to hold Chief Constables to account⁸³⁰ the Authorities were condemned to failure as they lacked transparency and legitimacy.⁸³¹ The ineffectiveness of Police Authorities arguably resulted in Chief Constables becoming virtually autonomous.⁸³² Additionally, critics such as Gilling assert that Police Authorities created a further deficit in accountability⁸³³ and Reiner contends that the Authorities contributed to the public’s disillusionment and disconnection with the Police.⁸³⁴

Intending to resolve the accountability deficit and restore the connection between the public and the Police the tripartite structure was supplemented by a series of reforms, often labelled ‘alternative models of police governance.’⁸³⁵ However, as explored, these models were seen by some as vague, speculative and a failure.⁸³⁶ The models were also argued to be overly directed and controlled by central government,⁸³⁷ leading to an ever expanding gulf between the public and the Police.⁸³⁸ The failure of the tripartite structure and the alternative models of police governance led reformers to argue that policing had to be decentralised, with every level being democratically accountable.⁸³⁹ Indeed, decentralisation was argued as the first step towards democratic governance of the police.⁸⁴⁰

The present structure of police accountability appears to encapsulate this reform agenda. Although perhaps incorrectly credited⁸⁴¹ as the first to seriously moot the idea of introducing an elected official to hold the police to account,⁸⁴² Policy Exchange⁸⁴³ nevertheless published a series of influential reports which repeatedly called for the introduction of a directly elected official to hold the police to account.⁸⁴⁴ Published in 2003, ‘Going Local: Who Should run

⁸²³ Royal Commission on the Police pg 7

⁸²⁴ see generally s. 28 Police Act 1964

⁸²⁵ see generally s. 4 Police Act 1964

⁸²⁶ see generally s. 30 Police Act 1964

⁸²⁷ see generally s.4, s.5 and s.12 Police Act 1964

⁸²⁸ Jones, T, Newburn, T, Smith, (1994) pg 145

⁸²⁹ Scarman Report pg 149

⁸³⁰ Lambert, J, (1986) pg 39

⁸³¹ Graville. J, & Rogers. C, (2011) at 320

⁸³² Lambert, J, (1986) pg 10

⁸³³ Gilling. D, (2010) at 195.

⁸³⁴ Reiner. R, (1992) 761 – 781.

⁸³⁵ Reiner, R and Spencer, S, (1993). Pg 1

⁸³⁶ Jones, T, (1994) pg 87

⁸³⁷ Reiner, R, (2010) pg 90

⁸³⁸ McLaughlin, E, (2007) Pg 189

⁸³⁹ Hillyard, P, Tomlinson, M, (2000) pg 399

⁸⁴⁰ McLaughlin, E, (2007) pg 188

⁸⁴¹ see chapter 3 of this thesis pg (s) 76 to 78

⁸⁴² Newburn, T, (2012) pg 32

⁸⁴³ Policy Exchange describes itself as the UK’s leading think tank which develops and promotes new policy ideas which deliver better public services. See <http://www.policyexchange.org.uk/about-us> accessed 14th January 2015

⁸⁴⁴ Examples include (i) Going Local: Who should run Britain’s Police? Available at <http://www.policyexchange.org.uk/images/publications/going%20local%20-%20jan%202003.pdf> accessed 14th

Britain's police⁸⁴⁵ was the first report to argue that the British policing model had to be restructured, meaning that police forces would be accountable to a directly elected official.⁸⁴⁶ The report's authors, Loveday and Reid, asserted that this was necessary due to the accountability deficit in policing.⁸⁴⁷ Loveday and Reid argued that the deficit had three causes. First, the invisibility and irrelevance of Police Authorities.⁸⁴⁸ Here it was claimed that Police Authorities had been stripped of any legitimacy.⁸⁴⁹ Second, the perception that the Police were withdrawing from their communities.⁸⁵⁰ Third, the unsatisfactory tripartite structure of police accountability.⁸⁵¹ The report concluded that the time was right to restructure the British policing model and make the police accountable to a directly elected official.⁸⁵²

'Going Local' argued that three benefits would derive from making the police accountable to a directly elected official. First, local accountability fosters innovation, maintains active community engagement as locally-led police forces are more accountable to the communities they serve.⁸⁵³ Second, local accountability allows for a flexible, responsive approach which therefore avoids the worst excesses of a centralised bureaucratic control.⁸⁵⁴ Third, accountability would be best achieved by having a single elected individual to act on behalf of the public.⁸⁵⁵ However, Loveday and Reid also acknowledged that three dangers existed in making the police accountable to a single elected official. First, the possibility of politicising the police.⁸⁵⁶ Second, the possibility of corruption.⁸⁵⁷ Third, the potential weakness of those elected to office.⁸⁵⁸

This Policy Exchange report found some initial traction with the Conservative party. At the 2003 Conservative party conference the shadow Home Secretary, Oliver Letwin, stated "a Conservative government would put local police under the direct, democratic control of local people... meaning that your Chief Constable will answer to someone you elect."⁸⁵⁹ The following year Letwin's successor as shadow Home Secretary, David Davis, told the Conservative party conference "the Conservative party would give people the right to choose

January 2015. (ii) Fitting the bill Available at

<http://www.policyexchange.org.uk/publications/category/item/fitting-the-bill-local-policing-for-the-21st-century> accessed 20th January 2015. (iii) A Peoples Police Force: Police Accountability in the Modern Era,

Available at <http://davidblunkett.typepad.com/files/a-peoples-police-force-2.pdf> accessed 20th January 2015.

(iv) Partners in Crime: Democratic Accountability and the Future of Local Policing Available at

<http://www.policyexchange.org.uk/publications/category/item/partners-in-crime> accessed 20th January 2015.

⁸⁴⁵ Going Local: Who should run Britain's Police? Available at

<http://www.policyexchange.org.uk/images/publications/going%20local%20-%20jan%2003.pdf> accessed 14th

January 2015. Hereafter cited as Going Local: Who should run Britain's police?

⁸⁴⁶ Going Local: Who should run Britain's police pg 8

⁸⁴⁷ Going Local: Who should run Britain's police pg 7

⁸⁴⁸ Going Local: Who should run Britain's police pg 7

⁸⁴⁹ Going Local: Who should run Britain's police pg 26

⁸⁵⁰ Going Local: Who should run Britain's police pg 15

⁸⁵¹ Going Local: Who should run Britain's police pg 25

⁸⁵² Going Local: Who should run Britain's police pg 25

⁸⁵³ Going Local: Who should run Britain's police pg 44

⁸⁵⁴ Going Local: Who should run Britain's police pg 44

⁸⁵⁵ Going Local: Who should run Britain's police pg 58

⁸⁵⁶ Going Local: Who should run Britain's police pg 37

⁸⁵⁷ Going Local: Who should run Britain's police pg 38

⁸⁵⁸ Going Local: Who should run Britain's police pg 38

⁸⁵⁹ Speech by Shadow Home Secretary Oliver Letwin to the Conservative party conference 2003, available at <http://www.theguardian.com/politics/2003/oct/07/conservatives2003.conservatives4> accessed 20th January 2015

who would run their police force.”⁸⁶⁰ These initial flirtations became entrenched in the Conservative party by their 2005 election manifesto, which promised local accountability through an elected police commissioner.⁸⁶¹ The Conservative party failed to win the 2005 general election, meaning that the idea for an elected police commissioner failed to succeed. However, in 2007 shadow Minister for Policing, Nick Herbert, published ‘Policing for the People.’⁸⁶² Herbert’s report made the Conservative’s position clear: directly elected police commissioners should replace Police Authorities.⁸⁶³ ‘Policing for the People’ urged that directly elected police commissioners would result in a direct and transparent arrangement between voters and elected commissioners.⁸⁶⁴ Herbert’s report acknowledged that Chief Constable should retain operational responsibility for policing but recommended that elected commissioners have the power to appoint and dismiss Chief Constables.⁸⁶⁵ The report also recommended that elected commissioners set their own targets for the force, make their own policing plans and control their budgets.⁸⁶⁶ Perhaps a mere coincidence but nevertheless underlining their involvement in pushing for reform Policy Exchange in 2007 published another report calling for elected police commissioners.⁸⁶⁷ ‘Fitting the bill’ reiterated the call for elected police commissioners, stating emphatically that elected commissioners would increase accountability.⁸⁶⁸

However, despite the shadow Minister for Policing⁸⁶⁹ and Policy Exchange⁸⁷⁰ reiterating the call for elected police commissioners the momentum for reform was dealt a potential blow by the Labour Government in 2009. ‘A Peoples Police Force: Police Accountability in the Modern Era’⁸⁷¹ emphatically rejected the idea of elected commissioners. The report’s author, Home Secretary David Blunkett, argued perhaps unconvincingly that there was the potential for the position of elected commissioners to be hijacked by extremist political groups.⁸⁷² The report commissioned by the Labour Government also argued that a better and more practical way to make the police accountable was the re-attainment of Police Authorities,⁸⁷³ but with membership being weighed in favour of council members.⁸⁷⁴

⁸⁶⁰ Speech by Shadow Home Secretary David Davis to the Conservative party conference 2003, available at <http://www.theguardian.com/politics/2004/oct/06/conservatives2004.conservatives6> accessed 20th January 2015

⁸⁶¹ Pg 15 Conservative Party 2005 election manifesto available at http://news.bbc.co.uk/1/shared/bsp/hi/pdfs/11_04_05_conservative_manifesto.pdf accessed 20th January 2015.

⁸⁶² Policing for the People available at http://conservativehome.blogs.com/torydiary/files/policing_for_the_people.pdf Accessed 20th January 2015

Hereafter cited as Policing for the People

⁸⁶³ Policing for the People pg 23

⁸⁶⁴ Policing for the People pg 23

⁸⁶⁵ Policing for the People pg 220

⁸⁶⁶ Policing for the People pg 220

⁸⁶⁷ Fitting the bill pg 7 available at <http://www.policyexchange.org.uk/publications/category/item/fitting-the-bill-local-policing-for-the-21st-century> accessed 20th January 2015. Hereafter cited as Fitting the bill

⁸⁶⁸ Fitting the bill pg 7

⁸⁶⁹ Policing for the People pg 23

⁸⁷⁰ Fitting the bill pg 7

⁸⁷¹ A Peoples Police Force: Police Accountability in the Modern Era, available at <http://davidblunkett.typepad.com/files/a-peoples-police-force-2.pdf> accessed 20th January 2015. Hereafter cited as A Peoples Police Force

⁸⁷² A Peoples Police Force pg 51

⁸⁷³ A Peoples Police Force pg 51

⁸⁷⁴ A Peoples Police Force pg 51

Despite the Labour Government's emphatic rejection of the idea for elected commissioners Policy Exchange in 2009 published another report maintaining pressure for the adoption of elected police commissioners.⁸⁷⁵ 'Partners in Crime' argued that the elected commissioners would fill the accountability gap left by the weak, invisible Police Authorities.⁸⁷⁶ The report's author, Chambers, argued that elected police commissioners represented the best mechanism to revitalise the relationship between the Police and the public.⁸⁷⁷ Here, Chambers asserted that elected commissioners would provide a clear line of communication from the public to the Police.⁸⁷⁸ 'Partners in Crime' also urged that elected police commissioners would hold a strong mandate, work with partners, legitimately translate and uphold community priorities.⁸⁷⁹ The 2009 Policy Exchange report emphatically rejected Blunkett's report and concluded that public confidence necessitated the abolishment of Police Authorities and their replacement with elected police commissioners.⁸⁸⁰

In 2010 the Conservative party, as it did in 2005, included within their election manifesto the promise to replace existing, invisible and unaccountable Police Authorities with a directly elected individual who would make the police more accountable.⁸⁸¹ Following the 2010 General Election the Conservative and Liberal Democrat coalition published their programme for Government.⁸⁸² Contained within this programme was the pledge to make the police more accountable through oversight by a directly elected individual.⁸⁸³ This pledge gained momentum with the Government's consultation paper, 'Policing in the 21st century.'⁸⁸⁴ The consultation paper introduced for the first time the title of PCC. The Home Secretary, Theresa May, described PCCs as the 'the most radical change in Policing in 50 years'⁸⁸⁵ and argued that 'directly elected PCCs are central to our proposals to replace bureaucratic accountability with democratic accountability.'⁸⁸⁶ The Government's consultation paper almost paraphrased the 2009 Policy Exchange report 'Partners in Crime', stating that PCCs were the key to reconnecting the Police and the public.⁸⁸⁷ Furthermore, 'Policing in the 21st century' argued that PCCs were themselves the key to decentralising the system of police. The consultation paper stated: 'The Home Secretary has been given stronger powers to intervene; to set national objectives, publish data relating to performance, issue codes of practice and guidance, and direct Police Authorities.'⁸⁸⁸ The Government's consultation paper stressed

⁸⁷⁵ Partners in Crime: Democratic Accountability and the Future of Local Policing available at <http://www.policyexchange.org.uk/publications/category/item/partners-in-crime> accessed 20th January 2015.

Hereafter cited as Partners in Crime

⁸⁷⁶ Partners in Crime pg 6

⁸⁷⁷ Partners in Crime pg 6

⁸⁷⁸ Partners in Crime pg 35

⁸⁷⁹ Partners in Crime pg 38

⁸⁸⁰ Partners in Crime pg 47

⁸⁸¹ Invitation to join the Government of Britain, The Conservative Manifesto 2010 pg 68. Available at <https://www.conservatives.com/~media/files/activist%20centre/press%20and%20policy/manifestos/manifesto2010> Accessed 1st July 2015

⁸⁸² The Coalition: our programme for government, available at www.cabinetoffice.gov.uk/sites/default/files/resources/coalition_programme_for_government.pdf accessed 21st January 2015. Hereafter cited as The Coalition: our programme for government

⁸⁸³ The Coalition: our programme for government pg 13

⁸⁸⁴ Policing in the 21st century, reconnecting police and the people: consultation, available at <https://www.gov.uk/government/publications/policing-in-the-21st-century-reconnecting-police-and-the-people-consultation> accessed 21st January 2014. Hereafter cited as Policing in the 21st century

⁸⁸⁵ Policing in the 21st century pg 13

⁸⁸⁶ Policing in the 21st Century pg 22

⁸⁸⁷ Policing in the 21st Century pg 6

⁸⁸⁸ Policing in the 21st Century pg 8

that it was necessary to free the police from central guidance and targets so that confidence in the system could be rebuilt.⁸⁸⁹

Six arguments were made to favour adopting PCCs.⁸⁹⁰ First, PCCs would strengthen the bond between the public and the Police through greater accountability and transparency.⁸⁹¹ Second, PCCs would give people more confidence in the Police.⁸⁹² Third, the public would be able to hold their elected PCC to account for how policing was being delivered.⁸⁹³ Fourth, PCCs would be powerful representatives of the public in policing with a clear mandate.⁸⁹⁴ Fifth, PCCs would represent and engage with the public, set local policing priorities, agree a local strategic plan, hold the Chief Constable to account, set the force budget and precept, appoint and where necessary dismiss Chief Constables.⁸⁹⁵ Finally, PCCs would ensure that the Police were held to account democratically and not bureaucratically.⁸⁹⁶

Prior to exploring a report published by the Home Affairs Select Committee in 2010⁸⁹⁷ it is important to acknowledge that the coalition government saw PCCs not only as the key to making the Police more accountable but also as a mechanism to decentralise the system of Police. ‘Policing in the 21st century’ stressed that the Police had to be freed from the centre in order to rebuild confidence in the system.⁸⁹⁸ The parallels with the arguments made at the beginning of this chapter are clear: the tripartite structure, through the medium of the weak Police Authorities resulted in a deficit in accountability and public disconnection.⁸⁹⁹ The alternative models of police governance were intended to bridge the deficit, restore the connection between the public and the police but failed due to over direction and centralised governmental control.⁹⁰⁰ As previously highlighted, the alternative to central governmental control was decentralisation.⁹⁰¹ The Westminster think tank Policy Exchange produced a series of influential reports which gained initial traction and subsequent entrenchment with the Conservative Party. Thus, the seed was planted and the platform set. The coalition Government proceeded to introduce a radical reform, a reform originally proposed by two socio legal theorists in 1984.⁹⁰²

The 2010 House of Commons Home Affairs Committee Report

The Home Affairs Select Committee [HASC] intended that their report, ‘Policing: Police and Crime Commissioners’⁹⁰³ inform the discussion and provide a basis to scrutinise the

⁸⁸⁹ Policing in the 21st Century pg 40

⁸⁹⁰ Policing in the 21st century pg 6

⁸⁹¹ Policing in the 21st century pg 11

⁸⁹² Policing in the 21st century pg11

⁸⁹³ Policing in the 21st century pg 13

⁸⁹⁴ Policing in the 21st century pg 43

⁸⁹⁵ Policing in the 21st century pg 43

⁸⁹⁶ Policing in the 21st century pg 14

⁸⁹⁷ House of Commons Home Affairs Committee, Policing: Police and Crime Commissioners published 1 December 2010 available at

<http://www.publications.parliament.uk/pa/cm201011/cmselect/cmhaff/511/511.pdf> accessed 10th July 2015.

⁸⁹⁸ Policing in the 21st Century pg 40

⁸⁹⁹ Reiner, R, (1992) pg (s) 761-781

⁹⁰⁰ Reiner, R, (2010) pg 82

⁹⁰¹ see chapter 3 of this thesis pg (s) 76 to 78

⁹⁰² see chapter 3 of this thesis pg (s) 76 to 78

⁹⁰³ House of Commons Home Affairs Committee, Policing: Police and Crime Commissioners published 1 December 2010 available at

Government's forthcoming Police Reform and Social Responsibility Bill.⁹⁰⁴ HASC's report initially focused on the apparent invisibility of Police Authorities. Here, evidence given to the HASC painted a familiar, negative picture. Police Authorities were portrayed as weak and lacking the power required to compel or direct the Police.⁹⁰⁵ Further, Authorities were argued to be reluctant entities as they simply did not want to enter into the fray of public debate.⁹⁰⁶ Giving evidence to HASC the Commissioner of the Metropolitan Police, Sir Bernard Hogan-Howe, agreed there was a democratic deficit in the police as people did not have the opportunity to influence the priorities of the police.⁹⁰⁷ Hogan-Howe also urged that there were various ways to fill the deficit but that all of them, including PCCs, involved risk.⁹⁰⁸ However, although not stating directly that he supported the creation of PCCs, the Commissioner urged that the risk of standing still was significant.⁹⁰⁹ Two reasons were argued for why PCCs would increase public trust in the police. First, there should be public debate about what policing priorities should be.⁹¹⁰ Second, PCCs would simply have to deliver.⁹¹¹ However others, such as the Institute for Public Policy research,⁹¹² agreed that there was an accountability deficit in policing but stressed that PCCs were the wrong method to correct it.⁹¹³ Two arguments were asserted for this. First, the remote nature of PCC.⁹¹⁴ Here it was argued that the sheer size of some Police forces meant that PCCs would be a remote figure.⁹¹⁵ Second, the danger of too much power being in the hands of one person.⁹¹⁶

HASC, drawing on the evidence given by the Institute for Public Policy Research and the then president of the now disbanded Association of Chief Police Officers [ACPO],⁹¹⁷ Sir Hugh Orde, urged that a particular concern was the ability of one person to represent all persons within an entire force area.⁹¹⁸ The Deputy Mayor of London with responsibility for policing argued that the one person PCC model would create a funnel for public concern.⁹¹⁹ This, the Deputy Mayor urged, not only created the problem of dealing with the resulting surge but also indicated the thirst for some sense of responsibility and accountability of the Police.⁹²⁰ HASC drew reference to this argument in their report, acknowledging that the PCC model ran the risk of public engagement turning into public disillusionment if the funnel for public concern was not managed correctly.⁹²¹ Concluding, HASC stated that PCCs could give

<http://www.publications.parliament.uk/pa/cm201011/cmselect/cmhaff/511/511.pdf> accessed 10th July 2015.

Hereafter cited as Policing: Police and Crime Commissioners

⁹⁰⁴ Policing: Police and Crime Commissioners pg 4

⁹⁰⁵ Policing: Police and Crime Commissioners pg 5

⁹⁰⁶ Policing: Police and Crime Commissioners pg 6

⁹⁰⁷ Policing: Police and Crime Commissioners, Minutes of Evidence (EV10)

⁹⁰⁸ Policing: Police and Crime Commissioners, Minutes of Evidence (EV10)

⁹⁰⁹ Policing: Police and Crime Commissioners, Minutes of Evidence (EV10)

⁹¹⁰ Policing: Police and Crime Commissioners, Minutes of Evidence (EV9)

⁹¹¹ Policing: Police and Crime Commissioners, Minutes of Evidence (EV11)

⁹¹² Institute for Public Policy Research describes itself as the UK's leading progressive think tank which conducts and publishes research into the economic, political and social sciences. See

<http://www.ippr.org/about> Accessed 13th July 2015

⁹¹³ Policing: Police and Crime Commissioners, Minutes of Evidence (EV6)

⁹¹⁴ Policing: Police and Crime Commissioners, Minutes of Evidence (EV6)

⁹¹⁵ Policing: Police and Crime Commissioners, Minutes of Evidence (EV6)

⁹¹⁶ Policing: Police and Crime Commissioners, Minutes of Evidence (EV6)

⁹¹⁷ ACPO ceased to exist on the 31st March 2015 and was replaced by the National Police Chiefs Council [NPCC] see <http://www.npcc.police.uk/About/History.aspx> Accessed 11th November 2015

⁹¹⁸ Policing: Police and Crime Commissioners pg 7

⁹¹⁹ Policing: Police and Crime Commissioners, Minutes of Evidence (EV4)

⁹²⁰ Policing: Police and Crime Commissioners, Minutes of Evidence (EV4)

⁹²¹ Policing: Police and Crime Commissioners pg 8

the public more opportunity to influence policing but that their influence was not guaranteed.⁹²²

The Police Reform and Social Responsibility Act (2011)

When the Police Reform and Social Responsibility Bill received Royal Assent the Minister for Policing and Criminal Justice, Nick Herbert stated: “The Police Reform and Social Responsibility Act is a landmark in the Government’s agenda to decentralise control and return power to the people. The election of Police and Crime Commissioners will give local people a strong voice in how their communities are policed and provide a powerful boost to the fight against crime.”⁹²³ Herbert concluded: “PCCs would make the police truly accountable to their communities by; representing all those who live and work in their area identifying their needs, set priorities that meet those needs by agreeing a strategic plan for the force, hold the Chief Constable to account, set the force budget, appoint and, where necessary, remove the Chief Constable.”⁹²⁴

PCCs⁹²⁵ are arguably symbolic of the Coalition Government’s ‘Big Society’ ideology.⁹²⁶ Thus on the basis of devolution, localism and the ‘redistribution of power’⁹²⁷ the directly elected PCC replaced invisible and unaccountable Police Authorities⁹²⁸ in 2012.⁹²⁹ The PRSRA created the present structure and model of police accountability.⁹³⁰ Accordingly, police accountability presently now rests between three stakeholders, the Chief Constable, PCC and Police and Crime Panel [PCP]. The role of each stakeholder within the present model of police accountability is now explored.

PCCs

The core functions of PCCs have been described as similar to the Police Authorities that they replaced.⁹³¹ The PRSRA requires PCCs to secure the maintenance of the police force⁹³² and

⁹²² Policing: Police and Crime Commissioners pg 28

⁹²³ Home Office Press Release, New Act puts public at the heart of policing, 15th September 2011 available at <https://www.gov.uk/government/news/new-act-puts-public-at-the-heart-of-policing> Accessed 13th July 2015. Hereafter cited as Home Office Press Release

⁹²⁴ Home Office Press Release

⁹²⁵ s.1 (1) PRSRA 2011

⁹²⁶ see generally (i) Invitation to join the Government of Britain, The Conservative Manifesto 2010. Available at <https://www.conservatives.com/~media/files/activist%20centre/press%20and%20policy/manifestos/manifesto%20to2010%202010> Accessed 23rd November 2016 Hereafter cited as The Conservative Manifesto (ii) The Coalition: our programme for government pg7. Available at

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/78977/coalition_programme_for_government.pdf Accessed 22nd November 2016. Hereafter cited as The Coalition: our programme for government. (iii) The 2010 Comprehensive Spending Review, HM Treasury, pg 7. Available at

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/203826/Spending_review_2010.pdf Accessed 22nd November 2016. Hereafter cited as The 2010 Comprehensive Spending Review

⁹²⁷ [The Conservative Manifesto 2010 pg 63](#)

⁹²⁸ [The Conservative Manifesto 2010 pg 57](#)

⁹²⁹ see s.1 (9) PRSRA 2011

⁹³⁰ s.1 (9) PRSRA 2011

⁹³¹ Police and Crime Commissioner Elections, 2012, Research Paper 12/73 pg 2, published 29 November 2012 available at <http://researchbriefings.files.parliament.uk/documents/RP12-73/RP12-73.pdf> Accessed 13th July 2015. Hereafter cited as Research Paper 12/73 and Police and Crime Commissioners, House of Commons Standard Note (SN/HA/6014) pg 1, available at

<http://researchbriefings.files.parliament.uk/documents/SN06104/SN06104.pdf> Accessed 14 July 2015.

Hereafter cited as House of Commons Standard Note (SN/HA/6014)

⁹³² s.1 (6) (a) PRSRA 2011

ensure that it is efficient and effective.⁹³³ In carrying out their functions PCCs are required by statute to have regard to the views of local people within their policing area.⁹³⁴ A further requirement made is that PCCs issue a Police and Crime Plan⁹³⁵ and keep it under review.⁹³⁶ These plans set out a number of matters including police and crime objectives⁹³⁷ and the means by which the Chief Officers' performance will be measured.⁹³⁸ In issuing their plans PCCs must have regard to any strategic policing requirement set by the Home Secretary.⁹³⁹ The Home Secretary may also give guidance to PCCs about the matters to be dealt with in their plans,⁹⁴⁰ which must be taken into account.⁹⁴¹ In forming their Police and Crime Plans PCCs are also required to take account of a number of issues including consultation with the Chief Constable,⁹⁴² taking regard of any report or recommendation from the PCP⁹⁴³ and sending their draft plan to the PCP.⁹⁴⁴ In addition the Act states that PCCs must hold Chief Constables to account,⁹⁴⁵ not only for the exercise of their functions⁹⁴⁶ but also for eight specified criteria including having regard to the Police and Crime Plan⁹⁴⁷ and the strategic policing requirement.⁹⁴⁸ Perhaps most controversial of all, the Act empowers PCCs to appoint,⁹⁴⁹ suspend⁹⁵⁰ and remove Chief Constables.⁹⁵¹

PCPs are a committee⁹⁵² or joint committee⁹⁵³ of relevant local authorities⁹⁵⁴ and a statutory requirement for each police area.⁹⁵⁵ The primary responsibility of PCPs is to 'support'⁹⁵⁶ and 'scrutinise'⁹⁵⁷ the PCC. The Policing Protocol⁹⁵⁸ requires PCPs 'provide'⁹⁵⁹ and 'maintain a regular check and balance'⁹⁶⁰ on PCCs. Indeed, as stated by the Local Government Association 'PCCs will be held to account by a PCP.'⁹⁶¹ Therefore, importantly, PCPs are the

⁹³³ s. 1 (6) (b) PRSRA 2011

⁹³⁴ s. 17 (1) PRSRA 2011

⁹³⁵ s. 5 (1) PRSRA 2011

⁹³⁶ s. 5 (9) PRSRA 2011

⁹³⁷ s. 7 (1) (a) PRSRA 2011

⁹³⁸ s. 7 (1) (e) PRSRA 2011

⁹³⁹ s. 5 (5) PRSRA 2011

⁹⁴⁰ s. 7 (4) PRSRA 2011

⁹⁴¹ s. 7 (5) PRSRA 2011

⁹⁴² s. 6 (b) PRSRA 2011

⁹⁴³ s. 6 (d) PRSRA 2011

⁹⁴⁴ s. 6 (c) PRSRA 2011

⁹⁴⁵ s. 1 (7) (a -b) and s.1 (8) (a-h) PRSRA 2011

⁹⁴⁶ s.1 (7) (a) PRSRA 2011

⁹⁴⁷ s. (1) (8) (b) PRSRA 2011

⁹⁴⁸ s. (1) (8) (a) PRSRA 2011

⁹⁴⁹ s. 38 (1) PRSRA 2011

⁹⁵⁰ s. 38 (2) PRSRA 2011

⁹⁵¹ s. 38 (3) PRSRA 2011

⁹⁵² see PRSRA 2011, Schedule 6 s. 5 (a)

⁹⁵³ see PRSRA 2011, Schedule 6 s. 5 (b)

⁹⁵⁴ Local Authority means a County Council or District Council see PRSRA, Schedule 6 s. 41 (3) (b)

⁹⁵⁵ s. 28 (1) PRSRA 2011

⁹⁵⁶ s. 28 (2) PRSRA 2011

⁹⁵⁷ s. 28 (6) (a) PRSRA 2011

⁹⁵⁸ The Policing Protocol Order 2011, SI 2011/2744. Hereafter cited as The Policing Protocol 2011

⁹⁵⁹ s. 24 Policing Protocol Order 2011

⁹⁶⁰ s. 14 Policing Protocol Order 2011

⁹⁶¹ Police and Crime Panels, Guidance on role and composition, Local Government Association pg 4 available at

http://www.local.gov.uk/c/document_library/get_file?uuid=8f16dd65-7fde-4792-8578-fa955263931e&groupId=10180

Accessed 6th February 2017 Hereafter cited as Police and Crime Panels, Guidance on role and composition

body solely responsible for supporting,⁹⁶² scrutinising,⁹⁶³ providing⁹⁶⁴ and maintaining a regular check and balance⁹⁶⁵ on PCCs.⁹⁶⁶

In addition to these important accountability responsibilities, PCPs are also responsible for reviewing,⁹⁶⁷ making and publishing reports.⁹⁶⁸ Panels can also make recommendations to the PCC⁹⁶⁹ which the PCC must respond to.⁹⁷⁰ Additionally, PCPs review⁹⁷¹ and veto⁹⁷² the PCC's precept⁹⁷³ and certain appointments.⁹⁷⁴ Furthermore, PCPs have the power to require the PCC's attendance in order 'to answer any questions which appear to the Panel to be necessary in order for it to carry out its functions.'⁹⁷⁵ This attendance power can also be applied to Chief Constables, meaning they can be required to appear before the Panel to answer questions at the same time as the PCC.⁹⁷⁶ In addition to these powers PCCs are required to provide PCPs with any information which they reasonably require in order to carry out their functions in accordance with the Act.⁹⁷⁷ However, this requirement can be vetoed in circumstances including national security⁹⁷⁸ and the prevention or detection of crime.⁹⁷⁹ The PRSRA also places an obligation on PCCs to provide their PCP with any other information which they consider appropriate.⁹⁸⁰

The role of Chief Constables is largely unchanged, remaining in charge of 'operational policing.'⁹⁸¹ Significantly, Chief Constables are now accountable to a single elected accountee: the PCC.⁹⁸² The PRSRA requires the Home Secretary to withdraw from 'day to day policing matters,⁹⁸³ promote an efficient and effective police service⁹⁸⁴ and issue a Policing Protocol.⁹⁸⁵ The Protocol aims to help ensure that every PCC, Chief Constable and PCP has an 'effective, constructive working relationship.'⁹⁸⁶ The Protocol states that this relationship is more likely to be achieved where 'communication and clarity of understanding are at their highest.'⁹⁸⁷ In addition to detailing these relational and dialectical requirements,

⁹⁶² s. 28 (2) PRSRA 2011

⁹⁶³ s. 28 (6) (a) PRSRA 2011

⁹⁶⁴ s. 24 Policing Protocol Order 2011

⁹⁶⁵ s. 14 Policing Protocol Order 2011

⁹⁶⁶ Police and Crime Panels, Guidance on role and composition pg 4

⁹⁶⁷ s. 28 (3) (a) PRSRA 2011

⁹⁶⁸ s. 28 (7) PRSRA 2011

⁹⁶⁹ s. 28 (6) (b) PRSRA 2011

⁹⁷⁰ s. 29 (3) PRSRA 2011

⁹⁷¹ see PRSRA 2011, Schedule 5 s.3

⁹⁷² see PRSRA 2011, Schedule 5 s.4

⁹⁷³ s.26 PRSRA 2011

⁹⁷⁴ see PRSRA 2011, Schedule 8 s 5

⁹⁷⁵ s. 29 (1) PRSRA 2011

⁹⁷⁶ s. 29 (6) PRSRA 2011

⁹⁷⁷ s. 13 (1) PRSRA

⁹⁷⁸ s. 13 (2) (a) PRSRA 2011

⁹⁷⁹ s. 13 (2) (c) PRSRA 2011

⁹⁸⁰ s. 13 (3) PRSRA 2011

⁹⁸¹ s. 2 (3) PRSRA 2011

⁹⁸² s. 1 (7) (a -b) and s.1 (8) (a-h) PRSRA 2011

⁹⁸³ s. 27 Policing Protocol Order 2011

⁹⁸⁴ s. 78 PRSRA 2011

⁹⁸⁵ s. 79 PRSRA 2011

⁹⁸⁶ s.1 The Policing Protocol 2011

⁹⁸⁷ s.1 The Policing Protocol 2011

the Protocol also sets out the functions of PCCs, Chief Constables and PCPs and how they should be exercised in relation to each other.⁹⁸⁸

The Protocol states that PCCs have a statutory, electoral and democratic duty to hold the Chief Constables to account.⁹⁸⁹ Indeed, the Protocol states that Chief Constables are accountable to PCCs for ‘the delivery of efficient and effective policing, management of resources and expenditure by the police force’.⁹⁹⁰ Further, the accountability responsibilities of Chief Constables is made clear by the Protocol, stating ‘the accountability of the Chief Constable remains firmly to the PCC.’⁹⁹¹ To ensure that PCCs are able to hold Chief Constables to account for the totality of policing the Protocol requires that ‘Chief Constables ensure that their PCC is regularly informed of their decisions and operational activity in a timely manner.’⁹⁹²

In addition to outlining the functions of PCCs, Chief Constable and PCPs and how they should be exercised in relation to each other the Protocol seeks to relinquish the reins of centralised control, stating ‘the establishment of PCCs has allowed for the Home Office to withdraw from day to day policing matters.’⁹⁹³ Some centralised control of the police does arguably remain as the Home Secretary retains a legislative capability which ‘enables intervention and direction to all parties if it is determined necessary in order to prevent or mitigate risk to the public or national security.’⁹⁹⁴ However, the Protocol does stress that this power is to be used as a ‘last resort’ and not as a means to ‘interfere with the democratic will of the electorate.’⁹⁹⁵

The 2012 election of PCCs

The first elections of PCCs were initially intended to take place May 2012 but postponed due to Government concerns that the electorate would not be sufficiently informed about the election or the role of PCCs.⁹⁹⁶ Accordingly, the first elections of PCCs took place on the 15th November 2012.⁹⁹⁷ Elections are argued to be the ultimate form of public accountability,⁹⁹⁸ and PCCs were to be held to account by the electorate every four years.⁹⁹⁹ However, Jones, Newburn and Smith argue that the four yearly election of PCCs does not equate to a meaningful participation in a new democratic policing landscape.¹⁰⁰⁰ Moreover, it is argued that the 2012 PCC elections were designed to convey the impression that the police were being made more accountable.¹⁰⁰¹ Additionally, Brogden and Ellison contend that the PCC elections compound the already confused state of police accountability.¹⁰⁰² Indeed, Lister and Rowe assert that the very notion of subjecting the police to direct forms of electoral control is

⁹⁸⁸ s.1 The Policing Protocol 2011

⁹⁸⁹ s.36 The Policing Protocol Order 2011

⁹⁹⁰ s.22 The Policing Protocol Order 2011

⁹⁹¹ s.26 The Policing Protocol Order 2011

⁹⁹² s.34 The Policing Protocol Order 2011

⁹⁹³ s.27 The Policing Protocol Order 2011

⁹⁹⁴ s.28 The Policing Protocol Order 2011

⁹⁹⁵ s.28 The Policing Protocol Order 2011

⁹⁹⁶ House of Commons Research Paper 12/73, Police and Crime Commissioner Elections, 2012, Published 29 November 2012, pg 3 available at <http://researchbriefings.files.parliament.uk/documents/RP12-73/RP12-73.pdf> accessed 14th July 2015. Hereafter cited as House of Commons Research Paper 12/73

⁹⁹⁷ s. 50 (2) PRSRA 2011

⁹⁹⁸ Le Sueur, A, in P. Cane and J. Conaghan (eds) (2008) pg 8

⁹⁹⁹ s. 50 (1) (b) PRSRA 2011

¹⁰⁰⁰ Jones, T, Newburn, T, Smith, D, in T. Newburn and J. Peay (eds) (2011) pg 237

¹⁰⁰¹ Jones, T, Newburn, T, Smith, D, in T. Newburn and J. Peay (eds) (2011) pg 234

¹⁰⁰² Brogden, M and Ellison, G, (2013) pg 104

contested,¹⁰⁰³ while Samuels urges that the PCC model also carries the danger of giving one elected individual too much power and the potential for an abuse of process.¹⁰⁰⁴

The Electoral Commission was charged with raising public awareness of the 2012 PCC elections,¹⁰⁰⁵ which according to evidence given to HASC in 2010 would result in PCCs having a mandate due to a very large number of votes.¹⁰⁰⁶ However, the anticipated very large number of votes failed in practice to materialise. A year after the first PCC elections the Electoral Commission reported that only 15.1% of the electorate voted,¹⁰⁰⁷ representing the lowest recorded level of participation in a peacetime non-local government election.¹⁰⁰⁸ The Commission's report stressed that the lowest recorded levels of electoral participation 'must be a concern for everyone who cares about democracy.'¹⁰⁰⁹ A further concerning aspect of the first PCC elections was the number of spoilt ballots, votes cast but not included in the count. The Commission's report noted that the rates of spoilt ballots varied from 1.7% in Humberside to 7.2% in North Yorkshire.¹⁰¹⁰ A House of Commons research paper argued that these unusually high levels indicated that voters may have intentionally spoilt their ballots in protest against the PCC policy and the idea of politicising the police.¹⁰¹¹

The Electoral Commission acknowledged that the most commonly cited reason for the lowest recorded levels of electoral participation was a lack of awareness.¹⁰¹² Indeed, the Commission's own public opinion survey found that 37% of people failed to vote as they were simply not aware of the elections.¹⁰¹³ Further, over a quarter of people, 28%, said that they knew 'nothing at all' about the PCC elections whilst almost half, 48%, knew 'not very much.'¹⁰¹⁴ These percentages, when compared with the mere 24% of persons who stated that they knew 'a great deal' or 'a fair amount' about the PCC elections is quite astonishing.¹⁰¹⁵ The public opinion survey also reported that 60% stated that they did not have enough information to understand the role of PCCs¹⁰¹⁶ while 71% surveyed stated that they did not have enough information on candidates to be able to make an informed decision.¹⁰¹⁷

In a speech delivered at Policy Exchange in 2013 the Home Secretary acknowledged that the turnout was disappointing¹⁰¹⁸ but urged that at the next elections "the role of PCC will be

¹⁰⁰³ Lister, S and Rowe, M, (2014) pg 1

¹⁰⁰⁴ Samuels, A, (2012) 621-622

¹⁰⁰⁵ s. 53 PRSRA 2011

¹⁰⁰⁶ Policing: Police and Crime Commissioners pg 11

¹⁰⁰⁷ The Electoral Commission, Police and Crime Commissioner elections in England and Wales, Report on the administration of elections held on 15 November 2012 available at

http://www.electoralcommission.org.uk/_data/assets/pdf_file/0003/154353/PCC-Elections-Report.pdf

Accessed 2 July 2015. Hereafter cited as The Electoral Commission Report

¹⁰⁰⁸ The Electoral Commission Report pg 6

¹⁰⁰⁹ The Electoral Commission Report pg 5

¹⁰¹⁰ Police and Crime Commissioner Elections, 2012, Research Paper 12/73 pg 12, published 29 November 2012 available at <http://researchbriefings.files.parliament.uk/documents/RP12-73/RP12-73.pdf> Accessed 13th July 2015. Hereafter cited as Research Paper 12/73

¹⁰¹¹ Research Paper 12/73 pg 12

¹⁰¹² The Electoral Commission Report pg 7

¹⁰¹³ The Electoral Commission Report pg 35

¹⁰¹⁴ The Electoral Commission Report pg 38

¹⁰¹⁵ The Electoral Commission Report pg 38

¹⁰¹⁶ The Electoral Commission Report pg 39

¹⁰¹⁷ The Electoral Commission Report pg 39

¹⁰¹⁸ Police and Crime Commissioners, House of Commons Standard Note (SN/HA/6014) pg 4, available at

<http://researchbriefings.files.parliament.uk/documents/SN06104/SN06104.pdf> Accessed 14 July 2015.

Hereafter cited as House of Commons Standard Note (SN/HA/6014)

understood by the public.”¹⁰¹⁹ Published by Policy Exchange in 2013 ‘Power Down’¹⁰²⁰ also argued that PCCs can expect a higher turnout and a stronger mandate at the second elections as PCCs would have been more visible and had the time necessary to demonstrate to the electorate their impact and potential.¹⁰²¹

The legitimacy and mandate of PCCs

In addition to being described ‘as a concern for everyone who cares about democracy’¹⁰²² Loveday argues that the 2012 PCC elections were truly baffling¹⁰²³ and a comedy of errors from start to finish.¹⁰²⁴ The loss of the MP for Policing and Criminal Justice right before the first PCC elections was equated by him to losing a plane’s pilot at a crucial moment.¹⁰²⁵ Indeed, Loveday asserts that the loss was never likely to instil or sustain confidence in a voting process to establish an entirely novel form of local police governance.¹⁰²⁶

The lowest recorded level of electoral participation arguably raises concerns as to the legitimacy of PCCs and the strength of their mandate. The lowest recorded level of electoral participation was 11.6% in Staffordshire.¹⁰²⁷ Such low levels clearly raise legitimate concerns as to PCCs legitimacy and their mandate to hold office. Indeed, Crawford asserts that the low electoral mandates of PCC would undermine their credibility and make PCCs impotent in any conflict with a Chief Constables.¹⁰²⁸ This argument was also realised by Edwards, stating that the principal aim of PCCs was to increase democratic accountability but that this would be unfulfilled from the very outset due to their low electoral mandates.¹⁰²⁹ The PCCs small electoral mandate also lead Lister and Rowe to argue that it would be difficult to equate the idea of PCCs enhancing democratic police accountability.¹⁰³⁰ Further, Lister and Rowe contend that the low levels of electoral support resulted in the first cohort of PCCs taking office with a very weak,¹⁰³¹ if not brittle democratic mandate.¹⁰³² However, it was also acknowledged that it remains to be seen whether the PCCs’ low levels of electoral support will, in any way, serve to contain how they execute their statutory functions and how the public responds to them.¹⁰³³ This chapter proceeds to explore the profile of PCCs, proven to be a cause for concern.

¹⁰¹⁹ Home Office, Speech by Home Secretary Theresa May to Policy Exchange about Police and Crime Commissioners, delivered 7 November 2013 available at <https://www.gov.uk/government/speeches/police-and-crime-commissioners-one-year-on-warts-and-all> Accessed 13th July 2015

¹⁰²⁰ Power Down, A plan for a cheaper more effective justice system available at <http://www.policyexchange.org.uk/images/publications/power%20down.pdf> Accessed 10th July 2015.

Hereafter cited as Power Down

¹⁰²¹ Power Down pg 46

¹⁰²² The Electoral Commission Report pg 5

¹⁰²³ Loveday, B, (2012) at 183

¹⁰²⁴ Loveday, B, (2012) at 186

¹⁰²⁵ Loveday, B, (2012) at 186

¹⁰²⁶ Loveday, B, (2012) at 186

¹⁰²⁷ Research Paper 12/73 pg 14

¹⁰²⁸ Crawford, A, The advent of police and crime commissioners : The Politicisation of crime and policing or the dawn of democratic oversight. Available at <http://www.bss.leeds.ac.uk/2012/10/09/the-advent-of-police-and-crime-commissioners-pccs-the-politicisation-of-crime-and-policing-or-the-dawn-of-democratic-oversight/>

Accessed 11th October 2013

¹⁰²⁹ Edwards, A, (2012) at 821

¹⁰³⁰ Lister, S and Rowe, M, (2014) pg 7

¹⁰³¹ Lister, S and Rowe, M, (2014) pg 5

¹⁰³² Lister, S and Rowe, M, (2014) pg 7

¹⁰³³ Lister, S and Rowe, M, (2014) pg 5

The profile of PCCs

The credentials of some PCC candidates have been questioned from the very outset. Samuels argued that candidates were “clapped out politicians” and losers in recent elections looking to revive their profiles.¹⁰³⁴ Of those elected to office in 2012, 16 were Conservative candidates, 13 were Labour candidates and 12 were independent candidates.¹⁰³⁵ Loveday, linking to an argument made in a House of Commons Research Paper,¹⁰³⁶ argues that independent PCCs capitalised on voter apathy¹⁰³⁷ as conceivably the electorate rejected the idea of political interference in policing.¹⁰³⁸ This argument was also raised by Lister and Rowe, stating that the election of 12 independent candidates not only suggest broader trends of voter dissatisfaction with mainstream party politics but also, potentially, demonstrates that many voters rejected PCCs being tied to a political party.¹⁰³⁹ To substantiate their argument Lister and Rowe asserted that many independent PCCs actually campaigned with the mantra of keeping politics out of policing.¹⁰⁴⁰ Therefore, the success of independent candidates may indicate the widespread desire amongst the public to avoid the partisan politicisation of the Police. Further, Lister and Rowe argue that the mantra of independent candidates was far removed from those adopted by PCC candidates affiliated to mainstream political parties whose mandates contained traces of centralised policing messages.¹⁰⁴¹

In 2013 HASC explored the profile of PCCs. ‘Police and Crime Commissioners; Register of Interests’¹⁰⁴² focused partly on the fact that of the 41 PCCs only 6 were female.¹⁰⁴³ However, countering any voter preference arguments, it was urged that the small number of female PCCs actually stemmed from the fact that only 18% of candidates were women.¹⁰⁴⁴ Disagreeing, Lister and Rowe argue that the dominance of male PCCs actually reflects the gender biases sustained by social structures reproduced in electoral voting patterns.¹⁰⁴⁵ In addition to the underrepresentation argument, HASC acknowledged that although 20 candidates from ethnic minorities stood for election none were actually elected.¹⁰⁴⁶ Additionally, HASC acknowledged that 25 of the 41 PCCs were either previously local or national politicians, while 8 were former police officers.¹⁰⁴⁷ Concluding, HASC stated that the first cohort of PCCs were a “monoculture.”¹⁰⁴⁸

This conclusion is concerning as in addition to PCCs seemingly having a weak or brittle mandate in light of low levels of electoral support, PCCs may also lack social, cultural and ethnic representativeness. Indeed, the mono-cultural nature of PCCs and their failure to

¹⁰³⁴ Samuels, A, (2012) pg 621

¹⁰³⁵ House of Commons Research Paper 12/73 pg 5

¹⁰³⁶ House of Commons Research Paper 12/73 pg 12

¹⁰³⁷ Loveday, B, (2012) at 186

¹⁰³⁸ Loveday, B, (2012) at 186

¹⁰³⁹ Lister, S and Rowe, M, (2014) pg 6

¹⁰⁴⁰ Lister, S and Rowe, M, (2014) pg 6

¹⁰⁴¹ Lister, S and Rowe, M, (2014) pg 11

¹⁰⁴² House of Commons Home Affairs Committee, Police and Crime Commissioners: Register of Interests published 16th Mat 2013 available at <http://www.publications.parliament.uk/pa/cm201314/cmselect/cmhaff/69/69.pdf> Accessed 13th July 2015.

Hereafter cited as Police and Crime Commissioners: Register of Interests

¹⁰⁴³ Police and Crime Commissioners: Register of Interests pg 28

¹⁰⁴⁴ Police and Crime Commissioners: Register of Interests pg 28

¹⁰⁴⁵ Lister, S and Rowe, M, (2014) pg 7

¹⁰⁴⁶ Police and Crime Commissioners: Register of Interests pg 29

¹⁰⁴⁷ Police and Crime Commissioners: Register of Interests pg 28

¹⁰⁴⁸ Police and Crime Commissioners: Register of Interests pg 29

reflect the social demographics of society arguably challenges the democratic legitimacy of their office.¹⁰⁴⁹ Additionally, Lister and Rowe argue that the approach PCCs took would likely to be influenced by their institutional backgrounds,¹⁰⁵⁰ which given the mono-cultural conclusions of HASC,¹⁰⁵¹ could lead to a non-critical relationship within the structure of police accountability. Furthermore, PCCs may lack sufficient objectivity to effectively hold Chief Constables to account, a role for which critically the PCC is solely responsible.¹⁰⁵²

Since the inception of PCCs, a number of reports and reviews have examined the present structure and model of police accountability. This chapter proceeds to examine three of the most relevant to this thesis.¹⁰⁵³ First, ‘Policing for a Better Britain’¹⁰⁵⁴ published by the Independent Police Commission in 2013. Second, ‘Police and Crime Commissioners: progress to date’¹⁰⁵⁵ published by HASC in 2014. After exploring HASC’s 2014 progress review the Government’s response is considered.¹⁰⁵⁶ Finally, the Committee on Standards in Public Life [CSPL]¹⁰⁵⁷ ‘Tone from the top: Leadership, ethics and accountability in policing’¹⁰⁵⁸ report is examined.

¹⁰⁴⁹ Lister, S and Rowe, M, (2014) pg 7

¹⁰⁵⁰ Lister, S and Rowe, M, (2014) pg 6

¹⁰⁵¹ Police and Crime Commissioners: Register of Interests pg 29

¹⁰⁵² see s. 1 (7) (a -b) and s.1 (8) (a-h) PRSRA 2011 and s.26 The Policing Protocol Order 2011

¹⁰⁵³ Although not considered in its entirety ‘Power Down, A plan for a cheaper more effective justice system’ available at <http://www.policyexchange.org.uk/images/publications/power%20down.pdf>, accessed 10th July 2015 and published by Policy Exchange in 2013 acknowledged that PCCs had a difficult birth. The lowest recorded level of electoral turnout combined with expense revelations, allegations of cronyism and the high profile sacking of the Kent Youth PCC following racist and homophobic rants on social media resulted in the national narrative towards PCCs being negative (pg 7). However, the report argued that it was too early to assess whether PCCs were a success and urged that PCCs should spearhead decentralisation. (pg 15) ‘Power Down’ also argued that a shared vision was needed for PCCs otherwise there was a risk that the PCC structure would drift aimlessly (pg 15). Also not considered in its entirety is the 2013 Association of Police and Crime Commissioners report ‘PCCs one year on: Delivering police accountability’ available at http://apccs.police.uk/wp-content/uploads/2013/08/PCCs_One_Year_On.pdf accessed 23rd July 2015.

Although the APCC’s report contains a snap shot of some PCCs work and evidences, what is later termed by the 2014 Independent Police Commission “the framing of policies around natural support,” the report fails to address any aspect of police accountability

¹⁰⁵⁴ Policing for a Better Britain, Report of the Independent Police Commission available at

<http://independentpolicecommission.org.uk/uploads/37d80308-be23-9684-054d-e4958bb9d518.pdf>

Accessed 3rd July 2015. Hereafter cited as the Stevens Review

¹⁰⁵⁵ House of Commons Home Affairs Committee, Police and Crime Commissioners: progress to date, published 5 May 2014 available at <http://www.publications.parliament.uk/pa/cm201314/cmselect/cmhaff/487/487.pdf> accessed 23rd June 2015. Hereafter cited as Police and Crime Commissioners: progress to date

¹⁰⁵⁶ The Government response to the Sixteenth Report from the Home Affairs Select Committee, Police and Crime Commissioners: progress to date. Available at

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/387123/PCCprogressToDate.pdf Hereafter cited as Government’s Response

¹⁰⁵⁷ The Committee on Standards in Public Life advises the Prime Minister on ethical standards across the whole of public life in the UK. It monitors and reports on issues relating to the standards of conduct of all public office holders. See <https://www.gov.uk/government/organisations/the-committee-on-standards-in-public-life> accessed 30th June 2015

¹⁰⁵⁸ Committee on Standards in Public Life, Tone from the top: Leadership, ethics and accountability in policing. Available at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/439208/Tone_from_the_top_-_CSPL.pdf Accessed 30th June 2015. Hereafter cited as Tone from the top

Policing for a Better Britain

Chaired by the former Commissioner of the Metropolitan Police, Lord Stevens and appointed by the then shadow Home Secretary Yvette Cooper, the Independent Police Commission published its report November 2013.¹⁰⁵⁹ Given that the Stevens Commission was appointed by the Labour Party and also referred to its 2015 election manifesto,¹⁰⁶⁰ the review arguably lacks the independence the title sought to convey. Certainly, HASC¹⁰⁶¹ in 2014 questioned repeatedly the claim that the Commission was in any way independent.¹⁰⁶² Despite its claimed questionable independence, the Stevens Commission makes an important contribution to an analysis of the present structure of police accountability as, merely a year after the first cohort were elected to office, Stevens decreed that the PCC model was failing¹⁰⁶³ and should be discontinued.¹⁰⁶⁴ Although Stevens acknowledged that PCCs were a constitutional innovation and an experiment in democratic policing,¹⁰⁶⁵ there was mounting evidence that the PCC model was defective¹⁰⁶⁶ and lacked public knowledge and support.¹⁰⁶⁷

Stevens did acknowledge that effective democratic control demands that those governing the police be elected.¹⁰⁶⁸ Indeed, on this point, it was contended that there should be no retreat from the principle of elected democratic control.¹⁰⁶⁹ However, Stevens argued that PCCs as the structure for delivering this principle were flawed.¹⁰⁷⁰ The PCC structure was also argued to be structurally defective,¹⁰⁷¹ with arguments advanced for this. First, the poor electoral mandate of PCCs meant that those elected to office started with a significant disadvantage and lacked legitimacy.¹⁰⁷² Second, the first cohort was predominantly white, middle aged males.¹⁰⁷³ Here, Stevens noted that PCCs may in practice run counter to the claim that they would give the public a greater voice and hold the police to account democratically.¹⁰⁷⁴ Additionally, it was urged that there was a limited number of ethnic minorities and female PCCs.¹⁰⁷⁵ Stevens also noted that the first cohort of PCCs were either former serving police officers or members of the former Police Authorities.¹⁰⁷⁶ In relation to PCCs who were previously members of former Police Authorities, Stevens argued that they formed part of a

¹⁰⁵⁹ Policing for a Better Britain, Report of the Independent Police Commission available at <http://independentpolicecommission.org.uk/uploads/37d80308-be23-9684-054d-e4958bb9d518.pdf>

Accessed 3rd July 2015. Hereafter cited as the Stevens Review

¹⁰⁶⁰ Britain Can Be Better, The Labour Party Manifesto 2015 available at <http://www.labour.org.uk/page/-/BritainCanBeBetter-TheLabourPartyManifesto2015.pdf> pg 52 Accessed 6th July 2015 Hereafter cited as The Labour Party Election Manifesto 2015

¹⁰⁶¹ House of Commons Home Affairs Committee, Police and Crime Commissioners: progress to date, published 5 May 2014 available at <http://www.publications.parliament.uk/pa/cm201314/cmselect/cmhaff/487/487.pdf> accessed 23rd June 2015. Hereafter cited as PCCs: progress to date

¹⁰⁶² see Police and Crime Commissioners: progress to date, Minutes of Evidence (EV7, EV20, EV30, EV41, EV 43, EV 62)

¹⁰⁶³ Stevens Review pg 27

¹⁰⁶⁴ Stevens Review pg 81

¹⁰⁶⁵ Stevens Review pg 79

¹⁰⁶⁶ Stevens Review pg 27

¹⁰⁶⁷ Stevens Review pg 27

¹⁰⁶⁸ Stevens Review pg 80

¹⁰⁶⁹ Stevens Review pg 80

¹⁰⁷⁰ Stevens Review pg 81

¹⁰⁷¹ Stevens Review pg 81

¹⁰⁷² Stevens Review pg 81

¹⁰⁷³ Stevens Review pg 81

¹⁰⁷⁴ Stevens Review pg 81

¹⁰⁷⁵ Stevens Review pg 81

¹⁰⁷⁶ Stevens Review pg 81

discredited institution.¹⁰⁷⁷ Accordingly, the first cohort of PCCs were again labelled a monoculture¹⁰⁷⁸ and identified as demonstrating the inherent limitations of a non-collective structure of police accountability.¹⁰⁷⁹ Third, PCCs were argued to be as invisible as the structure of police accountability they replaced: Police Authorities.¹⁰⁸⁰ Supporting this argument the report refers to a Populus poll conducted by the Electoral Reform Society in 2013,¹⁰⁸¹ which revealed that only 11% of people could name their PCC.¹⁰⁸² Fourth, Stevens argued that PCCs appointing friends, former colleagues and contacts as their Deputy led to allegations of cronyism.¹⁰⁸³ Here Stevens argued that this practice also led to a deficit in accountability as appointees were neither elected nor accountable to the public.¹⁰⁸⁴ Fifth, Stevens argued that public scrutiny and accountability was replaced by PCCs using opaque accountability arrangements evidenced by PCCs meeting privately with Chief Constables.¹⁰⁸⁵ Sixth, Stevens insisted that PCCs could simply not represent or engage with their whole area.¹⁰⁸⁶ Finally, the Commission argued that the single elected structure of police accountability increased the likelihood that PCCs would frame their approach around natural support at the expense of minorities.¹⁰⁸⁷ Accordingly, Stevens concluded that these structural limitations meant that the PCC experiment had to be discontinued.¹⁰⁸⁸

Prior to making recommendations to replace PCCs, Stevens argued that the discredited Police Authorities and the steering of the Police from Whitehall should not be revived.¹⁰⁸⁹ Instead, Stevens recommended that PCCs be replaced by a Policing Board with members being drawn from leaders from each local authority within the police area.¹⁰⁹⁰ Stevens asserted that the Boards would defend and extend democratic governance of the police.¹⁰⁹¹ The Boards proposed by Stevens would have had three powers. First, they would set the overall budget for the police area. Second, they would appoint and dismiss the Chief Constable. Third, they would formulate and agree with the Chief Constable the policing plan and set strategic priorities.¹⁰⁹²

Prior to exploring HASC's 2014 progress report it is important to note that such a critical condemnation of the present structure of police accountability so early in its infancy was unlikely to aid a positive national narrative. Indeed, within a year the PCC structure of police accountability had been subject to expense revelations, allegations of cronyism,¹⁰⁹³ high profile dismissals,¹⁰⁹⁴ labelled as defective¹⁰⁹⁵ and in need of replacement.¹⁰⁹⁶ However, the

¹⁰⁷⁷ Stevens Review pg 81

¹⁰⁷⁸ Stevens Review pg 81

¹⁰⁷⁹ Stevens Review pg 81

¹⁰⁸⁰ Stevens Review pg 82

¹⁰⁸¹ Electoral Reform Society, How Not To Run An Election: Police and Crime Commissioner Elections available at <http://www.electoral-reform.org.uk/sites/default/files/How%20not%20to%20run%20an%20election.pdf>

Accessed 6th July 2015 Hereafter cited as

¹⁰⁸² How Not To Run An Election: Police and Crime Commissioner Elections pg 7

¹⁰⁸³ Stevens Review pg 82

¹⁰⁸⁴ Stevens Review pg 82

¹⁰⁸⁵ Stevens Review pg 82

¹⁰⁸⁶ Stevens Review pg 83

¹⁰⁸⁷ Stevens Review pg 83

¹⁰⁸⁸ Stevens Review pg 83

¹⁰⁸⁹ Stevens Review pg 85

¹⁰⁹⁰ Stevens Review pg 86

¹⁰⁹¹ Stevens Review pg 92

¹⁰⁹² Stevens Review pg 86

¹⁰⁹³ Power Down pg 11

¹⁰⁹⁴ Power Down pg 7

failure of the Labour party to win the 2015 General Election meant that PCCs were not replaced,¹⁰⁹⁷ the structure and model of police accountability remained intact.

Police and Crime Commissioners: progress to date

The HASC's 2014 report examined the work of PCCs in their first 18 months.¹⁰⁹⁸ The report considered the effectiveness of PCCs, their relationship with Chief Constables and made recommendations to strengthen the role of the PCPs to improve the scrutiny of PCCs.¹⁰⁹⁹

The first section of HASC's report explored what it termed the "exceptionally low" electoral turnout,¹¹⁰⁰ acknowledging that it did raise legitimate concerns as to the mandate of PCCs.¹¹⁰¹ Attempting to counter these concerns, the Committee argued that since their election public awareness of PCCs had increased greatly.¹¹⁰² Supporting their argument HASC referred to a poll which found that 62% of the public were aware that they had a PCC for their area.¹¹⁰³ However, on closer examination, the picture was perhaps less clear as another survey reported that only 18% of respondents had a good understanding of the PCC's role while only 10% believed that PCCs gave people a greater say over policing.¹¹⁰⁴ Indeed, HASC acknowledged that any increase in public awareness may in part be due to bad press, adverse media and PCC controversies.¹¹⁰⁵

In the second section of their report HASC explored the impact of PCCs appointing deputy and assistant commissioners. Here it was argued that the ability of PCCs to freely appoint whoever they chose led to public concern, a lack of transparency and in some cases accusations of cronyism.¹¹⁰⁶ Accordingly, HASC asserted that PCCs suffered reputational damage,¹¹⁰⁷ while the appointment of multiple assistants could be seen as an attempt to recreate Police Authorities.¹¹⁰⁸ Also contained within this section are two short paragraphs seeking to explore the overall effectiveness of PCCs.¹¹⁰⁹ However, HASC concluded that it was too early to tell whether the present structure of police accountability had proven to be a force for good.¹¹¹⁰ Thus, perhaps frustratingly, HASC also concluded that their report was more of a progress review than a definitive assessment of PCCs.¹¹¹¹

The third section of HASC's progress report explored the relationship between PCC and Chief Constable, describing it as a key aspect of the new governance model for policing.¹¹¹² HASC emphasised that PCCs and Chief Constables must have a relationship that allows them "to engage constructively in a non-adversarial manner but which also provides the

¹⁰⁹⁵ Stevens Review pg 81

¹⁰⁹⁶ Stevens Review pg 83

¹⁰⁹⁷ The Labour Party Election Manifesto 2015 pg 52

¹⁰⁹⁸ PCCs: progress to date pg 3

¹⁰⁹⁹ PCCs: progress to date pg 3

¹¹⁰⁰ PCCs: progress to date pg 4

¹¹⁰¹ PCCs: progress to date pg 4

¹¹⁰² PCCs: progress to date pg 4

¹¹⁰³ PCCs: progress to date pg 4

¹¹⁰⁴ PCCs: progress to date pg 5

¹¹⁰⁵ PCCs: progress to date pg 4

¹¹⁰⁶ PCCs: progress to date pg 13

¹¹⁰⁷ PCCs: progress to date pg 13

¹¹⁰⁸ PCCs: progress to date pg 15

¹¹⁰⁹ PCCs: progress to date pg 19

¹¹¹⁰ PCCs: progress to date pg 20

¹¹¹¹ PCCs: progress to date pg 20

¹¹¹² PCCs: progress to date pg 21

opportunity for challenge.”¹¹¹³ Evidence given to HASC from PCCs and Chief Constables highlighted that the relationship was in practice far from cosy and one of critical mutual respect.¹¹¹⁴ However, HASC acknowledged that some evidence highlighted “an alignment approach” which in practice was evidenced by Chief Constables aligning themselves with PCCs.¹¹¹⁵ Additionally, HASC acknowledged that the relationship between PCC and Chief Constable was one that had attracted concern since its formation,¹¹¹⁶ noting the very public examples of the relationship between PCC and Chief Constable breaking down.¹¹¹⁷

The report recognised that PCCs were using a number of different mechanisms to hold Chief Constables to account¹¹¹⁸ including ‘public scrutiny meetings’, ‘bimonthly Commissioner’s Performance, Accountability, Scrutiny and Strategy meetings’ and ‘performance and accountability meetings’.¹¹¹⁹ Additionally, HASC acknowledged that PCCs held regular informal and formal private meetings with their Chief Constable and encouraged public attendance and scrutiny of Chief Constables via social media.¹¹²⁰ A further method by which PCCs held their Chief Constables to account was through the medium of mystery shoppers and independent custody visitors,¹¹²¹ with reports sent directly to the PCC.¹¹²² Chief Constables were also held to account by PCCs establishing a panel of independent residents who had the responsibility of reviewing complaint files and publishing reports¹¹²³ while performance indicators were also used.¹¹²⁴ HASC warned that some of these mechanisms were inherently weak, particularly the informal interactions between PCC and Chief Constable¹¹²⁵ arguing that they lacked transparency and offered no ability to scrutinise.¹¹²⁶ A further risk was that PCCs would, inadvertently or otherwise, interfere with the operational independence contrary to the Policing Protocol 2011.¹¹²⁷ To substantiate their argument HASC cited evidence from the Police Federation which stated that PCCs were ‘interfering in operational matters outside their remit.’¹¹²⁸ Such interference was seen more where PCCs had prior policing experience and as such ‘had difficulty letting go of the reins.’¹¹²⁹ HASC concluded, perhaps too weakly, that the Policing Protocol should be the foundation of the relationship between PCCs and Chief Constables.¹¹³⁰

Considered essential to their role, yet one of the most controversial aspects of the present structure of police accountability, HASC also examined the PCCs power to dismiss Chief Constables within the third section of their report.¹¹³¹ The conferred statutory power of PCCs

¹¹¹³ PCCs: progress to date pg 23

¹¹¹⁴ PCCs: progress to date pg 23

¹¹¹⁵ PCCs: progress to date pg 23

¹¹¹⁶ PCCs: progress to date pg 21

¹¹¹⁷ PCCs: progress to date pg 23

¹¹¹⁸ PCCs: progress to date pg 21

¹¹¹⁹ PCCs: progress to date pg 21

¹¹²⁰ PCCs: progress to date pg 22

¹¹²¹ PCCs: progress to date pg 22

¹¹²² PCCs: progress to date pg 22

¹¹²³ PCCs: progress to date pg 22

¹¹²⁴ PCCs: progress to date pg 22

¹¹²⁵ PCCs: progress to date pg 23

¹¹²⁶ PCCs: progress to date pg 23

¹¹²⁷ See generally The Policing Protocol Order pg 6

¹¹²⁸ PCCs: progress to date pg 23

¹¹²⁹ PCCs: progress to date pg 23

¹¹³⁰ PCCs: progress to date pg 24

¹¹³¹ See s.38(2), (3) and Schedule 8 PRSRA 2011

to remove Chief Constables had previously been explored in 2013.¹¹³² The power of PCCs to dismiss Chief Constables was argued to be essential to their role due to it enabling robust, critical challenge.¹¹³³ However, HASC warned that any suspension or removal was a radical step and one that should not be undertaken lightly.¹¹³⁴ HASC made three important conclusions. First, it was too easy for a PCC to remove a Chief Constable.¹¹³⁵ Second, reasons given for removing were unpersuasive.¹¹³⁶ Third, the ‘check and balance’ on PCCs were in practice too weak.¹¹³⁷

The Committee’s 2014 progress report acknowledged that the PRSRA was silent on the grounds for suspension and dismissal.¹¹³⁸ Additionally HASC noted that the Home Office failed to provide any guidance or safeguards to be taken into account to ensure that any suspension or dismissal of Chief Constables was fair and proportionate.¹¹³⁹ Accordingly, HASC proposed ways to ensure that any suspension or dismissal was indeed fair and proportionate. First, a ‘tightening up’ of the legislation.¹¹⁴⁰ Here it was recommended that the Home Office stipulate the grounds for suspension and dismissal.¹¹⁴¹ The report also acknowledged that PCCs could sidestep the scrutiny process provided by Schedule 8 of the Act.¹¹⁴² Therefore, HASC recommended PCPs inquire and report into the circumstances whenever a Chief Constable’s service is brought to an end.¹¹⁴³ The Committee also recommended that the Home Office bring forward proposals to extend the powers contained within the Schedule 8 process to include scrutiny by PCPs.¹¹⁴⁴ Finally, training for PCCs and the development of a process of third party mediation was recommended.¹¹⁴⁵

The fourth section of HASC’s 2014 progress report examined the scrutiny role of PCPs. The Committee acknowledged that PCPs were introduced at a late stage to allay concerns that PCCs, once elected, would not be subject to sufficient scrutiny.¹¹⁴⁶ Furthermore, HASC acknowledged that it was the Government’s expectation that the PCPs would carry out a ‘light touch approach’ to scrutiny where accountability was exerted through the relationship between PCC and Chief Constable.¹¹⁴⁷ On this point HASC warned that where party political affiliations of PCPs aligned with those of the PCC an even lighter touch than the Government

¹¹³² House of Commons Home Affairs Committee, Police and Crime Commissioners: power to remove Chief Constables, published 20 July 2013 available at <http://www.publications.parliament.uk/pa/cm201314/cmselect/cmhaff/487/487.pdf> accessed 15th July 2015. Hereafter cited as PCCs: power to remove Chief Constables. This short report examined how three Chief Constables were removed from office within days of their PCC coming to office. HASC stating on pg 3 “it should have come as no surprise that the election of PCCs was followed by a number of high profile clashes between PCC and Chief Constable”

¹¹³³ PCCs: power to remove Chief Constables pg 5

¹¹³⁴ PCCs: power to remove Chief Constables pg 4

¹¹³⁵ PCCs: power to remove Chief Constables pg 4

¹¹³⁶ PCCs: power to remove Chief Constables pg 5

¹¹³⁷ PCCs: power to remove Chief Constables pg 5

¹¹³⁸ PCCs: progress to date pg 25

¹¹³⁹ PCCs: progress to date pg 25

¹¹⁴⁰ PCCs: progress to date pg 25

¹¹⁴¹ PCCs: progress to date pg 27

¹¹⁴² PCCs: progress to date pg 27

¹¹⁴³ PCCs: progress to date pg 25

¹¹⁴⁴ PCCs: progress to date pg 27

¹¹⁴⁵ PCCs: progress to date pg 27

¹¹⁴⁶ PCCs: progress to date pg 28

¹¹⁴⁷ Local Government Association, Police and Crime Panels, Guidance on role and composition (2011). Available at http://www.local.gov.uk/c/document_library/get_file?uuid=8f16dd65-7fde-4792-8578-fa955263931e&groupId=10180 Accessed 23rd June 2015

envisaged could result.¹¹⁴⁸ HASC also acknowledged that the work of PCPs was initially limited to PCC confirmation hearings, the scrutiny of Police and Crime Plans and agreeing precept proposals.¹¹⁴⁹ However, some evidence indicated that PCPs were straying beyond their statutory role. ‘Police Accountability: Landscape Review’¹¹⁵⁰ warned that PCPs were in practice monitoring and evaluating the Police.¹¹⁵¹ These concerns led some to call on the Home Office to provide greater clarity to PCPs about their role.¹¹⁵² Despite these concerns HASC urged that PCPs were adapting to their role and were finding proactive ways to scrutinise PCCs, including members taking responsibility for specific areas of policy thereby gaining specialist knowledge which better enabled scrutiny.¹¹⁵³ The apparent adapting capabilities of PCPs was summed up the Minister for Policing and Criminal Justice, stating the PCPs were “developing a rhythm of being quite a good scrutiny mechanism over PCCs.”¹¹⁵⁴

Giving evidence, some PCPs argued that some PCCs were failing to provide them with information which in turn undermined their ability to scrutinise effectively.¹¹⁵⁵ A flow of information may be critical given that Policing Protocol requires ‘effective, constructive working relationship.’¹¹⁵⁶ Thus, evidence of the opposite potentially undermines these requirements. HASC cited evidence given by the Local Government Association, arguing that some PCPs had only been provided with information after making repeated requests to the PCC.¹¹⁵⁷ Further, it was urged that where information was supplied to PCPs it had sometimes been incomplete.¹¹⁵⁸

Importantly, HASC made three recommendations to improve the scrutiny role of PCPs within the present model of police accountability. First, and without any further explanation, HASC recommended that PCPs conduct themselves less in the style of the former Police Authority and more in the mode of a Select Committee.¹¹⁵⁹ Second, the Home Office provide more detailed guidance on the role of PCPs and how to scrutinise a PCC.¹¹⁶⁰ Additionally, HASC stressed that that the political makeup of some PCPs was a concern. Accordingly, it was contended that where the Chair of the Panel was from the same political party as the PCC then the Panel should consider appointing a Deputy Chair from a different party.¹¹⁶¹ HASC’s final recommendation was that PCCs should publish a forward plan of key decisions,¹¹⁶² with the Local Government Association and the APCCs agreeing a protocol on the timely provision of information to allow PCPs to scrutinise more effectively.¹¹⁶³

¹¹⁴⁸ PCCs: progress to date pg 29

¹¹⁴⁹ PCCs: progress to date pg 29

¹¹⁵⁰ National Audit Office, Police Accountability: Landscape Review. Available at <http://www.nao.org.uk/wp-content/uploads/2014/01/Police-accountability-Landscape-review.pdf> Accessed 30th June 2015. Hereafter cited as Police Accountability: Landscape Review

¹¹⁵¹ Police Accountability: Landscape Review pg 20

¹¹⁵² PCCs: progress to date pg 30

¹¹⁵³ PCCs: progress to date pg 30

¹¹⁵⁴ PCCs: progress to date, Minutes of Evidence (EV105)

¹¹⁵⁵ PCCs: progress to date pg 31

¹¹⁵⁶ s.1 The Policing Protocol Order 2011

¹¹⁵⁷ PCCs: progress to date pg 31

¹¹⁵⁸ PCCs: progress to date pg 31

¹¹⁵⁹ PCCs: progress to date pg 31

¹¹⁶⁰ PCCs: progress to date pg 31

¹¹⁶¹ PCCs: progress to date pg 31

¹¹⁶² PCCs: progress to date pg 32

¹¹⁶³ PCCs: progress to date pg 32

HASC concluded that at this stage of their life it was inevitable that many would consider PCCs to be on probation.¹¹⁶⁴ Indeed, some PCCs gave evidence to this effect, stating that they felt as though they were on probation and that the elections in 2016 would be their judgment day.¹¹⁶⁵ Accordingly, HASC stated that it was too early to say whether the introduction of PCCs had been a success,¹¹⁶⁶ insisting that their report was to be a progress review rather than a definitive assessment.¹¹⁶⁷ Nevertheless, HASC's progress report makes a telling contribution to an analysis of the present structure and model of police accountability. In terms of the relationship between PCC and Chief Constables it was argued that the relationship between Chief Constable and PCC had to be balanced, open and constructive with robust challenge where necessary.¹¹⁶⁸ HASC acknowledged that PCCs had developed a range of formal and informal mechanisms to hold Chief Constables to account,¹¹⁶⁹ but warned that it was crucial that PCCs ensure that accountability be transparent and in accordance with the Policing Protocol.¹¹⁷⁰ As highlighted, the Protocol should be the foundation of the relationship between PCC and Chief Constable.¹¹⁷¹

Prior to exploring the Government's response to HASC's 2014 progress report it is important to note that although the report was not a definitive review, it does provide some detailed analysis of the present structure and model of police accountability. Recommendations were made and a heavy reliance placed on the Policing Protocol. The Government's response and recommendations are now explored.

The Home Secretary presented the Government's response in Parliament December 2014, stating that PCCs were a key plank of the Government's police reform agenda.¹¹⁷² The Home Secretary argued that the vision and purpose of PCCs was clear: they are elected, visible and accountable to their electorate.¹¹⁷³ PCCs were compared to, what was termed, the illegitimate and invisible Police Authorities.¹¹⁷⁴ Here, it was insisted that Authorities had been replaced with democratically accountable PCCs who were more visible and had the power to ensure that local people had a stronger voice in policing.¹¹⁷⁵ The Home Secretary noted that recent events involving the South Yorkshire PCC¹¹⁷⁶ led to calls for the Government to review the current structure of accountability for PCCs.¹¹⁷⁷ However, in resisting these calls, the Home Secretary emphasised that PCCs were themselves accountable through a range of mechanisms, including the media and scrutiny via the PCP. Additionally, the Home Secretary stressed that PCCs were ultimately accountable to the electorate stating "if PCCs fall short the public will for the first time have a means to do something about it - at the ballot box."¹¹⁷⁸

The Home Secretary addressed HASC's recommendations in turn. As highlighted, HASC insisted that their report be considered a progress review rather than a definitive assessment

¹¹⁶⁴ PCCs: progress to date pg 45

¹¹⁶⁵ PCCs: progress to date, Minutes of Evidence (EV5)

¹¹⁶⁶ PCCs: progress to date pg 47

¹¹⁶⁷ PCCs: progress to date pg 47

¹¹⁶⁸ PCCs: progress to date pg 48

¹¹⁶⁹ PCCs: progress to date pg 48

¹¹⁷⁰ PCCs: progress to date pg 48

¹¹⁷¹ PCCs: progress to date pg 48

¹¹⁷² Government's Response pg 1

¹¹⁷³ Government's Response pg 1

¹¹⁷⁴ Government's Response pg 1

¹¹⁷⁵ Government's Response pg 1

¹¹⁷⁶ see chapter one of this thesis pg (s) 6 to 7

¹¹⁷⁷ Government's Response pg 1

¹¹⁷⁸ Government's Response pg 2

given the limited time that PCCs had been in office.¹¹⁷⁹ In response, the Home Secretary stated quite emphatically that although there had been a small number of incidents, which she coincidentally believed were used by the Committee to paint an overly negative picture of PCCs,¹¹⁸⁰ the model was working¹¹⁸¹ and was doing so in a much more positive fashion than what was termed HASC's negative report.¹¹⁸² The Home Secretary told Parliament that the Government would continue to make the case for PCCs.¹¹⁸³ In addition, referring to HASC's finding that the status of assistant PCCs was ambiguous, confusing and in some areas amounted to an attempt to recreate Police Authorities,¹¹⁸⁴ the Home Secretary disagreed and dismissed the argument entirely.¹¹⁸⁵

HASC's conclusion that it was too early to say whether the introduction of PCC had been a success¹¹⁸⁶ was described by the Home Secretary as "regretful."¹¹⁸⁷ Here it was contended that the model was a success and, with time, it would become even clearer how PCCs were playing an important and visible role bringing real local accountability to how Chief Constables perform.¹¹⁸⁸ However, this rather emphatic statement does appear to be at odds with an earlier speech made by the Home Secretary in which it was acknowledged that the picture was in fact a "little mixed" as "PCCs were responsible for mistakes and errors of judgment – some possibly quite serious."¹¹⁸⁹ Nevertheless, it was urged that PCCs had galvanised local policing and criminal justice.¹¹⁹⁰ One area of agreement was the Policing Protocol, the Home Secretary agreed with HASC that the Policing Protocol should be the foundation of the new accountability relationship between Chief Constable and PCC, stating "this is why it was introduced."¹¹⁹¹

Prior to exploring the CSPL 2015 report it is important to note that the Government's response to HASC's report was emphatic. The Home Secretary told Parliament that PCCs were a key plank of the Government's reform agenda.¹¹⁹² Therefore, arguably, any recommendation that could conceivably de-rail the present structure and model of police accountability was likely to be dismissed. Moreover, it was contended that telling PCCs what to do would dilute the integrity of the present structure and model of police accountability.¹¹⁹³ Indeed, and likely linked with the notion that PCCs would replace bureaucratic accountability with democratic accountability,¹¹⁹⁴ the Home Secretary stated "any centralised control or guidance was not appropriate."¹¹⁹⁵

¹¹⁷⁹ PCCs: progress to date pg 45

¹¹⁸⁰ Government's Response pg 3

¹¹⁸¹ Government's Response pg 3

¹¹⁸² Government's Response pg 3

¹¹⁸³ Government's Response pg 2

¹¹⁸⁴ PCCs: progress to date pg 15

¹¹⁸⁵ Government's Response pg 13

¹¹⁸⁶ Police and Crime Commissioners: progress to date pg 47

¹¹⁸⁷ Government's Response pg 9

¹¹⁸⁸ Government's Response pg 9

¹¹⁸⁹ Speech by Home Secretary Theresa May to Policy Exchange about Police and Crime Commissioners 2013.

Available at <http://www.policyexchange.org.uk/modevents/item/the-pioneers-police-and-crime-commissioners-one-year-on-with-theresa-may> Accessed 30th June 2015

¹¹⁹⁰ Government's Response pg 9

¹¹⁹¹ Government's Response pg 10

¹¹⁹² Government's Response pg 1

¹¹⁹³ Government's Response pg 7

¹¹⁹⁴ Policing in the 21st Century pg 22

¹¹⁹⁵ Government's Response pg 12

Tone from the top

Launched in 2014 the CSPL argued that the present structure of police accountability needed to be reviewed. Tone from the top offers a valuable contribution to an analysis of the present structure of police accountability. Three reasons were argued for why this review was needed. First, any new system required review to test whether it was living up to its original rationale.¹¹⁹⁶ Second, the present structure and model of police accountability had been subject to criticism.¹¹⁹⁷ Third, recent scandals and criticisms may lead to future changes.¹¹⁹⁸

Lord Bew, the Committee's Chair, acknowledged that PCCs were established to inject greater dynamism and visibility into local policing and offer a new, more direct form of democratic accountability.¹¹⁹⁹ However, Bew also stated that there is evidence of significant risks, including confusion over roles and responsibilities, insufficient challenge and scrutiny of PCCs and insufficient redress where a PCC falls below the standards of behaviour.¹²⁰⁰ Additionally, it was recognised that the accountability of PCCs rests almost entirely upon the democratic process.¹²⁰¹

The CSPL report is divided into five chapters. Of particular relevance to this thesis are the chapters titled accountability, integrity and openness. Prior to exploring these chapters, it is important to note the PCCs are from the outset placed in a positive light. PCCs are compared to Police Authorities and argued to be more visible and better at engaging with the public.¹²⁰² However, the Committee's report does identify a number of significant risks including public confusion, PCCs not encouraging sufficient constructive challenge, a lack of timely and accessible information being provided by PCCs to PCPs and, though rare, the potential for a high risk conflict of interests in roles jointly appointed by PCCs and Chief Constables.¹²⁰³ Further, the CSPL argued that the roles of Chief Constable and PCC were not clearly defined.¹²⁰⁴

The accountability chapter of the CSPL report makes compelling arguments relevant to this thesis. Accountability was defined as "holders of public office are accountable to the public for their decisions and actions to and must submit themselves to the scrutiny necessary to ensure this."¹²⁰⁵ Thus, scrutiny was argued to be an essential component of accountability.¹²⁰⁶ The CSPL argued that moving from a large appointed Police Authority structure to a standalone elected PCC would result in police accountability becoming streamlined¹²⁰⁷ as PCCs would provide a more direct line of accountability with the public.¹²⁰⁸ While acknowledging that the elections of PCCs every four years provides formal periodic democratic accountability,¹²⁰⁹ the CSPL stressed that the checks and balances on PCCs in the interim years were insufficient.¹²¹⁰ Further, it was contended that formal periodic democratic

¹¹⁹⁶ Tone from the top pg 2

¹¹⁹⁷ Tone from the top pg 2

¹¹⁹⁸ Tone from the top pg 2

¹¹⁹⁹ Tone from the top pg 5

¹²⁰⁰ Tone from the top pg 5

¹²⁰¹ Tone from the top pg 5

¹²⁰² Tone from the top pg 8

¹²⁰³ Tone from the top pg 9

¹²⁰⁴ Tone from the top pg 10

¹²⁰⁵ Tone from the top pg 47

¹²⁰⁶ Tone from the top pg 47

¹²⁰⁷ Tone from the top pg 47

¹²⁰⁸ Tone from the top pg 47

¹²⁰⁹ Tone from the top pg 49

¹²¹⁰ Tone from the top pg 50

accountability had a positive intent but was harder to achieve in practice.¹²¹¹ Indeed, it was urged that formal oversight arrangements of PCCs is limited, with a great deal of weight being attached to the ballot box.¹²¹² Here, the Standards Committee reported that just over half of those surveyed did not know that PCCs are elected,¹²¹³ while just over a quarter did not know how PCCs are appointed.¹²¹⁴ Further, although the Committee urged that evidence suggests that the principle of democratic accountability is supported through the visibility of PCCs, the legitimacy of their democratic mandate is questionable.¹²¹⁵

PCCs who gave evidence argued that scrutiny, contended to be an essential component of accountability,¹²¹⁶ was evidenced by their engagement with the public which was in practice facilitated by face to face meetings or social media.¹²¹⁷ The PCC for Derbyshire and Humberside urged that public engagement and good governance was key to accountability outside of the election cycle.¹²¹⁸ The PCC for North Yorkshire agreed, stating that engaging with the public was in itself a form of transparency.¹²¹⁹ However others were less than convinced. For example, Nottingham County Council suggested that public engagement had not been overly effective while the Institute of Chartered Secretaries and Administrators and some PCPs stressed that great inconsistency existed in the approach taken by PCCs.¹²²⁰

The CSPL described the relationship between Chief Constable and PCC as ‘direct’¹²²¹ while the accountability relationship was described by one Chief Constable as a complete shock as accountability was now real and no longer distant.¹²²² Chief Constables are responsible for operational policing while PCCs are responsible for strategic matters. However, evidence before the Committee painted a mixed picture which may in practice result in lines of responsibility and accountability being blurred.¹²²³ The Committee argued that this impacted upon police accountability as the operational and strategic roles of Chief Constables and PCCs were not understood.¹²²⁴ Indeed, giving evidence the PCP of North Yorkshire stated that an unintended consequence of an effective collaboration between the PCC and Chief Constable was that the boundaries between operational and strategic policing became blurred.¹²²⁵ Giving evidence the PCP of North Yorkshire informed the Committee that the public were in fact ‘totally confused’ about the distinction between PCC and Chief Constable.¹²²⁶ However, in stark contrast, evidence given by the PCCs for Warwickshire, Northamptonshire and Humberside urged that public understanding was actually good and continued to improve.¹²²⁷

¹²¹¹ Tone from the top pg 49

¹²¹² Tone from the top pg 53

¹²¹³ Tone from the top pg 50

¹²¹⁴ Tone from the top pg 50

¹²¹⁵ Tone from the top pg 50

¹²¹⁶ Tone from the top pg 47

¹²¹⁷ Tone from the top pg 50

¹²¹⁸ Tone from the top pg 51

¹²¹⁹ Tone from the top pg 51

¹²²⁰ Tone from the top pg 51

¹²²¹ Tone from the top pg 55

¹²²² Tone from the top pg 55

¹²²³ Tone from the top pg 56

¹²²⁴ Tone from the top pg 56

¹²²⁵ Tone from the top pg 57

¹²²⁶ Tone from the top pg 57

¹²²⁷ Tone from the top pg 57

The CSPL description of the accountability relationship between Chief Constable and PCC as ‘direct’ appears to be at complete odds with the indirect and potentially non-existent relationship between Chief Constable and PCP. Support for this argument is found within the Committee’s report. The PCP for Northumbria stated that the lack of a relationship with the Chief Constable meant that they were prevented from gaining greater insight into the performance of Northumbria police, which resulted in them not being able to adequately carry out their statutory function and scrutinise how successfully the PCC was holding the Chief Constable to account.¹²²⁸ However, this position appears to be at stark contrast with the evidence presented by the PCC for Greater Manchester stating that the Chief Constable accompanied him to meetings with the PCP.¹²²⁹ This position is further contrasted with evidence given by the Chair of the Warwickshire PCP, stating to avoid crossing over into operational scrutiny he refused to attend meetings of the PCC where the Chief Constable was held to account.¹²³⁰ The Committee concluded the personal dynamic between PCC and Chief Constable could impact on accountability.¹²³¹

Also addressed within this chapter of the Committee’s report is the vital role of PCPs. The CSPL stated that PCPs had a unique dual role within the present model of police accountability as PCPs support and scrutinise PCCs.¹²³² However, despite their critical role the Committee reported that evidence indicated that PCP meetings were not well attended by the public.¹²³³ Moreover, the Committee reported that both media and internet coverage of PCP activities was low: 85% of participants stated they had not heard of PCPs.¹²³⁴ Further, the Committee noted that PCPs lacked diversity and skill.¹²³⁵ Additionally, the Committee found that the dual requirement of support and scrutiny created an inherent conflict.¹²³⁶ Here, evidence given by the Suffolk PCP found “there is an inherent tension in PCPs acting as both accountability and support mechanisms for PCCs ... the best arrangement for one aspect of the role might not be best in relation to the other.”¹²³⁷ Furthermore, the Norfolk PCP drew a distinction between holding the PCC to account and merely having the opportunity of calling them to account, stating “The Panel is required to ‘hold the Commissioner to account’ but in the absence of any sanctions this is little more than the opportunity to call the Commissioner to account”¹²³⁸ The CSPL stressed that PCCs and PCPs must have a shared understanding and vision,¹²³⁹ which in turn should facilitate a collaborative working relationship.¹²⁴⁰ The Durham PCP stated that it facilitated a constructive working relationship with the Chief Constable by setting out key roles and responsibilities in a Memorandum of Understanding.¹²⁴¹ This, it was argued resulted in “good scrutiny.”¹²⁴² Concluding, the CSPL stressed that PCPs must move away from a process of retrospective scrutiny and evolve so

¹²²⁸ Tone from the top pg 57

¹²²⁹ Tone from the top pg 57

¹²³⁰ Tone from the top pg 57

¹²³¹ Tone from the top pg 57

¹²³² Tone from the top pg 57

¹²³³ Tone from the top pg 58

¹²³⁴ Tone from the top pg 58

¹²³⁵ Tone from the top pg 58

¹²³⁶ Tone from the top pg 58

¹²³⁷ Tone from the top pg 60

¹²³⁸ Tone from the top pg 60

¹²³⁹ Tone from the top pg 63

¹²⁴⁰ Tone from the top pg 63

¹²⁴¹ Tone from the top pg 64

¹²⁴² Tone from the top pg 64

that they undertake a more strategic scrutinising role.¹²⁴³ Indeed, it was argued that a failure to evolve would lead to PCCs not being subject to constructive challenge or active support.¹²⁴⁴

The CSPL also examined the powers of PCPs. Here, notably, there clearly exists a difference of opinion. While PCPs stressed that their powers were limited,¹²⁴⁵ others including the APCC stressed that PCPs did not need more powers.¹²⁴⁶ Indeed, the APCC's argument was echoed in the Government's response which argued that PCPs had "significant powers."¹²⁴⁷ Exploring this argument, the Committee referred to the saga surrounding the resignation of the PCC for South Yorkshire, Shaun Wright. This period was argued to highlight the impotent nature of the present accountability framework.¹²⁴⁸ However, despite this, the CSPL did not recommend legislative changes to empower PCP.¹²⁴⁹ Instead, the Standards Committee recommended that the Home Secretary conduct an urgent review to establish whether sufficient powers existed to take action against a PCC whose conduct falls below the standard required and expected by the public.

The fourth chapter of the CSPL's report, 'integrity,' recommended that PCCs demonstrate an equivalent level of transparency and accountability to the Chief Constables they oversee.¹²⁵⁰ Here the Committee urged that PCCs make publicly available a list of their pay, rewards, gifts, hospitality and outside business interests. The CSPL rationale for this recommendation was that the public should have all the means necessary to hold their PCC to account.¹²⁵¹

The fifth chapter of the CSPL report, 'openness,' stressed that the policing must be carried out openly and transparently. Indeed, the Standards Committee urged that PCCs should publish more so that the public can hold them to account.¹²⁵² Transparency was emphasised as the key to building public trust,¹²⁵³ as such where information was held back from the public clear reasons had to be given.¹²⁵⁴ Evidence given to the CSPL indicated that some PCCs published detailed reasons for their decisions,¹²⁵⁵ which was welcomed by the Standards Committee. However, it was noted that there was evidence of a much lower level of openness where information and details of public meetings were not being published in a timely manner.¹²⁵⁶ This, given that information and public meetings appear to be the main mechanisms by which the public could scrutinise and hold PCCs to account lead the Committee to describe the predicament as a "concern."¹²⁵⁷ The CSPL stressed that there was no reason why PCCs should not publicise their public meetings and publish information

¹²⁴³ Tone from the top pg 65

¹²⁴⁴ Tone from the top pg 65

¹²⁴⁵ Tone from the top pg 66

¹²⁴⁶ Tone from the top pg 66

¹²⁴⁷ Tone from the top The Home Office response to the Committee on Standards in Public Life available at

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/499176/Response_from_Home_Secretary.pdf pg 15 accessed 11th September 2017

¹²⁴⁸ Tone from the top pg 66

¹²⁴⁹ Tone from the top pg 67

¹²⁵⁰ Tone from the top pg 71

¹²⁵¹ Tone from the top pg 71

¹²⁵² Information Commissioners Officers, Cabinet Office, Transparency: Opening up Government (2011)

available at <https://ico.org.uk/media/about-the-ico/documents/1042355/westmore-slideshow.pdf> Accessed 5th August 2015

¹²⁵³ Tone from the top pg 84

¹²⁵⁴ Tone from the top pg 84

¹²⁵⁵ Tone from the top pg 86

¹²⁵⁶ Tone from the top pg 87

¹²⁵⁷ Tone from the top pg 87

accessible to the public.¹²⁵⁸ Additionally, it was argued that publishing clear, intelligible, accessible information not only creates accountability¹²⁵⁹ and promotes a dialogue with stakeholders¹²⁶⁰ but also builds public trust.¹²⁶¹

Tone from the top offers a valuable contribution to an analysis of the present structure and model of police accountability. Concluding, Lord Bew urged that PCCs must be subject to more effective day to day scrutiny and transparency. Indeed, a more robust set of checks and balances was needed.¹²⁶² Additionally, it was argued that accountability must be demonstrated by those who are charged with holding the police to account.¹²⁶³ Moreover, it was argued that the accountability of PCCs had to be tested between elections and verified by independent scrutiny, with any failure being addressed timely and with appropriate sanctions.¹²⁶⁴

Conclusion

PCCs replaced weak and ineffective Police Authorities in 2012 and the tripartite structure was disbanded. The Minister for Policing and Criminal Justice, Nick Herbert, stressed that PCCs would make the Police truly accountable by representing all those who live and work in their area, setting priorities and holding the Chief Constable to account. PCCs were also described as a landmark in the Government's agenda to decentralise control. Indeed, the Government stressed that PCCs would replace bureaucratic accountability with democratic accountability. Thus PCCs were introduced with very specific aims, not only were they the intended heartbeat in a new era of democratic police accountability but also the intended facilitator of decentralisation.

Police accountability presently rests between three stakeholders: the PCC, Chief Constable and PCP. The PRSRA and Policing Protocol set out the role of each stakeholder. The core functions of PCCs are similar to those of Police Authorities. Importantly, PCCs hold Chief Constables to account and have the power to appoint, suspend and remove them. PCCs are in theory accountable to the electorate every four years and subject to scrutiny and support by PCPs. Therefore, PCPs are intended to act as the 'check and balance' on PCCs. Chief Constables remain in charge of operational policing and are directly accountable to a single elected accountee: the PCC. While the Home Secretary is required to promote an efficient and effective police service, the creation of PCCs has allowed the Home Secretary to withdraw from day to day policing matters. Significantly, PCCs are the first non-collective structure of police accountability in this history of modern policing. This is a seismic shift, perhaps even a leap of faith.

PCCs were intended to have a strong democratic mandate, conferring their legitimacy. However, the 2012 elections were described by the Electoral Commission as a concern for everyone who cares about democracy. Indeed, the mandate of PCCs is arguably weak and brittle. Therefore, conceivably, PCCs lack legitimacy. Additionally, the PCCs' fragile mandate could potentially make them impotent in any conflict with the Chief Constable. The apparent frail mandates of PCCs combined with question marks raised over their legitimacy of office are considerable concerns. Moreover, HASC describing the first cohort of PCCs as a

¹²⁵⁸ Tone from the top pg 88

¹²⁵⁹ Tone from the top pg 87

¹²⁶⁰ Tone from the top pg 87

¹²⁶¹ Tone from the top pg 87

¹²⁶² Tone from the top pg 5

¹²⁶³ Tone from the top pg 7

¹²⁶⁴ Tone from the top pg 8

monoculture raises questions concerning social, cultural and ethnic representativeness. The mono-cultural characteristics of PCCs also raises the question of just how objective and effective PCCs would be in holding Chief Constable to account, a critical function which they are solely accountable for.

The previous structures and mechanisms of police accountability have repeatedly failed the police and the policed. This failure raises two linked arguments. First, an effective structure and mechanism of accountability is vital. Second, ineffective accountability undermines police legitimacy. Accordingly, given these repeated failings and the resulting eroding impact, the present structure and model of police accountability has a weight of expectation.

The reports and reviews examined in this chapter make an important contribution to any analysis of the present model and structure of police accountability. The 2013 Policy Exchange report *Power Down* acknowledged that PCCs had a low electoral mandate, had been subject to high profile sackings and allegations of cronyism. Despite its questionable independence, the 2013 Stevens Commission emphatically rejected PCCs and insisted that they be abolished and replaced with Policing Boards. Indeed, Stevens argued that the PCC structure of police accountability was structurally defective and lacked public knowledge and support. Such a strong and critical denunciation of the present structure of police accountability in its infancy arguably fuels an already negative narrative.

HASC's 2014 progress review linked the controversial power of PCCs to dismiss Chief Constables with the ability to provide robust, critical challenge. Notably, the Select Committee concluded that it was too easy for a PCC to remove a Chief Constable. Additionally, HASC warned that the check and balance on PCCs are too weak. The Government's response to HASC was nothing short of unequivocal. The Home Secretary argued that PCCs were a central plank of the Government's reform agenda and stated that the Committee's report was overly negative. Moreover, the Home Secretary instructed that centralised control or guidance was not appropriate and identified PCCs as central to the Government's reform agenda. Put simply, PCCs appear here to stay in the immediate future. Nevertheless, the CSPL 2015 report further identifies concerning and significant problems within the present structure and model of police accountability. The Committee argued that a more robust set of checks and balances is needed, stressing that the accountability of PCCs had to be tested between elections and failures addressed with appropriate sanctions. Furthermore, the CSPL identifies the accountability relationship between PCC and Chief Constable as direct and cited evidence which highlights that the accountability of Chief Constables is now real and no longer distant.

Thus, importantly, it would appear that the present structure and model of police accountability has not only been subject to teething problems but appears to be beset with imperfections. Using new empirical evidence from elite research interviews with the most senior stakeholders in policing at a regional and national level, the following chapters explore these flaws and argues that the present structure and model of police accountability may in practice carry significant risks for policing and police accountability into the future.

Chapter 5: Methodology

The chapter sets out the methodology for the qualitative study which explores the present structure and model of police accountability. This study was carried out over a period of nine months, with access gained to and semi structured in-depth elite research interviews carried out with the Chief Constable, PCC and PCP across five different police areas. In addition semi structured in-depth elite research interviews were commissioned with one of the most senior persons in policing at a national level and a person directly involved with introducing the present structure and model of police accountability.

This chapter addresses and explains a number of matters concerned with the methodology for this qualitative study. In the first section, the aims of the study are explored and the critical importance of these elite research interviews explained. The necessary ethical requirements and application procedure are also detailed. The method of recruiting interviewees to this study is also explained. The chapter also outlines how the police areas were identified and selected.

The interview procedure is then explained in detail. Here, the procedures include the signing of participant consent forms, the form of recording, anonymity, and the secure storage of interviewees' data. Further the process of how raw data was managed, transcribed, collated and analysed is explained. In addition to exploring these important phases, how core themes and quotes from interviewees relating to core themes were incorporated into a number of spreadsheets to facilitate analysis in accordance with the recognised qualitative research technique, the framework analysis method.

The chapter concludes by initially outlining the core themes revealed by this new qualitative study and explains how these themes will be explored in the final chapters of this thesis.

This qualitative study aims to explore the present structure of police accountability across five different police areas. Within these areas access was gained to and semi structured in-depth elite research interviews carried out with the Chief Constable, PCC and the PCP. Therefore, the accountability arrangements in five different police areas were assessed. In addition to these interviews important access was gained to and semi structured in-depth elite research interviews carried out with one of the most senior persons in policing at a national level and the person directly involved with introducing the present structure of police accountability.

Not only do findings seek to make an original contribution to literature but the study examines and incorporates the views of the most senior stakeholders in policing, those integral to the structures introduction and practitioners who have since its inception actually implemented and worked within the present structure and model of police accountability. Amongst the themes the study sought to explore were the nature of the accountability relationship between the branches of police governance, the effectiveness of the present structure, the accountability of PCCs, and whether the present structure and model of police accountability commands legitimacy.

Prior to commencing the study, ethical approval was obtained from the Research and Enterprise Office at the University of Essex.¹²⁶⁵ Gaining approval involved several stages. Initially, as sole researcher, a detailed application was made and signed off. Once signed off the application was then countersigned by Ph.D. supervisors and the Director of Research in the School of Law. Following these signing and countersigning stages the application was reviewed, approved and approved by the Faculty Ethics Sub Committee at the University.

The approved ethical application outlined the aims of the project and explained that participants to the study would be recruited by a letter of invitation, which would also serve as a letter of introduction as the area of academic research was introduced to potential interviewees. This letter also set out the procedure for the proposed meeting. Here, in addition to stating that I was a former serving Police Officer, the letter informed potential interviewees that at their convenience I would travel to their place of work, record the meeting digitally and anonymise their responses. The letter also made it clear that I would not identify their office or, if appropriate, their police force. The letter also reassured potential interviewees that their responses would be stored securely. This letter of invitation was accompanied by a joint signed letter from Ph.D. supervisors at the University of Essex. This letter not only endorsed my academic credentials but underlined how important the interviewees' contribution would be to my research.¹²⁶⁶

After outlining how participants to the study would be recruited, the approved ethical application made it clear that interviewees would not be paid or reimbursed. Importantly, the approved application also made it clear that the consent interviewees would be gained. Therefore the 'participant information and consent form' was attached with the application and accordingly approved.¹²⁶⁷ The consent form and process by which participants gave their consent is outlined later in this chapter.¹²⁶⁸ The approved application also made it clear that interviewees' responses would be anonymised, encrypted, stored and saved on my personal computer and backed up to an encrypted USB device that would be locked in a drawer at my home address. Due to the successful recruitment of further participants the approved ethical

¹²⁶⁵ see appendix A for copy of approved application for Ethical Approval

¹²⁶⁶ see appendix B for a copy of the letters of invitation sent to participants

¹²⁶⁷ see appendix C for a copy of the Participant Information and Consent Form

¹²⁶⁸ see sub heading interview procedure on page 4

application had to be revised on several occasions and resubmitted for further approval. On each occasion, ethical approval was gained and in place prior to the interviews with the new participants.

Identification of test areas and recruitment

To make the study illustrative and balanced five different police force areas were chosen. Given limited resources and limited time four measures were used to facilitate differentiation between police force areas. First, whether the police force area was urban or rural. Here the 2011 area classifications available from the Office of National Statistics were used to differentiate between urban and rural areas.¹²⁶⁹ Second, size of population of the policed area. Here 2011 census data available from the Office of National Statistics was used.¹²⁷⁰ Third, whether the PCC was associated with a political party or whether they were an independent PCC. Here the website of the Association of Police and Crime Commissioners was used to identify if the Police and Crime Commissioner was associated with a political party or not.¹²⁷¹ Finally, the geographical position of the police force areas. Due to limited financial means selection was also based on a reasonable distance from the University of Essex.

The first of the test areas, 'Police Area A' is a mainly urban area¹²⁷² and the largest by population of the policed areas used in this qualitative study.¹²⁷³ The PCC of 'Police Area A' was associated with a political party.¹²⁷⁴ The second test area, 'Police Area B' is a mainly rural area¹²⁷⁵ and the second smallest by population of the policed areas used in this qualitative study.¹²⁷⁶ The PCC of 'Police Area B' was not associated with a political party, and as such was an independent PCC.¹²⁷⁷ The third test area, 'Police Area C' is another mainly rural area¹²⁷⁸ and the smallest by population of the policed areas used in this qualitative study.¹²⁷⁹ The PCC of 'Police Area C' was associated with a political party.¹²⁸⁰

¹²⁶⁹ see 2011 area classifications available at

<http://webarchive.nationalarchives.gov.uk/20160105160709/http://www.ons.gov.uk/ons/guide-method/geography/products/area-classifications/ns-area-classifications/ns-2011-area-classifications/index.html> Accessed 23rd May 2016

¹²⁷⁰ see Census data available at <https://www.ons.gov.uk/census/2011census/2011censusdata> Accessed 24th March 2016

¹²⁷¹ see <http://www.apccs.police.uk/find-your-pcc/> Accessed 19th May 2016

¹²⁷² see 2011 area classifications available at

<http://webarchive.nationalarchives.gov.uk/20160105160709/http://www.ons.gov.uk/ons/guide-method/geography/products/area-classifications/ns-area-classifications/ns-2011-area-classifications/index.html> Accessed 23rd May 2016

¹²⁷³ see Census data available at <https://www.ons.gov.uk/census/2011census/2011censusdata> Accessed 24th March 2016

¹²⁷⁴ see <http://www.apccs.police.uk/find-your-pcc/> Accessed 19th May 2016

¹²⁷⁵ see 2011 area classifications available at

<http://webarchive.nationalarchives.gov.uk/20160105160709/http://www.ons.gov.uk/ons/guide-method/geography/products/area-classifications/ns-area-classifications/ns-2011-area-classifications/index.html> Accessed 23rd May 2016

¹²⁷⁶ see Census data available at <https://www.ons.gov.uk/census/2011census/2011censusdata> Accessed 24th March 2016

¹²⁷⁷ see <http://www.apccs.police.uk/find-your-pcc/> Accessed 19th May 2016

¹²⁷⁸ see 2011 area classifications available at

<http://webarchive.nationalarchives.gov.uk/20160105160709/http://www.ons.gov.uk/ons/guide-method/geography/products/area-classifications/ns-area-classifications/ns-2011-area-classifications/index.html> Accessed 23rd May 2016

¹²⁷⁹ see Census data available at <https://www.ons.gov.uk/census/2011census/2011censusdata> Accessed 24th March 2016

¹²⁸⁰ see <http://www.apccs.police.uk/find-your-pcc/> Accessed 19th May 2016

The fourth test area, ‘Police Area D’ is a part urban part rural area¹²⁸¹ and the second largest by population of the policed areas used in this qualitative study.¹²⁸² The PCC of ‘Police Area D’ was associated with a political party.¹²⁸³ The final test area, ‘Police Area E’ is a part urban, part rural area¹²⁸⁴ and the third largest by population of the policed area used in this study.¹²⁸⁵ The PCC of ‘Police Area E’ was not associated with a political party, and as such was an independent PCC.¹²⁸⁶ Therefore, importantly, different police force areas were used in the qualitative study. None were the same. Table 1 summarises the five police force areas used in the qualitative study.

Table 1: Summary of Police force areas

Police Test Area	Rural / Urban	Population Size	PCC Status
A	Urban	Largest	Political
B	Rural	Second smallest	Independent
C	Rural	Smallest	Political
D	Part Urban Part Rural	Second largest	Political
E	Part Urban Part Rural	Third largest	Independent

Within these five police force test areas the Chief Constable, PCC and PCP were interviewed, thereby the accountability and governance arrangements across five different police areas were assessed. In addition semi structured in-depth elite research interviews were also carried out with ‘Person Y’ and ‘Person Z’. These pseudonyms are used to avoid these persons being identified. Person Y was integral to the introduction of the present structure and model of police accountability and remains central to its continuing operation. Person Z is one of the most senior persons in policing at a national level. No further information is offered on these interviewees to avoid identification.¹²⁸⁷ Given their positions and continuing integral influence their involvement to this qualitative study was extremely valuable to the research.

Given financial limitations and time restrictions this qualitative study is small and does not purport to be nationally representative. However, rigorous analysis of data produced from the semi structured in-depth elite research interviews carried out with Chief Constables, PCCs and PCPs across five different and systematically selected police force areas provides an important and indicative insight into the present structure and model of police accountability.

¹²⁸¹ see 2011 area classifications available at <http://webarchive.nationalarchives.gov.uk/20160105160709/http://www.ons.gov.uk/ons/guide-method/geography/products/area-classifications/ns-area-classifications/ns-2011-area-classifications/index.html> Accessed 23rd May 2016

¹²⁸² see Census data available at <https://www.ons.gov.uk/census/2011census/2011censusdata> Accessed 24th March 2016

¹²⁸³ see <http://www.apccs.police.uk/find-your-pcc/> Accessed 19th May 2016

¹²⁸⁴ see 2011 area classifications available at <http://webarchive.nationalarchives.gov.uk/20160105160709/http://www.ons.gov.uk/ons/guide-method/geography/products/area-classifications/ns-area-classifications/ns-2011-area-classifications/index.html> Accessed 23rd May 2016

¹²⁸⁵ see Census data available at <https://www.ons.gov.uk/census/2011census/2011censusdata> Accessed 24th March 2016

¹²⁸⁶ see <http://www.apccs.police.uk/find-your-pcc/> Accessed 19th May 2016

¹²⁸⁷ Warren, C and Karner, T, (2010) pg 38

Further, the semi structured in-depth elite research interviews carried out at a national level with one of the most senior persons in the Police and the person integral to the introduction of the present structure and model of police accountability are extremely valuable.

As outlined previously in this chapter, the recruitment of participants was by letter. Organisations such as the Police are argued to be reluctant to grant access.¹²⁸⁸ Two reasons are advanced for this. First, they are subject to a deluge of requests and second the Police can sometimes see academic research as unproductive.¹²⁸⁹ A further potential barrier was that the greater the access required the more difficult it normally is to gain.¹²⁹⁰ However, everyone who was sent a letter of invitation kindly agreed to participate in this study. Further, and importantly, access was unrestricted and no restrictive research limitations were placed on publishing the findings.¹²⁹¹

An important part of the successful recruitment procedure was a personal approach and the use of contacts and identification of appropriate ‘gatekeepers.’¹²⁹² Thus, some letters of invitation were sent directly to contacts made during the course of this research. Other interviewees were recruited by asking initial participants for recommendations or introductions to specific persons or bodies¹²⁹³ within the police test area and beyond: the snowball research approach.¹²⁹⁴ Initial interviewees agreed and letters of invitation were sent to new participants. Remaining participants were recruited by sending letters of participation to ‘gatekeepers,’ defined as those who can grant or deny access.¹²⁹⁵ The gatekeeper depended on the person to whom access was trying to be gained. So, for example, where access was needed to a Chief Constable a letter of invitation was sent to the gatekeeper of the Chief Constable for that police area. Where access was needed to a PCC or PCP letters were sent to their gatekeepers.

Interview procedure

All elite research interviews were carried out face to face at the interviewee’s place of work. There were two main benefits to conducting interviews face to face. First, interviewees were motivated to answer questions and second the interviews were more personal.¹²⁹⁶ With prior permission all interviews were audio recorded on a digital audio recorder. This recording method, as opposed to making contemporaneous notes,¹²⁹⁷ ensured that the interviews were free flowing. Further, recording the interviews had two further benefits. First, a rapport was established with the interviewee which aided the interview process.¹²⁹⁸ Second, a greater number of areas could be covered.

Before the interviews began all interviewees were guided through the participant information and consent form.¹²⁹⁹ The form contained several parts. At the top of this form was the title and aim of the project. The form then states that participation in the project involves an oral interview lasting approximately one hour. Stating this was important as respondents knew

¹²⁸⁸ Bryman A, (1998) pg 15

¹²⁸⁹ Bryman A, (1998) pg 15

¹²⁹⁰ Burton, M, in D. Watkins and M. Burton (eds) (2013) pg 63

¹²⁹¹ Burton, M, in D. Watkins and M. Burton (eds) (2013) pg 59

¹²⁹² Warren, C, and Karner, T, (2010) pg 74

¹²⁹³ Rathburn, B, in J.M. Box – Steffensmeier, H.E. Brady and D. Collier (eds) (2008) pg 699

¹²⁹⁴ Welby, L, in P. Cane and H.M. Kritzer (eds) (2010) pg 934

¹²⁹⁵ Warren, C, and Karner, T, (2010) pg 74

¹²⁹⁶ Chatterjee, C, (2000) pg 31

¹²⁹⁷ Contemporaneous notes are a record made at the time or written up very shortly afterwards

¹²⁹⁸ Chatterjee, C, (2000) pg 29

¹²⁹⁹ see appendix C for a copy of the Participant Information and Consent Form

that they had enough time to talk freely without being hurried.¹³⁰⁰ Interviewees were then directed to confirm a number of points divided into two sections. The first of the sections was headed 'Taking Part' and the second was headed 'Use of information I provide for this project.' Within the first section interviewees read and confirmed four requirements. First, interviewees read and understood the project information. Second, interviewees had been given the opportunity to ask questions about the project. Third, interviewees agreed to take part in the interview which they agreed would be audio recorded. Fourth, interviewees understood that their taking part was voluntary and that they could withdraw at any time without giving reasons. Besides each of these four requirements were two boxes. Above the first box was 'Yes,' above the second box 'No.' Accordingly interviewees, after reading each requirement, would tick either the 'Yes' or 'No' box, thus confirming that they did or did not agree to the stated requirement. Every interviewee ticked the 'Yes' box and therefore confirmed that they understood and agreed to all stated requirements in the first section of the participant information and consent form.

After completing this section of the form interviewees were then directed and guided through the second section of the form, 'Use of information I provide for this project'. Within this section interviewees confirmed and read a further four requirements. First, that they understood that personal details such as name and email address would not be revealed to anyone outside the project and that information would be stored anonymously and on an encrypted USB drive. Second, that supervisors would only be shown data when specifically requested at a particular point. Third, that they understood that their words would be quoted anonymously in publications, reports and other research outputs. Fourth, that their data would be recorded anonymously unless they specifically consented to their name being used and that if they withdraw their data would be deleted.

Besides each of these four requirements were two boxes. Above the first box was 'Yes,' above the second box 'No.' Accordingly interviewees, after reading each requirement, would tick either the 'Yes' or 'No' box and thus confirmed that they did or did not agree to the stated requirement. All interviewees ticked the 'Yes' box thereby confirming that they understood and agreed to all stated requirements in the second and final section of the participant information and consent form.

After interviewees had read, understood and ticked 'Yes' in all the boxes provided they were then asked to print their names, sign and date in the spaces provided at the bottom of the participant information and consent form. After interviewees had printed their names, signed and dated the form I would then print my name, sign and date underneath theirs. Only after all of these steps were completed would the digital recorder be turned on and the semi structured in-depth elite research interview begin. This process was repeated for all elite research interviews.

Interview structure

All interviews were semi structured and open questions¹³⁰¹ were used with topic areas that were identified prior to all interviews.¹³⁰² Topic areas were themselves identified with reference to literature¹³⁰³ and published materials¹³⁰⁴ on the present structure of police

¹³⁰⁰ Warren, C, and Karner, T, (2010) pg 146

¹³⁰¹ Chatterjee, C, (2000) pg 7

¹³⁰² Chatterjee, C, (2000) pg 16

¹³⁰³ Gillham, B, (2005) pg 18

¹³⁰⁴ McNabb, D, (2010) pg 61

accountability.¹³⁰⁵ Importantly, interview areas and questions were prepared and structured to ensure that interviewees remained engaged.¹³⁰⁶ Also incidental and extempore questions were asked where appropriate¹³⁰⁷ meaning, where possible impromptu, probing questions were asked.¹³⁰⁸ Further, it was important that these elite research interviews were seen as a ‘social interaction’¹³⁰⁹ meaning that those interviewed were put at ease.

Interview topics were dependent on the position of the interviewee. Appropriate areas were identified with reference to literature¹³¹⁰ and published materials.¹³¹¹ The interviews with Chief Constables had four topic areas. First, the accountability between Chief Constable and PCC. Second, the accountability of the PCCs. Third, politicisation and operational independence and finally conclusions and recommendations. Within these four topic areas open questions were written in advance but not sent to Chief Constables.

Interview topics were also identified for the interviews with PCCs. There were five topic areas. First, the accountability between PCC and Chief Constable. Second, the mechanisms of holding the Chief Constable to account. Third, the accountability of PCCs. Fourth, the accountability relationship with the PCP and finally conclusions and recommendations. Within these five topic areas open questions were written in advance but were not sent to PCCs.

Interview areas were also identified for the interviews with the Police and Crime Panels. There were five topic areas. First, the relationship between the PCP and the PCC. Second, the PCPs role within the present model of police accountability. Third, the relationship between the PCC and Chief Constable. Fourth, dialogue between the branches of police governance and finally conclusions and recommendations. Within these five topic areas open questions were written in advance but were not sent to PCPs. Table 2 below summarises the interview areas for Chief Constables, PCCs and PCPs.

¹³⁰⁵ see generally Chapters 4 and 5

¹³⁰⁶ Chatterjee, C, (2000) pg 30

¹³⁰⁷ Chatterjee, C, (2000) pg 30

¹³⁰⁸ Warren, C, Karner, T, (2010) pg 134

¹³⁰⁹ Bailey, K, (1994) pg 184

¹³¹⁰ Gillham, B, (2005) pg 18

¹³¹¹ McNabb, D, (2010) pg 61

Table 2: Summary of Interview areas by participant

Interview Area	Chief Constable	Police and Crime Commissioner	Police and Crime Panel
Area 1	Accountability between CC and PCC	Accountability between CC and PCC	Accountability between PCP and PCC
Area 2	Accountability of the PCC	Mechanisms of accountability	PCP role
Area 3	Politicisation and Operational Independence	Accountability of the PCC	Accountability between PCP and CC
Area 4	Conclusions and Recommendations	Accountability between PCC and PCP	Dialogue
Area 5		Conclusions and Recommendations	Conclusions and Recommendations

This approach was also adopted for the interviews with Person Y and Person Z. Four topic areas were identified for the interview with Person Y. First, the rationale for reform. Second, the accountability relationship between the branches of police governance. Third, PCCs generally and finally conclusions and recommendations. Within these four topic areas open questions were also written in advance but were not sent to Person Y. Four topic areas were also identified for the interview with Person Z. First, police accountability within the tripartite structure. Second, police accountability and the rationale for reform. Third, police accountability within the present structure and finally conclusions and recommendations. Within these four topic areas open questions were written in advance of the interview but were not sent to Person Z. Table 3 below summarises the interview areas for Person Y and Person Z

Table 3: Summary of Interview areas for Person Y and Person Z

Interview Area	Person Y	Person Z
Area 1	Rationale for reform	Police Accountability in Tripartite Structure
Area 2	Accountability between branches of police governance	Rationale for reform
Area 3	PCCs	Police Accountability in Current Structure
Area 4	Conclusions and Recommendations	Conclusions and Recommendations

Post interview procedure

After each interview was concluded contact details were left with each interviewee, thus enabling them to make contact with any subsequent questions or queries. Further, all interviewees were contacted after their interview to personally thank them for their time. At the earliest opportunity, usually within a few hours of completion, interviews were digitally transferred via a USB cable from the digital recorder onto my encrypted personal computer. Once transferred the digital recordings were deleted from the digital recorder. The transferred copy was then placed into an appropriate encrypted and anonymised folder, for example the interview recording for 'Chief Constable Police Area A' was transferred into an encrypted and anonymised folder titled 'Police Area A'. This process was repeated for every elite interview. For interviewees not attached to one of the five police areas, a separate encrypted folder was created on my personal computer and the process of transferring and deleting the digital recording repeated. In addition to transferring the digital recordings all interviewee consent forms were scanned after the interviews using a personal scanner. The scanned copy of the consent forms was then placed into a separate encrypted and anonymised folder on my personal encrypted computer titled 'Consent Forms.'

Due to the sensitive nature of this research, and in accordance with the signed participant information sheet and consent form, all interviewee responses were anonymised. Therefore, in the analysis and conclusion chapters which follow the response of the 'Chief Constable from Police Area A' will be cited as Chief Constable Police Area A. The response of the 'Police and Crime Commissioner from Police Area A' will be cited as, OPCC Police Area A. The response of the 'Police and Crime Panel from Police Area A' will be cited as PCP Police Area A. This method of citation will be continued for Police Area B, Police Area C, Police Area D and Police Area E. Further, when quoted in the following chapters of this thesis, interviewees will be quoted in a gender-neutral way meaning that they will not be identifiable by their sex.

In addition to interviews across these five different police areas semi structured in-depth elite research interviews were also commissioned at a national level with the person integral to the introduction and continuing operation of the present structure and model of police accountability and one of the most senior persons in policing. These persons will be cited as Person Y, and Person Z. These persons will also be quoted in a gender neutral way meaning that they will not be identifiable by their sex. The transference, deletion and scanning of consent forms outlined above for the Chief Constable, PCCs and PCPs for each of the five different police areas was repeated for Person Y and Person Z. However, as these persons are not stakeholders within one of the five different police areas their interview recordings were transferred into separate encrypted and anonymised folders with a title of 'Person Y' and 'Person Z.' The signed and scanned consent forms from 'Person Y' and 'Person Z' were placed into the encrypted and anonymised folder on my personal encrypted computer titled 'Consent Forms.'

Management and analysis of interview data

Managing and analysing interview data had four main recognised phases. First, transcription of the interviews.¹³¹² Second, printing of the interview transcripts, identifying and manually highlighting the core themes and key quotes within the core themes using the recognised qualitative research practice of 'open coding.'¹³¹³ Third, incorporation of the core themes and

¹³¹² Cammett, M, in L. Mosley (eds) (2013) pg 136

¹³¹³ Warren, C, and Karner, T, (2010) pg 218

key quotes within the core themes onto appropriate thematic charts.¹³¹⁴ Fourth, analysis of the spreadsheets and identification of core themes for this thesis.¹³¹⁵ Each of these four stages is now explored in turn.

The first stage of management and analysis was the transcription of the elite research interviews. This was done manually and normally within a few days of completing the interviews. Transcription software was not used. All interviews were transcribed by myself physically listening to the recorded interviews via headphones and typing interviewee's responses onto a word processing document. Accordingly, verbatim transcripts were produced for each elite research interview. While producing these transcripts core themes began to emerge. Accordingly sub headings were given to appropriate themes. The transcripts themselves were anonymised and saved into their appropriate encrypted and anonymised folders, for example the verbatim transcript for the interview with Police and Crime Commissioner E was saved as 'Police and Crime Commissioner E' and accordingly saved in the folder titled 'Police Area E.' This process was repeated for all elite research interviews. Although manually transcribing the interviews by hand and producing verbatim transcripts was time consuming a main benefit was an intimate and immediate familiarity with the raw data.¹³¹⁶ The manual transcribing of the elite research interviews by hand was crucial to the management and analysis stages that followed.

Once elite interviews had been transcribed the next stage was to start managing and making sense of the raw data. This stage involved printing off the verbatim interview transcripts and manually reading the transcripts. Here the recognised qualitative technique of 'open coding',¹³¹⁷ was used. Thus, in accordance with open coding, core themes and key quotes within core themes were identified and marked using margin notes and different coloured highlighter pens. Different coloured highlighter pens were used to differentiate between themes. Managing and working through the data in this way had four main benefits. First, data was initially reviewed, therefore every word was inspected to consider its meaning and relevance. Thus a deep familiarisation with the evidence available resulted.¹³¹⁸ Second, initial themes were identified and subsequently coded by using different coloured highlighter pens and post it notes. Third, the data was collated into more distinctive and manageable areas and finally the distilling of the interview data for later representation and analysis.¹³¹⁹

The third phase of managing and analysing the interview data was the creation of thematic spreadsheets utilising the framework analysis method.¹³²⁰ This method is a matrix based analytical method which facilitates rigorous and transparent data management.¹³²¹ Further, it allows an analyst to move back and forth between different themes without losing sight of raw research data.¹³²² Thus six thematic spreadsheets were created to classify and organise the raw research data into a series of topics. The first of these thematic spreadsheets, titled 'Accountability Master', contained a number of titled sub themes. The title of these sub themes included 'Description of Accountability Relationship' 'Strengths' and 'Weaknesses, Difficulties and Struggles.' Under each titled sub theme were quotes from interviewees which

¹³¹⁴ see appendix D for a blank copy of PCC Accountability Thematic Chart

¹³¹⁵ Ritchie, J, Spencer, O'Connor, W, in J. Ritchie, J. Lewis (eds) (2003) pg 237

¹³¹⁶ Ritchie, J, Spencer, O'Connor, W, in J. Ritchie and J. Lewis (eds) (2003) pg 237

¹³¹⁷ Warren, C, and Karner, T, (2010) pg 218

¹³¹⁸ Ritchie, J, Spencer, O'Connor, W, in J. Ritchie and J. Lewis (eds) (2003) pg 237

¹³¹⁹ Ritchie, J, Spencer, O'Connor, W, in J. Ritchie and J. Lewis (eds) (2003) pg 229

¹³²⁰ Ritchie, J, Spencer, O'Connor, W, in J. Ritchie and J. Lewis (eds) (2003) pg 262

¹³²¹ Ritchie, J, Spencer, O'Connor, W, in J. Ritchie and J. Lewis (eds) (2003) pg 220

¹³²² Ritchie, J, Spencer, O'Connor, W, in J. Ritchie and J. Lewis (eds) (2003) pg 220

corresponded to the theme. The second thematic spreadsheet, titled 'Election Master' also contained a number of sub themes. The sub themes on this spreadsheet included 'Weak and Brittle Mandate' and 'Legitimacy.' Under each titled sub theme on this spreadsheet were quotes from interviewees which corresponded to the theme. The third thematic spreadsheet, titled 'PCC Accountability', also contained a number of sub themes. The sub themes on this spreadsheet included 'Disproportionate Power' 'Check and Balance' and 'Recall Power'. Under each of the sub themes on this spreadsheet were quotes from interviewees which corresponded to the theme. The fourth thematic spreadsheet, titled 'PCC Model Master', also contained a number of sub themes. The sub themes on this spreadsheet included 'Concerns' 'Impact on Accountability' and 'Command Public Confidence'. Under each of the sub themes on this spreadsheet were quotes from interviewees which corresponded to the theme. The fifth thematic spreadsheet, titled 'Politics and Blurring Master', also contained a number of sub themes. The sub themes on this spreadsheet included 'Politicisation of the Police' and 'Operational Independence and Blurring'. Under each of sub theme on this spreadsheet were quotes from interviewees which corresponded to the theme. The sixth and final thematic spreadsheet was titled 'Tripartite Structure Master.' This spreadsheet also contained a number of titled sub themes. The sub themes on this spreadsheet included 'Police Authorities' and 'Strengths and Weaknesses.' Under each sub theme on this spreadsheet quotes from interviewees which corresponded to the particular theme were again inserted.

All six thematic spreadsheets were structured the same way. The horizontal rows represented an interviewee identified anonymously by reference to their position within the Police test area or in the case of Person Y or Person Z this pseudonym was used. The vertical columns contained the raw data from each interviewee's verbatim interview transcript. Using the framework analysis method and arranging the raw interview data on six thematic spreadsheets was appropriate to this qualitative study for three reasons. First, it made the data accessible and easier to analyse. Accessing and analysing the data from verbatim transcripts would have been time consuming and extremely difficult. Second, it allowed a complete exploration of interviewee responses meaning that patterns, similarities, differences and interconnected themes were identified. Third, using thematic charts¹³²³ and structuring them all in the same way allowed an analysis of interview data not only on an individual interviewee basis but also on a collective basis. Therefore similarities, differences and interconnecting themes were identified not only on an interviewee by interviewee basis but importantly on a collective basis.

After all of the core themes and key quotes from interviewees identified and incorporated onto one of the six thematic spreadsheets the spreadsheets were printed off and the final phase of managing and analysing the interview data began; analysis of the spreadsheets, identifying the core themes for this thesis and incorporating the core themes and quotes into the final chapters of this thesis. Thus, the fourth and final phase used the thematic spreadsheets to identify core themes, key quotes and important sub themes. So for example, one of the core themes that emerged from the qualitative study was that there is a critical relationship between two branches of police accountability, namely the Chief Constable and PCC. However, within this core theme, a number of important sub themes emerged. One of the important sub themes to emerge was that present structure of police accountability is potentially overly dependent and reactive to the critical relationship between Chief Constable and PCC.

¹³²³ see appendix D for a blank copy of PCC Accountability Thematic Chart

The core themes and important sub themes that emerged from the qualitative study are subject to analysis in the final chapters of this thesis. Prior to exploring the themes, the context of each is explained with reference to literature and arguments made in the earlier chapters of this thesis. After the context is provided, the core theme and their important sub themes are then explored and analysed with reference to quotes from interviewees that participated in the qualitative study.

Chapter 6 Findings: The accountability of Chief Constables and ineffectual PCPs

This chapter develops from the earlier chapters which gave an analysis of the historical evolution of structures of accountability. It begins by arguing that accountability is the very lifeblood of policing. Accountability also carries the ever increasing burden of securing legitimacy. Additionally, a satisfactory structure of police accountability is contended to be imperative as it can enhance claims to accountability and enrich legitimacy. After exploring these interrelated and introductory arguments the present structure of police accountability, the PCC, is identified as radical as for the first time since the formation of modern policing Chief Constables are held to account by a non-collective structure. Given this revolutionary change the analysis explores whether PCCs are indeed an effective mechanism of accountability, capable of holding Chief Constables to account. The evidence gathered in this study indicates that while there may be some efficiency gains in the new PCC accountability structure, there are important questions about the quality of accountability under this new system. Indeed, while a one to one accountability relationship between Chief Constable and PCC may allow for quicker and possibly more robust accountability, the actual level of scrutiny involved may be less effective which arguably could lead to a dilution of accountability. Furthermore the findings from this research suggests that the accountability of Chief Constables appears now in practice to vary significantly and could also be frustrated by the present one to one accountability relationship and structure between Chief Constable and PCC.

After exploring whether PCCs appear to be an effective mechanism of accountability this chapter proceeds to examine the role and intended function of PCPs, the final piece of the present model of police accountability. Critically, PCPs are required by statute to support, scrutinise, provide and maintain a regular check and balance on PCCs between elections. In addition to identifying PCPs as potentially impotent, ineffective and ineffectual it will be argued that PCPs appear to also serve as a conduit entity which may currently cause police accountability to be overly dependent on the accountability relationship between Chief Constable and PCC. Indeed, it is argued that this dependence may undermine accountability. Additionally, this research suggests PCPs appear unable to provide a check and balance on PCCs which conceivably leads to a conclusion that PCCs might currently be lacking accountability between elections. The PCC's current lack of accountability is argued to create significant policy and practical implications, including the possibility that accountability itself may be weakened.

Accountability

One of the foundations of modern policing is that the Police must be accountable. As previously explored in this thesis¹³²⁴ this argument has been made by prominent police theorists¹³²⁵ and many inquiries, reports and reviews.¹³²⁶ The need for the Police to be accountable was also acknowledged by Sir Hugh Orde, the last president of the Association ACPO¹³²⁷ and at the time the most senior Police Officer in England and Wales. Orde made two important interrelated arguments: the Police was founded on the very notion of accountability¹³²⁸ and must, above all other considerations, be accountable.¹³²⁹

In addition to being the very bedrock of policing, accountability also carries the burden of securing legitimacy for the Police.¹³³⁰ In order to make the Police accountable and therefore legitimate there must be satisfactory structures of accountability. Oliver argues that the actual structure and mechanism of accountability is vital.¹³³¹ Moreover, Lambert contends that the structure and organisation of the institutions created for the purpose of securing accountability is critical¹³³² as if it fails the argument is that accountability would not be present, or perceived not to be present, thus resulting in a weakening of police legitimacy.¹³³³

Therefore it is vital that the Police are accountable, as being accountable not only enhances public trust and confidence¹³³⁴ but also secures legitimacy.¹³³⁵ To achieve this there must be suitable structures of accountability. However, as previously argued in this thesis, a suitable structure of accountability, so vital to making the Police accountable and thus legitimate, has

¹³²⁴ see chapter 1 of this thesis pg (s) 3 to 10

¹³²⁵ Marshall, G, in T. Newburn (eds) (2005) pg 628, Reiner, R, in R. Reiner and S. Spencer (1993) pg 6, Kirby, S, (2013), pg 1, Waddington, P.A.J, Wright, M, What is Policing? (2010) pg 79, Police Administration, Fyfe, J, Greene, J, Walsh, W, Wilson, O and McLaren, R, (1997) pg 483

¹³²⁶ Examples include: (i) The Stephen Lawrence Inquiry, Report of an Inquiry by Sir William Macpherson of Cluny, (1999) available at

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/277111/4262.pdf Accessed 19th August 2014. Hereafter cited as The Macpherson Report. (ii) The Review of Policing, By Sir Ronnie Flanagan, published 7th February 2008, available at

http://webarchive.nationalarchives.gov.uk/20080910134927/http://police.homeoffice.gov.uk/publications/police-reform/Review_of_policing_final_report/flanagan-final-report?view=Binary Accessed 19th August 2014. Hereafter cited as The Review of Policing. (iii) A New Beginning: Policing in Northern Ireland,

<http://cain.ulst.ac.uk/issues/police/patten/patten99.pdf> accessed 20th August 2014, hereafter cited as The Patten Commission. (iv) The Independent Police Commission, An independent inquiry focusing on the future of policing in England and Wales, (2013) pg 33. Available at

<http://independentpolicecommission.org.uk/uploads/37d80308-be23-9684-054d-e4958bb9d518.pdf>

Accessed on the 19th August 2014. Hereafter cited as The Stevens Commission.

¹³²⁷ ACPO was replaced by the National Police Chief's Council in 2014 see

<http://news.npcc.police.uk/releases/update-on-acpo-future> Accessed 27th July 2016

¹³²⁸ Sir Hugh Orde Speech The Fog of Transition in the U.K Policing: Major Changes Abound. Available at

<http://www.acpo.police.uk/ContentPages/Speeches/201208PoliceChiefSHOarticle.aspx> Accessed 22nd August 2014

¹³²⁹ Sir Hugh Orde, president of ACPO, Available at

<http://www.acpo.police.uk/ContentPages/Speeches/SirHughOrdeSpeechoLiberty.aspx> Accessed 22nd August 2014.

¹³³⁰ Baldwin, R, (1987) pg 97

¹³³¹ Oliver, D, in N. Bamforth and P. Leyland (eds) (2013) pg 304

¹³³² Lambert, L, (1986) pg 19

¹³³³ Reiner, R, in M. McConville and G. Wilson (eds) (2002) pg 30

¹³³⁴ see The Stephen Lawrence Inquiry pg 372 and The Review of Policing pg 54

¹³³⁵ Baldwin, R, (1987) pg 97

often proved elusive.¹³³⁶ The second chapter of this thesis argued that as the system of police expanded and consolidated new structures of accountability were needed to make the Police more accountable.¹³³⁷ Watch Committees, established in 1835,¹³³⁸ were the structure of police accountability for each borough within London whilst Standing Joint Committees, established in 1888,¹³³⁹ were the structure of police accountability for the later established County police forces.¹³⁴⁰ However, as previously examined, the 1950's public confidence haemorrhage in policing resulted in the Police being seen as unaccountable.¹³⁴¹ Watch and Standing Joint Committees were argued to lack credibility, sustainability and legitimacy.¹³⁴² Thus a lacuna existed: the Police were themselves unaccountable and Watch and Standing Joint Committees were failing to make the Police accountable.¹³⁴³

The resulting Royal Commission on Police in 1959 acknowledged an evolving crisis in police accountability and argued that one of the main criticisms of the Police was that they were not subject to adequate accountability.¹³⁴⁴ With the aim of making the Police "more fully accountable"¹³⁴⁵ the Commission recommended the establishment of Police Authorities as the structure of accountability.¹³⁴⁶ Police Authorities, within the newly created tripartite structure, were required by statute to hold the Chief Constable to account.¹³⁴⁷ However as previously explored in detail in the third chapter of this thesis Police Authorities, like their predecessors, Watch and Standing Joint Committees, were subject to much criticism.¹³⁴⁸ In particular Police Authorities were portrayed as unable or unwilling to hold Chief Constables to account,¹³⁴⁹ which in turn was argued to lead to Chief Constables being virtually autonomous.¹³⁵⁰ Furthermore, Police Authorities were argued to be uncertain of themselves and unable to exercise their responsibilities.¹³⁵¹

The inherent weakness of the tripartite structure¹³⁵² led to the development of what Reiner and Spencer labelled 'calculative and contractual models of police accountability.'¹³⁵³ These models injected private sector ideas and structures,¹³⁵⁴ such as costing concepts, performance tables, public service agreements and citizen charters¹³⁵⁵ into the Police in an attempt to make

¹³³⁶ see generally Chapter 2 and Chapter 3 of the thesis

¹³³⁷ see chapter 2 of this thesis

¹³³⁸ s. 76 Municipal Corporations Act 1835

¹³³⁹ s. 9 (1) Local Government Act 1888

¹³⁴⁰ see Commissioners Report on the establishment of a Counties Force in England and Wales (1839), available at http://0-gateway.proquest.com.serlib0.essex.ac.uk/openurl?url_ver=Z39.88-2004&res_dat=xri:hcpp&rft_dat=xri:hcpp:rec:1839-018274 accessed 28th April 2016. Hereafter cited as Commissioners Report (1839), Second Report from the Select Committee on Police, First Report (1853) available at <http://0-parlipapers.chadwyck.co.uk.serlib0.essex.ac.uk/search/search.do> Accessed 28th April 2016, County Police Act 1839 and the County Borough and Police Act 1856

¹³⁴¹ see chapter 3 of this thesis pg (s) 56 to 61

¹³⁴² see chapter 3 of this thesis pg (s) 59 to 61

¹³⁴³ see chapter 3 of this thesis pg (s) 60 to 61

¹³⁴⁴ Royal Commission on the Police pg 5

¹³⁴⁵ Royal Commission on the Police pg 7

¹³⁴⁶ Royal Commission on the Police pg 143

¹³⁴⁷ see s.4 (1) Police Act 1964, s. 4 (2) Police Act 1964, s. 5 (4) Police Act 1964 and s. 12 (3) Police Act 1964

¹³⁴⁸ see chapter 3 of this thesis pg (s) 21 to 24

¹³⁴⁹ Lambert, J, (1986) pg 39

¹³⁵⁰ Lambert, J, (1986) pg 10

¹³⁵¹ Scarman Report pg 149

¹³⁵² see chapter 3 of this thesis pg (s) 71 to 73

¹³⁵³ Reiner, R and Spencer, S *Accountable Policing: Effectiveness, Empowerment and Equity* (1993), Pg 1

¹³⁵⁴ McLaughlin, E, Sage (2007) pg 182

¹³⁵⁵ Cane, P, (2004) pg 311

the Police more accountable.¹³⁵⁶ However these contractual and calculative models of accountability were critiqued as vague, speculative and regarded as a failure.¹³⁵⁷ The weaknesses associated with Police Authorities and the failure of calculative and contractual models of accountability were ultimately used as justifications for the abolishment of Police Authorities in 2011.¹³⁵⁸ Described by the Home Secretary as the “the most radical change in Policing in 50 years”¹³⁵⁹ PCCs replaced Police Authorities in 2012¹³⁶⁰ and are the present structure of police accountability required by statute to hold the Chief Constable to account.¹³⁶¹

Why radical?

It is important to understand why the Home Secretary described the introduction of PCCs as radical. To understand why the change is radical it is important to analyse what accountability means in practice. Once understood, the practical meaning of accountability can then be applied in the context of the Police.

As explored in the first chapter of this thesis¹³⁶² accountability at its core implies a system whereby an institution, person or organisation is accountable and answerable to another or others.¹³⁶³ Thus accountability means one institution, person or organisation being answerable¹³⁶⁴ and giving accounts or explanations¹³⁶⁵ to another institution, person or organisation. Thus Schedler, Marshall and Sengupta describe accountability as an appealing,¹³⁶⁶ explanative,¹³⁶⁷ relational concept¹³⁶⁸ that creates a dialogical relationship.¹³⁶⁹

Although given different titles by Oliver and Day both separately argue the same point: two branches exist within an accountability relationship. The first branch, the one vested with certain powers regarding the exercise of which accountability is sought, has been defined by Oliver as the accountant¹³⁷⁰ and by Day as the governor.¹³⁷¹ This branch, according to Schedler, is normally asked to inform or explain decisions,¹³⁷² whilst Sengupta argues that this branch is usually accountable for the exercise of public power only.¹³⁷³ The rationale for this is logical, when public power is exercised it has to be done so accountably and subject to appropriate check by the people or institution from whom the power is ultimately sourced.¹³⁷⁴ The second branch of the accountability relationship and the one to which the first branch

¹³⁵⁶ Leishman, F, Loveday, B, Savage S, (2000) pg 56

¹³⁵⁷ Jones, T, (1994) pg 98

¹³⁵⁸ s.1 (9) PRSRA 2011

¹³⁵⁹ Policing in the 21st century pg 13

¹³⁶⁰ s.1 (1) PRSRA 2011

¹³⁶¹ see generally s. 1 (7) (a -b) and s.1 (8) (a-h) PRSRA 2011 and The Policing Protocol Order 2011, SI 2011/2744

¹³⁶² see chapter 1 of this thesis pg (s) 7 to 8

¹³⁶³ Day, P, (1987) pg 1

¹³⁶⁴ Sengupta, A, (2014) at 251

¹³⁶⁵ Chan, J, (1999) pg 252

¹³⁶⁶ Schedler, A, in A. Schedler, L. Diamond, M. Plattner (eds) (1999) pg 13

¹³⁶⁷ Marshall, G, in T. Newburn (eds) (2005) pg 633

¹³⁶⁸ Sengupta, A, (2014) at 247

¹³⁶⁹ Schedler, A, in A. Schedler, L. Diamond, M. Plattner (eds) (1999) pg 15

¹³⁷⁰ Oliver, D, in N. Bamforth and P. Leyland (eds) (2013) pg 290

¹³⁷¹ Day, P, (1987) pg 1

¹³⁷² Schedler, A, (1999) pg 14

¹³⁷³ Sengupta, A, (2014) at 251

¹³⁷⁴ Sengupta, A, (2014) at 264

owes accountability and therefore must explain or justify action or inaction has been defined by Oliver as the accountee¹³⁷⁵ and Day as the governed.¹³⁷⁶

There are four broad reasons why the accountability relationship advocated by Oliver and Day is essential. One is that conduct related to the exercise of public power must be held accountable¹³⁷⁷ while another related argument is that a democratic imperative exists to respond to the demands from politicians and the public.¹³⁷⁸ A further argument is that a healthy dialectical relationship is an essential component of democracy as it leads to the giving of answers, explanations and justifications.¹³⁷⁹ Thus, the accountability relationship has itself become equated with principles of deliberative democracy.¹³⁸⁰ Further, and importantly, accountability, and therefore by association the accountability relationship between the two branches, not only has a reciprocal link with legitimacy but also carries the burden of democratic police governance.¹³⁸¹

The accountability relationship in the Police

As explored in detail in the second and third chapters of this thesis the accountor and accountee accountability relationship has been evidenced in the Police since its inception by Peel in 1829. The first structure of accountability responsible for holding the Police and Chief Constables to account were Watch¹³⁸² and Standing Joint Committees.¹³⁸³ These committees were collective structures as Watch Committees were composed of elected councillors and a Mayor who was also a Justice of the Peace¹³⁸⁴ while membership of Standing Joint Committees was evenly divided between Magistrates and elected County councillors.¹³⁸⁵ The Committees successor, Police Authorities were also the accountee. Importantly the Authorities were also a collective structure of accountability as two thirds of their members were members of the local council,¹³⁸⁶ with the remaining third being made up by Magistrates.¹³⁸⁷ Therefore Police Authorities, like their predecessors, Watch and Standing Joint Committees, were collective structures of accountability. Thus the PCC structure of accountability is indeed radical within the context, history and incremental development of the Police as PCCs are the first non-collective structure of police accountability.¹³⁸⁸ Thus, for the first time since the formation of modern policing, Chief Constables are held to account by a single elected structure of police accountability: the PCC.¹³⁸⁹

¹³⁷⁵ Oliver, D, in N. Bamforth and P. Leyland (eds) (2013) pg 290

¹³⁷⁶ Day, P, (1987) pg 1

¹³⁷⁷ Sengupta, A, (2014) at 251

¹³⁷⁸ Mulgan, R, (2000) pg 559

¹³⁷⁹ Mulgan, R, (2000) pg 569

¹³⁸⁰ Mulgan, R, (2000) pg 569

¹³⁸¹ see chapter 1 of this thesis pg (s) 9 to 10

¹³⁸² s. 76 Municipal Corporations Act 1835

¹³⁸³ s. 9 (1) Local Government Act 1888

¹³⁸⁴ s. 76 Municipal Corporations Act 1835

¹³⁸⁵ s. 30 (1) Local Government Act 1888

¹³⁸⁶ s. 2 (2) (a) Police Act 1964

¹³⁸⁷ s. 2 (2) (b) Police Act 1964

¹³⁸⁸ Previous collective structures of police accountability were: Watch Committees, established for Boroughs in the Metropolis, see s.76 Municipal Corporations Act 1835. Standing Joint Committees, established for the later established Country Police Forces, see s.9 (1) Local Government Act 1888. Police Authorities replaced Watch and Standing Joint Committees in 1964, see s.12 Police Act 1964

¹³⁸⁹ see generally s. 1 (7) (a -b) and s.1 (8) (a-h) PRSRA 2011 and The Policing Protocol Order 2011, SI 2011/2744

The PRSRA¹³⁹⁰ and Policing Protocol¹³⁹¹ set out the accountability responsibilities of PCCs. The Protocol, referred to by HASC¹³⁹² and the Government¹³⁹³ as the foundation of the relationship between PCC and Chief Constable, makes it clear that Chief Constables are accountable to the PCC alone,¹³⁹⁴ stating: ‘the Chief Constable is accountable to their PCC’¹³⁹⁵ and ‘the accountability of the Chief Constable remains firmly to the PCC.’¹³⁹⁶ Additionally the Protocol states that PCCs have a ‘statutory duty’¹³⁹⁷ an ‘electoral,’¹³⁹⁸ ‘democratic mandate’¹³⁹⁹ and ‘legal power’¹⁴⁰⁰ to hold Chief Constables to account. Furthermore, the Protocol requires PCCs and Chief Constables ‘establish an effective working relationship in order to deliver policing.’¹⁴⁰¹ Given that Chief Constables are now held to account by a single elected accountee, this study explored whether PCCs are a suitable structure of police accountability capable of holding Chief Constables to account effectively.

Can PCCs hold Chief Constables to account effectively?

While identifying that the present model of police accountability contains a number of significant imperfections, findings from this research indicate that PCCs can hold Chief Constables to account effectively. Indeed most Chief Constables that were interviewed argue that accountability through the medium of PCCs contains a number of significant strengths including visibility, increased frequency and improved scrutiny. These strengths were clearly evident from the interview with Chief Constable A:

“I am grilled, and that’s probably the best word for it. The accountability is instant, visible and quite personable ... it’s a more continual, rolling accountability [with] a higher level of scrutiny.”¹⁴⁰²

The argument that accountability can now in practice be more frequent is further evident from interviews with PCCs. For example PCC D stated:

“We are in the organisation all the time, accountability is on an on-going basis.”¹⁴⁰³

The increased frequency of accountability was also argued by PCC E. Additionally this interviewee asserted that PCCs have in practice led to instantaneous accountability thereby

¹³⁹⁰ see generally s. 1 (7) (a -b), s.1 (8) (a-h), s.11 PRSRA 2011 and PRSRA, Schedule 6 s.1 (1)

¹³⁹¹ The Policing Protocol Order 2011, SI 2011/2744

¹³⁹² see House of Commons Home Affairs Select Committee, Police and Crime Commissioners: progress to date pg 24, published 5 May 2014 available at

<http://www.publications.parliament.uk/pa/cm201314/cmselect/cmhaff/487/487.pdf> accessed 9th August 2016. Hereafter cited as Police and Crime Commissioners: progress to date

¹³⁹³ The Government response to the Sixteenth Report from the Home Affairs Select Committee, Police and Crime Commissioners: progress to date pg 16 Available at

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/387123/PCCprogressToDate.pdf Accessed 10th August 2016. Hereafter cited as The Government’s Response

¹³⁹⁴ see s. 14, s.22 and s.23 Policing Protocol Order 2011

¹³⁹⁵ s.14 Policing Protocol Order 2011

¹³⁹⁶ s. 26 Policing Protocol Order 2011

¹³⁹⁷ s. 15 Policing Protocol Order 2011

¹³⁹⁸ s. 15 Policing Protocol Order 2011

¹³⁹⁹ s. 36 Policing Protocol Order 2011

¹⁴⁰⁰ see s. 17 Policing Protocol Order 2011

¹⁴⁰¹ s. 42 Policing Protocol Order 2011

¹⁴⁰² Chief Constable Police Area A

¹⁴⁰³ OPCC Police Area D

removing the bureaucratic backlog often associated with the PCC's predecessor, the Police Authority:

“It [accountability] is instant, with recognition of difficulties or successes whereas with the Police Authority it was a constant backlog.”¹⁴⁰⁴

The backlog cited and argued by PCC E was also acknowledged by Chief Constable C. In addition this interviewee highlighted that PCCs can provide a more effective means of decision making:

“Police Authorities were a blinking nightmare to get a decision ... whereas with PCCs you do get a decision.”¹⁴⁰⁵

This argument was also advanced by Chief Constable D, emphasising that PCCs being a single point of a decision making can also provide an effective platform for policing:

“The good thing with the PCC is that single point of decision making allows me to not have to convince sixteen politicians from different backgrounds. It means that I have a single point of contact to explain the context of what is going on, the challenges, the opportunities that exist. That for me has provided a more dynamic environment for us to try and move policing forward.”¹⁴⁰⁶

In addition to identifying that accountability is conceivably more frequent, instantaneous and visible this study finds efficiency to be another way that the accountability of Chief Constables through PCCs can be more effective. While stressing that the model was not “always perfect”,¹⁴⁰⁷ Chief Constable A argued that accountability was now more efficient as “the current model is a much quicker way of doing things.”¹⁴⁰⁸ Accountability was also asserted to be more efficient by a number of PCCs. For example, PCC C contended that accountability through PCCs is more efficient and effective as it is more transparent and provides greater clarity:

“The Police can make much quicker decisions. It's open and transparent, you go to one person. It provides much greater clarity. It [accountability] is less bureaucratic, it [accountability] is much more efficient.”¹⁴⁰⁹

The argument that PCCs can provide greater clarity was also made by PCC A:

“What we have achieved through this model is much greater clarity about who is responsible for what, where the buck stops and specific decisions.”¹⁴¹⁰

Robustness was identified as a further way that Chief Constables are effectively held to account. Here, the argument made was that PCCs have led to Chief Constables being held to account more actively:

¹⁴⁰⁴ OPCC Police Area E

¹⁴⁰⁵ Chief Constable Police Area C

¹⁴⁰⁶ Chief Constable Police Area D

¹⁴⁰⁷ Chief Constable Police Area A

¹⁴⁰⁸ Chief Constable Police Area A

¹⁴⁰⁹ OPCC Police Area C

¹⁴¹⁰ OPCC Police Area A

“There is just one person steeped in it ... Chief Constables are held more robustly to account.”¹⁴¹¹

The robust quality of accountability was also acknowledged by Chief Constable D, urging that when effective PCCs are capable of establishing a new found grip on policing thereby ensuring accountability is more effective:

“In terms of grip and understanding of the details going on in a force, it’s a significant step forward. I guarantee that my PCC has a far deeper understanding of what this force is dealing with in countering and falling short on than any Police Authority.”¹⁴¹²

Furthermore, this interviewee asserted that when effective PCCs can also provide a constant and effectual challenge and check on Chief Constables. This advantageous persistence was argued by Chief Constable D to be implausible for a Police Authority to achieve:

“I think the other really valid role from an engaged thoughtful PCC like I have got is because he is constantly asking questions, constantly challenging, constantly checking there have been occasions when [the PCC] has provided me with another set of lenses or another view which I might not have had otherwise ... [this] was something the Authority would never have done.”¹⁴¹³

The argument that PCCs can provide qualities that would have been inconceivable for a Police Authority to achieve was also advanced by Chief Constable A. Additionally this interviewee emphasised that when effective PCCs can provide an efficacious and productive ‘grip’ that would have been nigh impossible for a Police Authority to achieve:

“[The PCC] knows more about the budget and how the organisation works than the Police Authority ever did. So a greater level of detail, a greater level of understanding because of the way that the organisations now work together getting that oversight right. [The PCC] has that level of grip in a way that would have been very hard for a Police Authority to do.”¹⁴¹⁴

Moreover, while some PCCs¹⁴¹⁵ state unequivocally that Chief Constables were undoubtedly held to account effectively, others argue that difficult and challenging questions are now being asked of Chief Constables:

“There are certain questions that we have now established ... sometimes they are quite difficult questions for [the Chief Constable] to answer.”¹⁴¹⁶

In addition, PCC D argued that there was now, without question, more accountability of Chief Constables as Chief Constables are effectively held to account through questioning and the ever present threat of dismissal which arguably evidences accountability:

¹⁴¹¹ OPCC Police Area E

¹⁴¹² Chief Constable Police Area D

¹⁴¹³ Chief Constable Police Area D

¹⁴¹⁴ Chief Constable Police Area A

¹⁴¹⁵ In particular OPCCs B, C and E stressed that PCCs were “more challenging than Police Authorities” and led to Chief Constables being “grilled”

¹⁴¹⁶ OPCC Police Area A

“Undoubtedly there is more accountability now than there was before. Chief Constables were barely accountable to their Police Authorities, it was lip service ... Chief Constables are week by week, month by month being asked hard questions. That’s what accountability is. Some Chief Constables have been sacked and rightly so and others have been put under the cosh, accountability is more biting.”¹⁴¹⁷

These findings indicate that the PCCs can hold Chief Constables to account. Moreover, the accountability of Chief Constables appears to have evolved. In addition to being instantaneous, transparent and visible the accountability of Chief Constables is no longer sporadic: Chief Constables are identified as being held to account on an on-going basis, facilitating instant recognition of difficulties and successes. Furthermore the bureaucratic backlog of Police Authorities is argued to have ended as PCCs can provide a single point of decision making which can bring greater clarity, improved efficiency and an effective platform for policing. A further way that accountability through PCCs is identified as effective is robustness. Conceivably, when effective, PCCs can provide an effectual challenge and check on Chief Constables. The ability of PCCs to provide a challenge and check on Chief Constables is clearly advantageous and something which Police Authorities seemingly struggled to achieve.¹⁴¹⁸ The previously explored inherent weaknesses and inability of Police Authorities¹⁴¹⁹ led critics including Lambert to conclude that Chief Constables were virtually autonomous.¹⁴²⁰ These findings identify that when effective PCCs can provide a constant check and challenge on Chief Constables. Therefore, when effective, PCCs may make Chief Constables more accountable as questions are constantly being asked which require explanations or justifications. Significantly, and in addition to supporting the argument that Chief Constables may no longer be as autonomous, the constant asking of questions evidences in practice accountability’s core meaning of answerability¹⁴²¹ and the practical application of the previously identified and defined soft mechanism of accountability.¹⁴²²

However, findings also identify an inherent and significant paradox: the accountability of Chief Constables can be frustrated by the present one to one accountability relationship and structure between Chief Constable and PCC.¹⁴²³ Importantly, these findings also indicate that the accountability of Chief Constables may be inconsistent and potentially varies significantly as accountability is in practice conceivably contingent on the calibre and qualities of the person solely responsible for holding the Chief Constable to account: the PCC. Furthermore the accountability of Chief Constables might also be subject to individual vagaries and ambiguous characteristics such as luck. One of the most senior persons in policing explicitly acknowledged that the present one to relationship between Chief Constable and PCC has in practice led to inconsistencies in how effectively Chief Constables are held to account. This interviewee identified the cause of the inconsistency as the relative strength or weakness of the person elected to office as PCC:

¹⁴¹⁷ OPCC Police Area D

¹⁴¹⁸ see chapter 3 of this thesis pg (s) 21 to 24

¹⁴¹⁹ As explored in Chapter 3 of this thesis Police Authorities were argued to be inherently weak, see pg (s) 21 to 24. This study also found Police Authorities to be ineffective

¹⁴²⁰ Lambert, J, (1986) pg 10

¹⁴²¹ see chapter 1 of this thesis pg (s) 7 to 9

¹⁴²² Soft mechanisms of accountability developed as an alternative to the crude and sometimes ineffectual hard mechanisms of accountability, evidenced by the requirement to explain or justify. See chapter 1 of this thesis pg (s) 20 to 21 and Malleon, K, (1999) pg 39

¹⁴²³ see generally s. 1 (7) (a -b), s.1 (8) (a-h), s.11 PRSRA 2011, PRSRA Schedule 6 s.1 (1) and Policing Protocol Order 2011

“It [the accountability of Chief Constables] does fall, not just on the relationship but on the calibre, experience and wisdom of the person elected. Believe you me that varies enormously.”¹⁴²⁴

This variance argument was also asserted by others. Giving a candid assessment of their colleagues, it was warned:

“I know there are some completely useless Police and Crime Commissioners.”¹⁴²⁵

A number of Chief Constables also acknowledged that the one to one accountability relationship in practice results in inconsistencies. While arguing that their relationship with their PCC was conducive to them being effectively held to account one Chief Constable argued that this was not a true reflection throughout:

“The relationship I have is a strong one, it is one based in mutual professional courtesy and respect. It is one based on an understanding on both sides and a distinction between our roles. There is strong accountability process in place.”¹⁴²⁶

However, when asked whether their accountably relationship represents a true reflection throughout, this interviewees reply was unequivocal:

“No and it concerns me enormously. I have a value driven, bright public service individual. My colleagues don’t all have the same experience. I don’t think all the PCCs are as bright and as well informed as mine.”¹⁴²⁷

The inconsistencies argued by Chief Constable D were also acknowledged by other interviewees. For example, it was argued that some PCCs are fundamentally incompetent and lack appropriate skills:

“I have seen evidence of PCCs who are ill equipped and ill prepared and actually don’t have the skills to understand big organisations making sweeping statements and making assumptions about individuals without any basis whatsoever.”¹⁴²⁸

While another Chief Constable acknowledged that the present structure of police accountability was reactive to the calibre and characteristic of either branch of the accountability relationship:

“Is it [the present structure of police accountability] open to the vagaries of individuals? Yes, it is.”¹⁴²⁹

Chief Constable D also questioned the inherent abilities of some PCCs urging that many operated with the driving force of personality and ego instead of objectivity and clarity:

¹⁴²⁴ Person Z

¹⁴²⁵ OPCC Police Area Police Area D

¹⁴²⁶ Chief Constable Police Area D

¹⁴²⁷ Chief Constable Police Area D

¹⁴²⁸ Chief Constable Police Area C

¹⁴²⁹ Chief Constable Police Area A

“There are a lot of PCCs out there that operate on the subjective, the personality, the ego rather than objectivity, the clarity, the best evidence base.”¹⁴³⁰

Concurring, another Chief Constable stressed that personalities within the present accountability relationship established between Chief Constable and PCC can become sufficiently powerful and destructive which in practice can potentially frustrate accountability:

“I know in other areas that individual egos have got in the way of truly being accountable.”¹⁴³¹

Furthermore, the one to one accountability relationship and the accountability of Chief Constables was also argued by a number of interviewees to be dependent on the ambivalent quality of luck. Indeed, one Chief Constable stressed that they were “privileged” and argued that luck was an integral facet:

“I am one of the luckier ones. Colleagues around the Country are not in the privileged position that I’ve been in. Some of my colleagues have awful relationships with their PCC.”¹⁴³²

A number of PCCs also acknowledged how vital luck was to success, for example PCC D urged:

“I was lucky and it’s a major factor.”¹⁴³³

Additionally, another interviewee acknowledged that luck was integral part to the accountability relationship between PCC and Chief Constable:

“I was very lucky when I became PCC as right at the beginning my existing Chief Constable left and he was one of the old School. He kept the Police Authority at arm’s length, when I became PCC he kept me at arm’s length. There wasn’t a battle but it wasn’t a marriage made in heaven.”¹⁴³⁴

Significantly findings also indicate that the present single executive structure of police accountability, the PCC, can in practice result in no moderating thought, risk individualism, limited scrutiny, and, indeed, a dilution of accountability therefore rendering the accountability of Chief Constables less effective. The lack of moderating thought was argued in particular by Chief Constable C:

“The overall weakness with one elected representative [the PCC] is that there is no moderation of thought. With a Police Authority you had a Chair and if they had a particular view or may have got any over something you always had a group of people who would sit down and discuss and provoke discussion. It would moderate the thought. Now you have one individual who has no moderation apart from perhaps their own staff and may go out on a particular course of

¹⁴³⁰ Chief Constable Police Area D

¹⁴³¹ Chief Constable Police Area E

¹⁴³² Chief Constable Police Area B

¹⁴³³ OPCC Police Area D

¹⁴³⁴ OPCC Police Area E

action without having the additional value of having colleagues discussing what the implications of a particular decision may be.”¹⁴³⁵

This issue was also acknowledged by another Chief Constable. In addition to arguing that PCCs can result in a “narrowness of single thought”¹⁴³⁶ this interviewee highlighted two associated risks:

“The PCC hasn’t got a pool of different views, there is risk of individualism and single thinking.”¹⁴³⁷

Furthermore, some underlined that the strengths of the single executive structure of police accountability were in practice illusionary and argued that PCCs can result in a less effective form of accountability:

“People like it because they know who is in charge and who is responsible. Thoughtful people find it implausible because what you are expecting one person [the PCC] to do is to embody in themselves the oversight of far too much and therefore in some ways it is less accountable because that person is going to need advisors, thoughts, ideas and inputs which are not always sensible.”¹⁴³⁸

Additionally, this interviewee argued that the present single person structure of police accountability could itself lead to a dilution of accountability:

“If you take the old system you see people wrestling with a paper, with single person accountability structures you see the decision that one person has taken. Presumably if it’s something they didn’t know a lot about they talk to a lot of people about it but you don’t see any of those conversations played out.”¹⁴³⁹

The argument that PCCs may result in less scrutiny of Chief Constables was also made by other interviewees, including PCP E:

“We have gained in terms of visibility but lost in terms of detailed scrutiny that the Police Authority was capable of. PCCs are not able to get in to the depth of detail required to be that check and balance, they can’t do the scrutiny in depth that the old Police Authority could do. You’ve lost a bit of the check and balance.”¹⁴⁴⁰

As noted in the first chapter of this thesis, accountability at its core implies a system where an institution, person or organisation is accountable and answerable to another or others.¹⁴⁴¹ Indeed accountability is argued to be evidenced when an institution, person or organisation is answerable¹⁴⁴² and gives accounts or explanations¹⁴⁴³ to another institution, person or organisation. Therefore, applying these arguments within the context of the one to one accountability structure between Chief Constable and PCC, it appears plausible to conclude

¹⁴³⁵ Chief Constable Police Area C

¹⁴³⁶ Chief Constable Police Area E

¹⁴³⁷ Chief Constable Police Area E

¹⁴³⁸ OPCC Police Area A

¹⁴³⁹ OPCC Police Area A

¹⁴⁴⁰ PCP Police Area E

¹⁴⁴¹ see chapter 1 of this thesis pg (s) 7 to 9 and Day, P, (1987) pg 1

¹⁴⁴² Sengupta, A, (2014) at 251

¹⁴⁴³ Chan, J, (1999) pg 252

that this revolutionary accountability relationship should not only evidence but breed effective accountability. Chief Constables are specifically required by statute to be accountable to the PCC.¹⁴⁴⁴ Indeed, as boldly stated by the Policing Protocol: ‘the Chief Constable is accountable to their PCC.’¹⁴⁴⁵ These findings indicate that the one to one accountability relationship and structure between PCC and Chief Constable can be effective and in practice may lead to Chief Constables being accountable as they give accounts and explanations on an ongoing basis. Therefore, conceivably, accountability is in practice evidenced. Furthermore, these findings identify the exercise of a soft mechanism of accountability¹⁴⁴⁶ and accountabilities defined key facet¹⁴⁴⁷ of answerability.¹⁴⁴⁸ Thus, when effective, Chief Constables are answerable to PCCs as difficult questions are ordinarily being asked on a rolling basis which facilitates instantaneous accountability.

Being answerable,¹⁴⁴⁹ giving accounts or explanations¹⁴⁵⁰ led Marshall to define accountability as an explanative concept¹⁴⁵¹ whilst Sengupta describes accountability as relational¹⁴⁵² which, according to Schedler, creates a dialogical relationship.¹⁴⁵³ The findings from the fieldwork for this research identify that, when effective, the explanative and relational qualities of accountability advocated by Marshall and Sengupta are conceivably evidenced within the accountability relationship required by the Policing Protocol.¹⁴⁵⁴ Additionally, as evidenced and when effective, a successful dialogical relationship may also be created as PCCs can provide a constant check and robust challenge on Chief Constables. Therefore, as indicated, Chief Constables may be effectively held to account by PCCs. Accordingly the required ‘effective working relationship’¹⁴⁵⁵ is arguably achieved leading to accountability in practice being evidenced as Chief Constables are answerable and give accounts or explanations to the PCC. Furthermore, when effective, the defined explanative, relational and dialogical qualities of accountability can also be evidenced.

However, findings from the interviews conducted for this research clearly show that the accountability relationship and structure created between Chief Constable and PCC can also be ineffective and frustrate the accountability of Chief Constables. Here, as identified, the inherent abilities of individual PCCs creates inconsistencies which in practice may lead to some Chief Constables being held to account more effectively than others. Moreover, the one to one accountability relationship is identified as being potentially vulnerable to individual vagaries and subject to ambiguous features such as luck. Additionally this study appears to indicate that the present single person accountability structure can result in little moderating thought, the risk of individualism and arguably results in a dilution of accountability as Chief Constables may be subject to less scrutiny. Therefore, when the relationship is in practice ineffective the statutory requirement that PCCs and Chief Constables ‘establish an effective

¹⁴⁴⁴ see s. 1 (7) (a -b), s.1 (8) (a-h), s.11 PRSRA 2011 and PRSRA, Schedule 6 s.1 (1) and s.14, s.26 Policing Protocol Order 2011

¹⁴⁴⁵ s. 14 Policing Protocol Order 2011

¹⁴⁴⁶ see chapter 1 of this thesis pg (s) 20 to 21 and Malleson, K, (1999) pg 39

¹⁴⁴⁷ The other key facets of accountability are enforceability and the possibility of sanctions, see chapter 1 of this thesis pg (s) 19 to 21

¹⁴⁴⁸ Schedler, A, in A. Schedler, L. Diamond, M. Plattner (eds) (1999) pg 14

¹⁴⁴⁹ Day, P, (1987) pg 1

¹⁴⁵⁰ Chan, J, (1999) pg 252

¹⁴⁵¹ Marshall, G, in T. Newburn (eds) (2005) pg 633

¹⁴⁵² Sengupta, A, (2014) at 247

¹⁴⁵³ Schedler, A, in A. Schedler, L. Diamond, M. Plattner (eds) (1999) pg 15

¹⁴⁵⁴ s. 42 Policing Protocol Order 2011

¹⁴⁵⁵ s. 42 Policing Protocol Order 2011

working relationship¹⁴⁵⁶ may be unfilled. Accordingly, when unfulfilled, accountability's key facet of answerability as well as the previously defined explanative, relational and dialogical qualities of accountability also become increasingly difficult to effectively demonstrate and evidence. Therefore, the radical, single executive structure of police accountability seemingly also creates a symbiotic accountability relationship between Chief Constable and PCC which may be essential to policing but, as evidenced, can in practice be both effective and ineffective. When effective Chief Constables are held to account and the core values of accountability are palpably evidenced. However, when ineffective the accountability of Chief Constables is frustrated, as are accountability's core values and key facets.¹⁴⁵⁷

Police and Crime Panels

PCPs complete the present model of police accountability. Introduced at the same time as PCCs, PCPs are a committee¹⁴⁵⁸ or joint committee¹⁴⁵⁹ of relevant local authorities¹⁴⁶⁰ and a statutory requirement for each police area.¹⁴⁶¹ The primary responsibility of PCPs¹⁴⁶² is to 'support'¹⁴⁶³ and 'scrutinise'¹⁴⁶⁴ the PCC. The Protocol requires PCPs 'provide'¹⁴⁶⁵ and 'maintain a regular check and balance'¹⁴⁶⁶ on PCCs. Indeed, as stated by the Local Government Association 'PCCs will be held to account by a PCP.'¹⁴⁶⁷

Therefore, PCPs are solely responsible for supporting,¹⁴⁶⁸ scrutinising,¹⁴⁶⁹ providing¹⁴⁷⁰ and maintaining a regular check and balance¹⁴⁷¹ on PCCs. Indeed, outside of the electoral cycle,¹⁴⁷² PCPs are the sole body responsible for holding PCCs to account.¹⁴⁷³ Exploring the effectiveness of PCPs was an integral part of this study. Here, perhaps surprisingly given their critical role within the present model of police accountability, findings from this research appear to indicate that PCPs may appear in practice to be impotent and ineffective. This is clearly evident from interviews with PCCs. For example, one interviewee stressed that PCCs are simply not concerned or fearful of PCPs due to their lack of power, which in practice leads to PCCs giving lip service to PCPs:

“PCCs aren't concerned or fearful of their PCP in any way because they [PCCs] know they [PCPs] don't have any teeth, they [PCPs]

¹⁴⁵⁶ s. 42 Policing Protocol Order 2011

¹⁴⁵⁷ see chapter 1 of this thesis pg (s) 7 to 9 and 19 to 21

¹⁴⁵⁸ see PRSRA 2011, Schedule 6 s. 5 (a)

¹⁴⁵⁹ see PRSRA 2011, Schedule 6 s. 5 (b)

¹⁴⁶⁰ Local Authority means a County Council or District Council see PRSRA, Schedule 6 s. 41 (3) (b)

¹⁴⁶¹ s. 28 (1) PRSRA 2011

¹⁴⁶² see chapter 4 pg (s) 92 to 93

¹⁴⁶³ s. 28 (2) PRSRA 2011

¹⁴⁶⁴ s. 28 (6) (a) PRSRA 2011

¹⁴⁶⁵ s. 24 Policing Protocol Order 2011

¹⁴⁶⁶ s. 14 Policing Protocol Order 2011

¹⁴⁶⁷ Police and Crime Panels, Guidance on role and composition, Local Government Association pg 4 available at http://www.local.gov.uk/c/document_library/get_file?uuid=8f16dd65-7fde-4792-8578-fa955263931e&groupId=10180 Accessed 6th February 2017 Hereafter cited as Police and Crime Panels, Guidance on role and composition

¹⁴⁶⁸ s. 28 (2) PRSRA 2011

¹⁴⁶⁹ s. 28 (6) (a) PRSRA 2011

¹⁴⁷⁰ s. 24 Policing Protocol Order 2011

¹⁴⁷¹ s. 14 Policing Protocol Order 2011

¹⁴⁷² PCCs are elected to office every four years, see s. 50 (1) (b) PRSRA 2011

¹⁴⁷³ Police and Crime Panels, Guidance on role and composition pg 4

don't have any power. So [PCCs] just play lip service to them ... there needs to be a more robust process above them otherwise you have no reassurance."¹⁴⁷⁴

The argument that PCCs may be entirely unconcerned of PCPs is further evident from the interview with another PCC. In addition to stating that PCPs simply have no authority over PCCs this interviewee described the PCP in the following, candid way:

"The PCP are a blight on my landscape, a pest who frankly have no authority over me at all."¹⁴⁷⁵

While acknowledging their PCCs view of the PCP the Chief Constable also maintained that the impotency of PCPs results in PCCs giving lip service to PCPs:

"My PCC views the PCP as a pain in the back side, they can't harm [my PCC], they can't cause [my PCC] any aggravation, they can't get rid of [my PCC] therefore it's lip service."¹⁴⁷⁶

The frailties of PCPs were also advocated by another PCC, urging that there was simply no need for PCCs to take PCPs seriously. Here this interviewee acknowledged that they actually helped the PCP perform their statutory duty of holding them to account. Additionally, it was questioned whether PCCs should in any way actually be answerable to PCPs, given that PCCs are in theory accountable to the electorate:

"PCCs don't need to take them [PCPs] seriously. I have had to make all the running in enabling the PCP in holding me to account. I could walk rings around them but I have chosen not to ... there's a very strong argument to say why should PCCs be accountable to a PCP who are unelected and look just like the old Police Authority. My mandate is from the people who elected me so sod the panel I'll be answerable to the electorate!"¹⁴⁷⁷

The impotency and ineffectiveness of PCPs was also acknowledged by PCPs. In a frank exercise of self-assessment PCP B conceded that PCPs are entirely powerless resulting in a failure to fulfil their statutory duty. Moreover, it was asserted that PCPs fail to effectively scrutinise PCCs and provide the intended and required check and balance due to their lack of sanctioning power:

"We can't hold the Commissioner properly to account. The veto is not a veto, to describe it as a veto is to reinvent the word ... we are toothless ... we do the best we can with the powers we have. We can require [the PCC] to answer questions but have no sanctions if the answer is self-evidently inadequate."¹⁴⁷⁸

This argument was also advanced by another PCP, stating that in practice PCPs are unable to effectively scrutinise PCCs due to their lack of sanctioning power. Here it was emphasised that the only sanctioning power available to PCPs is to publicly shame the PCC, which was itself acknowledged as a weak form of sanction yet conversely the strongest available:

¹⁴⁷⁴ OPCC Police Area B

¹⁴⁷⁵ OPCC Police Area E

¹⁴⁷⁶ Chief Constable Police Area E

¹⁴⁷⁷ OPCC Police Area D

¹⁴⁷⁸ PCP Police Area B

“We have very few powers ... once we have scrutinised we can do little or nothing with the results, we can express a view or call for further reports but that’s about it. We’ve got no sanctions, we’ve no one further to report too. That’s the end of the story. The only power is to show [the PCC] up in public. That is a weak form of sanction but it’s the strongest weapon we’ve got.”¹⁴⁷⁹

Furthermore, PCPs are identified as an abhorrent and ineffectual body which may in practice inspire resentment from PCCs:

“PCPs can’t do anything ...I think [the PCC] resents the PCP being there at all, [the PCC] views the Panel as an unnecessary after thought.”¹⁴⁸⁰

The inherent inability of PCPs to effectively scrutinise PCCs was also acknowledged by a number of PCCs, including PCC A:

“What surprised me is that what I would expect them [the PCP] to take the Police and Crime Plan and scrutinise me on elements of it and work through it.”¹⁴⁸¹

Moreover PCC B stressed that PCPs fundamentally fail to understand their role within the present structure of police accountability and would be considered preposterous by the public:

“The PCP don’t really understand their role and what’s expected of them. This affects police accountability ... if the public were to take the lid off and look in and see that we were having to create all these reports with actually no sanctions or anything coming out of it [they would think] it’s ludicrous.”¹⁴⁸²

The ineffectiveness and impotency of PCPs was also acknowledged by a number of Chief Constables. One interviewee stated categorically that PCPs are not needed as in practice they add nothing and result in no additional scrutiny of PCCs:

“There is no point in a PCP ... [they] add no value at all to governance in the Police. What I need as a Chief Constable is a PCP that did have the ability to robustly challenge the PCC, not ask questions and make recommendations. PCPs are not even a moderating machine ... they just ask questions that we have been asked before in a different way ... PCPs result in no additional scrutiny at all.”¹⁴⁸³

Additionally, some Chief Constables asserted that the powers of PCPs were entirely insufficient. For example, one Chief Constable stressed that the impotency of PCPs allowed PCCs to simply walk away safe in the knowledge that the PCP are simply not significant:

“They [PCPs] are toothless. The most they [PCPs] can do is shout and scream [at my PCC], make [my PCC] look embarrassed, give [my

¹⁴⁷⁹ PCP Police Area E

¹⁴⁸⁰ PCP Police Area E

¹⁴⁸¹ OPCC Police Area A

¹⁴⁸² OPCC Police Area B

¹⁴⁸³ Chief Constable Police Area C

PCC] some poor media publicity but the reality is that if you are so minded [the PCC] can walk away from the Panel and say they don't matter."¹⁴⁸⁴

Another Chief Constable also emphasised that PCPs are entirely ineffectual, and highlighted a detrimental impact on police accountability:

"The sanctions to address PCCs are too weak and diffuse."¹⁴⁸⁵

This argument was also acknowledged by Chief Constable D, warning that the ineffectiveness of PCPs meant that PCCs are in practice not being effectively exposed to accountability:

"PCPs are not effective in exposing the strengths and weaknesses of the accountability of the PCC. They lack judgement. Certainly what I have seen is them [PCPs] not knowing how to deal with a PCC that is not behaving according to the standards that the public might expect."¹⁴⁸⁶

These findings clearly identify PCPs as being seen as impotent and ineffective by those interviewed for this research. Indeed the interviews reveal PCCs to be unconcerned or fearful of PCPs. Notably, these PCCs unequivocally state that PCPs have no authority and are in practice powerless which leads to the giving of lip service. Furthermore, there appears to be no reason or need for PCCs to take PCPs seriously as Panels plausibly fail to understand their role which can in turn lead to PCCs actually helping PCPs perform their vital statutory role of scrutiny. In a candid exercise of self-assessment PCPs acknowledge that they are powerless and identify themselves as toothless. Moreover, PCPs urge that they simply can't do anything and indicate that they may in practice actually be resented by PCCs. In addition, the Chief Constables in this study stress that there is simply no point in PCPs as they are not effective, add no value, and, in practice, result in no additional scrutiny of PCCs. Therefore, as indicated, the impotency, ineffectiveness and ineffectualness of PCPs conceivably leads to a conclusion that PCPs may in practice be failing to fulfil their statutory responsibility of scrutiny,¹⁴⁸⁷ argued to be an essential component of accountability.¹⁴⁸⁸

Within the present model of police accountability PCPs are solely responsible for scrutinising PCCs. Thus the identified and apparent failure of PCPs to scrutinise means that some PCCs may not currently be subject to thorough examination or inspection. Moreover, the opportunity for PCPs to provide constructive criticism or potentially contribute evidence which might improve decision making and facilitate openness may also presently be lost. Significantly, these findings indicate that PCPs may unintentionally serve as a conduit entity and thereby possibly cause police accountability to be overly dependent on the radical accountability relationship between Chief Constable and PCC. Furthermore, the apparent failure of PCPs to provide a check and balance, let alone maintain one,¹⁴⁸⁹ gives palpable credibility to the argument that PCCs may themselves be unaccountable between elections. These findings from the fieldwork, and their likely effect and impact on police accountability are explored below.

¹⁴⁸⁴ Chief Constable Police Area E

¹⁴⁸⁵ Chief Constable Police Area A

¹⁴⁸⁶ Chief Constable Police Area D

¹⁴⁸⁷ s. 28 (6) (a) PRSRA 2011

¹⁴⁸⁸ see chapter 4 of this thesis pg (s) 107 to 108 and Tone from the top pg 47

¹⁴⁸⁹ s. 14 Policing Protocol Order 2011

Police accountability and the potential over dependency on the accountability relationship

The apparent ineffectualness of PCPs revealed in the interviews conducted for this research may possibly lead to police accountability being overly dependent on, and also unduly subject to the influence of, the accountability relationship between Chief Constable and PCC. This was asserted by a number of interviewees, including Chief Constable B, who argued emphatically that police accountability is in practice overly dependent on the accountability relationship and identified ineffective PCPs as the cause:

“Pretty much because PCPs are toothless, absolute toothless tiger. I know from my experience because my PCC has courted some very negative media publicity and the PCP have no teeth at all.”¹⁴⁹⁰

In addition to contending that police accountability is overly dependent on the accountability relationship between Chief Constables and their PCC, the relationship was also characterised as absolutely critical and one that organisationally the Police are not only reliant on, but also in sufferance of, should the one to one relationship itself becomes destructive:

“I am concerned that an organisation’s future could be absolutely reliant upon how the PCC and the Chief get on. That doesn’t feel quite right to me. If there’s a major falling out between the PCC and Chief it’s the organisation that then suffers ... the relationship between the two is absolutely critical. A lot will depend on who your PCC is.”¹⁴⁹¹

Accountability was also argued to be dependent on the relationship by PCC A. Furthermore, the relationship is identified as all-encompassing, yet conditional on Chief Constables and PCCs being able and willing to form a good relationship, thereby avoiding a deleterious one:

“Everything is about relationships. At the moment there is a lot of willingness to have good relationships ... what we can’t have is one of those relationships where you have sniping and warfare. If you have that all that happens is that everybody in both organisations tries to find a way thorough, everyone gets by-passed and nothing sensible gets done so we will not have that here.”¹⁴⁹²

While acknowledging that police accountability is currently overly dependent on the accountability relationship, such dependency was also characterised as a fundamental flaw:

“It [police accountability] comes back to the individuals concerned [PCC and Chief Constable] and that’s a flawed system.”¹⁴⁹³

The argument that police accountability may in practice be overly dependent on the accountability relationship is further evident from interviews with PCCs. For example, PCC B insisted that while it should not be, police accountability is in practice overly dependent on the relationship between Chief Constable and PCC:

“Yes, it [police accountability] shouldn’t be but I do think it is.”¹⁴⁹⁴

¹⁴⁹⁰ Chief Constable Police Area B

¹⁴⁹¹ Chief Constable Police Area B

¹⁴⁹² OPCC Police Area A

¹⁴⁹³ Chief Constable Police Area D

¹⁴⁹⁴ OPCC Police Area B

Moreover, PCC E insisted that police accountability was unquestionably dependent on the accountability relationship:

“It [police accountability] has to be dependent on the people involved [the Chief Constable and PCC].”¹⁴⁹⁵

In addition to arguing that police accountability rested on the relationship, others argued that the relationship also has a significant influence:

“It [the relationship between PCC and Chief Constable] certainly has a very big influence, it [police accountability] comes down to the individuals [PCC and Chief Constable] ... ultimately it [police accountability] is about relationships.”¹⁴⁹⁶

The relationship was also acknowledged as having a significant influence by PCC D, urging that police accountability is indeed dependent on an effective accountability relationship between Chief Constable and PCC:

“Police accountability will be more or less effective because of it [the relationship between Chief Constable and PCC.]”¹⁴⁹⁷

Linked to the finding that police accountability could be argued to be overly dependent on the accountability relationship forged between Chief Constable and PCC, these interviews also indicate that accountability may also be contingent on, and therefore in practice unduly subject to the influence of, individual strength of character. In addition to acknowledging this development, and how critical the relationship is, Chief Constable A stressed that the advent of PCCs made the actual people to the police accountability relationship profoundly significant:

“The relationship going to one person makes the nature of the relationship absolutely critical. The people involved is [sic] absolutely critical.”¹⁴⁹⁸

For others, strength of character was highlighted as vital. Indeed, some identified that police accountability could in practice be dependent on individual strength of character within the accountability relationship:

“A lot depends on the individual and how strong they are ... it [police accountability] comes down to the relationship and character of the people involved. Ultimately it [police accountability] is about relationships.”¹⁴⁹⁹

This strength dependency argument, and its practical impact, was also highlighted by another PCC. Stating that the PCC’s role should not be a subservient one, individual strength of character is argued as imperative:

“What I observe about policing is that nobody ever says no if you are a very senior police officer. I sit in meetings and civilian staff who work with the police who are experts in their field say yes boss, yes

¹⁴⁹⁵ OPCC Police Area E

¹⁴⁹⁶ OPCC Police Area C

¹⁴⁹⁷ OPCC Police Area D

¹⁴⁹⁸ Chief Constable Police Area A

¹⁴⁹⁹ OPCC Police Area B

sir. I am horrified by this. My job is not to be subservient to [the Chief Constable], my job is not to agree that [the Chief Constable] is right. My job is to say, like I sometimes do say, you are not right ... otherwise [the Chief Constable] will turn up at a meeting and say what they think and people won't think we [PCCs] exist.”¹⁵⁰⁰

Thus, in addition to identifying PCPs as impotent and ineffective, which in turn leads to a conclusion that PCPs may in practice currently fail to fulfil their statutory responsibility of scrutiny,¹⁵⁰¹ PCPs seemingly serve as a conduit entity which feasibly leads police accountability to be overly dependent on the previously defined symbiotic accountability relationship between Chief Constable and PCC. Importantly, and as indicated, the success and effectiveness of this relationship conceivably varies significantly. Therefore, applying this argument to the finding that police accountability can be argued to be overly dependent on an accountability relationship which itself varies significantly in terms of its success and effectiveness, a conclusion that can be drawn is that police accountability may also in practice vary significantly and accordingly may be fulfilled successfully and effectively or, conversely, unsuccessfully and ineffectively.

Significantly, the finding that police accountability might be overly dependent on the accountability relationship between Chief Constable and PCC may also give rise to a form of accountability undermined by dependency. When accountability is identified as being overly dependent on the relationship formed between the two defined branches of the accountability relationship, accountability may in practice become unduly subject to influence by either branch. Additionally, effective accountability may also become conditional on individual strength of character and the ability of the accountor and accountee to avoid a pernicious or deleterious accountability relationship.

PCCs and the current interim “immunity” from accountability

The Policing Protocol requires PCPs ‘provide’¹⁵⁰² and ‘maintain a regular check and balance’¹⁵⁰³ on PCCs. However, the identified ineffectiveness and impotency of PCPs as revealed by this research conceivably results in a failure to provide proper checks and balances, let alone maintain them. Importantly the failure of PCPs to provide, or maintain a check and balance, gives palpable credibility to the argument that PCCs are in practice unaccountable between elections.¹⁵⁰⁴ This proposition was advocated by a number of interviewees, including Chief Constable B. Indeed, this interviewee insisted that ineffectual PCPs resulted in PCCs currently being unaccountable between elections:

“The accountability mechanisms don’t have teeth, at the current time there is no accountability of PCCs.”¹⁵⁰⁵

The ineffectiveness of PCPs was also asserted by others to lead to PCCs being unaccountable between elections:

“PCCs are unchallengeable and uncensored up to the point of the next election.”¹⁵⁰⁶

¹⁵⁰⁰ OPCC Police Area A

¹⁵⁰¹ s. 28 (6) (a) PRSRA 2011

¹⁵⁰² s. 24 Policing Protocol Order 2011

¹⁵⁰³ s. 14 Policing Protocol Order 2011

¹⁵⁰⁴ PCCs are elected to office every four years, see s. 50 (1) (b) PRSRA 2011

¹⁵⁰⁵ Chief Constable Police Area B

Additionally, and while highlighting that Chief Constables were “subject to scrutiny if they start misbehaving”¹⁵⁰⁷ it was questioned who PCCs are in practice actually accountable to. Furthermore, importantly, this identified current lack of clarity was also argued to create inconsistencies and possibly endanger police accountability and indeed policing itself:

“Who is the PCC responsible to and how do we ensure that the standards are being maintained consistently throughout and there is some type of consequence should they [PCCs] fall short. This should be a natural part of any governance process ... when we are protecting something as precious as the governance of British policing it has to be clear, and it has to be solid. [Currently] it lacks rigour, it lacks clarity.”¹⁵⁰⁸

Perhaps remarkably PCCs were also acknowledged as unaccountable by the body charged by statute to provide and maintain the check and balance, PCPs. In particular, one PCP unequivocally warned:

“There are no checks and balances at all ... no one can stop the PCC internally.”¹⁵⁰⁹

The lack of a credible check and balance, which arguably leads to PCCs being unchallengeable, uncensored and unaccountable between elections, was also acknowledged by another PCP. Ominously, it was proclaimed:

“Once a Commissioner always a Commissioner.”¹⁵¹⁰

These findings indicate that PCPs could in practice be failing to provide a check and balance on PCCs. This failure lends itself to a conclusion that PCCs are largely unaccountable between elections. Notably, interviewees unequivocally contend that PCCs are unchallengeable, uncensored and immune from accountability outside of the electoral cycle. Moreover PCCs are in practice identified by the interviews as not being responsible to anyone, which in turn is argued to create inconsistencies, result in a further dilution of accountability and possibly adversely affect police accountability and, within a wider context, potentially policing itself.

The policy and practical implications of these findings are profound. A satisfactory structure of police accountability has been argued in this thesis as being imperative.¹⁵¹¹ In addition to enhancing claims to accountability,¹⁵¹² which is argued to be the very foundation and lifeblood of policing,¹⁵¹³ a satisfactory structure also fosters support and enriches

¹⁵⁰⁶ Chief Constable Police Area C

¹⁵⁰⁷ Chief Constable Police Area D

¹⁵⁰⁸ Chief Constable Police Area D

¹⁵⁰⁹ PCP Police Area E

¹⁵¹⁰ PCP Police Area B

¹⁵¹¹ see chapter 1 of this thesis pg (s) 8 to 10 and Oliver, D, in N. Bamforth and P. Leyland (eds) (2013) pg 304, Lambert, L, (1986) pg 19, Reiner, R, (2002) pg 30

¹⁵¹² Lambert, L, J (1986) pg 19

¹⁵¹³ see chapter 1 of this thesis pg (s) 1 to 7 and for example: Marshall, G, in T. Newburn (eds) (2005) pg 628, Reiner, R, in R. Reiner and S. Spencer (eds) (1993) pg 6, Kirby, S, (2013) pg 1, Waddington, P.A.J, Wright, M, (2010) pg 79, Fyfe, J, Greene, J, Walsh, W, Wilson, O and McLaren, R, Fifth Edition (1997) pg 483. Additionally see The Macpherson Report, The Review of Policing, The Patten Commission, The Stevens Commission and Sir Hugh Orde Speech The Fog of Transition in the U.K Policing: Major Changes Abound, available at <http://www.acpo.police.uk/ContentPages/Speeches/201208PoliceChiefSHOarticle.aspx> Accessed 22nd August 2014, and Sir Hugh Orde, president of ACPO, available at

legitimacy.¹⁵¹⁴ Thus, identifying the present structure of police accountability as unchallengeable, uncensored and unaccountable conceivably leads to a conclusion that claims to accountability may not be enhanced but diminished. Further, the apparent “immunity” from non-electoral accountability may also suppress legitimacy in the office of PCC. Significantly, given that PCCs manifestly underpin police accountability and accountability is argued to shoulder an ever increasing burden to justify legitimacy,¹⁵¹⁵ any suppression of legitimacy in the very structure of police accountability conceivably transcends artificial boundaries of office and therefore may also undermine or weaken Police legitimacy.

Countering these arguments some may vehemently maintain that PCCs are ultimately accountable to the electorate.¹⁵¹⁶ However, and as examined in the following chapter, this argument may be undermined due to the extremely low levels of electoral support, the high withdrawal rates for re-election and the inherent weaknesses of electoral accountability as evidenced in this thesis.¹⁵¹⁷ Moreover, this finding does not purport to contest the argument that PCCs may or may not be accountable electorally, but instead highlights a concerning and current interim block in accountability which in practice may constrain or diminish police accountability and legitimacy.

Conclusions

This chapter has argued that accountability is the lifeblood of policing. In addition to being imperative, the very structure of police accountability is vital to enhancing accountability and enriching claims to legitimacy. Within the history and incremental development of the police and policing PCCs represent a revolution: the PCC is the first non-collective structure of police accountability charged by statute to hold Chief Constables to account. Thus, Chief Constables are for the first time since the formation of modern policing held to account by a single elected accountee: the PCC.

Importantly, and in addition to evidencing in practice accountability’s key facets and the exercise of a soft mechanism of accountability, the first non-collective structure of police accountability has the potential to be effectual and thus able to hold Chief Constables to account. Indeed, the accountability of Chief Constables has conceivably evolved under the stewardship of PCCs as Chief Constables appear to be held to account more robustly, instantly and on an on-going basis. Further, Chief Constables are potentially no longer autonomous as they can be subject to a more continual, rolling form of accountability which can lead to a constant check and challenge. Moreover, when the one to one accountability relationship between Chief Constable and PCC is effective, accountability is in practice effectively evidenced as are accountability’s explanative, relational and dialogical qualities.

However, the research reveals the present structure also appears to create a significant paradox. Namely, the accountability of Chief Constables can in practice be frustrated by the current one to one relationship established between Chief Constable and PCC. Critically, the accountability of Chief Constables may also vary considerably and be inconsistent. Additionally, the single executive structure of police accountability, the PCC, appears to fundamentally be a standalone monocratic role which risks no moderation of thought,

<http://www.acpo.police.uk/ContentPages/Speeches/SirHughOrdeSpechtoLiberty.aspx> Accessed 22nd August 2014.

¹⁵¹⁴ see chapter 1 of this thesis pg (s) 26 to 27 and Baldwin, R, (1987) pg 103

¹⁵¹⁵ see chapter 1 of this thesis pg (s) 26 to 27 and Baldwin, R, (1987) pg 103

¹⁵¹⁶ PCCs are elected to office every four years, see s. 50 (1) (b) PRSRA 2011

¹⁵¹⁷ see chapter 7 of this thesis pg (s) 151 to 157

individualism, limited scrutiny and potentially a dilution of accountability as in practice it is implausible for one person to embody in themselves the required level of oversight required.

This chapter also examined the intended role and function of PCPs within the present model of police accountability. PCPs are solely responsible for supporting, scrutinising, providing and maintaining a check and balance on PCCs. However, the research reveals despite this vital role, PCPs are identified as impotent, ineffective and ineffectual. Indeed, as argued, PCPs appear to be an inefficacious entity and one that in practice conceivably inspires resentment from PCCs. Moreover, the evidenced failure to effectively scrutinise and provide, let alone maintain, a check and balance, leads to a conclusion that some PCCs are themselves not currently exposed effectively to accountability. Furthermore, some PCPs appear to serve as a conduit instrument causing police accountability to currently be overly dependent on, and therefore unduly subject to influence and reactive to the vagaries of, the symbiotic accountability relationship between Chief Constable and PCC. In addition to the profound practical and policy implications of this, the current over dependency was highlighted as a possible fundamental defect. Indeed, accountability may be undermined by this dependency.

It appears that the apparent failure of PCPs to provide, let alone maintain, the intended check and balance, also leads to a possible conclusion that PCCs, the intended cornerstone of the new landscape of police accountability, are themselves currently lacking accountability in-between elections. This irregularity is concerning. In addition to significant policy and practical implications, the PCC's potential current lack of electoral accountability possibly endangers police accountability and, within the wider context, potentially policing as accountability and police legitimacy may in practice be constrained or diminished.

Accountability is a precious commodity, it is the very foundation of policing. However, the research findings from this chapter identify that the present model and structure of police accountability carries significant risks which potentially impede accountability and police legitimacy. Indeed the totality of arguments made in this chapter gives credibility to a conclusion that the present model and one to one structure of police accountability is certainly risky, maybe defective and unsuitable for police accountability and policing as we move forward.

Chapter 7 Findings: Electoral, vertical accountability and PCCs removing Chief Constables

This chapter extends the analysis already provided and begins by examining the impact of electoral, vertical accountability on policing and police accountability. In addition to recognised arguments, it will be argued that using elections to achieve democratic police accountability is fraught with difficulties and potentially carries significant risks for police accountability and possibly policing. It will be contended that the PCC elections might in practice lead to posturing and superficiality. Indeed, the new electoral facet of police accountability conceivably leads to police accountability becoming immersed in potentially damaging rhetoric which arguably has the potential to diminish the basic tenets of policing. Furthermore, the ‘political election’ and subsequent appointment of ‘political’ PCCs could in practice undermine a founding doctrine of modern policing: freedom from political control. Additionally, it will be questioned whether the holding of PCC elections every four years fundamentally achieves democratic police accountability, or conversely, whether the long asserted democratic deficit in policing remains.

After assessing the impact of the new electoral facet of police accountability this chapter proceeds to explore a striking feature of the present structure of police accountability. Namely, PCCs appear to be singularly responsible for holding Chief Constables to account while also exercising their conferred statutory power to appoint, suspend and remove them. In addition to identifying the PCC’s power to remove Chief Constables as contentious and controversial, it will be argued that the power could have a collateral and potentially corrosive impact on policing and police accountability. Indeed, findings from this research indicates that the PCC’s power to remove Chief Constables could lead to an unfolding instability in police leadership which may lead to Chief Constables abstaining and becoming indebted to PCCs. Furthermore, the PCC’s power to remove Chief Constables is argued to give rise to a different form of accountability. Significantly, the PCC’s power of removal may even potentially disempower Chief Constables and in practice lead to PCCs displacing and improperly assuming for themselves the Chief Constable’s role in policing.

The Home Secretary proclaimed that PCCs would replace bureaucratic accountability with democratic accountability.¹⁵¹⁸ To achieve democratic police accountability PCCs are elected,¹⁵¹⁹ the first cohort took office November 2012.¹⁵²⁰ In accordance with the Act the incumbent PCC is then either re-elected to office or, alternatively, replaced by a new candidate, every four years.¹⁵²¹ Therefore, in theory and as boldly stated by the Home Office: PCCs are accountable to their electorate.¹⁵²²

Giving evidence to HASC in 2010 The Minister for Policing and Criminal Justice claimed PCCs would “be in receipt of a very large number of votes”¹⁵²³ which in turn would “secure their mandate.”¹⁵²⁴ However, and as previously examined in this thesis, the legitimacy of the office of PCC has been questioned from the very outset.¹⁵²⁵ While the PCC elections were argued by some to be deliberately designed to convey the impression that the Police were being made more accountable,¹⁵²⁶ others described the first PCC elections as “truly baffling”¹⁵²⁷ and “a comedy of errors from start to finish.”¹⁵²⁸ Additionally, the loss of the Minister for Policing and Criminal Justice right before the first PCC elections was unlikely to invest or maintain confidence in a voting process to establish an entirely novel form of police governance.¹⁵²⁹

A year after the first PCC elections the body tasked to promote public awareness of the elections,¹⁵³⁰ the Electoral Commission,¹⁵³¹ reported that only 15.1% of the electorate voted.¹⁵³² In addition to acknowledging that this represented the lowest recorded level of electoral participation in a peacetime non-local government election¹⁵³³ the Commission concluded, in strong terms, that the first PCC elections were “a concern for everyone who cares about democracy.”¹⁵³⁴

¹⁵¹⁸ see in particular Policing in the 21st century pg 18

¹⁵¹⁹ s. 50 (1) (a) PRSRA 2011

¹⁵²⁰ s. 50 (2) PRSRA 2011

¹⁵²¹ s. 50 (1) (b) PRSRA 2011

¹⁵²² Home Office, Accountability System Statement for Policing and Crime Reduction, pg 11 March 2015 available at

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/410711/March_2015_Accountability_System_Statement_for_Policing_and_CrimeFINAL.pdf Accessed 26th July 2016

¹⁵²³ see report of the House of Commons Home Affairs Committee, Policing: Police and Crime Commissioners pg 10, available at <http://www.publications.parliament.uk/pa/cm201011/cmselect/cmhaff/511/511.pdf> Accessed 12th October 2016 Hereafter cited as Policing: Police and Crime Commissioners

¹⁵²⁴ Policing: Police and Crime Commissioners pg 11

¹⁵²⁵ see generally Chapter 4 pg (s) 12 to 30

¹⁵²⁶ Jones, T, Newburn, T, Smith, D, in T. Newburn and J. Peay (eds) (2011) pg 234

¹⁵²⁷ Loveday, B, (2012) at 183

¹⁵²⁸ Loveday, B, (2012) at 186

¹⁵²⁹ Loveday, B, (2012) at 186

¹⁵³⁰ The Electoral Commission was tasked see s.53 (a) and (b) PRSRA 2011

¹⁵³¹ The Electoral Commission, Police and Crime Commissioner elections in England and Wales, Report on the administration of elections held on 15 November 2012 available at

http://www.electoralcommission.org.uk/_data/assets/pdf_file/0003/154353/PCC-Elections-Report.pdf

Accessed 2 July 2015. Hereafter cited as The Electoral Commission Report

¹⁵³² The Electoral Commission Report pg 6

¹⁵³³ The Electoral Commission Report pg 6

¹⁵³⁴ The Electoral Commission Report pg 5

While the Home Secretary described the turnout at the 2012 elections as merely “disappointing”¹⁵³⁵ others contend that the low level of electoral support resulted in the first cohort of PCCs taking office with a very weak,¹⁵³⁶ if not brittle democratic mandate.¹⁵³⁷ Moreover, it appears difficult to equate the idea of PCCs enhancing democratic policing when they themselves are elected with such a weak electoral mandate.¹⁵³⁸ At the second PCC elections in 2016¹⁵³⁹ electoral participation increased by just over 10% to 25.2%.¹⁵⁴⁰ However, this increase may be attributable to the 2016 PCC elections being tied with County Council elections and thus might not truly represent greater electoral and democratic support.¹⁵⁴¹

Using elections to achieve democratic police accountability evidences in practice the theory of vertical accountability,¹⁵⁴² defined as accountability to the people and traditionally enforced through elections.¹⁵⁴³ Thus, accountability is exercised through electoral choice as PCCs are theoretically held to account by votes for or against them.¹⁵⁴⁴ However, and as previously explored in this thesis, this theory and form of accountability is easily critiqued.¹⁵⁴⁵ While some argue that it is unclear whether elections are truly an instrument by which voters can punish, reward and hold elected office holders accountable,¹⁵⁴⁶ others contend that this theory of accountability and the use of elections fails in practice as office holders are elected on such an infrequent basis¹⁵⁴⁷ and inevitably pursue policies across a full spectrum of public issues that no individual would be likely to agree with in their entirety.¹⁵⁴⁸ Furthermore, and within the context of the PCC elections, the argued and anticipated large number of votes which conceivably would have secured a mandate and provide legitimacy in the office of PCC has, at the two elections to date, simply failed to materialise. Moreover, the run up to the 2016 PCC elections witnessed an abundance of PCCs withdrawing from re-election. Indeed, almost one third of the first cohort of PCCs decided not to seek re-election.¹⁵⁴⁹ Thus, assessing the impact of the PCC elections on police accountability and policing was an important component for this study. Findings from the interviews conducted for this thesis are explored on the following pages of this chapter.

¹⁵³⁵ Police and Crime Commissioners, House of Commons Standard Note (SN/HA/6014) pg 4, available at <http://researchbriefings.files.parliament.uk/documents/SN06104/SN06104.pdf> Accessed 14 July 2015.

Hereafter cited as House of Commons Standard Note (SN/HA/6014)

¹⁵³⁶ Lister, S and Rowe, M, (2014) pg 5

¹⁵³⁷ Lister, S and Rowe, M, (2014) pg 7

¹⁵³⁸ Lister, S and Rowe, M, (2014) pg 7

¹⁵³⁹ A detailed analysis of the impact of the 2016 PCC elections is beyond the scope of this thesis. This area is also currently void of research. Accordingly, a study assessing the impact of the second PCC elections is recommended

¹⁵⁴⁰ see BBC News ‘PCC Elections: Tories and Labour crush independents’ at <http://www.bbc.co.uk/news/election-2016-36235294> accessed 10th May 2016

¹⁵⁴¹ see s.50 (3) PRSRA 2011

¹⁵⁴² Vertical Accountability is one of the four theories of accountability explored in detail in Chapter 1 of this thesis, see pg (s) 11 to 12

¹⁵⁴³ see chapter 1 of this thesis pg (s) 10 to 12, Sengupta, A, (2014) at 249, Goetz, A, Jenkins, R, (2001) pg 364 and O’Donnell, G, in A. Schedler, L. Diamond, M. Plattner (eds) (1999) pg 29

¹⁵⁴⁴ Goetz, A, Jenkins, R, (2001) pg 364

¹⁵⁴⁵ see chapter 1 of this thesis pg (s) 13 to 15

¹⁵⁴⁶ O’Donnell, G, in A. Schedler, L. Diamond, M. Plattner (eds) (1999) pg 29

¹⁵⁴⁷ Sengupta, A, (2014) at 249

¹⁵⁴⁸ Goetz, A, Jenkins, R, (2001) pg 363

¹⁵⁴⁹ As confirmed by the Association of Police and Crime Commissioners [APCC] 13 out of 40 PCCs did not seek re-election in 2016

The PCC elections, the difficulties and risks for police accountability and policing

In addition to acknowledging that PCCs have a weaker than anticipated electoral and democratic mandate the findings from the interviews indicate that using elections to achieve democratic police accountability has been fraught with difficulties, they may be fundamentally flawed and this potentially carries significant risks for police accountability and possibly policing itself. Indeed, interviewees warned that the new electoral facet of police accountability may represent a significant defect within the present model of police accountability. For example, Chief Constable B raised concerns at the use of elections to achieve democratic police accountability, arguing that the elections, and therefore the structure itself, were fundamentally flawed by those seeking office being associated with a political party. Here this interviewee highlighted that simply being linked with a political party practically guarantees some candidates the position of PCC:

“There are some parts [of the country] where you could put a red or blue rosette on a donkey and they’d get elected as PCC!”¹⁵⁵⁰

While acknowledging “there’s got to be some form of accountability framework”¹⁵⁵¹ this interviewee also queried whether public need necessities that a PCC holds a Chief Constable to account:

“Do they [the public] feel that a Chief Constable needs to be held to account to somebody? I am not sure they would.”¹⁵⁵²

Others also questioned the wisdom of mixing elections with police accountability, with some identifying the process of electing PCCs as a “shambles” and “dangerous” given the empty promises candidates who seek election to office make. Further, it was emphasised that using ‘political elections’ to make the police democratically accountable may also possibly lead the public to incorrectly perceive the present structure of police accountability as a political structure:

“You have a shambles around election time, where you have candidates [for PCC] offering the earth in order to get elected, making promises they can’t deliver on. That’s quite dangerous ... They [PCCs] shouldn’t have had a political election, they [the Government] should have done it another way as the public think it’s political.”¹⁵⁵³

Moreover, significant risks were argued to be created due to the self-evident small percentage of votes for PCCs. Here, it was contended that the person elected to office as PCC may not actually be a true reflection of who the public want to represent them:

“There is a risk that a celebrity, a superstar or somebody else gets the vote [and becomes PCC] because of the small percentages of people that turn out ... we need a true reflection from the public, who they want voted in.”¹⁵⁵⁴

¹⁵⁵⁰ Chief Constable Police Area B

¹⁵⁵¹ Chief Constable Police Area B

¹⁵⁵² Chief Constable Police Area E

¹⁵⁵³ PCP Police Area B

¹⁵⁵⁴ Chief Constable Police Area E

The current process of electing PCCs was also argued to lead to PCCs in practice bypassing a formal and credible selection process that would, and should, invariably apply to such prominent public appointments:

“We are producing a person [the PCC] to do a very large and important public job without putting them [the PCC] through the selection processes that normally apply to that sort of appointment.”¹⁵⁵⁵

Furthermore, and in addition to asserting that the election of PCCs results in “posturing and superficiality”¹⁵⁵⁶ the process of electing PCCs is argued to cause triviality which conceivably cascades and possibly endangers police accountability and potentially policing:

“One of my candidates [for PCC] instead of talking about the scale of child abuse, child exploitation or anything like that ... his first public statement about policing in this County is to say that I earn too much. If that’s the level of sophistication we are going to bring to police accountability I think British policing is in for a torrid and sad time.”¹⁵⁵⁷

Additionally, once elected to office, an identified potential risk is that the PCC may in practice become inflexible, autocratic and potentially despotic as in reality there is no further requirement to negotiate or compromise as the PCCs role is profoundly a standalone, monocratic one:

“The problem is that [PCCs] do one negotiation, one influencing role to influence the public to vote. Thereafter [PCCs] don’t have to negotiate, influence or compromise at all.”¹⁵⁵⁸

While accepting that the office of PCC currently suffers question marks over its legitimacy due to the poor electoral turnout PCC C stressed that this current and notable anomaly had to be addressed and rectified. Additionally, this interviewee emphasised that the election was flawed and asserted that the PCC model was also introduced poorly:

“Being elected on a low turnout is not helpful. We [PCCs] do need to get that legitimacy, there needs to be a correction there ... what makes it democratic is that I am directly elected ... but of course it’s not the whole answer because so few people voted. Was the election flawed, should more have been done, and was it introduced badly? Yes. All of those ... democracy doesn’t come free, the trouble is we are trying to do everything on the cheap at the moment. It’s democracy on the cheap the way the Government chose to do it.”¹⁵⁵⁹

Significantly, and possibly quite controversially given that the Police are arguably founded and established on the principle of freedom from political control,¹⁵⁶⁰ the new electoral facet of police accountability might in practice diminish this originating doctrine as the boundary between policing and politics conceivably becomes unquestionably and inexcusably short:

¹⁵⁵⁵ PCP Police Area E

¹⁵⁵⁶ Chief Constable Police Area D

¹⁵⁵⁷ Chief Constable Police Area D

¹⁵⁵⁸ Person Z

¹⁵⁵⁹ OPCC Police Area C

¹⁵⁶⁰ see chapter 2 of this thesis pg (s) 41 to 43

“I think there is no question that PCCs, when operating at their worst, and Chief Constables when operating at their worst where you have bombastic, dogmatic PCC and weak, ineffectual self-serving Chief Constable the direct link between political behaviours and policing on the street is now too short.”¹⁵⁶¹

Decisively, one of the most senior persons in policing questioned whether having PCC elections every four years actually achieves the principal aim of democratic police accountability. Furthermore, it was asserted that although the present structure of police accountability was introduced with the backdrop of it being more democratic, it may in practice be less democratic especially when, and as previously identified, a PCC decides not to seek re-election:

“Fundamentally, do you bridge a democratic deficit by having an election every four years? I think the answer is no, particularly if the person [the PCC] does not want to be re-elected ... I am not sure if you build democracy into a system by having an election once every four years and therefore although it was sold as something which was more democratic it potentially had less engagement with democratic structures.”¹⁵⁶²

This argument was also made by another interviewee, noting that PCCs may in practice fail to bridge the democratic deficit in policing:

“There is no way that anyone could argue that the democratic deficit has been removed. If anything there was probably more people that voted for the Police Authority Councillors when you toted them up than PCCs. The democratic deficit remains a significant part of the shortfall that the changes were intended to deal with.”¹⁵⁶³

With the benefit of hindsight, the prediction that PCCs would “be in receipt of a very large number of votes”¹⁵⁶⁴ which in turn would “secure their mandate”¹⁵⁶⁵ was clearly an unrealistic, and hollow assertion. Additionally, the first PCC elections being labelled and characterised “a concern for everyone who cares about democracy”¹⁵⁶⁶ was never likely to instil confidence in such a structure and model of police accountability. Indeed, as examined, the basic tenets of vertical, electoral accountability appear to be beset with difficulties.¹⁵⁶⁷ Importantly, applied within the context of police accountability and policing, the findings from the interviews for this thesis indicate that using elections to achieve democratic police accountability may be problematic, and possibly could endanger police accountability and potentially policing.

Accountability floods the very veins of policing. Yet the current electoral facet of accountability is identified as problematic and risks the election of a PCC who can manifestly

¹⁵⁶¹ Chief Constable Police Area D

¹⁵⁶² Person Z

¹⁵⁶³ Chief Constable Police Area D

¹⁵⁶⁴ see report of the House of Commons Home Affairs Committee, Policing: Police and Crime Commissioners pg 10, available at <http://www.publications.parliament.uk/pa/cm201011/cmselect/cmhaff/511/511.pdf>

Accessed 12th October 2016 Hereafter cited as Policing: Police and Crime Commissioners

¹⁵⁶⁵ Policing: Police and Crime Commissioners pg 11

¹⁵⁶⁶ see chapter 4 of this thesis pg (s) 94 to 96

¹⁵⁶⁷ see chapter 1 of this thesis pg (s) 13 to 18, O'Donnell, G, in A. Schedler, L. Diamond, M. Plattner (eds) (1999) pg 29, Sengupta, A, (2014) at 249, Goetz, A, Jenkins, R, (2001) pg 363

circumvent a credible selection process and, once elected, may in practice become uncompromising, intransigent and potentially dogmatic. Indeed, far from achieving the aims of undiluted democratic police accountability the election process is identified through this research as occasioning and possibly promoting superficiality and triviality. The practical impact of this is potentially profound: the PCC elections have seemingly led to police accountability becoming equipped and embedded with what could be described as naïve qualities which in practice could undermine and diminish the basic tenets of police accountability and policing. Notably, the unenlightened and unrefined rhetoric emitted during the PCC elections might in practice be woven into the fabric of police accountability.

Moreover, the politically defined and interconnected elections of PCCs may also weaken a founding and guiding principle of modern policing: freedom from political control.¹⁵⁶⁸ As the earlier chapters of this thesis contended, Sir Robert Peel succeeded where his predecessors failed and created the new Police without opening the door to political control.¹⁵⁶⁹ Although on appointment the PCC swears an oath of impartiality,¹⁵⁷⁰ these findings indicate that the door may in practice be ajar and the Police may be susceptible to political control as the direct link between politics and policing might now be inadvertently shortened. Furthermore, within a wider channel, the public may perceive the present structure of police accountability as a political structure given the ‘political election’ of PCCs. Although this bold proposition needs further study, some credibility must be afforded to this argument given that out of a possible 40 PCC offices available at the 2016 elections 20 are now occupied by Conservative Party candidates and 15 are now occupied by Labour Party candidates.¹⁵⁷¹

The previous chapter of this thesis argued that PCCs appear to currently be insulated from accountability in-between elections due to the failure of PCPs to scrutinise and provide, let alone maintain, a check and balance. Significantly, the low levels of electoral support, which by definition and association confers low levels of electoral accountability, the run up to the second PCC elections in 2016 witnessed a high withdrawal rate amongst incumbent PCCs for re-election.¹⁵⁷² Thus, given that PCCs appear to be unaccountable in between elections due to the inherent failure of PCPs to scrutinise and provide a check and balance, the only conceivable mechanism to hold the first cohort of PCCs to account was the 2016 election. However, this last remaining mechanism of accountability was actually unavailable as it was in practice removed by almost one third of PCCs deciding not to seek re-election. Therefore, and in addition to being identified as currently insulated from accountability in-between elections, it appears questionable just how accountable PCCs are given minimal levels of electoral accountability. Furthermore, it seems credible to argue that the PCCs who did not seek re-election in 2016 were seemingly unaccountable for their entire tenure in office. Indeed, it appears plausible to conclude that although PCCs are elected the democratic deficit in policing has not as intended been successfully bridged: the apotheosis of democratic police accountability may merely be an illusion cast to dispel the criticisms prevalent in police accountability and policing throughout the latter part of the twentieth century.¹⁵⁷³

¹⁵⁶⁸ see chapter 2 of this thesis pg (s) 42 to 44

¹⁵⁶⁹ see chapter 2 of this thesis pg (s) 42 to 44 and Leonard, D, (2008) pg 187

¹⁵⁷⁰ Statutory Instrument (2012) No.2553, The Police and Crime Commissioner Elections (Declaration of Acceptance of Office) Order 2012 available at

http://www.legislation.gov.uk/ukxi/2012/2553/pdfs/ukxi_20122553_en.pdf Accessed 22nd May 2017

¹⁵⁷¹ see <http://www.apccs.police.uk/home/2016-police-crime-commissioner-elections/> accessed 10th May 2016

¹⁵⁷² As previously argued and confirmed by the APCC almost one third of the first cohort of PCCs did not seek re-election

¹⁵⁷³ See generally chapter 3

Prior to offering a conclusion the following analysis draws from the interviews for this thesis and explores the impact of PCCs having the statutory power to remove Chief Constables from office.

PCCs: holding Chief Constables to account and removing them

A striking feature of the present structure of police accountability is that PCCs are singularly responsible for holding Chief Constables to account¹⁵⁷⁴ while also having the power to appoint,¹⁵⁷⁵ suspend,¹⁵⁷⁶ and remove them.¹⁵⁷⁷ The power to remove Chief Constables has been identified as the most contentious by a number of reports and reviews.¹⁵⁷⁸ Thus, in terms of removing and in accordance with the Act: ‘the PCC for a police area may call upon the Chief Constable of the police force for that police area to resign or retire.’¹⁵⁷⁹ Further, as stated: ‘The Chief Constable must retire or resign if called upon to do so.’¹⁵⁸⁰ When triggered the PCP¹⁵⁸¹ is required to hold a scrutiny hearing¹⁵⁸² whereby the PCC and Chief Constable are ‘entitled to attend for the purpose of making representations relating to the proposal to call upon the Chief Constable to retire or resign.’¹⁵⁸³ After the scrutiny hearing and in accordance with the Act the PCC has to simply ‘consider the Panel’s recommendation’¹⁵⁸⁴ and ultimately decides whether to ‘accept or reject it.’¹⁵⁸⁵ Therefore, in practice the Panel’s role is purely advisory.

Removing Chief Constables involves PCCs activating a hard mechanism of accountability,¹⁵⁸⁶ defined and primarily evidenced by the removal from office of officials.¹⁵⁸⁷ Hard mechanisms of accountability are differentiated from soft mechanisms of

¹⁵⁷⁴ As previously explored in this chapter PCCs are singularly responsible for holding Chief Constables to account, see generally s. 1 (7) (a -b), s.1 (8) (a-h), s.11 PRSRA 2011 and The Policing Protocol Order 2011, SI 2011/2744

¹⁵⁷⁵ s.38 (1) PRSRA 2011

¹⁵⁷⁶ s.38 (2) PRSRA 2011

¹⁵⁷⁷ s.38 (3) and s.38(4) PRSRA 2011

¹⁵⁷⁸ Explored below, the PCCs power to remove Chief Constables has been argued to be contentious by (i) The House of Commons Home Affairs Committee, Police and Crime Commissioners: power to remove Chief Constables, Sixth Report of Session 2013-2014 available at <http://www.publications.parliament.uk/pa/cm201314/cmselect/cmhaff/487/487.pdf> Accessed 9th August 2016. Hereafter cited as Police and Crime Commissioners: power to remove Chief Constables. (ii) Policing for a Better Britain, Report of the Independent Police Commission available at <http://independentpolicecommission.org.uk/uploads/37d80308-be23-9684-054d-e4958bb9d518.pdf> Accessed 8th August 2016. Hereafter cited as The Stevens Review and (iii) The House of Commons Home Affairs Committee, Police and Crime Commissioners: progress to date, published 5 May 2014 available at <http://www.publications.parliament.uk/pa/cm201314/cmselect/cmhaff/487/487.pdf> accessed 8th August 2016. Hereafter cited as Police and Crime Commissioners: progress to date

¹⁵⁷⁹ s. 38 (3) PRSRA 2011

¹⁵⁸⁰ s. 38 (4) PRSRA 2011

¹⁵⁸¹ As previously explored in this chapter PCPs are a statutory requirement for each police area and responsible for supporting and scrutinising the PCC: PCPs are the intended check and balance. However, as previously identified by this study and in this chapter PCPs appear to be ineffectual, impotent and ineffective.

¹⁵⁸² see Schedule 8, Part 2, s.15 (9) PRSRA 2011

¹⁵⁸³ see Schedule 8, Part 2, s.15 (9) PRSRA 2011

¹⁵⁸⁴ see Schedule 8, Part 2, s.16 (1) (a) PRSRA 2011

¹⁵⁸⁵ see Schedule 8, Part 2, s.16 (1) (b) PRSRA 2011

¹⁵⁸⁶ Hard mechanisms of accountability are explored in detail in Chapter 1 of this thesis see pg (s) 19 to 21, Malleon, K, Ashgate (1999) pg 39 and Sengupta, A, (2014) at 253

¹⁵⁸⁷ Hard mechanism of accountability are also evidenced by; disciplinary proceedings, public censure and civil or criminal liability. See chapter 1 of this thesis pg (s) 19 to 21, Malleon, K, T (1999) pg 39 and Sengupta, A, (2014) at 253

accountability which are defined and evidenced by the qualities of openness and representativeness.¹⁵⁸⁸ Additionally, the statutory process used to remove Chief Constables demonstrates the exercise of discretion, defined as power to make a choice between alternative causes of action or inaction.¹⁵⁸⁹ Hence, in accordance with their conferred statutory power, PCCs exercise a strong power of discretion¹⁵⁹⁰ when removing Chief Constables.¹⁵⁹¹ Indeed the discretion PCCs exercise is evidenced by the fact that the PCC alone decides whether to accept or reject the PCP's recommendation¹⁵⁹² following the required scrutiny hearing.¹⁵⁹³

As previously identified the PCCs' power to remove Chief Constables has proved to be highly contentious.¹⁵⁹⁴ Within one year of the first cohort of PCCs being elected to office HASC stated that PCC's s.38 power¹⁵⁹⁵ was radical¹⁵⁹⁶ and reported that it was of no surprise that there was a number of high profile clashes between PCCs and Chief Constables.¹⁵⁹⁷ Here, in support of their argument HASC cited the clashes between PCC and Chief Constable in three police areas: Avon and Somerset, Lincolnshire and Gwent. The then Chief Constable of Avon and Somerset, Colin Port, refused to re-apply for his position after being told by the PCC that they wanted to recruit a new Chief Constable to cover their entire tenure¹⁵⁹⁸ while the Chief Constable of Lincolnshire, Neil Rhodes, was suspended by the PCC.¹⁵⁹⁹ The suspension was subject to judicial review and argued to be a "near nuclear option"¹⁶⁰⁰ in the High Court, which also held that the Lincolnshire PCC's actions were "unlawful, irrational and perverse."¹⁶⁰¹ Accordingly the suspension was quashed and Rhodes was duly re-instated as Chief Constable. In addition to these headline grabbing clashes the then recently disposed Chief Constable of Gwent,¹⁶⁰² Carmel Napier, urged that PCCs are an unfettered decision maker:

¹⁵⁸⁸ Soft mechanisms of accountability have arguably developed due to the crude and sometimes ineffective mechanisms of hard accountability. Further, soft mechanisms of accountability are linked to the requirement for decision makers to justify and explain decisions. See chapter 1 of this thesis pg (s) 21 to 22, Malleon, K, (1999) pg 39 and Sengupta, A, (2014) at 253

¹⁵⁸⁹ see in particular Davis, K.C (1969) pg 4 and De Smith's Judicial Review, (2013) pg 244

¹⁵⁹⁰ Dworkin, R, (1977) pg 391

¹⁵⁹¹ s. 38 (3) PRSRA 2011

¹⁵⁹² see Schedule 8, Part 2, s.16 (1) (a) PRSRA 2011

¹⁵⁹³ see Schedule 8, Part 2, s.15 (9) PRSRA 2011

¹⁵⁹⁴ HASC and Stevens both highlight the controversial nature of this power. See Police and Crime Commissioners: power to remove Chief Constables, Policing for a Better Britain, Report of the Independent Police Commission available at <http://independentpolicecommission.org.uk/uploads/37d80308-be23-9684-054d-e4958bb9d518.pdf> Accessed 8th August 2016. Hereafter cited as the Stevens Review and Police and Crime Commissioners: progress to date

¹⁵⁹⁵ specifically s.38 (3) and s.38 (4) PRSRA 2011 gives PCCs the power to remove Chief Constables

¹⁵⁹⁶ HASC argued that the PCCs power is potentially operationally disruptive, costly and damaging to the police and individuals concerned. See Police and Crime Commissioners: power to remove Chief Constables pg 4

¹⁵⁹⁷ Police and Crime Commissioners: power to remove Chief Constables pg 1

¹⁵⁹⁸ Statement, Office of Avon and Somerset PCC: Chief Constable, Avon & Somerset Police and Crime Commissioner, 22 November 2012

¹⁵⁹⁹ The Queen on the Application of Rhodes v Police and Crime Commissioner for Lincolnshire, [2013] EWHC 1009

¹⁶⁰⁰ [2013] EWHC 1009 para 59

¹⁶⁰¹ [2013] EWHC 1009 para 114

¹⁶⁰² In a prepared statement the PCC of Gwent argued that the Chief Constable had poor management styles and was openly opposed to the very concept of PCCs, see Police and Crime Commissioners: power to remove Chief Constables pg 4

“PCCs [have] unfettered powers to appoint, suspend, and remove Chief Constables. Therefore no matter what process I went through with the Police and Crime Panel, the outcome would be the same because the PCC is the ultimate decision-maker.”¹⁶⁰³

HASC concluded their report in strong terms, stating that the reasons given by PCCs for removing Chief Constables were unpersuasive.¹⁶⁰⁴ Further, it was argued that it is very easy for a PCC to remove a Chief Constable,¹⁶⁰⁵ and that nobody, including the PCP or Home Secretary, could over-rule a PCC who was determined to remove a Chief Constable.¹⁶⁰⁶

Following HASC’s report, The Independent Police Commission,¹⁶⁰⁷ appointed by the Shadow Home Secretary and chaired by the former Commissioner of the Metropolitan Police Lord Stevens, also acknowledged that the PCC’s power to remove Chief Constables was controversial. Although of questionable political independence,¹⁶⁰⁸ Steven’s concluded that giving PCCs the power to remove Chief Constables undermines the relationship between the two and risks exerting a damaging chilling effect on police leadership.¹⁶⁰⁹

Published just six months after the Stevens review, HASC again explored the relationship between PCC and Chief Constable.¹⁶¹⁰ Although described as a key aspect of the new governance model for policing,¹⁶¹¹ the Select Committee acknowledged that the relationship had attracted concern since its formation due to it breaking down.¹⁶¹² The Government’s response to the Committees progress review was presented to Parliament December 2014.¹⁶¹³ In an apparent stark contrast with the arguments and conclusions made by HASC and Stevens, the Home Secretary told Parliament that PCCs had in fact brought real local accountability to how Chief Constables perform.¹⁶¹⁴ Additionally the Home Secretary addressed specifically the PCCs’ power to remove Chief Constables:

“It is entirely a matter for PCCs ... the Government does not consider any centralised control or guidance appropriate.”¹⁶¹⁵

Thus, the above cited reports and reviews clearly show how contentious and controversial the PCC’s power to remove Chief Constables is. Giving evidence to HASC in 2013¹⁶¹⁶ the then

¹⁶⁰³ Home Affairs Select Committee: Evidence, EV 9 Qu 85

¹⁶⁰⁴ Police and Crime Commissioners: power to remove Chief Constables pg 5

¹⁶⁰⁵ Police and Crime Commissioners: power to remove Chief Constables pg 4

¹⁶⁰⁶ Police and Crime Commissioners: power to remove Chief Constables pg 4

¹⁶⁰⁷ The Stevens Review

¹⁶⁰⁸ The review was relied upon by the Labour Party in their 2015 election manifesto see Britain Can Be Better, The Labour Party Manifesto 2015 available at <http://www.labour.org.uk/page/-/BritainCanBeBetter-TheLabourPartyManifesto2015.pdf> pg 52 Accessed 9th August 2016

¹⁶⁰⁹ Stevens Review pg 83

¹⁶¹⁰ House of Commons Home Affairs Committee, Police and Crime Commissioners: progress to date, published 5 May 2014 available at <http://www.publications.parliament.uk/pa/cm201314/cmselect/cmhaff/487/487.pdf> accessed 8th August 2016. Hereafter cited as Police and Crime Commissioners: progress to date

¹⁶¹¹ Police and Crime Commissioners: progress to date pg 21

¹⁶¹² Police and Crime Commissioners: progress to date pg 21

¹⁶¹³ The Government response to the Sixteenth Report from the Home Affairs Select Committee, Police and Crime Commissioners: progress to date. Available at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/387123/PCCprogressToDate.pdf Accessed 10th August 2016. Hereafter cited as The Government’s Response

¹⁶¹⁴ The Government’s response pg 9

¹⁶¹⁵ The Government’s response pg 14

recently disposed Chief Constable of Gwent highlighted that PCCs are unchecked, they are the ultimate decision maker.¹⁶¹⁷ In addition to concluding that there is little statutory safeguard¹⁶¹⁸ HASC acknowledged that no one could overrule a PCC.¹⁶¹⁹ While Steven's argued that the PCC's power to remove Chief Constables risks creating a damaging chilling effect on police leadership,¹⁶²⁰ HASC's 2014 progress review stressed that the relationship between PCC and Chief Constable had attracted concern since its formation due to the relationship breaking down.¹⁶²¹ Nevertheless the position was made clear by the Home Secretary, the removal of Chief Constables was unequivocally identified as a matter for PCCs alone: no one, including the Government, should intervene.¹⁶²² Therefore, in addition to holding Chief Constables to account PCCs are solely responsible for activating a hard mechanism of accountability and exercise a strong discretion when they alone decide to remove a Chief Constable.¹⁶²³

Identifying why PCCs were given the power to remove Chief Constables while also having sole responsibility for holding them to account was an important issue explored in the fieldwork for this thesis when the person directly involved with introducing the present structure of police accountability was interviewed. Providing clarity, this interviewee stated that PCCs were given the power to remove Chief Constables as PCCs must themselves be answerable:

“There should be a consequence, if a man [the PCC] sets an objective and he [the Chief Constable] completely ignores it how can you have an elected representative go back to the people and say I knew what to do but he didn't want to do it. He [the PCC] has to have the power, otherwise he [the PCC] is not responsible.”¹⁶²⁴

Furthermore, it was argued that PCCs must have the power to remove Chief Constables to ensure that Chief Constables are themselves encouraged to act.¹⁶²⁵ Thus, in addition to evidencing accountabilities key facets of enforceability,¹⁶²⁶ the possibility of sanctions¹⁶²⁷ and the ever present threat of being called to account which itself arguably ensure compliance,¹⁶²⁸ the PCC's power to remove Chief Constables is conceivably a mechanism of empowerment devised to help PCCs hold Chief Constables to account:

“Empowering people to do their job means holding them to account and that at the end of the day means firing them [Chief Constables]. Chiefs don't hesitate moving people all the time if they are not up to

¹⁶¹⁶ Police and Crime Commissioners: power to remove Chief Constables

¹⁶¹⁷ Home Affairs Select Committee: Evidence, EV 9 Qu 85

¹⁶¹⁸ Police and Crime Commissioners: power to remove Chief Constables pg 4

¹⁶¹⁹ Police and Crime Commissioners: power to remove Chief Constables pg 4

¹⁶²⁰ Stevens Review pg 83

¹⁶²¹ Police and Crime Commissioners: progress to date pg 21

¹⁶²² The Government's Response pg (s) 9, 14

¹⁶²³ s. 38 (3), (4) PRSRA 2011

¹⁶²⁴ Person Y

¹⁶²⁵ Here it was argued by Person Y that Police Authorities “didn't give Chief Constables objectives and generally gingered Chief Constables along”

¹⁶²⁶ Enforceability is a key facet of accountability, see chapter 1 of this thesis pg 19 and Schedler, A, in A. Schedler, L. Diamond, M. Plattner (eds) (1999) pg 15

¹⁶²⁷ The possibility of sanctions is also a key facet of accountability, see chapter 1 of this thesis pg (s) 19 to 20 and Sengupta, A, (2014) at 252

¹⁶²⁸ The ever present threat of being called to account is also a key facet of accountability, see chapter 1 of this thesis pg (s) 19 to 20 and Mulgan, R, (2000) pg 559

it so why shouldn't they themselves be moved out ... PCCs have a job to do, if they [PCCs] never fire Chief Constables they [PCCs] are not doing a good job.”¹⁶²⁹

Thus PCCs were given the power to remove Chief Constables as they themselves must be responsible, answerable¹⁶³⁰ and thus accountable.¹⁶³¹ Moreover, and in addition to evidencing in practice accountabilities key facets, the PCC's power to remove Chief Constables is identified as a mechanism of empowerment intended to embolden Chief Constables and help PCCs hold them to account. However, as explored below, this study reveals that the PCC's power to remove Chief Constables can have a collateral and corrosive impact on policing and police accountability. Indeed two specific corrosive impacts are identified. First, the probability of an unfolding instability in police leadership. Second, the potential that Chief Constables are developing a practice of abstention and possibly becoming indebted to their PCC.

The probable unfolding instability in police leadership

Significantly, and in addition to supporting the argument that it is contentious¹⁶³² the interviews conducted for this study find that the PCC's conferred statutory power to remove Chief Constables appears to create an unfolding instability in police leadership. The volatility caused by PCCs having the power to remove Chief Constables was emphasised by interviewees for this research, including one of the most senior persons in policing. Acknowledging this change, making the explicit link between the previously detailed s.38 procedure¹⁶³³ and the argued current instability in police leadership, this interviewee warned that Chief Constables are now constantly concerned that the PCC will remove them from office:

“All Chiefs are too conscious about s.38, it is something in the back of Chief Constables' minds which it never used to be ... the relationship between Chiefs and the local accountability mechanism [the PCC] has been re-calibrated in a way which has the potential to destabilise leadership.”¹⁶³⁴

Moreover, while highlighting that Chief Constables should of course not be immune from accountability, it was argued that the instability in police leadership was a direct consequence of PCCs having the ability to exercise their conferred statutory power to remove Chief Constables. Additionally, the evidenced capricious removal¹⁶³⁵ of Chief Constables is asserted as having an adverse effect on the Police:

¹⁶²⁹ Person Y

¹⁶³⁰ As previously argued in this thesis accountability at its core means answerability. See chapter 1 of this thesis pg (s) 19 to 21, Day, P, (1987) pg 1, Sengupta, (2014) at 251, Chan, J, G (1999) pg 252

¹⁶³¹ This finding is supported by HASC. The Committee stated argued that PCCs having the power to remove Chief Constables was essential to their role as elected representatives. Additionally it was argued that the power enabled PCCs to provide robust and critical challenge. See Police and Crime Commissioners: power to remove Chief Constables pg 5

¹⁶³² see HASC 2013 Report Police and Crime Commissioners: power to remove Chief Constables, Steven's 2013 Review and HASC 2014 Report Police and Crime Commissioners: progress to date

¹⁶³³ see s.38 (1), s.38 (2), s.38 (3) and s.38 (4) PRSRA 2011

¹⁶³⁴ Person Z

¹⁶³⁵ As argued by HASC not only is it very easy for a PCC to remove a Chief Constable but the reasons given are not persuasive. Further, there is limited safeguards as nobody can overrule a PCC. See Police and Crime Commissioners: power to remove Chief Constables pg 4, 5

“I do fear that we might still or are in the process of bringing too much instability into the leadership of the service. I don’t think that Chiefs should be bomb proof but if they’re constantly worried about s.38 I don’t think it’s good for the organisations they lead.”¹⁶³⁶

Other interviewees, such as Chief Constable E, contended that there is an instability in police leadership in light of PCCs having the power to remove Chief Constables. Ominously, this Chief Constable stressed that something as inconspicuous and unassuming as a different vision for policing may itself be sufficiently significant and could potentially lead to a Chief Constable being removed:

“If a PCC had a completely different vision to what I had as a Chief Constable then we’re not going to work too well together and one of us will end up going and it will be the Chief that gets the sack.”¹⁶³⁷

Additionally, the apparent ease¹⁶³⁸ with which PCCs may be able to remove Chief Constables and the sole responsibility the PCC retains for appointing¹⁶³⁹ a willing replacement led Chief Constable E to caution that the incoming Chief Constable may in practice do exactly what the incumbent Chief Constable fundamentally failed to do: what the PCC, their employer, wanted. Here it was urged that after removing a Chief Constable a PCC would simply “appoint a bit of a puppet [Chief Constable] that does exactly what they [the PCC] want.”¹⁶⁴⁰ Furthermore, it was argued that the ability of PCCs to assume and adopt a self-serving or self-benefiting appointment process would also “de-stabilise the force and the leadership team.”¹⁶⁴¹ Thus the PCC’s power to appoint can also be seen as contentious and possibly contributing to the probable unfolding instability in police leadership. Moreover, the argument that PCCs may appoint someone who they arguably could effectively control resonated with other interviewees, most notably Person Z. This interviewee indicated that the power of appointment¹⁶⁴² gave PCCs the unintended intrinsic ability to ‘steam roll’ their newly appointed Chief Constable:

“Of course. Most Chiefs have now been appointed by the PCC. If someone appointed you it does put you in a slightly different relationship with them than if they inherited you.”¹⁶⁴³

These findings from the fieldwork for this thesis are significant for the governance of policing through the PCC. Although the contentious nature of the PCC’s power to remove Chief Constables is well documented¹⁶⁴⁴ this research highlights a potentially corrosive and possible unfolding instability in police leadership. Intended to make PCCs answerable and provide a mechanism to encourage Chief Constables, thereby also evidencing accountabilities key facets and by association therefore accountability itself, the PCC’s conferred statutory power to remove Chief Constables is argued to paradoxically lead to Chief Constables being

¹⁶³⁶ Person Z

¹⁶³⁷ Chief Constable Police Area E

¹⁶³⁸ HASC argued that it was very easy for a PCC to remove a Chief Constable, see Police and Crime Commissioners: power to remove Chief Constables pg 4

¹⁶³⁹ PCCs are responsible for appointing Chief Constables, see s.38 (1) PRSRA 2011

¹⁶⁴⁰ Chief Constable Police Area E

¹⁶⁴¹ Chief Constable Police Area E

¹⁶⁴² PCCs are responsible for appointing Chief Constables, see s.38 (1) PRSRA 2011

¹⁶⁴³ Person Z

¹⁶⁴⁴ HASC argued that the relationship between PCC and Chief Constable has caused concern since its inception and concluded that no one could overrule a PCC. Additionally, Stevens concluded that PCCs having the power to remove Chief Constables risked exerting a damaging chilling effect on police leadership

constantly concerned that they may be removed from office. Certainty, it appears that the metaphorical axe hanging over the heads of Chief Constables can swing into action for seemingly modest reasons. Therefore, in practice, Chief Constables may become risk adverse as they fear being removed from office. In light of this, the question has to be asked whether the PCC's conferred statutory power to remove Chief Constables constitutes, as intended, an effective mechanism of empowerment.¹⁶⁴⁵ As identified, PCCs were given the power to remove so that Chief Constables are embolden and effectively held to account. Indeed, the power is argued to be essential to PCCs providing robust, critical challenge.¹⁶⁴⁶ However, the PCC's power to remove Chief Constables may possibly prove to be a mechanism of disempowerment as Chief Constables seemingly identify the power as an oppressive instrument of deterrence used by PCCs to remove them. Therefore the mechanism may fail to encourage or empower.

Moreover, the contended unfolding instability in police leadership also possibly extends to the argued self-serving practice that a PCC can adopt when choosing to appoint a willing replacement Chief Constable. Critically, the exclusive power the PCC retains for appointing their new Chief Constable can in practice lead to a substantially different kind of relationship which endows a PCC with the ability to direct and steam roll their newly appointed employee: the Chief Constable. Thus, in addition to possibly becoming risk adverse Chief Constables may also in practice be directed and controlled by the PCC.

Furthermore, as previously explored and evidenced, the calibre and experience of PCCs varies significantly.¹⁶⁴⁷ While some are identified as value driven, bright and well informed¹⁶⁴⁸ others are argued to be ill-equipped, ill-prepared and principally lack appropriate skills.¹⁶⁴⁹ Indeed, in a candid exercise of self-appraisal some PCCs are assessed as "completely useless."¹⁶⁵⁰ Additionally, instead of operating with objectivity and clarity,¹⁶⁵¹ PCCs can in practice function with the driving force of subjectivity, personality and ego.¹⁶⁵² Thus, applied within the context of PCCs being solely responsible for removing Chief Constables, not only does it appear that Chief Constables can be subject to the whims or mercy of their PCC but that they can be removed by a PCC who themselves in reality and practice are very likely to be inexperienced, unskilled and unaccountable due to the failure of PCPs to provide any interim check or balance.¹⁶⁵³ Indeed it is arguably perverse that a PCC elected with a small electoral mandate, whose own office is subject to claims of a legitimacy crisis, has the statutory authority and capability to activate a hard mechanism of accountability and remove a professional with the experience and knowledge of policing held by a Chief Constable.

¹⁶⁴⁵ As argued by Person Z PCCs were given the power to remove Chief Constables to empower them to hold Chief Constables to account effectively. Indeed HASC argued that this power was essential to the role of PCCs and would lead to PCCs providing robust, critical challenge. See Police and Crime Commissioners: power to remove Chief Constables pg 5

¹⁶⁴⁶ Police and Crime Commissioners: power to remove Chief Constables pg 5

¹⁶⁴⁷ see chapter 6 of this thesis pg (s) 132 to 135

¹⁶⁴⁸ Chief Constable Police Area D

¹⁶⁴⁹ Chief Constable Police Area C

¹⁶⁵⁰ OPCC Police Area D

¹⁶⁵¹ Chief Constable Police Area D

¹⁶⁵² Chief Constable Police Area E

¹⁶⁵³ As identified and explored previously in this chapter PCCs are argued to be unaccountable due to the impotency and ineffectiveness of PCPs, the body charged by statute to be the check and balance on PCCs

Chief Constables abstaining and becoming indebted to the PCC

In addition to identifying that the PCC's power to remove and appoint Chief Constables creates a potentially corrosive and possible instability in police leadership findings from the interviews identify that Chief Constables can lack a cogent ability to oppose, and, if needed, effectively question or challenge the person charged with holding them to account: the PCC. The argument advanced for some Chief Constables abstaining from actively contesting matters with their PCC is that they fundamentally fear the possibility of a subsequent removal from office:

“The problem you have is that Chief Constables are given a contract. [The PCC] and I have had some fairly major bust ups and difficult conversations but have I ever thought [the PCC] is now going to sack me? No I haven't but I have had the courage to do it but I know some Chiefs won't. Some Chiefs haven't.”¹⁶⁵⁴

Asked whether Chief Constables were abstaining due to being conscious of, and possibly subject to removal by a PCC, Chief Constable B's reply was emphatic: “Yes, absolutely.”¹⁶⁵⁵ For others the imbalance of power¹⁶⁵⁶ is significant and in practice runs the risk that Chief Constables will become inseparably connected to the PCC:

“There is a very strong risk that Chiefs, rather than talking about the good of policing and the balance that needs to be there, will become beholden to PCCs if their contract is not going to get them to their retirement age and that cannot be good for the British public. There is a lot of power in the hands of one person.”¹⁶⁵⁷

The argument that Chief Constables can in practice become bound to their PCC was also argued by Chief Constable E. Additionally, it was claimed that Chief Constables will be subject to influence by the PCC:

“There is a risk ... I am not at risk of being influenced by being told if you don't do what you are told you will lose your job but there's a risk of that in the future. Most Chief Constables are in the same position, there are a lot of Chiefs with a lot of service who say I will do the best I can but I am not going to be influenced by whether or not you are going to keep me working so that I can get my pension. As time goes on that is going to change, a lot of Chiefs will come in who will have to work for 3,4,5, 10 years. I think they will be influenced. If the Commissioner tries to influence me I have no axe hanging over my head but you're going to have to be a very strong individual, a very strong leader with 27 years' service with 3 years to go until you get your pension if you don't do a certain thing you're gone.”¹⁶⁵⁸

Thus the ability of PCCs to influence Chief Constables is potentially considerable. Additionally the present model is identified as inflexible, leading some interviewees to warn

¹⁶⁵⁴ Chief Constable Police Area B

¹⁶⁵⁵ Chief Constable Police Area B

¹⁶⁵⁶ Here interviewees argued that the balance of power between PCC and Chief Constable was intended to be the same, yet as soon as one can get rid of the other this is in practice unachievable

¹⁶⁵⁷ Chief Constable Police Area D

¹⁶⁵⁸ Chief Constable Police Area E

that the difficulty faced when the need arose to remove a PCC compared to the comparative ease with which a Chief Constable can be removed allows PCCs to act with the interest of self-service and subject Chief Constables to political pressure:

“Not only is it quite easy for a PCC to manage their Chief out if they don’t want them but it’s pretty difficult to manage a PCC out if they are not delivering what is required. That’s a pretty rigid model ... this needs to be looked at to make sure Chief Constables aren’t subject to unwarranted political pressure and that PCCs have an effective set of safeguards to ensure that they are delivering according to public need and not self-service.”¹⁶⁵⁹

These findings from the fieldwork for this thesis raise important questions for police accountability. The significant imbalance of power revealed in the interviews can in practice lead to Chief Constables failing to effectively contest and where necessary oppose the PCC. Moreover some Chief Constables may even abstain from contesting or questioning matters with their PCC. Additionally, the current inflexibility potentially allows PCCs to act with the interest of self-service, while Chief Constables may become beholden and subject to substantial influence and pressure. Critically, when placing these findings within the wider context of police accountability, as argued through this thesis the potential impact could be profound. Indeed, it appears plausible to argue that the PCC’s conferred statutory power to remove Chief Constables, and the previously identified implications of this combined with the ability to appoint a willing replacement which the PCC therefore has the potential to control, may give rise to a different mode of accountability. Two modes of accountability are defined and distinguished by Marshall.¹⁶⁶⁰ First, a ‘subordinate and obedient’ mode¹⁶⁶¹ is argued to lead to a supervisory form of accountability accompanied by administrative control and the ability to direct and veto.¹⁶⁶² Second, an ‘explanatory and co-operative’ mode¹⁶⁶³ is argued to be evidenced by the ability to challenge, require reasoned explanations, answers and make recommendations.¹⁶⁶⁴ While an explanatory and co-operative mode appears difficult to demonstrate as some Chief Constables abstain from challenging, requiring explanations and making recommendations, aspects of Marshall’s subordinate and obedient mode are perhaps more easily evidenced as PCCs conceivably exercise direct supervisory accountability and ultimately veto Chief Constables by removing them.

In furtherance of Marshall’s defined modes, the PCC’s conferred statutory power to remove and appoint Chief Constables possibly creates a different form of accountability, which in practice may lead to Chief Constables being overly influenced and even told what to do. Indeed, as highlighted, it may be probable that if a Chief Constable fails to act in accordance with their given command the PCC may wield their metaphorical axe. This different form of accountability may also contain facet of dominance, evidenced by the significant imbalance of power and current identified rigidity within the present model of police accountability. This facet may lead to Chief Constables becoming beholden, subject to the PCC’s considerable pressure and, possibly, their control. Moreover, the PCC’s potential ability to dominate and direct Chief Constables is also evidenced by the controversial finding from this

¹⁶⁵⁹ Chief Constable Police Area D

¹⁶⁶⁰ see chapter 3 of this thesis and Marshall G, (1960), Marshall, G, (1965) pg (s) 105 to 120, and Marshall, G, in T. Newburn (eds) (2005) pg (s)632 to 634

¹⁶⁶¹ Marshall, G, in T. Newburn (eds) (2005) pg 633

¹⁶⁶² Marshall, G, (2005) in T. Newburn (eds) pg 633

¹⁶⁶³ Marshall, G, (2005) in T. Newburn (eds) pg 633

¹⁶⁶⁴ Marshall, G, (2005) in T. Newburn (eds) pg 634

research that PCCs could appoint a ‘puppet Chief Constable’ that does exactly what they want.

This form of accountability would be contentious. Not only is it argued that accountability should itself be independent from direct control,¹⁶⁶⁵ but additionally it may disempower Chief Constables as a PCC may command, overrule and even possibly manipulate a Chief Constable. Indeed, as evidenced from the interview with the person directly involved with introducing the present structure of police accountability a PCC has already inappropriately empowered themselves and thereby improperly assumed the position of “Chief of the Chief Constable.”¹⁶⁶⁶ Thus, in addition to displacing and thereby assuming the Chief Constable’s responsibilities for policing the PCC arguably commands and overrules the Chief Constable:

“[The PCC] runs the Police, [the PCC] hasn’t let the Chief get on with it at all. That’s not what you want from a PCC. [The PCC] regards himself as the Chief of the Chief.”¹⁶⁶⁷

PCCs being singularly responsible for holding Chief Constables to account while also retaining the possibility of exercising the power to remove and appoint represents a seismic shift in police accountability. As identified PCCs were equipped with the power to remove Chief Constables to ensure that they themselves are responsible, answerable and thus accountable. In addition to evidencing accountability’s key facets and therefore, synonymously accountability itself, the power was intended to be a mechanism of empowerment to embolden Chief Constables and aid PCCs hold Chief Constables to account more effectively by facilitating robust and critical challenge.

However, as highlighted by HASC and Stevens, the power proved to be contentious and controversial within eighteen months of the first cohort of PCCs taking office. Additionally these findings indicate that the PCC’s conferred statutory power to remove and appoint Chief Constables conceivably creates what appears to be a corrosive impact on policing and police accountability. Indeed, the probable unfolding instability in police leadership goes beyond the risks asserted by HASC and Stevens as Chief Constables are seemingly constantly concerned that the PCC will remove them from office for ostensibly unremarkable reasons. Furthermore, in addition to identifying a collateral and eroding impact on the Police, the PCC’s identified self-benefiting power to appoint a willing replacement Chief Constable is argued to lead to a manifestly different relationship which potentially gives PCCs the ability to steam roll and ultimately control their newly appointed puppet Chief Constable.

The identified practice of Chief Constables abstaining from opposing, and, if needed, effectively questioning or challenging PCCs is quite remarkable. Likewise the contended imbalance of power may in practice lead to Chief Constables becoming beholden to PCCs and possibly subject to considerable influence while the present structures inflexibility may also allow PCCs to act with the interests of self-service. Moreover, the absence of effective safeguards and the asserted rigidity feasibly leads to PCCs subjecting Chief Constables to unjustifiable political pressure.

These findings have important policy and practice implications. The PCCs power to remove Chief Constables could in practice prove to be a mechanism of disempowerment, not encouragement. Additionally, the argued different form of accountability may lead to Chief

¹⁶⁶⁵ Marshall G, (1960), Marshall, G, (1965) pg (s) 105 to 120, and Marshall, G, in T. Newburn (eds) (2005) pg (s) 632 to 634

¹⁶⁶⁶ Person Y

¹⁶⁶⁷ Person Y

Constables being displaced by PCCs. Indeed, in totality, findings lend credence to the argument that the present one to one accountability structure is highly flawed and most likely unsuitable for policing and police accountability.

Conclusions

PCCs are the first non-collective and directly elected structure of police accountability in the history of modern policing. In addition to contending that the basic tenets of vertical, electoral accountability are beset with difficulties this chapter argued that using elections to achieve democratic police accountability may be fraught with difficulties. Indeed, the election of PCCs may be flawed by candidates themselves being connected to political parties. Notably, and as highlighted by one interviewee in particular, the mere placing of a red or blue rosette may crudely guarantee some the elected office of PCC. Moreover, on top of being labelled a shambles and dangerous, the elections conceivably allow PCCs to bypass a formal and credible selection process. Additionally, the small percentage of votes may in practice lead to the election of a PCC who does not truly reflect and represent the public.

It was argued in this chapter that the PCC elections may carry significant risks for police accountability and potentially policing. Notably, the elections may in practice lead to police accountability being ingrained with posturing and superficiality. Furthermore, while the politically elected PCC may partially share responsibility for undermining Peel's founding doctrine of freedom from political control, the holding of elections every four years might in practice fail to build democracy into policing, especially when the serving PCC decides themselves not to seek re-election. Thus, feasibly, the long maintained democratic deficit in policing could in practice remain. Indeed, the PCC elections may be designed to paper over the cracks and criticisms widespread in policing and police accountability throughout the latter part of the twentieth century. However, as findings reveal, using elections to achieve democratic police accountability is problematic and potentially carries significant risks for police accountability and policing. Indeed, the new electoral facet of police accountability may represent one significant imperfection within the present structure and model of police accountability.

Finally, this chapter examined the PCC's conferred statutory power to remove and appoint Chief Constables, identifying the power as unfettered and a highly contentious feature of the present model of police accountability. Significantly, in addition to a number of reports and reviews, it was argued that this power has the potential to create a collateral and corrosive impact on policing and police accountability. In addition to the instability in police leadership, Chief Constables are identified as likely to abstain and risk become beholden to PCCs. Additionally, the current inflexibility might lead to Chief Constables being subject to unjustifiable political pressure and allow PCCs to act with the interest of self-service.

The PCCs power to remove Chief Constables may also in practice serve as a mechanism of disempowerment and, further, lead to a different form of accountability which may lead to PCC's commanding, overruling and even possibly manipulating Chief Constables. Indeed, as evidenced, this unintentional empowerment of PCCs may in practice lead to Chief Constables being displaced and PCCs assuming the Chief Constable's role and responsibilities within the present model of police accountability.

Chapter 8: Conclusions

The very lifeblood of policing is accountability.¹⁶⁶⁸ Indeed, accountability is the most precious commodity and above all other considerations the Police must be accountable.¹⁶⁶⁹ Yet, as evidenced, police accountability has been a contested territory since the inception of policing.¹⁶⁷⁰ Moreover, police accountability has been argued to be a complex,¹⁶⁷¹ peculiar,¹⁶⁷² elusive¹⁶⁷³ and imprecisely defined¹⁶⁷⁴ elastic¹⁶⁷⁵ ideal lost in a complicated web of obligations and responsibilities.¹⁶⁷⁶

As a concept accountability has been described as comprehensive,¹⁶⁷⁷ fashionable¹⁶⁷⁸ and iconic¹⁶⁷⁹ given its ability to conjure the seductive and utopian ideals of good governance and clean administration. This thesis defined the core meaning of accountability as answerability which in practice is evidenced when one institution, person or organisation is answerable¹⁶⁸⁰ and gives accounts or explanations to another institution, person or organisation.¹⁶⁸¹ Being answerable, giving accounts or explanations led accountability to be defined as an appealing,¹⁶⁸² explanative,¹⁶⁸³ relational concept¹⁶⁸⁴ which creates a dialectical relationship¹⁶⁸⁵ between two branches. The first, the accountant¹⁶⁸⁶ or governor,¹⁶⁸⁷ is vested with certain powers over which accountability is sought and as such is asked to inform or explain decisions. The second, the accountee¹⁶⁸⁸ or governed,¹⁶⁸⁹ owes accountability to the accountant or governor and must explain or justify action or inaction.

The first chapter of this thesis also examined the key facets of accountability, namely: answerability,¹⁶⁹⁰ enforceability,¹⁶⁹¹ the possibility of sanctions¹⁶⁹² and the ever present threat of being called to account which arguably helps to ensure compliance.¹⁶⁹³ The theories of accountability and their application to policing were also explored in the first chapter of this thesis, namely: vertical accountability,¹⁶⁹⁴ horizontal accountability,¹⁶⁹⁵ hybrid

¹⁶⁶⁸ see chapter 1 of this thesis pg (s) 3 to 8

¹⁶⁶⁹ see chapter 1 of this thesis pg (s) 3 to 8

¹⁶⁷⁰ see generally chapters 2, 3 and 4 of this thesis

¹⁶⁷¹ Sklar, R, in A, Schedler, L. Diamond, M. Plattner (eds) (1999) pg 53

¹⁶⁷² Brogden, M and Ellison, G, (2013) pg 104

¹⁶⁷³ Day, P, (1987) pg 1

¹⁶⁷⁴ Lambert, L, (1986) pg 18

¹⁶⁷⁵ Brogden, M and Ellison, (2013) pg 104

¹⁶⁷⁶ McLaughlin, E, (2007) pg 173

¹⁶⁷⁷ Schedler, A, in A, Schedler, L. Diamond, M. Plattner (eds) (1999) pg 14

¹⁶⁷⁸ Day, P, (1987) pg 1

¹⁶⁷⁹ Sengupta, A, (2014) at 253

¹⁶⁸⁰ Sengupta, A, (2014) at 251

¹⁶⁸¹ Chan, J, (1999) pg 252

¹⁶⁸² Schedler, A, in A, Schedler, L. Diamond, M. Plattner (eds) (1999) pg 13

¹⁶⁸³ Marshall, G, T.Newburn (eds) (2005) pg 633

¹⁶⁸⁴ Sengupta, A, (2014) at 247

¹⁶⁸⁵ Schedler, A, in A, Schedler, L. Diamond, M. Plattner (eds) (1999) pg 15

¹⁶⁸⁶ Oliver, D, N. Bamforth and P. Leyland (eds) (2013) pg 290

¹⁶⁸⁷ Day, P, (1987) pg 1

¹⁶⁸⁸ Oliver, D, in N. Bamforth and P. Leyland (eds) (2013) pg 290

¹⁶⁸⁹ Day, P, Tavistock, (1987) pg 1

¹⁶⁹⁰ Schedler, A, A, Schedler, L. Diamond, M. Plattner (eds) (1999) pg 14

¹⁶⁹¹ Schedler, A, A, Schedler, L. Diamond, M. Plattner (eds) (1999) pg 15

¹⁶⁹² Sengupta, A, (2014) at 252

¹⁶⁹³ Mulgan, R, (2000) pg 567

¹⁶⁹⁴ see chapter 1 of this thesis pg (s) 10 to 11

¹⁶⁹⁵ see chapter 1 of this thesis pg (s) 11 to 13

accountability¹⁶⁹⁶ and societal accountability.¹⁶⁹⁷ Additionally, a suitable structure¹⁶⁹⁸ and the hard and soft mechanisms of accountability¹⁶⁹⁹ were argued to be imperative to securing not only accountability but also legitimacy,¹⁷⁰⁰ a key antecedent of policing which accountability has the ever increasing burden to secure.¹⁷⁰¹

The second, third and fourth chapters of this thesis explored the development of the police and highlighted critical ‘turning points’ in police accountability. Sir Robert Peel established the ‘new police’ in 1829 utilising the principles of centralisation and uniformity.¹⁷⁰² Shortly after its establishment, and subsequent expansion, the first collective structures of police accountability were introduced: Watch¹⁷⁰³ and Standing Joint Committees.¹⁷⁰⁴ These Committees remained the structures of police accountability until the 1950s golden age for policing was shattered by the public confidence haemorrhage.¹⁷⁰⁵ The resulting Royal Commission in 1959 recommended the abolition of Watch and Standing Joint Committees and importantly the introduction of another collective structure of police accountability: Police Authorities.¹⁷⁰⁶

Soon after the ink was dry on the Police Act, Police Authorities were critiqued as ineffective and inherently weak while the tripartite structure was itself condemned inadequate.¹⁷⁰⁷ The inherent weaknesses of Police Authorities and the tripartite structure led police accountability to be injected with calculative, contractual, and NPM models in the last decades of the twentieth century.¹⁷⁰⁸ These models were evidenced by the consumerisation of police accountability and the implementation of market based models, costing concepts and performance tables.¹⁷⁰⁹ However, calculative, contractual and NPM models were critiqued as vague, speculative and fundamentally regarded as a failure.¹⁷¹⁰ These collective failings paved the way for reformers to insist that police accountability had to be decentralised.¹⁷¹¹ Indeed, advocates for reform urged that centralised accountability had to be replaced with nodal conceptions and a localised, democratically accountable structure of police accountability.¹⁷¹² The directly elected PCC appears to encapsulate this reform and conceivably frees police accountability from the shackles of centralised control. Furthermore, the establishment of PCCs seemingly revokes Peel’s founding principles of centralisation and uniformity.¹⁷¹³

¹⁶⁹⁶ see chapter 1 of this thesis pg (s) 13 to 14

¹⁶⁹⁷ see chapter 1 of this thesis pg (s) 15 to 17

¹⁶⁹⁸ see chapter 1 of this thesis pg (s) 20 to 22 and Lambert, L, (1986) pg 19

¹⁶⁹⁹ Oliver, D, in N. Bamforth and P. Leyland (eds) (2013) pg 304

¹⁷⁰⁰ Oliver, D, in N. Bamforth and P. Leyland (eds) (2013) pg 292

¹⁷⁰¹ see chapter 1 of this thesis pg (s) 23 to 26

¹⁷⁰² see chapter 2 of this thesis pg (s) 35 to 39

¹⁷⁰³ Watch Committees were the structure of police accountability in London, see s. 76 Municipal Corporations Act 1835

¹⁷⁰⁴ Standing Joint Committees were the structure of police accountability for the later established County Police forces, see s. 9 (1) Local Government Act 1888

¹⁷⁰⁵ see chapter 3 of this thesis pg (s) 76 to 79

¹⁷⁰⁶ see Royal Commission on Police pg 7 and s.2, s,4, s, 5 and s.12 Police Act 1964

¹⁷⁰⁷ see chapter 3 of this thesis pg (s) 74 to 79

¹⁷⁰⁸ see chapter 3 of this thesis pg (s) 78 to 79

¹⁷⁰⁹ see chapter 3 of this thesis pg (s) 77 to 78

¹⁷¹⁰ see chapter 3 of this thesis pg (s) 78 to 79

¹⁷¹¹ see chapter 3 of this thesis pg (s) 79 to 80, Hillyard, P and Tomlinson, M, (2000) pg 399 and Brogden, M and Ellison, G, (2013) pg 188

¹⁷¹² see chapter 4 of this thesis pg (s) 83 to 84

¹⁷¹³ see chapter 2 of this thesis pg (s) 35 to 39

PCCs replaced Police Authorities in 2011 and represent a revolution as PCCs are the first non-collective and directly elected structure of police accountability in the modern history of policing. However, this revolutionary structure of police accountability had a difficult birth.¹⁷¹⁴ In addition to low levels of electoral support,¹⁷¹⁵ which in turn raised justifiable concerns as to the legitimacy and mandate of PCCs,¹⁷¹⁶ the first cohort were labelled a monoculture¹⁷¹⁷ and subject to expense revelations, allegations of cronyism and high profile dismissals.¹⁷¹⁸ Moreover, a number of reports and reviews not only highlighted teething problems with the present structure and model of police accountability but also hinted at possible flaws.¹⁷¹⁹ Indeed, merely a year after the inception of PCCs the Stevens review concluded that PCCs were a defective and failing structure of police accountability that should be discontinued.¹⁷²⁰ Yet, despite these early setbacks and mounting evidence PCCs and the present model of police accountability prevailed.

This research seeks to make a significant contribution to current literature and further understanding of the present structure and model of police accountability by using new empirical evidence from elite ethical research interviews with the most senior stakeholders in policing at a regional and national level. This small study, its findings and this conclusion aim to inspire not instruct. The body of literature examining the present structure and model of police accountability will unquestionably increase with time. A further and larger qualitative study using elite research interviews with the most senior stakeholders in policing across a greater number of police areas will help drive forward practice and foster current understanding in this critical area for policing and police accountability. Certainly, developing empirical research will facilitate a richer, more meaningful analysis of the most radical change to policing and police accountability since its inception by Peel in 1829.

The impact of the first non-collective structure of police accountability

As revealed by this study, the accountability of Chief Constables appears to have evolved under the stewardship and responsibility of PCCs.¹⁷²¹ Indeed, accountability was found to be more robust, instant and on an on-going basis. Moreover, Chief Constables are possibly no longer autonomous¹⁷²² as in practice they can be subject to a more continual, rolling form of accountability which leads to Chief Constables being subject to a constant check and challenge. Additionally, when effective, accountability's core meaning of answerability was found to be evidenced as might the soft mechanisms of accountability and the explanative, relational and dialectical qualities.¹⁷²³

However, importantly, this study also found that the accountability of Chief Constables can in practice be frustrated by the prototypical one to one accountability relationship created between Chief Constable and PCC.¹⁷²⁴ Furthermore, the accountability of Chief Constables

¹⁷¹⁴ see chapter 4 of this thesis pg (s) 93 to 95

¹⁷¹⁵ see chapter 4 of this thesis pg (s) 92 to 93

¹⁷¹⁶ see chapter 4 of this thesis pg (s) 93 to 96 and Police and Crime Commissioners: Progress to date pg 4

¹⁷¹⁷ see chapter 4 of this thesis pg (s) 97 to 98 and Police and Crime Commissioners: Register of Interests pg 28, Stevens Review pg 81

¹⁷¹⁸ see chapter 4 of this thesis pg (s) 97 to 99 and Power Down pg 11

¹⁷¹⁹ see chapter 4 of this thesis pg (s) 97 to 98

¹⁷²⁰ Stevens Review pg 83

¹⁷²¹ see chapter 6 of this thesis pg (s) 130 to 134

¹⁷²² see chapter 3 of this thesis pg (s) 72 to 73

¹⁷²³ see chapter 1 of this thesis pg (s) 9 to 10

¹⁷²⁴ For example and as highlighted in chapter 6 of this thesis, the present one to one structure of police accountability leaves police accountability open to the vagaries of the PCC or Chief Constable. Additionally, in

appears in practice to vary considerably and has been inconsistently administered by PCCs in this study.¹⁷²⁵ Additionally, the inherent and possible restrictive monocratic nature of PCCs might in practice risk individualism, limited scrutiny and potentially a dilution of accountability.¹⁷²⁶ Thus, a conclusion that can be made is that the accountability relationship created between Chief Constable and PCC may in some cases be symbiotic. This characterisation is significant as not only may the accountability relationship be essential to policing and police accountability but additionally it might, in practice and as these findings indicate, sometimes be beneficial yet sometimes harmful.¹⁷²⁷

In addition to supporting the argument that PCCs being singularly responsible for appointing, suspending and removing Chief Constables is contentious,¹⁷²⁸ this study further identified this power as a striking feature of the present structure of police accountability. Indeed, PCCs activate a hard mechanism of accountability and exercise a strong discretion when they alone decide to remove a Chief Constable.¹⁷²⁹ This research also revealed that the PCC's power to remove and appoint Chief Constables may in practice be a mechanism of disempowerment, not empowerment. Importantly, the PCC's power to remove Chief Constables is also identified by this study as possibly causing two significant corrosive impacts on policing and police accountability. First, an instability in police leadership that may emerge. Elite research interviews conducted for this study indicated that the PCC's power to remove Chief Constables creates an instability whereby Chief Constables appear to be worried that they will be removed for modest, inconspicuous and unassuming reasons. The PCC's power to remove Chief Constables is identified as causing a different kind of relationship which may give PCCs the unintended and intrinsic capability to 'steam roll' Chief Constables. Further, the PCC's power to appoint Chief Constables appears to be as contentious and as corrosive as the power to remove. Here, critically, this study identified that after removing a Chief Constable a PCC may use their statutory power to appoint a puppet Chief Constable who does exactly what they want. Second, Chief Constables might be developing a practice of abstention and risk becoming inseparably connected to their PCC. In addition to being subject to the whims or mercy of PCCs, Chief Constables may in practice lack courage to contest, and, if needed, effectively question or challenge PCCs. Moreover, the current inflexibility, the placing of too much power in the hands of the accountor and the resulting unintentional imbalance of power between the accountor and accountee may in practice lead to Chief Constables becoming beholden to PCCs, subject to unwarranted pressure and possibly allow PCCs to act with their own interests.

practice the accountability relationship between PCC and Chief Constable can in practice become destructive and frustrate police accountability

¹⁷²⁵ For example, Chief Constable Police Area D contended "it can't be argued that it [the present structure of police accountability] has consistently delivered" and one of the most senior persons in policing argued "It [the accountability of Chief Constables] does fall, not just on the relationship but on the calibre, experience and wisdom of the person elected. Believe you me that varies enormously"

¹⁷²⁶ see chapter 6 of this thesis pg (s) 134 to 138. Indeed, as identified in this conclusion these frailties may also be considered imperfections of the present model and structure of police accountability

¹⁷²⁷ For example, Chief Constable Police Area A argued "Is it [the present structure of police accountability] open to the vagaries of individuals? Yes it is" while Chief Constable Police Area D highlighted "There are a lot of PCCs out there that operate on the subjective, the personality, the ego rather than objectivity, the clarity, the best evidence base." Moreover Chief Constable Police Area E urged "I know in other areas that individual egos have got in the way of being accountable." See chapter 6 of this thesis pg (s) 133 to 135

¹⁷²⁸ see chapter 4 of this thesis, Police and Crime Commissioners: power to remove Chief Constables, Report of the Independent Police Commission and Police and Crime Commissioners: progress to date

¹⁷²⁹ see chapter 7 of this thesis pg (s) 160 to 161

When applying these corrosive impacts to a wider context, a conclusion that can be made is that a different form of accountability may evolve. In addition to being controversial, this form would in practice be evidenced by Chief Constables being overly influenced, overruled and potentially even manipulated. Indeed, as findings from this study reveal, this different form of accountability might lead, and has potentially already led, to one PCC inappropriately empowering themselves and displacing the Chief Constable.

The ineffectualness of PCPs

In addition to the recognised problems associated with the frailties of PCPs,¹⁷³⁰ this research identified PCPs in this study as impotent and ineffective. PCPs also appeared in practice to serve as a conduit entity within the present model of police accountability which potentially leads police accountability to be overly dependent and possibly vulnerable to the identified symbiotic accountability relationship between Chief Constable and PCC. Conceivably, accountability may also be undermined by this dependency.¹⁷³¹

The impotency and ineffectiveness of PCPs revealed in this study gives some credibility to a conclusion that PCCs lack scrutiny and accountability between the current quadrennial election cycle as PCPs are currently failing to scrutinise and provide, let alone maintain, the required check and balance.¹⁷³² PCCs are supposed to be the beating heartbeat underpinning the new democratic landscape of police accountability. Yet, the PCC's apparent and current immunity from non-electoral accountability is a fundamental concern. Indeed, the identification of PCCs as unchallengeable, uncensored and unaccountable may suppress legitimacy in the office of PCC and might ultimately diminish police accountability and legitimacy.

Opposing these arguments others may maintain that PCCs are accountable to the electorate, which in a literal and theoretical sense is accurate. However, not only might using elections to underpin police accountability be fraught with difficulties, but the argument that PCCs are accountable to their electorate may be dismissed with relative ease. In addition to the low levels of electoral participation¹⁷³³ and the basic tenets of vertical accountability being inherently weak, if not unstable,¹⁷³⁴ this research identified the new electoral facet of police accountability capable of occasioning posturing and superficiality. These entirely uncharacteristic and unprecedented mores might cascade into policing, and may even be woven into the fabric of police accountability. It also appears prudent to question whether the holding of elections every four years achieves democratic police accountability, especially when serving PCCs decide not to seek re-election. This argument is particularly profound given the high withdrawal rate witnessed at the second PCC elections in 2016, which in practice arguably rendered almost one third of the first cohort of PCCs entirely unaccountable. Indeed, it appears plausible to conclude that the pinnacle of democratic police accountability through the medium of PCCs might be a panacea used to paper over the cracks prevalent in policing and police accountability during the latter decades of the twentieth century.¹⁷³⁵ Considered in their entirety, this study and its findings give credibility to the conclusion that the present model and one to one structure of police accountability is in

¹⁷³⁰ see chapter 4 of this thesis and specifically Policing for a Better Britain, Police and Crime Commissioners: progress to date and Tone from the Top

¹⁷³¹ see chapter 6 of this thesis pg (s) 139 to 142

¹⁷³² see s. 28 (2) and (6) PRSRA 2011 and s.24 Policing Protocol Order 2011, SI 2011/2744

¹⁷³³ see chapter (s) 4 and 7 of this thesis

¹⁷³⁴ see chapter (s) 1 and 7 of this thesis

¹⁷³⁵ see chapter 3 of this thesis pg (s) 74 to 79

practice risky, likely defective and possibly unsuitable in the long term for policing and police accountability.

Imperfections within the present structure and model of police accountability

In addition to the flaws identified by the reports and reviews examined in the fourth chapter of this thesis,¹⁷³⁶ this study found that while the present model and structure of police accountability contains some strengths the imperfections appear to dominate. Certainly, the argued ineffective and poor safeguards¹⁷³⁷ within the present model of police accountability are identified as one significant imperfection. Indeed, the present model appears to entirely lack a credible check and balance on PCCs:

“The role of the PCC could be a force for good but with a caveat, it would be a force for good as long as the appropriate checks and balances and accountability mechanisms are put in place around them ... there needs to be greater accountability and the checks and balances need to make sure that when it goes wrong or they [PCCs] do something wrong that actually they [PCCs] are then formally held to account ... and if the finding is so severe then they [PCCs] should be dismissed.”¹⁷³⁸

This imperfection may also cause police accountability to dangerously descend into uncharacteristic norms such as ‘likeability’ and ‘re-electability.’ Critically, current poor safeguards within the present model might in practice lead to police accountability becoming all the things it should never be:

“When it [the present structure of police accountability] is operating at its pure best it has brought a clarity about that one to one, eye to eye, explain where we are, why we are where we, what are we doing, what is the plan but because of the poor safeguards and governance arrangements it too quickly descends into personalities and subjectivity in which accountability becomes likeability, becomes re-electability. Accountability becomes all of those things it shouldn’t be.”¹⁷³⁹

In addition to the current and inadequate safeguards a further identified imperfection within the present model of police accountability was that it appears in practice to be entirely conditional on its stakeholders.¹⁷⁴⁰ Indeed, this anomaly was concluded to be a principal defect which in practice could also lead to accountability being administered inconsistently:

“If you have an effective Police and Crime Panel, a PCC with values and a Chief Constable with sufficient character to recognise their responsibility to protect the independence of policing the model is a sound one but there is quite a few ‘ifs’ in there. The model needs to be balanced ... [also] it can’t be argued that it has consistently

¹⁷³⁶ see chapter 4 of this thesis pg (s) 98 to 111

¹⁷³⁷ see chapter 6 of this thesis pg (s) 134 to 142

¹⁷³⁸ Chief Constable Police Area B

¹⁷³⁹ Chief Constable Police Area D

¹⁷⁴⁰ For example Chief Constable Police Area A argued “the current model is a much quicker way of doing things ... fundamentally a quicker, slicker, more straight forward process but the people involved is absolutely critical” See further chapter 6 of this thesis

delivered and therefore some form of change and rigour is required.”¹⁷⁴¹

The lack of moderating thought was further highlighted as a defect and potential imperfection.¹⁷⁴² Moreover, the present structure of police accountability may in practice lead to irrational decision making and, due to PCCs being elected,¹⁷⁴³ decisions being taken in the interests of self-service or political intent. Additionally, some Chief Constables were identified by this study as failing to adapt to the present structure of police accountability:

“It [the present structure of police accountability] is better but I don’t think it’s perfect ... there isn’t the balance, additional questioning or informing of the debate that a wider group would give ... I sit in a team. I don’t make autocratic decisions. I listen to my senior staff and what their views are. When you have one person that could be argued would want to be populist because they are subject to a democratic process they may make irrational decisions that self-serve in terms of election as opposed to serve the public ... Chief Constables that have failed to adapt have lost it completely because they need to adapt to an accountability framework where they are held to account and do the will of the electorate as is put through the PCC.”¹⁷⁴⁴

Some PCCs being reliant on a relationship of ‘trust’ and ‘luck’ with Chief Constables while also in practice lacking the ability to sufficiently test and scrutinise were further identified imperfections.¹⁷⁴⁵ Additionally, while the present structure could result in more transparency for the public there is likely to be no, or very limited, additional accountability of Chief Constables:

“What needs to be improved is that the PCC need to find a process of testing everything I am saying rather than trusting everything I am saying. If you had a relationship with a PCC that was a bit fractious, and that’s happened in many forces, I am not sure they would have the ability in their day to day setup to get into the detail. They would probably have to buy it in. They would have to outsource for expertise. My analytical team provides me with information about how we are doing against everything. We present that of course to the Commissioner, the Commissioner has one analyst in her office who just has a quick look at what we present, so in effect they are trusting our analytical data as opposed to scrutinising it themselves ... do I feel more held to account than I did to a Police Authority before? No.

¹⁷⁴¹ Chief Constable Police Area D

¹⁷⁴² see chapter 6 of this thesis pg (s) 134 to 136

¹⁷⁴³ Thereby evidencing in practice the theory of vertical accountability, see chapter 1 of this thesis pg (s) 12 to

13

¹⁷⁴⁴ Chief Constable Police Area C

¹⁷⁴⁵ For example, as examined in Chapter 6 of this thesis, Chief Constable Police Area B acknowledged that he was “one of the luckier ones. Colleagues around the Country and not in the privileged position that I’ve been in.” Additionally, OPCC Police Area D stated “I am lucky and it’s a major factor” while OPCC Police Area E urged “I was very lucky when I became PCC ... there wasn’t a battle but it wasn’t a marriage made in heaven.” See further chapter 6 of this thesis

Do I feel it's a little better and more transparent with the public?
Yes.”¹⁷⁴⁶

This flaw was also concluded to be a significant imperfection by one of the most senior persons in policing. In addition to concluding that the present ‘one to one’ structure of police accountability was “quite unusual”¹⁷⁴⁷ it was contended that PCCs have paradoxically led to Chief Constables being scrutinised less. Also, while maintaining that the present model has ultimately failed, the PCC structure of police accountability was further concluded to have lacked sufficient examination prior to its inception and with reflection may be considered a profound mistake:

“There was a concern that the collective had gone ... it [the present structure of police accountably] goes from a collective form to a very focused ... that one to one accountability is potentially quite problematic ... there's only one person [the PCC] providing scrutiny [of Chief Constables] and that's a heavy responsibility, so in terms of scrutiny of course it's a lot less ... palpably has it worked? No. In the absence of stress testing, thinking it through, why do we want this, what's the problem we are trying to solve I suspect PCCs might, in hindsight, be regarded as a blunder.”¹⁷⁴⁸

A further identified and notable defect of the present structure of police accountability is that policing may be open to manipulation or direction for political gain.¹⁷⁴⁹ Additionally, founding conventions and customs of policing also appear to currently be ignored by some PCCs. Moreover, potentially, the advent of PCCs may lead to policing no longer reflecting public interest as financial levers can be used to influence decisions:

“Some of them [PCCs] don't seem to realise that the best traditions of British policing is that British policing prides itself on being there for all voices, not just the loudest, not just those that are the most powerful and the trouble with politicians not just holding to account but using financial levers to influence decisions the risk is that the policing model starts to reflect the political interests of those PCCs and not the risks and threats the public are facing ... it is crucial that we do find a model that properly challenges and holds Chiefs' [Chief Constables] to account because that drives better policing and that's what the public deserves. In my County policing is better because of the arrival of PCCs but that's not true in every County across the Country and what we should have is a set of governance arrangements that ensures policing is improved and that it is robustly held to account but not that it is manipulated or directed for political gain.”¹⁷⁵⁰

While the present structure and model of police accountability does contain some areas of strength these identified imperfections appear to be profound. This research identified that the

¹⁷⁴⁶ Chief Constable Police Area E

¹⁷⁴⁷ Person Z

¹⁷⁴⁸ Person Z

¹⁷⁴⁹ For example OPCC E stated: “The difficulty, given the negative press we have [in this police area] and given the fact that it is a very political position the politics dip in and it is destructive. The politics [in this police area] are positively tribal.” See further chapter 7 of this thesis

¹⁷⁵⁰ Chief Constable Police Area D

present structure appears in practice to be contingent and reliant on the PCC, Chief Constable and PCP recognising their responsibilities and exercising them effectively. Indeed, only if stakeholders have sufficient character to recognise their responsibilities, exercise them effectively and in equilibrium might the model in practice be endorsed satisfactory.¹⁷⁵¹ However, not only were PCPs identified by this study as impotent and ineffectual but the credibility and inherent abilities of some PCCs conceivably varies significantly: some are value driven, bright and well informed while others identified as ill-equipped, ill-prepared and in some cases categorised as “completely useless.”¹⁷⁵² Therefore, drawing on the experience from this research, one reason why the present model and structure of police accountability might in practice be defective is because stakeholders can sometimes fundamentally fail to fulfil their accountability responsibilities and exercise them effectively.

The lack of a credible check and balance on PCCs was a further identified defect within the present model of police accountability. The current, ineffective and poor safeguards could lead to police accountability being degraded and precariously descending into entirely uncharacteristic principles and standards. Indeed, this study found evidence that current poor safeguards within the present structure of police accountability risks the possibility that police accountability could aberrantly plunge into “personalities and subjectivity in which accountability becomes likeability, re-electability. Accountability becomes all the things it shouldn't.”¹⁷⁵³

Additionally, the present, single and executive structure of police accountability may in practice occasion a lack of moderating thought, and possibly lead to irrational and autocratic decisions being taken with the PCCs driving interest of self service or political intent. This study also found that the PCC's sphere of influence appears to be vast as financial levers can be used to influence decisions. Furthermore, not only may police accountability currently be administered without uniformity and consistency but it appears questionable whether a solitary PCC can in practice truly represent and thus be accountable to the wide and varying interests of the electorate to whom they are supposed to be accountable.

Moreover, some Chief Constables are identified by this research as principally failing to adapt to the present structure of police accountability and carry out the will of the electorate as vested in the PCC. However, the conferring and subsequent facilitation of electoral desire may be unfilled by Chief Constables, or equally, might lead to the immersion and subsequent entrenchment of destructive politics within police accountability. Indeed, this absorption and entanglement may not only threaten Peel's founding principle of freedom from political control but could additionally lead to policing being manipulated or directed for political gain.

A further identified flaw of the present structure is the one to one accountability relationship established between Chief Constable and PCC. Findings from this research indicate that the relationship can in practice be reliant on trust, which given that police accountability may in practice be overly dependent on the relationship between Chief Constable and PCC is remarkable. Additionally, the present single executive structure of police accountability is identified as leading to limited oversight and may in practice result in Chief Constables being scrutinised less. Critically, the present structure may not, as envisaged, properly challenge and hold Chief Constables to account. Here, notably, it was concluded that PCCs were

¹⁷⁵¹ A suitable structure of police accountability is argued to be imperative to securing police accountability and legitimacy, see chapter 1 of this thesis pg (s) 23 to 26

¹⁷⁵² see chapter 6 of this thesis pg (s) 132 to 134

¹⁷⁵³ Chief Constable Police Area D

introduced without thorough thought, examination and sufficient testing. Indeed, with reflection, PCCs might even be considered a mistake within the modern history of policing and police accountability.

Implications for the future

Given this study's findings and the identified significant imperfections, a conclusion that can be made is that the present model and structure of police accountability is unsuitable in its existing format and therefore may become a temporary construction. Moreover, the future of the present model and structure of police accountability was also found by this research to be a contentious and divisive issue. While the spectre of returning to a collective structure was highlighted by some to be a retrograde and regressive step for policing and police accountability,¹⁷⁵⁴ other respondents emphatically endorsed replacing the present, single and executive structure of police accountability with a collective, committee structure:

“The Police and Crime Commissioner is not a good idea at all. I think we would have a better form of accountability and governance of the Police if we had some form of committee structure ... you now have one person and yes [the PCC] works very hard but [the PCC] can't cover the same breadth and detail that the Police Authority did. That is a problem. [The PCC] is much more visible, that is a plus, no doubt about it. [The PCC] is more visible, but not always for the right reasons ... where we miss out is in terms of the oversight of a group of people, if you don't want to do it with a Police Authority and I understand the frustration of Government with the Police Authorities why not do it with a County Council Committee as we do other things. They are not invisible, they are highly visible. I think with one stroke you could achieve what the government wants without the weakness of a single elected person.”¹⁷⁵⁵

Indeed, a collective trilateral Commission was also recommended as a more suitable structure of police accountability:

“My preferred option is a three person Commission to allow for moderation but to keep it small so you can still have effective decision making.”¹⁷⁵⁶

However, instead of wholesale reform an incremental reform process was preferred by other respondents. Here, a notable area of parity was the strengthening of PCPs, which in turn would improve the checks and balances on PCCs thereby ensuring that PCCs are formally held to account. Further recommended areas of reform include an improvement to democratic engagement, the inclusion of all interested parties, and, more practically, the building of professional knowledge:

¹⁷⁵⁴ Here, for example, Person Z argued “I would be disinclined to go back to the Police Authority structure” while PCC C stated “I don't want to go back to the old approach ... it's overly bureaucratic and too ridged.” Additionally Chief Constable A asserted “going back to negotiation through a collective structure would be really difficult” while PCP Police Area B urged “Rather than dismissing it ... someone fairly senior in Government needs to actually argue that it [the present structure of police accountability] is working, let's continue with it”

¹⁷⁵⁵ PCP Police Area E

¹⁷⁵⁶ Chief Constable C

“You need to build up quite quickly a body of corporate knowledge and a body of professional knowledge about what works in these relationships ... [as] these new relationships have brought a completely different dynamic.”¹⁷⁵⁷

In addition to contending that there may in practice be limited, viable alternatives to the present structure and model of police accountability, a supplementary reform process was also favoured by one of the most senior persons in policing:

“What’s the alternative, it’s what we’ve got. It’s better than having a national structure ... with the Home Office circulars it was beginning to make it [police accountability] more national, creeping up the national continuum. Part of the argument would be that ACPO policy also exacerbated that as it pushed things down locally ... they [PCCs] are what we’ve got. I think we could make some improvements on the current model ... make it much more of a democratic engagement, not just an election once every four years [and] strengthen the Police and Crime Panel and tie PCCs into taking people with them.”¹⁷⁵⁸

While highlighting that the present structure and model of police accountability contains areas of both strength and weakness, it was insisted that another radical overhaul would be unwise:

“There are some benefits to be had and what we must not do in the great traditions of British politics and policing is to throw all the babies out with all the bath water, there are elements of this that have brought greater scrutiny, greater understanding, greater accountability but there are areas of weakness. For example the checks and balances, consequences on the Police and Crime Commissioners and the inclusion of all interested parties.”¹⁷⁵⁹

The person directly involved with introducing the present structure of police accountability also warned against radical change, emphasising that the present structure and model of police accountability must be given time to establish. Accordingly, despite this study’s findings and the identified imperfections, it was contended that reform was not currently needed:

“No because with major cultural change, that’s not something that comes easily. It takes time to come about ... I don’t think overnight you can change experiences or beliefs. You have to carefully nurture a change of culture, it’s very difficult.”¹⁷⁶⁰

The frailties of PCCs and the present model of police accountability are becoming more widely accepted.¹⁷⁶¹ Certainly, even within the relatively short time-frame of this study’s data collection, the present model and one to one structure of police accountability has been

¹⁷⁵⁷ Chief Constable Police Area A

¹⁷⁵⁸ Person Z

¹⁷⁵⁹ Chief Constable Police Area D

¹⁷⁶⁰ Person Y

¹⁷⁶¹ see chapter 4 of this thesis and in particular Power Down, Policing for a Better Britain, Police and Crime Commissioners: progress to date and Tone from the top

identified as risky, likely defective and possibly unsuitable for policing and police accountability in the longer term. Moreover, the present structure and model of police accountability appears to be dominated by imperfections. Yet, despite these significant findings and the policy and practical implications of them, there clearly exists a degree of tension concerning the future. While some favour scrapping the single person PCC structure of police accountability and replacing it with a collective Committee or trilateral Commission, others refer to this proposal as another radical overhaul and instead conclude that the present structure and model of police accountability must be given time to establish. Critically, any reform or period of stability allocated to allow the present structure and model of police accountability to form must not be at the expense or detriment of accountability as accountability is the very heartbeat and lifeblood of policing.

Thus, the middle ground appears to be a process of supplementary reform with areas of parity including the strengthening of PCPs thereby improving the accountability of PCCs, the inclusion of all interested parties and the building of professional knowledge. Additionally, the present structure, model of police accountability and indeed police accountability may benefit from PCPs having a representative body beyond the support provided by the Centre for Public Scrutiny and the knowledge hub administered by the Local Government Association. Furthermore, given the possible symbiotic nature of the accountability relationship formed between PCC and Chief Constable, it would appear prudent and probably advantageous to develop a handbook of best practice to be used by Chief Constables, PCCs and PCPs to monitor and evaluate performance and administration.

Given the long history of incremental reform to policing and police accountability,¹⁷⁶² supplementary reform may in practice represent the most suitable approach and one which may possibly help ensure that the present structure and model of police accountability is given the highest possible chance of success. Critically, recent history¹⁷⁶³ teaches us that it would be wise to avoid ‘knee jerk’ reactions and ensure that any reform or amendment to the present structure and model of police accountability be carefully examined with the aim of avoiding further damage. Therefore, a process of supplementary reform to the present structure and model of police accountability which incorporates the findings and proposals identified by this thesis is encouraged.

Certainly, incremental reform to the present structure and model of police accountability may prove critical given that the programme of direct democracy, which the PCC arguably embodies, seems set to expand. While the recent Policing and Crime Act 2017 enables PCCs to take responsibility for fire and rescue services where a local case is made out, the subsuming of the PCC’s role into the new directly elected Mayoral posts potentially brings another new and entirely different dynamic for police accountability. Significantly, this research identified single or one to one person accountability structures as risky, defective and possibly unsuitable to policing. The policy and practical implications of these findings, and the imperfections identified by this study, may be useful to the recommended expanded empirical study which needs to further examine the present structure and model of police accountability. Indeed, these findings, their implications and the imperfections identified may also be useful to future research which needs to also examine the PCC’s ever increasing areas of responsibility, together with the impact and potential influence that the new Mayoral posts are likely to bring to police accountability.

¹⁷⁶² see chapters 2, 3 and 4 of this thesis

¹⁷⁶³ see chapter 3 of this thesis pg (s) 70 to 75

Appendix A: Copy of Application for Ethical Approval of Research



University of Essex

Application for Ethical Approval of Research Involving Human Participants

This application form must be completed for any research involving human participants conducted in or by the University. 'Human participants' are defined as including living human beings, human beings who have recently died (cadavers, human remains and body parts), embryos and fetuses, human tissue and bodily fluids, and human data and records (such as, but not restricted to medical, genetic, financial, personnel, criminal or administrative records and test results including scholastic achievements). Research must not commence until written approval has been received (from Departmental Research Director/Ethics Officer, Faculty Ethics Sub-Committee (ESC) or the University's Ethics Committee). This should be borne in mind when setting a start date for the project. Ethical approval cannot be granted retrospectively and failure to obtain ethical approval prior to data collection will mean that these data cannot be used.

Applications must be made on this form, and submitted electronically, to your Departmental Research Director/Ethics Officer. A signed copy of the form should also be submitted. Applications will be assessed by the Research Director/Ethics Officer in the first instance, and may then be passed to the ESC, and then to the University's Ethics Committee. A copy of your research proposal and any necessary supporting documentation (e.g. consent form, recruiting materials, etc) should also be attached to this form.

A full copy of the signed application will be retained by the department/school for 6 years following completion of the project. The signed application form cover sheet (two pages) will be sent to the Research Governance and Planning Manager in the REO as Secretary of the University's Ethics Committee.

1. Title of project: Holding the police to account: A critical analysis of the structures of police accountability and the introduction and operation of Police and Crime Commissioners in England and Wales.

2. The title of your project will be published in the minutes of the University Ethics Committee. If you object, then a reference number will be used in place of the title.
Do you object to the title of your project being published? Yes / No

3. This Project is: Staff Research Project Student Project

4. Principal Investigator(s) (students should also include the name of their supervisor):

Name:	Department:
Simon Cooper	Law
Prof David O'Mahony (supervisor)	Law
Dr Karen Brennan (supervisor)	Law

5. Proposed start date: 31 July 2015

6. Probable duration: 18 months

7. Will this project be externally funded? Yes / No
If Yes,

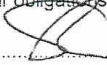
8. What is the source of the funding?

N/A

9. If external approval for this research has been given, then only this cover sheet needs to be submitted
External ethics approval obtained (attach evidence of approval) Yes / No

Declaration of Principal Investigator:

The information contained in this application, including any accompanying information, is, to the best of my knowledge, complete and correct. ~~I~~^{We} have read the University's *Guidelines for Ethical Approval of Research Involving Human Participants* and accept responsibility for the conduct of the procedures set out in this application in accordance with the guidelines, the University's *Statement on Safeguarding Good Scientific Practice* and any other conditions laid down by the University's Ethics Committee. ~~I~~^{We} have attempted to identify all risks related to the research that may arise in conducting this research and acknowledge my/our obligations and the rights of the participants.

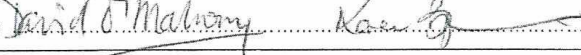
Signature(s): 

Name(s) in block capitals: SIMON COOPER

Date: 1st July 2015

Supervisor's recommendation (Student Projects only):

I have read and approved both the research proposal and this application.

Supervisor's signature: 

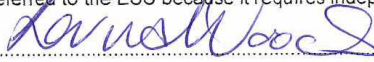
Outcome:

The Departmental Director of Research (DoR) / Ethics Officer (EO) has reviewed this project and considers the methodological/technical aspects of the proposal to be appropriate to the tasks proposed. The DoR / EO considers that the investigator(s) has/have the necessary qualifications, experience and facilities to conduct the research set out in this application, and to deal with any emergencies and contingencies that may arise.

This application falls under Annex B and is approved on behalf of the ESC

This application is referred to the ESC because it does not fall under Annex B

This application is referred to the ESC because it requires independent scrutiny

Signature(s): 

Name(s) in block capitals: KENNETH WOODS

Department: LAW

Date: 13/7/15

The application has been approved by the ESC

The application has not been approved by the ESC

The application is referred to the University Ethics Committee

Signature(s):

Name(s) in block capitals:

Faculty:

Date:

Details of the Project

1. **Brief outline of project** (This should include the purpose or objectives of the research, brief justification, and a summary of methods. It should be approx. 150 words in everyday language that is free from jargon).

This project has two objectives. The first will be to explore how Chief Police Officers (i.e. Chief Constables) are held accountable by the Police and Crime Commissioner (PCC). The second is to establish how PCCs are themselves locally accountable to the policed public. The project is justifiable as the introduction of PCCs is the most radical change to police accountability and governance in over 50 years. This project will add to the academic research on whether PCCs will enhance police accountability. As well as a broad review of the research literature the method I will use will be elite interviews. The interviews will be semi structured with interviewees being sent *some* interview themes before the interview date.

Participant Details

2. Will the research involve human participants? (indicate as appropriate)

Yes No

3. Who are they and how will they be recruited? (If any recruiting materials are to be used, e.g. advertisement or letter of invitation, please provide copies).

A letter of invitation will be sent. A draft of this letter is attached. The letters will be sent to key members of the police. These key members are Chief Constables and PCCs. The letters will be sent to four police forces. The forces will be selected to give a representative geographical sample. Interviewees will be asked for further contacts, who will also be interviewed (snowball effect). My supervisors will also provide a letter endorsing my credentials as an academic researcher. I will avoid sending emails with attachments

Will participants be paid or reimbursed?

No

4. Could participants be considered:

(a) to be vulnerable (e.g. children, mentally-ill)? Yes / No

(b) to feel obliged to take part in the research? Yes / No

If the answer to either of these is yes, please explain how the participants could be considered vulnerable and why vulnerable participants are necessary for the research.

N/A

Informed Consent

5. Will the participant's consent be obtained for involvement in the research orally or in writing?¹
(If in writing, please attach an example of written consent for approval):

Yes No

How will consent be obtained and recorded? Who will be giving consent? If consent is not possible, explain why.

A consent form has been written and is attached with this application. This consent form will be signed by the interviewee and myself. When referring to quotes from interviewees I will use pseudonyms. These pseudonyms will be allocated as follows: Chief Constable A = Force A. Chief Constable B = Force B. PCC A = Force A. PCC B = Force B (so on and so forth). The names of Chief Constables and PCCs will be secured in a word document, encrypted and saved on my laptop and on a USB stick in accordance with this application.

Please attach a participant information sheet where appropriate.

Confidentiality / Anonymity

6. If the research generates personal data, describe the arrangements for maintaining anonymity and confidentiality or the reasons for not doing so.

¹ If the participant is not capable of giving informed consent on their own behalf or is below the age of consent, then consent must be obtained from a carer, parent or guardian. However, in the case of incompetent adults, the law in the United Kingdom does not recognize proxy consent by a relative. In addition, the University Ethics Committee is not able to provide ethical approval for such research. It needs to be approved by a Health Research Authority National Research Ethics Service Research Ethics Committee.

All personal data will be secured electronically on two sources. The recordings from the interviews will also be stored electronically on two sources. The first will be my laptop. My laptop is password protected. I am the only person with knowledge of the password. Indeed I am the only person that has access to my laptop. Data on my laptop is not backed up to 'a storage cloud.' Data gained will be stored on my laptop in a password encrypted folder. The password used for this folder will be different to my laptop password. I am the only person who will have knowledge of the password and access to my laptop and thus the folder containing the data. My laptop will be secured in a locked draw in my office at home. The data will also be backed up onto a USB stick. This USB stick will be password protected. I will be the only person that knows the password. I will be the only person that has access to the USB stick. The data on the USB stick will be stored in an encrypted folder. This folder will have a different password. The USB stick itself will be stored securely in a locked draw in my desk at home. I will be the only person with a key to this draw. The key will be kept on my person. Data stored on these devices will also be anonymised and destroyed within a year of completing the project. Further supervisors will only be shown data specifically requested by them at a particular point. If interviewees opt to withdraw all data will be deleted.

Data Access, Storage and Security

7. Describe the arrangements for storing and maintaining the security of any personal data collected as part of the project. Please provide details of those who will have access to the data.

All personal data will be stored and maintained electronically on two sources. The recordings from the interviews will also be stored electronically on two sources. The first will be my laptop. My laptop is password protected. I am the only person with knowledge of the password. Indeed I am the only person that has access to my laptop. Data on my laptop is not backed up to 'a storage cloud.' Data gained and stored on my laptop will be kept in a password encrypted folder. The password used for this folder will be different to my laptop password. I am the only person who will have knowledge of the password and access to my laptop and thus the folder containing the data. My laptop will be secured in a locked draw in my office at home. The data will also be backed up onto a USB stick. This USB stick will be password protected. I will be the only person that knows the password. I will be the only person that has access to the USB stick. The data on the USB stick will be stored in an encrypted folder. This folder will have a different password. The USB stick itself will be stored securely in a locked draw in my desk. I will be the only person with a key to this draw. The key will be kept on my person. Data stored on these devices will also be anonymised and destroyed within a year of completing the project. When destroying the data I will ensure that it is permanently deleted. Further supervisors will only be shown data specifically requested by them at a particular point. If interviewees opt to withdraw all data will be deleted.

It is a requirement of the Data Protection Act 1998 to ensure individuals are aware of how information about them will be managed. Please tick the box to confirm that participants will be informed of the data access, storage and security arrangements described above. If relevant, it is appropriate for this to be done via the participant information sheet x

Further guidance about the collection of personal data for research purposes and compliance with the Data Protection Act can be accessed at the following weblink. Please tick the box to confirm that you have read this guidance (http://www.essex.ac.uk/records_management/policies/data_protection_and_research.aspx) x

Risk and Risk Management²

8. Are there any potential risks (e.g. physical, psychological, social, legal or economic) to participants or subjects associated with the proposed research?

Yes No x

If Yes,

Please provide full details of the potential risks and explain what risk management procedures will be put in place to minimise the risks:

² Advice on risk assessment is available from the University's Health and Safety Advisers (email safety@essex.ac.uk; tel 2944) and on the University's website at www.essex.ac.uk/ohsas/risk_assessment.

N/A

9. Are there any potential risks to researchers as a consequence of undertaking this proposal that are greater than those encountered in normal day-to-day life?

Yes No x

If Yes,

Please provide full details and explain what risk management procedures will be put in place to minimise the risks:

10. Will the research involve individuals below the age of 18 or individuals of 18 years and over with a limited capacity to give informed consent?

Yes No x

If Yes, a Disclosure and Barring Service disclosure (DBS check) may be required.³

11. Are there any other ethical issues that have not been addressed which you would wish to bring to the attention of the Faculty Ethics Sub-Committee and/or University Ethics Committee.

N/A

³ Advice on the Disclosure and Barring Service and requirement for checks is available: (1) for staff from the University's Recruitment Manager (email jgoodwin@essex.ac.uk; tel 2944) and on the University's website at www.essex.ac.uk/ohsas/risk_assessment; (2) for students from the University's Academic Section.

Appendix B: Participant Information and Consent Form

Participant Information Sheet and Consent Form Interviewer: Simon Cooper, Law School, University of Essex

Title: An analysis of the structures of police accountability and the introduction and operation of Police and Crime Commissioners in England and Wales.

Project Aims?

This project has two aims. The first is to explore how Chief Police Officers (i.e. Chief Constables) are held accountable by the Police and Crime Commissioner (PCC). The second is to establish how PCCs are themselves locally accountable to the policed public.

What does participating involve?

Participating involves an oral interview answering several predetermined questions. The oral interview will last approximately 1 hour. Our discussion will be audio-recorded.

	Yes	No
Please tick the appropriate boxes		
Taking Part		
I have read and understood the project information given above.	<input type="checkbox"/>	<input type="checkbox"/>
I have been given the opportunity to ask questions about the project.	<input type="checkbox"/>	<input type="checkbox"/>
I agree to take part in an interview, which will be audio-recorded.	<input type="checkbox"/>	<input type="checkbox"/>
I understand that my taking part is voluntary; I can withdraw from the study at any time and I do not have to give any reasons for why I no longer want to take part.	<input type="checkbox"/>	<input type="checkbox"/>
Use of the information I provide for this project only		
I understand my personal details such as name and email address will not be revealed to people outside the project and my information will be securely stored anonymously on an encrypted USB drive.	<input type="checkbox"/>	<input type="checkbox"/>
I understand that supervisors of this project will only be shown data when specifically requested at a particular point.		
I understand that my words may be quoted in publications, reports, and other research outputs. However this will be done anonymously.	<input type="checkbox"/>	<input type="checkbox"/>
I understand that data will be recorded anonymous unless I specifically consent that my name be used. If I withdraw I understand that my data will be deleted.	<input type="checkbox"/>	<input type="checkbox"/>

Participant.....Signature.....Date.....

Researcher.....Signature.....Date.....

Contact details for further information: Simon Cooper, Law School, University of Essex, Wivenhoe Park, Colchester, Essex, CO4 3SQ Email: sjcoop@essex.ac.uk

Appendix C: Letters of invitation



University of Essex

School of Law
F 01206 873428

Colchester Campus
Wivenhoe Park
Colchester CO4 3SQ
United Kingdom
T 01206 873333
F 01206 873598

www.essex.ac.uk

Dear [REDACTED]

I am a funded Ph.D. scholar, part time Lecturer in Law at the University of Essex and a former serving police officer. My academic research explores police accountability, specifically the new structure established by the Police Reform and Social Responsibility Act (2011). The Home Secretary has described the Act as the most radical change in policing for 50 years.

I would welcome the opportunity to discuss this important change with you and explore it from your perspective. I appreciate that your time is precious. As such I estimate that a meeting with you will not last longer than one hour. At your convenience I would travel to your place of work. With your permission I would record our meeting digitally and, if requested, provide you with a copy of the recording. Please also be assured that I would not use your name in my research, I would anonymise your responses. I would also store your responses securely. Your responses will be destroyed within one year of completing my research, or, should you choose to withdraw at the time of withdrawal.

This letter requesting a meeting is accompanied by a joint letter from my Ph.D. supervisors at the University, Professor David O'Mahony and Dr Karen Brennan. This letter not only endorses my academic credentials but also underlines how important your contribution would be to my research.

Should you have any questions please do feel free to contact me at the University, either at the address given above or by e-mail (sjcoop@essex.ac.uk).

I look forward to hearing from you.

Yours sincerely,

Mr Simon Cooper

LLB, LLM, Barrister



University of Essex

School of Law
F 01206 873428

Colchester Campus
Wivenhoe Park
Colchester CO4 3SQ
United Kingdom
T 01206 873333
F 01206 873598

www.essex.ac.uk

Dear [REDACTED],

Please allow us to introduce Mr Simon Cooper, a Ph.D. scholar at the University of Essex. His Ph.D. entitled: An analysis of the structures of police accountability and the introduction and operation of Police and Crime Commissioners in England and Wales, seeks to explore the new structure of police accountability in England and Wales.

Simon is a recipient of the prestigious University of Essex Doctoral Scholarship. The Scholarship is highly competitive and awarded to him on the basis of his academic excellence and potential for future achievement. Simon started his Ph.D. October 2013. His research has been to a very high standard.

We hope you will be able to help facilitate Simon's research by meeting with him. As academics we know how important it is to take the views of those in practice. The involvement of practitioners will provide a very useful and engaging aspect to Simon's Ph.D. Your contribution will be critical to his analysis.

We hope that you kindly agree to meet with Simon to assist with this important piece of research.

If we can be of any further assistance please do not hesitate to contact us.

Yours sincerely,

Professor David O'Mahony
Director of Postgraduate Research
domahony@essex.ac.uk

Dr Karen Brennan
Director of Undergraduate Admissions
kbrennan@essex.ac.uk

Appendix D: Blank copy of PCC Accountability Thematic chart

PCC Accountability				
Police Area ID and Person	PCCs: too much power / disproportionate	PCPs and Power	PCC Accountability: Interim Checks and Balances	Recall Power
Person Y				
Police Area ID and Person	PCCs: too much power / disproportionate	PCPs and Power	PCC Accountability: Interim Checks and Balances	Recall Power
Person Z				

Police Area ID and Person	PCCs: too much power / disproportionate	PCPs and Power	PCC Accountability: Interim Checks and Balances	Recall Power
Chief Constable A				
Police Area ID and Person	PCCs: too much power / disproportionate	PCPs and Power	PCC Accountability: Interim Checks and Balances	Recall Power

Chief Constable B				
Police Area ID and Person	PCCs: too much power / disproportionate	PCPs and Power	PCC Accountability: Interim Checks and Balances	Recall Power

Chief Constable C				
Police Area ID and	PCCs: too much power /	PCPs and	PCC Accountability: Interim Checks and	Recall Power

Person	disproportionate	Power	Balances	
Chief Constable D				
Police Area ID and Person	PCCs: too much power / disproportionate	PCPs and Power	PCC Accountability: Interim Checks and Balances	Recall Power
Chief Constable E				

Police Area ID and Person	PCCs: too much power / disproportionate	PCPs and Power	PCC Accountability: Interim Checks and Balances	Recall Power
PCC Police Area A				
Police Area ID and Person	PCCs: too much power / disproportionate	PCPs and Power	PCC Accountability: Interim Checks and Balances	Recall Power
PCC Police Area B				

Police Area ID and Person	PCCs: too much power / disproportionate	PCPs and Power	PCC Accountability: Interim Checks and Balances	Recall Power
PCC Police Area C				
Police Area ID and Person	PCCs: too much power / disproportionate	PCPs and Power	PCC Accountability: Interim Checks and Balances	Recall Power

PCC Police Area D				
Police Area ID and Person	PCCs: too much power / disproportionate	PCPs and Power	PCC Accountability: Interim Checks and Balances	Recall Power

PCC Police Area E				
Police Area ID and Person	PCCs: too much power / disproportionate	PCPs and Power	PCC Accountability: Interim Checks and Balances	Recall Power
PCP Police Area A				

Police Area ID and Person	PCCs: too much power / disproportionate	PCPs and Power	PCC Accountability: Interim Checks and Balances	Recall Power
PCP Police Area B				
Police Area ID and Person	PCCs: too much power / disproportionate	PCPs and Power	PCC Accountability: Interim Checks and Balances	Recall Power
PCP Police Area C				

Police Area ID and Person	PCCs: too much power / disproportionate	PCPs and Power	PCC Accountability: Interim Checks and Balances	Recall Power
PCP Police Area D				
Police Area ID and Person	PCCs: too much power / disproportionate	PCPs and Power	PCC Accountability: Interim Checks and Balances	Recall Power
PCP Police Area E				

Bibliography

Acts of Parliament, Bills and Statutory Instruments

A Bill For The further Prevention of Crimes, and for the more speedy Detection and Punishment of Offenders against the Peace, in the Cities of London and Westminster, the Borough of Southwark, and certain Parts adjacent to them (1785)

County and Boroughs Police Act (1856)

County Police Act (1839)

Crime and Disorder Act (1996)

Dublin Police Act (1786)

Lighting and Watching Act (1833)

Local Government Act (1888)

Metropolitan Police Act (1829)

Middlesex Justices Act (1792)

Municipal Corporations Act (1835)

Police Act (1919)

Police Act (1964)

Police Act (1996)

Police and Criminal Evidence Act (1984)

Police and Magistrates Court Act (1994)

Police Bill (1785)

Policing Protocol Order (2011) SI 2011/2744

Police Reform Act (2002)

Police Reform and Social Responsibility Act (2011)

The Police and Crime Commissioner Elections (Declaration of Acceptance of Office) Order 2012 SI (2012) No.2553

Policing and Crime Act (2017)

Articles

Baldwin, R, 'Why Accountability?' The British Journal of Criminology, Vol, 27, No.1 (1987) p 97

Chan, J, 'Governing police practice: limits of the new accountability' in British Journal of Sociology, Vol 50, No.2 June (1999) p 249

Edwards. A, 'Police and Crime Commissioners' Criminal Law Review (2012) p 821

- Gilling, D, 'Editorial Commentary' *Police Journal* (2010) p 195
- Goetz, A, Jenkins, R, 'Hybrid Forms of Accountability' *Public Management Review*, Vol 3, Issue 3 (2001) p 363
- Graville, J, & Rogers, C, 'Commissioning Accountability: change to governance and the police' *Police Journal* (2011) p 320
- Hillyard, P and Tomlinson, M, 'Patterns of Policing and Policing Patten' *Journal of Law and Society* (2000) p 394
- Lentz, Susan A, Charles, R, 'The Invention of Peels principles: A study of policing textbook history' *Journal of Criminal Justice* (2007) p 69
- Le Sueur, A, 'Developing mechanisms for judicial accountability in the UK' *Legal Studies*, Vol 24 (March 2004) pg 73
- Lister, S and Rowe, M, *Electing police and crime commissioners in England and Wales: prospecting for the democratisation of policing* *Policing and Society* (2014) p 358
- Loveday, B, 'The Police and Crime Commissioner elections' *Police Journal* (2012) p 269
- Marshall G, 'Police Responsibility, Public Administration (1960) p 213
- Morgan, R, 'Police Consultative Groups: the implications for governance of the police' (Issue 57, *Political Quarterly*) p 83
- Mulgan, R, 'Accountability': An Ever-expanding Concept?' in *Public Administration*, Vol 78, No.3 (2000) p 555
- Newburn, T, 'Police and Crime Commissioners: The Americanization of policing or a very British Reform?' *International Journal of Law, Crime and Justice* (2012) p 31
- Reiner, R, 'Policing a Postmodern Society' *Modern Law Review* (1992) p 761
- Samuels, A, 'The Police and Crime Commissioners : a bad idea?' *Criminal Law and Justice Weekly* (2012) p 621
- Sengupta, A, 'Judicial accountability: a taxonomy' *Public Law* (2014) p 245
- Simpson, H.B, 'The Office of Constable' *The English Historical Review*, Vol 10, No 40 (Oct 1895) p 625
- Smulovitz, C, Peruzzotti, E, 'Societal Accountability in Latin America' *Journal of Democracy*, Volume 11, Number 4 (October 2000) p 147
- Tyler, T, 'Enhancing Police Legitimacy, *Annals of the American Academy of Political & Social Science*, Vol 593 (2004) p 84

Tyler, T, Fagan, J, 'Legitimacy and Cooperation: Why do people help the Police fight crime in their communities?' *Ohio State Journal of Criminal Law*, Vol 6 (2008) pg 2

Warburton. D, 'Drawing the thin blue line: the reality of who controls the police' *Police Journal* (2004) p 135

Books

A Treatise on the Police of the Metropolis: a Detail of the Various Crimes and Misdemeanours By which Public and Private Property and Security are, at present, inured and endangered: and Suggesting Remedies for their Prevention, see 6th edition, London: H. Fry, Finsbury-Place, C. Dilly, Poultry (1797)

A Treatise on the Police and Crimes of the Metropolis: also an account of the courts of justice and prisons of London; and an enquiry into the causes of the increase in crime; the tendency of the debtor laws; and into the present state of the licensed victuallers' trade; with suggestions for the improvement of the protective institutions of the metropolis, and the prevention of offences, London: Longman, Rees, Orme, Brown and Green (1829)

Bailey, K, *Methods of Social Research*, New York: Free Press (1994)

Bamforth, N, and Leyland, P, *Accountability in the Contemporary Constitution*, Oxford: Oxford University Press (2013)

Baxter, J and Koffman, L *Police: The Constitution and the Community*, Abingdon: Oxon, Professional Books Limited (1985)

Beck, U, *The reinvention of politics: Rethinking modernity in the global science order* Cambridge: Polity Press (1997)

Brain, T, A, *Future for Policing in England and Wales*, Oxford: Oxford University Press (2013)

Brain, T, A, *History of Policing in England and Wales from 1974*, Oxford: Oxford University Press (2010)

Brogden, M and Ellison, G, *Policing in the Age of Austerity A Postcolonial Perspective*, Routledge: Oxon (2013)

Bryman A, *Doing Research on Organisations* Routledge: Oxon (1998)

Cane, P, *Administrative Law*, New York: Oxford University Press (2011)

Cane, P and Kritzer H.M, *The Oxford Handbook of Empirical Legal Research* Oxford, New York: Oxford University Press (2010)

Cane, P and Conaghan, J, *The New Oxford Companion to Law*, Oxford: Oxford University Press (2008)

Chatterjee, C, *Methods of Research in Law 2nd Edition*, London: Old Bailey Press (2000)

Critchley, T.A, A History of Police in England and Wales 900 – 1966, London: Constable and Company Ltd (1967)

Critchley, T.A, A History of the Police in England and Wales 2nd Edition, London: Constable (1978)

Day, P, Accountabilities: five public services, London: Tavistock (1987)

Dworkin, R, Talking Right Seriously, London: Bloomsbury (1977)

Emsley, C, Crime and Society in England 1750 – 1900 4th Edition, Harlow: Longman (2010)

Emsley, C, The English Police, London: Longman (1996)

Emsley, C, The English Police, A Political and Social History 2nd Edition, London: Longman (1996)

Emsley, C, The Great British Bobby, A History of British Policing from the 18th Century to the Present, London: Quercus (2009)

Emsley, C, Policing and its context, 1750 – 1870, London: The Macmillan Press Ltd (1983)

Fyfe, J, Greene, J, Walsh, W, Wilson, O and McLaren, R, Police Administration Fifth Edition, The McGraw-Hill Companies Inc (1997)

Gash, N, Mr Secretary Peel, The Life of Sir Robert Peel to 1830, London: Longman (1961)

Gash, N, Sir Robert Peel, The Life of Sir Robert Peel after 1830, London: Longman (1972)

Gaunt, R, Sir Robert Peel, London: Palgrave Macmillan (2010)

Gillham, B, Research Interviewing, Maidenhead: Open University Press (2005)

Harris, A, 'Policing the City: Crime and Legal Authority in London 1780 – 1840', Ohio: Ohio State University Press (2004)

Hurd, D, Robert Peel, London: Orion Publishing (2007)

Jackson, J, Bradford, B, Stanko, B, and Hohl, K, Just Authority? Trust in the Police in England and Wales, Abingdon: Routledge (2013)

Jefferson, T & Grimshaw, R, Controlling the Constable, London: Federick Muller / The Cobden Trust, London (1984)

Jones, T, Democracy and Policing, London: Police Studies Institute (1994)

Jones. T & Newburn, T, Plural Policing A Comparative Perspective, London: Routledge (2006)

- Jones, T, & Newburn, T, Smith, D.J, Democracy, the police and local accountability, London: Policy Studies Institute (1994)
- Kirby, S, Effective Policing? Implementation in Theory and Practice, London: Palgrave Macmillan (2013)
- Lambert, L, J Police Powers and Accountability, London: Croom Helm (1986)
- Leishman, F, Loveday, B, Savage S, Core Issues in Policing, 2nd Edition, Harlow: Longman (2000)
- Lewis, J, Qualitative Research Practice, London: Sage Publications (2003)
- Leonard, D, Nineteenth Century British Premiers, Basingstoke: Palgrave Macmillan (2008)
- Loader, I, Mulcahy, A, Policing and the Condition of England, Oxford: Oxford University Press (2003)
- Lustgarten, L, The Governance of the Police, Modern Legal Studies, London: Sweet and Maxwell (1986)
- Malleson, K, The New Judiciary: the effects of expansion and activism, Aldershot: Ashgate (1999)
- Mawby, R.I Policing Across the World, Issues for the Twenty-first century, London: Routledge (1999)
- Mosley, L, Interview Research in Political Science, Ithaca: Cornell University Press (2013)
- Newburn, T, Handbook of Policing, Cullompton: Willian (2008)
- Newburn, T, Policing – Key Readings, Cullompton: Willian (2005)
- Newburn, T, and Peary, J, Policing Politics, Culture and Control, Oxford: Hart (2011)
- Marshall, G, Police and Government, London: Methuen (1965)
- McConville, M and Wilson, G The Handbook of the Criminal Justice Process Oxford: Hart (2002)
- McLaughlin, E, The New Policing, London: Sage Publications (2007)
- McNabb, D, Research Methods for Political Science 2nd edition, Armonk: NY (2010)
- Moncrieffe, J, Relational Accountability: Complexities of Structural Injustice, London: Zed Books (2011)
- Newburn, T, Jones, T, Themes in Contemporary Policing, London: Police Foundation (1996)

Observations on a late publication, intituled, A Treatise on the Police of the Metropolis, by P Colquhoun, Esq, by a Citizen of London: but no Magistrate, London: H. D. Symonds (1800)

Oliver, I, Police, Government and Accountability, Basingstoke: Macmillan (1997)

Philips, D & Storch R, Policing Provincial England 1829 – 1856 The Politics of Reform, London: Leicester University Press (1999)

Ramsay, A.A.W, Sir Robert Peel, London: Constable (1928)

Reiner, R, The Politics of the Police 4th Edition, Oxford: Oxford University Press (2010)

Reiner, R and Spencer, S, Accountable Policing: Effectiveness, Empowerment and Equity, London: Institute for Public Policy Research (1993)

Reith, C, A Short History of the British Police, Oxford: Oxford University Press (1948)

Reynolds, E, Before the Bobbies, The Night Watch and Police Reform in Metropolitan London, 1720 – 1830, Basingstoke: Macmillan (1998)

Ritchie, J and Lewis, J, Qualitative Research Practice, London: Sage (2003)

Schedler, A, Diamond, L, Plattner, M, The Self Restraining State, Boulder, Colo: Lynne Rienner Publishers (1999)

Sir Robert Mark, Commissioner of Police of the Metropolis, Dimpleby Lecture Police Federation Occasional Paper, Police Federation (1973)

Steffensmeier, H.E. Brady and Collier, D, The Oxford Handbook of Political Methodology, Oxford: Oxford University Press (2008)

The Constables Pocket Companion and Guide, Sherwood (1830)

Tyler, T, Why People Cooperate: The Role of Social Motivations, Princeton: Princeton University Press (2010)

Waddington, P.A.J, Wright, M, What is Policing? London: Sage Publications (2010)

Walker, S, Police Accountability, The role of civilian oversight, Wadsworth (2001)

Walker, S Archbold, C, The New World of Police Accountability, Los Angeles: Sage Publications (2014)

Warren, C and Karner, T, Discovering Qualitative Methods, Oxford: Oxford University Press (2010)

Watkins, D and Burton, M Research Methods in Law, London: Routledge (2013)

Cases

Ridge v Baldwin (1961) 2 W.L.R 1054

The Queen on the Application of Rhodes v Police and Crime Commissioner for Lincolnshire, [2013] EWHC 1009

Reports, reviews and political manifestos

A New Beginning: Policing in Northern Ireland / the report of the Independent Commission on Policing for Northern Ireland. Independent Commission on Policing for Northern Ireland, Belfast: Northern Ireland Office (1999)

An Enquiry into the Culture, Practices and Ethics of the Press, London: 780-I (2012)

A Peoples Police Force: Police Accountability in the Modern Era (2009)

Britain Can Be Better, The Labour Party Manifesto, London: Labour Party (2015)

Code of Ethics: principles and standards of professional behaviour for the policing profession of England and Wales, Coventry: College of Policing (2014)

Code of Practice on Independent Custody Visiting, London: The Stationary Office (2013)

Committee on Standards in Public Life, Tone from the top: Leadership, ethics and accountability in policing, Cm 9057 (2015)

Electoral Reform Society, How Not To Run An Election: Police and Crime Commissioner Elections (2012)

Fitting the bill, London: Policy Exchange (2007)

Going Local: Who should run Britain's Police? London: Policy Exchange (2003)

Hansard

Her Majesty's Inspectorate of Constabulary (HMIC) State of Policing, The Annual Assessment of Policing in England and Wales (2012-2013)

Home Office, Accountability System Statement for Policing and Crime Reduction, London: Home Office (2013)

Her Majesty's Inspectorate of Constabulary, Adapting to Protest – Nurturing the British Model of Policing (2009)

House of Commons Home Affairs Committee report on Child Sexual Exploitation and the response to localised grooming, London: The Stationary Office, HC 68-I (2013)

House of Commons Home Affairs Committee, Policing: Police and Crime Commissioners, HC 844 (2016)

House of Commons Home Affairs Committee, Police and Crime Commissioners: Register of Interests, HC 69 (2014)

House of Commons Home Affairs Committee, Police and Crime Commissioners: progress to date, HC 757 (2014)

House of Commons Home Affairs Committee, Police and Crime Commissioners: power to remove Chief Constables, HC 487 (2013)

House of Commons Home Affairs Committee, Policing of the G20 Protests, Report, together with formal minutes, oral and written evidence, HC 418 (2009)

House of Commons Research Paper 12/73, Police and Crime Commissioner Elections (2012)

Independent Inquiry into Child Sexual Exploitation in Rotherham (1997 - 2013)

Information Commissioners Officers, Cabinet Office, Transparency: Opening up Government (2011)

Invitation to join the Government of Britain, The Conservative Manifesto, Great Britain: Conservative Research Department (2010)

Minutes of evidence, Report of the Committee on the Police Service of England, Wales and Scotland, H.M.S.O., (1919)

Minutes of evidence, Report of the Committee on the Police Service of England, Wales and Scotland, H.M.S.O., (1919)

National Audit Office, Police Accountability: Landscape Review, HC 963 (2014)

New Codes of Practice for Stop and Search (2012)

Operation Alice, Closing Report (2014)

Operation Herne Report 1 (2011)

Operation Herne Report 2 (2011)

Part 1, Report of the Committee on the Police Service of England, Wales and Scotland, Cmd. 253 (1919)

Part 2, Report of the Committee on the Police Service of England, Wales and Scotland, Cmd. 574 (1919)

Partners in Crime: Democratic Accountability and the Future of Local Policing, London: Policy Exchange (2009)

PCCs one year on: Delivering police accountability (2012)

Policing a New Century: A Blueprint for Reform, Home Office: The Stationary Office (2001)

Policing for a Better Britain, Report of the Independent Police Commission (2013)

Policing for the People (2012)

Power Down, A plan for a cheaper more effective justice system, London: Policy Exchange (2013)

Public Perceptions of Police Accountability and decision making, Home Office Report 38/03 (2003)

Royal Commission on the Police, Cmd. 1728 (1964)

Royal Commission on the Police, Minutes of Evidence, London: The Stationary Office (1964)

The 2010 Comprehensive Spending Review, HM Treasury, Cm 7942 (2010)

The advent of police crime commissioners: The Politicisation of crime and policing or the dawn of democratic oversight (2012)

The Coalition: our programme for government, London: HM Government (2010)

The Electoral Commission, Police and Crime Commissioner elections in England and Wales, Report on the administration of elections held on 15 November 2012

The Government response to the Sixteenth Report from the Home Affairs Select Committee, Police and Crime Commissioners: progress to date, Cm 8981 (2014)

The Review of Policing, London: Home Office (2008)

The Scarman Report, The Brixton Disorders, Harmondsworth: Penguin (1981)

The Stephen Lawrence Inquiry, London: The Stationary Office (1999)

Policing in the 21st century, reconnecting police and the people: consultation, London: Home Office (2010)

Press Releases, standard notes, speeches and research papers

Home Office Press Release, New Act puts public at the heart of policing, 15th September (2011)

Home Office, Speech by Home Secretary Theresa May to Policy Exchange about Police and Crime Commissioners (2016)

Police and Crime Commissioners, House of Commons Standard Note SN/HA/6014

Police and Crime Panels, Guidance on role and composition, Local Government Association (2011)

Statement, Office of Avon and Somerset PCC: Chief Constable, Avon & Somerset Police and Crime Commissioner, 22 November 2012

Select Committee Reports

Commissioners Report on the establishment of a Counties Force in England and Wales, H.M.S.O., (1839)

First Report from the Select Committee on Police, 603 (1853)

Report from the Select Committee on the Police of the Metropolis, 440 (1822)

Report from the Select Committee on the Police of the Metropolis, 533 (1828)

Report from the Select Committee on the Police of the Metropolis, 600 (1834)

Second Report from the Select Committee on Police, 715 (1853)

Twenty – Eighth Report from the Select Committee on Finance, Police, Including Convict Establishments, 112 (1798)

Speeches

Office of Shaun Wright, statement from the South Yorkshire Police and Crime Commissioner (2014)

Home Office, Speech by Home Secretary Theresa May to Policy Exchange about Police and Crime Commissioners (2013)

Sir Hugh Orde Speech The Fog of Transition in the U.K Policing: Major Changes Ahead (2011)

Speech by Shadow Home Secretary David Davis to the Conservative party conference (2003)

Speech by Shadow Home Secretary Oliver Letwin to the Conservative party conference (2003)

Speech by Home Secretary Theresa May to Policy Exchange about Police and Crime Commissioners (2013)

Websites

http://0-gateway.proquest.com.serlib0.essex.ac.uk/openurl?url_ver=Z39.88-2004&res_dat=xri:hcpp&rft_dat=xri:hcpp:rec:1839-018274

http://0-gateway.proquest.com.serlib0.essex.ac.uk/openurl?url_ver=Z39.88-2004&res_dat=xri:hcpp&rft_dat=xri:hcpp:rec:rhc-000243

http://0-parlipapers.chadwyck.co.uk.serlib0.essex.ac.uk/fullrec/fullrec.do?area=hcpp&resultNum=2&entries=6&source=config.cfg&queryId=../session/1389022635_26422&fulltexthits=28811

<http://0-parlipapers.chadwyck.co.uk.serlib0.essex.ac.uk/fullrec/fullrec.do?id=1919-022569&DurUrl=Yes>

<http://0-parlipapers.chadwyck.co.uk.serlib0.essex.ac.uk/fulltext/docdownload.jsp?id=1834-014954&numpages=520&megabytes=52&sessno=1834&paperno=%28600%29&title=Report%20from%20the%20Select%20Committee%20on%20the%20Police%20of%20the%20Metropolis%3B%20with%20the%20minutes%20of%20evidence%2C%20appendix%20and%20index.&volpage=XVI.1>

http://0-parlipapers.chadwyck.co.uk.serlib0.essex.ac.uk/fulltext/fulltext.do?area=hcpp&id=1822-007659&source=&pagenum=1&resultNum=1&entries=1&queryId=.%2Fsession%2F1389018542_15403&backto=FULLREC&fromSearchHistory=&searchWithin=&showall=&enlarge=&gotoFirstHit=&SEARCHSTRING

http://0-parlipapers.chadwyck.co.uk.serlib0.essex.ac.uk/imageserver/pdf_download.cgi?FROMHOST=parlipapers.chadwyck.co.uk&MLCOUNT=%280+items%29&USERAUTH=uessex%3AzEDFRyluFy4pg%3AeZzyY5n.gOUow%3AUe5.x61oZgw7A%3Aeaw4PiQAEmLY%3ATCVNWNoleYm1s&SUBSCRIBED=C18C19C20&WARNING=Y&DOWNLOAD=Y&PAGE S=1-514&RECORD=1920-023766&PAPERNO=%5BCmd.+874%5D&SESSNO=1920&TITLE=Committee+on+the+Police+Service.+Minutes+of+evidence+of+the+committee+appointed+to+consider+and+report+whether+any+and+what+changes+should+be+made+in+the+method+of+recruiting+for%2C+the+conditions+of+service+of%2C+and+the+rates+of+pay%2C+pensions%2C+and+allowances+of+the+police+forces+of+England%2C+Wales+and+Scotland.&VOLPAGE=XXII.573&NUMPAGES=514&SELECTION=ALL&RANGE=1-514

<http://0-parlipapers.chadwyck.co.uk.serlib0.essex.ac.uk/saveditems/myArchive.do>

<http://0-parlipapers.chadwyck.co.uk.serlib0.essex.ac.uk/search/search.do>

http://0find.galegroup.com.serlib0.essex.ac.uk/ttda/newspaperRetrieve.do?qrySerId=Locale%28en%2C%29%3AFQE%3D%28tx%2CNone%2C26%29Brighton+police+conspiracy%3AAnd%3ALQE%3D%28da%2CNone%2C11%291957+-1958%3AAnd%3ALQE%3D%28MB%2CNone%2C8%29%22TTDA-1%22%24&retrieveFormat=MULTIPAGE_DOCUMENT&sort=DateAscend&docLevel=FASCIMILE&inPS=true&prodId=TTDA&userGroupName=essex&tabID=T003&resultListType=RESULT_LIST&searchId=R1&docId=CS34560402¤tPosition=1&docId=&docLevel=FASCIMILE&workId=&relevancePageBatch=&contentSet=LTO&callistoContentSet=UDVIN&docPage=article&mcode=&issueNum=&recNum=CS34560402&newScale=0.33&newOrientation=0&searchTypeName=BasicSearchForm&fromContentPage=articleOnThisPage&articleContentLink=enable

<http://apccs.police.uk/role-of-the-pcc/>

http://apccs.police.uk/wp-content/uploads/2013/08/PCCs_One_Year_On.pdf

<http://cain.ulst.ac.uk/issues/police/patten/patten99.pdf>

<http://cain.ulst.ac.uk/issues/police/patten/patten99.pdf>

http://conservativehome.blogs.com/torydiary/files/policing_for_the_people.pdf

<http://content.met.police.uk/Site/tsg>

<http://davidblunkett.typepad.com/files/a-peoples-police-force-2.pdf>

<http://independentpolicecommission.org.uk/uploads/37d80308-be23-9684-054d-e4958bb9d518.pdf>

http://news.bbc.co.uk/1/shared/bsp/hi/pdfs/11_04_05_conservative_manifesto.pdf

<http://news.npcc.police.uk/releases/update-on-acpo-future>

<http://researchbriefings.files.parliament.uk/documents/RP12-73/RP12-73.pdf>

<http://researchbriefings.files.parliament.uk/documents/SN06104/SN06104.pdf>

http://webarchive.nationalarchives.gov.uk/20080910134927/http://police.homeoffice.gov.uk/publications/police-reform/Review_of_policing_final_report/flanagan-final-report?view=Binary

<http://webarchive.nationalarchives.gov.uk/20160105160709/http://www.ons.gov.uk/ons/guide-method/geography/products/area-classifications/ns-area-classifications/ns-2011-area-classifications/index.html>

www.acpo.police.uk/About/AboutACPO.aspx

www.acpo.police.uk/ContentPages/Speeches/201208PoliceChiefSHOarticle.aspx

www.acpo.police.uk/ContentPages/Speeches/SirHughOrdeSpeechtoLiberty.aspx

www.apccs.police.uk/find-your-pcc/

www.apccs.police.uk/home/2016-police-crime-commissioner-elections/

www.bbc.co.uk/news/election-2016-36235294

www.bss.leeds.ac.uk/2012/10/09/the-advent-of-police-and-crime-commissioners-pccs-the-politicisation-of-crime-and-policing-or-the-dawn-of-democratic-oversight/

www.college.police.uk/en/docs/Code_of_Ethics.pdf

www.cps.gov.uk/legal/a_to_c/allegations_of_criminal_offences_against_the_police/

www.derbyshire.police.uk/Documents/About-Us/Herne/Operation-Herne---Report-1---Covert-Identities.pdf

www.derbyshire.police.uk/Documents/About-Us/Herne/Operation-Herne---Report-2---Allegations-of-Peter-Francis.pdf

www.electoralreform.org.uk/sites/default/files/How%20not%20to%20run%20an%20election.pdf

www.electoralcommission.org.uk/_data/assets/pdf_file/0003/154353/PCC-Elections-Report.pdf

www.hmic.gov.uk/wp-content/uploads/2014/03/state-of-policing-12-13.pdf

www.iantomlinsonfamilycampaign.org.uk/

www.iantomlinsonfamilycampaign.org.uk/2009/06/contacts_405.html

www.ippr.org/about

www.labour.org.uk/page/-/BritainCanBeBetter-TheLabourPartyManifesto2015.pdf

www.legislation.gov.uk/ukxi/2012/2553/pdfs/ukxi_20122553_en.pdf

www.local.gov.uk/c/document_library/get_file?uuid=8f16dd65-7fde-4792-8578-fa955263931e&groupId=10180

www.met.police.uk/pressbureau/Bur01/Operation%20Alice%20Closing%20Report.pdf

www.nao.org.uk/wp-content/uploads/2014/01/Police-accountability-Landscape-review.pdf

www.npcc.police.uk/About/History.aspx

www.official-documents.gov.uk/document/hc1213/hc07/0780/0780_i.pdf

www.policyexchange.org.uk/about-us

www.policyexchange.org.uk/images/publications/going%20local%20-%20jan%2003.pdf

www.policyexchange.org.uk/images/publications/power%20down.pdf

www.policyexchange.org.uk/modevents/item/the-pioneers-police-and-crime-commissioners-one-year-on-with-theresa-may

www.policyexchange.org.uk/publications/category/item/fitting-the-bill-local-policing-for-the-21st-century

www.policyexchange.org.uk/publications/category/item/partners-in-crime

www.publications.parliament.uk/pa/cm200809/cmselect/cmhaff/418/418.pdf

www.publications.parliament.uk/pa/cm201011/cmselect/cmhaff/511/511.pdf

www.publications.parliament.uk/pa/cm201314/cmselect/cmhaff/487/487.pdf

www.publications.parliament.uk/pa/cm201314/cmselect/cmhaff/69/69.pdf

www.publications.parliament.uk/pa/cm201415/cmselect/cmhaff/203/203.pdf

www.rotherham.gov.uk/downloads/file/1407/independent_inquiry_cse_in_rotherham

www.southyorkshire-pcc.gov.uk/News-and-Events/News-Archive/2014/Statement-from-the-South-Yorkshire-Police-and-Crime-Commissioner.aspx

www.statewatch.org/news/2009/nov/uk-hmic-adapting-to-protest.pdf

www.theguardian.com/politics/2003/oct/07/conservatives2003.conservatives4

www.theguardian.com/politics/2004/oct/06/conservatives2004.conservatives6

www.theguardian.com/uk-news/2013/aug/05/ian-tomlinson-apology-met-police

www.ico.org.uk/media/about-the-ico/documents/1042355/westmore-slideshow.pdf

www.conservatives.com/~media/files/activist%20centre/press%20and%20policy/manifestos/manifesto2010

www.gov.uk/government/news/new-act-puts-public-at-the-heart-of-policing

www.gov.uk/government/organisations/the-committee-on-standards-in-public-life

www.gov.uk/government/publications/policing-a-new-century-a-blueprint-for-reform
<https://www.gov.uk/government/publications/policing-in-the-21st-century-reconnecting-police-and-the-people-consultation>

www.gov.uk/government/speeches/police-and-crime-commissioners-one-year-on-warts-and-all

www.gov.uk/government/uploads/system/uploads/attachment_data/file/203826/Spending_review_2010.pdf

www.gov.uk/government/uploads/system/uploads/attachment_data/file/237395/Independent_custody_visitors_code_of_practice.pdf

www.gov.uk/government/uploads/system/uploads/attachment_data/file/277111/4262.pdf

www.gov.uk/government/uploads/system/uploads/attachment_data/file/346922/Best_Use_of_Stop_and_Search_Scheme_v3.0_v2.pdf

www.gov.uk/government/uploads/system/uploads/attachment_data/file/387123/PCCprogressToDate.pdf

www.gov.uk/government/uploads/system/uploads/attachment_data/file/410711/March_2015_Accountability_System_Statement_for_Policing_and_CrimeFINAL.pdf

www.gov.uk/government/uploads/system/uploads/attachment_data/file/439208/Tone_from_the_top_-_CSPL.pdf

www.gov.uk/government/uploads/system/uploads/attachment_data/file/499176/Response_from_Home_Secretary.pdf

www.gov.uk/government/uploads/system/uploads/attachment_data/file/78977/coalition_programme_for_government.pdf

www.ipcc.gov.uk/

www.ipcc.gov.uk/sites/default/files/Documents/research_stats/complaints_statistics_11-12.pdf

www.ons.gov.uk/census/2011census/2011censusdata

www.publications.parliament.uk/pa/cm201011/cmselect/cmhaff/511/51102.htm