

Police and Crime Commissioners: A Dislocated Expectation?

Simon Cooper  *

Abstract The calls in 2019 and 2020 for a Royal Commission, combined with the launch of The Strategic Review by The Police Foundation and the recommendation by Her Majesty's Inspector of Constabulary and Fire & Rescue Services for 'profound and far reaching police reform', evidence a thirst for refinement, and potentially, significant change to the governance of policing. Using new empirical data obtained through elite research interviews with some of the most senior stakeholders in policing at a regional and national level, this article explores the ability of Police and Crime Commissioners (PCCs) to hold Chief Constables to account. Attention is drawn to how the accountability of Chief Constables to PCCs may have significant strengths, such as enhanced visibility, increased frequency, and improved scrutiny. However, the accountability of Chief Constables may also be frustrated and possibly compromised. Indeed, accountability might be exercised inconsistently, susceptible to significant variance and contingent on the calibre and vagaries of PCCs. As such, recommendations are made to strengthen governance arrangements to ensure Chief Constables are robustly held to account. Specifically, the Home Secretary is encouraged to review The Policing Protocol Order and issue an Accountability Code of Practice.

Introduction

This article examines the ability of Police and Crime Commissioners (PCCs) to hold Chief Constables to account in England and Wales. The research presented here shows that the accountability of Chief Constables to PCCs can have a number of significant strengths. In particular, visibility, frequency, and improved scrutiny. However, this research also draws attention to how the accountability of Chief Constables could be frustrated, administered inconsistently, and be of variable quality. Moreover, the accountability of Chief Constables may be subject to the vagaries of PCCs, including their variable calibre.

The governance of policing was until 2012 a responsibility shared between the Home Secretary, Chief Constables and the relevant Police Authority. This 'tripartite structure' was widely criticized (Lambert, 1986; Reiner, 1992; The Scarman Report, 1982; Home Office Report 38/02, 2003). One aspect that attracted particularly strong criticism was the perceived expanding power of the Home Secretary and Chief Constables. In addition to highlighting that the Home Secretary was accountable to Parliament for a police service, which they had no direct responsibility for (Oliver, 1997), it was argued the tripartite enhanced and constitutionally extended the powers of the Home

*Lecture in Law, Essex Law School, University of Essex, Wivenhoe Park, Colchester CO4 3SQ, UK. E-mail: sjcoop@essex.ac.uk

Secretary and Chief Constables at the expense of Police Authorities. This led critics to conclude that the governance arrangements introduced by the Police Act 1964 created a bipartite structure not a tripartite (McLaughlin, 2007). The structure was also considered entirely unbalanced as the Home Secretary could exert significant pressure on Chief Constables to direct their resources. Developing this, some considered the tripartite structure to be nothing more than a convenient smokescreen for the Government to retain *de facto* national control of the police (Warburton, 2004). The structure was also considered inherently weak and one that held no tangible meaning for the public. Indeed, Police Authorities were argued to discharge their statutory duty with limited effect, meaning the views of local people were rarely reflected in the strategic direction of the police (Oliver, 1997). In addition, the tripartite structure failed to provide any form of accountability at a local level and concern expressed that the structure entangled responsibilities and created uncertain lines of accountability, which made it difficult to call any of the stakeholders to account (Oliver, 1997).

The frailties of the tripartite structure were aggravated by the strong and persistent criticisms directed at Police Authorities, widely considered the weakest link. Analysts such as Jones, Newburn and Smith asserted Police Authorities lacked expertise and were undermined by the Home Office (Jones et al., 1995). With parity, and conceivably at the expense of local accountability, Oliver underlined how the Home Office set the strategic direction for policing through the use of informal and bureaucratic Home Office circulars (Oliver, 1997). Police Authorities were also considered inherently weak and unable or unwilling to use their statutory power to hold Chief Constables to account (Lambert, 1986). Arguably, this was evidenced by Chief Constables failing to report regularly to Police Authorities and a failure of Police Authorities to use their power to call for reports from Chief Constables. Equally, Scarman warned Police Authorities were uncertain of

themselves as they failed to exercise their responsibilities (The Scarman Report, 1982). Further, the annual reports that Chief Constables were required to provide to Police Authorities were considered a very weak form of accountability as no consultative duty was placed on Chief Constables. As such, reports were considered informative document but not a real mechanism that Police Authorities could use to hold Chief Constables to account. Ultimately, the failure of Police Authorities led some to conclude that Chief Constables were virtually autonomous (Lambert, 1986).

A Home Office report published in 2003 heaped further criticism on Police Authorities. In addition to finding 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, 'Public Perceptions of Police Accountability' drew attention to the very low level of democratic dialogue between the policed and their Police Authority (Home Office Report 38/02, 2003). The Home Office also found the majority of the public were sceptical as to whether Police Authorities were effective, largely because of their low public profile. Moreover, Jones and Newburn (2006) observed a notable decline in the popular legitimacy of the police, so crucial to public consent and compliance, and others suggested Police Authorities lacked any form of transparency and legitimacy (Gravelle and Rogers, 2011). Supporting this, it was argued that although members of Police Authorities were appointed representatives the majority were not directly appointed by the public. Conceivably, this led Police Authorities to be invisible, which further eroded the public's disconnection with the police and increased the democratic deficit in police accountability.

The weaknesses of the tripartite structure and the re-occurring criticisms made of Police Authorities led to the adoption of 'calculative and contractual' accountability (Reiner and Spencer, 1993) and New Public Management (NPM) (Jones, 1995; Brain, 2013). In particular, NPM

intended to make the police more accountable by ensuring an efficient, economic and effective police service. These models were utilized by successive Conservative and Labour administrations in the 1990's and injected police governance with private sector concepts and structures (McLaughlin, 2007) such as costing concepts, performance tables, and the externalization of non-essential responsibilities (Leishman et al., 2000). Accountability became more consumer focused via public service agreements, citizen charters, and the best value audit process (Cane, 2011; McLaughlin, 2007; Home Office, 2001). As such, pluralization, centralization, and managerialism became synonymous with the governance of policing.

However, these institutionalized performance frameworks arguably led police accountability to be driven by Whitehall-defined values and crime reduction targets. Indeed, 'calculative and contractual' accountability and NPM were widely critiqued as speculative, unworkable, and ultimately unsuccessful (Jones, 1995; Loveday, 1999). In the short term, they were considered to be an assault on professional cultures and power relations in the police and in the long term an unprecedented shift in police governance as they were directed and controlled by central Government (Reiner, 2010). These models were also argued to create a gulf between the public and the police (McLaughlin, 2007). In addition, 'calculative and contractual' accountability arguably corrupted the unique ethos of British policing as the police was converted into a crime-controlling business. Further, the value for money concepts of NPM conceivably blurred the distinction between the police and the private security sector, which led to market-dictated and crime-orientated business-like policing (Newburn and Reiner, 2004).

The perceived failure of Police Authorities combined with the criticisms directed at the tripartite structure and the unsuccessful flirtations with 'calculative and contractual' accountability and NPM paved the way for reform. The thrust of these

reforms were that police accountability had to be decentralized and democratically accountable (Policy Exchange, 2003, 2007, 2009, 2013). A confluence of policy and political discussion (Speech by Shadow Home Secretary Oliver Letwin to the Conservative party conference, 2003; The Conservative Election Manifesto, 2005; Speech by Shadow Home Secretary David Davis to the Conservative party conference, 2004; Lecture by David Cameron to the Police Foundation, 2006; Policing for the People, Interim report of the Police Reform Taskforce, 2007; Speech by Chris Grayling 'Our plans for elected police Commissioners.', 2009; The Conservative Manifesto, 2010; Home Office, 2010; HM Government, 2010) led to the introduction of directly elected PCCs in 2012 and the discredited tripartite structure disbanded. In short, a new experimental and transformative era in the governance of policing was born.

However, the introduction of PCCs was far from smooth. From the infamous Channel 4 documentary 'Meet the Commissioner' ('Meet the Commissioner', 2014) to a series of headline grabbing clashes with Chief Constables (The Queen on the Application of Rhodes v Police and Crime Commissioner for Lincolnshire, 2013; BBC 2012; Cooper, 2020; Shannon, 2020; BBC 2017a,b, The Telegraph 2018) to expense revelations, allegations of cronyism and a number of high-profile dismissals (BBC, 2013; BBC 2016; Statement from South Yorkshire Police and Crime Commissioner, 2014; BBC, 2014a,b) PCCs have in their infancy proved to be contentious and problematic.

Holding chief constables to account

The Police Reform and Social Responsibility Act (2011) (PRSRA) and the Policing Protocol Order (2011) set the accountability responsibilities of PCCs. The Policing Protocol makes clear that Chief Constables are accountable to PCCs, stating:

‘the Chief Constable is accountable to their PCC’ and ‘the accountability of the Chief Constable remains firmly to the PCC’. In addition, the Policing Protocol states PCCs have a ‘statutory duty’ an ‘electoral’ ‘democratic mandate’ and ‘legal power’ to hold Chief Constables to account.

PCCs are in theory held to account by Police and Crime Panels (PCPs). PCPs are the committee or joint committee of relevant local authorities and a statutory requirement for each police force area. Therefore, PCPs have a critical role; they are solely responsible for supporting, scrutinizing, providing and maintaining a regular ‘check and balance’ on PCCs. Notably, the Local Government Association and the Centre for Public Scrutiny have observed that PCPs are primarily a scrutiny body created to ‘proactively scrutinise the PCC’ (Local Government Association, 2019). The National Audit Office has also said that PCPs are ‘the most important check in the accountability system’ (National Audit Office, 2014).

Yet, given the key role of PCPs, a number of reports and reviews have questioned their effectiveness (The Government response to the Sixteenth Report from the Home Affairs Select Committee, 2014; The Committee on Standards in Public Life, 2015). Various authors (Lister, 2014; Chambers, 2014; Bailey, 2015; Lister and Rowe 2015; Loveday, 2018) have also questioned the effectiveness of PCPs, highlighting how PCPs may lack authority, might have limited power and could be considered ineffectual.

Some have explored the mechanisms that PCCs use to hold Chief Constables to account. Of particular note, and in addition to holding the PCC model to be structurally defective, The Steven’s Review argued that PCCs were replacing public scrutiny and accountability processes with ‘opaque accountability arrangements’ evidenced by PCCs meeting privately with Chief Constables (The Independent Police Commission, 2013). Further, and whilst recognizing that PCCs were using a number of different mechanisms to hold Chief Constables to account, The House of Commons

Home Affairs Select Committee (HASC) expressed concern that some were inherently weak—in particular the informal interactions between PCCs and Chief Constables. Here, the HASC argued that the mechanisms PCCs use lack transparency and afforded no ability to scrutinize (The Government response to the Sixteenth Report from the Home Affairs Select Committee, 2014).

Finally, and whilst recognizing that PCCs lead accountability to be more ‘streamlined’ the Committee on Standards in Public Life (CSPL) observed that the personal dynamic between PCCs and Chief Constables could ‘impact on accountability’ (The Committee on Standards in Public Life, 2015).

Given the failings of the tripartite structure, the criticisms made of ‘calculative and contractual’ accountability, NPM and more recently the scandals and controversies surrounding PCCs and the reservations expressed at the mechanisms that PCCs use to hold Chief Constables to account, this study examined the ability of PCCs to hold Chief Constables to account. This important question is explored at a time of challenge, and potentially, significant change to the governance of policing, evidenced by the calls in 2019 and 2020 for a Royal Commission (The Queen’s Speech, 2019; National Police Chiefs’ Council, 2020; BBC 2019, The Times 2019), the recommendation by Her Majesty’s Inspector of Constabulary and Fire & Rescue Services (HMICFRS) for ‘profound and far reaching police reform’ (HMICFRS, 2018) and the launch of The Strategic Review of Policing by the Police Foundation (The Police Foundation, The Strategic Review of Policing in England and Wales, (2020)).

Methodology

Interviews with senior officials (Gillham, 2005) at the ‘top’ of the stratification system (Jupp, 2006) (defined as ‘elite research interviews’) were conducted with Chief Constables, PCCs and Chairs of PCPs across five police force areas. Three measures

were used to select police force areas. Firstly, police force areas were differentiated as urban or rural. Secondly, the size of population of the policed area. Thirdly, whether the PCC was associated with a political party or whether they were an independent PCC. Therefore, importantly, five different police force areas were used in this qualitative study.

In addition to interviews with Chief Constables, PCCs, and PCPs across five police force areas interviews were conducted with, a person directly involved with introducing the present structure of police accountability and one of the most senior persons in policing at a national level. Therefore, in total, 17 interviews were conducted.

Organizations such as the police are generally considered to be reluctant to grant access to researchers as they are subject to overwhelming requests and can sometimes see academic research as unproductive (Bryman, 1998). An important part of the successful recruitment procedure for this study was a personal approach and the identification of appropriate gatekeepers, defined as those who can grant or deny access (Warren and Karner, 2010). Thus, some letters of invitation were sent directly to contacts made during the course of this research, while others were recruited by asking initial interviewees for recommendations or introductions to specific persons or bodies within the police force area and beyond: the snowball research approach (Webley, 2010).

All interviews were conducted over a period of nine months from 2016 to 2017, and each lasted approximately 90 min. All were carried out face to face. There were two main benefits to conducting interviews in person. Firstly, interviewees were motivated to answer questions, and secondly, the interviews were more personal (Chatterjee, 2000). With prior permission, all interviews were audio recorded.

All interviews were semi-structured (Beamer, 2002) and open questions used with topic areas identified, but not disclosed to interviewees in advance. Access to all interviewees was unrestricted,

and no restrictions were placed on the publication of findings (Burton, 2013).

Because of the sensitive nature of this research, all interviewees are anonymized with reference to each policing area by letter. This method of citation by office and police area was used for all Chief Constables, PCCs, and PCPs. Data from the interview with a person directly involved with introducing the present structure of police accountability will be cited as Person Y, and interview data from one of the most senior persons in policing will be cited as Person Z. Thus, all interviewees are quoted anonymously, in a gender-neutral way, and no further information is offered to avoid identification (Warren and Karner, 2010).

Managing and analysing data had four phases. Firstly, the manual transcription of data and the production of verbatim interview transcripts. Secondly, the identification of core themes using 'open coding'. Thirdly, the incorporation of core themes and key quotes onto thematic charts using the framework analysis method (Ritchie et al., 2003). Finally, thematic charts were analysed and themes identified. The author invites further contact for a more detailed breakdown of how raw interview data were managed and analysed.

This study does not purport to be nationally representative. However, rigorous analysis of data produced from in-depth interviews with Chief Constables, PCCs, and PCPs across different and systematically selected police force areas provides important and indicative insights. Moreover, given the integral influence of Person Y and Person Z, data produced from these in-depth interviews make a valuable contribution to this research field.

Can the accountability of chief constables to PCCs be effective?

This research finds that PCCs can hold Chief Constables to account effectively. Some Chief Constables argue that accountability by PCCs has a number of significant strengths. For example, Chief Constable A outlined how PCCs have

increased the visibility of accountability and led accountability to be more direct, instantaneous, and continual:

I am grilled, and that's probably the best word for it. The simple optic of the PCC sitting next to me means accountability is very visible. The accountability is instant, direct, visible and quite personable ... it's a more continual, rolling accountability (with) a higher level of scrutiny and a greater level of detail, a greater level of understanding because of the way that the organizations now work together getting that oversight right. Fundamentally, the PCC provides a quicker, slicker, more straight forward process. (Chief Constable A)

The argument that PCCs can lead the accountability of Chief Constables to be more frequent was also evident from a number of interviews with PCCs. For example, PCC D highlighted how accountability is now on-going:

Police Authorities were wrapped around the little fingers of Chief Constables because they never really knew what was going on ... Chief Constables were barely accountable to their Police Authorities, it was lip service ... it was always Chief Constables that were always the Kings of their Kingdom. Every Chief Constable was the King in their Kingdom. Locally Chief Constables could do what the hell they liked and boy did they do it! We are in the organization all the time, accountability is on an on-going basis. (PCC D)

The increased frequency of accountability was also highlighted by PCC E. This interviewee asserted that PCCs have removed the constant backlog associated with Police

Authorities, leading accountability to be instant and more robust:

It (accountability) is instant, with recognition of difficulties or successes whereas with the Police Authority it was a constant backlog. Chief Constables are held more robustly to account because there is just one person steeped in it. (PCC E)

The removal of the backlog highlighted by PCC E was also acknowledged by Chief Constable C, contending that PCCs can be accessible and can provide a more effective means of decision making compared with their predecessor, Police Authorities:

Police Authorities were a blinking nightmare to get a decision ... whereas with PCCs you do get a decision. The relationship I have with my PCC is a good relationship where we can have access to each other whenever we need too. (Chief Constable C)

This argument was also made by Chief Constable D, emphasizing that the single point of decision making that PCCs can bring to the governance and accountability of policing can also provide an effective platform for policing. With a significant caveat, it was also argued that PCCs do have the ability to constantly question, continually challenge and therefore hold Chief Constables to account effectively. Indeed, this research respondent highlighted that PCCs can be more open, engaging, and challenging of Chief Constables:

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. I have a single point of contact to explain the context of what is going on, the challenges, the opportunities that exist. That has

provided a more dynamic environment for us to try and move policing forward. I am saying it's a positive model because I have had a value driven, bright public service individual. My colleagues don't all have the same experience. In (this police area) someone has come in from outside policing with a history of operating in the private sector at a strategic level and therefore questions that have been asked have been robustly put. However, not all PCCs are as bright and as well informed as (my PCC). I think the other really valid role from an engaged thoughtful PCC like I have is because (the PCC) is constantly asking questions, constantly challenging, constantly checking there have been occasions where (the PCC) has provided me with another set of lenses or another view which I might not have had otherwise. (The PCC) has challenged me on a range of positions and that has constantly pushed the quality of what we are doing. For me that is exactly what meaningful scrutiny is, not some cheap headline or posturing in a newspaper. At their best PCCs have presented a more open way of engaging, challenging and holding to account Chief Constables. (Chief Constable D)

In addition to identifying that PCCs can lead to the accountability of Chief Constables to be more frequent, instantaneous, and visible, this research also finds efficiency to be an additional strength. While stressing that the model was not 'always perfect', Chief Constable A considered accountability to be more efficient as 'the current model is a much quicker way of doing things'. The accountability of Chief

Constables was also asserted to be more efficient by a number of PCCs. For example, PCC C considered accountability to be more effective and more transparent while also providing greater clarity:

It (the accountability of Chief Constables) has improved a huge amount. In the past you had the Chief Constable as King or Queen of all they surveyed ... who actually held the Chief Constable to account beforehand? I'm not sure anybody did really. Police Authorities were hardly effective. 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. (PCC C)

The argument that PCCs can provide greater clarity was also made by PCC A. In addition, this research respondent highlighted how the PCC structure can improve dialogue within the branches of police governance:

What we have achieved through this model is much greater clarity about who is responsible for what, where the buck stops and specific decisions ... it promotes, if you get it right, a better dialogue. (PCC A)

Robustness was identified as a further strength. For example, PCC E argued that PCCs can lead to Chief Constables being held to account more robustly:

There is just one person steeped in it ... Chief Constables are held more robustly to account. (PCC E)

This argument was also acknowledged by Chief Constable D, highlighting that when PCCs are effective they can establish a new found grip on

The Policing Protocol appear achievable as Chief Constables can be made answerable as accounts and explanations are given to PCCs. Therefore, the requirements of the Protocol can be adhered to as PCCs can provide robust challenge.

Has the accountability of chief constables weakened?

This research also finds that the accountability of Chief Constables to PCCs could be subject to a significant anomaly; namely, it might be predisposed by the relationship between Chief Constables and PCCs. In turn, this may lead accountability to be inconsistently administered and subject to significant variance. The accountability of Chief Constables could also be contingent on the calibre of PCCs, subject to their vagaries and hinge on luck. Therefore, not only might the duties set by The Policing Protocol be unfulfilled in some police areas, the accountability of Chief Constables could also be impaired. These important developments are now considered.

Person Z highlighted that current governance arrangements have potentially created inconsistencies that could impact how effectively Chief Constables are held to account. The cause was argued to be the strength or weakness of the PCC. More broadly, it was suggested that prior to their introduction PCCs lacked sufficient examination and with reflection may even be 'a blunder':

For one person, even though they are elected, to replace the wisdom and contribution of 19 (Police Authority members) is a tall ask. 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.
(Person Z)

Some Chief Constables were candid in their assessment of accountability from PCCs. For example, Chief Constable B highlighted that the reality is that they are not facing a thorough examination:

Am I facing difficult questions from the PCC on a daily basis? Absolutely not. (Chief Constable B)

While contending that PCCs are likely to be considered more transparent for the public, Chief Constable E expressed concern that there is likely to be no, or very limited, additional accountability of Chief Constables:

Do I feel more held to account than I did to a Police Authority before? No. Do I feel it's a little better and more transparent with the public? Yes. (Chief Constable E)

This was acknowledged by others. For example, PCC D gave a frank assessment, warning that some PCCs are 'completely useless' and likely subject to 'lip service' from Chief Constables:

I know there are some completely useless Police and Crime Commissioners. There are some PCCs that I absolutely wouldn't go and work for. The question is, can a PCC be played by a Chief Constable? They clearly could be and some I suspect are. I am quite sure that there are some Chief Constables who just play lip service to their PCC. (PCC D)

A number of Chief Constables also asserted that the relationship between Chief Constables and PCCs could be administered inconsistently. While some strengths were identified, the risks PCCs bring to the accountability of Chief Constables

conceivably dominate and may even overshadow the governance of policing:

Whilst it brings clarity, it brings timeliness, it reduces political infighting there is a significant risk that the relationship either becomes excessively hostile, excessively friendly or because of the weaknesses between the two, particularly where one has been selected by the other, there isn't the balance, additional questioning or informing of the debate that a wider group would give. When it is operating at its pure best it has brought clarity about the 'one to one' eye to eye, explain where we are, why are we here, what are we doing, what is the plan but because of 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. (Chief Constable D)

This research respondent also highlighted that while their relationship with their PCC was conducive to them being held to account effectively, this was not a true reflection across police areas:

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. I have a value driven, bright public service individual. My colleagues don't all have the same experience and it concerns me enormously. I don't think all the PCCs are as bright and as well informed as mine. It is crucial that

we do find a model that properly challenges and holds Chiefs' to account because that drives better policing. 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. (Chief Constable D)

These inconsistencies and concerns were reinforced by other key informants. For example, Chief Constable C highlighted that some PCCs are incompetent and lack basic skill. It was also observed that some Chief Constables can be obstructive to PCCs and some Chief Constables have failed to adapt to the PCC model:

I have seen evidence of PCCs who are ill equipped and ill prepared and actually don't have the skills to understand big organizations making sweeping statements and making assumptions about individuals without any basis what so ever. I have also seen Chief Constables that do not want to adapt to a new way of working and will be very obstructive towards PCCs. Chief Constables that have failed to adapt have lost it completely. (Chief Constable C)

Others questioned the inherent abilities of some PCCs. Indeed, it was suggested that some operate with the driving force of personality and ego:

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. (Chief Constable D)

Equally, Chief Constable E outlined how personalities can become destructive, which, in turn,

may have a detrimental impact on the accountability of Chief Constables:

I know in other areas that individual egos have got in the way of truly being accountable. (Chief Constable E)

A number of PCCs also noted how luck was critical to success. For example, PCC D considered it to be essential:

I was lucky and it's a major factor ... I think the Chief (Constable) does genuinely feel that he is being held to account to me. Some of my staff would say am I sure but I am sure because it's not quite as apparent to them as they don't see the fisty (sic) cuffs, the stand ups. (PCC D)

With parity, PCC E acknowledged that luck was a key facet of the relationship between PCCs and Chief Constables:

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 (the Chief Constable) kept me at arm's length. There wasn't a battle but it wasn't a marriage made in heaven. (PCC E)

These findings also signal that the PCC model can risk a lack of moderating thought, individualism, limited scrutiny and a possible dilution of accountability:

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 anxy (sic) 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 action without having the additional value of having colleagues discussing what the implications of a particular decision may be. (Chief Constable C)

The frailties of the relationship between PCCs and Chief Constables were also noted by Chief Constable E, highlighting that PCCs can risk narrowness of single thought:

The former Chief Constable put up every barrier they could. The PCC battled against the barrier. Ninety percent of my job at the time as then Deputy Chief Constable was to wade through the politics of them rowing all of the time. The PCC hasn't got a pool of different views, there is risk of individualism and single thinking. (Chief Constable E)

Further, PCC A acknowledged that PCCs might dilute accountability. Moreover, it was hinted that the strengths PCCs bring to the accountability of Chief Constables are likely illusionary:

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. 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. (PCC A)

It was also highlighted that PCCs may result in less scrutiny of Chief Constables compared with Police Authorities. Further, PCC E observed that some PCCs might limit their potential as they may be conscious that they themselves could be subject to damning and persistent criticism:

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. You will find a lot of Police and Crime Commissioners haven't done very much actually, if you put your head above the parapet and you do new things and sometimes they don't work you get coconuts thrown at you but that shouldn't stop you! (PCC E)

The Policing Protocol could not be clearer, stating Chief Constables are accountable to PCCs. Therefore, at first sight, the accountability of Chief Constables appears to be straight forward. However, a closer analysis reveals a mixed picture. While this research shows that the accountability of Chief Constables to PCCs can have a number of significant strengths, the findings reported here also draw attention to how the introduction of PCCs could have led the accountability of Chief Constables to be diminished. Indeed, the advent of PCCs may have resulted in less scrutiny and reduced the accountability of Chief Constables.

While PCCs may have improved transparency and visibility, some Chief Constables signal that they are not facing difficult questions and highlight that the reality is that PCCs offer limited accountability. Further, the accountability of Chief Constables may be administered without uniformity and likely subject to significant variance across police areas. Therefore, in practice, the accountability of Chief Constables may be contingent on the inherent abilities of PCCs. Seemingly, it could also be exercised inconsistently and with uncertainty meaning there is a real possibility that some Chief Constables could be held to account more effectively than others.

Appositely, the exercise of accountability may be subject to the vagaries of PCCs, contingent on their calibre and conditional on luck. Moreover, the accountability of Chief Constables is possibly subject to PCCs and Chief Constables exercising their responsibilities effectively. As such, a caveat of current governance arrangements might be that the responsibilities of Chief Constables and PCCs be bonded and exercised in equilibrium for accountability to be effective. As such, if there is a disconnect between PCCs and Chief Constables, accountability could be rendered less effective.

Reinforcing these concerns, it appears that some PCCs can in reality be manipulated and some are given lip service by Chief Constables. In addition, some PCCs are argued to be ill equipped, ill prepared and potentially operate with the driving force of personality and ego. The PCC structure is claimed by some research respondents to risk individualism and potentially a dilution of accountability. Here, it is argued to be both unrealistic and unlikely that a single PCC can embody all of the oversight and accountability responsibilities envisaged by the PRSRA and Policing Protocol. More broadly, perhaps concerningly, this research highlights that some Chief Constables may actively resist PCCs and poor safeguards could overshadow current governance arrangements. In turn, this could cause accountability to precariously degenerate into entirely uncharacteristic and

unchartered principles and standards. At the extremities, it was also suggested that PCCs were introduced without thorough testing, with limited thought and with contemplation may even be considered a mistake.

These important findings could serve as an inflection point for the governance of policing. As such, further research needs to test whether the findings of this limited study are indeed matters of general concern. This call is both timely and necessary as the governance of policing is on the verge of significant change—evidenced by the calls in 2019 and 2020 for a Royal Commission, the launch of The Strategic Review by the Police Foundation and HMICFRS's recommendation for 'profound and far reaching police reform'. The findings reported here could feed into the second phase of the Police Foundation's review, due to report October 2021. In particular, the strands will explore how policing should be organized, governed and held to account.

Even if current governance arrangements are not a transient construction, this research encourages the Home Secretary to exercise their power and urgently review The Policing Protocol Order. The Protocol's current overly broad, presumption based, loosely worded and generic approach to the accountability of Chief Constables needs refinement. The Protocol needs to be clearer and more direct and its working principles need clarity. Simply stating 'the Chief Constable is accountable to their PCC' is insufficient, especially at a time when there is an ever-increasing pressure for accountability ([The Police Foundation, Public Safety and Security in the 21st Century, 2020](#)).

In addition to the Home Secretary's recently launched review that will consider the relationship between PCCs and Chief Constables and examine how PCCs can deliver consistently across the Country ([Patel, 2020](#)), this research recommends that the Home Secretary consults the parties bound by the Policing Protocol and issue an Accountability Code of Practice to ensure best practice. This Code needs to set out clearer terms

of reference and give accessible and detailed examples of mechanisms that PCCs can use to hold Chief Constables to account. Further, a more hands-on approach by the Home Office is recommended. However, as noted by the Policing Protocol, any intervention or direction by the Home Office must not 'interfere with the democratic will of the electorate'. Accordingly, a delicate and likely difficult balance needs to be struck to ensure that there is no retreat from the localizing direct democracy agenda that underpinned the introduction of PCCs in 2012 ([Carswell and Hannan, 2005](#); [Cabinet Office, 2010](#); [The Conservative Manifesto, 2010](#); [HM Government, 2010](#); [HM Treasury, 2010](#)). Indeed, this programme looks set to expand with the Local Recovery and Devolution White Paper due for publication in Autumn 2021.

Far from threatening the PCC model, these recommendations should be viewed as a means to improve the working relationships prescribed by the Policing Protocol and as a way to strengthen the accountability of Chief Constables. Finally, these recommendations could be of particular relevance to the Home Secretary's forthcoming review and the proposed Accountability Code of Practice could benefit the new cohort of PCCs that take office May 2021.

Conclusions

This research shows that PCCs can bring a number of significant strengths to the accountability of Chief Constables. However, some concerning imperfections are also raised. As such, PCCs may bring some dislocated expectations that could compromise accountability. Therefore, changes to current governance arrangements may be unavoidable.

The profound failings of 'calculative and contractual' accountability and NPM demonstrate why it is vital to avoid 'knee jerk' reactions and ensure that any reform or adjustment to the governance of policing is carefully examined. The

- Cooper, S. (2020). 'Police and Crime Commissioners: A Corrosive Exercise of Power Which Destabilises Police Accountability?'. *Criminal Law Review* 4: 291–305.
- Day, P. and Klein, R. (1987). *Accountabilities: Five Public Services*. London: Tavistock.
- HM Government. (2010). The Coalition: our programme for Government. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/78977/coalition_programme_for_government.pdf (accessed 1 July 2020).
- HMICFRS. (2018). State of Policing: The Annual Assessment of Policing in England and Wales. <https://www.justiceinspectorates.gov.uk/hmicfrs/publications/state-of-policing-the-annual-assessment-of-policing-in-england-and-wales-2018/> (accessed 10 August 2020).
- HM Treasury. (2010). Spending Review, Cmnd. 7942. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/203826/Spending_review_2010.pdf (accessed 1 July 2020).
- Home Office. (2001). Policing a New Century: a blueprint for reform, CM 5326. <https://www.gov.uk/government/publications/policing-a-new-century-a-blueprint-for-reform> (accessed 30 November 2020).
- . (2010). Policing in the 21st Century: reconnecting police and the people. <https://www.gov.uk/government/publications/policing-in-the-21st-century-reconnecting-police-and-the-people-consultation> (accessed 1 August 2020).
- . (2003). Public Perceptions of Police Accountability and decision making. Report 38/03. <https://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.622.5239&rep=rep1&type=pdf> (accessed 30 November 2020).
- Gillham, B. (2005). *Research Interviewing, Maidenhead*: Open University Press.
- Gravelle, J. and Rogers, C. (2011). 'Commissioning Accountability: Change to Governance and the Police'. *The Police Journal* 84(4): 320–332.
- Jones, T., Newburn, T., and Smith, D. J. (1995). *Democracy and Policing*. London: Police Studies Institute.
- Jones, T. and Newburn, T. (2006). *Plural Policing a Comparative Perspective*. London: Routledge.
- Lambert, L. (1986). *Police Powers and Accountability*. London: Croom Helm.
- Lecture by David Cameron to the Police Foundation. (2006). www.police-foundation.org.uk/uploads/holding/johnharris/jhml2006.pdf (accessed 1 August 2020).
- Leishman, F., Loveday, B., and Savage, S. (2000). *Core Issues in Policing*, 2nd edn. Harlow: Longman.
- Lister, S. (2014). 'Scrutinising the Role of the Police and Crime Panel in the New Era of Police Governance in England and Wales'. *Safer Communities* 13(1): 22–31.
- Lister, S. and Rowe, M. (2015). 'Electing Police and Crime Commissioners in England and Wales: Prospecting for the Democratisation of Policing'. *Policing and Society* 25(4): 358–377.
- Local Government Association. (2019). Police and Crime Panels, Guidance on role and composition. <https://www.local.gov.uk/policing-and-fire-governance-guidance-police-and-crime-panels> (accessed 19 January 2021).
- Loveday, B. (1999). 'The Impact of Performance Culture on Criminal Justice Agencies in England and Wales'. *International Journal of the Sociology of Law* 27 (4): 351–377.
- Loveday, B. (2018). 'Police and Crime Commissioners: Developing and Sustaining a New Model of Police Governance in England and Wales'. *International Journal of Police Science and Management* 20(1): 28–37.
- Malleson, K. (1999). *The New Judiciary: The Effects of Expansion and Activism*. Aldershot: Ashgate.
- McLaughlin, E. (2007). *The New Policing*. London: Sage Publications.
- 'Meet the Commissioner' was screened on Channel 4 on the 28 May 2014. <https://www.youtube.com/watch?v=usqwfMBfOK4> and https://www.youtube.com/watch?v=xlcWVXHv_As (accessed 6 August 2020).
- National Audit Office. (2014). Police Accountability: Landscape Review HC 963. <https://www.nao.org.uk/wp-content/uploads/2014/01/Police-accountability-Landscape-review.pdf> (accessed 19 January 2021).
- National Police Chiefs' Council. (2020). NPCC Chair: Policing must be a critical part of Royal Commission. <https://news.npcc.police.uk/releases/npcc-chair-policing-must-be-a-critical-part-of-royal-commission> (accessed 11 August 2020).
- Newburn, T. and Reiner, R. (2004). 'From PC Dixon to Dixon PLC: Policing and Police Powers since 1954'. *Criminal Law Review* 101–118.
- Oliver, I. (1997). *Police, Government and Accountability*. Basingstoke: Macmillan.
- Onions, C. T. (ed). (1966). *The Oxford Dictionary of English Etymology*. Oxford: Oxford University Press.
- Patel, P. (2020). Priti Patel to give public greater say over policing through PCC review. <https://www.gov.uk/government/news/priti-patel-to-give-public-greater-say-over-policing-through-pcc-review> (accessed 11 August 2020).
- Policing for the People, Interim report of the Police Reform Taskforce. (2007). http://conservativehome.blogs.com/torydiary/files/policing_for_the_people.pdf (accessed 1 August 2020).
- Policy Exchange. (2003). Going Local: who should run Britain's Police? <https://policyexchange.org.uk/publication/going-local-who-should-run-britains-police/> (accessed 1 July 2020).

- . (2007). Fitting the bill: local policing for the 21st century. <https://policyexchange.org.uk/publication/fitting-the-bill-local-policing-for-the-21st-century/> (accessed 1 July 2020).
- . (2009). Partners in crime: democratic accountability and the future of local policing. <https://policyexchange.org.uk/publication/partners-in-crime-democratic-accountability-and-the-future-of-local-policing/> (accessed 1 July 2020).
- . (2013). Power Down: a plan for a cheaper, more effective justice system <https://policyexchange.org.uk/publication/power-down-a-plan-for-a-cheaper-more-effective-justice-system/> (accessed 1 July 2020).
- Reiner, R. (1992). 'Policing a Postmodern Society'. *Modern Law Review* 55(6): 761–781.
- Reiner, R. (2010). *The Politics of the Police*, 4th edn. Oxford: Oxford University Press.
- Reiner, R. and Spencer, S. (eds). (1993). *Accountable Policing: Effectiveness, Empowerment and Equity*. London: Institute for Public Policy Research.
- Ritchie, J., Spencer, S., O'Connor, W., in J. Ritchie, J. Lewis (eds). (2003). *Qualitative Research Practice*. Oxford University Press Sage Publications.
- Schlenker, B. R., Britt, T. W., Pennington, J., Murphy, R., and Doherty, K. (1994). 'The Triangle Model of Responsibility'. *Psychological Review* 101(4): 632–634.
- Sengupta, A. (2014). 'Judicial Accountability: A Taxonomy'. *Public Law* 245–266.
- Shannon, I. (2020). 'Democratic Oversight and Political Direction of Chief Police Officers in England and Wales: Implications for Police Legitimacy'. *Policing: A Journal of Policy and Practice* 1–15.
- Speech by Chris Grayling 'Our plans for elected police Commissioners'. (2009). <https://conservative-speeches.sayit.mysociety.org/speech/601232> (accessed 1 August 2020).
- Speech by Shadow Home Secretary Oliver Letwin to the Conservative party conference. (2003). <https://www.theguardian.com/politics/2003/oct/07/conservatives2003.conservatives4> (accessed 1 August 2020).
- Speech by Shadow Home Secretary David Davis to the Conservative party conference. (2004). <https://www.theguardian.com/politics/2004/oct/06/conservatives2004.conservatives6> (accessed 1 August 2020).
- Statement from South Yorkshire Police and Crime Commissioner. (2014). <http://www.southyorkshire-pcc.gov.uk/News-and-Events/News-Archive/2014/Statement-from-the-South-Yorkshire-Police-and-Crime-Commissioner.aspx> (accessed 7 August 2020).
- The Committee on Standards in Public Life (2015) Tone from the top: leadership, ethics and accountability in policing. Cmnd. 9057. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/439208/Tone_from_the_top_-_CSPL.pdf (accessed 30 June 2020).
- The Conservative Election Manifesto. (2005). <http://www.manifesto.com/wp-content/uploads/2015/09/Conservatives-manifesto-uk-2005.pdf> (accessed 1 May 2018).
- The Conservative Manifesto. (2010). <https://conservativehome.blogs.com/files/conservative-manifesto-2010.pdf> (accessed 29 November 2020).
- The Government response to the Sixteenth Report from the Home Affairs Select Committee. (2014). Police and Crime Commissioners: progress to date, Cmnd. 8981. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/387123/PCCprogressToDate.pdf (accessed 23 June 2020).
- The House of Commons Home Affairs Committee. (2014). Police and Crime Commissioners: progress to date, HC 757. <http://www.publications.parliament.uk/pa/cm201314/cmselect/cmhaff/487/487.pdf> (accessed 23 June 2020).
- The Independent Police Commission. (2013). Policing for a better Britain: report of the Independent Police Commission. https://www.researchgate.net/publication/303873773_Policing_for_a_Better_Britain_Report_of_the_Independent_Police_Commission/link/5759888d08ae9a9c954f06d1/download (accessed 25 August 2020).
- The Policing Protocol Order. (2011). SI 2011/2744.
- The Police Reform and Social Responsibility Act. (2011). c.13.
- The Scarman Report. (1982). The Brixton Disorders 10–12 April 1981. Penguin.
- The Telegraph 'Chief Constables resigns over grave concerns about elected Commissioners.' (2018). <https://www.telegraph.co.uk/news/uknews/law-and-order/9232361/Chief-constable-resigns-over-grave-concerns-about-elected-commissioners.html> (accessed 7 August 2020).
- The Times 'Former Chief laments Lawless UK.' (2019). <https://www.thetimes.co.uk/article/times-letters-decline-in-support-for-labour-under-corbyn-gcftszvhf> (accessed 7 August 2020).
- The Police Foundation, Public Safety and Security in the 21st Century. (2020). <https://policingreview.org.uk/publications/> (accessed 11 August 2020).
- The Police Foundation, The Strategic Review of Policing in England and Wales. (2020) <http://www.police-foundation.org.uk/project/strategic-review-of-policing/> (accessed 10 August 2020).
- The Queen on the Application of Rhodes v Police and Crime Commissioner for Lincolnshire. (2013). EWHC 1009.
- The Queen's Speech. (2019). https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/853886/Queen_s_Speech_December_2019

- 9_-_background_briefing_notes.pdf (accessed 11 August 2020).
- Jupp, V. (2006). *The Sage Dictionary of Social Research Methods*. London: Sage Publications.
- Warburton, D. (2004). 'Drawing the Thin Blue Line: The Reality of Who Controls the Police'. *The Police Journal* 77(2): 135–144.
- Warren, C. and Karner, T. (2010). *Discovering Qualitative Methods*. Oxford: Oxford University Press.
- Webley, L. (2010). 'Qualitative Approaches to Empirical Legal Research'. In Cane, P. and Kritzer, H. (eds), *The Oxford Handbook of Empirical Legal Research*. Oxford, New York: Oxford University Press.