



## HM Inspectorate of Constabulary in Scotland

Improving Policing across Scotland

**Written submission from Her Majesty's Inspectorate of Constabulary in Scotland to the Scottish Parliament's Justice Sub-Committee on Policing**

### Consultation on how effective the Justice Sub-Committee on Policing has been in meeting its remit "to consider and report on the operation of the Police and Fire Reform (Scotland) Act 2012 as it relates to policing", February 2021

Thank you for the opportunity to provide our view on how effective the Justice Sub-Committee on Policing has been in meeting its remit "to consider and report on the operation of the Police and Fire Reform (Scotland) Act 2012 as it relates to policing". We agree it is important to seek the views of stakeholders to inform decisions on whether there should continue to be a Justice Sub-Committee on Policing, which was established on the recommendation of the Justice Committee.

We are also happy to provide our views on the policing issues that should be given priority for future sessions of the Sub-Committee, if it is decided that the Sub-Committee should be re-established.

HMICS agreed with the previous justification for the formation of the Justice Sub-Committee as described in its legacy paper of March 2016:

"Given the Justice Committee's workload, it is clear that police reform would not have been subject to the level of scrutiny required in these early years had the Sub-Committee on Policing not been created. The approach of creating a sub-committee with a particular remit of post-legislative scrutiny of the 2012 Act has worked well in ensuring that the many issues of concern which have arisen relating to policing have been examined in depth. In particular, the Sub-Committee has effectively filled a void where the Scottish Police Authority has failed to provide the public forum for debate of Police Scotland's decisions which has been required in these formative years. It is essential that such a public forum for debate remains, yet it is unclear whether the SPA is yet ready to take on this role."<sup>1</sup>

In the HMICS Thematic Inspection of the Scottish Police Authority<sup>2</sup>, published in September 2019, we noted that the Justice Committee, Justice Sub-Committee on Policing, and the Public Audit and Post-legislative Scrutiny (PAPLS) Committee have all played a significant role in the

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<sup>1</sup> Scottish Parliament [Justice Sub-Committee on Policing 1st Report, 2016: Legacy Paper](#), March 2016

<sup>2</sup> HMICS [Thematic Inspection of the Scottish Police Authority](#), September 2019

scrutiny of policing since the establishment of Police Scotland and the Scottish Police Authority.

At that time (September 2019), we commented on the significant level of scrutiny applied to policing by the Justice Committee, Justice Sub-Committee on policing and PAPLS Committee since 2013. An analysis of the work carried out showed it had focused on:

- Budget and annual audit
- SPA governance
- Complaints
- Legislative review
- ICT (i6 and Digital Data and ICT)
- Undercover policing
- Digital Device Triage Systems (Cyber kiosks)
- Armed policing
- Stop and Search
- Contact, Command and Control (C3)
- Counter Corruption Unit

When we looked specifically at the work of the Justice Sub-Committee since 2013, HMICS found that its initial focus was clearly on reform and amalgamation but increasingly the Sub-Committee had begun to hold evidence sessions on operational issues, largely driven by external factors. Examples include the media and public interest in issues such as stop and search, call handling, and counter corruption. During 2019, it seemed the Justice Sub-Committee had reduced the emphasis on operational issues, with the exception of digital device triage systems (cyber kiosks), which remained an area of interest for the Sub-Committee.

Looking at the work of the Sub-Committee during 2019 and 2020, the Sub-Committee met on 11 occasions in 2019 and 12 occasions in 2020.

In 2019, the Justice Sub-Committee held five evidence sessions in relation to the budget for policing; three sessions on cyber kiosks; two sessions on facial recognition technology, and one session on police custody.

In 2020, the Justice Sub-Committee held three evidence sessions on facial recognition technology; three on policing through the coronavirus pandemic, and two sessions on the policing budget. There was one evidence session on each of the following topics: Brexit; COP26; the independent review of complaints handling, and the governance of policing.

The first session of the Justice Sub-Committee in 2021 considered Police Scotland's use of remote piloted aircraft systems and body worn video cameras.

It seems the majority of Justice Sub-Committee business concerns largely operational issues, which are also scrutinised by the Scottish Police Authority.

In our 2019 report<sup>3</sup>, we were clear that Parliament will always have a legitimate interest in the delivery of policing, however we made the point that we could not identify other examples of the extended use of a Sub-Committee to monitor the implementation of legislation relating to other areas of public service provision such as health, education, or social services. It remains the case that it is difficult to think of a senior leadership team responsible for the delivery of

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<sup>3</sup> HMICS [Thematic Inspection of the Scottish Police Authority](#), September 2019

any other public service which has been called to give evidence to Parliament as often as the Police Scotland senior team.

Further, in our 2019 report, we found there was a lack of clarity as to the continuing role and remit of the Justice Sub-Committee. In particular it was unclear under exactly what circumstances the Sub-Committee would deem the SPA able to effectively undertake its statutory scrutiny function. Again, this holds true now: the Justice Sub-Committee might wish to consider what it would need to see from the SPA as evidence that it was discharging its statutory scrutiny role effectively.

In my 2019-2020 annual report<sup>4</sup>, which was published in October 2020, I made positive comment about the combination of the Vice Chair and the interim Chief Executive bringing stability to the SPA during 2020.

A new SPA Chair has been appointed and took up post on 1 February 2021. I am confident that the SPA has made significant improvements since the HMICS thematic review and that this will continue. We are monitoring progress in relation to the recommendations of our report, including recommendations that the SPA strengthen the link between local and national scrutiny through the inclusion of COSLA, and that the SPA demonstrate its ability to hold the Chief Constable to account effectively (Recommendations 5 and 11 respectively). I do not believe there continues to be “a void where the Scottish Police Authority has failed to provide the public forum for debate of Police Scotland’s decisions” as stated in the legacy paper of 2016<sup>5</sup>.

Turning to those issues that should be given priority for future sessions of the Sub-Committee, if it is decided that the Sub-Committee should be re-established, it is worth reminding ourselves of the policing principles as stated in the Act<sup>6</sup>:

- that the main purpose of policing is to improve the safety and well-being of persons, localities and communities in Scotland, and
- that the Police Service, working in collaboration with others where appropriate, should seek to achieve that main purpose by policing in a way which—
  - (i) is accessible to, and engaged with, local communities, and
  - (ii) promotes measures to prevent crime, harm and disorder.

Local scrutiny by elected councillors, council officers and others sitting on local committees, continues to be important, yet the frequency of meetings and quality of scrutiny are varied across the country. This is an area worthy of the attention of the Justice Sub-Committee.

In the 2012 Act, the purpose of policing includes a specific commitment to improving the well-being of people and places. In that context, the Justice Sub-Committee could consider Police Scotland’s contribution to the work of the Drugs Death Taskforce, established in July 2019 following the publication of the highest number of drug related deaths since records began. In particular, the Sub-Committee could look at Police Scotland’s efforts to intervene and save the lives of highly vulnerable people through the administration of Naloxone, emergency medication that can be administered by a nasal spray to reverse the effect of an opioid overdose.

Similarly, the Justice Sub-Committee could consider Police Scotland’s commitment to ensuring that police custody is no longer seen as a place where individuals are simply ‘detained and maintained’, but becomes an opportunity for interventions to support the health

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<sup>4</sup> HMICS [Annual Report 2019-2020](#), October 2020

<sup>5</sup> Scottish Parliament [Justice Sub-Committee on Policing 1st Report, 2016: Legacy Paper](#), March 2016

<sup>6</sup> Police and Fire Reform (Scotland) Act 2012, section 32

and wellbeing of individuals and to break the cycle of offending. Many of the services required to make this vision a reality are not in the gift of Police Scotland, but need investment and commitment from NHS Boards and third sector organisations.

On the subject of healthcare provision in police custody, HMICS has been trying to encourage colleagues from Healthcare Improvement Scotland to participate in joint inspections of police custody for several years. From our inspections, we know that arrangements differ significantly across the country, and believe there is a pressing need to scrutinise the availability and quality of health services delivered in police custody suites to detainees. Due to the lack of participation from Healthcare Improvement Scotland, the quality of healthcare for members of the public who come into police custody, often with pre-existing health challenges in the form of alcohol or drug dependency and mental health concerns, has not been subject to effective scrutiny since NHS Scotland took over responsibility for service provision in 2013.

Again relating to wellbeing, the Justice Sub-Committee could consider the commitment Police Scotland makes towards helping people in mental health distress. On 25 November 2020, Police Scotland submitted a paper to the Scottish Police Authority Board meeting on the topic of Mental Health Demand<sup>7</sup>. This paper includes information on a range of approaches Police Scotland has already put in place to help people in mental health crisis, however their success is limited by the variations in arrangements and resource commitment from other key partners, including NHS Boards, the third sector, and Health and Social Care Partnerships.

## Conclusion

In conclusion, the Justice Sub-Committee has played a vital role in monitoring the implementation of the Police and Fire Reform (Scotland) Act 2012 as it relates to policing, particularly in those early years of the national police service. As it comes towards the end of the eighth year of Police Scotland's existence, the time is right for consideration to be given to the continuation of the Justice Sub-Committee. Police Scotland and the Scottish Police Authority have matured, with the latter having made significant progress towards discharging its scrutiny role effectively.

Should it be decided that the Justice Sub-Committee on Policing be re-established, there are opportunities to turn its attention to the police commitment to improving the health and wellbeing of people and places.

Gill Imery QPM  
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<sup>7</sup> Police Scotland ['Mental Health Demand' Paper](#), SPA Authority Meeting, 25 November 2020