

# Policing and devolution in the UK: The ‘special’ case of Wales

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**Abstract** Political devolution in the UK has been responsible for major legislative changes to police governance, policy, and practice. Although policing in Wales remains formally part of the unitary ‘England and Wales’ system, the devolution of other key policy areas have contributed to the emergence of a distinctive Welsh policy context. In this paper, we explore the ways in which the devolution settlement in Wales has, albeit inadvertently, resulted in growing divergence from policing in England. We argue that devolution has transformed the operation of policing in Wales and has added a significant degree of complexity for Welsh police forces. The paper raises several important questions for policing in post-devolution Wales and underlines the need for further empirical research that can explore the extent, causes and implications of divergence between the policing systems of the constituent nations of the United Kingdom.

## Introduction

The legal and political landscape of the United Kingdom (UK) has been transformed by devolution. The establishment of new democratic institutions in Northern Ireland, Scotland, and Wales since 1999 has dramatically altered how each constituent part of the UK is governed. In the intervening years the various ‘settlements’ of each devolved territory have undergone almost constant iteration during what has been a period of unprecedented constitutional upheaval. These far-reaching changes include, *inter alia*, the transfer of further functions to Northern Ireland, an independence referendum for Scotland, three further devolution statutes for Wales, and the

introduction of regional devolution to different metropolitan areas of England. The UK’s withdrawal from the European Union in January 2020 has only served to add further complication to what was an ‘increasingly complex’ set of governance arrangements to begin with (Bradbury, 2021; House of Lords Select Committee on the Constitution, 2016, p. 5).

The impacts of devolution since 1999 have been felt unevenly across the UK and across many different areas of public policy. These include changes within health policy (Greer, 2016), education (Gallacher and Raffe, 2012), housing (Wilcox *et al.*, 2010), and social care (Chaney, 2012). Central to this paper, however, is the argument that devolution has also been responsible for major changes

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to police governance, policy, and practice across the UK. In Scotland, for example, these significant changes include the development of a more centralized approach to police governance (Scott, 2013a, b), while the creation of new democratic institutions has helped to forge a 'new relationship' between politics and policing and has strengthened the distinct identity of Scottish policing approaches (Scott, 2011, p. 122–30; Dickson, 2021). According to Donnelly and Scott (2008, p. 200), devolution has ensured that policing is now a 'core issue for voters' in that Members of the Scottish Parliament can debate policing, and the Scottish government can legislate on police policy in a way that supposedly reflects the values of the Scottish population.

In Northern Ireland, powers over policing and justice were not included within the initial transfer of functions in 1999 but were later devolved after years of cross-party negotiation (Perry, 2011). The eventual transfer of policing and justice powers to the Northern Ireland Assembly in 2010 were enormously significant and represented the completion of the devolution of powers as promised in the Good Friday Agreement. Alongside the progress made elsewhere in Northern Ireland to end the political conflict, devolution has helped to support the post-conflict transition process with the creation of a devolved Assembly credited with making it 'easier for politicians, civil servants, invited experts, and society in general to buy into the new ways of delivering criminal justice' that are acceptable to all communities across Northern Ireland (Dickson, 2015, p. 83). As outlined by the Independent Monitoring Commission for Northern Ireland (2010, p. 30) in anticipation of the changes in 2010, devolution has helped to ensure that the criminal justice system is now 'owned by and accountable to the people of Northern Ireland'.

To date, devolution in England has developed more slowly than has been the case in Wales,

Scotland, and Northern Ireland (Torrance, 2022). Although there has been some discussion of the development of an all-England legislature (Russell and Sheldon, 2018), this has not yet been the subject of any official proposals. However, significant developments with important implications for policing have occurred *within* England, most particularly since the Cities and Local Government Devolution Act 2016.<sup>1</sup> In particular, the emergence of a number of 'city regions' in England has raised important issues for police governance. The decision to transfer the role of Police and Crime Commissioner (PCC) to the elected Mayor in *some* but not all these city regions (London, Greater Manchester, and West Yorkshire), for example, has contributed to the development of a 'mixed economy' of police governance in England (Muir, 2015). The recent *Strategic Review of Policing* commended the mayoral model of police governance and recommended further changes in England to ensure that Mayors 'automatically' become the PCC where the force area is coterminous with the Mayor's area of responsibility (The Police Foundation, 2022, p. 156).<sup>2</sup>

In contrast to Northern Ireland and Scotland (and, indeed, local, and regional developments within England) Wales remains a relatively undiscussed entity within UK policing research. A simple explanation for this could be connected to policing being a non-devolved policy area in Wales with powers reserved to the UK Government rather than the Welsh Government. Furthermore, policing in England covers a larger geographical area than Wales, has a much bigger population<sup>3</sup>, and has 10 times as many regional police forces as Wales (England has 39 regional police forces, while Wales has 4). According to the latest statistics collected by the Home Office (2022), in September 2021, there were 130,221 officers in England; in Wales there were 7,362. In terms of how this compares by population size,

<sup>1</sup> A number of 'city regions' have been given devolved budgets in areas important for economic regeneration such as employment support, skills, and transport. By 2021, there were 11 devolution deals across England all but one of which (Cornwall) included an elected Mayor.

<sup>2</sup> These proposals do not extend to Wales because there are no 'city regions' in place.

<sup>3</sup> According to the most recent available information from the Office for National Statistics (2021), the population of Wales was estimated to be 3,170,000 in 2020. In comparison, England's population in the same year was estimated to be 56,550,000 (Office for National Statistics, 2021).

Wales has slightly more officers per 100,000 people than England with 232, compared with England having 230 (Home Office, 2022). While the fact that Wales remains part of a unitary England and Wales system might help to explain its invisibility within criminological research (Jones, 2017), a closer look at policing in post-devolution Wales reveals that it has, perhaps largely inadvertently, been transformed in a number of significant and lasting ways.

In this paper, we offer the first detailed account of the impact that devolution has made to policing in Wales. Our core argument is that devolution since 1999, though not providing Wales with its own separate system, has radically altered the legislative and policy context for Welsh policing. These changes, we argue, have had important practical implications for Welsh police forces not least because many of the other public services with whom the police must work such as health and social services, education, and local government fall under the auspices of the Welsh Government. The impact of the COVID-19 pandemic, which has seen contrasting approaches to the regulation of public health in Wales and England, has further underlined both the perception and reality of distinctively 'Welsh' policing. Amidst growing concerns over the complex nature of the governance arrangements for policing in Wales (Silk Commission, 2014; Thomas Commission, 2019), we also discuss the future of the single England and Wales system and consider the arguments for a separate Welsh policing system. In tackling these areas, the paper addresses a gap in the existing literature, raises several important questions about police governance, policy, and practice in post-devolution Wales, and underlines the need for a comparative research agenda on policing and devolution in all parts of the UK.

## Devolution and the emergence of 'Welsh policing'

To understand fully the impact that devolution has had on policing in 21st century Wales it is

important to reflect upon the aims and origins of the England and Wales system. Established in the 16th century through the Laws of Wales Acts 1535 and 1542 ('Acts of Union'), the England and Wales jurisdiction was created to form a 'unitary' system that removed differences between the two territories, including many of Wales' own distinct legal and penal 'customs' (Rawlings, 2003, p. 460). By securing Wales' legal and political absorption into England, the England and Wales system helped to ensure that Wales could be spoken of through the dominant position of England. Indeed, the Wales and Berwick Act 1746 went so far to change the legal definition of England to include Wales (and Berwick) and was not repealed until the passing of the Welsh Language Act 1967 more than 200 years later.

The predominance of England, and the attendant invisibility of Wales, is clearly illustrated within many leading criminological studies on England and Wales. These have regularly used 'England' as shorthand to denote both England and Wales and includes work on the 'English' prison system (McConville, 1981; Zellick, 1975), 'English' penal policy (Rutherford, 1988; Walker and Giller, 1977), the 'English' probation system (McWilliams, 1986), the 'English' parole scheme (Hood, 1974) and sentencing systems in 'England' (Cross and Ashworth, 1981). The dominance of English-oriented perspectives is also particularly apparent in historical scholarship on the birth and development of modern police institutions in Britain (for example, Bowling *et al.*, 2019; Critchley, 1978; Emsley, 1996; 2008; Rawlings, 2002; 2008). Indeed, the Welsh experience in relation to policing has largely been viewed within criminological work as, in Ireland's (2015, p. 10) words, 'simply English experience with a rather different accent'.

At face value, devolution has done little to change Wales' *formal* involvement in the England and Wales system. Wales' latest devolution dispensation<sup>4</sup>, for example, makes clear that policing remains a matter for UK Ministers. However, although its duties do not formally include policing, the Welsh Government's control over a range of social policy areas—including

<sup>4</sup> See the new Schedule 7A to the Government of Wales Act 2006.

health, education, housing, and social care—has established a key role for devolved government in the UK Government's wider crime control and community safety strategies (Jones and Wyn Jones, 2022). These strategies, first developed under New Labour at a time when Western states were transforming their approaches to governing crime and community safety (Garland, 1996), include a commitment to delivering 'joined-up' partnership approaches as well as integrated working between state, local, and community agencies. The arena of youth justice was a leading example of the UK Government's approach during the formative years of New Labour (McLaughlin et al., 2001), as well as the introduction of statutory partnership working through the Crime and Disorder Act 1998 (Gilling, 2007).

Underpinned by a declining faith in the capacity of the criminal justice state to act alone in tackling crime, the UK Government's approach over the last two decades has brought together a range of non-criminal justice government departments as part of an 'enhanced network' of agencies involved in supporting criminal justice institutions to prevent crime and deviance (Garland, 1996; 2001, p. 124; Hughes, 2007). This approach was based on the view that any future reduction in crime or offending would largely be determined by the 'effectiveness of social policies' rather than those developed within the sphere of criminal justice (Knepper, 2007, p. 129), the 'structural coupling' (Hudson, 1993: 121) between social policy and criminal justice has become one of the most distinctive features of UK social policy during this period (Kiely and Swirak, 2022; Rodger, 2008, p. 3).

The emphasis on 'responsibilization' of a range of non-criminal justice policy actors has been significant in shaping Welsh policing in distinctive 'Wales-wide' ways since devolution. Despite repeatedly seeking to downplay the impact that devolution has made to the England and Wales system (Philp, 2020; UK Government, 2013; Wolfson, 2021), the extensive autonomy enjoyed by the Welsh Government over many key areas of social policy has forced the Westminster government to concede that a distinct Welsh legislative and policy context

now bears heavily upon the successful delivery of its own policing initiatives and strategies in Wales. This includes a brief acknowledgement within its strategies to tackle extremism (Home Office, 2015), gender violence (Home Office, 2016), serious and organized crime (Home Office, 2018), drug use (HM Government, 2021), and modern slavery (Home Office, 2021).

Far from being part of any deliberate strategy to provide the newly established government in Cardiff with a formal role over policing in Wales, devolution in 1999, combined with wider changes in crime control policy, rather inadvertently provided the Welsh Government with a valuable role to play in the Westminster Government's 'joined-up' approach to tackling crime and offending. Devolution in Wales has created a distinct political, legislative, and policy context and, in doing so, is transforming the very character of what is one of the most researched and widely written about policing systems in the world.

## Policy divergence and distinctiveness

The appearance of what is a major fault line in the foundations of the once 'unitary' England and Wales system has transformed the legal and political landscape for Welsh policing. These changes mean that Welsh forces now operate in a 'largely devolved landscape' (Jones-Parry, 2009, p. 73) and are 'reliant' upon relationships with devolved public services (Thomas Commission, 2019, p. 185). They also mean that policing in Wales is shaped significantly by the policy aims and priorities of the Welsh Government. Indeed, far from simply offering a helping hand or playing a bit-part role in the current system, the devolved government is now *integral* to the operation and delivery of Welsh policing services.

One of the clearest examples of the devolved government's role is how the four police forces in Wales are funded.<sup>5</sup> Approximately two-thirds of police funding in Wales comes from a devolved

<sup>5</sup> The four forces in Wales are Dyfed-Powys Police; Gwent Police; North Wales Police; and South Wales Police.

source. In 2019/20, for example, Welsh forces received around £751m, £319m from the police precept that accompanies council tax bills<sup>6</sup>, £214m from the Home Office police grant; £143m from Welsh Government through a revenue support grant and redistributed non-domestic tax rates; and £74m in specific grant funding from both the UK and Welsh governments (Jones and Wyn Jones, 2022)<sup>7</sup>. Funding provided by the Welsh Government has also been used to support a number of policies and initiatives that directly involve or impact Welsh forces<sup>8</sup>. This includes funding for the Wales Police Schools Programme which supports schools educating pupils about personal safety issues (Welsh Government, 2018), as well as providing financial support to a range of other services including mental health triage services (Thomas Commission, 2019), youth crime prevention (Welsh Government and Youth Justice Board, 2014), substance misuse (Brewster and Jones, 2019), adverse childhood experiences (ACEs) (Hardcastle *et al.*, 2021), and hate crime (Welsh Government, 2014).

The Welsh Government has introduced other policies that involve Welsh police forces. Under the provision of the Well-Being Future Generations (Wales) Act 2015<sup>9</sup>, for example, Welsh Chief Constables and PCCs are invited to sit on Public Service Boards with a range of other health and social care partners to assist or provide guidance on delivering objectives relating to prosperity for young people affected by ACEs as well as general community safety concerns that can affect wellbeing. Other policies launched by the Welsh

Government have included responses to tackling domestic abuse and violence against women. Within its *National Training Framework* on domestic abuse and violence, the devolved government included police amongst the list of those considered 'public services' because, as the strategy acknowledges, although reserved to the UK level police services are 'partly funded' by the Welsh Government (2016, p. 4). The Welsh Government has also set out to tackle modern slavery (another area reserved to the UK Government), with the Wales Anti-Slavery Leadership Group providing strategic leadership for tackling slavery in Wales and co-ordinates collaboration between devolved and non-devolved partners and the third sector. The Group is chaired by the Welsh Government's Head of Community Safety, with other members including policing officials, PCCs, Home Office, Crown Prosecution Service Wales, National Police Chiefs' Council, National Crime Agency, National Probation Service Wales, and a range of third sector groups and organizations.

While continuing to operate within the 'unitary' England and Wales system, the Welsh Government's active role has led to widening divergence between police forces in Wales and England. Perhaps one of the most significant examples of this divergence is the devolved government's support for additional Police Community Support Officers (PCSOs) in Wales. At a time when funding for PCSOs was significantly reduced in England, in 2011 the Welsh Government provided additional funding to support 500 extra PCSOs in Wales to ensure that they

<sup>6</sup> Council tax in Wales is a devolved matter and therefore falls under the responsibility of the Welsh Government. While there is a limit on the police precept in England, the Welsh Government has decided not to introduce a limit in Wales. According to the Thomas Commission, (2019, p. 167), PCC in Wales have been able to generate 'more funds' through the precept which, unlike forces in England, have 'insulated' Welsh forces from Home Office spending cuts.

<sup>7</sup> The Welsh Government provides £265,000 each year to British Transport Police for 'additional operational personnel' in Wales and has previously helped to fund Tarian, an organized crime unit run by forces across south Wales (Thomas Commission, 2019, p. 167).

<sup>8</sup> Local police forces in England as well as Wales can receive additional funding, for example the 'special grant funding' for which PCCs can apply to the Home Office for funds to cover policing costs associated with unexpected or exceptional events. Regional devolution deals in England have also allowed for additional funding for projects involving the police, for example the 5th 'devolution deal' in Greater Manchester which involved devolution of some aspects of criminal justice. But such examples occur in relation to particular local forces, and do not have an England-wide basis that is comparable to developments in Wales.

<sup>9</sup> The Well-being of Future Generations Act 2015 is policy that aims to improve the social, economic, environmental, and cultural well-being of Wales.



could continue to play 'a pivotal role not only in making our communities safer, but in making them feel safer' (Welsh Government, 2011, p. 25). Described by the Thomas Commission, (2019, p. 185) as an approach providing police capability in Wales 'that is the envy of English police forces', the Welsh Government's policy has seen the number of PCSOs in Wales increase by more than a third (35%) as the number in England has fallen (42%) (Home Office, 2011; 2022).<sup>10</sup> In its most recent Programme for Government, the Welsh Government (2021) announced further funding for an additional 100 PCSOs across Wales over the next 5 years. This continued financial support for PCSOs provided by the Welsh Government arguably has broader implications that relate to the traditional community-based principles of 'British policing'. PCSOs play a significant part in solidifying police and community relations with their main responsibility to, 'act as a key liaison point between local communities and policing' (College of Policing, 2022). Their role is fundamental in terms of the image of 'British' neighbourhood policing, yet if the differences of PCSO funding and numbers in England and Wales are taken into consideration, a different image is presented.

However, undoubtedly one of the most remarkable features of contemporary policing in Wales is that Welsh forces are now responsible for enforcing different rules and, in some cases, criminal offences to those in England. Although the criminal law is reserved to the UK level and there exists, at least in name, a unitary system between England and Wales, the Welsh Parliament can legislate for offences in relation to devolved matters in Wales. In 2020, for example, the Welsh Government helped to secure legislation to remove the defence of reasonable chastisement in Wales (c.f. 'the smacking ban'). The Children (Abolition of Defence of Reasonable Punishment) (Wales) Act 2020 changed the law in Wales and made corporal punishment of a child a criminal offence. In

England the common law defence of 'reasonable punishment' remains.<sup>11</sup>

Since the outbreak of COVID-19 in March 2020, Welsh police forces have been responsible for enforcing different public health regulations in Wales. The Health Protection (Coronavirus Restrictions) (Wales) Regulations 2020, introduced by the Welsh Senedd, included police constables and PCSOs within the list of 'relevant persons' to enforce the Welsh Government's Coronavirus regulations.<sup>12</sup> Although the guidance was initially made available by the National Police Chiefs' Council (2021) and the College of Policing to English forces *only*, growing confusion about the differences between England and Wales even led to the College of Policing issuing separate guidance for Welsh forces (Lewis, 2020). These differences included enforceable regulations on exercising and 2-m distancing in Wales, while these same measures were only suggested as government guidance by the UK Government in England (Hatherley, 2020).<sup>13</sup>

This departure in approach contributed to 'border style' policing as guidance and regulations for Wales and England diverged during different waves of the pandemic. In October 2020, for example, Gloucestershire Police confirmed that police checkpoints would be set up to monitor people travelling from Gloucestershire into Wales after the Welsh Government announced a 2-week lockdown amidst rising case numbers (BBC News, 2020). A brief analysis of the enforcement of COVID-19 laws has revealed that Welsh police forces issued more fixed penalty notices, per person, than their English counterparts (NPCC, 2021). In Wales, one for every 250 people received a fine between March 2020 and June 2021, while in England this figure was one for every 530 people (Valsamidis, 2021). These figures once again underline the existence of two distinct policy approaches within the supposedly unitary England and Wales system.

<sup>10</sup> 2011: England (14,802); Wales (667) 2021: England (8,596); Wales (901)

<sup>11</sup> Section 58 of the Children Act 2004.

<sup>12</sup> The Health Protection (Coronavirus Restrictions) (Wales) (Amendment) Regulations 2020 came into force on 7 April 2020.

<sup>13</sup> As of February 2022, the Police Federation of England and Wales estimate that there have been 187 pieces of Covid legislation in Wales compared with 151 in England.

The emergence of different policies, funding streams, initiatives, regulations, and even criminal offences means that policing in Wales is now becoming increasingly distinct from England. Rather than simply responding to directives from the Westminster Government, Welsh police are now required to follow directives from ‘two masters’, one in London and another in Cardiff (Cuthbert, 2018; Jones and Wyn Jones, 2022). Crucially, as this sense of divergence, difference, and distinctiveness grows, attention has started to turn to the future suitability and sustainability of the current arrangements in Wales.

### **‘Special arrangements’, institutional adaptations, and complexity: towards a separate Welsh system?**

Major changes have been made to the organisation of Welsh policing over the last two decades. These institutional adjustments and iterations have been driven by the need for the Home Office, Welsh Government, and Welsh police forces to take account of the ‘special arrangements’ that characterize policing since devolution (Normington, 2014, p. 42). Far from being developed by design, however, many of these adaptations have emerged to reflect the strengthening of Welsh devolution and, more importantly, as the operational differences between Welsh and English forces have become increasingly difficult to ignore.

The process of institutional adaptation began at the outset of devolution. In 1999, immediately after the National Assembly for Wales was formally established<sup>14</sup>, a Police Liaison Unit was created by Welsh forces (based within Welsh Government offices in Cardiff) to act as a collective voice for Welsh policing and to ensure that Welsh Ministers could be kept up-to-date on operational policy and how it relates to devolved areas of governance. Although originally set up on an informal basis, the Police Liaison Unit took

on a more established role in 2010 and has since grown to include eight members of staff including a Head of Unit, a Police Liaison Officer, an All-Wales Wildlife and Rural Crime Co-Ordinator, two Roads Policing Liaison Offices, two Administrators, and an Analyst/Policy Officer. In 2017, the four Chief Constables and PCCs in Wales appointed the first All Wales Deputy Chief Constable to help develop an all-Wales force collaboration and to ‘improve the Welsh policing perspective’ (Thomas Commission, 2019, p. 164). This role was abolished in 2018 and replaced with an Assistant Chief Constable who is now responsible for collaborative activity<sup>15</sup> across Wales as well as oversight responsibility for the southern Wales Regional Organised Crime Unit (Tarian) and the Wales Extremism and Counter Terrorism Unit (WECTU).

Sitting directly above the Police Liaison Unit is the Policing Partnership Board for Wales which was launched in 2018 by the Welsh Government’s Minister for Communities and Local Government. Created to provide a forum ‘to discuss policing issues across the devolved and non-devolved aspects of the service’ (Davies, 2018; Policing Partnership Board for Wales, 2018), the Board’s membership comprises Chief Constables and PCCs from the four Welsh forces, Welsh Government Ministers and officials, and Welsh local government representatives. Welsh forces are also required to participate in a plethora of Welsh Government created partnerships, initiatives, and forums that seek to draw together agencies that span across the responsibilities of both the UK and Welsh Government. Examples include the All-Wales Criminal Justice Board which brings together police, prison and probation services, Welsh Government officials, local government representatives, and local health boards to discuss criminal justice issues in Wales.

Perhaps the most symbolically significant developments since devolution began, however, have

<sup>14</sup> The National Assembly for Wales was renamed Senedd Cymru/Welsh Parliament in May 2020.

<sup>15</sup> It is of course the case that police forces in England (as well as Wales) participate in significant cross-force collaborations—particularly in areas involving specialist capabilities—a trend that has been encouraged further following the introduction of financial austerity policies after 2010 (L’Hoiry, 2021). A key difference once again, though, concerns the all-Wales nature of the developments discussed here, with a more uneven patchwork emerging within and between different regions of England.

been the Home Office's attempts to recognize the devolved landscape. After the UK Government's plans for PCCs were almost blocked by Welsh Ministers and Senedd Members (BBC News, 2011; Welsh Government, 2012), the Home Office put together a small team of officials based in Cardiff to help take account of the impact that devolved legislation and policy has on Home Office crime and policing policy in Wales. Although concerns have been raised about the capacity and scope of the Home Office Team in Wales (Jones and Wyn Jones, 2022), its formation has ensured that the devolved context has at least been acknowledged within some Home Office strategies and policies (e.g. Home Office, 2018; 2021). In 2019, after an independent review of the Police Federation in England and Wales (PFEW) identified that 'special arrangements' were now required to take account of devolution in Wales (Normington, 2014, p. 42), the Home Office decided to enshrine the role of the Welsh Lead for the PFEW into the police regulations to ensure that the devolved landscape is reflected in the work of the Police Federation.

For the UK Government, the various adaptations and iterations made since devolution are enough to ensure that policing in Wales operates smoothly across the 'jagged edges' that separate the UK and Welsh Government's responsibilities (Jones and Wyn Jones, 2022). In 2013, for example, the UK Government (2013, p. 81) told the Silk Commission that the partnership arrangements in Wales provide Welsh policing services with 'a significant level of integration and autonomy'. More recently, UK Ministers have underlined the importance of improving 'co-operation' and strengthening 'working relationships' with the Welsh Government to ensure that the 'unique circumstances' in Wales are reflected in its approach to policing and criminal justice (Philp, 2020; Malthouse, 2022). For some, however, the various reforms that have been made since devolution simply conceal a much deeper set of structural and strategic problems facing Welsh policing services.

One of the major concerns about the condition of policing in post-devolution Wales is its complexity. With Welsh forces having to fulfil Home Office objectives *and* support the Welsh Government's own policy vision, the Thomas Commission, (2019) concluded that the current arrangements in Wales 'stand in the way of a single coherent approach' to policing that operates in almost 'every other nation'. Examples of this complexity include the funding for police services, discussed earlier in the paper, with different pots of money being made available to Welsh forces from devolved and non-devolved sources<sup>16</sup>. In recent years, the complexity around police funding has led to growing concerns over the standard of police education and training in Wales. While the funding for Police Constable Degree Apprenticeships in England is provided through the National Apprenticeship Levy, confusion about who is responsible for police education and training in Wales has led to a situation where Welsh forces are contributing to the Levy without being able to access this money. Although a special Home Office grant has been given to Welsh forces to overcome the disparity with English forces, the incident has led to misgivings about differing standards between Welsh and English forces and the future of police funding arrangements (Jones and Wyn Jones, 2022; National Assembly for Wales' Economy, Infrastructure and Skills Committee, 2018).

Despite efforts to accommodate Welsh devolution, concerns have also been raised over the extent to which that UK Ministers and officials fully understand the Welsh context. At the heart of this problem is that numerous UK policies have been introduced without full consideration of the devolved government's powers and responsibilities (Jones and Wyn Jones, 2022). In 2014, the Silk Commission (2014, p. 107) pointed to the fact that Home Office 'strategic policing policy' is often 'dominated by English metropolitan concerns' which overlook the problems faced in Wales and Welsh communities, something that has also been recognized as an issue with rural

<sup>16</sup> In March 2022, the Chief Constable of Dyfed-Powys Police, Dr. Richard Lewis, told Members of Parliament that, unlike forces in England, Welsh police face the 'additional dynamic' of having to navigate their way through complex funding streams made available by the Home Office (House of Commons Welsh Affairs Committee, 2022, p. Q5).



communities in England (Loader and Mulcahy, 2003; Mawby, 2004). The split between devolved and non-devolved responsibilities has also led to concerns about the accountability arrangements for police in Wales with many devolved issues often unnoticed by HM Inspectorate of Constabulary Fire and Rescue (HMICFRS), while the Welsh context often falls within the gaps between scrutiny committees in the House of Commons and the Welsh Senedd (Jones and Wyn Jones, 2022).

The issues that we have outlined in this paper have fuelled calls for an end to the England and Wales policing system. Supporters of policing devolution in Wales, which include two independent commissions, the Welsh Government, all four PCCs in Wales, the Association of Chief Police Officers<sup>17</sup>, and the majority of Senedd Members<sup>18</sup> (Senedd Cymru, 2022; Silk Commission, 2014; Thomas Commission, 2019) have argued that it would help to improve police accountability and deliver 'greater autonomy' in helping police to 'adapt even better to local needs' (Silk Commission, 2014, p. 109). Others have suggested that it would help to overcome the complex nature of the current system, not to mention the challenges likely to be posed by further legislative and policy divergence in the future (Jones and Wyn Jones, 2022). More broadly, the transfer of policing powers to the Welsh Senedd might help to provide Wales with a sustainable and lasting devolution settlement. Indeed, according to the former Welsh First Minister, Carwyn Jones, Wales remains something of a constitutional anomaly in that it is the only common law country in the world to have a legislature and executive without its own distinct justice system (Jones, 2021).<sup>19</sup> The devolution of policing powers would at least help to bring Wales closer in line with the UK's other devolved nations, both of which already have their own distinct policing systems (Parry, 2017).

While research elsewhere suggests that devolution is by no means a panacea for overcoming complexity or solving policing or criminal justice

problems (Morrison, 2011; Murray and Atkinson, 2019), debates over the future suitability and sustainability of the England and Wales system only serve to underline the extent of the impact that Welsh devolution has made since 1999. These same arguments reinforce the view that the 'special' case of Wales ought to be taken more seriously within future research on policing across the UK and beyond.

## Conclusion

Devolution has transformed police governance, policy, and practice in the UK. Its effects have been reflected in recent years within a more constitutionally literate set of academic debates on UK policing. The need to think about territorially distinct arrangements, policies and practices has been advanced within a number of recent studies including scholarship on Northern Ireland where debates on policing and criminal justice have previously 'suffered' because of the 'historical and indeed contemporary focus on England and Wales' within 'UK' debates on criminal justice (McAlinden and Dwyer, 2015, p. 4). Similarly, academics have pointed to the 'general neglect' of Scotland within debates where Scottish criminal justice is either completely 'overlooked', 'marginalised' (Croall *et al.*, 2010, p. 6) or in some cases simply 'tacked on' to debates that are primarily about England and Wales (Garland, 1999, p. xiv). There have been attempts to address the 'primarily Anglo-centric' focus that has imbued Scottish policing research (Dickson, 2021, p. 2071), and in the same spirit we have here drawn upon the 'special' case of Wales to set out our own arguments for moving beyond England and Wales as a dominant frame or unit of analysis within UK policing research.

<sup>17</sup> The Association of Chief Police Officers (ACPO) was replaced by the National Police Chiefs' Council (NPCC) in April 2015.

<sup>18</sup> In a vote on a motion whether to devolve policing powers to Wales on 9 March 2022 members of the Senedd voted 40 for and 14 against.

<sup>19</sup> This point was underlined further in 2015 by the then Deputy President of the UK Supreme Court, Lady Hale, when addressing Wales' involvement in the UK: "The point has been made that it is rare indeed for provinces, states or territories within larger sovereign states to have their own legislatures but not also to have their own justice systems." (Lady Hale, 2015).

Far from being part of any deliberate or purposeful strategy to provide the Welsh Government with a formal role over policing, devolution to Wales has, nevertheless, transformed its role within the England and Wales system. Of course, there inevitably remain many continuities and similarities between English and Welsh police force in aspects such as the wider legal context within which they operate, organizational structures, accountability mechanisms, occupational cultures, and broad policy directions. Nevertheless, the emergence of Welsh-only policies, funding streams, initiatives, regulations, and even criminal offences means that policing in post-devolution Wales is diverging in a number of important ways from that in England. While a host of initiatives and institutional adaptations have been devised to try and help accommodate the impact of devolution, Welsh forces now operate within an increasingly complex delivery landscape often marked by its very divergence from the policies, practices, and laws found in England. While Wales has largely been invisible within debates on policing and criminal justice, the arguments presented here reveal that Welsh devolution has clearly changed this picture and increasingly shaped a distinctively 'Welsh' set of policing arrangements.

We conclude this paper with a call for further empirical research to be carried out into a range of topics. Firstly, there is a clear practical and applied need for more policy-focussed research on the impact that devolution has on policing in Wales. In the wake of the COVID-19 pandemic as well as plans to reform police governance in England (The Police Foundation, 2022), this should include research on the widening divergence between Welsh and English police forces as well as the suggestion that recognizably 'Welsh' approaches to policing are now beginning to emerge (Harrison, 2020). Further research should also explore the possibilities for improvements to policing within the current devolution settlement as well as the potential implications of, and challenges for, the full devolution of policing in Wales as called for by the Silk (2014) and Thomas (2019) Commissions.

Second, in relation to scholarly understandings of changing police governance, there is a need for empirical research about the dynamics and wider

impact of the relationship between devolved governance institutions and policing in Wales. This could provide the basis for more detailed comparative analysis of the processes and impacts of policy divergence and convergence between the policing systems of the various nations of the UK. Such work would provide important insights for international academic discussions on central-local relations (Fyfe et al., 2021), the development of 'multi-centred governance' (Edwards, 2016), sub-national comparisons in policing approaches (De Pauw and Easton, 2017), and more broadly the relationship between policing and democratic institutions (Lister and Jones, 2016). Finally, the arguments presented here can contribute towards a more constitutionally literate academic debate on policing and improve our understanding of changing police governance, policy, and practice across all parts of the UK. Given how widely researched and discussed the England and Wales system is within policing scholarship, the major changes made to the 'unitary' system since devolution should afford Wales a key role within future academic debates and research.

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