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**Police and Crime Commissioners:
New agents of crime and justice policy transfer?**

Policing and Society

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Police and Crime Commissioners: New agents of crime and justice policy transfer?

Abstract

This article argues that the police accountability and governance reforms introduced by the Conservative-Liberal Democrat Coalition Government (2010–2015) have created a new window for ‘international-subnational’ crime and justice policy transfer to occur in England and Wales by placing Police and Crime Commissioners (PCCs) into a local strategic leadership position. It begins by providing an account of the emergence of PCCs and the controversies that have surrounded them, while at the same time maintaining that they are unlikely to be abolished in the foreseeable future. Three reasons as to why PCCs may seek to import policies from abroad are then presented, encompassing ballot-box politicking, hyper-awareness of constituency discontent and a demonstrated willingness to pioneer new crime control initiatives. Subsequent to presenting an international-subnational policy transfer case study - that of London’s Compulsory Sobriety Pilot - several analytical and practice-based ‘lessons’ are outlined pertaining to the practice of emulating non-indigenous subnational crime control practices.

Key words: Police and Crime Commissioners; policy transfer; compulsory sobriety; violence reduction.

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Declaration of competing interest: None

Introduction

Take even a cursory glance at literature dedicated to discussing crime and its control and you are likely to stumble upon claims that policies have ‘travelled’ from an overseas jurisdiction and disembarked in the United Kingdom (UK). Consider for instance, Neighbourhood Watch, Operation Ceasefire, Scared Straight, Ugly Mugs and Zero Tolerance Policing. These initiatives are just a small sample of those that scholars claim have been borrowed from abroad. Yet, a significant problem with the vast majority of such claims is that they are rarely supported by evidence. Instead, hunches and assumptions prevail. Few empirical studies have been published that investigate (alleged) UK crime and justice policy transfer. Those that have been published (see for example Jones and Newburn 2007, 2013, Nellis 2000, Newburn 2012b, Schachter 1991) primarily fix their gaze at the national-level, with the purported importation of policy from the United States (US) by the British government being their central focus of enquiry. These studies examine the *why*, *what* and to a lesser extent *how* of policy emulation processes. They reveal that voluntary as opposed to coercive crime control policy transfer is the norm, and that the impetus for UK policy imitation has largely stemmed from political, professional, media and/or public dissatisfaction with the status quo as fuelled by perceived policy failure, political and ideological agendas or ministerial fear of being ‘out-toughed’ in the sphere of law and order. They also suggest that transferred objects are typically ‘soft’ (ideas, symbols, rhetoric and labels) rather than ‘hard’ (practices and programmes) having been ‘moved’ along the US-UK policy transfer pathway by a diverse range of agents including politicians, bureaucrats, (non)governmental organisations, academics, policy entrepreneurs, pressure groups, knowledge institutions, policy intermediaries

and international organisations. The capacity of these agents to act both individually and collectively to secure policy change has been recognised, as has the ability of these agents to operate across different sites and scales ranging from the local to the inter/transnational. Indeed, just as information regarding novel schemes can easily transcend jurisdictional boundaries and circulate freely under conditions of globalisation, so too can agents of transfer.

Focus on British government activity has nevertheless resulted in the relative neglect of alternative policy transfer pathways. In particular, the phenomenon of ‘international subnational’ crime and justice policy transfer has evaded academic scrutiny. This is defined as *‘a process in which knowledge about crime and justice institutions, policies, or delivery systems in one subnational jurisdiction is used in the development of crime and justice institutions, policies, or delivery systems in another subnational jurisdiction in a different country’* (definition adapted from Evans 2019 p. 95). Under-exploration of subnational policy borrowing does in fact extend beyond the issue area of crime control, with a heated debate between ‘orthodox policy transfer’ analysts and those aligned to a nascent ‘policy assemblages, mobilities and mutations approach’ producing accord that policy imitation sought or secured by local agents requires scholarly attention (see Dolowitz and Marsh 2012, Marsh and Evans 2012, McCann and Ward 2012). Within the sphere of crime and justice, and within the UK context, such attention is certainly warranted for two key reasons. Firstly, policy can, and does, emerge in a bottom-up rather than top-down fashion, with subnational agents cultivating crime control ideas that are subsequently adopted by central government or that diffuse horizontally across localities (Edwards and Hughes 2005, Gavens et al., 2017, Jones and Newburn 2007, Mawby 2011, Stenson and Edwards 2004). Secondly, and

relatedly, the police accountability and governance reforms introduced by the Conservative-Liberal Democrat Coalition Government (2010–2015) have ostensibly created a new window for crime and justice policy transfer to occur in England and Wales via the placing of directly elected Police and Crime Commissioners (PCCs) into a subnational strategic leadership position.

This paper will explore and justify this latter argument using a four-part structure. The first part describes the quadripartite police accountability arrangements that exist in England and Wales. It also provides a brief account of the controversies that have surrounded PCCs, while at the same time acknowledging that they look set to remain part of the policing and crime landscape for the foreseeable future. The second part draws on Evans' (2010) conceptualisation of a policy transfer 'opportunity structure' to outline reasons as to why PCCs may seek to import subnational crime and justice innovations from abroad. These reasons encompass ballot-box politicking, hyper-awareness of constituency discontent and a demonstrated willingness to pioneer new crime control initiatives. Part three presents a case study of the emergence and development of London's Compulsory Sobriety Pilot – a pilot that was modelled on the South Dakota 24/7 Sobriety Project and introduced after a 'compulsory sobriety' campaign was launched by a de facto PCC, the London Deputy Mayor for Policing. The fourth and concluding part of this paper outlines a number of analytical and practice-based 'lessons' that can be drawn from the case of London's Compulsory Sobriety Pilot concerning the practice of emulating non-indigenous subnational crime control practices.

Method

Case study evidence is drawn from elite interviews and documentary materials. 25 qualitative timeline interviews (see Berends 2011, Kolar et al., 2015) were conducted with political, professional, business or administrative elites who were directly involved in, or who were knowledgeable about, London's Compulsory Sobriety Pilot. The primary objective of the interviews was to capture rich and distinctive insider perspectives concerning the complex processes of policy formation and change from those who were witnesses or vital experts. A major advantage of this method was that it permitted light to be shed on how individuals experienced, viewed and responded to sequences of events, many of which were shielded from media gaze and unrecorded as they occurred 'off-stage' (Lilleker 2003, Richards 1996). While anonymity was offered to interviewees, 17 were content to be identified. Supporting case construction, approximately two hundred primary, secondary and tertiary documents were retrieved including: Acts of Parliament, Bills, Statutory Instruments, Green and White Papers, political manifestos, speeches, evaluation reports, minutes from meetings, letters, newspaper articles, academic publications, websites and blogs. While a large number of documents were publicly available, non-published or archived documents were requested from informants such as snippets from emails, research papers and Pilot performance reports. Data were analysed in two phases. The first phase entailed the generation of a chronological timeline that reconstructed the events that transpired during the process in which London's Compulsory Sobriety Pilot was designed and implemented. This timeline was assembled by knitting together dates, direct quotes, paraphrases and summaries extracted from interview transcripts and the documentary data collected. Carefully interlacing such

data into a meaningful and coherent format was intended to guard against a partial or biased chronicle being formulated due to absent or contradictory evidence not being identified (see Miles et al., 2014). The second analytical phase involved assigning ‘first cycle’ and ‘second cycle’ codes to the timeline to permit deeper reflection of the data’s meanings (Mason 2011). These codes were derived both deductively and inductively, and were revised or deleted where required to ensure that they were empirically grounded and integrated into a web-like conceptual structure (see Miles et al., 2014).

A ‘quadripartite’ model of police governance

Few would dispute that the *Police Reform and Social Responsibility (PRSR) Act 2011* provided for the most radical transformation and constitutional shake-up in the governance and accountability of the police in England and Wales for almost 50 years (Lister and Rowe 2015, Mawby and Smith 2013). The Act effectively disassembled the ‘tripartite’ model of police governance established by the *Police Act 1964* – a model that divided responsibility for, and oversight of, local police forces between Chief Constables, the Home Secretary and Police Authorities (Berman et al., 2012, Lister 2013, Rogers 2013, Strickland 2013).

In its place a ‘quadripartite’ structure with complex relational accountabilities was introduced (Raine and Keasey 2012). Within this new structure, Chief Constables retain responsibility for the

direction and control of their respective police forces¹ (Reiner 2013). Breaking with past arrangements however, the *PRSR Act 2011* signalled that the Home Secretary was to retreat from local police affairs (Lister 2013, Newburn 2012b). Indeed, while still possessing the authority to intervene in the event of force failure or when subnational decision-making poses a danger to national security, the Home Secretary's 'hands-off' role now primarily entails sporadically issuing a Strategic Policing Requirement that sets out threats that require a national policing capability and for which Chief Constables are to pay due regard when exercising their duties (Chambers 2014, Lister 2013, Lister and Rowe 2015). In addition to this change, many of the governance and executive functions that previously fell within the remit of Police Authorities have been assumed by directly elected local PCCs, each of whom has a four-year term of office. Such functions include: setting the annual force budget; determining the police council tax precept; producing a Police and Crime Plan that details local policing priorities and strategic objectives; and holding the Chief Constable to account for force performance (Dempsey 2016). Coupled with the latter, PCCs have the power to appoint, suspend, dismiss or call on the Chief Constable to retire or resign. Alternative arrangements exist for London. The City of London retained a Police Authority while in January

¹ The doctrine of 'police operational independence' has, however, been challenged recently by the High Court. With regards to an appeal made by a former chief constable concerning his dismissal by the PCC for South Yorkshire in 2016, the Court not only found in favour of the former, but also stated that "... *the PCC is obliged to hold the chief constable to account for every function he performs. In our judgement, matters relevant to operational independence are not excluded from the scope of the PCC's powers of scrutiny*" (R v Police and Crime Commissioner for South Yorkshire 2017: paragraph 78). As Loveday (2018) maintains, this judgement is likely to be subject to further scrutiny by the Courts going forward.

2012 the Mayor's Office for Policing and Crime (MOPAC) replaced the Metropolitan Police Authority. MOPAC is a political office formally headed by the Mayor of London who can appoint a Deputy Mayor for Policing and Crime to act on their behalf. Thus, while typically understood to be analogous to a PCC, London's Deputy Mayor for Policing and Crime is not directly elected to the role. Their mandate is second-tier in nature, with power and authority flowing downwards from the Mayor. MOPAC is held to public account by the Police and Crime Committee of the London Assembly. It does not have the power to appoint or dismiss the Metropolitan Police Commissioner. Instead, this post continues to be a royal appointment on the advice of the Home Secretary.

Consistent with the '*and crime*' component of their job title, PCCs are also charged with providing an efficient and effective wider criminal justice system, and are expected to work closely with Community Safety Partnerships to formulate joined-up strategies and practical interventions to tackle crime and disorder (Crawford and Evans 2016, Loveday 2018). As part of this role, PCCs have been tasked with commissioning community safety services and the majority of support services for victims via awarding Crime and Disorder Reduction Grants to statutory, private and/or third sector agencies (Madoc-Jones et al., 2015, Mawby and Smith 2013,). Hence, the direct and indirect funding that had formerly been distributed by central government has been placed into the hands of PCCs, thus setting them up to be, as Loader (2014 p. 41) maintains, 'powerful actors – even the most powerful actor – on the local policing and crime reduction scene'.

Controversy surrounding Police and Crime Commissioners

Controversy surrounding PCCs emerged even before the first public elections were held. A major concern vocalised by critics was that given the large deposit required to stand for election, candidates were likely to be financed by, and aligned to, political parties, thus potentially leading to the politicisation of the police (Joyce 2011, Loader and Muir 2016, Sampson 2012). The possibility of PCCs ‘playing to the gallery’ was also voiced as an issue, with commentators remarking that PCCs could divert resources away from crimes that are difficult to measure, ‘hidden’ from view and/or that do not resonate with the public (Innes 2011, Newburn 2012a). Controversy did not subside following the inaugural PCC elections held on 15 November 2012 which resulted in 16 Conservative, 13 Labour and, rather unexpectedly, 12 Independent candidates being elected under a supplementary vote system. Although unease was expressed with regard to the demographic profiles of the successful candidates (the majority of the first PCC cohort were white males), their elite political or crime-related professional backgrounds (many had previously been elected politicians, Police Authority members, police officers or magistrates) and the high number of spoilt ballots (2.8%), it was the low turnout that hit the headlines (Berman et al., 2012, Strickland 2013). With turnout averaging just 14.7% for valid votes across all 41 police areas it was the lowest recorded level of participation at a peacetime non-local government election in the UK with one polling station in Newport, Gwent, visited by no voters at all (Kirkland 2015). The second cycle of PCC elections were held on 5 May 2016 in 40 police force areas. Greater Manchester did not hold an election as the functions of the PCC were set to be assumed by a directly elected mayor in 2017 as part of the region’s devolution agreement. 20 Conservative, 15 Labour, two Plaid Cymru, and three Independent candidates were elected – 18 of whom were

incumbents (Dempsey 2016). Turnout increased by 11.5 percentage points when compared to 2012, averaging 26.6% for valid votes (Dempsey 2016).

With the Conservative Party forming a majority government in 2019 and the Labour Party turning on its proposal to abolish them, PCCs look set to remain part of the political landscape for the foreseeable future - whether in their current form or in the form of elected mayors. Indeed, PCC responsibilities are set to transfer to the directly elected Mayor of West Yorkshire in 2024, and calls have been made for metro mayors in other combined authority areas, including the Liverpool City Region and the West Midlands, to mirror this arrangement. Moreover, it is likely that PCCs will obtain new powers over time with respect to public safety and the wider criminal justice system. In March 2016 the second Cameron Government agreed to grant the Greater Manchester Combined Authority further freedom and flexibility with regard to criminal justice services, while the *Policing and Crime Act 2017* enabled PCCs to take on responsibility for fire and rescue services where a local case is made. The 2019 Conservative Party Manifesto also included a commitment to strengthening the accountability of PCCs and expanding their role, with the government announcing a review of PCCs in January 2020. If this proposed expansion and review will entail, for example, the revival of proposals for PCCs to monitor contracts with private and voluntary sector probation providers in their areas, and/or to exercise a commissioning and budgetary role with respect to prison places does, nevertheless, remain to be seen (Loveday and Roberts 2019, Morris 2016).

New agents of policy transfer

Although granted that their remit and powers may change and stretch going forward, it remains the case that PCCs do hold the potential to act as new agents of international-subnational crime and justice policy transfer. Indeed, one of the by-products of Coalition Government's police accountability reforms has been the creation of a new 'opportunity structure' (see Evans 2010) for policy transfer to occur by placing PCCs into a subnational strategic role.

One reason as to why PCCs may trigger international-subnational crime and justice policy transfer is that they operate in the political realm and are ultimately held to account at the ballot box. Re-election may thus be at the back or perhaps even at the forefront of their minds (Wells, 2016). Hence, PCCs may strive to increase their public profile and defend their tenure from challenge by endeavouring to leave a deep policy footprint in the sand (Lister and Rowe 2015, Strickland 2013). PCCs could work to achieve this by using their 'hard powers' to bestow Crime and Disorder Reduction Grants onto organisations that are intent on emulating 'foreign' models locally, or they could actively endorse force submissions to the Police Transformation Fund² that propose to implement non-indigenous ideas.

² Launched in 2016 by the Home Office, the Police Transformation Fund is intended to innovate policing by investing in digitalisation, a diverse and flexible workforce and new capabilities to respond to changing crimes and threats.

Given their habitual engagement with the public and access to various forms of data, PCCs are also likely to be hyperaware of micro-level dissatisfaction within their constituency and/or poor performance in comparison to other areas. As such, in seeking to drive forward the fight against crime, disorder, inefficiency and service inadequacies, PCCs could potentially use their ‘soft powers’ to champion the importation of subnational policies pioneered overseas to Chief Constables and/or relevant (non)statutory agencies tangled in the crime and justice web. Such policies could conceivably be disseminated and discussed at Association of Police and Crime Commissioners (APCC) events. Naturally, PCCs may encounter resistance to their tactic of drawing policy lessons from a different country, with an *‘it wasn’t grown on my patch’* attitude known to exist in some police forces (Crowhurst 2016). A card that PCCs could play however, is their mandate to pursue reform that reflects the demands and needs of the communities that they represent.

This links us smoothly to a further reason as to why PCCs may prove to be agents of crime and justice policy transfer. In contrast to the reasons cited above which are speculative in nature, this final reason is founded upon empirical evidence concerning the policy change that has been secured by PCCs and elected mayors in recent years – change that has entailed local variation and the unlocking of innovative practice across a range of crime control matters (Crowhurst 2016). For instance, in a bid to prevent Violence Against Women and Girls (VAWG), the PCC for Northumbria, Vera Baird, led from the front to develop vulnerability awareness training for grassroots workers involved in the night-time economy, while in Northamptonshire, PCC Adam Simmonds sought to increase Special Constable numbers via taking forward a recruitment drive

and collaborating with his force to streamline enlistment processes. Moreover, having previously expressed support for the utilisation of drug consumption rooms, the PCC for Durham, Ron Hogg, announced in 2015 that cannabis users in his force area would be offered the chance to avoid prosecution by attending the CheckPoint programme, thus taking bold strides towards decriminalisation / depenalisation (Austen 2015). Finally, the Mayor of London, Sadiq Khan, established a Violence Reduction Unit that emulates the public health approach adopted by the Scottish Violence Reduction Unit (Roberts 2019), and following an initiative to reduce the number of mentally ill people being detained in cells, the PCC for Staffordshire, Matthew Ellis, played a pivotal role in placing community mental health triage on the national agenda (Burn 2020, Loveday 2018). What these examples illustrate is that subnational agents are in fact taking forward new approaches both within police forces and beyond.

Transferring ‘24/7 Sobriety’ from South Dakota to South London

Having outlined why PCCs may prove to be agents of policy transfer going forward, this section will present a brief account of the origins and development of London’s Compulsory Sobriety Pilot. This pilot was inspired by the South Dakota 24/7 Sobriety Project and was proposed and lobbied for by a de facto PCC - Kit Malthouse, London’s Deputy Mayor for Policing (2008-2012) from 2010. The narrative forwarded focuses on: the contextual factors that prompted international-subnational policy borrowing processes; how knowledge of the South Dakota model was acquired by Malthouse; and the lobbying and compromise that was required to reach the point where an enforced alcohol abstinence scheme was launched in London in 2014.

Problem recognition

Malthouse was elected to the London Assembly in 2008 and was swiftly appointed by the new Mayor of London, Boris Johnson, to be his Deputy Mayor for Policing. In the early months of Malthouse's tenure, two forms of interpersonal violence were bucking national crime trends by not declining across London: violence that was occurring within the night-time economy and domestic violence. It was this condition that he chose to define and elevate to the status of a public problem that required a resolution. Malthouse's motivation to 'do something' could be explained as a rational response to apparent policy failure as fuelled by his duty and/or desire to meet the demands of his position. Evidence suggests however, that semi-coercive factors may also have played a role in his decision to act – several of which were mooted in the section above. For instance, Malthouse was seemingly encountering political and - given his limited contract - electoral pressure to engage with night-time economy violence and domestic abuse. The former due to his own West Central constituency experiencing after dark crime, and the latter partially because Johnson was 'feeling the heat'.

'There was quite a bit of pressure on the Mayor when he focused on which [crimes] were not declining, and domestic violence was one of those that was not declining' (Interviewee: Joe Mitton – Special Advisor, Office of the Mayor of London, 2010-2012).

Additionally, data indicate that Malthouse may have resolved to tackle domestic violence so as to mute claims that the first Johnson administration's performance within this and associated spheres

was poor when compared to its predecessor. Indeed, while London would soon become the first city in the world to launch a VAWG strategy, in early 2010 the final version of this document had not yet been released. Moreover, Johnson had frustrated some factions of the population by backtracking on his election manifesto pledge to fully fund four Rape Crisis Centres.

With respect to existing indigenous policy responses, Malthouse and his team within the Greater London Authority (GLA) were tentatively exploring a range of process issues to address violence arising within the night-time economy, including alcohol licensing and enforcement, policing levels and transport provision. Securing financial support to establish new women's refuges was likewise an area of focus. Nevertheless, a consciousness was slowly emerging within the GLA that downstream interventions that entailed pure policing or that provided an exit strategy for victims were not directly addressing crimes in which alcohol consumption was deemed to be a driver. In effect, an intellectual and policy shift occurred. A shift that not only led to existing solutions to alcohol-related violence within London being perceived as inadequate, but that was also intertwined with a search for upstream alcohol policy ideas from abroad. A receptiveness to policy transfer was thus present in Malthouse's team. Novel solutions were held to be out there, beyond the national horizon. Whether 'out there' was circumscribed to those jurisdictions that were proximate to Greater London in terms of language, geography, politics, culture, ideology and societal values remains blurred. What is clear is that in February 2010 Malthouse attended the

eighth Oxford Policing Policy Forum (OPPF)³. It was here that Professor Jonathan P. Caulkins (Carnegie Mellon University) delivered a presentation that briefly outlined the South Dakota 24/7 Sobriety Project.

Identification of a solution

‘24/7 Sobriety’ emerged in 1985 Bennett County, a rural jurisdiction in South Dakota, United States. In a bid to reduce alcohol-related crime and recidivism, in particular drink-driving and domestic violence, the county’s prosecutor, Larry Long, devised a new criminal justice intervention. As a condition of bond and until their cases were resolved, defendants were required to present themselves twice daily, 7 days a week, at a sheriff’s office and undertake a breath test for a reading of their blood–alcohol concentration levels. Those who tested positive or who failed to show up for a scheduled test were flash incarcerated in the county jail, typically for a few days. Long relocated to Pierre (the state capital of South Dakota) in 1991 and was later elected Attorney General. In 2003/4 he was appointed to a task-force charged with reducing the state prison population. Having recognised that substance misuse continued to lie behind much of the work of the criminal justice system, he suggested that an initiative similar to his Bennett County project be piloted. The 24/7 Sobriety Project began in February 2005 in three counties. The pilot initially

³ The OPPF was established in 2006 as a joint initiative of the Centre for Criminology at the University of Oxford and the independent think tank The Police Foundation. The purpose of the OPPF is to provide a safe space for senior stakeholders to network and to debate under Chatham House Rules about policing issues.

targeted drink-driving defendants with at least one prior drink-driving conviction within the previous 10 years. Participants helped to support the cost of the initiative by paying \$1 per test. Judges in the pilot jurisdictions considered '24/7 Sobriety' to be a success and the project began diffusing to other South Dakota counties. With expansion came the introduction of transdermal alcohol monitoring (i.e. alcohol tags), as well as sweat patch and urinal analysis to deter defendants from using illegal and prescription drugs as an alcohol substitute (Long 2016, Voas et al., 2011). In 2007 the South Dakota legislature unanimously approved the creation of a statewide '24/7 Sobriety' programme. The legislation permitted the use of '24/7 Sobriety' conditions for all crimes in which alcohol and/or drugs played a role in their commission, and widened eligibility to incorporate probationers and parolees as part of their supervision.

Following his attendance at the OPPF, Malthouse instructed his team to undertake desk research into the architecture and efficacy of the South Dakota model. Then, in late 2010, he commenced a London compulsory sobriety pilot campaign.

'[Compulsory sobriety] is one of those things, there are very few ideas in politics where everything just clicks and makes perfect sense [...] that beautiful lightbulb comes on in your head ...' (Interviewee: Kit Malthouse).

At the heart of Malthouse's vision were core features of '24/7 Sobriety': court-mandated alcohol abstinence; regular monitoring; 'offender pays'; and flash incarceration. Domestic abusers were highlighted as potential pilot participants, along with night-time economy offenders and drink-drivers. Four years later, under the leadership of Malthouse's successor, Stephen Greenhalgh,

MOPAC launched a Compulsory Sobriety Pilot in the South London Local Justice Area. As illustrated in Table 1, the structure of this pilot was somewhat different to that proposed previously. Compulsory sobriety was not utilised as a post-release license condition; the abstinence period was shorter than that initially proposed; alcohol tags rather than breathalysers were adopted to ensure compliance; and ‘offender pays’ and flash incarceration were omitted. In addition, domestic violence perpetrators were excluded from participating.

[INSERT HERE: Table 1 - London Compulsory Sobriety Pilot]

Securing primary legislation

A myriad of inter/transnational-, macro-state-, meso- and micro-level constraining factors caused this policy morphing to occur (see Bainbridge 2019). At the core of the journey that led to the establishment of a re-imagined sobriety pilot in London however, was intensive lobbying and compromise. This is because to introduce regular alcohol testing, have an offender pay for their tests and impose sanctions for breach, the GLA needed new sentencing powers to be granted, which in turn required new Parliamentary legislation. Having approached relevant government ministers, Malthouse and his team found that support was not forthcoming. Data suggest that the Secretary of State for Justice (Kenneth Clarke, 2010-2012) dismissed the notion of mandating violent offenders to a period of alcohol abstinence and reacted negatively towards subnational agents seeking to encroach on his legislative territory, while the Home Secretary (Theresa May,

2010-2016) declined to include new clauses in the forthcoming *PRSR Bill* on the grounds that they could hinder the Bill's transition through Parliament.

'I remember, [Kenneth Clarke] used the phrase, 'you can't stop an Englishman from having a pint' [...] it was ridiculous, we weren't talking about people who are having one pint but people who are having ten pints and becoming violent ...' (Interviewee – Anonymous 1).

Moreover, interest shown by staff in the Prime Minister's Office was not converted into legislative action.

In response to such resistance and inertia, Malthouse and his team sought to secure an amendment in the *PRSR Bill* and later the *Legal Aid, Sentencing and Punishment of Offenders (LASPO) Bill*. This process entailed constructing an inter-organisational Policy Transfer Lobbying Alliance (PTLA) via rousing a multitude of policy stakeholders⁴ and building cross-bench alliances within both Houses of Parliament so as to agitate and place pressure on the Coalition Government to engage in international-subnational policy borrowing. Two attempts to introduce Alcohol Monitoring Requirement (AMR) amendments were unsuccessful in 2011 and 2012, having been blocked by the Government on the grounds that the GLA had not demonstrated that its pilot would be targeted, effective, affordable and compatible with the existing English and Welsh criminal

⁴ Including *inter alia*: Greater London constituents; London Assembly members; London Councils; representatives from potential pilot delivery organisations; academics; alcohol and addiction charities; violence reduction specialists; and domestic violence victims and offenders.

justice system. The latter objection stemmed from an understanding that The European Court of Human Rights was likely to object to offenders being detained without trial due to the writ of *habeas corpus*, and that no existing mechanism permitted a criminal court to sentence an offender to pay the costs of delivering a non-financial penalty.

'The [Ministry of Justice] got very worried about precedents ... ['offender pays'] did not fit the criteria for a fine and a penalty because you would be repeatedly fining people over and over again. £2 a day for the crime they committed' (Interviewee: Baroness Finlay of Llandaff).

In seeking to appease the PTLA, the Home Office did nevertheless pledge to collaborate with the Ministry of Health to pilot a voluntary Conditional Caution sobriety scheme. This scheme was subsequently spurned by a core member of the PTLA - Baroness Finlay of Llandaff - who argued in the House of Lords that alcohol-inebriated offenders were unlikely to impose sobriety on themselves and that Conditional Cautions, as out of court disposals, would increase police paperwork. Likewise, Baroness Finlay of Llandaff interrogated the Government's plans to deliver a second sobriety trial as part of the Community Order framework by questioning the legality of regular testing without new primary legislation. The PTLA's goal was 'hard' rather than 'soft' transfer. Ministerial sops were not acceptable. Tackling alcohol-related crime was on the Government's agenda, imitating the South Dakota model had been worked up as a policy solution and the *LASPO Bill* was a moving vehicle for potential policy hijack. In short, the PTLA were not willing to relinquish their opportunity to secure policy change.

It was at this point that an agreement was forged between the Coalition Government and the PTLA. Evidence suggests that such compromise may have been a corollary of one, several or all of the following factors (Harris 2012, HL Deb 20 March 2012, v.736 c802-815, Interviewee: David Burrowes, Interviewee: Anonymous 2, Ministry of Justice 2012a, 2012b, Morris 2012, Watt 2012).

- Compulsory sobriety complemented measures contained within the Government's forthcoming Alcohol Strategy and held the potential to make citizens feel safer, reduce victimisation and lower state expenditure
- The Government wished to send a strong message to the public that it was committed to localism and that the 'right' to consume alcohol is neither unqualified nor irrevocable
- The Prime Minister (David Cameron, 2010-2016) was eager to exploit alcohol tags to fight crime and wished to introduce an automatic punitive element into non-custodial sentences to prevent them being (viewed as) lenient
- With the 2012 London mayoral election looming, the launch of a compulsory sobriety pilot was likely to generate a media buzz for Johnson who was running for second term - a victory for Johnson would be a victory for the Conservative Party.

One further factor that cannot be overlooked however, is that of compromise occurring to evade political failure and embarrassment. Indeed, in March 2012 Baroness Finlay of Llandaff intended to re-lay the PTLA's AMR amendments, with a win likely to ensue should a vote be called. The outcome would have been a tenth *LASPO Bill* defeat for the Coalition Government in the House of Lords, further delay with respect to passing the Bill and a short-lived triumph for the PTLA as

when the Bill returned to the House of Commons the Government would have stripped out the AMR amendments via inciting its workable majority. Hence, an impasse had been reached and Kenneth Clarke's opposition to compulsory sobriety showed no signs of abating. A tactical move made by a further member of the PTLA - Professor Keith Humphreys (Stanford University) - does nevertheless appear to have shaken Clarke's resolve. That is, during what was intended to be a social get-together with the Member of Parliament for Enfield Southgate (David Burrowes, 2005-2017), Professor Humphreys enquired as to whether Burrowes in his capacity as Parliamentary Private Secretary to the Minister of State for Government Policy (Oliver Letwin, 2010-2015) could ask him to help break the stalemate. According to Professor Humphreys:

'[Burrowes] said, 'please sit down at my desk and write the message to [Letwin] that you want him to see and I will send it to him immediately'. I wrote about how the sobriety programs had worked in the States and that I thought it would work in the UK ...'
(Correspondence: Keith Humphreys).

This email seemingly moved the PTLA's AMR amendments onto - or up - Letwin's agenda as he reportedly telephoned Clarke and requested that he broker a deal with the PTLA. Several meetings later a compromise was reached: the Government would introduce an Alcohol Abstinence Monitoring Requirement (AAMR) bill amendment, and in return, the PTLA would drop flash incarceration and 'offender pays' in favour of existing criminal justice processes. The AAMR was subsequently introduced in section 76 and 77 of the *LASPO Act 2012*, which received Royal Assent on 1 May 2012. These sections permit courts in England and Wales to impose a punitive

requirement that an offender abstain from alcohol for a fixed period (not exceeding 120 days) and be regularly tested to ensure compliance as part of a Community or Suspended Sentence Order where the consumption of alcohol is an element of the offence committed or a contributing factor in its commission. Dependent drinkers are ineligible for the requirement, and an Alcohol Treatment Requirement cannot be made as part of the Order. Crucially, the *LASPO Act 2012* also states that the Secretary of State must enact a Piloting Order to instigate an AAMR trial in a specific area prior to consideration of wider implementation. As such, vicarious criminal justice implementation powers were not devolved to MOPAC - a government safety net was put in place and hoops had to be jumped through. Indeed, the Ministry of Justice stipulated that domestic violence perpetrators would not be permitted to participate in AAMR trials and that MOPAC had to meet three requirements prior to its pilot being implemented. The first was that MOPAC needed to confirm that it possessed the necessary powers to procure alcohol monitoring equipment and to enter into a contract with the Ministry of Justice. The second was the MOPAC developed acceptable pilot specifications, and the third was that local partners had to be fully and actively engaged. Having met these requirements, MOPAC's proof-of-concept Compulsory Sobriety Pilot was officially launched in the South London Local Justice Area in July 2014, with alcohol tags being employed as the sole monitoring technology (see Bainbridge, 2019). 113 AAMR Orders were imposed over a 12-month period, with a compliance rate of 92% (Pepper and Dawson 2016). Pan-London expansion commenced in April 2016 for a two-year period. A total of 1,014 of AAMR Orders were imposed (Hobson et al., 2018). The compliance rate was 94% (Hobson et al., 2018).

Discussion and conclusion

Empirical investigation of policy transfer is a relatively rare enterprise in criminology (Jones et al., 2019). Where studies of UK crime control policy emulation have been conducted, focus has tended towards the nation state, thus overlooking developments that are occurring at the subnational level. In taking steps to address this lacuna, this paper has argued that PCCs may seek to utilise knowledge of subnational initiatives from a different country to cut crime and challenge the criminal justice status quo in their jurisdiction. Having presented an account of the emergence and development of London's Compulsory Sobriety Pilot, the remainder of this paper outlines a series of analytical and practice-based 'lessons' that can be drawn pertaining to international-subnational crime control policy transfer.

In line with the findings of existing national-level studies, the case of London's Compulsory Sobriety Pilot suggests that elite perception of policy failure combined with voluntary and semi-coercive factors can drive subnational crime and justice policy borrowing. Findings also indicate that actors operating at different levels of political spatiality can participate in 'push' and 'pull' subnational policy imitation processes, either ephemerally or for an extended period of time. To be sure, while GLA representatives and later an inter-organisational PTLA engaged in coordinated policy transfer activity over a number of years, the individual who carried '24/7 Sobriety' from the US to the OPPF - Professor Caulkins - exited the policy formation process in a matter of minutes. It is important to observe that the collision of Malthouse (problem carrier) and Professor Caulkins (solution bearer) at the OPPF was in fact highly haphazard and serendipitous. Their

contact was not a direct corollary of disciplined search activity or policy tourism. Rather, Malthouse ‘stumbled across’ (Dolowitz 2006) a ‘parachute professor’ (Stone 2012) who spoke briefly of a little known alcohol intervention programme operating in a little discussed US state within a ‘fleeting situation’ of policy-making (McCann and Ward 2012). Not only does this finding challenge the vestiges of rationality that continue to be detectable within some policy transfer analysis frameworks (see for example, Evans 2010), but it also raises the question of whether subnational policy-makers may be more receptive to crime control ideas that are not necessarily ‘in vogue’ and/or that have emerged in jurisdictions that are less ‘familiar’ than, for instance, New York City. The birthplace of ‘24/7 Sobriety’ did not deter Malthouse – perhaps PCCs will be equally as open-minded when shopping for policy inspiration.

The case of London’s Compulsory Sobriety Pilot does however indicate that even if a non-indigenous policy idea chimes with the neoliberal and punitive agenda that has taken root in the UK, international-subnational policy transfer can be a highly complex, dynamic and politicised process, particularly if an entrepreneurial PCC seeks to innovate in an area beyond their remit and/or requires ministerial authorisation to proceed. Indeed, despite the size, profile and influence of the GLA, and its geographical proximity to Westminster, altering the strategy formulated to secure new primary legislation and eventually forsaking a ‘hard’ form of policy replication were all necessary to reach the point where an enforced alcohol abstinence trial could be launched in London. Corroborating findings from existing studies, this intimates that ‘soft’ transfer may also prove to be the norm at the subnational level over time, and that ‘cutting and pasting’ (Sharman 2010) a programme may not be a realistic pursuit for PCCs if significant political, economic, legal,

social, and/or cultural incompatibilities exist between jurisdictions, and where institutionalised decision-making processes can work to obstruct the realisation of policy imitation goals.

As Malthouse and the PTLA began campaigning to import the South Dakota model prior to the inaugural PCC elections, it will be interesting to see if PCCs as *'political beasts'* (Gibbs 2010) will themselves unite to bulldoze opposition to subnational policy emulation going forward. Malthouse's second-tier mandate to pursue policy modernisation was unique, yet the voices reverberating across the crime control landscape have transformed, and will transform once again following the 2021 PCC elections. One letter signed by a collective of directly elected PCCs could be a powerful catalyst for policy change. Who instigates and leads such unification would certainly be a further matter of interest. The professional backgrounds of PCCs have varied to date, with some being more seasoned political campaigners than others. Perhaps it will be those with previous experience of introducing new policies that will not only seek to form alliances, but who will also be disposed towards engaging in international lesson-drawing and associated lobbying activity more generally. Equally, it may be the case that PCCs who decline to recruit policy specialists, and/or who operate in highly urban jurisdictions with media-attracting crime control issues, will be more inclined to pursue 'quick-fix' policy solutions from abroad so as to placate their constituents and policy stakeholders. In short, the employment history, existing skill set, hiring decisions and police force area that PCCs represent may be important variables, both in relation to instigating policy transfer processes and successfully changing policy.

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