



Northern Ireland
Assembly

COMMITTEE FOR JUSTICE

OFFICIAL REPORT
(Hansard)

Justice Bill

11 January 2011

NORTHERN IRELAND ASSEMBLY

COMMITTEE FOR JUSTICE

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Members present for all or part of the proceedings:

Lord Morrow (Chairperson)
Mr Raymond McCartney (Deputy Chairperson)
Lord Browne
Mr Paul Givan
Mr Alban Maginness
Mr Conall McDevitt
Mr David McNarry
Ms Carál Ní Chuilín
Mr John O'Dowd

Witnesses:

Assistant Chief Constable Will Kerr)	
Chief Superintendent Stephen Martin)	Police Service of Northern Ireland
Superintendent Chris Noble)	
Superintendent Alister Wallace)	
Mr Tom Haire)	
Mr David Hughes)	Department of Justice
Mr Gareth Johnston)	
Ms Janice Smiley)	

The Chairperson (Lord Morrow):

We will begin the oral evidence session from the PSNI on the Justice Bill. The PSNI will outline key issues and points about the Bill. The relevant papers have been included in members' packs. There will be 10 minutes for an oral presentation and 20 minutes for questions.

I welcome Assistant Chief Constable Will Kerr, Chief Superintendent Stephen Martin, Superintendent Chris Noble and Superintendent Alister Wallace. Gentlemen, I welcome you to the first meeting of 2011 and wish you and the Police Service every success in the future. I trust that 2011 will be even better than 2010, no matter how you found 2010.

I will now hand over to Assistant Chief Constable Kerr to brief the Committee. After you have done so, perhaps you would be good enough to take our questions.

Assistant Chief Constable Will Kerr (Police Service of Northern Ireland):

Absolutely. Thank you for your very kind introduction and welcome. It is with no lack of satisfaction that we find ourselves in our local Assembly today discussing local justice legislation in front of local legislators, and we are grateful to the Committee for the opportunity to do so.

You already introduced my colleagues, but I will explain who they are. Alister is head of public protection, so if there are any questions specifically around vulnerable and intimidated witnesses, he will be able to answer them and explain the practical implications. Stephen is district commander in the north-west, which covers Derry, Strabane, Magherafelt and Limavady, and deals regularly with district policing partnerships (DPPs) and community safety partnership (CSPs). Chris Noble is the operations manager for south and east Belfast, including the city centre, Ravenhill Rugby Ground and Windsor Park. Should there be any questions about sporting fixtures, he will be able to answer them.

I am conscious that the Bill is large and detailed. We note that it was presented to the Assembly just six months after the devolution of policing and justice powers, covers an eclectic range of provisions and has a broad reach across many areas of justice provision. For example, it seeks to broaden eligibility for access to special measures for vulnerable and intimidated witnesses, which we strongly support. It also seeks to further deter knife crime in schools with increased penalties, and we believe that it is right to do so. Through penalty notices and conditional cautions, it seeks to contribute to the provision of effective justice by adding to the range of measures that will form part of a proportionate response to offending, and we welcome that, too.

The Committee will not be surprised to know, however, that our chief interest in the Bill concerns the creation of policing and community safety partnerships, and, specifically, clause 34, which places a duty on public bodies to consider community safety implications in exercising their functions. Our policing plan is explicit in committing us to work with communities and partners to help make

Northern Ireland safe, comfortable and peaceful. The plan also embeds our ethos of policing with the community and in everything that we do and, in essence, drives us to work collaboratively with a range of partners and communities to try to deliver on the aforementioned objective. We do not always get those partnerships right, and it is fair to say that we and communities are still learning how to get the most from them. However, policing does not and cannot operate in a vacuum, and we are absolutely committed to that approach.

To be candid: there has been a growing recognition in policing over the past number of years that, although we are good at the serious crime end of the spectrum — the majority of homicides in Northern Ireland last year ended up with someone's being charged — we are also getting better at crime prevention. Recorded crime in Northern Ireland is at a 12-year low. However, we need to do more to deal with those issues.

In the past, we might have been considered to be at the less serious end of the offending spectrum, but actually have the biggest impact on community life. I am talking specifically about quality of life issues, in particular antisocial behaviour, which can have a really negative impact on community life. Antisocial behaviour is a perfectly good example of the need for practical and sensible partnership working so that we do not just manage the symptoms but actively address the causes through joined-up plans that address, for example, better street lighting; better facilities for young people; better parenting and parenting support, although it is not just young people who are involved in antisocial behaviour; dealing with alcohol misuse; early years support; collaborative working to drive the link between deprivation and offending; and so on.

Enforcement clearly has a part to play in tackling antisocial behaviour, but it will not provide the sole solution. From experience, we believe that the most effective way to deal with those issues is through a strong partnership with all the relevant agencies that is underpinned by effective and collective joint accountability. We think that the Bill provides a significant and timely opportunity to deliver just that.

Policing accountability has been enshrined in legislation in our culture for quite a few years. We welcome being held to high standards and, indeed, think that the local accountability mechanisms, onerous as we may sometimes feel they are, have contributed to the sustained crime reduction in Northern Ireland over the past 12 years. Therefore, we believe that the policing and community safety partnerships (PCSPs) governance arrangements should compel all the relevant statutory authorities to create and deliver joint policing and community safety plans and an effective

accountability mechanism to accompany that responsibility.

We believe that clause 34 is the minimum that is needed to ensure that that happens. However, clause 34 needs to be directly translated into the broader accountability arrangements within PCSPs. As it stands, the Police Service will remain the only statutorily accountable organisation within those partnerships. A range of other agencies can be designated by a PCSP as a member of that PCSP, including, for example, local government, probation services and the health, education and housing sectors. All those designated agencies may be involved in the creation of plans to, as the Bill says, “reduce crime” and “enhance community safety”. However, once those joint delivery plans are set, the only mechanism in that forum to hold any of those delivery agencies to account is through the policing committee in respect of the PSNI.

I appreciate that some of those designated agencies might say that they are being held to account in the court of public opinion by virtue of the fact that they have to sign up to a joint plan. However, we believe that the other agencies, having committed to actions in the delivery plan, should be publicly accountable to local communities and local politicians for their actions on their clause 34 responsibilities. That having been said, I have no wish for Northern Ireland legislation to simply replicate legislation elsewhere. Local solutions are required for unique local problems. However, the miseries inflicted upon our local communities by crime and antisocial behaviour are not unique to Northern Ireland and, in many cases, are worse elsewhere. Therefore, it remains eminently sensible to learn from the experiences of others.

I will give a few examples. The crime and disorder partnerships, which were established by the Crime and Disorder Act 1998 in England and Wales, were created on the understanding that no single organisation could hope to reduce incidence of crime. The then Audit Commission said:

“Local organisations need to work together to develop comprehensive solutions to improve the community’s quality of life”.

Clause 34 has the potential to go further than the Crime and Disorder Act 1998 in that it covers all Departments in Northern Ireland whilst the 1998 Act principally, but not exclusively, deals with local or joint authorities.

Policing in Scotland enjoys similar provisions — although with a broader range of partners — and are monitored by the Scottish Assembly. In the Republic of Ireland, local authorities have contributed to joint policing committees since 2005.

I will give a couple of very quick examples from further afield. France has a locally accountable system through which responsibilities are shared between the local mayor, the prefect, local prosecutors, local authorities and the police. Belgium has adopted what are called strategic security plans that are accompanied by a robust joint accountability element. Germany has the German Forum for Crime Prevention, which has a number of private companies as foundation members. Therefore, although I appreciate that clause 34 may have created some apprehension amongst some Departments, it seems logical that joint working and joint accountability for that working offers us the best opportunity to effectively reduce crime and disorder.

I note with interest the broad support that has been expressed at this Committee in other sessions from agencies such as the Northern Ireland Local Government Association (NILGA), community safety partnerships, the Probation Board, Include Youth and the Policing Board, to name but a few. As I said before, we view clause 34 as a minimum requirement for effective partnership working.

To conclude — hopefully leaving some more time for questions — the Police Service of Northern Ireland welcomes the responsibility placed on us by the policing and community safety partnerships. We are used to it. We strongly think that politicians and local communities have a right to robustly and publicly challenge us when we get policing wrong in Northern Ireland. That right is exercised quite frequently, but rightly so. We strongly believe that the arrangements would be a lot more effective if that responsibility was shared and supported by a robust public accountability system that is enshrined in statute.

Mr McNarry:

You are very welcome, gentlemen. I am keen to deter violence and disorder at sporting events, as everybody is. I see that, when the PSNI is called in, it does an excellent job. I want to concentrate on that line. This Committee has been told that the responses that have been received about the sporting proposals, including those from the GAA and rugby and football bodies, have shown broad support, specifically about the clauses that address offensive chanting, missile throwing and unauthorised pitch incursion. They have all been welcomed.

The creation of the offence for ticket-touting and banning orders are also broadly supported. I see that part of your submission deals with that. A number of respondents supported the alcohol proposals, although others, such as those who are affiliated to rugby, had reservations. That does not mean that rugby followers are all alcoholics or drunks; where they are coming from on that issue is clear. A range of views were expressed on banning alcohol on private transport, which, I believe, is silly, particularly since I have

read that. Can you tell me how many of those offences you deal with already under current law?

Mr Kerr:

Absolutely. I will ask Chris to talk in a little detail about your specific point in practice. The effect of any legislation is not just to enforce but to deter. Certainly, no police officer will turn down additional powers. We always welcome having those powers. The fact that we have them does not necessarily mean that we will use them. Chris, would you like to address Mr McNarry's question specifically?

Superintendent Chris Noble (Police Service of Northern Ireland):

I can speak from my experience of central, south and east Belfast, where many of the main sporting grounds are located. I will make a couple of points for context. First, the vast majority of sporting events and fans do not pose any problems to us.

Mr McNarry:

Hear, hear.

Superintendent Noble:

They are not violent, abusive or offensive in any way. However, a small minority of fans drag supporters' names through the mud and, indeed, make life difficult for clubs. We prefer self-regulation, ideally. Many clubs deal effectively with those issues daily at a low level. During the past number of years, a number of isolated incidences of disorder have occurred. For example, just after Christmas, there was a pitch incursion in one of the mid-Ulster grounds. Clause 39 deals with pitch incursions. Had the legislation been in place, pitch incursion would have been the appropriate offence for which to report and charge that person.

Some of those types of incidents do happen, although they are not common or regular. There is no doubt that the legislation, which, for me, sits alongside safety of sports grounds legislation, closes some loopholes. Broadly speaking, the vast majority of clubs would support the opportunity for police to get involved and use those powers for more serious offences.

Mr McNarry:

I am grateful for that. I am glad that you said that, overall, such incidents are quite uncommon. I see that, I am aware of it and it was my perception. Then, I think, "hang on a second; if it is not all that common, are we going to legislate for a few?" I appreciate that, if incidents are sufficiently bad, we

must legislate for a few. I do not know how high you prioritise the difficulty with that. The fact that those incidents are uncommon reflects the manner in which you police them.

You mentioned one matter. I want to deal with the banning of alcohol on a private bus. An example that springs to mind is that someone who comes from Scotland might take a bottle of hooch home to his grandfather and could be in trouble. A rugby supporter who goes to Ravenhill on a Friday is able to enjoy a drink. If the same guy wants to go to a football match on a Saturday and, perhaps, a GAA match on a Sunday, he must abide by different laws. What I am really trying to get at is that much of that seems to be repetitive. I have not made my mind up as to whether those provisions are necessary. Therefore, I seek your guidance. However, I do not want to put you in a difficult position so that I can say that you told me something. I would not do that.

How can you enforce some of those matters? In the modern age, we are trying not to make criminals out of people. You refer to that in another way. We still feel and refer to the threat to society from dissidents, I think is the term used. We want to see concentration on that without neglect towards asserting the law. What do you need to put in place to enforce those things? How much will it cost? What do you need to do with regard to manpower and adjustments?

Assistant Chief Constable Kerr:

I will let Chris answer that in some detail. However, to summarise our position: sports disorder is not a big problem in Northern Ireland. I think that is patently obvious. However, just because those powers are enacted in the statute books does not mean that we will use them. We would prefer to have reference back to those powers in the small number of occasions when we have to use them. Chris, will you touch on the practicalities of the powers, please?

Superintendent Noble:

I will cover a couple of points around enforcement and resourcing and will then briefly touch on alcohol and public transport. We have police at approximately one in five football matches in Belfast. I do not foresee us having to use additional resources. From a football match perspective, sports safety is based around an assessment of risk. Matches will be categorised A to C, with C being the highest risk, and supporters will be identified as risk or non-risk. That is done in collaboration with the Irish Football Association (IFA), the clubs and the police. It is at that point that we consider our resources and where some of those potential offences may come into play according to the risk element. I do not see significant additional resourcing being required.

On the practicalities of enforcement: some of the new offences, chanting for example, will require us to engage with the Public Prosecution Service (PPS) to determine the nature of the chanting and how we record the evidence, because, in my understanding, although there might be video recording in some grounds, I do not believe that there is always audio. Work will have to be done on the guidelines. I do not think it is insurmountable, but there is no doubt that some of the offences will require a different approach and prior consultation with the PPS.

Mr McNarry:

OK. I am measured by that. I think that is very helpful. It is up to us, now, Chairman, to find out whether it is worthwhile going down that route. Thank you, gentlemen.

The Chairperson:

How do you see that being enforced at events that you do not attend?

Assistant Chief Constable Kerr:

That is a great conundrum. If we are not there, we are reliant on evidence being presented to us by third parties who were. As Chris rightly said, we have been trying to push to a position in which a lot of these matches are self-regulated, quite successfully so over the past years, but if evidence is presented to us, whether through video footage taken on site or evidence from stewards or marshals, we will have to consult with the Public Prosecution Service and decide what meets evidential standard and what does not.

Part of our response is also intelligence led. If we get indications that there is likely to be trouble at any sports events, we put police officers into the grounds, but I think it is fair to say that happens infrequently. If they are there, and if an offence is disclosed, the investigation and the power of arrest are sometimes used after the fact, not during. The fact that police officers may not necessarily be on the grounds will not stop us investigating the offence or arresting the offender afterwards.

Superintendent Noble:

There is a certain parallel here with, for example, shoplifting. Police will not immediately be at the scene, but it will be clear that an offence has taken place. A store detective will be there who has had a degree of training and has some appreciation of what the offence involves, and when police subsequently come along, they will receive a briefing and take action from there. However, I think it is a fair point that there will be difficulties if an act takes place when police are not there. What this will not do is stop the responsibility on clubs to self-regulate. On a regular if not frequent basis, clubs

will still ban people from their grounds.

The Chairperson:

You drew a comparison with shoplifting by saying that you are not there at the time of the offence. That is right. Shoplifting is very often carried out by an individual. Some hoodlums could have somebody killed or half dead by the time the police arrive on the scene. I would have thought that the two were marginally different, to put it mildly.

Superintendent Noble:

That is a fair comment. I was drawing the example on the fact that, if police are not there, there is still an opportunity for another party or agent to gather evidence with which to supply the police. Again, I return to my comments about the risk factor around matches, which is based on history, intelligence and the clubs' own grading for high-risk matches. If police do not have a presence, we will be keeping a very close eye on what is going on.

The Chairperson:

I suspect that you cannot win this one. When something happens, the first question asked is often, "Where were the police?" You are supposed to be here, there and everywhere. People say that the police are never there when you need them. I think that is a bit unfair at times. I have had to call the police out to situations at a soccer pitch quite close to where I live where they could never have anticipated what was happening. When police arrived, a very short time after they were called, I might add, they quickly had the whole situation sorted out. However, before having to deal with a nasty situation in which two sets of fans may have a real go at each other, I suspect that you folk would have leaned on history and identified a potential cracker. There are times at matches when incidents are sparked by something stupid, serious things can happen and people can get injured. Then, of course, people will say that the police are never there when they are needed. You will have difficulty winning that one.

Assistant Chief Constable Kerr:

That is a conundrum of policing: you can never legislate completely for the unpredictable or the unforeseeable.

Lord Browne:

Would you agree that, over the past 10 years, the amount of disorder at sporting events, particularly at football matches, has declined and that, if disorder breaks out at a sporting event, particularly at a

football match, there is enough existing legislation to deal with that, which allows for people to be prosecuted for throwing missiles if it causes harm or if there is drunken behaviour that could be viewed as disorderly behaviour? Do you agree that there is no need for more legislation to deal with such instances?

Assistant Chief Constable Kerr:

The answer to your first question is yes. The management of sports events and the self-regulation of such management has improved markedly and measurably over the past 10 years. That is undeniable.

The answer to your second question is no. I do not agree with you about the powers that are available to us. I need to be candid about that. No police service is going to turn down additional powers. Just because we have a number of tools in the box does not mean that we are going to pull them out for every football match. We will use them discreetly, sensibly and proportionately, but it is always better to have the power there on the off chance that an offence is committed so that, if we are there, we can respond immediately. That is better than not having the power at all.

Superintendent Noble:

I will comment briefly on that. It is helpful to view the Bill in the context of the safety of sports grounds legislation. There has been a sea change in what sports grounds look like. The focus has moved from security at grounds to safety at grounds. Fences have come down and access is more open so that grounds are not only more welcoming but safer. There is a changing dynamic, which, potentially, raises vulnerabilities, because there are people who seek to abuse that. That is where the Bill deals with some of the gaps.

The Chairperson:

Let us imagine that a serious incident take place on a sports field at which the police are not present and the fact that such a serious incident has happened is blazed across the television screen. What do you do in a case such as that? Do you wait until you are informed about it, or do you take the initiative and say that it is something that you need to be investigating?

Superintendent Noble:

We take such instances on a case-by-case basis. Let us look at a classic example: in the vast majority of occasions in which two players decide to have a punch-up, they will neither make nor seek to make a complaint. If, however, something comes to our attention, we will talk the teams and the clubs. In fact, in advance of some matches, we give some warnings to individuals whom we know can provoke

members of the opposing team or their fans. The vast majority of such occasions, however, are never brought to the attention of the police. If we become aware of the occurrence of high-profile incidents, we will speak to the clubs and to the individuals concerned.

The Chairperson:

I am not talking about two players falling out on the pitch. If one has a go at the other, I suspect that the referee's report will go to the appropriate authority and the incident will be dealt with through those channels. I am talking about riots or mini-riots, which occur when there is no police presence, but which are reported on television at 5.05 pm. Would you intervene in a situation such as that and ask for a report of what went on?

Assistant Chief Constable Kerr:

We would, absolutely. Stephen will make some additional comments about that. We would, hopefully, be made aware of such an incident very quickly. Hopefully, we would have been aware of any tension in advance of the match, but even if we were not, we would respond very quickly. We have public order assets available throughout Northern Ireland that we can deploy to the scene of an incident. We would be made aware of an incident within minutes, and, no doubt, we would be asked to go in immediately. Stephen, do you want to add anything?

Chief Superintendent Stephen Martin (Police Service of Northern Ireland):

Mr Kerr has answered the question. If a situation such as that which you described were to occur in my area of responsibility, Chairperson, I would call myself in and I would start an investigation. There are things that we can do even in the absence of a complaint, such as binding people over to keep the peace. It is incumbent on the police, in a situation such as that which you described, to get involved and establish what happened. That can be done. There are times when the first we have heard about an incident is in the Sunday newspapers and, as a result, I have directed detectives and others to make enquiries on the Monday. There are parallels with what you talked about. We would absolutely call ourselves in when such incidents occur.

The Chairperson:

There was one match in particular, and I suspect that the police could not have anticipated that there was going to be an incursion when not only the players fell out, but the substitutes then felt that they should get involved and went charging on to lend their weight. The whole thing just ended up in a melee, and it was nothing short of a disgrace. I suspect that even the police could not have anticipated that.

However, we are talking today about soccer matches, which is the very thing that the football bodies have a concern about. I have seen serious incidents at GAA matches with rioting or players falling out or getting overexcited. However, the soccer bodies feel that football is the prime target, and that rugby and other sports are not. They feel that this legislation is purely for football. What would you say to that?

Assistant Chief Constable Kerr:

I will ask Stephen to comment specifically on how we police Gaelic games, and we have a responsibility for that on his patch as well. To be entirely candid, and looking at the small number of incidents at rugby, Gaelic and football venues over the past number of years, it would be to the latter that we were called and were involved. However, the number is so small and infrequent that it is not a policing priority. Bearing in mind our other operational challenges, it would not feature at the top end of our concerns.

Chief Superintendent Martin:

We have a healthy relationship with the GAA, and the overwhelming majority of its matches go completely unpoliced. The Deputy Chairperson will know that last year's féile was in Derry — I had meetings with the secretary of the Ulster branch around that — and we facilitated issues about parking and worked with them on stewarding. GAA games largely go unpoliced; in fact, are virtually entirely unpoliced. That is also the case in my own area of Derry City, to be parochial.

The Chairperson:

You say that about the GAA, and I accept that, but could you not say that about football and rugby?

Assistant Chief Constable Kerr:

We could, yes.

The Chairperson:

Therefore, whether you talk about one of the three sporting organisations, the occasions when you have to intervene are seldom.

Assistant Chief Constable Kerr:

And minimal, and we hope that it continues that way. We think that the benefit of this legislation is that, on the occasions when we do have to intervene, we have the fullest range of powers to help us.

The Chairperson:

Is it not ironic that the one organisation that stepped right up to the plate on this issue was the IFA? It said that it probably did not think that the legislation was necessary, but had no problem with it, whereas it was the rugby representatives, I think, that asked what this was all about. There are problems associated with Ravenhill, not on the pitch at all but, as I suspect with a lot of grounds, with a bit of traffic management outside and things such as that. That is the only time that I see police there.

I could be at either of two sporting grounds within five minutes of my front door. I never see the police there, and rightly so, other than maybe directing traffic, or sorting out things such as that. It has to be said of all the sporting organisations that, percentage wise over a year, the times when the police are involved would, I suspect, be very small. Sometimes we maybe think legislation for legislation's sake. Mr McNarry wants to ask a supplementary question on that point.

Mr McNarry:

When I was presented with those ideas, I thought that we had a major problem, and it is very reassuring to hear that we do not and that it is at a low level. However, I also take on board that maybe you are saying that the introduction of those new laws will add something to you if necessary.

If those laws come in, will it increase costs for the clubs? In other words, if the clubs have to recognise that those new laws are in place, will that necessitate them saying, "There are new laws, and we need you to police them", and you then say, "That's fine, but we are going to have to charge you"? Will those laws necessitate an increased PSNI presence at sporting events? If so, will that, in turn, increase costs for the clubs concerned? We discussed your budget before you came into the meeting, so you had better answer carefully because we have not discussed the clubs' budget.

The Chairperson:

That sounds like a threat, doesn't it?

Mr McNarry:

I am sorry. It is not a threat at all. *[Laughter.]*

Assistant Chief Constable Kerr:

The answer is that it will not increase the necessity for policing at sporting events. I will ask Chris to

talk in some detail about the specific sporting venue. Will it increase costs for the grounds? Frankly, I am not sure at this stage. It may require some upgrade to the infrastructure and training for marshals or stewards, so there may be some associated costs. I do not think that they will be prohibitive; they are not going to be massive, but it will not increase the police presence at grounds. Unless we think that there is a need to be present, we will not be there. Chris, is there anything you would like to add?

Superintendent Noble:

That covers the issue from my perspective. Such matches are policed. We attend matches at which there is a degree of risk, in other words, those at which there is a need for us, because, we would, obviously, much rather be elsewhere doing neighbourhood policing and investigating crime in the community. Therefore, when members of the public engage with this legislation, it will be at those “risk” matches. However, there will also be a post-event opportunity for stewards and so on to report the evidence that they have gathered to police and for police to have additional opportunities. In my view, the deterrent factor in some of those offences is incredibly clear, not just for a club taking action that is quite difficult for it to enforce, but also for an individual potentially being brought before the courts for some of those offences.

Mr McNarry:

OK. Thank you for that, from which I take it that there is also a need for the clubs to look to their marshals if the legislation is enacted.

The Chairperson:

I think clubs are already doing that to a great extent.

Mr McDevitt:

I have a few questions about the fixed penalty notices, which I know that you generally welcome. Clause 69 will require the Department to issue guidance. How strongly do you feel about the need for guidance? Are there any areas of what is proposed that particularly concern you on which you wish to see guidance? If so, what are they?

Assistant Chief Constable Kerr:

Our principal concern is that we do not wish to take a police officer off the streets to administer the system. Therefore, the guidance should rationalise the offences and the conditions that apply to the penalty notices for disorder (PNDs) to make the process as simple as is practicable. We submitted some suggestions in our written response. The Department, in its interim guidance, talked about a

slightly different standard in the financial threshold for shoplifting offences as opposed to criminal damage offences, and perhaps we could rationalise that.

We also have look at the whole issue of PNDs in the context of a range of other diversionary options open to police and prosecutors. I would not want to see the situation arise of a person getting three or four fixed penalties in a rolling 12-month period. That would rather undermine their value in the first place. Apart from that, I would not get massively precious around the guidance that comes with such notices, so long as it as simple and as unbureaucratic as possible.

The only other consequence that I should refer to around PNDs is the default consequentials that come with them. We have a significant number of fine defaulters in Northern Ireland, so every justice disposal, including PNDs, will come with a consequence if someone does not pay the bill. We already struggle with the strategic management of fine defaulters, and we are doing a lot of work with the Department to take that matter forward. England and Wales have a different approach through a fine collection agency that is separate to policing. Therefore, all the additional powers that come with the legislation will end up with an additional consequence for policing, because we execute the warrants if somebody defaults in Northern Ireland.

Mr McDevitt:

I may be wrong and Chairman, you may want to correct me, but I seem to remember that when officials gave evidence on this previously, the general expectation was that fixed penalty notices would not be issued on the street. They would be the sort of thing that people would come into the police station to have issued, but they would not be given to someone, for example, at a corner who would be asked for their name, address and a few other details that would be whacked down, parking or speeding fine-style. Assistant Chief Constable Kerr, you said that you did not want one of your officers taken off the street to do this, but the likely reality, as I read it, is that you are going to have to take someone off the street and put him or her into a station, and you will have to go through due process to administer fixed penalty notices.

Assistant Chief Constable Kerr:

That is true in part. They can be issued on the street or at a police station. They were overused in Great Britain for a whole host of reasons. When it comes to issuing a PND for somebody who is involved in a street-level disorder and may have quite a bit of drink taken, they are likely to rip it up and forget about it. That automatically increases the potential that they will not pay it, which could mean a fine default, a warrant being issued and us having to arrest them. That will not add any value

to the criminal justice process. Some forces overused them for a range of offences for which, to be quite honest, they were not appropriate. They started to creep in to some quite serious theft offences and assault offences. We set out the criteria and the Department will set out the guidance very clearly as to how we use them here. They are part of a range of measures that we will use sensibly.

Mr McDevitt:

I return to another aspect of the sporting stuff. Throughout our scrutinising the Bill, I have been interested in the proposed series of offences about being caught drinking in vehicles that travel to or from regulated matches. Clause 44(5) states:

“A person who is drunk on a vehicle to which this section applies is guilty of an offence.”

If someone left from Newry to travel to the latter stages of an Ulster Championship GAA match in Clones, they would they exit and enter Northern Ireland a number of times. A bunch of guys, or women, for that matter, could go to the pub after the end of a game in Clones and drink perfectly legally and responsibly because they are not driving. They would be in the Republic but could then be stopped routinely in the North. How in God’s name are we going to be sure that an overzealous police officer will not say that they are guilty of an offence under what will then be section 44 of the Justice Act 2011? They will be guilty of an offence just because they are drunk on a bus.

Assistant Chief Constable Kerr:

Just because they are guilty of an offence does not mean that we will investigate or prosecute. It is one of the clauses that perfectly illustrate the fact that it will have more of a deterrent value than an enforcement value. The fact that it is there does not mean that we will arrest or investigate somebody on the back of it. The legislation closely mirrors the public processions legislation as well, but we just hope that it will have a deterrent value. We will apply it with a bit of common sense. We will certainly not do anything in the circumstances that you talk about.

Mr McDevitt:

That begs the question: a deterrent from what? If it was travelling to a game, I would understand. I understand why, on public safety grounds, you do not want people arriving drunk at any type of major public event. However, if memory serves me right, the draft legislation refers to “to or from”.

Assistant Chief Constable Kerr:

I would not die in a ditch over this issue either. Clearly, we do not want people arriving at any

sporting fixture drunk, because there is a greater potential for disorder. On the way home, frankly, I am not massively interested, aside from the fact that it will be more difficult for the poor coach driver to have to manage the people on his or her bus or coach.

The Chairperson:

I know that you did not say it, but that is close to saying that it is not enforceable.

Assistant Chief Constable Kerr:

I am trying to give you an honest assessment. If somebody has a few tins of whatever their drink is, hides it under the seat of a bus and has it on the way home from a sporting fixture, is it likely that we will investigate that case? It would be highly unlikely. I will not say that we will never investigate, Chairman. You would be surprised if I did. It is one where the deterrent value outweighs the enforcement value.

The Chairperson:

But, you are quick to recognise that it would be difficult to enforce.

Assistant Chief Constable Kerr:

Yes.

Mr McCartney:

Thank you for your presentation. You made a number of observations about the policing and community safety partnerships. Will you elaborate on those, particularly about the definition of “police custody” and how you feel that that needs tightening up or clarified better?

Assistant Chief Constable Kerr:

I am more than happy to help you with that one. It is more a point of semantics than anything else. We have eight policing districts — we jumped slightly ahead of the review of public administration (RPA) changes. Stephen is one of our eight district commanders. We have 29 areas. The PCSPs would be analogous with our policing areas with an area commander at chief inspector level, not a district commander at chief superintendent level. It might seem like a minor semantic point, but, for the purposes of clarity, it might be as well to make that explicit in the legislation.

Mr McCartney:

Have you made that position known to the Department?

Assistant Chief Constable Kerr:

Yes.

Mr McCartney:

You made an observation about clause 21 and clause 22 and the policing committee. Will you elaborate on that?

Assistant Chief Constable Kerr:

The observation is very simple, as is the point that I made in my introductory comments. The PCSP can designate a range of agencies that it wants to help deal with the joint crime and antisocial behaviour plans. They are designed to reduce crime and enhance community safety, and a range of agencies can make a positive contribution. I named some of them at the outset, and they include agencies that work in education, health, local government, probation and housing.

The important point is that we have been used to accountability under the Police (Northern Ireland) Act 2000, which created district policing partnerships, and we are comfortable with that. If we were to sign up to a joint delivery plan and, in that PCSP, the PSNI, through the policing committee, were the only organisation that were held to account statutorily for the delivery of what it promised to deliver, all the other agencies, some of which I named, could say that they would do x, y and z in the delivery plan but there would be no means by which local communities or local politicians in that PCSP could hold them to account for their clause 34 responsibilities. We think that that is wrong.

Mr McCartney:

My next question was going to be on clause 34. You made an observation about whether it is clear that the policing committee, rather than the wider committee, has the role of accountability. What is the practical way that that should be tightened up in the legislation?

Assistant Chief Constable Kerr:

The first five responsibilities of the PCSPs or the district policing and community safety partnerships (DPCSPs) are effectively a replication of section 16 of the Police Act, which deals with the functions and responsibilities of district policing partnerships. If the membership of PCSPs is to be increased, perhaps by including some of the other statutory agencies, and that larger group's remit includes responsibilities for police monitoring and police engagement with local communities, there is the risk

that housing, education and a range of other agencies fixate on police accountability and the performance of policing because they replicate those responsibilities as part of the functions of the PCSP. The policing committee is a separate issue and is simply about monitoring police objectives and acting as a forum for discussion of policing issues. DPP responsibilities, which are set out in section 16 of the Police Act, are the responsibility of the full PCSP.

Mr McCartney:

There seems to be a sense that the sports clauses do not introduce powers that you need but powers that you would like to have in case of certain situations. You made a number of observations about things that you feel are not in the legislation. Are you making the argument that the things that you would like to be included would be better placed in sport or in some other aspects of the legislation?

Assistant Chief Constable Kerr:

I do not know how feasible the time frames on that are. We have had a number of discussions with our departmental colleagues on what we would like to see on the second and third justice Bills. We have to be fairly sanguine about what realistically can be included in the first Bill. If there were any space to include any of the other issues that we name, we would be delighted if they could be included. I just do not know how feasible that is.

Mr McCartney:

Reference is made to a civil-based fine enforcement model. What difference would that make to policing work?

Assistant Chief Constable Kerr:

I made that point in response to Mr McDevitt's question. If non-court disposals are increased, there is always a risk that someone will default on it. We talked about penalty notices for disorders specifically. In England and Wales, the police service does not execute the warrants, while, in Northern Ireland, we do. In Northern Ireland, that was fine when we had 13,000 police officers and the operational capacity to do it. With 7,000 police officers and a number of other operational challenges, we do not have that operational capacity anymore. Up to one quarter of all fines that we execute are civil debts. It is not the role of policing to execute civil debts, whether someone has not paid for a BBC TV licence or not paid for a premium match on Sky TV. In the absence of any other body doing that, the order from the court is to the Police Service, and we are obliged by law to execute it.

Mr McCartney:

You said that the proposals on vulnerable and intimidated witnesses have the potential to enhance the rate of participation. Is there a monitoring process for that so that, if the legislation is enacted, you will be able to say in a year or 18 months that it resulted directly in more people coming forward to give evidence?

Assistant Chief Constable Kerr:

There absolutely will be, and I will let Alister touch on that. There is a higher attrition rate than there should be for certain types of offending and certain types of offences in the Northern Irish criminal justice system. The Bill will extend the special measures from young people to vulnerable adults. Those might not always be used, but it means that they can be used, particularly with certain types of offending.

Superintendent Alister Wallace (Police Service of Northern Ireland):

Absolutely. I think we will be working with the Public Prosecution Service on that to look at how many of the witnesses that we recommend to it go forward to court, and the reasons why they may not end up in court. There will be a way of monitoring that through the PPS monitoring system as it is at the moment.

Mr O'Dowd:

Thank you for your presentation. I listened carefully to your comments about — I am paraphrasing you now, Mr Kerr — parts of the sporting legislation not being absolutely necessary. I accept that may not have been the exact phrase you used, but you can certainly use your own terminology. I am concerned about giving powers to policing bodies unless they are absolutely necessary. I can understand the logic of a policing service taking powers that it is given and holding them in reserve in case it has to use them. I completely understand the logic of that — I do not agree with it, but I understand where you are coming from.

I have a concern that we are making legislation for legislation's sake. Even on resources — there are nine legislators sitting in this room, four senior police officers, I do not know how many civil servants are sitting behind you, and the Committee staff. We have spent hours and hours on the sports clause alone. If we do not need the legislation, why are we bothering with it?

Assistant Chief Constable Kerr:

Let me comment on your observation, if that is the case. I am being entirely candid with you: no

police service is going to turn down additional powers. We might use them infrequently — perhaps only once every number of years — but having the powers there in case we need them increases our tactical flexibility, and that is something that we, as senior police managers, will always be interested in. If you are also asking me for an honest assessment of whether I would die in a ditch if those powers were not included, the answer is that no, I would not.

Chief Superintendent Martin:

I will come back to yours and Mr McDevitt's point about the clause that deals with people going to and from an event in a vehicle drunk, and give you a parallel example. There are literally hundreds of Loyal Order parades in my district every year. Many of them go unpoliced, some of them go with very little policing, and then, on the Saturday closest to 12 August, the Apprentice Boys of Derry hold a major demonstration, and I deploy literally hundreds of police. At demonstrations such as that, we will work with the organisers in notifying the visiting clubs and bands that we will be enforcing legislation relating to alcohol under the Public Processions (Northern Ireland) Act 1998. Even though we do that, we still seize quite a bit of alcohol on those days. We are not in the position of having to do that for the hundreds of other parades.

If the Republic of Ireland was playing Northern Ireland at Windsor Park, for example, I imagine that, depending on the prevailing environment, there could be quite a few tensions. The local police commander might want to work with the IFA and the Football Association of Ireland (FAI) to indicate that we would intend to enforce the legislation. As tensions would be high, it would be appropriate to do it under those circumstances. My colleague said that there are a lot of football grounds in his area, and that only one in five are policed. It is about having the availability, when appropriate, to dip into that toolbox and use it — in the example I gave, to use it with the IFA or FAI. At the moment, I do that in parallel with the Loyal Orders and it works positively. We use it when it is appropriate. It is about having it so that we can do it on the right occasions, Mr O'Dowd, as opposed to doing it all the time.

Mr O'Dowd:

I accept that argument; however, there are a couple of issues. First, I welcome your comments at the start about being glad to be here discussing local legislation with local legislators. It would be a bad start if we were to make legislation for legislation's sake and send a message to the Department of Justice that it should bring forward legislation and we will implement it, even though it is not necessary. We are all very busy people, both we as legislators and you in the police service. Let us make legislation where it is necessary.

If a busload of supporters from either side turned up at Windsor Park and a number of them got off the bus drunk, you already have powers to say that they are not going any further, that you believe they are involved in disorderly behaviour or are drunk in a public place, and you can arrest them.

Assistant Chief Constable Kerr:

We do have powers under common law and public order legislation — of course we do. Sometimes, the additional powers are just about crossing the t's and dotting the i's to make sure that we have additional powers there should we need them. I take you're overarching point, but it is for legislators to decide what is included in legislation, and we police as a result of that.

Mr O'Dowd:

We will move on to another element of the Bill.

Mr McNarry:

Before you do that, John, did I hear a suggestion from the PSNI that the solution is to do away with the Parades Commission and to leave the matter in their good hands? *[Laughter.]*

The Chairperson:

I think that that is stretching the point.

Mr McCartney:

In Derry.

Mr McNarry:

Is Christmas over?

Mr O'Dowd:

You have made me lose my train of thought. *[Laughter.]*

Mr McNarry:

Sorry, John, it was not intentional. *[Laughter.]*

Mr O'Dowd:

You commented on the structure of the new community safety partnerships and the community's role

in policing in and making society safer. I totally agree with everything you said about the fact that dealing with antisocial behaviour and low-level crime is not simply a policing role but a community issue. However, I am concerned that, rather than fulfilling its role of going into communities where crime is being committed and dealing with criminals, the police has got itself into a place from which it now sees itself as a facilitator for community involvement. In the meantime, the community has to build a community infrastructure. You seem to go to the stage of building community infrastructure, but sometimes without dealing with ongoing low-level criminal activity and antisocial behaviour.

Assistant Chief Constable Kerr:

You will not be surprised to know that I disagree philosophically with that assessment. The proof of the pudding is the fact that recorded crime in Northern Ireland is at a 12-year low. I was honest in saying that the partnerships do not always work, but they are having an impact on crime. When we go in, we have to achieve a balance between enforcement, support and facilitating, but we do not always get that balance right. However, we are absolutely clear that when we need to enforce, as a law enforcement agency, we are very comfortable doing so. However, that should be the answer of last, as opposed to first, resort, particularly when it comes to young peoples' involvement in some of those issues, so that we do not criminalise them unnecessarily.

Mr O'Dowd:

This comment goes back to the comments around the sporting laws. There is a provision in the Bill to deal with knife crime in schools. Based on anecdotal evidence, I do not think that we have a serious problem with knife crime in schools. I know that you want the power, but is there a specific reason why you would support that?

Assistant Chief Constable Kerr:

I have to refer you to the earlier answer. In fact, let me answer your question in two parts. Is it a specific problem? No. I could probably count on one hand the number of specifically knife-related incidents in schools in Northern Ireland in the past number of years. Certainly, we have knife-related crime, including robberies and assaults, and a lot of domestic murders involve knives or sharp instruments, but we do not have a problem on the scale of that in England and Wales. Some big English cities have a problem, certainly London, for example. However, this is another issue about which society says that the protection of young people in schools is so important that it wants legislation as a deterrent and to ensure that what is acceptable and not acceptable around schools is absolutely clear. The deterrent value of the clause means that it is worth putting including it.

Mr Givan:

How would you like the other bodies in the community safety partnerships treated in whatever area they are designated?

Assistant Chief Constable Kerr:

The other bodies that are designated will have two responsibilities. First, we will all have to sign up to joint community safety plans. In other words, we are a lot more effective when we work together, rather than disparately. That point has been well made, and most people around the table would probably agree. However, I think that that responsibility must be accompanied by accountability, which is why I would like to see the statutory duty in clause 34 enshrined in the accountability arrangements of the PCSPs. Therefore, if a number of bodies sit down and say that they have a problem in a particular neighbourhood, and they agree to do x, y and z about it, the community and local politicians will have a right to ask them whether they did what they said they would do and to have a look at what they actually delivered. At it stands, people would have to go to the policing committee, and the PSNI is the only body that can have a finger point at it publicly. I take the point about the court of public opinion; however, I am sorry, it needs to be a wee bit more robust than that.

Mr Givan:

As the legislation is framed, bodies will be designated to sit on the wider partnerships. However, your fear is that the Housing Executive or the Probation Board, for example, can point out issues that they want to address, but you go to the policing committee and it is said that you have failed here or there.

Assistant Chief Constable Kerr:

That is exactly it.

Mr Givan:

So, the others set the agenda, but you guys are held to account.

Assistant Chief Constable Kerr:

That is exactly our concern.

The Chairperson:

I want to go back to what Mr O'Dowd said earlier when he outlined the number of senior police officers, civil servants, MLAs and Assembly staff who were concentrating their minds on the Justice Bill. I bumped into the Attorney General today in the corridor, and he has offered his services, in

particular, to come along and deal with clause 34. I am sure that, Mr O'Dowd, you would find that useful.

Mr O'Dowd:

He may as well; everybody else has been here. *[Laughter.]*

Mr McNarry:

Do we get immunity from prosecution when he comes here? *[Laughter.]*

The Chairperson:

He feels that he can come to enlighten the Committee, and I think that we should take him up on that offer.

Gentlemen, that seems to be all the questions that we have for you. Thank you very much for your briefing today and for taking our questions. I wish you all the best.

The departmental officials will now come to the table and deal with the issues that you folk raised and the questions that have been asked. You are free to go or to retire to the Public Gallery.

Mr McDevitt:

Mr Chairman, you mentioned the possibility that the Attorney General may be available to speak to us. If he were to come, I suspect that my colleagues would be interested in hearing an update of his opinion as to the clause on solicitor advocates, in which I understand he had taken a particular interest.

The Chairperson:

It is funny that you should say that. When he stopped me, I thought about mentioning that to him, because it was on the tip of my tongue. However, I decided that if he is coming to the Committee, we can raise that with him when he gets here.

Mr McDevitt:

Fair enough, Chairman. Thank you very much.

The Chairperson:

We welcome to the table Mr Gareth Johnston, head of the justice strategy division; David Hughes, deputy director of policing and strategy; Janice Smiley, head of the criminal policy unit; and Tom Haire, the Justice Bill manager. Folks, although you were perhaps not here for all the previous session, you certainly heard most of it. If you are missing any information, I am sure that members will remind you of it. Gareth, if you could respond to what was said and, then, perhaps some questions will arise from what you have to say.

Mr Gareth Johnston (Department of Justice):

We will cover the various areas that were discussed, including the policing and community safety partnerships, sports law, fixed penalty notices and knife crime in schools. Maybe we can start with the police and community safety partnerships, because I know that there is welcome support for clause 34 but some questions around the definition of a police district. I will turn to my colleague David Hughes, who will comment on those points.

Mr David Hughes (Department of Justice):

The question around the references to police districts was also raised during the evidence session in the Long Gallery. The legislation refers to police districts, or what the police know as area command units, simply because that is the way in which the Police (Northern Ireland) Act 2000 refers to those units. There has to be consistency between this legislation and the Police Act. Therefore, what, in legislation, is called a police district, is what the police call an area command unit for the sake of their business.

A point was made around a couple of the functions that are listed in clause 21. Subsection 1(d) and 1(e), which detail the two functions that are, at present, DPP functions around engagement and acting as a forum for discussion. Although the provision uses the terminology of the existing legislation around DPPs, it is worth reminding the Committee that CSPs also have an engagement function, although that is not set out in legislation in the same way. That engagement function, interface with the community and provision of a place for discussion around the issues of policing and community safety is the principal overlap between the functions of DPPs and CSPs. So, it is important that that is something that is done within the full PCSPs and not just the policing committee. That is something that extends beyond the policing function but is relevant to the whole range of the remit and functions of the new PCSPs. That is why those are not restricted functions that

are kept to the policing committee.

There were a number of points around accountability. The accountability arrangement is, probably fairly, described as asymmetrical, whereby the police are held to account at a local level in a way that other statutory agencies are not.

For the sake of clarity, it is worth making the point that, when the PSNI is monitored by the policing committees of the PCSPs, they are done so against their local policing plan rather than the police elements of the partnership plan, which is an annual plan that covers all the strategic priorities for the district. The police are monitored against the commander's local policing plan. I do not want to confuse things by making the point that those are two quite distinct plans, because in many cases, although they are distinct, the plans need not be completely separate. The police's local policing plan should entirely tally with the thrust of the partnership plan. So, although the police are held to account in a different way, they are not held to account against the whole of the partnership plan, which is the responsibility of the full partnership; they are held to account against the local policing plan.

As well as the points that assistant chief constable Kerr made about the value of clause 34, one of the reasons why the model that is being presented for PCSPs is attractive is the membership of each partnership, which is a mixture of councillors, independent members, statutory organisations, voluntary organisations and members from across the piece. That membership means that, within the same partnership, people are bringing skills and are making contributions that are relevant to their positions.

The question of whether the partnership should be accountable to the electorate and to elected members can be answered by saying that each partnership will include seven, eight or nine elected members. One of the contributions of those members will be to ensure that the partnership, in all its parts, is delivering against what it is committed to. That is one of the values of having a mixed membership. So, that internal accountability is factored into the design of the partnership. Those are the main points.

Mr Givan:

So, the partnership creates its overall plan?

Mr Hughes:

Yes, it does.

Mr Givan:

Who is held to account for the delivery, or non-delivery, of the overall plan?

Mr Hughes:

Overall, with the measurement of the outcomes of that plan, there has to be a degree of accountability to the Policing Board and to the Department of Justice, which will be funding the partnerships. Principally, there is internal accountability to ensure delivery: there are the different elements within the partnership that should ensure delivery.

Mr Givan:

But, the council identifies the problems and hands them over to this body, which then sets about creating the mechanisms for addressing them.

Mr Hughes:

No; the partnership itself identifies the issues that it wants to address. That is done through engagement with the community and through what the individual members, and the organisations or councils that they represent, bring to the partnership. So, the partnership itself set the priorities and the strategic direction for the district.

There is also the indication of the overall regional strategic priorities that are coming from the board and from the Department. There is accountability for the use of public funds that will ultimately go back to the Department and to the board, but the partnership itself ensures the delivery against what it set out to do.

Mr Givan:

You mentioned that there will be seven, eight or nine councillors on each partnership to ensure accountability in a democratic sense. However, what you did not say was that councillors will be a minority of the membership. By the including councillors in the partnerships, albeit as a minority, you give a veneer of the partnerships having democratic accountability when they actually do not. That is my concern when it comes to who will ultimately be held to account.

Mr Hughes:

To create partnerships in which the councillors were in the majority would limit the number of other partners that could be included; otherwise they would be enormous. The balance of the different kinds of members who can contribute needs to be ensured. We have had to step through arguments on both sides as to what the balance should be, and having three distinct categories is probably the best way forward.

Mr Johnston:

I will now move on to sports law and the question that the Committee asked about why we are all here and why these various well-paid individuals are paying so much attention to this issue. Part of the reason is that the Assembly resolved in 2007 that the provisions should be introduced in Northern Ireland. That is part of the background to why the work was done. However, the police have indicated that they believe that it is better that the provisions are there —

The Chairperson:

It never was your idea in the first place, Mr Johnston.

Mr Johnston:

They have indicated that the provisions have value. Although they would propose to use them discreetly and sensibly, there is a significant deterrence value in them and an option to signal, in collaboration with the sports, that they are going to be enforced in a situation where there are likely to be problems or there is a risk of problems. Therefore, we appreciate the police's welcome of the powers in general.

The police confirmed that they do not expect additional resource requirements of any significance for the clubs. They feel that those requirements are likely to be minimal. As we said before, if clubs are implementing the safety of sports grounds legislation properly and have the stewarding and other arrangements in place that come from that legislation, there should be no additional costs. There may be a bit of extra training but no significant additional costs for implementing the legislation.

In the course of the discussion on sports law, the point about bringing alcohol from outside the jurisdiction has come up again and, for example, whether it would outlaw someone buying a couple of bottles of whisky in Scotland and bringing them home as a Christmas present. Regardless of whether our law outlaws that, we have checked current Scottish provision, and it has a ban on alcohol in vehicles coming back from sporting events as well as going to them. Therefore, you could already be

stopped in Scotland for that.

Mr A Maginness:

Is that a warning? *[Laughter.]*

Mr Johnston:

I get the sense from the police that they will not hurry to stop people in those situations, which I hope is what we communicated before, but there are situations in which insisting on alcohol provisions could be useful, and we emphasise that.

Another issue that came up with the Committee and on which the police have commented was about how things can be enforced and prosecutions brought if the police were not there. Some examples were given: the police are already working with private security firms in respect of shoplifting, and they feel that they could work in the same way with stewards. If a prosecution needed to be brought, the evidence that stewards had gathered could be passed to the police and on to the Public Prosecution Service.

Finally, on sports law, the police noted that there were one or two things that were not in the legislation that they would have welcomed, including the extraterritorial enforcement of football banning orders. That is something that we have been exploring the competence of. We still aim to bring an amendment, which would mean that, if someone from Northern Ireland who was subject to a football banning order proposed to go to a football match in Scotland, they could be stopped from doing so. We are finalising those issues with lawyers.

Mr McDevitt:

I am not quite giving up on clause 44(1), which relates to going to or coming from a game. The bit that is beginning to exercise me most is clause 44(5), which makes it an offence to be drunk on a vehicle. Therefore, it is not about being in possession of alcohol. Schedule 3 contains the list of matches to which this could apply. It points out that this could apply to Gaelic and rugby matches anywhere on the island of Ireland, so long as there is northern participation. For argument's sake, Ireland has won the Six Nations or the Grand Slam in Dublin, and a bunch of rugby fans from the North have a few beers, which is not illegal in the South. They get on a chartered bus; they are drunk, but behaving perfectly and trying to remember the details of the game. When they reach the border, they go from being perfectly legal and within the law to breaking the law. According to schedule 3, the same applies with a Gaelic game, so long as a northern team is participating. If you wanted to be

sympathetic to the police argument, and I am not saying that I want to be particularly so, I could understand the public order argument. What is the policy merit of making such a provision for coming home from a game?

Mr Johnston:

There can, sometimes, be difficulties for bus operators and drivers when there is a significant number of drunk people in a confined space, even if they have been rooting for the same team. The provision gives bus operators the backing of the criminal law.

Mr McDevitt:

But, there is ample legislation covering that. It is Mr O'Dowd's point, but there is any number of pieces of legislation relating to drunk and disorderly behaviour that bus operators could avail themselves of, north or south of the border.

Mr Johnston:

There is nothing that says that you cannot bring alcohol onto a bus in those circumstances.

Mr McDevitt:

I am questioning clause 44(5), which is about an individual being drunk in a vehicle. Let us park the idea of clause 44(4), which deals with being in possession of intoxicating liquor, and let us talk about clause 44(5), which relates to a person who is drunk in a vehicle. An individual could have been drinking in the pub, which is legal, and got in the vehicle for a nice sleep all the way home. This states that they will be breaking the law.

Mr Johnston:

It comes back to the point that the police were making. There can be circumstances in which you would want to tell fellas to take it easy when they are in the pub, and that they can do what they want to do when they get home. If the Committee has views on that provision, I am happy to discuss them with the Minister. The thinking is that it is about providing a background of legislation that the police can use sensibly.

Mr McDevitt:

I take your point of information about the laws in Scotland. I will not labour it too much, but because schedule 3 extends the remit of the legislation to sporting events outside of the jurisdiction, such as rugby, Gaelic or, for that matter, international football games or Setanta Cup games in the Republic,

which take place regularly, the legislation is saying to people that they are fine until they reach Ravensdale. When they get there, they will have to stop off and sober up in a hurry, because they will go from behaving perfectly legally to breaking the law. I cannot see the policy merits in that, but I have not been able to see them since day one.

The Chairperson:

We will keep working at it.

Mr Johnston:

It is a preventative power, and it is about supporting bus operators and bus drivers in being able to tell people not to bring alcohol onto the bus. If the Committee wants to express views on that clause, we will be happy to hear them.

The police were commenting on the guidance that will be issued on fixed penalty notices. There was one query relating to our proposal to set different limits for shoplifting and criminal damage. We proposed that there would be a higher limit for criminal damage. The explanation is that there has been public concern about applying fixed penalty notices to shoplifting, and that has been reflected in our consultation exercises. We thought that it was better to start gently and to set a lower level. That can be kept under review. It will be in the guidance, and it will be easy to change it after consultation with the Committee. We are happy to continue to take the police views on board. The purpose of the guidance is very much to ensure that the value of fixed penalties notices is not undermined. Keeping it simple would make our job easier, and we are very happy to take up the point that was made by the police.

There was a question about whether fixed penalty notices would add to the problem of fine default. On this issue, my interpretation differs a little from the assistant chief constable's. Given that we are dealing with cases that would otherwise go to court and, most likely, attract fines, and because we are in a situation in which people agree to fixed penalty notices, we do not think that such notices will contribute materially to the problem of fine default. However, Will made some very important points about the need to review how we deal with fine default. We are some way along that journey, but we still have further to go. The point about civilian enforcement is being actively pursued, and we are doing a joint workshop with the police, the Courts and Tribunals Service and others in the very near future to explore the potential for civilian enforcement. Therefore, I am in accord with those points, even if I disagree slightly with how the problem might be exacerbated.

Finally, I will move on to knife crime in schools. The purpose of the amendment is to bring the offence of knife possession in schools into line with all the other knife-crime offences, which were amended in 2008. It will not make a huge change to the law, but there is a deterrent value. In the past couple of years, there have been a number of initiatives. For example, we created a drama programme in conjunction with a range of schools that was entitled 'Knives Ruin Lives'. That challenged young people about the thought that some have that they might be safer if they carry a knife. It was very successful, and we had excellent feedback from teachers. That is another area in which the criminal law underpins other efforts that we might make to get the messages home that knives are dangerous, to discourage young people from carrying them and to encourage them to tell someone in a position of responsibility if they know that a friend is carrying a knife. I am happy to take any queries from the Committee.

The Chairperson:

The police said that knife crime in schools is not a worrying issue.

Mr Johnston:

We need to keep emphasising that the number of knife crimes in Northern Ireland is relatively low and have been relatively stable over the past five or six years. However, we feel that it is important that we continue to keep that message in front of young people.

The Chairperson:

Yes. I am sure that you have the facts and figures to back that up. However, there have been a number of very serious knife crimes in my own town. In the past year, there was at least one fatality, and there was a fatality the year before that. Therefore, although you say that it is not on the increase, when I look at my own town, I sometimes feel that it maybe is on the increase. However, I know that you have to take a holistic view.

Mr Johnston:

We look at Northern Ireland overall. In 2008, we doubled the penalties that were available for knife crime to try to send a very strong message about that. As I said, we have been working with schools and others. The consultation on the community safety strategy, which will be launched shortly, is another opportunity to hear what communities are saying about knife crime and decide how we can respond to it.

The Chairperson:

We now have a movement of people right across Europe. Maybe other parts of Europe do not look at knife crime in the same context that we do. Do we have any understanding of what happens in other countries in Europe and how they deal with the issues such as knife crime?

Mr Johnston:

I am not aware of any research on that specific point. However, during the consultation on the community safety strategy, if groups of people who have come from other countries highlight issues and outline their understanding of the laws on knife crime, we will be very happy to deal with them.

Mr McDevitt:

I want to get Mr Johnston's specific view on a comment that assistant chief constable Kerr made about penalty notices. He said quite clearly that he did not envisage that they would ever need to take resources off the street. I raised my recollection of very early evidence when, if memory serves me right, you envisaged something a little different and thought that those notices would probably require a visit to a station to be properly administered. Will you comment on that?

Mr Johnston:

After listening to Mr Kerr's response, I am not sure whether there is any distance between us.

Ms Janice Smiley (Department of Justice):

The PSNI looked at the Metropolitan model, where around 40% of tickets were issued on street and 60% were issued in the station. A lot of the offences were around disorder. I think that assistant chief constable Kerr said that it would not be appropriate to deal with such offences, including intoxication, on the street, and that is reflected in the figures.

Mr McDevitt:

You are not overly concerned about that?

Mr Johnston:

No. We have been talking to police about that, and we will continue to do so.

The Chairperson:

Is that all your points, Mr Johnston?

Mr Johnston:

That covers everything that we wanted to cover.

The Chairperson:

No one else is intimating that they wish to ask a further question, so we will move on. I thank the officials for their briefing.