



HOUSES OF PARLIAMENT

Joint Committee on Human Rights

Oral evidence: [Legislative Scrutiny: Police, Crime, Sentencing and Courts Bill, HC91](#)

Wednesday 19 May 2021

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Members present: Ms Harriet Harman (The Chair); Lord Brabazon of Tara; Joanna Cherry; Lord Dubs; Baroness Ludford; Baroness Massey of Darwen; Dean Russell; Lord Singh of Wimbledon.

Questions 31 – 36

Witnesses

[I](#): Bill Forrester, Chair, National Association of Gypsy and Traveller Officers; Deputy Chief Constable Janette McCormick, Lead for Gypsies, Roma and Travellers, National Police Chiefs' Council.

Examination of witnesses

Bill Forrester and Deputy Chief Constable Janette McCormick.

Q31 **Chair:** We now turn to our second panel this afternoon, who we are very grateful to hear evidence from. Janette McCormick, who is the National Police Chiefs' Council's lead on the Gypsy, Roma and Traveller community and is a deputy chief constable at the College of Policing, having previously served at Cheshire police and Greater Manchester Police. Welcome, Janette, and thanks for joining us. We also have Bill Forrester, who is the chair of the National Association of Gypsy and Traveller Officers, who are local government officers whose members work with Romany and Traveller communities over accommodation and other issues that we have heard discussed. We will start with a question from Lord Brabazon.

Q32 **Lord Brabazon of Tara:** Good afternoon. I am a Conservative Member of the House of Lords. On the question of unauthorised encampments—in England, I am talking about—what is the scale of them? How many are there and what are they as a percentage of all encampments? Can anybody answer that?

Janette McCormick: In terms of numbers, from a police perspective, we do not count those on a national level. Some forces do count unauthorised encampments on a local level and certainly within the force I was in previously, Cheshire, we did that. We have trend data over time and in specific locations as to the number of unauthorised encampments.

What we do have, however, is the Traveller caravan count, which is in essence the statistical measure that is used to understand the level of unauthorised encampments. That is undertaken twice a year, so there are two snapshots on two days in January and July. That gives an idea of the volume of caravans, both authorised sites on land and on unauthorised sites and gives you a proxy measure.

If we go back to the data from January 2020, that shows that approximately 3% of all Gypsy and Traveller caravans in England were on unauthorised sites. To give you an idea of the size of that, that is about 694 caravans. If we look at that number, only about two-thirds of those are on what we call not tolerated sites. We have heard before from other witnesses about negotiated stopping, so an element of those will be on locations that are acceptable, if not formal sites within local authority areas.

That takes into account unauthorised encampments but there are also unauthorised developments, so there are caravans that are on land that does not have formal planning permission. If you add those together on unauthorised sites and unauthorised developments, that accounts for about 12% of all the caravans within that caravan count.

It is worth reflecting in terms of total numbers there. If you look at the data on unauthorised developments, that is just over 2,000—2,049—and if you look at caravans, that is 694 out of a total of 22,710 caravans that were in the January 2020 count. If you compare that with trends and looking over time, if you compare that back with 2007, that shows a reduction: 23% of all the caravans were on some unauthorised site or land and are now down to about 12%, so a significant reduction.

What I would say—and I know we might come on to it—in terms of the underpinning issues about what we do see in locations, and certainly in my old force, is this: where we have an increasing number of sites, we have a direct correlation with a reducing number of unauthorised encampments. That is quite significant. If I consider one of my own local authorities at the time, Halton, prior to providing sites, the figures were over 100 a year. Once sites were provided, very rarely on an annual basis did we get into double figures. We were in single figures. So you will have that local data but that is the national position from the caravan count.

Lord Brabazon of Tara: Thank you very much. Mr Forrester, do you have anything to add to that from the local authority point of view?

Bill Forrester: Yes. I think what is very interesting—because I can remember when these camps were first set up back in 1979—is that in the last 40 years the percentage of caravans on unauthorised encampments has gone down, from just about 50% down to 12%, and the numbers of Travellers on private sites has increased about eightfold during that time. What is interesting is that the percentage reduction in numbers of caravans since 1980 is only about 35%.

What is interesting is the numbers have increased something like threefold, from 8,500 in 1979 up to 22,500 altogether, but the numbers of people travelling has not reduced by the same proportion. I think what that reflects to a lot of us working in the field is the fact that there is a certain level of travelling that is happening, even when there is a much greater percentage provision of sites, including private sites. Therefore, there are people who are travelling quite often, from my experience, from a settled base somewhere and during summer months or particularly Easter-time.

Consultants surveyed people on sites in Kent, where I was based for many years. They found that individuals living on permanent sites were travelling sometimes for a few days in a year, like anybody else might, or sometimes every month and so on for some sort of work purpose, so there is still a pattern of travelling happening from people who have a settled base somewhere. Therefore, even if you had enough provision for everybody, you would not eliminate travelling. Some of that travel is for economic purposes, some of it is for social purposes and some of it is just for holiday.

Lord Brabazon of Tara: What are the main concerns as far as the police, local authorities and the public around unauthorised encampments? In “the public” I would include private landowners.

Janette McCormick: From a policing perspective, I think we have always been clear that, in relation to unauthorised encampments, the main issue has been the lack of provision of sites. That is both permanent sites and transit sites.

Our officers are very often in an unenviable position. Where you have an unauthorised encampment, you have a family or families looking for somewhere to stay, you have no sites within that local authority area and, to use the legislation and move them on, in essence, you are going to just push them down the road to another area. The reality is that we know, both in terms of prejudice but also in terms of an understandable concern of that unauthorised encampment, that there are tensions between the settled and travelling community. The officers are in the middle of that and trying to manage it.

In terms of the issues for officers—and I think it was referred to before by Marc Willers—we provide officers with operational guidance. We are very clear that the legislation is there and, if appropriate, it should be used but it should be used in a proportionate way. You should look at the facts within your area, and if there are no pitches for people to be moved on to and we use the legislation under Sections 61 and 62, we provide officers with guidance to make that proportionate decision. If that unauthorised encampment is causing destruction, if it is causing danger, if it is stopping the provision of local access, obviously that has to be taken into account and that legislation should be used to move people on. The reality is that for officers on the ground where there is no provision, they are in a very difficult position managing a very tense situation between that settled and travelling community.

You asked to talk about it from the landowners' perspective; I absolutely understand that. There is legislation there and it is about working with the local authority and the landowner to use local authority powers or the powers that landowners can use in terms of removing people from land. I think, as was articulated by previous witnesses, the concern is that decision-making to use that criminal power will be pushed back on to the officers by the very nature of the legislation that is drawn up.

Policing is not in a position to think about planning legislation, but what is a planning issue and an accommodation issue has now become a policing issue and a criminalisation issue. I think one of the concerns, which may not have been articulated so far, is that, by making it a criminal offence, somebody potentially gets a criminal conviction. They get a criminal conviction that is obviously disclosable in any future employment and one that is probably associated with a particular protected characteristic—and one that they may not choose to disclose in any future job application. Again, it leaves us as police in a very difficult position.

Lord Brabazon of Tara: Thank you very much. Any comments, Mr Forrester?

Bill Forrester: Yes. One of the important things to remember—and certainly from a local authority perspective—is that there are a

considerable number of encampments, especially in rural areas, that do not cause any significant difficulties. We surveyed this. We gathered data on all the unauthorised encampments across the whole of Kent over a number of years. We had indicators of the percentage of encampments where there was a significant problem, sometimes raised by councillors, sometimes raised by local people and so on. About 20% of those encampments were causing some difficulty, so local authorities are involved in quite a lot of instances of managing encampments where the police may look in but they will leave it with the local authority to manage it and, if necessary, take action under Section 77 of the 1994 Act.

In any case, you can have a number of other issues. I suppose I would divide those into serious harm issues where you would have police involvement and where there would be difficulties, perhaps a risk in relation to public disorder, conflict and so on, or some serious crime issues, right down to where there is nothing that is serious in terms of harm but where there are concerns from people. If you have the doorstep issues, that is interesting because I do not think nowadays that people living next door to unauthorised encampments get visited nearly as much as they perhaps used to in the old days.

I had experience working in Essex over nine years in the 1980s. A lot of that was meeting up with local people and managing unauthorised encampments with an incredibly liberal approach of non-harassment and non-movement while people were waiting for sites. That worked very effectively and still can. I think some of the initiatives in Leeds, for example, with negotiated stopping, and some of the ones in London and so on, have been very helpful in stabilising those families who can be stabilised. It is interesting that until about the end of the 1990s nobody talked about managing unauthorised encampments.

There is some great work by Pat Niner from Birmingham University. She produced a document about managing unauthorised encampments. That is what I in the past—I am retired now—and the members of our association do across all the authorities that they are responsible for. They are managing a lot of the low-level unauthorised encampments and being involved with police in some of the more higher profile ones. The difficulty with these new powers is that they will bring into the ambit a whole lot of encampments that do not cause any significant concern to people.

Janette McCormick: I would totally agree with Bill there. If you look at the current guidance that we put out, it is quite significant in terms of what we ask officers to take account of. We ask them to take account of whether local communities are deprived of their local amenities or there is a significant impact on the environment. Is there local disruption to the economy? Is there significant disruption to the local community or environment? Is there danger to life? Is there a need to take preventative action? Some of that is around disorder or disruption.

Officers will be asked to look at those criteria and consider whether they need to use the powers that they have, or move them on to increasingly

either tolerated sites or areas of land which might not be formal areas but we know that they can go to those areas with least disruption and disturbance, or even negotiated stopping, which is increasingly used across areas. There is something to me about how we work with local authorities and landowners to find those areas, even if they are not formal sites that are actually temporary stopping points. They can stop for a period of time, well managed with no issues. The other thing is that local authorities know where those areas are so can intervene in any provision that is needed, particularly around health, education and care.

Q33 **Baroness Ludford:** I am a Liberal Democrat Member of the House of Lords. I want to ask about local authorities' obligations. They have obligations under Section 6 of the Human Rights Act and Article 8 of the European Convention on Human Rights to provide adequate sites for Gypsy, Roma and Traveller people. We heard that this is not happening or not happening enough. Is there a way in which local authorities could be incentivised to provide more sites for Gypsy, Roma and Traveller people? I will ask my supplementary now to save time: should there be a statutory obligation on local authorities to provide such sites as is the case, I understand, in Ireland? Bill Forrester first.

Bill Forrester: Yes, very good questions. The question of whether a statutory duty helps or not is an interesting one. I think an earlier speaker from Wales said that having a statutory duty in Wales had not been as successful as they hoped it would be. Obviously we had a statutory duty in this country from 1970 to 1994 and there were a lot of sites built very hurriedly in very inappropriate places during that time, so people knew they had a duty but the places that people were provided to live did not help at all, and did not make them manageable as entities.

One of the interesting things—and it is a very important point—is about Homes England. Homes England did an excellent presentation to all our members virtually a few months ago. It has funds available but the funding is tied in with housing funding. You only get something like 60% of the funding as a grant with a lot of conditions on it and, therefore, the difficulty for a lot of local authorities who would like to set up sites is finding that gap.

If loans were available to authorities or loans available to any people who were going to develop against future rental income from those sites—and this is something that I used in Kent, something called prudential borrowing in order to get a site established to meet the gap—you could get more sites established. The difficulty I think is in transit sites. It would make an enormous difference to all this if some well managed transit sites were established in various parts of the country that were going to help take people off the roadside.

At the moment there are a few excellent examples and there are some that have been unsuccessful in the past, but more transit sites. By "transit sites" I mean transit sites with decent facilities on. As somebody said earlier, you cannot just provide some tarmac and hardly any facilities to people. You need to provide some decent facilities but you

need to make sure they are well managed. It is challenging managing a transit site but there are authorities who have done it, and other authorities could copy them and go and see those sites. I have visited well-run transit sites and they are an important addition.

There are a few sites now being set up, and there is one in the West Midlands—I will not name the authority—that is an emergency place. It is incredibly basic and nobody uses it. It is also incredibly expensive to stop there. The idea of it is in order to have somewhere to say, “This is accommodation”, to be able to enforce the law against people stopping in that area. That is not a good idea and it does not work—although, as far as the authority is concerned, it works because they do not have any unauthorised encampments lasting for any length of time.

The whole need for that expertise and the funding from Homes England needs to be a bit more visionary. That is the difficulty; a lot of our members would like to establish sites and it is just that the obstacles are too great because they are being treated as if they were conventional housing.

Baroness Ludford: Before I move on, Mr Forrester: you were talking about managing unauthorised encampments. Is that the same way as negotiated stopping, in effect?

Bill Forrester: It is the idea that unauthorised encampments can be managed that was quite visionary at the time, the idea that you did not just have to evict everybody—especially if you are evicting the same people round and round, you just create lots more encampments. The management of unauthorised encampments is literally the process of assessing them, engaging with the people, engaging with the neighbours of the encampment and then making careful decisions to try to reduce or eliminate unnecessary movement. The more you reduce unnecessary movement, then the fewer people are impacted.

Janette McCormick: A point there is that it is not just providing the legal obligation to make the provision, it is checking on that as well and making sure that there is some enforcement if local authorities do not provide that. We have had that in the past where there should have been provision and yet we are still in this position, so I think there is that as well.

The other thing, from a very practical point of view, is that having that provision is a good leverage point from a policing point of view when you start to have discussions with your local authority. It gives you that sort of leverage to look at how you can better manage accommodation generally, whether it is negotiated stopping, whether it is a tolerated site or whether it is more permanent provision.

Q34 **Chair:** I will move on to ask something further of you, Janette McCormick, about the policing of this potential Bill—the changes. A freedom of information request, which wanted to look at the responses of police bodies to the Government’s 2019 consultation about the

strengthening of police powers to tackle unauthorised encampments, found that only 21% of police bodies had agreed with the Home Office's proposals to criminalise unauthorised encampments. You have set out some of the concerns that there might be, but is that a fair reflection of the police's view? I know that your job is to police and implement the law as it is passed by Parliament but, obviously, your view as to what your role would be under future legislation is very important here. Is it the case that the overwhelming majority of police bodies do not want these laws to be brought in and, as you have said, turn something that has been an accommodation issue and a local government issue into a policing issue?

Janette McCormick: Yes, you are absolutely right. We are there to enforce the law and if it is enacted we will look at how we can do it in the best possible way. The National Police Chiefs' Council—and I have been involved in this area for the last 10 years—have always been very clear that the issue of unauthorised encampments is a planning issue and is an accommodation issue so, yes, we as the police are not seeking any additional legislation to deal with that issue.

We see significant challenges as it stands and how it is written, in terms of enforcing the legislation, and we look forward to the Secretary of State's statutory guidance that is coming out that should clarify some of those areas, and hopefully we can assist on that from a practical policing experience.

There are a number of areas that we are concerned around, and it was articulated well by Marc Willers before. One is this definition of what "significant" means and who defines it as significant. Is it the landowner? Is it the officer? Is there going to be any description about what that is? Damage, disruption and distress: whose distress? Is it the landowner's? Is it a perception? So defining some of those definitions is important. There is an issue as well in terms of "intends to" if an act is not actually completed, so that is a challenge.

One of the issues that may not have been picked up is, obviously, this extends the legislation from not returning for three months to 12 months. If somebody does not commit the offence because they move on, are the police required to record the data in case they come back, and when and how do we record that data and in what format?

The other bit is around that reasonable excuse. Is a reasonable excuse not to leave, "I have got nowhere to go. There is no site to go to that is an authorised site"? The one from the members of the community who were speaking before that was well articulated is that this is almost a whole-family offence. This applies to anybody who is over 18 years old. That could be members of the whole family. That could be from grandparents, to adult children living at home, so it almost criminalises that whole family. Also, there are the practical issues of this potentially making somebody homeless by seizing their vehicle, and within the legislation there is no provision for the cost of seizure and storage. I think there are some really practical issues for policing here.

There are some clarity issues that we would seek to understand to ensure that we provide proper guidance to officers, but also some genuine safeguarding issues—we would potentially have adults that we have arrested, and children that we would have to have provision with the local authority to ensure that they were protected and safeguarded.

If the legislation is enacted we will look at how we effectively police that legislation but, in order to do so, there is an awful lot of clarification that hopefully we get through the Secretary of State's guidance with this, to enable us to advise officers.

But to come to your original point: we have always made it clear that this was our position. You have obviously seen the freedom of information request and the submissions to the government consultation, and it remains the National Police Chiefs' Council's position that we do not seek further legislation to deal with this issue.

Chair: Thank you. Could I turn to Dean Russell now for the next question?

Q35 **Dean Russell:** My next question was about landowners. Of course, landowners also have human rights for peaceful enjoyment of their possessions under Protocol 1, Article 1 ECHR—that must be protected. Do you think the current laws adequately protect that right? If I may go to you first, Janette, if that is okay?

Janette McCormick: You are absolutely right that the landowner equally has rights and there is provision in the legislation, both in terms of working with local authorities and then looking at using bailiffs to evict people from their land, so I think the current provision is sufficient. I think there is a real danger of defaulting to the criminal legislation, the way that it is currently written, and that would be the primary default rather than resolving the issues through the current legislation that is already there and available, both through the local authority and through bailiffs.

Dean Russell: May I also ask in relation to that: the proposals currently give landowners a role in establishing whether the new offence of criminal trespass has been committed. Would it be a different approach and perhaps make that more neutral and clearer if a third party, such as the police, had this role, which is the case in Ireland currently?

Janette McCormick: My definition of "significant" and other people's definition of "significant" is going to vary, so I think there needs to be real clarity around the legislation, what things like "distress" means and who is distressed by that. Leaving it to individual landowners can lead to a great variation in terms of the threshold by which this criminal offence will be committed. Where you get legislation that is written around an individual's perception, there are dangers around that, particularly when we know in relation to views and prejudices around Gypsies and Travellers that there can be quite heightened and emotional views around that.

The lack of clarity in legislation, wherever it is open to interpretation, wherever it can have a huge impact—particularly on a protected characteristic, one where there is significant prejudice—has real dangers.

Dean Russell: Can I ask the same question to Bill if that would be appropriate?

Bill Forrester: Yes. The current law is fine. Farmers, particularly those in the National Farmers' Union and people who are members of the Country Land and Business Association, and some of the bigger landowners, have mechanisms for dealing with this that work satisfactorily. Certainly, my experience working for a local authority was that smaller landowners and occasionally a parish council, for example, with very small amounts of funds get faced with some of these difficulties, and even though the law is there the costs can be considerable.

Therefore, that is a practical issue and I think in the best cases local authorities do provide some support, assistance and information to people in that position who get an encampment arriving on a little bit of land that they own, so the law is fine but the costs to some of those individuals—particularly those of limited means of one sort or another—can be very considerable and that is a practical difficulty for them. You kind of feel for them being in that position because it is not of their making.

Dean Russell: Just on that point, somebody who is watching this who has had a situation where they own land and they want to have peaceful enjoyment of that within their rights—what would you say to them where they have had an encroachment, where they do feel that their rights have been infringed? What is the take on it from their point of view, I suppose?

Bill Forrester: The great difficulty with land is this agreement you have, this obligation to defend it and protect it at the same time as you have usage of land—for example, playing fields and so on where you cannot put barriers around the land. In some cases, a lot of farmers do put barriers around their land because they are the only people needing to access it. But some of the places that get occupied, particularly in rural areas but not entirely, are places where people simply set up in numbers. Sometimes that is relatively short lived and there is very little impact and the people go; either people get bailiffs in or people are prevailed upon to depart. Occasionally, unfortunately, people pay money to people to depart, which usually results in the people coming back again some time later for some more money.

In some cases the impact can be considerable and sometimes fly-tipping can be a considerable issue. The difficulty is that there is no one else responsible for that happening and I do not think there is anyone that somebody can take legal action against if it happens, so I can understand the frustration. I have talked to a lot of people frustrated in that situation because they say, "Well, we cannot protect our land from this because it is being used on a regular basis for legitimate purposes". It then does cause an impact within the local community and, quite understandably,

the local community will get very up in arms about abuse, basically, of their playing field or other facility.

Dean Russell: The legislation that is being put forward, does that not help with this? Obviously we have heard very strong points of view today and I totally sympathise with the perspectives and the rights that people have. However, if you go on to the land and it is your land and you want to protect that, will this Bill help to support that?

Bill Forrester: At the moment, if there is damage taking place to land, the police have powers under Section 61 to move people. The local authority has powers under Section 77 to direct people to leave, but that is a longer process. At the moment, when these things occur, action is being taken but, in the length of time that people may be there, you can get considerable difficulties from some groups and no difficulties at all from others. I do not think that extra powers will lead to speedier departures. The fact that people are being threatened with something more does not mean that instantly there is not a problem accumulating, even for a short period of time.

Janette McCormick: The issue is, as well, that it will lead to more transience, more movement. The issues are then connecting with those communities and making sure the provisions are in place there. The other aspect of this is that it is a criminal act, and so this is giving somebody—potentially large numbers of people—a criminal conviction and the impact that that can have as well. There are other ways potentially of resolving the issues, one being greater provision of accommodation, rather than going down the route of criminalisation. That feels a very disproportionate response to the issues that are there, accepting that there are absolutely issues on both sides.

Chair: Thank you very much. Could we turn now for the final question to Baroness Massey?

Q36 **Baroness Massey of Darwen:** I am a Labour Peer in the House of Lords. The final question is on forfeiture of property. The Bill would give officers the power to seize and remove any relevant property, including vehicles, from those they reasonably suspect have committed an offence. What procedures and safeguards will you follow to ensure that you did not make someone homeless?

Janette McCormick: That is an excellent question. Clearly, when we are usually seizing property it is for evidence. It might be a vehicle that we are seizing. There are provisions in place around storage, around cost recovery as well and around recovery of that vehicle. Those things are in place. Currently that is not written into the legislation, so it is unclear at whose cost. Presumably the costs revert to the local police force. But, you are absolutely right, we are not seizing a vehicle here. We are seizing somebody's home. There is a concern of where the police sit in terms of: are we intentionally making somebody homeless by doing that and where do we sit in terms of liability?

The other issue with this is that we have not had great clarity on the equality impact assessment that sits behind this legislation. If we are enforcing that, where do individual chief constables sit in terms of being liable for their officers enforcing this legislation as well? Clearly, within the legislation there are powers to seize and there is guidance on when those would be given back on the authority of the chief constable, but there are an awful lot of gaps to understand, in terms of the legal liability that we have of making somebody homeless, and the responsibilities around safeguarding of young people and making them homeless, as well as the practical issues of a large number of vehicles and the costs around that as well. Perhaps the Secretary of State's guidance will make that clearer, but I think there are significant concerns around that at the moment.

Also, some of these people might be very vulnerable. You have whole families from ageing people to young people and you have to provide the provision and accommodation for those. We would have to work closely with local authorities to understand how we would practically implement the legislation as well.

Chair: Thank you very much indeed. I think we have now heard the perspective from the police, obviously, who have an existing role and would have an even greater role if the legislation were to pass unamended. Also, we have heard the local authority perspective in terms of managing the sites and dealing with this situation, so I am very grateful indeed to you both and indeed to our previous panel.

We will be issuing a report to Parliament on our conclusions on these clauses in this Bill, so that concludes this session and I am very grateful to you. Thank you.