

A sociological account of the introduction  
of the Offensive Behaviour at Football and  
Threatening Communications (Scotland)  
Act 2012 and how it was utilised by police  
officers in the Scottish football  
environment.

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**Abstract:**

This thesis sets out a broad sociological narrative of the introduction of the Offensive Behaviour at Football and Threatening Communication (Scotland) Act 2012 and how it was implemented and utilised by the police in Scotland prior to its repeal in 2018. The legislation was introduced with some haste into a specific and significant popular Scottish cultural landscape where distinct and often competing social, political and cultural identities exist and where the phenomenon of “sectarianism”, the legislation’s primary target, is widely recognised but ill-defined and deeply contested.

Lipsky’s concept of Street Level Bureaucracy (SLBT), which argues that front line public-sector workers such as the police enjoy high levels of discretion and autonomy and so can actively create new policy through the reality of their interactions with members of the public, is utilised to examine and describe interactions between supporters and officers in this context and also to test the continued relevance of SLBT in such a setting.

The thesis argues that SLBT remains relevant in describing police behaviours however whilst officers retain the ability to exercise high levels of discretion in the football environment this is influenced by temporal and spatial factors. In particular increased methods of surveillance such as CCTV has reduced the areas of “low visibility” where street level interactions occur, thereby decreasing the exercise of discretion by officers. Furthermore, whilst the research finds clear evidence of individual deviations from stated rules and regulations and that often what occurs in practice does not always reflect the intention of the higher commanders, particularly in relation to “Zero Tolerance” rhetoric, there is insufficient evidence to conclude that such behaviour of officers on the ground amounts to new “policy”.

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## CHAPTER 1 - Introduction

On Wednesday 2<sup>nd</sup> March 2011, Celtic Football Club and Glasgow Rangers Football Club<sup>1</sup> contested a Scottish Cup tie at Celtic Park in Glasgow. By the end of the match three Rangers players had been sent off, there had been an ugly confrontation between both team managers at the final whistle and thirty-four supporters had been arrested for various offences in and around the ground (Walker:2011).

A fiercely contested match between two great rivals leading to red cards and arrests was nothing new, yet the media and political reaction to this “relatively unexceptional game” (McBride:2016:3) was such that it was clear that many viewed it as some kind of watershed moment. First Minister Alex Salmond called the events of the night “shameful”<sup>2</sup> and a short time later, at the behest of the Chief Constable of Strathclyde Police, Stephen House, a Summit attended by a variety of perceived stakeholders was convened, tasked with examining the disorder surrounding Old Firm<sup>3</sup> matches and deliberating on the “way forward in Old Firm encounters”<sup>4</sup>.

However, the match itself was not played in isolation, but rather had been one in a quick succession of spikey Old Firm encounters that season, encounters that in their own right have a long and complicated history.

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<sup>1</sup> Rangers Football Club was formed in 1872. In 2012, the company “Rangers Football Club Limited” was liquidated and the assets ultimately transferred to a new company, “The Rangers International Football Club”. It is a matter of strong contention amongst some fans as to whether the new company represents a continuation of the “old” club or the start of a brand new one. As such the use of “Rangers” to refer to the club post 2012 is seen by some as invalid. I acknowledge this debate and do not offer an opinion however for simplicity in this thesis I will use the term “Rangers” to refer to both pre and post 2012 entities unless otherwise expressly stated and I will consider the current entity to be a continuation of the club founded in 1872.

<sup>2</sup> <http://www.bbc.co.uk/news/uk-scotland-glasgow-west-12631956> (last accessed 04/08/17).

<sup>3</sup> The “Old Firm” is a phrase coined many years ago to refer to both clubs together. Due to the reasons set out in footnote 1 “Old Firm” has also become a contested phrase, some arguing that the term became redundant with the “demise” of the “old” Rangers. Again, for simplicity in this thesis any future reference to the “Old Firm” will be made on the basis that the current Rangers entity is a continuation of the club founded in 1872.

<sup>4</sup> <http://www.bbc.co.uk/news/uk-scotland-glasgow-west-12631956> (last accessed 04/08/17).

## 1.1 Context

Rangers and Celtic are giants of Scottish football, a sport which is deeply entwined in the warp and weft of popular Scottish culture. Arguably destined to be natural adversaries given their geographical proximity, they have played out an intense sporting rivalry, dominating the domestic Scottish football scene in the process, for well over a century. Furthermore, they are seen by many as far more than mere sporting teams. Influenced over the years by complex social, political and religious factors and tensions prevalent during the symbiotic evolution of the clubs, these institutions have come to embody, represent and even arguably shape identities, thoughts and attitudes that also exist outside of the football environment and which are deeply-rooted aspects of Scottish society. They have become synonymous with a sectarian dynamic and have come to symbolise and reflect religious and ethnic differences between two communities in Scotland, Rangers representing and being supported by Protestants and Celtic by Irish Catholics (Murray:1998). Indeed the fact that both teams attract far more than local support is indicative of the greater identities that they represent (Bradley:1996:5).

These social tensions have manifested over many years in prejudice, bigotry and discrimination loosely bundled together under the term “sectarianism”. Sectarianism in Scotland is a contested concept, both in terms of what the phrase actually describes and also in terms of the nature and extent of the behaviour and attitudes that it might represent (Bruce et al:2004, Rosie:2004, Walls and Williams:2005, Finn et al:2008). It is an imprecise term to describe a phenomenon which has its roots in historical anti – Irish sentiment and antipathy towards the Roman Catholic faith and, it is argued, has, or has had, an influence across diverse aspects of Scottish life including education, employment and social development, status and identity.

Whatever the true nature of the phenomenon may be, the politico-social identities associated with the clubs meant that Old Firm contests have often been popularly viewed through the prism of this parochial notion of “sectarianism”; which for many onlookers is seen to underpin and encourage ill-feeling between the supporters. However, whilst these tensions were not new, neither in society at large nor between supporters of these two clubs, recent Old Firm matches had been played in a context of a contemporary re-emergence of political, social and academic debate on the extent and nature of sectarianism in modern Scottish society.

Sectarianism in Scotland has emerged as an intermittent topic of social discussion in the past decade and a half since a renowned Scottish composer, James MacMillan, used a speech at the

Edinburgh Festival in 1999 to highlight it<sup>5</sup>. This prompted a flurry of political and academic attention directed at what was labelled “Scotland’s Secret Shame” by the then First Minister Jack McConnell (Kelbie:2002), including the introduction of legislation in the form of a religious aggravation to existing offences<sup>6</sup> and a series of “Sectarianism Summits”, the final one of which took place in 2006. Political interest appeared to wane slightly in the following couple of years, possibly linked to a change in Scottish Executive in 2007, however issues such as the singing of the *Famine Song*<sup>7</sup> at football matches, the reaction to two Scots-born footballers Aidan McGeady and James McCarthy electing to play for the Republic of Ireland national football team and the treatment of Neil Lennon, the Northern Irish Catholic manager of Celtic at the time, both online and in his private life, meant that the embers of the sectarianism debate remained glowing strongly by the time of the “Shame Game”<sup>8</sup>.

The Summit called for by Chief Constable House met on 8<sup>th</sup> March 2011 and was attended by members of the Scottish Government and representatives of Strathclyde Police, the Scottish Football League (SPL), the Scottish Football Association (SFA) and both Rangers and Celtic. Initial recommendations were made and a Joint Action Group (JAG) was established to “develop concrete proposals”<sup>9</sup>. However, prior to the final meeting of the JAG, matters took a sinister turn when it emerged that a number of small explosive devices described as “viable” had been posted to four individuals and groups linked to Celtic or the Irish diaspora in Scotland, including a Member of the Scottish Parliament and Neil Lennon. Lennon himself was then physically attacked at the pitch side at Tynecastle during a Hearts versus Celtic match on 11<sup>th</sup> May 2011 by a fan who evaded police and stewards.

The gravity of these incidents, where real and immediate physical harm was threatened, greatly increased the stakes. These events damaged the reputation of Scotland on an international level, making some form of response from the newly-elected SNP majority government a “political necessity” (Walker:2012:381), echoing Scottish Executive activity in relation to sectarianism between 2003 – 2006 which could also be seen as “immediate policy responses to specific

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<sup>5</sup> [http://news.bbc.co.uk/1/hi/special\\_report/1999/08/99/edinburgh\\_festival\\_99/415149.stm](http://news.bbc.co.uk/1/hi/special_report/1999/08/99/edinburgh_festival_99/415149.stm) (last accessed 04/08/17).

<sup>6</sup> S.74 *Criminal Justice (Scotland) Act 2003*.

<sup>7</sup> The *Famine Song* is a racist anti-Irish song. This will be discussed in more detail later.

<sup>8</sup> The match on 2 March 2011 has become known as the “Shame Game” in popular discourse.

<sup>9</sup> <http://www.gov.scot/News/Releases/2011/03/08163336> (last accessed 04/08/17).

events” (Flint:2008:122)<sup>10</sup>. Thus, on 20<sup>th</sup> May 2011 First Minister Alex Salmond announced that the “parasite” of sectarianism attached to the game in Scotland was going to be “eradicated” and that he was to put a Bill before Parliament which he wanted to see in the statute book for the start of the following season, only a few months away, which would target this behaviour<sup>11</sup>. This was confirmed at the final meeting of the JAG on 11<sup>th</sup> July 2011, when the introduction of the Offensive Behaviour at Football Act (as well as the formation of a national football policing unit) were amongst the group’s recommendations. The proposed Bill introduced two new offences; engaging in behaviour expressing or stirring up hatred of certain groups or that is threatening or offensive and is likely to incite public disorder at a regulated football match and communicating material to another that is threatening and would cause fear and alarm or is intended to stir up religious hate.

The new football unit was relatively easily formed however there was some considerable resistance to the Bill and in particular Section 1 which introduced the offensive behaviour at football offence. Condemnation for this “clumsy political response to one football match” (Jamieson: 2016) arose from politicians, academics and social commentators concerned that the Act unfairly singled out football fans (Waiton:2012), that it illiberally curbed freedom of speech (Massie:2015), it was unworkable due to the woolly nature of “offensiveness” and the lack of clarity in law that such terms attracted (McWhirter:2014, Scottish Human Rights Commission:2012) and that it was simply unnecessary as existing legislation such as Breach of the Peace provided adequate redress for the behaviours being targeted (Law Society of Scotland: 2011). The haste with which this legislation was proposed was also discomfiting to many<sup>12</sup> as the SNP Government initially tried to use emergency parliamentary procedures to accelerate its progression through Parliament. Although the Bill was subsequently delayed for some months<sup>13</sup>, the *Offensive Behaviour at Football and Threatening Communications (Scotland) Act 2012* (OBFA) became law on 1<sup>st</sup> March 2012. Less than a year after the match that initiated the process Scotland had new legislation on the statute book.

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<sup>10</sup> Although Flint argues that these responses are also” influenced by, and emblematic of, wider rationales and mechanisms of contemporary governance” (Ibid).

<sup>11</sup> <http://www.bbc.co.uk/news/uk-scotland-13469005> (last accessed 04/08/17).

<sup>12</sup> <http://www.sconews.co.uk/news/10352/legal-challenge-football-bil/> (last accessed 04/08/17).

<sup>13</sup> <http://www.bbc.co.uk/news/uk-scotland-138837630>.

However, the OBFA always remained mired in controversy, be this due to the inherent reasons set out above or for the arbitrary and unfair way in which many considered it to be policed (Findlay:2016, FAC:2017:3) and, when the SNP lost its majority in Holyrood in the election of 2015, the writing was on the wall for this legislation. The circumstances of the demise of the OBFA, despite noble protestations to the contrary, appeared to be highly politicised in nature, the repeal of the Act representing an opportunity to deal a humiliating defeat to the SNP Government. Nonetheless, despite concerns that the repeal of the Act would “send out the wrong message” regarding sectarianism and that critics were offering no alternative measures, a repeal Bill was submitted to Parliament on 27 June 2017 by James Kelly MSP (Scottish Parliament:2017) and successfully progressed through to become law. The Repeal Bill received Royal assent on 19<sup>th</sup> April 2018<sup>14</sup> which saw the final whistle being blown on the OBFA and it being consigned to being a short, eventful and contentious episode of socio-political Scottish history.

## 1.2 Police involvement

The police had a footprint on the OBFA process from the very start. Stephen House, the Chief Constable of Strathclyde Police, arguably initiated the entire move to legislation by calling for the original JAG Summit following the “Shame Game”. In subsequent submissions to the Parliamentary Committee examining the Bill the police made it clear that they felt that more powers were required to tackle the issues raised around disorder and unacceptable behaviour relating to football. The submission by the Association of Chief Police Officers Scotland (ACPOS)<sup>15</sup> suggested that the current statutory provisions did not fit comfortably with all the types of behaviour seen at football, leading to a reliance on Common Law Breach of the Peace which they believed could be limiting. In particular, it was stated that current provisions did not cover what was described as expressions of “political” sectarianism, the “issue of Irish Loyalist/Republican **political** prejudice [being] ... arguably the greater driver of sectarian

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<sup>14</sup> *Offensive Behaviour at Football and Threatening Communications (Repeal)(Scotland) Act 2018*

<sup>15</sup> This body had a strategy role and was the professional voice of chief officers in Scotland until it was amalgamated into the Police Service of Scotland (PSoS) in 2013.

behaviour in Scotland” (ACPOS:2011). The Scottish Police Federation (SPF)<sup>16</sup> felt that the new offences would be “useful additions to Scots Law” (Scottish Police Federation:2011).

Thus, the police, at both executive and rank and file levels<sup>17</sup>, were supportive of new legislation being introduced, indeed this support was a key argument often used by the SNP in promoting the act (Waiton:2012:40), and furthermore the police were obviously the people who would be expected to utilise and enforce such legislation.

The formation of a national unit to coordinate police activity and intelligence relating to football was another recommendation of the JAG and this was established prior to the Act becoming law in the shape of the Football Coordination Unit for Scotland (FoCUS). The policing authorities therefore had a new unit dedicated to proactively addressing disorder at football throughout all of Scotland and when introduced the OBFA became a major weapon in its armoury.

Of course, the policing of football is not new and police officers have been a familiar presence at professional football matches in Scotland for many years. However, despite such longstanding police involvement in football, this period seemed to mark an apparent invigoration of political and police will to target certain types of behaviour at football matches. The phrase “Zero Tolerance” was often used in reference to the Act by both politicians and senior police officers (Mulholland:2012, O’Hare:2016). Arguably a style of policing that was more proactive and robust than before developed and this attracted some criticism from some supporters around the way in which police were operationally deployed, some of the tactics and methods used, and the way in which the OBFA was implemented by officers, leading some to suggest that the Act was responsible for an erosion of trust between supporters and the police (Pearson:2015) and even that the very nature of police activity at football matches had changed in that the focus had shifted from traditional notions of ensuring public safety to seeking out offensive behaviour instead (Martin:2014).

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<sup>16</sup> The staff association that represents rank and file officers in Scotland.

<sup>17</sup> At least “officially” in terms of the submissions of their representative bodies.



### 1.3 Issues raised

Therefore, in a relatively short space of time, we witnessed a series of (superficially) football-related incidents<sup>18</sup>, played out against a back-drop of longstanding parochial socio-political tensions, that brought the issue of sectarianism in Scotland into sharp focus; the hasty introduction of football-specific legislation intended to tackle this sectarian behaviour, and the police being situated as the agency tasked with implementing and utilising it.

This course of events posed some fundamental questions about the nature and extent of sectarianism in Scotland and the connection it has with football, how suitable and effective legislation is in addressing the problematised issues (especially when concerning relatively specific contexts, locations and groups) and the role of the police in the process and the potential influence that they might have on the way in which such legislation is practically applied and developed and how it is experienced by the public.

### 1.4 Theory

Notwithstanding the publication of a Policy Memorandum relating to the proposed Bill (Scottish Government:2011a), it could be argued that there was a lack of specific policy substance to the introduction of the Act, given the hasty nature of its birth and the fact that most of the pre-Act rhetoric centred on notions of “sectarianism”, which is a nebulous concept difficult to pin down at the best of times, but when introduced the Act talked in terms of “offensive behaviour”, making no mention of “sectarianism”. However, even where official policy intentions are apparently clearer, the police officers who actually implement and utilise the legislation can have an important say in determining what happens next.

In 1980 Michael Lipsky wrote a seminal work called *Street Level Bureaucracy* (Lipsky:1980). In it he explained how previous works looking at public-sector bureaucracies and decision-making processes had failed to recognise the crucial part played by those workers within these systems, who dealt with the “customer” at the actual point of receiving the public service i.e. at the street-level. He argued that, far from being unimportant, those public-sector workers such

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<sup>18</sup> Some argue that the “trigger” incidents actually had very little to do with football and in fact were characterised by anti-Catholicism or anti-Irishness rather than dislike of a specific football team (McBride:2017).

as social workers, parole officers and police officers at the lower end of the hierarchal scale within organisations actually held great influence in the outcomes of client interaction with the particular authority or service. Further he felt that these front-line public-sector workers actively created “policy” through the reality of their interactions with the members of the public with whom they came into daily contact, irrespective of the intentions of the organisation. Despite what official policy might be, the reality of the actions of a street level bureaucrat is that this can effectively **become** the public policy. Every encounter between a member of the public and a police officer then, “represents an instance of policy delivery” (Lipsky:1980:3) and the actions of such public service workers “...are the policies provided by government in important respects” (Lipsky:1980: xvi).

Lipsky pointed to two major factors that influenced the ability of Street Level Bureaucrats to deviate from “official” policy, namely that a certain amount of discretion and autonomy was a fundamental aspect of the jobs of public-sector workers who interacted with citizens and further that delivering an “ideal” standard of service was not always possible for a variety of reasons and so these workers coped by “developing routines of practice and psychology simplifying their clientele and environment in ways that strongly influenced the outcome of their efforts” (Lipsky:2010:xii).

The notion of discretion is a key concept for Lipsky and a defining characteristic of Street Level Bureaucrats (SLBs) and Street Level Bureaucracy Theory (SLBT). Indeed, Lipsky recognises that police officers are expected to apply some level of discretion as there are simply too many infractions of the law on a daily basis for them to be able to react to every single one.

The idea that police officers might exercise discretion and treat individuals inconsistently in terms of the law was first elaborated in 1960 when Joseph Goldstein pointed out that the previously held orthodoxy of the police simply being there to uphold the law as stated and not to form part of any decision-making process was a fiction as there was very clearly a lot of scope for officers to choose to either uphold or to ignore the law, due to the conditions of “low visibility” in which officers worked (Goldstein:1960).

At this time, perhaps influenced by a growing general awareness of civil rights and public accountability, a greater sociological interest arose in what the police actually *do* and a literature around police occupational culture developed which initially explored the reality of day to day police work compared to the perceived assumptions and latterly identified common cultural traits and characteristics in police officers as a social group which potentially influenced their behaviour (Banton:1964, Skolnick:1966, Bittner:1967, Westley:1970,

Cain:1973, Muir:1977, Reiner:2000). Influential writers such as Egon Bittner, for example, argued that whilst they ultimately wielded power over members of the public, the role of police officers was more to do with “keeping the peace” than traditional notions of law enforcement and that to do so officers often employed techniques and processes that had no legal basis and were subject to no external control (Bittner:1967); whilst Muir identified that different officers employed different styles of policing when resolving the fundamental dilemmas of their day to day work which arose through the need to rationalise the use of “coercive power” to achieve compliance in light of clear paradoxes that existed in what he considered to be an “extortionate” relationship (Muir:1977).

Whilst discretion can be utilised solely on the basis of the officer’s own personal motivations to choose one course of action over another, its use can also be an expected part of the judicial process, where “delegated discretion” (Skolnick:1966) is conferred to professionals to use their judgement in certain circumstances in order to achieve practical outcomes, provided those outcomes conform to legitimate expectations (Kleinig:1996:3). The situations that police officers or other Street Level Bureaucrats might realistically find themselves in often involve complex issues and have individualised circumstances that require flexibility and judgement - they are not “reducible to programmed formats” (Lipsky:1980:15).

Of course, in the years since Lipsky first put forward his theory the social, political and working environment in which these public-sector workers operate has not remained constant. Public sector reforms and changes in working practices such as increased managerial control over professionals has been argued to have eroded the discretion available to be exercised by public-sector workers (Taylor and Kelly:2006) and the impact of modern technology has been felt directly; for example in the way that the increased use of computer and screen technology has reduced the incidence of face-to-face interactions which are synonymous with Street Level Bureaucracies (Bovens and Zouridis:2002). Lipsky himself latterly identified changes in the SLB landscape over time such as the increasing awareness of the importance of financial budgets (and the need to reconcile financial output with income) and the increasing decentralisation and devolving of service provision and delivery (Lipsky:2010:212-220).

Nonetheless, despite such environmental changes, it is clear that police officers remain indispensable actors in the street-level dynamic and so studying their practices and behaviours on the ground as they operationalise legislation is still fundamentally relevant in gaining a deeper understanding of the nature of such processes and to how officers actually police.

This thesis will seek to use Lipsky's concept of Street Level Bureaucracy as a primary theoretical basis to examine the activities of police officers working at football matches in Scotland, with particular reference to their implementation and use of the OBFA. In so doing, it will explore the relevance and current utility of SLBT in understanding and explaining public-sector workers' actions in a modern Scottish context and will seek to address the extent to which officers' behaviour at the street level remains able to deviate from "official" policy in the context of policing football in Scotland, the nature and range of any such deviation and what factors may influence this, including the extent to which discretion is exercised by the police.

Also, whilst there has been some academic interest in Scottish football in recent years, particularly in terms of the sociology of football and supporter identity (Bradley:1996) and some latter interest in the OBFA and its immediate context (Waiton:2012, Flint and Kelly 2013), there has been little academic focus on football from a policing perspective in Scotland. Some studies relating to football fans and experiences of football have occasionally elucidated some opinion on or observations of police officer behaviour (e.g. Moorhouse:2006), however not since Megan O'Neill's examination of a season in the life of policing at one particular ground has there been an in-depth examination of how Scottish police officers operate at football grounds from the police perspective (O'Neill:2005). Much has changed in both Scottish football and the policing landscape since then and so the thesis will also update O'Neill's work to a certain extent (albeit from a different theoretical perspective) to add to the knowledge that is currently understood about the contemporary policing of football in Scotland.

### 1.5 Research Question

The focus of this research, therefore, is to consider "what impact did the introduction of Section 1 of the OBFA have on the policing of football in Scotland and to what extent if any was this influenced by how police officers themselves implemented and utilised the legislation?"<sup>19</sup>. This is a broader Research Question designed to "signpost" the direction of research rather than offer a definite hypothesis (Jupp:2000:22).

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<sup>19</sup> Although the OBFA introduces two distinct offences, this study focuses exclusively on Section 1 and offensive behaviour at football.

## 1.6 Methodology

The nature of the policing of football and how specific legislation is practically implemented by the police clearly places relevant and crucial data for this research within the day to day football environment and specifically in the behaviours, routines and activities of police officers working there. Further important data are to be found in the interactions between those police officers and football supporters as they negotiate coexistence in that particular setting. However, if many of these interactions still occur in circumstances of “low visibility”, then a primary methodology that directly targets such data first hand is required, rather than one where second-hand sources such as interviews or use of statistical data might lead to an incomplete or “sanitised” narrative emerging. The collection of data for this research project therefore was achieved mainly through ethnographic direct observations of different police officers in a variety of roles at football matches in Scotland, mostly during season 2013-2014, and including both domestic and international matches in a variety of venues throughout the country, with a view to collecting the most accurate and authentic data possible.

Yet observations, whilst providing the main rump of the data, cannot provide the complete picture and may leave gaps in areas such as motivation, explanation and wider emerging trends or patterns. Therefore, the primary method of direct observation was supplemented by the use of semi-structured interviews of officers and other identified stake-holders and by using other sources of readily available data such as Government papers and policy documents. This methodology was chosen as appropriate to deliver the data required to address the Research Question however it should be acknowledged that methodological selections are always subject to “real-life” factors which often necessitate more pragmatic choices being made in particular circumstances.

## 1.7 Structure

This thesis will be structured into four main sections. Following this introductory chapter, I will set out a more detailed explanation of the circumstances of the introduction of the OBFA and the historical backdrop to the contemporary sectarian context, followed by a short chapter looking at the provisions of the OBFA in detail as well as some other relevant legislation.

The second section will go on to examine some relevant existing literature, centring on three key themes of the nature and extent of sectarianism in Scotland, the way in which football is a cultural, identity-laden phenomenon and research on how football is policed in Scotland.

In the third section, I will offer a more detailed explanation of Street Level Bureaucracy Theory and examine in more depth the notion of discretion in police behaviour which will lead into a chapter explaining the methodological approach adopted and some of the methodological issues that were faced.

The final section will present the findings of the study prior to offering some concluding remarks in the last chapter.

## **CHAPTER 2 - Historical, Social and Political Context of Sectarianism.**

The OBFA was ostensibly born from a desire to address certain behaviours observed in the Scottish football environment. However, as alluded to in the introductory chapter, there was a very specific context and setting to its birth, both in terms of a series of contemporary events which occurred to finally cause the political dam to burst, but also in the construction over centuries of a reservoir of societal conflict and tension based on ethno-religious identities.

A brief evolution of the OBFA was set out in the introductory chapter, as was the existence of a particularly Scottish form of social, political and ethnic discord labelled “Sectarianism”, however in this chapter I intend to explore these themes in more detail.

Sectarianism is a fundamental concept for this thesis and, while I intend to cover the academic debates over the nature, extent and definition of this phenomenon in greater detail in a subsequent chapter, a brief review of recent Scottish history, picking out key waypoints in this journey, is appropriate at this juncture and will set the scene for how the issue has developed to its current state. I will then go on to consider some contemporary areas of modern society where sectarianism is said to manifest or which it has been argued help to influence or shape sectarian sentiment, prior to embarking on a fuller examination of the specific immediate circumstances surrounding the introduction of the OBFA in 2012.

### 2.1 Historical background

#### *2.1.1 The Irish and The Great Hunger*

Religious division in Scotland is by no means a new concept however following the years of conflict after the Reformation and the National Covenant Presbyterianism was established as the dominant and “official” religion of Scotland from 1690 onwards (Donaldson:1993:193). Anti-Catholicism was strong in the decades following this with penal laws banning Catholic practices and suspicion of Catholicism increasing due to perceived sympathy with the Jacobite cause. Although these laws were never as rigorously enforced in Scotland as in other parts of the United Kingdom and a degree of toleration emerged towards the end of the 18th century and into the 19th century, this did not diminish the existence of a strong antipathy towards Catholics (Gallacher:2013:20).

Arguably the most salient socio-historical event influencing the aetiology of sectarianism in Scotland was the influx into the country of Irish immigrants in the years following the Irish Potato Famine of the mid-nineteenth century<sup>20</sup>. Approximately a million emigrants left Ireland and Scotland was an obvious choice for many given its proximity and thriving economy at the time (Armstrong:1989:25-27), although only the truly poorest came to Scotland as those who had the means left for brighter prospects in America (Devine:2008).

The numbers of Irish immigrants were relatively large over a short period of time, the high point reached in 1851 when people born in Ireland formed 23% of the adult population of Glasgow (Williams:1993), and their visibility was also increased due to the fact that, as is common with migrant communities, they tended to stick together in certain areas, for security and mutual support as well as more pragmatic reasons of location of employment (Devine:1999:487). The Irish formed a distinct group with an “alien” language, culture and religion and resentment was generated by the sudden increase in numbers which put considerable strain on an inadequate social infrastructure (Meighan:2013:76), exacerbated by a perception that they were strike-breakers and a source of cheap labour in an era where the growth of heavy industry saw an increasing need for workers.

Crucially Irish immigration was not confined to Catholics as between a fifth and a quarter of immigrants in this time were Protestant Irish (Devine:1999) and this was important as the immigrants also brought with them to Scotland their pre-existing inter-faith enmities and tensions (Devine:1999:487), strengthened by institutions such as the Orange Order<sup>21</sup>. Integration into the Scottish way of life was distinctly quicker and smoother for these Irish co-religionists as they were not marked out as “different” in the way the Catholics were (Walls and Williams:2003:634).

Thus, the (Catholic) immigrant Irish were “unequivocally constructed as an alien race” in Victorian life (Williams and Walls:2000:233) and, whilst relative disadvantage and lack of opportunity might be expected of any immigrants generally lacking in skills and education (Bruce et al:2004:32), it is clear that in this period they suffered from anti-Irish and anti-Catholic prejudice (Walker:2000:126).

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<sup>20</sup> The Irish Potato Famine (known as the “Great Famine” or “Great Hunger” in Ireland) 1845-1852 was a defining period in Irish history which reduced the population by 20-25% through death and emigration.

<sup>21</sup> A fraternal exclusively Protestant society which originated in Ireland but was brought to Scotland in the early 1800s.



### 2.1.2 Early twentieth century

Sectarianism was said to be deeply-rooted in many aspects of community life in Glasgow by the start of the Great War (Mitchell:2008:51) and throughout the early twentieth century two distinct cultures “grew in parallel if not apart” (Murray:2000:104). Irish Catholics, although mostly Scots born by now, still largely identified with Ireland and Irish Nationalism and an “introverted Irish-Catholic culture” had developed involving not only a separate faith but separate educational, social and sporting institutions (Davies:2013:52).

This period of time saw the industrial strength of the British Empire continue to dominate globally and Glasgow continue to enjoy a reputation for excellence in heavy industries, which included shipbuilding on the river Clyde. Skilled workers were readily attracted to this industry and many came from Ireland, with the large Belfast shipbuilding firm Harland and Wolff opening a yard in Govan in 1912. These new workers again brought previous hostilities with them, the Belfast shipyards being an environment rife with sectarian discrimination (Doyle:2012)<sup>22</sup> and they warmly embraced Glasgow Rangers as their local football team<sup>23</sup>. This arrival of a new wave of Protestants also coincided with a “sharpening of ethnic divisions” due to the Home Rule Crisis (Davies:2013:52).

The Irish Home Rule Movement spoke to a desire for self – government in Ireland and in the period of the late Victorian era to the end of World War I the question of Ireland was at the forefront of British politics (Boyce and O’Day:2004:2). Given the burgeoning Irish population in Scotland during this period, a large proportion of whom supported the idea of Home Rule, it was inevitable that this issue would influence relations between social groups; particularly post- 1916 following the failed armed rising in Dublin which, particularly in the context of the ongoing Great War, was regarded by many as disloyal and treasonous<sup>24</sup>.

Although the rising initially lacked local support (McGarry:2010:143) the execution of the leaders by British authorities changed the mood and allowed the separatist *Sinn Fein* to rise to electoral prominence in 1918. They declared a parliament in 1919, effectively commencing the

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<sup>22</sup> by 1914 the three largest Orange jurisdictions in Scotland were Greenock, Partick and Govan – all renowned shipbuilding areas (McKillop:2012).

<sup>23</sup> this affiliation allegedly existing to the extent that the Harland and Wolff shipyard building style of the new stand built at Ibrox in 1928 was “unlikely to be coincidental” (Hume:2004:76).

<sup>24</sup> Notwithstanding the fact that 206,000 Irishmen fought in the British Army during the Great War (Campbell:2005:196).

Anglo-Irish War (or Irish War of Independence), which was followed by the internecine Irish Civil War. During this period, any overt support for the Republican cause only served to increase suspicion and division.

Support tended to be in the form of fund-raising and political rallies in Scotland although on occasion Scottish streets witnessed more direct action, such as when police inspector Robert Johnston was shot dead in Glasgow in 1921 during a failed attempt to rescue an Irish Republican Army (IRA) member being transported to prison (Grant:1973:76).

While the subsequent partition of the island curtailed major hostilities to a great extent, many did not accept the validity of this agreement. The IRA, although soundly defeated in the Civil War of 1922-23, vowed to fight on to establish a Republic and to do so by force of arms (English:2012:43). From that time, intermittent IRA activity continued and often some of this activity, such as IRA overtures to Nazi Germany during the Second World War (Carroll:1975:65) and the violent “Border Campaign” of the fifties which targeted Northern Ireland (Bishop and Maille:1988) served to maintain a mainstream suspicion and dislike of Irish Republicanism in general, a suspicion which persisted and increased during the period from 1969 onwards, which will be discussed in more detail later in this chapter.

### *2.1.3 Inter-war period*

The years between the end of the Great War and the start of the Second World War were a crucial time in the history of sectarianism in Scotland (Bruce:2004:36) where relations between the two communities were particularly fraught and where was witnessed “the most intense and sustained period of popular hostility to the Catholic Irish community in Scotland over the past 200 years” (Mitchell:2008:18).

A defining moment came in 1923 when the General Assembly of the Church of Scotland, published a report entitled “The Menace of the Irish Race to our Scottish Nationality” describing the “Irish intruders [as a] ...menace to [the Scots] racial supremacy in their native

land” (Burrowes:2003:143). That the official body of the Church of Scotland could endorse such a paper<sup>25</sup>, speaks to the hostility clearly felt by many at the time<sup>26</sup>.

This period also saw violence between the communities increase through gang fighting. Glasgow had developed a strong tradition of gang culture since the 1880s and along with it a fearsome reputation for gang violence (Davies:1998:251) and, although the Glasgow gangs were based mostly on territorial grounds<sup>27</sup> with names which often referenced geographical locations<sup>28</sup>, patterns of immigration meant that some areas, such as the Garngad, Calton or Bridgeton, were likely to be more associated with particular religious groups (Davies:1998:255). Thus, the largely Protestant *Billy Boys* gang from Bridgeton would often be in conflict with the predominantly Catholic *Norman Conks* of nearby Calton (Cockerill:1975:142). Furthermore, the Rangers and Celtic “Brake Clubs”<sup>29</sup>, became increasingly more known for sectarian violence and disorder, both generally but more particularly against each other (Davies:2013a:217).

The interwar years also saw a number of successful attempts to introduce religion to the political agenda at a municipal level. In both Glasgow (with Alexander Ratcliffe and the Scottish Protestant League (SPL)) and, perhaps surprisingly, more successfully in Edinburgh (with John Cormack and his Protestant Action Society (PAS) which in 1936 became the second largest party in Edinburgh (Murray:2000:112)), charismatic leaders exploited religious antipathy for electoral success on education and municipal boards. The firebrand style of Cormack in particular led to violence on a number of occasions, the most notable being the so-called “Morningside Riots” of 1935<sup>30</sup>. However, the key socio-political cleavage in this time was not religion but class (Rosie:2008a) with the context of social depression also extremely

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<sup>25</sup> notwithstanding that such overtly racial language should perhaps be judged in the context of the prevailing, mainstream attitudes of the day.

<sup>26</sup> This report was latterly enough of a source of embarrassment to the Church that a formal apology was issued in 2002 specifically mentioning this report but in general apologising for “any part played in sectarianism by our church in the past” ( <http://news.bbc.co.uk/1/hi/scotland/2014961.stm> - last accessed 04/08/17).

<sup>27</sup> Which remains the case today (Deuchar:2006).

<sup>28</sup> Such as the *Calton Tongs* or the *Southside Stickers*.

<sup>29</sup> Groups of supporters who travelled to matches on “Brakes” which were passenger vehicles initially horse drawn then latterly motorised.

<sup>30</sup> There is some contention over the significance of this riot as indicative of strong anti-Catholic feeling at the time. Bruce argues that its significance is overstated (Bruce et al:2004:53), later supported by Ritchie (Ritchie:2012), however Gallagher is strongly critical of this view (Gallagher:2013:89).

relevant (Davies:2013, Mitchell:2008) and so any success of militant political Protestantism was both fleeting and limited.

#### *2.1.4 Post – war period*

The Second World War acted as a firebreak in this period and the years following 1945 saw seismic social and political change in the United Kingdom, the country dealing with the economic consequences of the conflict and the political turmoil of the demise of the British Empire. Although the nature and scale of the war effort had encouraged (even necessitated) Scottish society pulling together, in the post-war period it is alleged that discriminatory practices still occurred, particularly in employment (MacMillan:2000:17). However, the rise of multi-national business practices, removing employment policy from parochial structures to replace it with remote meritocratic decision-making processes, led to wider Catholic employment and incursion into the middle and professional classes, aided by improved educational attainment (Paterson:2000). This ending of overt discrimination in the labour market, improved education (particularly with the advent of Comprehensive Education in 1965) and growing secularisation led to a “silent revolution” where the structural discrimination which affected life chances all but died and occupational parity was reached at some point between the 1991 census and the 2001 census (Devine:2014). Nonetheless, some prominent Catholic commentators such as Peter Kearney still contend that modern Scotland remains a “hostile environment for Catholics” (Devine:2013).

#### *2.1.5 The Troubles*

As previously referred to, conflict in the relationship between the British State and the island of Ireland<sup>31</sup> over the status of the country has existed for hundreds of years and violent Irish

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<sup>31</sup> The status of Ireland and its constituent territories remains an emotive and contested issue for many and political views are often inferred from use of particular terminology. For example, use of the term “Northern Ireland” can be seen by some to imply acceptance of legitimacy and so they prefer terms such as “the North of Ireland” instead. Notwithstanding such arguments, for ease and simplicity in this thesis I will use the terms Northern Ireland or Ulster to refer to that part of the United Kingdom situated within the island of Ireland and Ireland to refer to the Republic of Ireland.

republicanism and “Armed Struggle” has manifested periodically throughout this time, featuring sporadically during the twentieth century. As a result, tensions over this political conflict had an influence on community relations where significant Irish-descended communities existed, such as Scotland. The period between 1969 and 1998, commonly and rather euphemistically known as the “The Troubles”, was a time when Irish politics had a particularly profound effect, undoubtedly feeding antipathy in Scotland (Walker: 2012) and, due to the conflict often being perceived in religious terms, giving sectarianism in Glasgow a “contemporary relevance” (NFO:2003:5).

Northern Ireland continued to be a part of the United Kingdom following partitioning from the Irish Free State in 1921 following the Anglo-Irish War. For many Irish men and women this represented a fundamental betrayal of the cause of Irish independence, and the “liberation” of the North was considered to be unfinished constitutional business which sustained occasionally violent republican sentiments for decades to follow.

The population in Northern Ireland consisted of a large Protestant majority which was more readily able to exercise power and influence over social apparatus in the country, leading to inequality in terms of the distribution of jobs and housing and access to other state functions and effectively “institutionalising” discrimination against the Catholic population (Taylor:2001:17). Perhaps drawing inspiration from events in America at the time, organisations such as the Northern Ireland Civil Rights Association were formed in the mid to late 1960s to challenge these manifest inequalities and campaign for social parity and electoral reform. The authorities were unable to cope with the subsequent rise in civil disorder that ensued as many in the Protestant community violently resisted the perceived threat to the status quo that the Civil Rights Movement presented and in 1969 British military personnel were called in to assist the police in maintaining order. Although initially made welcome by Catholics as saviours, their presence quickly became resented and fermented a growth in republicanism (Darby:1995). A combination of the Protestant violence against Catholics, often brutal Army methods<sup>32</sup> and the romantic attraction of the historical tradition of violent force republicanism, led to the emergence of the Provisional IRA (PIRA) as a lethal terrorist force intent on protecting Catholics and taking the republican fight directly to the soldiers and police

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<sup>32</sup> Practised by a military skilled in colonial counter-insurgency operations from recent deployments in places such as Aden and Kenya but inexperienced in urbanised, western theatres (Burke:2018).

officers of the British State (English:2012)<sup>33</sup>. Unsurprisingly this escalation of republican militarism was mirrored by the mobilisation of similar paramilitary terrorist groups on the other side of the divide, the Ulster Volunteer Force (UVF) being “reactivated” in 1966 (Dillon:1989) and the Ulster Defence Association (UDA) (which carried out acts of violence as the Ulster Freedom Fighters (UFF)) emerging in 1971 (Wood:2006).

Ulster became acutely violently divided, politically, socially and spatially<sup>34</sup> and there followed a period of many years of violent conflict as a result of which over 3,500 lives were lost (Sutton:1994). It would serve little purpose here to examine the morality and justifications of the conflict and I do not intend to do so. What is important is awareness of just how cruel, savage and unforgiving this period was and also the *immediacy* of the conflict, both of which factors served to harden attitudes within the various communities affected both in Ulster and on the mainland.

Men, women and children were mercilessly shot and bombed to death on a regular basis<sup>35</sup>. Republican tactics included attacking religious services (English:2012:255) and the use of human proxy bombs (McKittrick and McVea:2012:206) whilst Republican sympathies were exercised by allegations of extra-judicial killings at the hands of secretive British Army units (Urban:1992), police collusion with Loyalist terrorist groups (e.g. Cory:2004) and the killing of 14 civil rights marchers on “Bloody Sunday” in 1972<sup>36</sup>. Similarly, Loyalist terror gangs targeted the Catholic community at large (Dillon:1989) and in attacks on social gatherings such as the *Greysteel Massacre* where 8 civilians attending a Halloween party in a pub were shot dead (McKittrick and McVea:2012:226).

Such events served to provoke strong, visceral emotions on both sides, emotions stoked by readily available media images of the conflict. One of the most shocking series of images of the entire period of the Troubles depicted the “live-time” mob attack and murder of two plain-

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<sup>33</sup> In this thesis members of any organisation proscribed by the Terrorism Act 2000 will be referred to as terrorists.

<sup>34</sup> This geographical divide was so absolute that the Security Forces used green, orange and yellow colour-coded maps to demarcate Catholic, Protestant and “neutral” areas (Author’s own experience).

<sup>35</sup> Albeit when confronted themselves, many terrorist organisations demanded to be shown mercy they would not dream of offering to their victims (Collins:2005:52-53).

<sup>36</sup> On 30<sup>th</sup> January 1972 13 civilian protesters were shot dead by Parachute Regiment soldiers in the Bogside area of Derry/Londonderry (another victim died of his wounds some months later). The subsequent *Saville Inquiry* concluded that all the killings were “unjustified” and a murder enquiry by the PSNI is currently ongoing.

clothes soldiers who mistakenly drove into an IRA funeral procession in Belfast in 1988, the footage being captured by television film crews and an Army surveillance helicopter<sup>37</sup>.

However, as well as the sheer savagery of such events there was also an immediacy, intimacy and familiarity about this conflict. This was not a war prosecuted in some land far away on the other side of the world. This conflict was happening on British soil (albeit Republicans would take a different view on this) and narratives of the conflict described Ulster streetscapes with objects, sights and accents very familiar to the British public at large. Furthermore, the Republicans also “conducted operations” on the mainland, which brought the conflict directly to all citizens of the United Kingdom and profoundly affected the way in which many people conducted their everyday lives, particularly in larger English cities where public areas were intentionally targeted.

In Scotland, this immediacy could also be seen in the translation of recent events relating to Ulster into popular local discourse, and particularly football culture, in Glasgow. Both Rangers and Celtic fans adopted the language and imagery of the two sides in the conflict (McKillop:2012a) whether through genuine belief in that cause, to antagonise or simply as a way to emphasize and exaggerate the differences between themselves (Goodall et al:2015:49). General songs in support of terrorist organisations became common at both Rangers and Celtic matches although supporters could also reference specific events. For example, shortly after Loyalist terrorist Michael Stone attacked an IRA funeral in 1988 murdering three people, a Rangers supporters’ bus had a “Michael Stone Loyal” mock supporters’ club placard displayed in its window and when the Special Air Service Regiment (SAS) killed three IRA terrorists in Gibraltar Rangers fans frequently chanted “SAS - *bang, bang, bang*” at matches<sup>38</sup>. In addition, at the time of the 1981 Hunger Strikes<sup>39</sup> Rangers supporters hung skeletons from the windows of their buses (Bruce et al:2004:131).

The Troubles effectively ended with the second PIRA ceasefire in 1997 and the subsequent ratifying in 1998 of the Belfast Agreement (also known as the “Good Friday Agreement”)<sup>40</sup>, confirming new political governance and institutions along with weapons decommissioning.

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<sup>37</sup> Corporals David Howes and Derek Wood of the *Royal Signals* were dragged from their vehicle, beaten then shot and stabbed to death in Andersonstown Road, Belfast on 19<sup>th</sup> March 1988 whilst on an unscheduled trip around the city in plain clothes and in an unmarked vehicle.

<sup>38</sup> Both author’s own personal experience.

<sup>39</sup> In 1981 10 Irish Republican prisoners within HMP Maze starved themselves to death in protest over their prisoner status.

<sup>40</sup> <https://www.gov.uk/government/publications/the-belfast-agreement>

The religious and political cleavages found in Scotland mirrored the conflict in Northern Ireland during the Troubles to a certain extent although the fact that the violence and segregation of Northern Ireland was not replicated in Scotland points to clear societal differences between the two (Morrow et al:2015:13). Nonetheless, whilst this conflict continued it served to maintain existing religious animosities in Scotland and possibly create fresh hostility towards the Scottish Irish community from members of the public who might usually consider themselves to be unconcerned by the Catholic/Protestant or Loyalist/Republican dynamic in Scotland, but who simply could not understand why anyone in the country would support the murder of fellow British citizens through a terrorist campaign or wish to laud those responsible. That support for a united Ireland does not automatically equate with support for violent methods in achieving this aim was a nuance easily lost in the emotive polarisation of views and it was also clear that for some any notion of Irish ethnicity at all could easily become conflated with expressions of Irish Republicanism (Mac Giolla Bhain: 2013:187). Of course, it was also clear that backing in Scotland for the protagonists in Northern Ireland occasionally went beyond mere ideological support into the provision of funding, *materiel* and manpower<sup>41</sup>.

The modern “Troubles” therefore resonated strongly within many communities in Scotland where, due to shared histories, communal heritage and social links, attachment to Northern Ireland often went beyond what citizens in the rest of the United Kingdom might experience and although mere expression of Loyalist or Republican views should not be automatically judged as offensive or sectarian (Finn:2003, Flint and Kelly:2013) the conflict in Ireland has been argued to have added fuel to the expression of sectarian division in Scotland and to have maintained feelings of animosity.

## 2.2 Contemporary sectarianism

I have set out a brief summary of the historical development of sectarianism in Scotland, emphasising the importance of the introduction of Irish immigrants into the indigenous culture and also commenting on the potential relevance of the period of the Troubles in sustaining

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<sup>41</sup> Scotland largely escaped direct action although Scots-based members of the UVF bombed two Glasgow pubs frequented by Catholics in 1979 (Wood:2006:329) and the IRA planted a bomb in Shetland targeting the Queen in 1981 (Andrew:2009:694).



disharmony. However, in what areas of modern life in Scotland should we look to gain a contemporary understanding of sectarianism in Scotland? Subtle forms of sectarianism are said to persist hidden in “polite society” (Clegg:2008:10, Morrow et al:2013:17) however there are some specific environments which are consistently identified as fertile grounds for the manifestation of sectarianism and it is to four of them: football; the media, parades and denominational schooling, that I now turn.

### *2.2.1 Football*

Football is perhaps the most visible environment in which it is alleged that sectarianism is seen to manifest in Scotland today and this was an explicit reason given by the Scottish Government for the introduction of the OBFA (Scottish Government:2011a).

The popularity and ubiquity of football in Scottish culture and the dominance of the two largest clubs, Rangers and Celtic, has ensured that the rivalries associated with these clubs, which have been framed in sectarian terms by fans and commentators alike (Moorhouse:2006), have been prominent in the Scottish public consciousness for many years. Notwithstanding some contention surrounding culpability and equality, both clubs are inextricably linked to sectarianism and are common topics in sectarian discourses; during the NFO study into sectarianism in Glasgow it was found that conversation in discussion groups on sectarianism regularly focussed on the Old Firm rivalry (NFO:2003:10) and this rivalry was found to be the thing most associated with sectarianism by Goodall (Goodall et al:2015:46).

The clubs have become associated with sectarianism due to the politico-ethno-religious identities associated with their supporters and the friction existing between those identities. I will discuss the nature of these specific identities in more detail in a later chapter however they can loosely be described as a Protestant/Loyalist/Unionist identity held by Rangers supporters and a Catholic/Irish/Republican identity held by Celtic supporters<sup>42</sup>.

Sectarianism is said to manifest in the hostility and aggression played out between these rival supporters, mostly in terms of the expression of these rival identities, argued to be motivated by ethno-religious bigotry. This is most commonly seen in the singing of songs although there

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<sup>42</sup> Hearts and Hibernian, the two Edinburgh rivals, share some of the ethnic identity markers that Rangers and Celtic do and are seen by some to also have a sectarian aspect to their rivalry, albeit a far more “muted” one (Holt:1989:258).

have been violent episodes as well. Large-scale disorder at football matches is relatively rare however much of the violence is alleged to happen away from the grounds in the hours afterwards, evidenced by arrest figures and increased hospital admissions<sup>43</sup> and research has indicated a “significant association” between Old Firm games and domestic incidents (Williams et al:2013) – although this correlation should not necessarily be interpreted as causation (Crowley et al:2014).

The first violence of note at a Rangers v Celtic match occurred as far back as 1909 where fighting broke out amongst the 70000-strong crowd at Hampden Park in Glasgow, albeit the supporters’ attention quickly turned to the police officers in attendance, leaving 18 of them seriously injured (Grant:1973:59). However, the most recent occurred almost 40 years ago. At the Scottish Cup Final of 10<sup>th</sup> May 1980, also played at Hampden Park, a mass riot erupted on the pitch following the final whistle and order was only eventually restored by the use of police horses charging the supporters. The pictures were widely broadcast and although some of the accompanying commentary by veteran broadcaster Archie Macpherson was ridiculously hyperbolic<sup>44</sup>, he perhaps hit the nail on the head when he said “*at the end of the day let’s not kid ourselves - these supporters hate each other*”<sup>45</sup>.

The intense antipathy felt between many supporters of Rangers and Celtic is obvious from the manner in which they have interacted with each other at matches and now increasingly on social media. However, one should guard against an assumption that antipathy is present solely as a product of friction between sectarianized identities and violence between Rangers and Celtic fans should be considered on a case by case basis (Millward:2009:384); as Rosie states in discussing the issue, “the problem is to distinguish how far the Celtic-Rangers rivalry is fuelled by the ordinary processes of sporting competition, and how far by wider social cleavages” (Rosie:2004:10). Furthermore, the use of ostensibly sectarian language or imagery at football may be ritualistic or convenient (Bruce et al:2004) and lie no deeper than a superficial level. Brighton fans and Tottenham Hotspur supporters are often the subject of homophobic and anti-Semitic chants respectively (the town of Brighton has a well-known gay

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<sup>43</sup> A survey for UNISON in 2002 indicated that admissions increased by up to nine times at Monklands Hospital A&E on an Old Firm day. <http://www.unison-scotland.org.uk/news/2002/archive.html>

<sup>44</sup> for example, suggesting he was witnessing the “*equivalent of Passchendaele*”.

<sup>45</sup> <http://www.youtube.com/watch?v=G5hL6UbstyE>

community and Tottenham is perceived to have a large Jewish fanbase) and whether such chants are the product of deep-rooted sentiment or just a “wind up” based on a stereo-typed image of a location or club is an area for further research (Flint and Powell:2011:200).

Old Firm games are popularly promoted in the media as being “special” featuring a rivalry amongst the greatest in the world, however such grandiose, self-serving sentiments ignore the fact that fierce football rivalries are commonplace around the globe and most teams have “intense, antonymic rivals” (Giulianotti and Robertson:2009:139). Furthermore, there are countless examples from matches elsewhere of far greater levels of violence than anything commonly seen at Old Firm games.

### 2.2.2 *Media*

The media, both traditional and new, has an important influence on the story of sectarianism in Scotland. Two strands to this influence can be identified; the extent and general style of media reporting on sectarianism or sectarian incidents and actual bias present within the media, both institutionally in terms of structure and in terms of the nature and content of reporting.

Media interest in “sectarianism” has been present for many years although an increase in articles can be seen when particular incidents or issues have raised its profile in the public consciousness (Waiton:2013:100). Given the huge fan base of the Old Firm, it is commercially appealing for sports pages to focus on the Old Firm (consequently leaving the door open to reference the tensions between supporters) and most Scottish newspapers will carry at least one Rangers and Celtic story every day (Wilson:2012:172). Editors have been accused of sensationalism in the lead up to Old Firm matches (Morrow et al:2015:43) and generally trying to increase poor circulation “through controversy and wind up” (Campbell:2012:276). Certainly, stories such as concerning Inter Milan using Rangers’ training facilities in preparation for a match against Celtic do little to dispel such accusations<sup>46</sup>.

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[http://www.eveningtimes.co.uk/sport/13302415.Inter\\_Milan\\_set\\_to\\_train\\_at\\_Murray\\_Park\\_ahead\\_of\\_Europa\\_League\\_clash\\_with\\_Celtic/](http://www.eveningtimes.co.uk/sport/13302415.Inter_Milan_set_to_train_at_Murray_Park_ahead_of_Europa_League_clash_with_Celtic/) (last accessed 13/06/16). Such stories are not uncommon and are framed as one team helping the opponents of their rivals rather than as a professional team simply requiring local high-quality training facilities on a commercial basis. In the particular article referenced, the author increases tension by including a superfluous, historical quote from a Celtic player which is a put-down to Rangers, referring to their lower-league status at the time.

Of more concern, however, is the often sensationalist and lurid coverage of “sectarian” stories which often overplay or even invent a sectarian element, which has the effect of greatly exaggerating the extent of sectarian tensions in Scotland, and creating a moral panic (Bruce et al:2004:144, Rosie:2004:28).

Press reports regularly reference a Rangers or Celtic connection where it has little or no relevance to the events. Whilst this may merely be to latch onto the ubiquitous popularity of the teams and appeal to the readership in general, it can also serve to link acts of extreme violence to the teams concerned in the consciousness of the reader, with the inference that somehow the participant’s support of a particular team is relevant to what occurred. For example, a headline in *The Herald*, “man and woman charged with murder of Celtic fan”<sup>47</sup> appears to have been based on the fact that the unfortunate victim happened to have been wearing a Celtic shirt at the time of his murder however at the subsequent trial the judge gave no indication that any sectarian motivation existed<sup>48</sup>. Similarly, the *Daily Record* mentioned an unrelated Old Firm victory for Celtic earlier that day and the fact that the deceased’s family support Rangers in a story about the death of the son of a notorious former UDA terrorist from a suspected drugs overdose, both facts being completely irrelevant to the “story” (Hind:2016). Research has shown that a sample of youths in Glasgow felt that the media portrayed the problem of sectarianism as worse than it really is (Deuchar and Holligan:2008:11) and one respondent in research into community experiences of sectarianism felt that the media was responsible for normalising and spreading sectarian attitudes by casually portraying them as usual and prevalent in all areas of Scotland (Goodall et al:2015:24-25). Morrow found that football authorities (SPFL/SFA) felt that the media played an important part in fuelling an (inaccurate) perception of sectarianism in football with the way in which they reported it (Morrow:2017:11).

Bias can also be found *within* the media, either structurally in terms of discrimination against employees (such as the alleged lack of Catholics employed at major media institutions such as the BBC and the *Glasgow Herald*, presumably due to prejudice (Gallacher:2013:156-158)) or

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[http://www.heraldscotland.com/news/13106979.Man\\_and\\_woman\\_charged\\_with\\_murder\\_of\\_Celtic\\_fan\\_from\\_Motherwell/](http://www.heraldscotland.com/news/13106979.Man_and_woman_charged_with_murder_of_Celtic_fan_from_Motherwell/) (last accessed 07/08/17).

<sup>48</sup> <http://www.scotland-judiciary.org.uk/8/1183/HMA-v-MARTIN-MACMAIKAIN-And-AMANDA-JANE-COOK> (last accessed 29/01/16).

in terms of the output of those media, whether intentionally or incidentally. The media has been accused of presenting sectarianism as a “non-hierarchical dualism” (Flint and Kelly:2013:5) which ignores the historical evidence and does not present the facts clearly by falsely equating the two sides in the dynamic. Further Kelly suggest that the media does not have a neutral role but actually plays an active role in framing sectarian discourses in Scotland due to the inherent power-dynamic present (Kelly:2011:430). This imbalance can be seen in the systematic undermining by the press of the right of Celtic fans to have an Irish identity (Kelly:2011) and, as allegedly evidenced by the media treatment of Neil Lennon, in the way in which popular racial stereotypes and sectarian narratives are maintained and promoted in media narratives (Reid:2008, 2013). The inherent power relationships within press discourses are such that in some cases there is actually a lack of awareness of deeply imbedded ideologically-laden constructions in such discourses which leads to authors unwittingly conforming to and promoting sectarian or racist values and presenting “mediated sincere fictions” (Kelly:2011:425). Importantly for some, the treatment by the press of individuals such as Neil Lennon, Celtic supporters or the Irish in Scotland is not only on a personal level but is indicative of a “wider social malaise” in Scotland (Reid:2013:155).

Sectarianism is also manifest in the world of the new media. The Internet has brought a new dimension to the sectarian divide. Ideas and views can be shared with literally millions of people in an instant allowing for sectarian sentiment to be expressed in the form of written abuse and threats or images in an online virtual reality. The ubiquity of camera ‘phones allows “live” sectarian behaviour at football matches or elsewhere to be captured and downloaded to the World Wide Web where it is readily accessible. This provides substantive evidence of “wrong-doing” where previously many incidents would have gone unnoticed or unconfirmed. Furthermore, threats of violence and religious or ethnic terminology are common in discussion forums and chat rooms associated with the Old Firm (O’Loan et al:2005) and the “anonymity and distance afforded by this type of interaction has lent itself to extremism, moral posturing and verbal aggression” (McKillop:2012a).

However not all internet discussions are of a base and threatening nature and a more eloquent breed of commentator or “blogger” has emerged to take advantage of technology to air their personal views and circumvent the “Mainstream Media” (MSM) which many feel does not represent the true picture and panders to self-interest and powerful political and social institutions by merely promoting the “Establishment” line. The clubs themselves have also

started to embrace new media (particularly sites such as Facebook and Twitter) and the last couple of years has seen a “remarkable credibility transformation” in the attitude towards social media (Franklin:2013:55).

In the narrative of the administration and liquidation of Rangers, bloggers such as *Rangers Tax Case* and *Phil Mac Giolla Bhain* treaded new ground in putting critical and detailed information and viewpoints regarding Rangers’ financial woes into the public domain and breaking the hegemony of the MSM which they believed was too pliant and accepting of the “official” narrative emanating from Ibrox. That said it is clear from the “uber partisan” nature of some of his writings (Hassan:2013) that Mac Giolla Bhain in particular has an agenda-driven perspective<sup>49</sup> and he has also been accused of hypocrisy for denouncing the alleged hatred of others whilst writing in a manner displaying similar sentiments (McKillop:2012:208) and which could potentially cause harm to community relations (Gallagher:2013:206-210).

### 2.2.3 Parades

Marches, public processions and parades are held for a variety of reasons and many of those linked to religious and political organisations have become extremely contentious issues in Scotland and their public setting, and often their scale, lends to their visibility. Sectarianism is argued to be seen in some such parades due to the perceived inherently sectarian nature of some organisations which march or in the actions and behaviours of those who attend to spectate. After football, this is arguably the most visible public sphere where evidence of sectarianism can be found and is considered the second most common contributory factor to sectarianism after football (Hinchcliffe et al:2015:iii). The perceived link between sectarianism and parades is such that the two most recent pieces of research on parades have both come in the wake of increased political interest in sectarianism (Orr:2005, Hamilton-Smith et al:2015a).

The relevant parades can generally be categorised as either Orange/Loyalist or Irish Republican in nature. Orange/Loyalist parades by organisations such as The Orange Order and the

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<sup>49</sup> Mac Giolla Bhain freely admits to being “glad” that Rangers “died” and “delighted” that these problems befell the club (Cano:2012).

Apprentice Boys of Derry, both overtly Protestant organisations<sup>50</sup>, occur predominantly in the lead up to the anniversaries of the Battle of the Boyne on the twelfth of July each year and the Relief of Derry in August<sup>51</sup>. Irish Republican marches are generally organised by Scottish Irish Republican organisations such as *Cairde Na hEireann* (CNE)<sup>52</sup> or various Republican bands<sup>53</sup> and their marches tend to be more frequent at notable dates on the Irish Republican calendar such as the anniversaries of the 1981 Hunger Strike and the Easter Rising of 1916. Proponents regard Orange Parades as cultural celebrations reflecting traditional heritage and culture<sup>54</sup>; Republican parades are viewed by their supporters as overt expressions of political opinion; the political nature often being overlooked and misrepresented<sup>55</sup>. Nonetheless, many regard such parades as objectionable; Orange parades often being perceived as “triumphal” expressions of Protestant domination and Republican marches as celebrating and glorifying Irish Republican terrorism. The presence of many orthodox markers of sectarianized identities at these events means that such marches are routinely framed as sectarian in nature.

#### 2.2.4 Denominational schooling

State-funded denominational schooling is also an extremely contentious and politicised issue in Scotland and is a rich environment for the perception of sectarianism. In effect since the Education (Scotland) Act 1918 “denominational” has almost exclusively meant “Catholic” and the issue of Catholic schooling has repeatedly emerged in the wider debate concerning sectarianism in Scotland (McKinney:2008:42).

Proponents of denominational schooling robustly defend their schools as hard fought for expressions of distinct religious and cultural identity (McCaffrey:2006) and recognise a distinct Catholic ethos in the teaching of all subjects (Denholm:2016). Detractors suggest they foster

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<sup>50</sup> <http://www.orangeorderscotland.com/page12.html> and <http://apprenticeboysofderry.org/about/4590560772> (both last accessed 02/05/17).

<sup>51</sup> Occurring in 1690 and 1688-89 respectively, both are important events in the Williamite Wars fought between the forces of the Catholic James VII and II and the Protestant William III. The Battle of the Boyne is particularly symbolic as following it James fled to France and did not return.

<sup>52</sup> <http://www.cairdenaheireann.info/about> (last accessed 07/08/17).

<sup>53</sup> The West of Scotland Bands Alliance (WOSBA) is an umbrella organisation for a number of Republican Flute Bands.

<sup>54</sup> *Ibid*

<sup>55</sup> <http://www.cairdenaheireann.info/about>

division and “enable” sectarianism (Murray:2003:244), confer privilege on the Catholic religion (Walker:2012), engage in discriminatory employment practices and are anachronistic, given that the reason they were introduced was to assist a disadvantaged community achieve social parity – which has now been achieved (McKinney and Conroy:2015). In the face of such criticism, defenders of faith schooling have often portrayed views against denominational schooling as simply another manifestation of anti-Catholicism (Finn:2000, Conroy:2001), a position which arguably conflates and dismisses all criticism as prejudice and serves to shut down debate.

At first glance separating children within the educational system at a very early and formative stage in their lives based on a single criterion of religion certainly creates a concept of difference and inhibits contact and socialising between these groups from a young age and so in these circumstances the schools might serve to reinforce notions of “otherness”; indeed, even a Catholic Bishop has described Catholic schools in terms of being an “enabler of sectarianism”<sup>56</sup>. Such schools may also provide a focus for existing sectarian attitudes due to their visibility within our communities. However, there is actually little evidence that the schools act to foster division (Patertson:2000) and it is clear that denominational schooling successfully exists elsewhere in the world (including Catholic schools in England) without the attendant tensions that are apparent in Scotland (McKinney:2008:49). Also, most people in Scotland have been educated in this denominational system yet clearly the majority are perceived to not have an issue with “sectarianism”, as the Government has continually talked of the issue as relating to a minority or the “bigoted few” (Scottish Executive:2006b, Scottish Government:2011). It is also difficult to sustain the argument that denominational schools cause sectarianism given that most agree that sectarianism in Scottish society has diminished over the years yet Catholic schools have continued to exist throughout this time (Finn:2008:8), indeed sectarianism in Scotland actually pre-dates denominational schooling (McKinney and Conroy:2015). Nonetheless the abolition of denominational schooling is often casually or instinctively identified as a panacea for sectarianism despite this lack of evidence<sup>57</sup>.

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<sup>56</sup> <http://news.bbc.co.uk/1/hi/scotland/2274383.stm> (last accessed 07/08/17).

<sup>57</sup>For example, in an OBFA trial, a Sheriff “enlightened” his court by opining in passing that the way to “tackle it [sectarianism] is to do away with denominational schools” (*Dundee Courier* 6 April 2013).



### 2.3 Sectarianism and police attitudes

At this stage it is worth briefly acknowledging that police officers and the police are not immune from notions of sectarianism and that the phenomenon may have had, or continue to have, some bearing on the police's framing and understanding of the communities in which they operate. For a start, individually police officers are members of society as well and have their own views, attitudes and prejudices. It is not the case that officers always actually act out their prejudices when dealing with members of the public (Reiner:2000:124-126) however it would be naïve to think that officers of the Police Service of Scotland<sup>58</sup> and its antecedent organisations have never held sectarian views and been influenced by them in the course of their employment. Certainly, if one accepts that there is inherent anti-Catholicism or anti-Irish sentiment within Scottish society, both historically and in the present, as many allege, then it might seem obvious to assume that such prejudice is reflected within police forces to some degree. Gallagher suggests that there was "little love lost" between the police and the Irish in Victorian Scotland and further that a Masonic influence on the police from the thirties onwards had a negative impact on police attitudes towards Catholics (Gallagher:2013). Murray reports a belief in the Catholic press in the thirties that the police showed prejudice towards Catholic Celtic fans (Murray:2000:146) although in the same period police were described as painting over sectarian graffiti overnight in Viewpark rather than leave it visible (Muncie:1979:28) and even-handedly leaving the participants of an Orange march and a Hibernian march which accidentally came together to "fight it out" down a side-street prior to returning some time later to take whoever was left either to jail or hospital (Allan:2007:232).

In more contemporary times it is not difficult to find allegations of sectarian attitudes within policing circles or tales of only certain supporters being targeted by bigoted officers at Old Firm matches in police memoirs (e.g. Brown:2005, Ramsay:2007, Pieri:2003)<sup>59</sup> however there is scant research on the reality of such alleged police prejudice and Bruce points out that whilst some argue that Catholics are the disproportionate victims of crime, few if any suggest that state agents deliberately victimise Catholics or do not rigorously pursue the perpetrators of

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<sup>58</sup> The Police Service of Scotland is the statutory designation and legal name of the Scottish Police service. For corporate branding purposes it known as "Police Scotland" however this thesis will refer to the Police Service of Scotland or PSoS except where directly quoting others.

<sup>59</sup> It should be noted that relying on memoirs can be problematic as such books relate to the experiences of one individual and are often written many years after the events being described occurred and so are often subjective, unreliable and unrepresentative.

sectarian violence (Bruce et al:2004:90). Research has indicated that Catholics are over-represented in Scottish prisons which might indicate prejudice manifesting within the criminal justice system, the police being a part of this, however the researcher herself concluded that there are other factors which might more compellingly explain this phenomenon, such as the over-representation of Catholics in the less affluent tranches of Scottish society and the link between poverty and crime (Wiltshire:2011).

Of course, prejudicial attitudes of officers may manifest in subtle, difficult to observe ways such as giving certain witnesses more or less credibility or targeting certain areas for more or less attention and even where they are not acting in an overt manner or interacting with members of the public as such, officers may be able to indicate sympathy or support for one particular culture or section of the community, which could alienate other members of that community. For example, the author has a vivid recollection whilst working as a Community Officer in Lanarkshire of speaking to a middle-aged lady about an upcoming Orange Parade in the area and his involvement in policing it, who lamented to him how she wished things could return to the “*good old days*” when officers accompanying parades would “*wear their white gloves and march in time to the bands*”.

Allegations of attitudinal bias are reinforced by allegations of discriminatory employment practices in policing. Forces in Scotland have been accused of under-representation of Catholics, leading to a perception of bias. William and Walls’ research claimed that whilst discriminatory employment practices had been prevalent in many organisations in the past but had greatly improved, policing was specifically mentioned as not yet achieving equal representation albeit the position was improving (Walls and Williams:2003)<sup>60</sup>. In 2009 a senior officer of Strathclyde Police recounted to the author that he knew exactly how many fellow Catholic officers were in his Division when he joined his Force many years previous and that they were all intentionally put on the same shift. He was of the opinion that things had greatly improved since that time<sup>61</sup>.

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<sup>60</sup> In 2013 approximately 9% of officers in PSoS were Catholic (16.7% in the Strathclyde Fore area) although declaration of religious belief by officers is optional (FOI request by the author).

<sup>61</sup> He did not elaborate on *how* he knew this and it is worth noting that his status as a Catholic clearly did not stop him from, at least latterly, attaining very high rank in the organisation.

A small survey of Strathclyde Police officers conducted by the author as part of that same research found that a fifth of the respondents said they had experienced what they considered to be sectarian behaviour at the hands of colleagues although interestingly the vast majority of these officers were older in service (Whiteford:2009)<sup>62</sup>.

#### 2.4 The second coming of sectarianism – MacMillan, Lennon and the OBFA

“Sectarianism”, in terms of hostility between two ethno-religious groups, historically based on prejudice towards Irish Catholics, can therefore be seen to have been extant in the west of Scotland for many years. However, at the turn of the twentieth century, although discernible in areas such as football and parades, it seemed not to be a regular consideration in public life or private discussion, leading to a “discursive deficit” (Morrow et al:2015:11); arguably as it had diminished to such an extent that it no longer featured in Scotland in any meaningful way beyond episodic events such as football matches (Bruce et al:2004, Rosie:2004) or alternatively, despite belief in its pervasive reality, simply as Catholics had not wanted to draw attention to themselves by challenging it but rather had just wanted to “keep their heads down” (MacMillan:2000:15).

This changed in 1999 when James MacMillan made his speech to the Edinburgh Festival claiming that anti-Catholic sentiment was “endemic” in Scottish society<sup>63</sup>. This speech received a great deal of publicity at the time and inspired much public comment on the nature and extent of sectarianism in modern Scottish society, possibly as part of a greater pondering of general identity in Scotland in the context of the fledgling Scottish Parliament (Rosie:2004:147). MacMillan subsequently reworked his comments as a contribution to a collection of essays on sectarianism entitled *Scotland’s Shame?* published a year later (Devine:2000).

Further awareness of the subject was raised by a number of events at this time including the public fall from grace of leading Q.C. Donald Findlay who resigned as Deputy Chairman of

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<sup>62</sup> Of those who said they had experienced such sectarian behaviour 79% were in the 16 years or more service bracket. This may imply that such incidents are becoming less frequent in modern times or are linked to older attitudes however care should be taken in drawing any firm conclusions here as there was no indication of *when* these incidents actually occurred during these officers’ service.

<sup>63</sup> <http://news.bbc.co.uk/1/hi/uk/415149.stm> (last accessed 07/08/17).

Rangers after being filmed singing bigoted songs at a private function, an incident which proved to be the final incentive required by Cara Henderson to found a charity specifically aimed at combating sectarianism in Scotland, *Nil By Mouth*<sup>64</sup>, in 2000 albeit her main inspiration came from the murder of close friend Mark Scott in 1995 who was killed near to Celtic Park simply for being a Celtic fan<sup>65</sup>.

Scotland's religious tensions remained in the public eye when in 2001 local MP Frank Roy warned the Irish Taoiseach Bertie Ahern against a planned visit to the Carfin Grotto to unveil a memorial to the victims of the Irish Potato Famine due to this appointment clashing with an Old Firm match (which Ahern had also planned to attend) and the "security risk" that the visit therefore presented. Despite strong criticism of this apparently personal assessment and unilateral action<sup>66</sup>, for some this incident still confirmed "an undercurrent of anti-Irish/Catholic prejudice" in Scottish society (Coyle:2009:148).

Momentum developed when the then first Minister Jack McConnell described sectarianism as Scotland's "Secret Shame" (Kelbie:2002) and Donald Gorrie MSP successfully campaigned for the introduction of a religious aggravation into Scots law, which became Section 74 of the *Criminal Justice (Scotland) Act 2003*<sup>67</sup>. Understandably this new piece of legislation attracted a great deal of attention. The early usage of the aggravation was analysed (McAspurren:2005) and the initial figures produced led to the Catholic church to announce that sectarianism was "deeper, wider and altogether more pervasive" than portrayed (O'Brien:2006).

The invigoration of the sectarianism debate led to a number of campaigns and initiatives both by football clubs (Rangers introduced the *Pride over Prejudice* campaign and Celtic the *Bhoys Against Bigotry* campaign) and by Government, including consulting fans (Moorhouse:2006), investigating parades (Orr:2005) and convening two so-called "Sectarian Summits", all culminating with the formulation of a policy document the *Action Plan on Tackling Sectarianism in Scotland*, centred on four main themes of education, sport, faith and marches and parades (Scottish Executive:2006).

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<sup>64</sup> [www.nilbymouth.org](http://www.nilbymouth.org)

<sup>65</sup> 16-year-old Mark Scott was murdered by Jason Campbell in 1995 near to Celtic Park following a Celtic v Partick Thistle match.

<sup>66</sup> <http://news.bbc.co.uk/1/hi/scotland/1160617.stm> (last accessed 25/09/17).

<sup>67</sup> This introduced an aggravation of religious prejudice to *existing* criminal actions and will be discussed in more detail in Chapter Three.

However the sectarian summits were scrapped following the election of the SNP in 2007 and it appeared that sectarianism was not high on the new government's agenda; official websites linked to anti-sectarianism were not kept current (Whiteford:2009:19) and *Nil by Mouth* almost dissolved due to a lack of funding<sup>68</sup>.

Sectarianism then, appeared to slip from the elevated level of political scrutiny that it enjoyed in the early to mid-2000s although it maintained a visible presence, often in a football context, through controversies such as the singing of the so-called *Famine Song*. Although a full song with verses does exist<sup>69</sup>, the singing of the *Famine Song* at football amounted to only the chorus of “*Why Don't you go home? Why don't you go home? The Famine's over, why don't you go home?*” being chanted to the tune of *Sloop John B*. The song makes direct reference to the Irish Potato Famine and those of Irish descent living in Scotland and was polarly characterised as vile and vicious racism<sup>70</sup> (even leading one Celtic supporter to complain to the Irish Consul in Scotland<sup>71</sup>), or as playful banter which does not express an actual desire for those of an Irish heritage to leave Scotland but rather is intended only to mock a romanticised and sentimental notion of Irishness held by many Celtic fans (Taylor:2010, Forsyth 2010). Nonetheless, in 2009 in the case of *Walls v PF Kilmarnock*<sup>72</sup> the song was declared racist by Appeal Judges, the singing of which amounted to an offence<sup>73</sup>.

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<sup>68</sup> “SNP throws anti-sectarianism charity a three-year cash lifeline” *Scotland on Sunday* 1<sup>st</sup> February 2009.

<sup>69</sup> Despite a Superintendent giving evidence at *PF v Walls* that the full song would be widely known amongst fans, it is argued (convincingly in the author's opinion) that in fact these full lyrics were not widely generally known by supporters at the time (Taylor:2010:108). McKerrell acknowledges that only the chorus is generally heard at football but considers it “apodictic” that this can be considered sectarian as the chorus “carries the implied meaning of the entire song” (McKerrell:2012:366) (Although this would presumably still require actual awareness of there actually being an entire song).

<sup>70</sup> [http://www.heraldscotland.com/news/12371852.Famine\\_song\\_apos\\_vile\\_vicious\\_and\\_racist\\_apos/](http://www.heraldscotland.com/news/12371852.Famine_song_apos_vile_vicious_and_racist_apos/) (last accessed 07/08/17).

<sup>71</sup> [http://news.bbc.co.uk/1/hi/scotland/glasgow\\_and\\_west/7617518.stm](http://news.bbc.co.uk/1/hi/scotland/glasgow_and_west/7617518.stm) (last accessed 07/08/17).

<sup>72</sup> *Walls v PF Kilmarnock* 2009 HCJAC 59

<sup>73</sup> The issue of the Famine Song is particularly pertinent in the context of the OBFA as it illustrates the potential for very different interpretations of what is offensive as opposed to “banter” in relation to the same material and further that, where a behaviour was indeed deemed to be beyond acceptability, existing legislation was already able to criminalise it.

#### 2.4.1 *The events of 2011*

However, Sectarianism was brought sharply back into focus in the country by the events of early 2011. Celtic played Rangers in a Scottish Cup replay match at Celtic Park on 3<sup>rd</sup> March 2011. Tension was heightened due to residual ill-feeling from the previous tie due to press allegations about verbal abuse between opposition players and management. Furthermore, it came during a period when Celtic and the club's manager, Neil Lennon, were in public conflict with the SFA over refereeing decisions, leading to the increasing vilification of Lennon by some sections of the online community and also in the context of Rangers being placed in formal administration only weeks previously, all providing greater scope for both "banter" and "offence".

The match itself was an ill-tempered 1-0 win for Celtic. During and after the game a total of three (Rangers) players were sent off and many booked. Thirty-four arrests were made at the match. Perhaps the lasting image of the night was of the two managers Ally McCoist and Neil Lennon shaking hands at the end of the match which descended into confrontation with an aggressive Lennon requiring to be physically held back from McCoist. There was an immediate, almost hysterical (Waiton:2012) reaction to this game with widespread condemnation of what had occurred and the match was soon dubbed the "Shame Game" in the press. The Chief Constable of Strathclyde Police, Stephen House, called for a Summit to address the violence surrounding this game and Old Firm matches in particular<sup>74</sup>. The Summit, chaired by First Minister Alex Salmond, was duly convened and decided on eight commitments to address the problems presented by Old Firm games and established a Joint Action Group to oversee the delivery of these commitments<sup>75</sup>. Particular recommendations included the establishment of a dedicated Scotland-wide Football Intelligence Unit and the introduction of specific legislation.

As the Summit talks were occurring attention turned to the next instalment of the Old Firm saga that was due imminently. On 20<sup>th</sup> March 2011 Rangers and Celtic contested the League Cup final at Hampden Park. Rangers ultimately triumphed after extra time was played and the event did not descend into the chaos that some had feared either on the pitch or in the terraces.

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<sup>74</sup> <http://www.gov.scot/Topics/archive/law-order/sectarianism-action-1/football-violence> (last accessed 07/08/17).

<sup>75</sup> <http://www.scotland.gov.uk/Topics/Justice/law/sectarianism-action-1/football-violence/football-summit/JAG>. (last accessed 07/08/17).

Unfortunately, what did happen was that on a number of occasions a large and vociferous section of the Rangers support could clearly be heard singing the now illegal *Famine Song*. Apparently oblivious to this the Justice Secretary Kenny McAskill commended both players and fans for “a great advert for Scottish football” and for producing “a positive example inside the ground”<sup>76</sup> and ACC Campbell Corrigan of Strathclyde Police publicly described the atmosphere within the ground as “excellent” and hoped that the good atmosphere would be “replicated across the Force”<sup>77</sup>. Although MacAskill later attempted a *volt-face* this embarrassing episode cast doubt on how seriously this issue was actually being taken by politicians and just how effectively it was being policed.

Six days after this match took place, an improvised explosive device addressed to Neil Lennon was intercepted at a Royal Mail sorting office. In the coming days, more devices of a similar design were sent to MSP Tricia Godman, Paul McBride Q.C. and the Glasgow offices of Irish Republican organisation CNE. The former three were linked by their connection to Celtic: Lennon as manager; Godman as a high-profile fan (she had recently worn a Celtic football top to her final function as an MSP which had been widely publicised) and Paul McBride as Lennon’s outspoken lawyer who had recently, regularly and forcefully commented publicly on matters connected to Celtic.

Shortly afterwards Cardinal Keith O’Brien, the then leader of the Catholic Church in Scotland, let it be known that a bullet had been sent to him through the post, apparently from Protestant Loyalists, at the time of the Papal visit to Scotland in September 2010 (Hamilton:2011). Bullets addressed to Lennon and two Catholic Northern Irish Celtic players, Niall McGinn and Paddy McCourt, had also previously been intercepted by postal staff (in Northern Ireland and Scotland) some months earlier in January 2011<sup>78</sup>.

The two letter bombers were unsophisticated and were quickly identified and arrested by police however these incidents marked an alarming nadir in Scotland and the use of explosives particularly invoked the spectre of the violent conflict in Northern Ireland. As the storm over

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<sup>76</sup> <http://www.bbc.co.uk/news/uk-scotland-12802149> (last accessed 07/08/17).

<sup>77</sup> *Ibid*

<sup>78</sup> <http://www.dailymail.co.uk/sport/football/article-1346365/Paddy-McCourt-Celtic-star-sent-bullets-post.html> (last accessed 07/08/17).

these events kept building, the “latest disgraceful episode in the relentless harassment of...Neil Lennon” (Forsyth:2011) occurred when the Celtic manager was attacked at a football match.

On 11<sup>th</sup> May 2011 Hearts played Celtic at Tynecastle. During the match a Hearts fan, John Wilson, evaded police and stewards and ran onto the touchline to try to get to Lennon immediately following Celtic scoring a goal. He slipped as he attacked and was restrained before he could do any serious damage. Incredibly the jury at his subsequent trial found the case against Wilson not proven for assault aggravated by religious prejudice (but proven for Breach of the Peace) despite him admitting the assault in court. The case had gone to trial as he had been unwilling to admit that the assault was motivated by ill-will to Lennon as a Catholic and denied calling him a “*Fenian bastard*” at the time, although evidence from a club official had been led to this effect (Mathieson:2011). That an apparently single-source uncorroborated piece of evidence should be rejected as not proven beyond reasonable doubt is perhaps not unusual although it was still open to the jury to delete this part of the charge and find Wilson guilty of the assault, which they did not do. The verdict caused a furore and was seen by some as further evidence of anti-Catholicism in Scottish society (Cochrane:2011). However, this was not the first time that Lennon had been the victim of violence during his time in Glasgow and was one in a catalogue of incidents that included him twice being assaulted in social settings and also receiving death threats which led to him giving up playing international football for Northern Ireland.

As these events played out the Joint Advisory Group met and published recommendations leading to First Minister Alex Salmond announcing the OBFA Bill which proposed two new offences of engaging in threatening or offensive behaviour likely to incite public disorder at a regulated football match and communicating material to another that is threatening and would cause fear and alarm or is intended to stir up religious hate.

The new Bill was heavily criticised in many quarters, criticism aimed particularly at the allegedly discriminatory, illiberal and confusing nature of the legislation, however an overwhelming SNP Parliamentary majority ensured that, following an initial delay to its proposed introduction in time for the start of the 2011-2012 football season, the *Offensive Behaviour at Football and Threatening Communications (Scotland) Act 2012* became law on 1<sup>st</sup> March 2012, becoming the first legislation passed by the Scottish Parliament that did not enjoy cross-party support (McBride:2017:235).



The OBFA continued to attract controversy and criticism in the years following its introduction. Despite assurances from the first commanding officer of the new football unit that supporters “absolutely know” the difference between “banter” and what is unacceptable (Brand:2012), confusion over what behaviour would or should come under the scope of the Act persisted. Some legal professionals were critical of the Act in practice, one Sheriff going as far as to describe it as “mince” (Cochrane:2013). Supporters and some clubs expressed concern, both about the Act (Celtic Football Club:2014) and also in some instances about the way in which it was being put into practice by the police<sup>79</sup>. A number of Celtic Supporters’ Clubs, perhaps particularly fired by a belief that the Act was specifically aimed at Celtic supporters (Rose: 2012) came together to form a pressure group, *Fans Against Criminalisation* (FAC) which enthusiastically campaigned against the Act<sup>80</sup>. Criticism of the Act was not universal however as both supporter behaviour (Scottish Government:2015) and the general experience of attending matches (Scottish Police Federation:2016) were alleged to have improved during the life of the OBFA and its popularity amongst the general public appeared to be very high with a YouGov poll finding an 80% specific approval rate for the Act (Scottish Government:2015a)<sup>81</sup>. Alex Salmond was also typically bullish about the perceived success of the Act and its “immediate effect in obtaining convictions and then improving behaviour” (Andrews:2015).

Nonetheless criticism remained vociferous and the perceived deficiencies of the Act recognised on a cross-party basis. Following the 2015 Holyrood election, where the SNP lost the parliamentary majority that had been required to push through the legislation in the first place, there was an inevitability about the subsequent process that saw the OBFA ultimately repealed in April 2018.

This chapter has attempted to explain the historical backdrop and contemporary context to the OBFA in more detail. It set out how the sectarian “problem” in Scotland had become the focus

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<sup>79</sup> <http://fansagainstcriminalisation.com/>

<sup>80</sup> Supporters of some other clubs are involved in this organisation however it is primarily a Celtic fan group.

<sup>81</sup> It should be noted however that in this study a large number of respondents stated that they had little or no interest in football. Whilst this does not negate their opinion on the matter, it might imply a lack of knowledge regarding the exact workings of the Act and the nature of its impact in its particular environment. Both this survey and a Panelbase survey on behalf of the *Wings Over Scotland* website which also found overall support for the act (Nutt:2015) have been criticised as being poorly worded and flawed (<http://newsnet.scot/archive/offensive-behaviour-case-snp-repealing-act/>).

of more attention in the new millennium after a long period of neglect and/or denial but how by 2007, following legislation in 2003 and Sectarian Summits in 2005 and 2006, the impetus appeared to have waned. Nonetheless evidence of sectarian sentiment could still be found (to contested degrees) in aspects of Scottish society and persistently in the football environment.

A series of events in 2011 created a “moral panic” (Waiton:2012) over the effects of sectarianism on Scottish society and how seriously it should be regarded, leading to the build-up of a momentum for political action that culminated in the introduction of the OBFA.

## **CHAPTER 3 – The Offensive Behaviour at Football Act and Other Football Legislation.**

This research concerns the *Offensive Behaviour at Football and Threatening Communications (Scotland) Act 2012* and so it would be helpful to set out the provisions of the Act in some detail at an early stage to add clarity for the reader as the thesis progresses and this is the simple objective of this chapter. However, it will also serve a useful purpose to examine some pertinent aspects of the legislative context into which the Act was placed. Specifically, in legislative terms the OBFA added to an existing body of laws which are both football-specific and general in nature, which shape and control the behaviour of football fans at matches. Furthermore, the Act was also championed by the Government as providing a more encompassing and superior solution to some of the problematised behaviours seen at football matches than that offered by some of these existing general legislative provisions, such as Breach of the Peace (BOP), provisions Alex Salmond described as not fit for purpose and “vulnerable to clever-dick lawyers” (Andrews:2015).

In this chapter, I will set out the relevant parts of the OBFA in detail and compare it to some of the existing legal provisions that it might have been said to replace in the football environment. To locate the OBAF further in context I will then briefly discuss other football-specific legislation currently in place. Firstly, however it is necessary to examine what other legal provisions currently exist in relation to sectarianism.

### 3.1 Sectarianism as crime

Sectarianism *per se* is not a substantive offence. There is no law on the statute book or in Common Law that specifically labels “sectarianism” as the offence being committed. As such in general terms sectarian behaviour would traditionally only cross into the operational ambit of the police, notwithstanding the varying conceptual academic positions on the role and function of policing (Reiner:2002:1), when such attitudes manifested in some form of recognised, extant criminal behaviour.

There are both racial and religious aspects to what many would consider to be behaviours that could be classed as sectarian<sup>82</sup> and some legislation exists in relation to these factors in their own right, race and religion being general in nature in these provisions rather than pertaining specifically to those narrow divisions associated with Scottish sectarianism namely Irish or British ethnicity and the Catholic or Protestant religions.

Section 50 (A) of the *Criminal Law (Consolidation) (Scotland) Act 1995* introduced an offence of racially-aggravated harassment which penalises behaviour considered to be harassment or intended to cause alarm or distress in the victim committed whilst acting in a racially motivated manner. This offence became commonly colloquially referred to as the “Racial Breach” by some police officers as it was perceived to be the statutory equivalent of Breach of the Peace, to be used in circumstances where a charge of Breach of the Peace would normally be competent but where now ethnicity was a differentiating factor.

### *3.1.1 Aggravations*

A number of distinct aggravations to offences have also been introduced into Scots Law. It is important that these are understood for what they are, which is aggravations of existing offences rather than offences in their own right. These aggravations act both to signify particular societal opprobrium for the offending in question and also more practically to require the court to take the aggravating circumstances into account when sentencing. Crucially they require the commission of a pre-existing substantive crime to occur in the first place before they can become active<sup>83</sup>.

Section 96 of the *Crime and Disorder Act 1998* introduced a racial aggravation in Scotland whereby any offence committed will be considered to be racially aggravated if the offender evinced towards the victim malice or ill-will based on membership or presumed membership of a racial group or if the offence was motivated by such malice or ill-will.

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<sup>82</sup> This is examined in more detail in Chapter Four, section 4.1.

<sup>83</sup> There is potentially an argument to be made that use of aggravating language for BOP-type offending in practice may alter the nature of the primary offence in the eyes of officers and reduce the threshold for what is considered to be required to complete the substantive offence (Whiteford:2009).

As previously stated, sectarianism became a particular topic of interest in Scotland at the turn of the century and as part of this process a Bill to create an aggravation of offences on religious grounds was passed in the fledgling Scottish Parliament. Section 74 of the *Criminal Justice (Scotland) Act 2003* introduced an aggravation of religious prejudice. This has often inaccurately been regarded by the public and the press as “anti-sectarian” however the actual legislation relates to “religious prejudice” which is defined as:

“malice and ill-will based on the victim’s membership (or presumed membership) of a religious group, or of a social or cultural group with a perceived religious affiliation;” (sect 74(2)(a))

Clearly this legislation therefore relates to any religious groups and not just the Roman Catholic or Protestant ones (indeed it also specifically covers conduct directed at people with no religious belief due to that absence of belief).

Finally, in 2009 the coverage of the aggravating concept was extended to encompass other strands of diversity beyond race and religion by the *Offences (Aggravated by Prejudice) (Scotland) Act 2009* which created aggravations involving prejudice relating to disability and sexual orientation or transgender identity. Although these diversity strands do not directly link in with any particular espoused notion of sectarianism, this legislation is mentioned as it reflects a clear political agenda to expand and strengthen the targeting of so-called “Hate Crime” in society, and because similar provisions protecting some of these characteristics are to be found in the OBFA (despite their lack of relevance to sectarianism).

### 3.2 The Offensive Behaviour at Football and Threatening Communication (Scotland) Act 2012

Legislation is created from policy imperatives, policy simply being a set of ideas for action culminating in Government decisions, which in general terms goes through a process of initiation, formulation and implementation (Jones and Norton: 2010: 487-488). In Scotland, the parliamentary model largely follows the Westminster one in that the executive dominates and sets the legislation agenda although some factors, such as proportional representation limiting the chances of a dominant single party, temper this (Keating:2010). Furthermore, the involvement of the public is said to be an integral part of the culture at Holyrood, including the

legislative process (Wintrobe:2004:58) and in general consultation is normally an important aspect of the process of producing legislation, particularly as there is no second chamber in Scotland where Bills can be revised (Shiles:2011:46).

When a Bill is introduced it should include a statement of policy objectives and an explanation of what consultation has already taken place. The actual process of the passage of Public Bills through the Scottish Parliament has three distinct stages (there are different processes for Emergency Bills and Private Bills): Stage One where the Bill is sent to the appropriate Committee which considers the general principles of the Bill and prepares a report for Parliament. The Committee can take evidence from individuals or interest groups at this time. Parliament then votes on the general principles of the Bill in light of the report prepared by the Committee and the Bill will either fail or move to Stage Two at this time. Stage Two involves detailed scrutiny of each individual section of the Bill by the Committee and the making of amendments if required. Once completed the Bill then goes before Parliament in Stage Three to be debated and voted on. A successful vote at this stage means the Bill will move on to Royal Assent (McFadden and Lazorowicz: 2010).

The OBFA was initially attempted to be expedited through Parliament using Emergency Bill procedures, which would involve a far shorter process of examination and consultation than explained above (often Stages One – Three being conducted on the same day (Scottish Parliament:2016:49)), however although this ultimately was not the case and the timetable for Stages Two and Three was extended, apparently due to the First Minister realising that there were concerns over the haste with which he was trying to progress the Bill<sup>84</sup>, many still argued that proper consultation had not been achieved and that the timetable for the Bill had not allowed for adequate scrutiny of the Bill's provisions (Scottish Parliament:2017:2)<sup>85</sup>. Nonetheless, the Act became law on 1<sup>st</sup> March 2012.

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<sup>84</sup> <http://www.bbc.co.uk/news/uk-scotland-13883763> (last accessed 02/09/17).

<sup>85</sup> Although the Committee ultimately received seventy-seven written submissions and heard from thirty-eight witnesses.

### 3.2.1 Provisions of the act

Section 1 of the *Offensive Behaviour at Football and Threatening Communications (Scotland) Act 2012* stated *verbatim*:

“(1) A person commits an offence if, in relation to a regulated football match—

(a) the person engages in behaviour of a kind described in subsection (2), and

(b) the behaviour—

(i) is likely to incite public disorder, or

(ii) would be likely to incite public disorder.

(2) The behaviour is—

(a) expressing hatred of, or stirring up hatred against, a group of persons based on their membership (or presumed membership) of—

(i) a religious group,

(ii) a social or cultural group with a perceived religious affiliation,

(iii) a group defined by reference to a thing mentioned in subsection (4),

(b) expressing hatred of, or stirring up hatred against, an individual based on the individual’s membership (or presumed membership) of a group mentioned in any of sub-paragraphs (i) to

(iii) of paragraph (a),

(c) behaviour that is motivated (wholly or partly) by hatred of a group mentioned in any of those sub-paragraphs,

(d) behaviour that is threatening, or

(e) other behaviour that a reasonable person would be likely to consider offensive.

(3) For the purposes of subsection (2)(a) and (b), it is irrelevant whether the hatred is also based (to any extent) on any other factor.

(4) The things referred to in subsection (2)(a)(iii) are—

(a) colour,

(b) race,

(c) nationality (including citizenship),

(d) ethnic or national origins,

(e) sexual orientation,

(f) transgender identity,

(g) disability.

(5) For the purposes of subsection (1)(b)(ii), behaviour would be likely to incite public disorder if public disorder would be likely to occur but for the fact that—

(a) measures are in place to prevent public disorder, or

(b) persons likely to be incited to public disorder are not present or are not present in sufficient numbers.

(6) A person guilty of an offence under subsection (1) is liable—

(a) on conviction on indictment, to imprisonment for a term not exceeding 5 years, or to a fine, or to both, or

(b) on summary conviction, to imprisonment for a term not exceeding 12 months, or to a fine not exceeding the statutory maximum, or to both.”

An interpretation section is included, intended to give clarity over the meaning of terms such as disability or transgender identity. It defines behaviour as “behaviour of any kind including, in particular, things said or otherwise communicated as well as things done” and this can be either a single act or a course of conduct.

A “regulated football match” is defined in terms of the existing FBO legislation contained within Section 55 of the *Police, Public Order and Criminal Justice (Scotland) Act 2006*, which concerns all association football matches played anywhere in the United Kingdom where one or both clubs represent a country or territory, is a member of the SPFL or is a member of the English or Welsh professional leagues; however the OBFA specifies that it does not cover regulated football matches occurring outside of Scotland unless the match involves a national team representing Scotland or a team representing a club that is a member of an association or



league based in Scotland. In short, the Act applied to any international match<sup>86</sup> or game featuring any of the 42 clubs that are members of the SPFL that occurs in Scotland, or any match occurring anywhere else in the world that involves the Scottish national team or a team from Scotland (such as Champions' League ties, for example). The Act does not appear to include Junior football matches in Scotland, despite disorder (McGowan:2016) and sectarian behaviour (O'Donnell:2016) occasionally occurring at such games as well.

Further explanation was offered for what constituted behaviour in relation to such a match as follows:

“2(1) For the purposes of section 1(1), a person's behaviour is in relation to a regulated football match if—

(a) it occurs—

(i) in the ground where the regulated football match is being held on the day on which it is being held,

(ii) while the person is entering or leaving (or trying to enter or leave) the ground where the regulated football match is being held, or

(iii) on a journey to or from the regulated football match, or

(b) it is directed towards, or is engaged in together with, another person who is—

(i) in the ground where the regulated football match is being held on the day on which it is being held,

(ii) entering or leaving (or trying to enter or leave) the ground where the regulated football match is being held, or

(iii) on a journey to or from the regulated football match.

(3) The references in subsection (2)(a) and (b) to a regulated football match include a reference to any place (other than domestic premises) at which such a match is televised; and, in the case

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<sup>86</sup> Although highly likely to, such matches need not feature a team representing Scotland. For example, the Act would apply to all matches played should the country play host to an international tournament such as the World Cup or the European Championships.

of such a place, the references in subsection (2)(a) and (b) to the ground where the regulated football match is being held are to be taken to be references to that place.

(4) For the purpose of subsection (2)(a) and (b)—

(a) a person may be regarded as having been on a journey to or from a regulated football match whether or not the person attended or intended to attend the match, and

(b) a person's journey includes breaks (including overnight breaks)."

Furthermore, provision was made for offences occurring abroad. Section 10(1) of the OBFA stated:

"10(1) As well as applying to anything done in Scotland by any person, section 1(1) also applies to anything done outside Scotland by a person who is habitually resident in Scotland."

### 3.2.2 Key points

The sections were complex but could be summarised into key points. To make the crime complete, three elements were required namely behaviour as described **and** the element of incitement to public disorder **and** that behaviour being in relation to a regulated football match. However, no one likely to be so incited need actually have been present at the match as the statute stated that it was sufficient that the applicable conduct "is likely" or "would be likely" to incite public disorder and the presence of sufficient stewards, police and separating barriers and the like to prevent such disorder breaking out amongst supporters was irrelevant.

The behaviour referred to was expressing hatred of, or stirring up hatred against, a group or an individual based on their membership (or presumed membership) of a religious group, a social or religious group with perceived religious affiliations or a group defined by reference to colour, race, nationality, ethnic origins, sexual orientation, transgender identity or disability; or behaviour motivated by hatred of such groups<sup>87</sup>. Behaviour which was threatening or that would be considered offensive by a reasonable person was also included.

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<sup>87</sup> "Hatred" is potentially a problematic word given that many argue that what is said at football matches should not be taken that seriously and so presumably is not motivated by actual *hatred*.

The offence could occur anywhere, as long as it was in relation to a regulated match. This included travelling to and from matches (even on lengthy trips involving overnight stops) and even in pubs, bars and suchlike as long as a regulated match was being televised there.

The behaviour could occur outside of Scotland as long as the accused was habitually resident in Scotland and at least one of the teams playing was Scottish. This provision was held to be competent in *Procurator Fiscal, Glasgow v Jordan Robertson*, where the accused was convicted of a Section 1 offence for behaviour which happened during a Berwick Rangers v Rangers match held in Berwick<sup>88</sup> in 2013, a conviction which would not have been possible by using BOP or Section 38 of the *Criminal Justice and Licensing (Scotland) Act 2010 (CJL(S)A)* as these provisions do not extend to behaviour outside of Scotland (COPFS:2016).

It can be seen that Section 1 conferred on officers the requirement to make judgements on what might constitute offensiveness to a reasonable person. These provisions were the source of much of the criticism levelled at the Act as they placed officers in the position of making subjective judgements regarding the nature of supporter conduct (Hassan:2016, FAC:2017:4). However, it should be noted that it is actually not uncommon for statutes to require officers to make instant decisions which are somewhat subjective in nature. For example, Licensing law requires officers to decide on what is too “drunk” to be allowed to enter licensed premises<sup>89</sup> or for traffic incidents on what constitutes driving below the standards of a “competent and careful driver”<sup>90</sup>. What was perhaps different in the case of the OBFA was that such judgements were required to be made on the particularly individual nature of the concept of *offence* and what might cause it (Hassan:2016). Unlike the concepts of threatening behaviour and stirring up racial hatred, the notion of offensiveness had not been in established use in UK statutes previously and was a doubtful basis for imposing criminal liability which could lead to inequity, inconsistency and over-criminalisation (Ticknell:2017).

A further offence was created by Section 6 of the Act relating to Threatening Communications and specifically made it an offence to communicate material to another person which contained or implied a threat, or an incitement, to carry out a seriously violent act against a person and the material was likely to cause a reasonable person to suffer fear and alarm, or if the

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<sup>88</sup> Berwick Rangers have played in the Scottish leagues since inception in 1881 despite the town of Berwick being in England (and so being within a different legal jurisdiction).

<sup>89</sup> *Section 111 Licensing (Scotland) Act 2005*.

<sup>90</sup> *Section 3 Road Traffic Act 1988*.

communicated material was threatening and the communicator intended to stir up racial hatred by communicating it. As previously stated, it has not been my intention to analyse this part of the Act and mention of this section is for thoroughness only. Nonetheless it can be seen that this section had similarities to Section 1 in that, given the general increase in the use of the internet and social media and in particular the prevalence of violent images and threats relating to Neil Lennon witnessed in the run up to the introduction of the Act, it was clearly designed to tackle specific recognised types of behaviour which were seen as problematic. Another similarity between Sections 1 and 6 was the argument that such recognised behaviours might already have been covered by existing legislation, in this case section 127 of the *Communications Act 2003*.

### 3.3 Breach of the Peace (BOP), Section 38 and assault

The violent disorder and sectarian behaviour targeted by the OBFA was argued by many to come under the umbrella of existing legal provisions - therefore making the introduction of the Act unnecessary. In terms of violence this mostly refers to the Common Law offence of assault and in terms of disorder or offensive singing this argument mostly refers to BOP and Section 38 CJL(S)A offences.

#### *3.3.1 BOP*

BOP is a wide-ranging public order offence, which has seen significant change in recent years. Generally speaking a Breach of the Peace is constituted by “one or more persons conducting themselves in a riotous or disorderly manner to the fear, alarm or annoyance of the lieges”<sup>91</sup>. Whilst an advantage of this charge was its versatility, encompassing as it does conduct as disparate as two individuals engaged in a public “stand up fight” and the actions of a “peeping Tom”<sup>92</sup>, it was recognised in *Smith v Donnelly*<sup>93</sup> in 2001 that the offence was becoming too wide and that the essential element should be something beyond mere irritation which

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<sup>91</sup> Police Information Net for Scotland.

<sup>92</sup> *Raffaelli v Heatly* 1949 SLT 284.

<sup>93</sup> *Smith v Donnelly* 2001 S.C.C.R. 800.

constituted genuinely alarming and disturbing conduct. What is required is “conduct which does present as genuinely alarming and disturbing, in its context, to any reasonable person” *and* gives rise to “a reasonable apprehension of disturbance to the public peace”<sup>94</sup>. The case of *Harris v HMA*<sup>95</sup> in 2009 concluded that it was no longer competent for such an offence to take place in relative privacy and thus not be a true breach of the public peace.

### 3.3.2 Section 38

Section 38 of the *Criminal Justice and Licensing (Scotland) Act 2010* was hastily introduced to plug the gap caused by the *Harris* case as it was quickly realised that the new emphasis on the requirement for a public aspect of the BOP offence could leave a number of vulnerable members of society without the protection of the law in certain circumstances, most notably the victims of domestic abuse who are often victimised in private dwellings, where the conduct amounted to threatening and alarming behaviour but did not actually constitute another offence such as assault. This provision caters for behaviour in a “threatening or abusive manner” likely to cause “fear or alarm” in a “reasonable person” rather than in the general public. Actual fear and alarm in a person present at the material time does not have to be proved, it is sufficient to show that a theoretical “reasonable” person might suffer fear or alarm<sup>96</sup>. The provisions are as follows:

s.38 (1) A person (“A”) commits an offence if—

- (a) A behaves in a threatening or abusive manner,
- (b) the behaviour would be likely to cause a reasonable person to suffer fear or alarm, and
- (c) A intends by the behaviour to cause fear or alarm or is reckless as to whether the behaviour would cause fear or alarm.

Thus, this provision is similar to the BOP offence however it should not be seen as identical as they are similar but distinct crimes. Section 38 introduces a test of a reasonable person suffering

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<sup>94</sup> *Ibid* at 807C-D.

<sup>95</sup> *Harris v HMA* 2009 S.L.T. 1078.

<sup>96</sup> *Paterson, Bow and Love* [2014] HCJAC 87

fear and alarm rather than the need for a likelihood of disturbance to the community and there is no requirement for the public element.

### 3.3.3. Assault

In terms of violence the Common Law crime of assault is most relevant. Assault is defined simply as an attack on the person of another using either direct physical force, indirect means or physically threatening gestures (Cubie:2016:137). Thus, confrontation between supporters which actually led to physical contact might result in a charge of common (or simple) assault or serious assault, depending on the nature of the attack and the severity of injuries sustained.

It is not difficult to see why some argue that both BOP and Section 38 provided adequate existing coverage. However the Scottish Government policy document which accompanied the OBFA Bill expressed concern that a large proportion of offensive behaviour that happens at football and leads to disorder was not caught by the existing legislation, and in particular sometimes failed to meet strict existing legal criteria such as “fear and alarm” required by BOP and Section 38 (Scottish Government:2011a:4) and this was echoed by the police who felt the existing legislation did “not always fit with the variety of different incidents now witnessed throughout the football environment” and that BOP could not be relied upon to provide a long-term solution in such circumstances (ACPOS:2011:1). This position was roundly rejected by the Law Society of Scotland at the time who further felt that the new offence did not improve upon BOP or Section 38 as the expressly stated policy objective of the Bill was to deal with “offensive or threatening behaviour” and BOP only requires serious disturbance to the community (*Harris v HMA*) and Section 38 already covered “threatening and abusive behaviour” likely to cause fear and alarm in a reasonable person. (Law Society of Scotland:2011:1-2).

The Government’s argument that a “large proportion” of behaviour was not covered by existing legislation is not compelling however the Bill did attempt to describe in more detail the behaviours that it sought to prohibit and there was value in doing so as more clearly and narrowly defining specific behaviours within existing general categories of criminality, whilst creating some degree of overlap, can assist in tracking patterns of such behaviour and more “fairly” label offending behaviour (for both offender and victim (Goodall:2011). Subsequently the authors of the Stirling review of the OBFA stated that Section 1 had the effect of more

clearly labelling the conduct being targeted rather than simply re-stating Section 38 or putting BOP on a statutory footing, but that it was hard to identify if Section 1 had greatly changed the law given that both BOP and Section 38 were quite broad in scope anyway (Hamilton-Smith et al:2015:15).

### 3.4 Other football-specific legislation

Just as the impetus for the OBFA can be argued to have been a reaction to a specific event in the form of the “Shame Game” (although a series of other contemporary events also clearly influenced the process), legislation controlling the consumption of alcohol and the presence of bottles and cans in football grounds was introduced shortly after the Scottish Cup Final of 1980 when serious disorder broke out amongst Rangers and Celtic supporters at Hampden Park and where the drunkenness of fans was considered to be a significant contributory factor and bottles and cans had been extensively used as missiles and weapons. Although originally introduced in 1980 by the *Criminal Justice (Scotland) Act 1980*, the provisions are now contained in sections 18 - 23 of the *Criminal Law (Consolidation) (Scotland) Act 1995* and create a number of offences in relation to “designated sporting events” and the “relevant area of a designated sports ground”.

Although the legislation does not mention football in describing either sporting events or grounds, which are specified by the Secretary of State via Statutory Instrument, in practice mostly football grounds (currently 70 in number) and exclusively football events, have subsequently been so specified<sup>97</sup>. Therefore, although Murrayfield Stadium, the home of the Scottish rugby team, is included in the list as a designated ground, only football matches at this venue will come under the Act as designated sporting events and therefore rugby matches are unaffected.

Section 19 of the Statute makes it an offence to be in possession of or permit to be carried (which therefore also targets the hirer, driver and operator of the vehicle as well as the drinker) alcohol on a Public Service Vehicle being operated principally for conveying passengers to or from a designated sporting event. Furthermore, it is an offence to be drunk on such a vehicle in the same circumstances. This has the practical effect of targeting alcohol consumption by

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<sup>97</sup> *The Sports Grounds and Sporting Events (Designation) (Scotland) Order 2014*.

fans travelling to matches on supporters' buses with the primary intention of limiting alcohol intake and therefore drunkenness prior to arriving at the game.

Once supporters are actually at the venue then section 20 of the Act prohibits being in or attempting to enter the "relevant area" of a designated sporting ground (defined as any area which supporters have to pay to gain entry to or from where the event can be directly viewed) during the "relevant period" of a designated sporting event (defined as two hours prior to commencement of the event and one hour after completion of the event) either in possession of alcohol, a "controlled container", a "controlled article" or whilst drunk. Controlled containers are generally bottles (including plastic ones), cans and suchlike whereas controlled articles refer to flares, smoke bombs and fireworks. The controlled containers do not have to contain or relate to alcoholic products as the concern is for items that can be used as missiles and could potentially cause injury. Thus, bottles of water, cans of soft drink and thermos flasks of tea or coffee are all covered by this legislation.

The legislation confers a power of search, entry to vehicles and sports grounds and a power of arrest on constables.

#### *3.4.1 Football Banning Orders (FBOs)*

FBOs are court-imposed orders introduced by the *Police, Public Order and Criminal Justice (Scotland) Act 2006* which prohibit designated individuals from attending regulated football matches in the United Kingdom and may also require him or her to attend police stations in connection with regulated matches. These will be discussed in more detail in a later chapter<sup>98</sup> however clearly by their very nature they are football-specific.

Having set the contextual scene in terms of the political, historical and contemporary significance of sectarianism in more detail, as well as explaining the actual provisions of the OBFA and some related legislation, the next section will now go on to review some of the existing literature relevant to developing this thesis in the next three chapters. I will do so initially by continuing with the theme of sectarianism, but by examining it from a more conceptual and existential perspective.

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<sup>98</sup> Chapter Six, section 6.3.



## CHAPTER 4 - Sectarianism Literature

The previous chapter set out the provisions of the OBFA and the chapter prior to that looked at the immediate social and political context of the introduction of the Act and also offered a more descriptive résumé of the historical background to the narratives that under-pin contemporary attitudes and social relationships. It is clear that the OBFA was born out of a perceived need to address sectarianism at football matches in Scotland; although a cumulative number of incidents set the scene for the introduction of this piece of legislation, the process was triggered by a Celtic versus Rangers football match, a local rivalry which for many was steeped in this parochial “tradition” of ethno-religious division (Moorhouse:2006, NFO:2003). Thus the concept of sectarianism, and more particularly the particular intra-Christian version of that phenomenon that is played out in Scotland, is pivotal to the understanding of the circumstances surrounding the advent of the Act; a fuller and more textured appreciation of the nature of the sectarian experience in Scotland is important to be able to situate the legislation in contemporary discourses and understanding and to achieve this a thorough review of the existing research and academic output in relation to the subject is required.

Despite the pre-legislation rhetoric centring on the idea of sectarianism, the term was conspicuous by its absence from the enacted legislation. This may seem strange at first glance however drafting written legislation requires some degree of precision and it is here that the term becomes immediately troublesome, simply defining the concept has proven difficult for commentators over the years, so it is with the question of definition that I will begin.

### 4.1 Definition

In the Scottish context “sectarianism” is a nebulous concept and the actions, thoughts and attitudes that the term has come to represent or be associated with are not simply, categorically or universally defined. It is a term which is familiar in public discourse, and has been in facile use by politicians and the public alike to describe a multitude of loosely connected behaviours or attitudes, framed within a Protestant/Catholic religious dynamic; yet despite its common usage, this imprecision and variance makes the term problematic. Bradley states that it is a “catch-all and evasive phrase” (Bradley:1995:2) while Rosie argues that it is a word often used as a “casual, often superfluous, prefix” such that it might be better to avoid using the term at

all (Rosie:2004:3). Flint and Kelly state quite clearly that they intentionally avoided the word in the title of the book on football bigotry they co-edited due to its imprecise nature (Flint and Kelly:2013).

That something can be described as “sectarian” in the dictionary sense, that is simply “pertaining to a sect or sects”<sup>99</sup>, should be unproblematic; it seems like simple common sense that the Catholic church might only wish to employ Catholics as priests, for example (Bruce et al:2004:4). However, in Scotland an assumption of pejorative meaning has been attributed to the term, which subsumes all such activity as sectarian in that sense and consequently legitimate expressions of Protestant/Loyalist or Catholic/Republican identities which might be sectarian in a “pure” sense, have often been conflated with expressions of bigotry and prejudice based on ethno-religious grounds and so have been wrongly ascribed an all-encompassing pejorative sectarian label (Flint and Kelly:2013). Some non-Old Firm football supporters have described certain behaviours of Celtic and Rangers supporters as sectarian which were clearly not so in any objective sense, such as singing *God Save the Queen* (Moorhouse:2006:40).

This imprecise use of the term is argued not only to be inaccurate but to also unduly focus on one (negative) aspect of religious identity, to the detriment of other important and relevant aspects of identity in Scotland such as inherent anti-Catholicism (Bradeley:1995:178-180). Subsuming all religious intolerance under the banner of “sectarianism” also diminishes attention paid to wider religious intolerance (Clegg and Rosie: 2005:2).

Thus, the term “sectarian” has become an all-encompassing word for a variety of disputed behaviours and sentiments. Research has found some disagreement or confusion amongst members of the public as to what constitutes “sectarian” behaviour (Moorhouse: 2006, Finn et al:2008, Goodall et al:2015) but the academic world has also been accused of obscuring the matter through academics in different fields using their own familiar methods and particular perspectives when studying the phenomenon leading to “confusion and criticism surrounding methodology, terminology and disciplinary bias” (McAspurren:2004:5).

Simplistic definitions have been utilised for pragmatic reasons to allow for progression, given that little would ever get analysed if researchers continually considered terms to be problematic (Bruce et al:2004:64), however such limited definitions can fail to encapsulate the breadth of meaning ascribed to the term and make confusion more likely as such definitions rely on

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<sup>99</sup> <http://www.oed.com/view/Entry/174583?redirectedFrom=sectarian#eid>

assumptions not only of what the terms mean but also an assumption of a *common understanding* of what those terms mean (Finn et al:2008:3). For example, Rosie notes what he feels is an important difference between prejudice and discrimination, or between thinking something hostile to a group and actually acting upon those hostile feelings to that group's disadvantage, and suggests that these are also often erroneously conflated in debate about sectarianism so that notable prejudice (such as verbal abuse at football matches) is assumed to indicate wider issues (Rosie:2008).

#### *4.1.1 Religion, ethnicity and politics*

The religious connotations inferred from notions of “sects”, specifically in terms of Catholics and Protestants (NFO:2003:5) is fundamental to an understanding of the specific concept of sectarianism in Scotland. However, key as it is, to describe sectarianism in Scotland in purely religious terms would be to ignore the more textured and complex sociological, cultural, political, ethnic and historical factors that have helped to nurture and harbour division. Furthermore, evidence of increasing secularism (Scottish Government:2015b:4) would suggest that if sectarianism is indeed alive and well in contemporary Scotland, then religion cannot be the entire story. It may be that people are ascribed membership of particular cultural groups which have religious overtones without necessarily having a strong religious belief if any (McAspurren:2004:9) or that, whilst religion is relevant, the Scottish brand of sectarianism involves religious affiliation rather than actual practice or beliefs (a “tribal rather than doctrinal” allegiance (Gallagher:1987:1)) and is found where this combines with political and economic power used to discriminate and prejudice and so the phenomenon is as much about these factors as it is religion (Clegg:2008). Indeed, subsuming other factors into a religious identity simultaneously downplays these factors and give undue strength to religious identities as major independent driving forces in sectarian attitudes whereas the reality of social identity is more complex than that (Finn et al:2008:4).

The ethnic or racial aspect of the sectarian question is clearly more relevant for some writers. Specifically, the historical influx of Irish Catholics into Protestant Scotland is said to have generated anti – Irish sentiment<sup>100</sup> and Kelly argued that there were clear parallels to be drawn between modern criminal conduct now considered to be “racist” and those crimes that could

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<sup>100</sup> Described by Malley as “Hibernophobia” (Malley:2005:319).

be deemed as “sectarian” (Kelly:2003). It has been argued that this anti-Irish racism has been a largely ignored aspect of sectarianism in part due to ethnic divisions between white races not being as visible as divisions between white and black “traditional racism” and this lack of academic visibility has led to under-research of the Irish experience in Britain in general (Walls and Williams:2003). Nonetheless contemporary Scottish Catholicism is closely linked to Irish immigration and it is clear that many commentators consider Irish Catholics as a “key focus” of sectarian behaviour (Scottish Government:2013:7).

However, for some sectarian behaviour can go beyond expressions of hatred based on religious or even ethnic identity. Although rooted in religion, sectarianism has often been linked to other cultural, historical and political differences<sup>101</sup>. Specifically, such “political” differences can be found in the expression of Unionist/Loyalist or Nationalist/Republican sentiments with regard to the political status and recent turbulent history of Northern Ireland and are identities frequently (but not exclusively) expressed within a binary paradigm of religious identity common to Northern Ireland, indeed some suggest a “direct connection to Northern Ireland” as intrinsic to the type of religiously-based prejudice that is considered to be “sectarianism” in popular understanding (Zannoni:2012). However, an extremely important point here is the subsuming of “political” ideas within the pejorative concept of sectarianism. In its submission to the Scottish Parliament Justice Committee in relation to the OBFA, ACPOS identified “the expression of political opinion (unionist/nationalist, loyalist/republican)” as a potential form of sectarianism, describing this “**political** prejudice” (original emphasis) as “arguably the greater driver of sectarian behaviour in Scotland” (ACPOS:2011). In the submission ACPOS emphasised the importance of guidance from the Government on a clear definition of sectarianism, and further argued that current legislation (and the Lord Advocate’s Guidelines relevant to that legislation) did not adequately cover situations where supporters sing “**politically** sectarian messages” (original emphasis), moving the concept of sectarianism (for them) beyond exclusively religious or racial conduct<sup>102</sup>.

This is interesting for three reasons: one is that it might have been indicative of pre-existing police attitudes and perceptions around the behaviour of football fans, particularly Old Firm football fans, in terms of there being an expectation on the part of officers of witnessing

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<sup>101</sup> <http://nilbymouth.org/what-is-sectarianism/> (last accessed 09/08/17).

<sup>102</sup> Another contributor to the Justice Committee consultation, Professor SIR Tom Devine, disagreed, considering the term “political sectarianism” to be “a contradiction in terms” (Scottish Parliament:2011b:243).

“sectarianism” displayed at these matches (Whiteford:2009)<sup>103</sup>. Secondly it offered a clear early indicator of how police would utilise such legislation when it was introduced and what behaviours they would target. Thirdly it is relevant in that the freedom to express political views is a protected right and as a consequence, notions of political sectarianism became an area of real contention (and confusion) further down the line.

#### *4.1.2. Recent consideration of definition*

The recent upsurge in Governmental interest in sectarianism following the “Shame Game” led to the creation of the *Advisory Group on Tackling Sectarianism in Scotland* (AGTS) by Roseanna Cunningham MSP, the Minister for Community Safety and Legal Affairs, in 2012 and the subsequent commissioning by this group of more research into the nature and extent of sectarianism in Scotland. The confusion around the definition of sectarianism was identified as a barrier to progress and as something that had to be addressed from an early stage, and the AGTS concluded that the task of defining sectarianism was made all the more complex (but important) by the fact that experiences of sectarianism could vary greatly between different people, groups and communities; and within different contexts (Morrow et al:2015:22). The AGTS therefore introduced a working definition in their interim report which they wanted to be tested and on which they requested feedback:

“Sectarianism in Scotland is a complex of perceptions, attitudes, beliefs, actions and structures, at personal and communal levels, which originate in religious difference and can involve a negative mixing of religion with politics, sporting allegiance and national identifications. It arises from a distorted expression of identity and belonging. It is expressed in destructive patterns of relating, which segregate, exclude, discriminate against or are violent towards a specified religious other, with significant personal and social consequences.” (Morrow et al:2013:20)

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<sup>103</sup> Officers expect to experience sectarianism at these matches. Therefore, with the implicit understanding that sectarianism is a “bad thing”, combined with a dislike of the particular behaviour in question, every “bad” behaviour by these fans can be interpreted through the prism of sectarianism, and negative interactions between the two sets of fans are frequently automatically labelled as sectarian due to the presence of superficial markers around the identities of the supporters, despite a lack of substantive signifiers actually present in the particular behaviour in question.

The feedback received was that this was a useful and accurate working definition however some respondents felt that it was too “wordy” and complex (Morrow et al:2015:23). Whilst acknowledging that simpler versions might be more suited to particular audiences, the AGTS criticised some of the alternatives used as not being comprehensive enough and potentially missing out important aspects and so recommend their original definition for “serious” work whilst further offering a shortened, more user-friendly version as well:

“Sectarianism in Scotland is a mixture of perceptions, attitudes, actions, and structures that involves overlooking, excluding, discriminating against or being abusive or violent towards others on the basis of their perceived Christian denominational background. This perception is always mixed with other factors such as, but not confined to, politics, football allegiance and national identity”. (Morrow et al:2015:24)

These definitions illustrate the reality of the complex nature of the phenomenon they are trying to describe and even the fuller AGTS working definition is not without areas of possible contention<sup>104</sup>; Devine, perhaps displaying some bias towards his own academic field, has suggested that the AGTS offer a definition “to suit the events of recent years”, whereas historians prefer to be able to consider things over a fixed period of time to be able to measure it (Devine:2014)<sup>105</sup>.

There appears to be a focus on religion in the AGTS definition (but not in isolation) yet the definition seems ambiguous in how real the extent of this link need be (McVeigh: 2014:17). Furthermore, the requirement for a religious element (or at least a religious element to the origins of the difference) may cast some doubt over the notion of the political sectarianism alluded to by ACPOS that can manifest in the singing of songs for or against proscribed terrorist organisations. Whilst the opposing sides of the Loyalist/Republican conflict did tend to strongly identify with opposing religious identities, many would content that religion was irrelevant to their involvement in the conflict - particularly on the Republican side<sup>106</sup>. Similarly,

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<sup>104</sup> For example, what might constitute the “significant” consequences that appear to be required for something to be sectarian?

<sup>105</sup> Although the *AGTS* document contends that sectarianism is not a static phenomenon due to factors like changing patterns of religious observations and immigration and so previous experiences such as those in the 20s or 50s are only partially relevant (Morrow et al: 2015:14).

<sup>106</sup> Whether the PIRA campaign during the Troubles could be considered sectarian or not is academically disputed (Patterson:2010).

it is perfectly reasonable that someone might hold antipathy for the IRA (for example) due to nothing other than simple dislike of terrorist organisations.

In 2018, following a recommendation from the Justice Committee of the Scottish Parliament, a Scottish Government Working Group was established to examine the merit of establishing a legal definition of sectarianism that could be used. The Group recommended that a sectarian aggravator should be introduced for existing criminal offences which would be met by demonstrating hostility towards someone based on their membership of a Catholic or Protestant social or cultural group, or their British or Irish ethnicity. This recognises the intersectional nature of sectarianism whilst affording it a status and recognition beyond only race or religion (Morrow et al: 2018).

#### *4.1.3. Conclusion*

Despite recent efforts, O’Loan’s conclusion in 2005 that “it is unlikely that there will ever be one authoritative definition of sectarianism and sectarian language” remains highly apposite (O’Loan et al:2005:9).

The term “sectarian” has a distinct and unique connotation in Scotland and “transcends its dictionary meaning” (Nil By Mouth:2011). It can be understood as encompassing a range of attitudes and behaviours linked to religious, ethnic and political identity however these multiple strands have often served to obfuscate the issue. Attempts to properly define the term have only been made relatively recently and this has allowed for common usage to evolve unchecked and without critical analysis resulting in multiple understandings of the term and assumed consensus to develop to a point from which it is extremely difficult to return; it has been suggested that better understanding would come from de-constructing some of the aspects that currently come under the term into separate areas for further and more precise analysis (Finn et al:2008)<sup>107</sup>.

The detailed and lengthy nature of recent attempts to define the term by the AGTS illustrate the complex nature of the issue and the multiple strands that might be involved and this difficulty in defining sectarianism is key to understanding some of the problems that arose around the OBFA. Issues of definition are clearly important when trying to research and

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<sup>107</sup> such as anti-Catholic, anti-Protestant and anti-Irish discrimination,

understand a phenomenon<sup>108</sup>, however inability to properly define behaviour becomes crucial when one tries to criminalize it. Although there can be some advantages to the flexibility offered by loose definitions of phenomena, a drive to tackle sectarianism was the impetus for the OBFA yet there is no overall consensus as to what this actually is and so the Act was introduced into an environment where contested definitions and understandings could cause confusion in real life encounters, with police officers finding themselves powerful central figures in these scenarios.

There is disagreement as to what actually constitutes sectarianism and how it should be defined; however, there is further contention in the literature regarding the extent and reach of sectarianism and it is to this which I now turn.

#### 4.2 The sectarian “myth”

Notwithstanding the competing discourses as to what “sectarianism” actually entails, academic interest in sectarianism *per se* in Scotland is actually a relatively recent phenomenon. This apparent lack of interest may be due to Scots previously being uncomfortable with self-reflection on the issue (Braiden:2013, Kelly:2003) although it has also been suggested that a greater interest in sectarianism in Scotland is linked to a greater awareness of social identities since devolution in 1999 (Walker:2012). Historical accounts of Scotland cannot avoid mention of mass Irish immigration into the country from the mid-nineteenth century onwards (and a number of historians have also specifically concentrated on the Irish experience) and therefore some of the key issues that are allegedly at the heart of the matter are often referred to or described in some detail by such writers, but generally more from a descriptive, historical rather than analytical, perspective.

One of the earliest serious studies to look at sectarian issues in Scotland was Steve Bruce’s *No Pope of Rome* in 1986 which charted the course of anti-Catholicism in Scotland in the twentieth century (Bruce:1986) which was followed a year later by *Glasgow – the Uneasy Peace* by Tom Gallagher which examined the history of the Irish Catholic presence in Glasgow and the rise then (relative) decline of religious tension between Catholics and Protestants in the city (Gallagher:1987). However, a swell in popular interest following James MacMillan’s Festival

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<sup>108</sup> and it should be appreciated that the AGTS’s efforts are intended to produce a generic definition for use across multiple fields including academia, Third Sector and education.



speech saw the publishing of *Scotland's Shame?* a collection of essays (including contributions from MacMillan), edited by eminent historian Professor Sir Tom Devine, which focussed specifically on the nature and extent of anti – Catholic bigotry and prejudice in modern Scotland, aspiring to give a more “measured assessment” of what had become a social “*cause celebre*” (Devine:2000:8). This book signalled the start of an increase in academic and popular interest in sectarianism in the first decade of the new millennium although the quality of debate was varied, it being described in 2012 as “a cocktail of skilful forensic academic analysis, heavily anecdotal testimony and scatter-gun polemics” (Walker:2012:375-376).

The general assertion of MacMillan and many of the other contributors at the time was that there was a current and real problem with sectarianism in Scotland, which remained a “divisive, bigoted society” (O’Hagan:2000:25). In response *Sectarianism in Scotland*, written by Steve Bruce and some colleagues, was published countering this notion of endemic anti-Catholicism and describing the so-called “myth” of sectarianism (Bruce et al:2004).

#### 4.2.1. The “myth” argument

Bruce argued that the debate on sectarianism has been clouded and obscured by sensationalism, over-reliance on anecdotal accounts, the use of misleading and inaccurate statistics and the uncritical acceptance of data offered as evidence of “sectarianism”. On this basis, he argued that the idea of sectarianism in present day Scotland has been greatly exaggerated far beyond the reality and that as a consequence a “myth” of sectarianism had developed.

He defined sectarianism in terms of improper treatment based on religious grounds and argued that a distinction should be made between inherent systemic or structural disadvantage, “effective” discrimination on religious grounds and what he describes as “bigotry”. He did not ignore the ethnic aspect completely, acknowledging that Irish immigration into Scotland provided both the “object and stimulus” for anti-Catholicism (Bruce et al:2004:10), however this narrow notion of actual disadvantage on religious grounds allowed him to argue that increased modern-day secularisation (whereby religion is less relevant in peoples’ lives), combined with empirical data indicating social, political and economic parity between Catholics and Protestants, spoke to a lack of discrimination and therefore a lack of “sectarianism”.

Furthermore, he also suggested that not only is present day sectarianism exaggerated but that the historical basis for suggesting that Catholics and the Irish were discriminated against has also been over-played. Whilst he accepted a certain degree of anti-Catholic prejudice existed, it was argued that the generally presented story of the Irish in Scotland “that takes discrimination as its master theme” was not actually supported by the evidence (Bruce et al:2004:32).

Bruce argued that the immigrant Irish were generally unskilled and poorly educated and therefore much social and employment disadvantage would be a natural consequence of this. He addressed popular examples of manifestations of historical anti-Catholic sentiment and argued that there is evidence to suggest that many are not as clear cut as portrayed and that historical writers such as the often-cited James Handley<sup>109</sup> presented skewed and unrepresentative accounts of the Irish Catholic experience in Scotland which were accepted by future readers as compelling evidence of widespread and prevalent anti-Catholic feeling in this time. For example, he argued that in the inter-war years Catholics actually enjoyed increasing political influence through the development of labour and social movements and that the local successes of militant political Protestantism in the thirties were limited, brief and “marginal to Scottish political life” (Bruce et al:2004:46).

After an historical review, Bruce addressed the main claim of MacMillan that modern day Scotland is endemically sectarian. He closely examined a multitude of facets of social, political and economic life where it has been argued that discrimination against Catholics exists. He examined Census data and found no present disadvantage in terms of socio-economic status (other than amongst some older cohorts in terms of educational qualifications which he suggested might be linked to the introduction of comprehensive education in 1965) and little evidence that being Catholic has hindered having a successful political career in Scotland or limited voting rights, which have always been predominantly class-based. He dismissed the *Act of Succession 1701* which effectively bans Roman Catholics from ever succeeding to the Monarchy as not relevant to most Scots whether they are Catholic or not, although this is a rather technical point which ignores the symbolism of this legislation, and argued that Catholics are protected by the state and the police in exactly the same way as any other group and that Catholics and Protestants freely live amongst each other and regularly inter-marry.

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<sup>109</sup> James Edmund Handley (1900-1971) who published *The Irish in Scotland* (1945) and *The Irish in Modern Scotland* (1947).

Bruce argued that there is a perception of discrimination which far exceeds the reality of actual experience. This may be due to over-representation of the Catholic population in the public's estimation but also to unsubstantiated stories of alleged discrimination being passed through generations and reinforcing a false position and an expectation. He was therefore critical of ethnographic studies such as that by Walls and Williams (Walls and Williams:2003) which he claimed relied on anecdotal "evidence" which has not been rigorously and critically assessed and additionally suggested that allegations of employment discrimination in certain professions may actually be more to do with class elitism and nepotism than religious discrimination.

Furthermore, he argued that Catholic Irish Scots were not a homogenous entity (as there is no biological difference and no shared common cultural features) and that his data showed that there was no "distinctive community" of Catholics anymore which greatly weakens the argument that Scotland is endemically sectarian.

Ultimately Bruce claimed that his findings indicated little or no evidence of effective discrimination against Catholics, no difference in socio-economic status between young Catholics and non-Catholics, no coherent Catholic sub-culture and an unpopularity of anti-Catholicism (Bruce et al:2004:116).

Bruce suggested that what sectarianism means to people nowadays is football, violence and Ulster. He agreed that the Old Firm involves social identities that reference more than just football but suggested that the common perception that the Old Firm rivalry somehow is symptomatic of deep and enduring sectarianism is unfounded.

He suggests that the football context implies that fans singing sectarian chants actually don't mean it. He argues that in football's highly ritualised structures, where "winding up" the opposition for the sake of it is an important aspect of that ritual, the coarse and offensive language often used should be given less import as such language is commonplace amongst the working class which typify football supporters, and that matches occur in a particular time and space to which much of the aggression is confined (any aggression outside of this time and space being no different to violence which might be witnessed between fans of other rival teams in other countries). The vast majority of those who scream and shout at a game he claimed, will go back to their inter-denominational partners, friends or work colleagues the following day with no issues and do nothing to turn those words into a reality (Bruce et al:2004:150).

In terms of sectarian violence, he claimed that a moral panic has been created over the matter largely due to inaccurate figures, an original study by academics Elinor Kelly and Gregory Graham which gave figures for “sectarian” murders being mistakenly inflated and uncritically repeated in the public realm, giving a vastly exaggerated picture of the issue. Furthermore, he argued that Scotland has an issue with violence and alcohol and this violence could still occur in the absence of religion and the Old Firm. Football is an extremely popular pastime and so it is highly likely that either the perpetrator or victim of a violent act in the West of Scotland might support Rangers or Celtic however this support does not necessarily prove a causal link or provide the primary reason for dispute. He contended that in many case any sectarian overtones might simply provide a “convenient language of abuse” when one is needed (Bruce et al:2004:143).

#### *4.2.2. Continuation of myth debate*

The research by Walls and Williams criticised by Bruce related to workplace discrimination amongst Irish-descended people in Scotland (Walls and Williams:2003). This ethnographic research asked about career histories and where religious or ethnic identity was perceived as relevant to experiences of discrimination and desired to go beyond statistical data and consider actual “discrimination experience”. The results found discrimination more connected to identifiers such as school, Irish-sounding name or allegiance to Celtic as markers of people of Irish Catholic descent rather than current religious practice and that only 18% of their sample described personal experiences rather than stories concerning friends or family. The authors identify a general perception that current employment practices were less discriminatory than in the past and also suggest that an historical coloniser/colonised dynamic between Scottish Protestant landowners and Irish natives might inform present notions of identity in Glasgow.

The authors argue that their findings gain validity through the inclusion of majority experiences (that is the fact that Protestants provided evidence of anti-Catholic discrimination that they had witnessed), the fact they spoke to both Irish and Scottish as well as Catholic and Protestant interviewees and that they gathered evidence of what they termed “mistaken identities” (where offers of employment had been withdrawn on finding that the potential employee was in fact a Catholic) effectively representing “before and after” experiments which illustrated intent to discriminate.

They conclude that anti-Catholic discrimination in employment in Glasgow has not gone away and “academic assertions that Catholics are no longer discriminated against are both premature and unfounded” (Walls and Williams:2003:658).

Bruce and his colleagues were critical of the methods and findings of Williams and Walls (Bruce et al:2004, Bruce & Glendinning:2005) however Walls and Williams took exception to this criticism complaining that Bruce was dismissive of others who added to the debate from a “lay” position (such as MacMillan) and that he claimed superiority for himself through his expertise as a social scientist and so when fellow academics gave contrary opinions to his he simply attacked their methodology. They argued that the public at large seemed to accept the reality of sectarianism (Walls and Williams:2005: 761)<sup>110</sup> and furthermore they criticised the fact that he ignored other studies that indicate that black and Asian people will avoid going for work where discrimination is likely. They claimed the same phenomenon is “clearly exposed among Catholics in the Glasgow survey used by our critics.” (Williams and Walls:2005:765). They ultimately said that more detailed work had to be done on the 2001 Census data but that it could not be concluded from Bruce’s data that discrimination against Catholics was a myth. They re-iterated their belief that discrimination had affected Catholic working careers from 1952-2000 and effectively large numbers of Catholics over the age of fifty (at that time) had lived their lives in economic disadvantage.

Devine agreed that much of the data presented by Bruce concerning the current social status of Catholics in Scotland is “incontestable” (Devine:2005) however he disagreed that this allowed him to suggest that sectarianism is a thing of the past, comparing Bruce to a “scholarly Canute” standing firm against all other academic and lay opinion concerning the existence of sectarianism and suggesting that Bruce’s concern as a social scientist is more with structures than attitudes and relationships but that “it is in this more complex and intangible area that bigotry flourishes.” (Devine:2005).

Elinor Kelly was heavily critical of *Sectarianism in Scotland* which she described as “polemic” and as going beyond evidence into “controversial opinions” (Kelly:2005). She agreed his argument regarding social parity could be sustained on the evidence presented but not his assertions about religion no longer being important in peoples’ lives or that there was little

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<sup>110</sup> Of course, this point might be accepted by Bruce et al in terms of public *perceptions* not actually reflecting reality.

evidence of a separate Catholic identity (which she claimed would need further qualitative work to establish).

Some subsequent research has been particularly relevant to the myth debate. Patterson and Iannelli's examination of data from the Scottish Household Survey of 2001 largely endorses Bruce's views regarding the social status of Catholics (Patterson and Iannelli:2006). Research published in 2011 utilising data from the 2001 Census concluded that for younger cohorts "there is no longer evidence to suggest that Catholics are at a socio-economic disadvantage compared to Protestants (Raab and Holligan:2011:17). Raab and Holligan asserted that their study added to a body of work indicating that recent social change is such that conflict between Catholics and Protestants should be reducing and robustly argued that recent government policies relating to the reduction in sectarianism seemed to be in response to press reports of violence connected to football matches and that the government would be better served not by promoting policies relating to the reduction of sectarianism, but policies to "tackle the promotion of the myth of sectarianism and the reality of football-related violence" (Raab and Holligan:2011:18)<sup>111</sup>.

Research into Scottish prison populations in 2011 (Wiltshire:2011) confirmed that Catholics were disproportionately over-represented and that this was also evident in long-term sentencing patterns however concluded that, although sectarian attitudes may well exist and drive some interactions within the criminal justice system, the disparity was far more likely to be linked to the "compelling relationship between disadvantage and imprisonment" in light of the fact that Catholics were far more likely to live in areas of deprivation (Wiltshire:2011:26). Nonetheless aspects of these conclusions were quickly put forward (by the Catholic Church) as evidence of continuing anti-Catholic prejudice in Scotland (Mega:2011).

Waiton agrees that sectarianism to any great extent is indeed greatly overstated by a "Sectarian Industry" and he commends Bruce and his colleagues for the service they did to Scottish society

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<sup>111</sup> This research was subsequently criticised by the anti-sectarian charity *Nil By Mouth* as ignoring the facts relating to sectarian offending (in terms of statistics for religiously aggravated offending) and by MSP Tom Harris who overlooked Raab's status as a Professor of Statistics and concentrated on her status as a resident of the East Coast of Scotland as in some way undermining the validity of her views on sectarianism (Duffy: 2011).

in writing *Sectarianism in Scotland* (Waiton:2012:75). He argues that sectarianism is still recognised as an issue today at a certain level but that it is hyped by politicians and a sensationalist press and that, with the demise of the main “sectarian” influence on Old Firm rivalry of the Irish Troubles and the political divisions that it served to maintain, he argues that sectarianism is becoming an issue with politicians just when it is actually becoming less relevant in society and that “*today sectarianism is largely a problem of name calling*. There is no social, economic, religious or political depth or dynamic to it”. (Waiton:2012:88) (original emphasis).

In summary Bruce and his colleagues made an important contribution to the fledgling sectarianism debate in Scotland by taking what they saw as a more scholarly, structured approach to the issue and by challenging much of what had been presented as self-evident fact by commentators such as MacMillan. Yet disagreement between Bruce other academics arose, crystallising around a fundamental difference of scholarly approach and methodology, which served to both invigorate and polarise the debate. Nonetheless Bruce has continued to assert that rampant sectarianism is a myth based on empirical evidence of lack of socio- economic discrimination (Bruce:2014), inaccurate violence figures and the “unthinking way in which sectarianism is assumed” (Bruce:2011) and Rosie has continued to argue that there is no real empirical evidence to suggest that religious discrimination and religious violence are anything other than relatively rare in Scotland (Rosie:2008), that the perception of sectarian conflict continues to outweigh actual experience (Rosie:2013) and that sectarianism has actually played a limited role in Scotland’s social structures in the last 30 – 40 years (Rosie:2015). These arguments are compelling as there is a lack of evidence of widespread and manifest inequality, discrimination and social division in the data and a social phenomenon of such alleged import and so “endemic” in nature is surely one with clearer and more visible signs of detrimental consequences for social structures and of being a significant social driver. This is not to say that some sectarian attitudes may not be hidden in Devine’s intangible and complex areas, or that ethnographic evidence has no part to play in painting the societal picture of the extent and nature of sectarianism, however Bruce is quite right that the visible manifestation of perceived sectarian attitudes in the theatrical and pantomime environment of football fandom is no sound basis from which to infer wider social cleavages.

### 4.3 Power imbalance and culpability

Another discernible strand of the framing of the sectarian debate is the view of some that “blame” for the existence of this phenomenon is unfairly apportioned equally between the two sides. An orthodoxy of both sides being “as bad as each other” has been promulgated by the media (Kelly:2011) and by politicians<sup>112</sup>; however, such equivalence of responsibility overlooks the power hierarchies involved in the context of the debate, framing minorities and majorities as equally culpable for prejudice (Finn:1990:5-6) and ignoring the political and historical context of the power dynamic and influences such as the colonisation of Ireland by Britain (Flint and Kelly:2013:5). Indeed, according to Burdsey and Chappell, a key aspect of gaining an understanding of how both Old Firm teams came to represent an expression of certain social identities relies not only on looking at their historical origins but also at the “social relations and power balances” of the communities which they have come to represent (Burdsey and Chappell:2001:94). Some suggest that a similar aspect of inherent power can also be seen in the way in which the media allegedly frame sectarian discourses in a non-neutral manner (Kelly:2011) and it has been argued that a demonising media portrayal of Neil Lennon, the Celtic Manager, is an example of a technique commonly used to deny the existence of ethno-religious bigotry against the Irish Catholic diaspora in Scotland, namely that of blaming the victim (Reid:2013).

A recognition of the equalling of this power balance between the formerly weak outsider group (Irish Catholics) and the established insider group (Scottish Protestants) has recently been suggested as a reason for the heightened current interest in examining sectarianism in modern Scotland, long after many commentators predicted that it was naturally withering away (Law:2016).

In football terms Moorhouse suggests that it is “intellectually easier and politically more convenient” to consider both Rangers and Celtic as equally culpable but recognises the possibility, given the ambiguities surrounding “sectarianism” that separate solutions should be sought which tailor appropriate solutions to particular requirements (Moorhouse: 2006:18-19). Many Rangers fans consider that recently they have been unfairly singled out for criticism and blame in terms of sectarianism (Truman:2010) however it is undeniable that for many years

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<sup>112</sup> The Convener of the Justice Committee, Christine Graham MSP appeared explicit in regards to the idea of seeking balance between prosecution of Rangers and Celtic supporters (Flint and Kelly:2013: 15).



Rangers operated a distinct policy of not signing Catholics which had no Celtic equivalent and that their supporters regularly sang many specifically anti-Catholic songs (Murray:1998). Nonetheless it has been suggested that Rangers are an easy target when seeking to apportion blame for religious intolerance in Scottish society and that such apportionment is a “facile and convenient” way for people to account for sectarianism in Scotland (Walker: 2013:15).

On the coat-tails of this “blame game” the concept of “*whataboutery*” has become more prominent in popular football discourses. This term describes where criticism of the behaviour or actions of one side is deflected and delegitimised by the pointing out of conduct by the criticising side perceived as being equivalent to or worse than that being criticised, more simply “*you are complaining about us doing this, but what about you doing that?*”, and its roots can be traced to the Northern Irish Troubles (Kulle:2003:100-101, Richards:2017). Whilst comments of this variety may be valid exposure of some degree of hypocrisy on the part of some commentators, it also serves to stymie progress in facing up to, acknowledging and addressing some of the issues involved.

Thus, the nature and extent of sectarianism has been academically contested, centring on a lack of consensus on precisely defining the concept and the allegation that the extent and reach of sectarianism in Scotland has been greatly exaggerated. During the period since MacMillan’s first intervention there has been some academic research which has addressed the question of sectarianism in other social spaces and it would be instructive to briefly examine some of this by way of illustrating their relevance to the sectarian debate in Scotland.

#### 4.4. Other research relevant to sectarianism

##### *4.4.1. Sectarianism in Glasgow*

In December 2001 Glasgow City Council commissioned research into sectarianism in Glasgow (NFO:2003)<sup>113</sup>, which was subsequently criticised by some for obscuring reality<sup>114</sup> and praised by others as “highly competent” (Bruce et al:2004:151).

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<sup>113</sup> Reflecting the new-found interest in the subject at the time.

<sup>114</sup> “Official sectarian report has “suppressed” the truth; academic” – *Sunday Herald* 2<sup>nd</sup> March 2003.

The main findings were that there appeared to be a large distinction between perception of sectarianism and the experience of it. Whilst large numbers felt that sectarianism was a feature of modern life in Glasgow and few thought that it was diminishing, a very small number of those people could back up these feelings with actual recent personal experience of discrimination or prejudice.

Most participants felt that there were strong links between sectarianism and football, although there was a lack of consensus found as to the strength of those relationships and the researchers stated that their data indicate that the Rangers/Celtic rivalry was most commonly seen as the way in which sectarianism in Glasgow was sustained. There was heavy criticism of sectarian songs with 62% of respondents saying that singing such songs should not be allowed anywhere, however a sizeable minority (30%) felt that it was acceptable as long as the singing occurred only in football grounds. Many of those who took part also acknowledged that there were practical difficulties in the policing of sectarian songs. Context was seen as extremely important in terms of the acceptability of language, however there was no clear consensus on what was offensive in terms of slang terms (illustrating the problem with labelling certain language or behaviour as “offensive”) and the acceptability of terms seemed to be different depending on whether they were used in a manner intended to cause offence.

#### 4.4.2. *Religious aggravation*

Following the introduction of an aggravation of religious prejudice in 2003<sup>115</sup> a study into how it had been used in the first 18 months of existence was commissioned by the Scottish Executive (Doyle:2006). It was found that Police officers made up approximately a third of the victims of the 726 charges libelled in that time and that in the majority of cases (64%) the reported conduct was deemed derogatory towards Catholics (although the *actual* religion of the victim was rarely recorded). The vast majority of cases (88%) were for Breach of the Peace and occurred in Glasgow and Lanarkshire (although 30% of the accused live outwith these areas) and a third related to football (33%). The author advised caution over her findings however due to difficulties with the data and a “range of methodological problems” such as the “dark figure” of unreported crime and deficiencies in submitted police reports (Doyle:2006:ii).

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<sup>115</sup> Section 74 of the *Criminal Justice (Scotland) Act 2003*.

The aggravation statistics have been published annually since 2011<sup>116</sup>, latterly along with statistics relating to OBFA use and other “Hate Crime” (Goulding and Kavanagh:2012, Goulding and Kavanagh:2013, Skivington and McKenna:2014a, Davidson: 2015, Davidson: 2016), although it is worth noting some continuing limitations with what the data can actually tell us about the prevalence of sectarianism, due to some of the issues previously identified by Doyle (Scottish Government:2013:13-14).

#### *4.4.3. Online sectarianism*

The ubiquity of the internet and social media has brought with it new methods of social interaction and surely few would be surprised if language and sentiment expressed in “real life” interactions also found their way online<sup>117</sup>. Research commissioned by Nil By Mouth in 2005 examined the extent of sectarianism online by looking at unofficial online message boards for a number of football clubs (O’Loan et al:2005).

This found sectarian content<sup>118</sup> only on the Rangers and Celtic boards and none at all on boards associated with other clubs and the authors suggested that research indicating that the relative anonymity of the internet can lead to less inhibited, more intentionally provocative and inflammatory posting (Thurlow et al:2004), might support the notion that this anonymity might increase sectarian content (O’Loan et al :2005:7)<sup>119</sup>. Rather presciently they also argue that “more attention must be paid to the online world by policy makers and by those who wish to banish sectarianism from Scottish society” (O’Loan et al:2005:147).

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<sup>116</sup> Data for a five year period prior to that being accidentally destroyed by COPFS [http://www.heraldscotland.com/news/13037842.Crown\\_office\\_admits\\_we\\_ve\\_destroyed\\_sectarian\\_crime\\_statistics/](http://www.heraldscotland.com/news/13037842.Crown_office_admits_we_ve_destroyed_sectarian_crime_statistics/) (last accessed 25/09/17).

<sup>117</sup> Indeed, increasingly aggressive and threatening internet content against individuals such as Neil Lennon ultimately contributed to the desire for the “threatening communications” aspect of the OBFA.

<sup>118</sup> The researchers recognised the difficulties in defining “sectarianism” and used a strict methodology and strong scientific classification for their approach. These difficulties are clear when they discuss their desire to distinguish between what was and was not “sectarian”, what was “football “banter”” and what was “harmful and divisive language”. (O’Loan et al:2005:9).

<sup>119</sup> They also discuss the concept of internet “flaming” where people post intentionally provocative content primarily to “get a reaction” rather than because they actually mean it. This might echo some behaviour at football matches where some supporters may do and say things to intentionally provoke opposition fans without there actually being any strong sentiment behind their actions.

#### 4.4.4. Supporters' views

As part of the Action Plan to Tackle Sectarianism (Scottish Executive:2006) research was commissioned to gather supporters' views on whether there was a major problem with sectarianism in Scottish football, to identify any practical problems caused for supporters by any sectarianism and to canvas for suggestions to alleviate these problems (Moorhouse:2006). The vast majority of supporters (15 out of 17 clubs) thought that sectarianism was a major problem in Scottish football and that it was almost exclusively to do with fans of the Old Firm teams and had no relevance to them or their own teams. Indeed, there was indignation by non-Old Firm fans that they were tarnished with the sectarianism brush<sup>120</sup>. Interestingly Celtic supporters, whilst agreeing that sectarianism was a major problem, claimed to be the victim of sectarian conduct and sentiments from the supporters of most of the other major clubs. The only supporters who felt that sectarianism at football was not a major problem were the supporters of Rangers (ironically the rest of the supporters considered the Rangers fans to be the worst for displays of sectarianism) who argued that the situation was not as bad as it was painted and that much of what is labelled "sectarianism" is actually merely "winding up" the opposition<sup>121</sup>.

Moorhouse identified that ambiguity over what is sectarianism was a major barrier to coming up with effective policies for tackling it, made worse by the fact that a lot of what supporters thought was sectarian was not so in any objective sense<sup>122</sup>.

Fans also thought that there were different styles of policing at different grounds and that they were poorly and inconsistently treated by police, particularly in Glasgow where police were overzealous and unfriendly, and that Old Firm supporters "got away" with behaviour that non-Old Firm fans did not. Moorhouse suggested that where people are allowed to do things in football grounds that they are not allowed to do in public elsewhere, or it is *believed* that they can, those with sectarian attitudes are more likely to express themselves at football grounds

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<sup>120</sup> Mirroring the complaint made by many that sectarianism is not a problem for all of Scotland but only in the West – (Styles:2000, Fraser:2007).

<sup>121</sup> Some fans suggested that Old Firm matches were no longer the "worst" with Celtic/Hearts and Rangers/Aberdeen games now being more volatile.

<sup>122</sup> Such as singing *God Save the Queen* previous cited at 4.1. See Goodall et al:2015:43-45 for further evidence of songs without sectarian lyrics (such as *Rule Britannia* and *Simply the Best*) being perceived and constructed as sectarian due to context.

and so as far as sectarian behaviour is tolerated at these grounds, those attending matches are more rather than less inclined to sectarianism thus meaning that inconsistencies with the way in which fans are policed might be part of the problem of sectarianism rather than the solution (Moorhouse:2006:26).

A relevant and compelling point made by Moorhouse is that it is a matter of concern if a large proportion of supporters believe that the police are not upholding the law efficiently and consistently and although he acknowledges the practical issues often faced by the police which may on occasion require “softer” approaches, this can instil a sense of unfairness in other fans and the lack of consistency and transparency can add to cynicism held by non-Old Firm fans as to the police’s true priorities when it comes to acting on anti-sectarian legislation.

It is worth noting that football supporters in Scotland continue to believe that there is a problem with sectarianism in Scottish football. A recent survey of supporters found that 50% thought that Scottish football had a “very serious issue with sectarianism” (Supporters Direct Scotland:2017).

#### *4.4.5 Workplace sectarianism*

On behalf of the Scottish Trades Union Congress Finn looked at sectarianism in the workplace (Finn et al:2008). In arriving at his methodology Finn criticised Bruce for only looking at quantitative data and regarding the issue primarily in terms of Catholic disadvantage and argued that there is a “culture of prejudice” around sectarianism which meant that to study it properly required a methodology which looked at different levels of its expression and which revealed the experiences of individuals in a subtle and sensitive way and therefore he utilised focus groups and semi-structured interviews<sup>123</sup>.

Finn concluded that although progress had been made, “sectarianism even now does remain a problem for workers in Scotland” (Finn:2008:50). He found almost no direct personal experience of violent expressions of sectarianism and that most personal contact with sectarianism “referred to various variants of its verbal expression”. (Finn:2008:63), particularly

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<sup>123</sup> it was noted that some workers were clearly unwilling to discuss the matter in front of co-workers and that some employers were concerned that mere participation in the study might in some way associate them with the problem of sectarianism.

in fears over promotion or overtime and in various aspects of “workplace culture”. He suggested that sectarianism was embedded as a day-to-day norm in many work environments and that it was just accepted. He recognised “banter” in the workplace saying that this was a problematic area due to different interpretations and while some workers might feel uneasy about certain “banter”, they were equally uneasy about the “clumsy interventions” by officialdom that might result. The key for Finn was to ensure that such occasions were humorous for all and no one group or individual was being singled out (Finn:2008:55).

The study concluded that although there had been a diminution of more serious examples, it could not be assumed that workplace discrimination associated with religion or “associated characteristics” had completely ended.

#### *4.4.6 Territorial sectarianism*

The authors of this research on Territorial Sectarianism used semi-structured interviews and focus groups with 16-20-year olds in socially deprived areas of Glasgow to see what were the major things that impacted on their lives and influenced them, including sectarianism (Deuchar and Holligan:2008).

The authors found that territorial issues linked to gang culture were important in the lives of Glasgow youngsters but such gang activity had little to do with religion or football and was more about preservation of territory. Certainly, some housing schemes might reflect historical migration patterns and therefore be more likely to feature members with a certain religion, however such issues were not the primary concern in any conflict. Occasionally sectarian language might be used as a “‘resource’ for the expression of aggression” (Deuchar and Holligan:2008:4), particularly where alcohol was involved and in the context of the aftermath of an Old Firm game<sup>124</sup>, however generally religion was found to be of little interest to most of the youths consulted (Deuchar and Holligan:2008:9).

Although football was not seen to drive territorial disputes, most youngsters were very influenced by football culture. Family was identified as a major influence in instilling football – related sectarianism along with narrowly defined notions of macho male tribalism and an expectation to conform to certain cultural expectations.

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<sup>124</sup> See also Bruce et al 2004 for concept of sectarian “language of convenience”.

The authors found evidence to suggest that football bigotry was such a part of life in Glasgow that it often went unnoticed. Youngsters considered a lot of it as mere banter and did not consider the real meaning of language they used. They also thought that the intense football rivalry was not the cause of violence and that this rivalry was not a barrier to maintaining friendships across the footballing divide. The authors suggest that this might indicate that such language is so ingrained in young people's social identity that it has become "normalised".

#### *4.4.7 Community Experience of Sectarianism*

AGTS - commissioned research on "Community Experiences" of sectarianism was published in 2015. This used interviews and focus groups to produce qualitative data that hoped to reflect the "personal experience of sectarianism as broadly as possible" and some indication as to communities' perception of the scale and nature of sectarianism (Goodall et al:2015).

A number of relevant themes emerged. These included what was termed the "discursive deficit" describing that the topic was little spoken about and there was some uncertainty about what the term meant; the importance of masculine cultures, football and family influence and that, although more prevalent in West – Central Scotland, sectarianism was experienced in some form in every community that was visited.

Football was identified as both the "cause and effect of sectarianism in Scotland" (Goodall et al:2015:45). The Old Firm football rivalry was most associated with sectarianism amongst participants and in western areas an almost immediate conflation between the Old Firm rivalry and sectarianism was apparent. Some non-Old Firm football supporters expressed an expectation of witnessing sectarian violence or singing if they visited either of the two Glasgow clubs to support their own team and, in relation to sectarian singing, it was also suggested that certain tunes could have a perceived sectarian meaning or association, even if no words were actually sung or if different words were used (Goodall et al:2015:44-45).

The report also identified that participants felt that some behaviour could be regarded as humour and simple "banter", but that context and intent were crucial in deciding when such behaviour or comments were appropriate or not<sup>125</sup>.

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<sup>125</sup> Noting as well that this meant social media interactions were particularly problematic given the difficulties in interpreting tone and meaning in this medium.

#### *4.4.8 Public Attitudes to Sectarianism in Scotland.*

Another piece of research commissioned by the AGTS examined contemporary public attitudes towards sectarianism, using data gathered from the Scottish Social Attitudes Survey (Hinchcliffe et al:2015). The results of the study confirmed the importance of football in the public perception of sectarianism (football being perceived to be the most common factor to contribute to sectarianism), a general perception of sectarian prejudice and discrimination in Scotland and widespread belief that religious prejudice against both Catholics and Protestants exists, despite evidence that Catholics and Protestants appear to be very well integrated in Scotland (Hinchcliffe et al:2015:i). Most respondents found sectarian language to be unacceptable but were divided as to whether they felt Catholic/Protestant relations had improved or stayed the same or not over the last decade (although only 3% thought that they had deteriorated). Two-thirds of those questioned felt sectarianism will always be with us.

#### 4.5 Conclusion

Literature relating to sectarianism in Scotland began appearing some thirty or so years ago but saw a marked increase in the period from 1999 with the intervention of MacMillan. Increased social and political interest invigorated the debate and sectarianism was transformed from a “secret” topic rarely discussed, to one which increasingly commanded respectable academic, cultural and political attention (Huddleston and Holligan:2014:266). Interest in sectarianism was energised by the events of 2011, which led to a greater focus on the topic and greater interest in research.

Academic output has illustrated fundamental disagreements as to the nature and extent of what is called sectarianism. Furthermore, there is a lack of research (and therefore data and knowledge) on the topic, a deficiency recognised by the AGTS which commissioned research to try to address this. This lack of consensus as to the nature and form of sectarianism raises obvious difficulties in then attempting to arrive at appropriate strategies to influence it and it



could be argued that the OBFA was introduced at a time where there was an insufficient level of academic knowledge about the subject it sought to address<sup>126</sup>.

The literature illustrates a differentiation between attitudinal prejudice and bigotry and actual discriminatory conduct, which in turn informs the extent to which some commentators believe the issue of sectarianism in Scotland should be “taken seriously”, or at least the extent to which it can be considered a driving force in social relations and a real and malignant influence in Scottish society. Language is seen to be important as a means of ostensibly expressing sectarian sentiment however how much import should be given to some language, and the extent to which it might indicate or reflect the actual strength of feeling of the user or merely be an episodic and ritualistic “language of convenience” (Bruce et al:2004:143) is disputed. The context in which language is used appears to be an influencing factor for some in this regard and further confusion is added with the acceptance of the concept of humorous “banter”, without there necessarily being concurrent agreement over where the demarcation lines are for where such banter begins and ends.

The literature also clearly points to close links between public perceptions of sectarianism and football in Scotland, particular the Old Firm. Discourses on sectarianism rarely fail to involve mention of Rangers and Celtic and there is a perception amongst many that this is the preeminent environment in which sectarianism can be found in Scotland (NFO:2003, Hinchcliffe et al:2015, Supporters Direct Scotland:2014), some going as far as to say that it is the only real place where it is found to any great extent these days (Bruce et al:2004, Waiton:2012).

I have taken some time to set out some of the academic, public and political discourses around sectarianism in Scotland to emphasise the relevance that they have to this study. It is important to appreciate that “sectarianism”, the thing that was explicitly the target of the Scottish Government when it conceived of the OBFA, is a contested and not commonly understood phenomenon, which does not exist in a simplistic, easy to categorise plane, but rather it involves multiple facets of personal and community identify, but which is also located firmly, if not exclusively, within the Scottish football landscape. It is also important to acknowledge

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<sup>126</sup> That the Scottish Government commissioned the *AGTS* subsequent to legislating speaks to an acknowledgement of a lack of knowledge on sectarianism at the time.

the emotive nature of the sectarian debate and the febrile environment into which the Act was introduced.

Thus, it is not difficult to identify potential ramifications for police officers, for many years highly visible in the public football space, a space where sectarian attitudes are widely perceived to flourish, when situated as decision-makers and “enforcers” when utilising the OBFA. Contested ideas of what constitutes sectarian behaviour, the potential undermining of police legitimacy when seen to take action against what many may perceive to be trivial, football-related expressions of rivalry and potential accusations of unfair or biased behaviour against certain sections of society or fan-groups<sup>127</sup> are only some of the possible issues facing officers. Faced with this lack of clarity, how police officers go about practically defining sectarianism in implementing the legislation in a key part of the process and an important issue to address.

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<sup>127</sup> Particularly those fan-groups comprising of supporters who might see themselves as already inherently victimised by virtue of their membership of certain minority social or ethnic groups.

## CHAPTER 5 – Football as Culture

As well as being situated firmly within notions of sectarianism in Scotland, covered in some detail in the preceding chapter, this research project involves the study of police officers utilising legislation which targeted specific behaviour in or around the Scottish football environment. Both policing and football therefore emerge as two further key areas about which more information is required. Clearly both of these subjects are vast and multi-faceted areas of interest and so I will focus very narrowly on only those aspects which are pertinent. I will examine policing in the next chapter however in this one I intend to briefly address football in an effort to understand why it appears to inhabit such a visible position in popular culture and how this might influence and explain the impact that it can have on public and political consciousness, discourses and actions. I will examine the nature of some of the identities associated with football fandom and latterly look at how these specifically relate to the Scottish experience.

At a fundamental level football is a very simple concept; a sport involving two teams of eleven players compete against each other to score more “goals” than the opposition by kicking a spherical ball into a net. Yet for millions of people all over the world it is so much more than simply a sport. Football is widely acknowledged to be world’s most popular sport (Giulianotti:2012) and it is arguably at its historical peak of global popularity, with practically every nation playing or watching the sport (Cashmore and Clelland:2014:2). The ubiquity of football across diverse spheres such as print, broadcast and new media, marketing, advertising, and fashion illustrates the fact that football now occupies a central position in contemporary popular culture (Harvey:2005:xv). The sport is hugely popular and universal. Although there are formally set out rules to follow in terms of regulation-sized pitches, equipment and numbers of players and the like, in its simplest form all that is really required is a ball and a handful of participants as playing areas and goalposts can all be improvised or imagined and perhaps this simplicity has added to its popularity over the years. Regular events such as the World Cup or the Champions’ League Final attract huge global audiences<sup>128</sup> and the attraction of the sport seems to transcend national language and cultural barriers. Particular teams or individual

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<sup>128</sup> For example, the Champions League Final of 2015 was watched live by 180 million viewers across 200 countries <http://www.uefa.com/uefachampionsleague/news/newsid=2255318.html>

players are carefully marketed brands which are recognised widely, and football can provide a commonality and familiarity that can act as a point of reference that bring complete strangers together in a variety of circumstances, from children on summer holidays abroad to adults in altogether more dangerous circumstances<sup>129</sup>. Football is itself a globally recognised and understood language.

## 5.1 History

The game of association football in its modern form is a relatively new sport however there is a long history of diverse local football games across the British Isles which date back many centuries (Giulianotti:2012). Few details of the specific nature and rules of these events survive however from the thirteenth to the nineteenth century football games often were referenced in official records; violent and chaotic in nature, involving large numbers of young men in local areas. Indeed, these games were regularly so riotous in nature that civic concern was often shown due to the violence and social unrest occasioned when they were played (Walvin:1994). A number of particular versions of football games, with varying local rules and codes, became associated with a number of English public schools such as Harrow and Charterhouse. However, confusion often ensued when players from these schools moved on to university where no universal code was followed. In 1863 the rules of these disparate versions were codified by representatives of eleven clubs and schools in London with the formation of the Football Association in an attempt to find common ground in order to progress the game and grow participation. At this time disagreements over rules such as forward passing and the handling of the ball saw some clubs and schools favour a different code which would eventually become the game of Rugby Football<sup>130</sup>.

A standardised set of rules made the game more accessible to the masses and the popularity of the game increased greatly. As participation increased so too did the numbers who turned up to watch the matches being played, this growing popularity linked directly to the industrial

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<sup>129</sup> Famously German and British soldiers played football together during a Christmas Day truce in 1914 during the Great War.

<sup>130</sup> The term “soccer” to describe the modern game of football, although considered by many to be a relatively recent “Americanism” invented to distinguish the sport from American Football, is actually an English term which dates from this time as the two codes were originally known as Rugby Football and Association Football, colloquially shortened to “rigger” and “soccer” (Szymanski:2014).

revolution which re-configured the working class lifestyle away from an agrarian one, dictated to by the seasons, to one where industrialisation produced a gravitation of workers towards urbanised central locations and (gradually) a more structured approach to leisure time and a relative increase in wages (Murray:2000:29-31) and football also offered a space in which these working men could express their masculinity (Clelland:2016).

In Scotland the relatively sudden popularity of the game led to the formation of a number of Scottish clubs in the 1860s and early 1870s, the first of which was Queen's Park in 1867, and this club played a crucial role in bringing together other Scottish clubs to form the Scottish Football Association (SFA) in 1873 (Robinson:1920). This oversaw friendly and international matches played on a rather ad hoc basis however, with the advent of professionalism in England in 1888 and the subsequent migration south of many Scottish players attracted to the lucrative contracts on offer there, a Scottish Football League was formed in 1890 with eleven clubs participating (Crampsey:1990:13). Although initially seen as a more middle-class pastime in Scotland (Rafferty:1973:26) the popularity of football amongst the Scottish working class soared; by the turn of the century Glasgow boasted three of the largest sports stadiums in the world (Hampden, Celtic Park and Ibrox), 102000 supporters attended the Scotland versus England fixture at Hampden in 1906 and the Old Firm Scottish Cup final of 1909 attracted 70000 spectators (Murray:2000:26-27). Paradoxically a sport which had its origins in a handful of upper-class English public schools became the passion of the West of Scotland, the "very model of a smoky, industrial, working class society" (Crampsey:1990:1).

### *5.1.1 More than sport*

The increasing crowds meant that the game very quickly came to offer more than the chance to directly participate in the playing of a sport; the act of supporting or "following" a particular football team becoming a major and fundamental aspect of the relationship with and adherence to, football. Through exposure to and indulgence in the behaviours and experiences associated with football fandom, supporters are able to engage in expressions of personal and group identity and be subjected to intense emotional experiences.

Sport in general has long been recognised as a "key symbolic site for the production and reproduction of social identities" (Carrington:1998:102) and football, with its popular ubiquity,

remains “one of the last spectacles in British life offering the chance of intense emotion and social relationships.” (Armstrong:1998:9).

This intense emotional experience derives from, indeed requires, *emotional investment*. Strong emotional connections to clubs often exist through geographical connection or are passed down through family encouragement (Scottish Football Association:2013) however, irrespective of the origin of the association, the key issue is that frequently football is not merely just another routine facet of existence, but it truly *matters*, and for many fans this amount of emotional commitment raises supporting their particular team to a unique level of meaning (Edgar:2013:170), a level set particularly high in Scotland (McIlvanney:1996:218). Indeed, the strength of feeling some hold can be difficult to effectively rationalise and as such introduces a “faith” aspect which, combined with notions of personal and collective identity, can bring a quasi-religious dynamic to football supporting (Armstrong and Guilianotti:1997:10-11).

The reciprocal nature of this emotional investment paradigm means that the greater the investment, the greater the return; but of course, there is also the risk that just as great fulfilment can be derived from supporting your team, equally powerful lows or negative reactions are also potentially the investor’s “reward”. Football is a game which can both “*uplift the depressed and depress the uplifted*” (Macpherson:2016).

## 5.2 Expressions of identity and cultural practice

The social, emotional and regular ritualistic practices of football fandom suggests that it can be seen as a cultural practice in terms of Raymond Williams’ description of a “social” definition of culture, that is culture as a description of a particular way of life and the expression of certain meanings and values (Williams:2006:54) and a key concept in the study of such notions of social culture is identity, and the “contexts within which and through which both individuals and groups construct, negotiate and defend their identity and self-understanding” (Edgar and Segdwick:2008:166).

Football historians have tended to focus on identity when attempting to articulate “meaning” in football (Taylor:2013:8) and football offers a space for social, political and cultural expression which can expose aspects of identity such as class, nationalism, ethnicity and ideology (Bradley:2011:818). It further facilitates shared values and identities to be voiced by groups of people, bringing a sense of belonging and from which can be derived a “social benefit” (Wilson:2013:182). Thus, football has the ability to create and shape identity

structures, reinforcing and giving expression to shared values and a sense of solidarity and community at micro and macro levels.

Regional identities can be promoted over national ones, such as in the case of the Barcelona football club being closely associated with a specific and competing Catalan identity within Spain (Bradley:1996). On a pan-national level, nationalist identities can be focussed on and expressed through the support of national football teams. Familiar and stereotypical imagery or methods can be utilised to express unity and common identity in an internal manner, such as the ubiquitous tartan of Scotland fans or the orange clothing and clogs of the Dutch *Oranje* supporters; whereas some facets of national identity find expression where existing historical or political enmities co-locate with sporting rivalry and thereby tap into these current or historical animosities to give expression to aspects of self, defined in terms of relationships with others. Football encounters between the likes of England and Germany, Holland and Germany or Scotland and England perhaps draw on a mostly historical reservoir of collective memory and sentiment relating to previous conflicts or political power dynamics, such as the “underdog” mentality of the Scots due to the context of an uneven politico-economic relationship with England (Whigham:2014); although some sporting rivalries are intensified by far more recent and raw conflict, such as in the case of Croatia and Serbia<sup>131</sup>. The influence of traditional or historical opponents on constructs of identification and definition of self can be so strong that they can feature in songs, banners or imagery of the supporters of the rival nation without even being the particular sporting opponents on the day<sup>132</sup>.

Of course, players can feel attachment to these same national identities as well as the supporters. Bill Shankly described Scotland players as “becoming... William Wallace or Robert the Bruce” for the 90 minutes of matches between Scotland and England (Shankly:1976:20).

This is not to say that Scottish national supporters do not have internal divisions around issues such as age, domestic club affiliation or socio-economic group however such divisions have been shown to be gradually overcome through collectivism, social drinking and “gregarious

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<sup>131</sup> The two countries were engaged in a bitter ethnic war in the Balkans in the early nineties.

<sup>132</sup> For example, the author has personally witnessed Scotland fans singing about how much they “hate the English” at Scotland matches where England were not the opponents and also observed Dutch supporters display a large banner prior to a Scotland v Holland match which featured a graphic cartoon of a Dutch fan using a Germany flag as toilet paper.

fandom” (Giulianotti:1995)<sup>133</sup>. Bairner has argued that the “Anti-English” aspect of the Scottish sporting identity has also remained relevant as a focus for a shared identity able to overcome other socio-economic or religious schisms within Scottish society (Bairner:2001).

The role football can play in giving a focal point for populist notions of national identity and worth can arguably greatly impact on such issues in a wider societal context beyond the sporting field. For example it has been argued that the euphoric (and public) promotion and talking up of the Scottish National Football team’s prospects in the World Cup of 1978 in Argentina, and their subsequent dismal performance and humiliating first round exit, severely affected the Scottish national psyche and dented self-confidence to the extent that this “hang-over” directly influenced the (negative) result of the Scottish referendum on devolution the following year in 1979 (Gallagher:1991:106, Harvie:1994:197). Similarly, the multi-cultural nature and composition of the World Cup winning French national team in 1998 has been said to have promoted racial tolerance in France, the success of the team acting as a unifying force and a vehicle for the expression of a national identity that overcame other internal barriers or markers of identity (Marks:1998).

### *5.2.1 Othering leading to creation of rivalries*

However, where common identity traits and values around which groups of individuals can coalesce are recognised, the very process of identifying these shared features will inherently also define those identity traits which do not resonate with members of the group, or indeed which are oppositional or contrary to the shared values or traits in question, creating an “in-group” and “out-group” dynamic; at a simplistic level if those individuals who follow the Scottish national team can come together for this purpose and share a mutual sense of purpose or self by virtue of their “Scottishness”, then anyone who is not Scottish is automatically “othered” and so not “part of the team”. This process can often facilitate the generation of intense fan rivalry which goes beyond mere sporting competition although the socio-cultural

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<sup>133</sup> These divisions are not always totally overcome. For example, Rangers players Ryan Jack and Ian Black were booed by many Scotland supporters when playing for their country and, when Scotland played the USA in a friendly in 2013, two USA players, Alejandro Bedoya and DaMarcus Beasley, were also booed by many Scotland fans every time they touched the ball - both are former Rangers players.



content of footballing rivalries can vary significantly and include identity factors such as class, financial status, religion, regionalism and nationalism (Giulianotti and Robertson:2009:107). Whilst the creation of out-groups can be seen as a procedural consequence of the recognition of common identity traits, some supporters can use expressions of shared identity to actively emphasise their difference from other groups. For example, in the 1980s the *Tartan Army* of Scotland reinvented themselves as “Ambassador” supporters partly in an effort to distance themselves from English hooligan “casuals” in the minds of others (Armstrong and Giulianotti:1999:5).

However, even within ostensibly shared general identities it is possible that some groups can still be excluded from the mainstream by virtue of not fitting in with the dominant definition of identity, such as in Euro 96<sup>134</sup> held in England where the dominant discourse put forward in terms of the identity of England fans or “Englishness” was one of “Lad Culture”, which tended to exclude people on racial or gender grounds (Carrington:1998).

Of course, it is also important to recognise that not all supporters will identify with all elements of a particular club’s perceived identity and they will give differing degrees of significance to each of these parts, notwithstanding that often these aspects of identity are often not necessarily fixed but are themselves subject to changing prioritisation both in time and in space (Burdsey and Chapell:2003). Strong identities in support of a particular team may indeed emerge however these are not inevitably binding or prescriptive on individuals and may or may not overlap with other aspects of an individual’s identity (Bairner and Shirlow:1999:152). McQuarrie describes when he was younger he once stood at Hampden as a Rangers supporter cheering on Celtic’s opponents in the Scottish cup final only to return to the same venue a few days later as a Scot to cheer on Celtic in a European tie (McQuarrie:2007:148).

### 5.3 The situation in Scotland.

We have seen in general that supporting a football team can bind individuals and groups together and serve to create, strengthen or give expression to identities held by those supporters based on common values or characteristics. Similarly, the defining of common identity in this way leads to the emergence of other identities which lie outwith the common one, leading to

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<sup>134</sup> UEFA European Football Championship for international teams which is held every 4 years.

an insider/outsider dynamic and facilitating the establishment of rivalry. Scotland is no different and I will now briefly examine identities and football in Scotland, with particular reference to Rangers and Celtic, with a view to charting how the existence of the particular ethno-religious identities associated with these two clubs relates to the genesis of the OBFA.

### *5.3.1 On a national level*

Shared and competing identities are reflected in Scottish football at local and national levels. Local rivalries exist, ostensibly based on the geographical proximity of neighbouring towns or where larger cities such as Edinburgh and Glasgow are home to more than one team. Dundee's two rival teams not only hail from the same city but actually inhabit the same street. However, rivalry and resentment are sometimes evident between supporters of teams separated by wider geographical differences. There is evidence to suggest that some supporters identify differences with being from the West, East or North of Scotland, such as a perception that non-West supporters are treated differently by police officers in Glasgow (Moorhouse:2006) or how many supporters from the North and East consider sectarianism to be the preserve of supporters from the West only (Styles:2000, Fraser:2007).

Whilst there is a myriad of subtle differences between supporters within Scottish football, probably the more obvious markers of different identity centre around politics, religion and ethnicity; and when one talks of religion and ethnicity in Scottish football, really, we talk exclusively of Roman Catholicism and Irishness. Outwith what might be regarded as the indigenous Scottish ethnic identity and "official" Church of Scotland Protestantism, no other ethnic or religious characteristic can lay claim to being as influential on the evolution of footballing identities in Scotland.

As football became more popular towards the end of the nineteenth century, a popularity linked to the process of industrialisation in that period, teams were often formed in areas where the communities reflected the pattern of contemporary Irish migration to Scotland. Thus, Dundee had Dundee Harp, formed in 1879<sup>135</sup> and latterly Dundee Hibernian in 1909<sup>136</sup>. In 1875

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<sup>135</sup> Although this team only lasted a few years before going out of business.

<sup>136</sup> Which became Dundee United in 1923.

Hibernian was formed by members of the Irish community in the Cowgate area of Edinburgh<sup>137</sup>.

Irish immigration also brought with it a vast number of Catholics, towards whom there were long-standing enmities within Scotland, based on Scotland's own complicated and acrimonious religious past. Thus, this Irish Catholicism challenged the orthodoxy of indigenous Scottish Protestantism and these differing social identity traits, in footballing terms, came to be associated with what became the two largest football clubs in Scotland, Rangers and Celtic, helping to fuel enmity and the intensity of the (sporting) rivalry<sup>138</sup>. Although the teams hail from the same city and are separated by only a few miles, these teams clearly represent identities beyond simple geography, given how their fanbases are drawn from all over Scotland (Bradley:1996:5) and rightly or wrongly support for one or other of these teams is perceived to align that supporter with either a Catholic or Protestant "cultural configuration" (Boyle:1994:77).

#### 5.4 Celtic and Rangers

Glasgow Rangers was formed in 1872 by a group of young friends who were simply interested in the new game of association football (Halliday:2002). At this time, they were a "Protestant" team only in as much as most other teams were also Protestant by virtue of that being the dominant religion in the country.

Celtic was formed in 1888 in the East End of Glasgow by a Marist monk, Brother Walfrid, ostensibly to provide charity to the poor of the area (Wilson:1988). Although it was never exclusive to Irish Catholics, it was seen very much as an Irish club for Catholics and it served as a focal point for the Irish Catholic community in Glasgow (Potter:2010:10). Indeed, on two occasions in the very early days of Celtic, some supporters in dispute with the club mooted the possibility of establishing a rival Irish club for Glasgow, Glasgow Hibernians (Murray:2000:15).

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<sup>137</sup> <http://www.hibernianfc.co.uk/pages/history>

<sup>138</sup> Whilst religious and ethnic animosity between supporters of Hibernian and Hearts has never been fully absent from their rivalry, it was always a far less important an aspect as identification with territory in Edinburgh (Campbell:2003:132).

On the formation of Celtic, some sixteen years after Rangers, relations between the two clubs were said to be amiable; indeed, Rangers agreed to be the first ever team to play Celtic in a friendly match. However, Celtic were extremely successful from the start and this initial success was resented in general society and led to a desire for a “home-grown” team to challenge their dominance and represent “Scottish” interests. As they became more successful, this role fell to Rangers and they “assumed a pre-eminent role in defending native prestige” (Bradley:1996:5). Rangers gradually emerged as the “establishment” rivals of Celtic and the team naturally placed to compete with them not just on the field of play but in terms of offering a focus for an identity that represented traditional, indigenous values and culture. Thus came the beginning of the rivalry being framed in religious and ethnic terms; the blatant Irish Catholicism of Celtic and the assumed “traditional” mantle of Rangers, where “traditional” was synonymous with Scottish Presbyterianism.

Both teams attracted large fanbases and quickly became wealthy and dominant in Scottish football as they charted a symbiotic rise to prominence.

#### *5.4.1 Irish identity*

Celtic has an unequivocally Irish background and heritage, Celtic providing a focus and rallying point for the Irish community in Glasgow at its inception (Potter:2010:10), and, despite other Scottish clubs formed by Irish immigrant communities having played down this influence on their club over the years, such as Hibernian (Kelly:2007), these aspects of the club’s identity have remained strong throughout its existence; the club badge featuring an Irish shamrock, Irish folk music being played over the PA system on matchdays and the Irish flag being flown at Celtic Park. Undoubtedly Irishness and Ireland plays a considerable role in the identity of many Celtic fans as well and has been claimed to be “central to Celtic supporter culture and identities” (Bradley et al:2009:194). Bradley found that over half of Celtic fans preferred the Republic of Ireland’s team with a similar majority feeling “ambivalence” towards the Scottish national team (Bradley:1996:6) and this identification with Ireland is strong enough for some Celtic supporters’ representatives to opine that more Scottish Saltires would “not be too popular at Parkhead” (Moorhouse:2006:43).

It has been argued that this Irish identity has been problematised in Scottish society in general<sup>139</sup> but further that there is an “underlying ideology” of anti-Irishness in Scottish football which is either condoned or ignored (Bradley:2011:828)<sup>140</sup>.

#### 5.4.2 Religion

Whilst Irishness presented an ethnically alien presence in Scotland, so too did it (mostly) represent an alien religious presence as well, the majority of Irish immigrants being Roman Catholics. Celtic had close Catholic connections from the outset, with its formative roots placed firmly in the Catholic Irish immigrant population of Glasgow; however, Rangers had no overt religious identity other than to reflect the dominance of Protestantism in contemporary Scottish society as any other institution might do. However, a distinct Scottish Protestant identity started to develop as a counter-point to the Irish Catholic Celtic and this was reinforced by the influx of skilled Protestant Irish shipyard workers to the Clyde yards who brought with them anti-Catholic enmity that had been common in Belfast yards (Doyle:2012).

A distinct aspect of the Rangers identity developed from this period which went beyond simply being pro-Protestant and moved into the realms of being specifically anti-Catholic. This arguably took shape during the Struth years<sup>141</sup>, although it has been claimed that Sir John Ure Primrose, who was an important figure in the early years of Rangers from 1880s – 1920s and who was allegedly vociferous in his anti-Irish and anti-Catholic sentiment, was also influential on the formative orientation of the club (Burdsey and Chappell:2001:98). For the majority of the club’s history Rangers had a widely recognised policy of not signing Catholics. Although unlikely to have been officially written down anywhere this was described in 1967 by the

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<sup>139</sup> Explained in more detail in Chapter Two.

<sup>140</sup> Bradley justifies such an argument by suggesting that some Scottish fans did not like the fact that many “Irish” fans at a Scotland v Ireland game in 2004 spoke with broad Scottish accents and were clearly from Scotland yet were there supporting Ireland, along with the singing of the *Famine Song*. An alternative interpretation of Scotland fans’ actions in 2004 might be that this was more a reaction to perceived disloyalty to Scotland rather than specific anti-Irishness as such. In all probability, Scottish accents cheering on *any* other national team against Scotland might rile Scotland fans. Bradley has been previously accused of being over-zealous in his efforts to portray Scotland as anti-Irish (Murray:2000:184).

<sup>141</sup> William Struth (1875 – 1956) was the Rangers manager from 1920 – 1954. This was an extremely successful period for the club.

Rangers Vice-Chairman as “part of our tradition” (Murray:2000:181) and this aversion to signing Catholic players was well enough recognised to be referenced (and lampooned) in popular Scottish culture. For example, during a sketch in the Scottish television comedy show *Scotch and Wry*, Rikki Fulton played a Rangers manager who unknowingly signed a Catholic player and then desperately tried to find reasons for rescinding the contract once he realises the “mistake” that he had made<sup>142</sup>. Former Rangers player Willie Mathieson, who played for Rangers from the early sixties to the seventies, recalled that when a scout came to his family home on behalf of Rangers the very first thing said by him was an enquiry as to “which foot he kicked with”<sup>143</sup>. After it was established that Mathieson was a Protestant, the man confirmed that Rangers wanted to sign him. “That’s the way things were then” explained the player (Smith:2011:490). Indeed, it has even been suggested that merely having a “Catholic sounding” name could be enough to dissuade Rangers from pursuing an interest in a player. Daniel Fergus McGrain, a Protestant Rangers fan who became a Celtic legend, alleged in his autobiography that his name alone had been enough to put off a Rangers scout (McGrain:1978)<sup>144</sup>. This signing policy was not reversed until as relatively recently as 1989 when Maurice Johnston became the first high-profile Catholic to sign for Rangers. This anti-Catholic ethos held by the club, albeit not officially, was clearly shared by many of the supporters, as evidenced by the extensive repertoire of songs and chants, exclusive to the Rangers support, that can only be described as specifically offensive to Roman Catholics. Indeed, once ubiquitous Rangers songs such as *No Pope of Rome* and the *Billy Boys* contain anti-Catholic lyrics but do not actually even reference either football or Rangers<sup>145</sup>.

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<sup>142</sup> This programme was originally broadcast in 1980 and whilst played for laughs and clearly mocking the Rangers perspective, it is revealing of Scottish attitudes and understanding at the time. One wonders if a non-Scottish audience would have got the “joke” however it is very clear from the audience’s reaction to the revelation that the young player who had just signed a contract is a Catholic, that they were well aware of the import of that fact in these circumstances and it could be argued that this indicates an implicit acceptance and normalisation of this attitude. At the end of the sketch Fulton sums it up explicitly in asking “*What could be worse than a Catholic?*” - <https://www.youtube.com/watch?v=oUXhW3JC9Zw> (last accessed 10/08/17).

<sup>143</sup> “Kicking with the left foot” is a dated Scottish colloquialism for being a Roman Catholic. That such “code” existed at all is perhaps revealing of attitudes.

<sup>144</sup> McGrain himself subsequently cast some doubt on this assertion by stating that he actually did not know if this story was true and that no one from Rangers had ever told him that the team had ever had an interest in signing him (Keevins:2013).

<sup>145</sup> Both of these songs have reduced greatly in popularity in recent years although the *Billy Boys* has proven hard for Rangers fans to give up.

However, although not as blatant or manifest as the Rangers “No Catholic” signing policy or songs such as *No Pope of Rome*, it would be inaccurate to say that some displays of antipathy towards Protestantism could not be found amongst Celtic supporters or within the Celtic hierarchy. Some songs sung by some Celtic supporters have featured anti-Protestant lyrics, such as “Soon there will be no Protestants at all” in a version of *On the One Road*<sup>146</sup> and some supporters “hanged” an Orange sash wearing effigy at an Old Firm game in 2016<sup>147</sup>. Furthermore, Celtic’s most successful manager, Jock Stein, was effectively told by the Chairman that he had gone as far as he would at Celtic when he achieved the position of Reserve Manager, which he construed as being due to his Protestant background, and even after his huge subsequent success as first team Manager, Stein himself resented the fact that he felt that some of the Celtic Board had never fully accepted him due to his religion and this was in the background when he eventually left the club for good (Macpherson:2004:79-80).

### 5.4.3 Politics

“Irishness” and cultural affiliation to Ireland are important aspects of many Celtic supporters’ identity and narratives from the emotive and turbulent political history of Ireland therefore resonate strongly with those who place value in their Irish heritage and roots. These issues were not just historical however but found a new contemporary relevance during the recent period of the Troubles as the pattern of ethno-religious difference present in Irish politics could be mirrored in some Scottish communities where similar tensions could be found. In a football sense this almost exclusively involves supporters of Rangers and Celtic (although Hearts versus Hibernian games have also seen some minor incidents involving this ethno-religious dynamic (Kelly:2013:45)) and the Troubles saw the Irish dimension to the Celtic and Rangers story gain “a new lease of life” (Bruce:2010:118).

From the start Celtic was closely linked with the Irish Home Rule Movement, more through players and officials than formally through the club itself (Murray:2000:54) although the club

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<sup>146</sup> Similarly songs which reference the Famine or War of Independence have been argued to be “songs of hate”, the singing of which indicates an anti-British sentiment rather than a pro-Irish one (Walker:2007:87).

<sup>147</sup> <https://www.bbc.co.uk/news/uk-scotland-glasgow-west-37654988>

did invite a prominent former member of the Irish Republican Brotherhood and the Fenian movement, Michael Davitt, to lay the first sod of turf at Celtic Park (Hayes:2006:5).

In the thirty or so years of the period of the Troubles the backdrop of this nearby conflict provided a source of reference for the strong expression of identities familiar to the political context, the football environment providing a convenient (but not exclusive) setting, and both sides embraced the opposing sides of the Northern Irish conflict in order to emphasise their differences (AGTS:2013:49).

Research by Bradley in 1996 found that the over-whelming majority of Celtic fans polled supported a united Ireland (80%) and whilst 85% would support the withdrawal of troops from Northern Ireland, 69% of Rangers supporters would not (Bradley:1996:6-7). At football matches many Celtic supporters manifested aspects of Irish identity in terms of their support for Irish nationalism, including support for violent armed struggle to achieve this, with songs and banners referencing the IRA often being witnessed amongst Celtic supporters.

Whilst perhaps not having as historical and distinct a political characteristic to focus on as the Irish self-determination of Celtic fans, the traditional Protestant and Unionist identities of the Rangers supporters nonetheless easily encompassed a loyalist Irish perspective to counter the republicanism of the Celtic supporters when the Troubles erupted. Unionism spoke directly to a desire to see Northern Ireland maintained as a part of the United Kingdom and the politico-religious nature of the conflict saw Rangers supporters start to sing in support of loyalist terrorist organisations such as the UVF and against republican groups such as the IRA<sup>148</sup>.

#### *5.4.4 Current identities*

Whilst the end of the modern Troubles has been argued to have diffused some of the tension between supporters due to a lack of political relevance to the singing of such songs (Walker:2012, Waiton:2013), the distinct and opposing popular identities of Rangers and Celtic supporters, centring around an Irish/Catholic/Republican versus a British/Protestant/Loyalist paradigm, remain clearly evident today. Celtic's Irishness is recognised and promoted by the club and the Irish flag is by far the most common one seen

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<sup>148</sup> It has been argued that Nationalism, in terms of British and Irish national identities, drives increasingly more of what can be described as "sectarianism" rather than religious identities (May:2015).



amongst the supporters. Songs and banners referencing Irish history and politics are still evident and Irish terminology such as “Shamrock”, “Emerald” or “Harp” can be seen in the names of many supporters’ clubs. Fan groups have chosen names with Irish Republican overtones, such as the *Green Brigade*<sup>149</sup>. Across the city at Ibrox the fans still regularly display Unionist and British symbols and sing songs such as *the Sash* and *Derry’s Walls* that also reference Irish history but from a very different perspective. Just as Celtic supporters’ clubs often use Irish words in their titles so too do Rangers supporters’ clubs often use the lexicon of unionism with terms such as “Loyal” featuring heavily in club names. Fans groups such as the *Blue Order* or *Union Bears* fuse terms associated with the club with terms associated with Protestant societies and unionism to clearly indicate the perceived synonymous nature of the two identities.

Arguably Rangers’ traditional “Establishment” and Unionist persona has taken a more jingoistic and militaristic direction amongst some supporters. It has become common to see scarves with “poppy” and “lest we forget” motifs, a sentiment that appears to have seen increasing support since some Celtic fans started to protest about the poppy being incorporated onto the Celtic players’ shirts at the time of Remembrance Sunday, which included a banner display by the *Green Brigade* within Celtic Park in 2010 which the club subsequently apologised for<sup>150</sup>. This is arguably simply another means to emphasise divergent identities and political views and to bond through displays of shared values and identity whilst showing condemnation of the opposite views held by the identified “other”, however there are also now “Army” “RAF” and “Navy” flags on display amongst Rangers supporters and this aspect of club identity has been officially embraced and encouraged with members of the Armed Forces paraded (sometimes controversially<sup>151</sup>) at Ibrox to the acclaim of the supporters on a number of occasions. Some have argued that in recent years there has been a strategic intent in using sport and other cultural practices to normalise, support and affirm UK militarism (Kelly:2012).

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<sup>149</sup> “Brigade” evoking notions of IRA groupings and nationalist songs such as *Boys of the Old Brigade*.

<sup>150</sup> <http://www.dailymail.co.uk/sport/football/article-1327712/Celtic-apologise-fans-bloodstained-poppy-protest.html>. It should be noted that a wider societal debate over the perceived enforced wearing of the poppy in the media and in public life in general has been evident in recent years.

<sup>151</sup> On one occasion complaints were made that the nature of commemorations held at Ibrox for Remembrance Day were “inappropriate” and on another occasion, it was alleged that soldiers on the field sang sectarian songs along with supporters (McLaughlin, M. (2013).

Furthermore, in recent years political expression by Old Firm supporters (and others) has also manifested in terms of Scottish nationalism and Unionism in general. This was evident during this research and was undoubtedly influenced by the backdrop of the Scottish independence debate. In the run up to the Independence Referendum of 2014 Saltire flags could be seen within both Rangers and Celtic supports and also banners and chants directly referencing independence and the SNP. Amongst some Celtic fans expressions of support for independence frequently linked in with notions of political self-determination in general and often with reference to the situation in Ireland<sup>152</sup>. As the referendum got closer some Rangers fans displayed referendum-specific messages including “Vote No” and “Better Together” banners but also at the same match displayed a massive banner which included both the Saltire and the Union Jack flags and statements professing a joint identity of being both Scottish and British. However, despite such displays, it should not be assumed that all Rangers supporters embrace the Union and disavow Independence; shortly before the 2014 Referendum a book entitled *Born Under a Union Flag* was published which explored the multiple viewpoints of Rangers supporters on this matter and included many contributions from Independence – supporting Rangers fans (Bissett and McKillop:2014).

## 5.5 Conclusion

Football is a hugely popular sport with a global reach and impact. Engagement with football occurs not simply by playing the sport, but also crucially in the performance of football fandom. This fandom and what it offers, is important, even existential, to many who engage in it. Fundamentally, for many who participate, football truly matters.

This chapter has set out that supporting a football team is a cultural phenomenon which affords participants a space in which to express and nurture shared identities and values in terms of traits such as ethnicity, religion and politics. These shared identities and experiences can offer a sense of belonging and social cohesion; however, any process which defines criteria for social in-groups is likely, in doing so, to simultaneously establish parameters for delineating identities

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<sup>152</sup> However other Celtic fans specifically denigrated the SNP, albeit possibly more because of the ruling party’s introduction and championing of the OBFA, rather than any particularly party-political sentiment.

that lie outwith the normative, thereby establishing out-groups. Such opposing or conflicting identities can be the basis for rivalry that inhabits more than merely the sporting arena<sup>153</sup>.

In Scottish football the particular ethnic, religious and political identities associated with both Rangers and Celtic, identities keenly held by many and that have a long and deeply-rooted history, can act as a strong source of division, rivalry and animosity between the supporters of these two pre-eminent Scottish clubs, and to an extent reflect divisions that are argued to exist across wider Scottish society.

Rangers and Celtic fandom are broad-brush painted in terms of fundamental conflicting identities around religion and politics; “Rangers fans are loyal, Celtic fans are faithful” (Walsh:2005:17). Whilst individual notions of identity are frequently nuanced and multi-layered and not all supporters of a particular club can be said to share absolutely all the values or attributes of the others<sup>154</sup>, common ground can still either be genuinely present, or merely assumed by others on the basis of the presence of other superficial markers.

The OBFA, then, can be seen as legislation inspired directly by hostility manifesting in the clash of conflicting identities associated with Old Firm supporters which was introduced into a popular and highly visible sporting area (football) which is socially relevant to large swathes of the population and an environment in which strong feelings of personal and group identity are engendered, creating a febrile and emotive social atmosphere. This is important in two regards: firstly this highly-charged atmosphere may provide some explanation as to why there was a perceived political need to take some form of overt action in the circumstances (and to do so in the form of legislation; moreover legislation which only targeted football fans) and secondly because the expression of strongly held identities at football matches generates many of the behaviours that some see as being offensive in terms of the Act and illustrates why some detractors of the Act saw it as unfairly impinging on their freedom to express themselves.

Furthermore, it is clear that in using this legislation, police officers require to be aware of the cultural import of football fandom and the emotions that can be generated around it, and their perceptions and understanding of these concepts may influence how they interpret and negotiate interactions with supporters and their judgement processes in doing so.

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<sup>153</sup> albeit some supporters will exaggerate the differences between them in order to participate in what some see as a ritualistic aspect of fandom and rivalry (Bruce et al:2004:131).

<sup>154</sup> Indeed many Old Firm fans deeply resent being presumed to share some of the general viewpoints or opinions attributed to their wider respective support.

## CHAPTER 6 – Police Research

The previous chapter looked at football as a cultural phenomenon where fandom affords an opportunity for the expression of multiple facets of shared identity, identities which can bind people together in common ground or which can divide them, splitting “out” groups from the “in”. In particular, it looked at that pertaining to Rangers and Celtic.

Recognising the importance of football fandom to thousands of supporters is crucial as it is an influencing factor on fans’ behaviour. However, supporters are only one facet of the policing dynamic in the football environment and to gain a deeper and more textured knowledge of what occurs clearly requires a focus on police officers as well, both in the sense of specifically what practices or behaviours are evident, particularly in Scotland, but also in the sense of *why* officers might act in the ways in which they do and what factors might influence their actions. To this end this chapter will examine what relevant literature exists in terms of research on policing and police behaviour. However, there is a wealth of material in this field and so the focus will be on a number of relevant key areas. To set the scene it will very briefly examine the history of research into policing in general before concentrating in particular on police culture and on discretion. These are directly relevant to this research as notions of police culture are often argued to inform and influence the behaviour of police officers and furthermore discretion and the use of it by police officers, is a fundamental aspect of SLBT.

The chapter will then look more specifically at what research into the policing of football in Scotland exists to establish a baseline for knowledge of contemporary policing practices in this environment, knowledge to which this thesis aspires to contribute. In doing so there will be a particular focus on the work of Megan O’Neill who has made a significant contribution in this area.

### 6.1 Research on Policing

#### *6.1.1 The advent of police research*

Research into policing only started in earnest from the sixties following the publication of a number of seminal studies which challenged the presumed view that officers simply enforced the law and which looked at police officers and the nature of policing in a more in-depth,

sociological manner which had not been done previously (Banton:1964, Skolnick:1966, Bittner:1967, Westley:1970, Cain:1973). This was a period of history, both in America and the United Kingdom, where a new found political and public interest in policing was developing, fuelled by a growing awareness of civil rights and concern around the behaviour of the police, as well as the development of new theoretical and methodological perspectives on the social sciences (Loftus:2009:4) which led to the emergence of a new discipline of research on policing (Reiner:2015:311).

Michael Banton studied the social aspects of the police role by looking at officers in Edinburgh for his book *The Policeman in the Community* (Banton:1964) and in doing so produced the first major sociological study of the police in Britain (Cox et al:2014:349). Banton examined what officers actually did at work, their use of authority and discretion; arguing that police officers, rather than being the law-enforcers of conventional wisdom, actually were better described as peacekeepers or as a “peace officer” rather than a “law officer” (Banton:1964:127), as the nature of the reality of their actual day to day work could be regarded as being more concerned with fulfilling a multitude of different tasks and services, little of which involved crime. Indeed crime could be considered “marginal to policing” (Reiner:2015:313). As Banton noted, ‘the most striking thing about patrol work is the high proportion of cases in which policemen do not enforce the law’ (Banton:1964:127). Another particularly important aspect of Banton’s findings is that he identified that officers exercise authority over the public which has the effect of socially isolating the officers from that public (Loftus:2009:7).

In his book *Justice Without Trial* (Skolnick:1966), Skolnick’s primary objective was to explore and explain the rule of law by studying police officers in two non-specified cities on the West Coast and East Coast of America (McCoy:2011:iv). In doing so he explained how the way officers perceive and react to their working environment can influence their behaviour and that there are similarities in the responses developed, what he described as the police officer’s *Working Personality*. This is developed by officers’ reaction to two main variables, danger and authority, both always influenced by pressure to appear efficient, and leads to the identification of common traits within police officers or distinct “cognitive tendencies in police as an occupational grouping” (Skolnick:2005:264). In particular officers deal with the danger aspect of their work by constantly assessing for threats and signs of violence, deeming individuals as “symbolic assailants” if they share certain suspicious characteristics or behaviours, which, along with the general exercising of authority, can cause resentment and serve to isolate officers from the public. A particular strength of his work is that Skolnick attempts to identify how officers fit in with society and that notions of “police culture” do not exist separately from

society but rather are reflected and reinforced in everyday encounters with the public (Westmarland:2008:260).

Westley actually published his main work in 1970 (Westley:1970) although it was based on fieldwork done in the American city of Gary, Indiana, in the 1950s and he had previously published two articles on the subject (Westley:1953, Westley:1956). His study of police violence produced the idea that the reality of what police do day to day is not what is perceived by the public and even police officers themselves as 'real policework' in terms of catching criminals and further he set out some of the coping sub-cultures which officers had developed around violence and secrecy (Reiner:2015:310). Paradoxically Westley found that the things that the police put most value on, such as catching criminals, are the least frequent activities they actually do (Greene:2010:459). For Westley there was a strained relationship between the police and the public as officers generally only dealt with those they policed (O'Neill and Singh:2007:2), consequently resulting in officers regarding them with cynicism, aggression and suspicion and treating them as the enemy, a perspective which served to generate "distinctive group customs" (Loftus:2009:7) and led to the prevalence of secrecy and self-protection (Charman:2017:131).

Maureen Cain was another influential early writer on the sociology of the police and her main work *Society and the Policeman's Role* (Cain:1973) presented a more critical analysis of the relationship between the police and the community than had been seen before (Loftus:2009:7). Cain compared the work of officers in both rural and city settings, and also looked at specialist officers such as the CID, in order to answer the question as to who defines the role of the police and how, and also as to who or what groups has the power to do so (Reiner:2015). She found that urban officers saw their role much more as orientated towards crime-fighting, however as little of their time was actually spent doing this, they filled the gap with "easing" techniques or targeted petty criminality in order to make arrests. They often viewed the public, whom they considered themselves separate from, with suspicion. Rural officers, however, were far more integrated into their communities and had far friendlier relations (Loftus:2009:8). Furthermore she warned that care should be taken in comparing policing jurisdictions without giving due consideration to the situational and organizational context in which the policing occurs and she emphasized the "importance of locale" (Westmareland:2008:261).

Egon Bittner's research (Bittner:1967, Bittner:1970) also found the reality of police work to be "non-traditional" in nature and more concerned with peace-keeping over law-enforcing and that officers are actually called on to do a multitude of different tasks, all linked by the underlying threat of the potential use of force by those officers to achieve those tasks (albeit

the actual likelihood of the use of force is limited) (Reiner:2015:322). His account of officers policing the inhabitants of a “skid row” area of an American city (Bittner:1967) confirmed this notion of officers invoking the law to keep the peace rather than simply mechanically enforcing it and that in fact the two functions of enforcement and peacekeeping overlap and cannot be separated (O’Neill and Singh:2007:5). Ultimately Bittner suggests that officers are really there as a “mechanism for the distribution of situationally justified force in society” (Bittner:1970:39).

These early works looking at what the police actually did and how they perceived their role, the reality of how they interacted with members of the public and their day to day relationship with that public, introduced the notion of there being special characteristics of police officers and policing that influence or even dictate police behaviour and this began to develop into the concept of a “police culture”, a term used “to encompass a complex system of values and attitudes that define the normative world of the police” (Campeau:2015:670-671). The study of so-called police culture became seen to be of importance due to the role it is said to play in the everyday functioning of police officers and its capacity to assist in explaining police behaviour and the way in which officers interact with the public; the concept has been useful in bringing understanding to many facets of policing, such as deviance, the success of reforms and police accountability (Paoline:2003:200).

### *6.1.2 Monolithic culture*

Thus, there developed the notion of a monolithic police culture which could influence behaviour, built around common universal features or traits which came to be regarded as the “orthodox” account of police culture (Loftus:2009:8). These traits have been notably summarised by Reiner as “Core Characteristics” (Reiner:2000:87-101). He describes them as Mission-Action-Cynicism-Pessimism, Suspicion, Isolation/Solidarity, Police Conservatism, Machismo, Racial Prejudice and Pragmatism. Mission-Action-Cynicism-Pessimism refers to officers having a sense of purpose or mission about their role (epitomised by the “thin blue line” mentality) and a desire for action, intermingled and supported by a pessimistic cynicism which are all mutually re-enforcing. Suspicion is involved due to need for officers to constantly be looking out for signs of trouble or criminality and as a response to the danger and authority inherent in the role. Isolation/solidarity derives from the police being set apart from rest of

society due to practical issues such as shift patterns or erratic hours but also due to their disciplinary code and to hostility and fear directed towards them by members of the public. This isolation (along with a need to be able to rely on colleagues) in turn leads to the development of an enhanced sense of internal solidarity, where officers look to protect each other from perceived external criticism or scrutiny. There is much evidence to suggest that officers tend to be conservative both politically and morally and also that a heterosexual and masculine ethos prevails within policing. Racial prejudice is described as being an aspect of police conservatism and evident amongst police officers in both the United States and the United Kingdom, although Reiner notes that such prejudice can be seen as a reflection of general societal prejudice that exists and further that prejudicial thought or opinion is not necessarily translated into behaviour expressing it (Reiner:2000:99). Finally, he suggests that officers generally have a pragmatic, day-to-day approach to their work, bordering on the “anti-theoretical” (Reiner:2000:101) although he feels that this is waning due to the increasing acceptance of the validity and utility of the role or research in policing. All of these characteristics then, are said to exist within policing and are culturally re-enforced and transmitted through the peer group producing “a mindset which underpins and informs how officers relate to people within and beyond the organisation” (Loftus:2009:15).

### *6.1.3 police culture(s)*

Yet much of the early work was generally concerned with white, male, western, front-line patrol officers and mostly, with occasional exceptions (eg Cain:1973), did not tend to look at what variations might be found between different areas. As such Manning argued that the works of the likes of Westley and Skolnick became a “synecdoche for the entire police organization” but that the reality of what had been put forward as “police culture” really only described “a one-time slice through one organizational level in a handful of forces” but had become used to “explain all matters police” (Manning:2007:59).

However later research challenged the “conventional wisdom” of similarities within police culture and showed that variations across certain areas, such as rank and organisation, may influence such a “unitary police culture” (Pauline:2003:204) and Reiner, even in setting out his Core Characteristics, was clear that police culture is not monolithic and involves variant sub-cultures discernible within broader police culture (Reiner:2000:85).



For example, Muir's influential work *Police: Street Corner Politicians* (Muir:1977) is different from many which preceded it in that it examined why individual officers were more trustworthy and effective than others, effectively looking at individual differences rather than looking at group characteristics of officers as a whole (Slansky:2007:29). Muir found that officers had a power relationship with members of the public in that they ultimately exercised coercive power over them however this "coercive relationship" was paradoxically not always one way or in the control of the officer (Waddington:2015:682) and ultimately good officers had to be able to morally "resolve the contradiction of achieving just ends with coercive means" (Muir:1977:3).

Elizabeth Reuss-Ianni conducted research on two police precincts in New York over 18 months in the seventies, theorising that individual precincts built up their own subcultures rather than being part of the monolithic organisational culture (Reuss-Ianni:1983). She found evidence of two competing and conflicting cultures, that of the "street cop" and the "management cop". The former characterised by harking back to the "good old days" where cops were valued and respected and where day to day policing practices were defined by precinct social networks and a series of maxims for guiding day to day behaviour and performance whereas management cops were a new style of boss, more bureaucratic and with different values, who saw their responsibilities and loyalties at a wider level and who were "sensitive to politics and public opinion" (Reus-Ianni and Ianni:2005:311) .

Additionally, research by Manning has suggested that police organisations can be characterised by three subcultures according to rank, those being Command level, Middle Management level and Lower Participants level (Manning:2007) and as a result "at each level of the organisation, different concerns, orientations, values, norms and sentiments dominate each culture" (Paoline:2003:206).

In support of the notion of plural cultures rather than a single, monolithic culture, it is clear that since many of the early works were written the social context of policing has fundamentally changed (Charman:2017:2) and factors such as changes in policing environment, policing styles, research techniques and theories and in the makeup of police workforces, which are now far more diverse than they historically were, have all influenced police culture (O'Neill and Singh:2007:2).

#### 6.1.4 Challenges to cultural orthodoxy

Nonetheless, a “traditional” conceptualisation of police culture has persisted which it has been argued had become burned into our consciousness over time like television screens which have displayed the same image for too long, creating a “cognitive burn-in” (Slansky:2007:20). However, there have been some relatively recent challenges to this orthodoxy and attempts to re-frame the issue (Chan:1997, Waddington:1999).

Janet Chan presented four major criticisms of the way in which police culture was currently framed (Chan:1997) and argued that police culture could not be fully appreciated without an appreciation of these issues and a more specific and ethnographic approach (O’Neill and Singh:2007:7). She criticised the monolithic conceptualisation which takes insufficient account of internal and jurisdictional differences, the “implicit passivity of police officers in the acculturation process” which did not recognise the agency of officers in structuring understanding of their environment (Chan:1997:431) and the tendency to isolate police culture from the social and political context, all of which left little possibility of cultural change (Chan:1997).

To address these issues, she offered a re-conceptualisation of police culture based on Bordieu’s work on *habitus* and *field* arguing that it is important to examine the interaction between the wider socio-economic, political and historical conditions of police work (the *field*) and the dispositions and values of the officers (the *habitus*). She argued that police culture arose from this relationship and so any external changes in the field can facilitate change in culture, indeed changes in habitus require to be supported by changes in field if profound change in organisational culture is to be achieved (Loftus:2009:19-20).

Waddington in *Policing Citizens* (Waddington:1999) also critically assessed the prevailing approach to understanding police culture and suggested that neither personal characteristics nor the normative approach to sub-culture actually explains police behaviour. In particular he notes that it is not clear the extent to which police attitudes are peculiar to that culture or simply reflect wider societal attitudes and also that the common linking of police talk and action in seeking explanation is not necessarily sound as there is often a distinct gap between what is said and what is actually done.

He states that the notion of police culture has generally been used to explain deviance or condemn police practice and it is mostly conceptualised negatively as a result, however he offers an alternative, “one that is ‘appreciative’, rather than condemnatory” (Waddington:2005:364) which describes the rhetoric of “canteen culture” not as something

which explains police behaviour but as a response which helps to bond officers and as an oral tradition which should not be seen as a deviance but rather as a mainstream aspect of police life (Westmareland:2008). For Waddington the storytelling of canteen culture does not reflect the reality of occupational culture and indeed stands in opposition to it (Van Hulst:2013:627).

However, despite the development of the notion of multiple cultures, along with the alternative approaches of the likes of Chan and Waddington, it has been argued that some of the “classic” recurring themes remain relevant and that some of the pressures associated with policing have not changed (Loftus:2009). Loftus acknowledged an orthodox account of police culture and that the monolithic nature of this culture had been called into question with the emergence of research implying multiple variations across different factors and time and space. However, she argued that, notwithstanding these challenges, there were still “cultural characteristics” as previously described in the classic works which endured across different policing contexts and that a “collection of dominant features persists around the sense of mission and preference for crime fighting, informal working practices and defensive solidarity, the celebration of masculine exploits and willingness to use force” (Loftus:2009:125).

In summary a rich literature of research concerning the behaviour of the police has developed since the sixties, centring around the notion of a distinct culture or cultures which can help understand, predict and describe attitudes and behaviours. A knowledge of this culture literature is therefore helpful and relevant to this research, due to this insight it gives into what might influence police behaviour, given that this research centres firmly on the nature of police behaviour in a specific policing context. Furthermore, the notion of culture(s) has generally been seen as a negative potential influence on behaviour. Such “external” influences become of particular significance where, due to the nature of police work, multiple courses of action are available to officers when engaged in their duties. This ability of officers to use their discretion to choose between outcomes is therefore fundamentally linked to the concept of police culture, which facilitates and enhances its potential impact and influence. However, although it is argued that “police culture is central to understanding or interpreting the use of police discretion” (Westmareland:2008:255), police discretion can be regarded as a wider topic for academic scrutiny in its own right and this will be examined in closer detail next.

## 6.2 Police discretion

The use of discretion within and across the broader criminal justice system is a “central and inevitable part of the legal order” as modern legal systems have come to rely more and more on the granting of authority to officials to achieve broad legislative purposes and because, wherever rules or laws have to be translated into actions, there will be a requirement for interpretation and choice (Hawkins:1992:11-12). In this general environment, legal theorists tended to characterise discretion in terms of a theoretical approach of law as a system of “rules” as opposed to the more sociological approach of discretion as an aspect of decision-making, that is discretion exists only where decision-making is unconstrained by rules either because they do not apply or are vague (Davis:1969); however this narrow rules/discretion dichotomy is now recognised as too simplistic in explaining discretionary decision-making as it obscures and ignores relevant processes such as rule interpretation and the use of discretion in establishing the “facts” of a situation to which rules might apply, and further it removes decisions from their relevant contexts (Emerson and Paley:1992:231). The use of such discretion is relevant across many criminal justice actors including judges, prosecutors and administrators although this research is concerned solely with police officers.

The role and function of the police had been generally assumed and unquestioned until some seminal research in the 1960s (Goldstein:1960, Skolnick:1966) which identified the fiction that officers simply upheld the law, as the “low visibility” of the officer/member of the public interface meant that there was much scope for an officer to either uphold or ignore the criminal code as he chose (Goldstein: 1960).

Early research into police discretion was driven by civil libertarian concerns about the extent of deviation of police methods from due process of law (Reiner:2000:86), particularly as it was typically used in a discriminatory fashion (Reiner:1996). Indeed, it was argued that the exercise of discretion by officers amounted to usurpation of the rule of law (Davis:1975)<sup>155</sup>. However, others considered that discretion could be positively utilised if structured and if appropriate training was given (Goldstein:1977).

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<sup>155</sup> although it has also been suggested that any usurpation of or non-adherence to due legal process could be regarded as a failing of legal due process to meet the requirements of the reality of policing rather than a wilful failure of the police officers (Dixon et al:1989).

Of course, this academic “discovery” of discretion should not be taken to indicate that discretion (notwithstanding arguments about the exact nature of that concept) was not present in the activities of law enforcement agencies prior to this time and Kleinig points out that it has been a recognised feature of police life since inception and refers to a manual written for one of the earliest recognised police forces, London’s Metropolitan Police Service, in 1829 (Rowan and Mayne:1829). Although it offers instruction for officers it clearly states that the manual is not prescriptive and some matters would have to be left to the “intelligence and discretion of individuals” (Kleinig:1996:2).

### *6.2.1 Different ways in which discretion is constructed and explained*

Although the notion of police discretion has been the subject of a great deal of academic examination it has been argued that there is actually little in the literature that seeks to define or explain the concept in any detail and that the term has a certain ambiguity, given that it appears to refer to many things from authority to make a legal decision to a variability of outcomes across similar contexts (Nickels:2007).

Nonetheless it is clear that police officers do not mechanically enforce the law: they pay attention to some incidents and not to others; charge some individuals but only warn others and pay more attention to some people than to others (Waddington:1999:31). As such this illustrates the influence officers can individually potentially have on criminal justice outcomes as they become powerful definers of what does or does not become defined as a criminal event (Kemp et al:1992:87). They are “dominant actors” in any dispute to which they are called in part due to the assumption of legitimacy given to any course of action taken by the police as one that is genuinely available (Kemp et al:1992:17). Moreover, not only can officers decide whether to record a crime or not but they can also decide on *how* that crime is recorded and their interpretation of the circumstances will influence whether, for example, a simple assault or a serious assault is recorded (Sanders and Young:2007:958).

A frequently quoted description of discretion is that “a public officer has discretion whenever the effective limits on his power leave him (or her) to make a choice among possible courses of action or inaction” (Davis:1969:4). However, the utilisation of discretion by police officers arguably involves more than a descriptive paradigm of merely choosing one course of action before another. For instance, this does not distinguish legal from illegal activity and it has been argued that the notion of discretion goes beyond the ability to simply act but in reality,

encompasses limited legitimate potential actions. The exercise of discretion involves “implicit understandings about the range of choice that is legitimately available” (Kleinig:1996:3) and goes beyond mere choice to “convey a sense of *legitimate* choice, a decision reached within the confines of certain restrictions” (Richardson et al:1983:20-21) (my emphasis).

Skolnick identifies a distinction between delegated and unauthorised discretion (Skolnick:1966). That is, he suggests that there is the ability to use discretion which is given to and expected of the officer, and there is that other discretion which is not authorised but exercised nonetheless. However, even in the utilisation of delegated discretion, he states that there is an implicit obligation on the officer (as part of this process) to utilise such discretion in a manner consistent with the standards of the organisation, although this can be confusing where there are competing standards or where different (genuine) interpretations of those standards exist. Skolnick further explains that the operational environment in which officers work can influence the use of discretion. Uniformed officers, for example, are far more likely to interact with members of the public than parking meter attendants are and they act accordingly (Skolnick:1966).

Newburn and Reiner suggest that there are three broad approaches to explaining how police discretion works. It is individualistic (that is in terms of the individual attitudes of officers); it can be explained in terms of distinctive cultures and sub-cultures throughout rank structures and between Forces and finally there are structural variations, which are the unintended consequences of organisational processes (Newburn and Reiner:2007). Similarly, Sanders and Young describe four levels around which police discretion is structured: general policing goals; force policy, *cop culture* and individualistic, noting that in terms of individualistic traits, most officers are not representative of the general population being predominantly male, white and conservative (Sanders and Young:2007:958).

It is therefore recognised that police discretion is not necessarily individual as even decisions which appear individualised can be influenced by adherence to social and organisational rules which can act as a sociological constraint on the exercise of discretion in a “pure” sense; officials still have the ability to exercise discretion however “their choices are socially patterned and socially predictable” (Baumgartner:1992:156).

At a practical street-level Fitzgerald (1999) noted a distinction between “high” and “low” discretion, high discretion tending to come about from more pro-active work with low discretion tending to exist where some kind of police activity is more expected. For example where a member of the public has requested police attendance or where officers have been sent

to a situation in which circumstances there is more likelihood of an expectation of action by the officers and therefore less discretion able to be exercised by them because of this anticipated scrutiny (albeit discretion will still feature in these “low” situations as officers will still have to interpret information and make judgements to some extent (Fitzgerald:1999:16).

### *6.2.2 Inevitability of discretion*

The reality of the existence of discretion has never really been denied (Reiner:1996). There are simply not enough police resources to deal with every single infraction of the law that might occur in day to day life and there are offences that, by definition, have ambiguous wording or require interpretation by an officer in often complicated and unpredictable circumstances, all of which tends to make the exercise of discretion both routine and inevitable (Newburn and Reiner:2007:915). Herman Goldstein suggests that ambiguity in certain legislation may even be intentional on the part of legislators to give officers “greater flexibility in enforcement” (Goldstein:1963:141).

Not only does the number of incidents requiring attention outstrip capacity, requiring a degree of prioritisation, and ambiguity in wording require interpretation, but the general nature and character of police interactions (mostly in terms of low visibility) tends towards the inevitability of discretion and it is not at all clear that strict enforcement of legislation is always totally desirable given that it may appear unjust or overly oppressive in some circumstances (Kleinig:1996) and make the law “too blunt an instrument” (Waddington:1999:35). That the substantive written law might not produce equitable outcomes in certain situations, however, some argue is for the law to remedy rather than individual police officers in the street. Although describing “full enforcement” of the law as unrealistic, Joseph Goldstein was clearly of the opinion that officers should still strive to operate in the spirit of full enforcement and even where a criminal statute was poorly drafted or ill-advised police officers should aspire to full enforcement which in turn should generate public pressure for remedial legislative action so that abandonment of any law would not be left to the whim of individual police officers but be “retained where it belongs in a democracy – with elected representatives” (Goldstein:1960:587)<sup>156</sup>.

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<sup>156</sup> Arguably this process can be seen in the successful campaign to repeal the OBFA.

This section has focussed on research on policing in general and has specifically examined police culture(s) and police discretion, two areas which are of particular relevance to this research and which provide a context of existing literature in relation to studying the behaviour of police officers in operational settings. In this case the particular operational setting is the football environment therefore I will now go on to examine research that has occurred more specifically in relation to that context and the policing of football, particularly in Scotland.

### 6.3 Research on policing football

Following initial scholarly interest in first the violence associated with football in England in the seventies and eighties and then fan racism following the appearance of black professional players, the breadth of academic study into football grew as the study of football became “academically respectable” (Cashmore and Dixon:2016). However, within these fields of the study of football, policing in itself has rarely been of primary interest. Work has been done on the study of the policing of racism at football in England (Garland and Rowe:1999) however, even in research looking at hooliganism and violence at football, mention of the police is often in passing and incidental to the main subjects, which are the supporters (O’Neill, 2004:95).

A number of psychologists have studied what influence the actions of the police may have on the behaviour of football supporters in terms of crowd dynamics. It has been argued that senior police officers have a fear of policing crowds as they consider them to be “no-win” situations where good policing goes unnoticed but careers can be ended if something goes wrong (Reicher et al:2004:558-559). This can lead to an assumption by the police that crowds pose a threat and consequently to the ready use of Public Order policing in crowd situations due to a perception of the risk of potential disorder (Reicher et al:2007:403).

However, treating all supporters as if they were potentially dangerous can lead to situations where fans who initially had no inclination to violence, can actually come into conflict with the police (Stott and Reicher:1998a). This process of empowerment within crowds occurs when the (majority) moderate crowd members are denied the ability to express themselves fully as police look on the moderates and radical minority as an homogeneously dangerous entity and treat them as such leading to the moderates being radicalised into joining the radicals in challenging the police (Drury and Reicher:2009:711-712). The Elaborated Social Identity Model (ESIM) (Stott and Reicher:1998b, Drury and Reicher:2000) developed to explain how



this change in identity between the start and finish of an event could take place. Essentially the ESIM involves a re-conceptualisation of the relationship between the social identity of the participant and context (and a recognition of the close relationship between the two), conditions of asymmetry of interpretation of situational behaviour and power dynamic between the crowd and the police (for example in the police defining a particular category of behaviour as a legitimate defensive response to increasing threat from the crowd but the crowd perceiving the same behaviour as aggression or “heavy-handedness”) and finally that assumptions of the police as to the homogeneity of the crowd (and the broad-brush treatment of the crowd as such) leads to what was actually a heterogeneous crowd becoming homogeneous (Drury and Reicher:2009). In summary, peoples’ sense of social identify changes when acting in a crowd when they are “repositioned as a consequence of the understandings and reactions of an out-group (treated as oppositionalists by the police) and this re-positioning leads both to a new sense of identity and new forms of action (oppositional violence)” (Drury and Reicher:2009:713).

Furthermore, the levels of hostility and aggression shown by a crowd to the police can be directly linked to the strategy employed by officers to interact with that crowd (for example in Euro 2000<sup>157</sup> where it was shown that the more police stood off and treated the supporters with wariness, the greater the levels of hostility (Adang and Cuvelier: 2001) or conversely at the UEFA Cup Final held in Manchester in 2008 where heavy-handed policing tactics employed by Greater Manchester Police played a significant part in forming the violent disorder by Rangers supporters which occurred in Manchester City Centre that evening (Millward:2010:77)<sup>158</sup>.

Positive fan behaviour is associated with differentiated policing which takes into account situational context and actual risk present (Schreiber and Adang:2010) and a better understanding of football supporter culture on the part of the police in order to assess the actual risk (rather than stereotyping them) can also assist in avoiding conflict with supporters (Havelund et al: 2015). In addition, it has also been suggested that the perceived legitimacy of the way in which they are policed can influence the dynamics within a crowd and the overall compliance of the group (Stott et al:2012).

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<sup>157</sup> The UEFA European Football Championship co-hosted by Belgium and the Netherlands in 2000.

<sup>158</sup> Millward by no means absolves the Rangers supporters involved in violent disorder from blame for the events that evening but points out a number of other significant contributory factors.

Thus, there is a clear understanding of how disorder and widespread conflict can derive from the interactions between police and crowds (Reicher et al:2007). However these principles appear to have been recognised by the police and the relative decline in conflict at football in recent years has been linked to a move in police strategy and tactics from control through force to one of facilitation and dialogue (Stott:2014:267)<sup>159</sup>. During this research, I found a general appreciation amongst many officers, particularly those attached to FoCUS, that their actions could directly influence the crowd however at street-level this was mostly conveyed in a manner that suggested that this principle was “obvious” and learned through lived experience rather than it having any taught theoretical basis. One Match Commander did quote the name of Clifford Stott to me when discussing crowds, implying greater theoretical knowledge on his part.

### *6.3.1 Football research in Scotland*

Generally, the study of policing in Scotland has been somewhat limited with references to “British” policing common, and many regular sources of research being semi-official Governmental or Organisational Reports. However, academic interest in Scottish policing has greatly increased in recent years with the advent of organisations such as the Scottish Institute for Policing Research (SIPR) in 2006 which provides a direct link between the academic world and the police having a major impact (Donnelly and Scott:2010:3-5) and it has been argued that a new openness and appreciation of the value of research is now evident in the PSoS following a change in leadership (O’Neill:2017).

Nonetheless, this general lack of research and Anglo-centric focus is reflected in specific areas of policing in Scotland, such as football. The English-based literature mentioned previously can potentially shed some light and academic rigour on the subject however this is both limited and potentially lacking some relevance, given both that the intrinsic nature of Scottish policing is arguably different than the rest of the United Kingdom due to its historical roots (Dinsmor

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<sup>159</sup> Indeed, Stott’s research has been specifically integrated into police teaching and policing designs in England. see <http://www.esrc.ac.uk/news-events-and-publications/impact-case-studies/policing-crowds-without-force/> last accessed 16/03/17.

and Goldsmith:2010)<sup>160</sup> and that the divergent social and economic backstories of English and Scottish football supporters may mean that in some regards some sociological footballing theories derived from studying English supporters may not always sit comfortably with Scottish evidence (Moorhouse:1984).

In 1982 Coalter and some colleagues conducted research into crowd behaviour in Scotland, observing supporters at three clubs. Although predominantly intended to examine the effect of seating in football stadia, the broader aspects of the research also took into account some other crowd management policies and the methodology included interviews with police officers and the study of police data relating to football offences over a five-year period (Coalter:1985).

In 1991 Collison published a study of football crowd violence in Scotland analysed in terms of collective behaviour and looked at factors that influenced hooligan behaviour. This found that the Police were actors able to take active steps in the process of escalation into violence, in order to reduce the chances of violence between supporters occurring (Collison:1991).

A major piece of research in this field was conducted by Megan O'Neill who in football season 1998-99 did an ethnographic study of police and supporter interactions at Scottish football and argued that despite the fact that supporters were subjected to "constant and pervasive police supervision", little of the previous body of football research had specifically concerned the police involvement in football (O'Neill:2005). This is an extremely relevant work and I will examine it in more detail later in this chapter.

Between 2005 and 2008 an EU peer-review evaluation study intended to identify good practice in the management of large-scale football events in Europe included a visit to a Celtic versus Rangers match amongst the various matches attended and reviewed (Adang and Brown:2008). On a much smaller scale some low-level studies relating to policing football in Scotland have been completed by police officers as part of personal study, such as on the use of Football Banning Orders (FBOs) and third – party reporting to tackle sectarianism in football as a means of addressing it in wider society (Blair:2008) or examining police calls on the days of Old Firm matches in an attempt to identify links between these matches and violence and disorder in the community (Kerr:2010). In 2008, I conducted a small research project into what provisions

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<sup>160</sup> That there is a distinct "Scottish" way of policing has been contested by some senior officers (Gorringe and Rosie: 2010).

Strathclyde Police made for addressing sectarianism, which included gathering officers' experiences of policing football matches through a survey (Whiteford:2009).

### 6.3.2 Other research linked to football and policing in Scotland

Formal research has been conducted into legislation which specifically relates to football in Scotland, namely concerning Football banning Orders (FBOs) and the subject of this thesis, the OBFA. Whilst not directly concerning the policing of football in Scotland *per se*, these studies are worth examining in more detail given the close involvement of police officers in utilising such legislation and the direct link to the OBFA.

FBOs are court orders which prohibit individuals from attending football matches for a prescribed period of time. They are usually sought from the court following conviction for a football-related criminal offence but can also be obtained through a civil process which relies on intelligence rather than actual conviction<sup>161</sup>. FBOs were first introduced in England with a view to addressing football-related violence, although they have been criticised in terms of their impact on civil liberties and their efficacy in actually reducing violence (Stott and Pearson:2006), and they were subsequently introduced in Scotland in 2006 as a direct recommendation of the football aspect of the Action Plan on Sectarianism, *Calling Full Time on Sectarianism* (Scottish Executive:2006a). Hamilton-Smith and McArdle characterise this Action Plan as the reaction of the political class to the increased contemporary interest in sectarianism in football, but suggest that the Plan made the mistake of assuming that sectarianism and sectarian disorder were self-evident, thus ignoring the extant debates as to the nature and extent of it, but nonetheless the major commitment of the Action Plan was to introduce FBOs specifically “with the avowed expectation that it would address sectarianism” (Hamilton-Smith and McArdle:2013:132)<sup>162</sup>.

However, the uptake of FBOs in Scotland was extremely limited which caused enough concern for the Scottish Parliament to subsequently commission research into their use (Hamilton-Smith et al:2011). Specifically, this research was intended to assess the interpretation and application of FBO legislation by stakeholders, examine the understanding of stakeholders of FBOs as a preventative tool, examine the effectiveness of FBOs in preventing further football-

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<sup>161</sup> *Police, Public Order and Criminal Justice (Scotland) Act 2006*.

<sup>162</sup> Arguably this “quick-fix” attitude was mirrored in the introduction of the OBFA.

related offending and compare enforcement of FBOs between England and Wales and in Scotland.

As stated, there were different policy intentions behind the introductions of FBOs in England and Wales as compared to Scotland and, although comparison was problematic due to the different contexts, the authors identified some superficial differences between the two jurisdictions around drafting, resourcing and implementation. The drafting of the relevant legislation was almost identical however in England and Wales it was drafted in such a way as to require an explanation as to why an FBO was *not* being sought, thereby making such an application the default expectation on every occasion. Regarding resourcing it was established that in England and Wales more funding was made available centrally to the Football Policing Unit which served to focus expertise, intelligence and advice on best practice on the use of FBOs whereas this was not the case initially in Scotland.

In terms of implementation the research noted a similarity in how offenders were targeted in both jurisdictions i.e. for “serious” offences within the ground or *Risk* offending inside or outside the ground, however in Scotland “serious” was traditionally seen as involving repeat offending or violence and statistical analysis of the granting of FBOs to that time indicated that those involved in “sectarian” offending were in fact less likely to receive an FBO, suggesting that the legislation was not actually being used for the purpose that it was introduced for. Closer analysis of some case studies indicated that a potential reason for this was that a large number of clearly sectarian offences were not “serious” in that, contrary to popular and media belief, they did not actually involve violence but rather “offensive utterances” and so were not deemed serious enough to merit an FBO (Hamilton-Smith et al:2011).

A “sunset clause” two-year review of the OBFA was written into the legislation<sup>163</sup> and this was conducted by academics at Stirling University (Hamilton-Smith et al:2015). The specific objectives were to assess the implementation of the legislation to identify any barriers to its effectiveness, to evaluate whether behaviour and atmosphere had improved at football matches due to the legislation, to assess whether the Act had reduced offending around football matches and lastly to examine supporters’ perceptions of the legislation (Hamilton Smith et al:2015:ii). In collecting data, the researchers spoke to police officers and supporters and a key aspect of this research focussed on the behaviour of officers in terms of the implementation and

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<sup>163</sup> Section 11 *Offensive Behaviour at Football and Threatening Communications (Scotland) Act 2012*.

enforcement of the Act, which the researchers believed was fundamental to a proper evaluation (Hamilton Smith et al:2015:33).

Amongst other things the Review found that the creation of specialist functions within COPFS and the police had assisted in the implementation of the legislation and that the Act gave officers more purpose and clarity around sectarian offending. However, there was evidence of inconsistency around policing and stewarding at different grounds and that the tensions surrounding the Act had placed a strain on the club/police/supporter relationship with some supporters and the conflation of young singing supporters with “Risk” groups led to the inefficient use of police resources (Hamilton-Smith et al:2015). There was some criticism that this research did not go far enough and the terms of reference did not amount to the full review promised<sup>164</sup>.

### 6.3.3 O’Neill

In 2005 Megan O’Neill published *Policing Football: Social Interaction and Negotiated Disorder* (O’Neill:2005), an ethnographic study of police and supporter interactions at Scottish football. Such interactions and general, unexceptional police involvement in football, she argued, had previously been academically neglected. This study is important and relevant as it represents specific research into the policing of Scottish football and the ways in which police officers behave in that environment and as such can inform my own research process and provide a baseline for the interpretation of data.

O’Neill used participant observation and informal interviews to examine interactions between police and supporters at a particular football ground during one entire season of the Scottish Premier League. In doing so she noted that the vast majority of these interactions were actually non-violent (despite the preoccupation with the violent “hooligan” interactions of previous academic works), and that it was also important and instructive to see how the mundane and routine interactions between supporters and police officers were constructed and performed, in order to capture a more complete picture of the reality of these relationships.

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<sup>164</sup> <https://stv.tv/news/scotland/1338718-campaigners-urge-msps-to-back-review-of-controversial-football-act/>  
(last accessed 11/08/17).

She observed police performing multiple roles using the work of Erving Goffman to guide her field observations, primarily utilising Goffman's influential concept of dramaturgic metaphor (*The Presentation of Everyday Life* 1959) which suggests that all social interaction is a performance of theatre where the actors perform roles depending on the situation. They must also provide the audience for other actors and validate (or not) their performances. Goffman talks not only of self but mentions the concept of "teams" in the sense of individuals who come together as a group to stage a single routine (Goffman 1959:85). Whilst O'Neill felt that this dramaturgical approach would highlight existing structure and behavioural expectations of the officers and supporters involved, she did acknowledge that Goffman's theories may not be completely contextually appropriate<sup>165</sup> and has been criticised for the use of such a rigid approach (Anderson:2007).

O'Neill found that the officers most relevant to her research were the uniformed constables; plain clothes Spotters<sup>166</sup>, mobile unit officers, senior officers and WPOs (female police officers) as they had most direct interaction with supporters, and she focussed her attention on how they interacted and the informal rules that guided those interactions (O'Neill:2005:59). These informal guidelines for officers consist of performance, typologies of fans and unspoken "rules of engagement".

She analyses performance in terms of Goffman's concepts of front, dramatic realisation, idealisation, and maintenance of expressive control. She discovered that the appearance and manner of aspects of "front" could vary depending on the role of the officer and the location. Thus, outwith the ground the officers' manner tended to be friendlier however they adopted a sterner approach inside the ground.

O'Neill argues that police encounter thousands of different fans at every game and so tended to categorise them into types so as to be able to cope and deal with them. Her work identified that police officers consider most supporters to be decent and non-violent (O'Neill:2005:71), and that officers made three common comparative typologies when dealing with them namely: the fan compared to the "normal" member of the public (fans considered not to be "normal" when put in the football context); the football fan compared to fans of other sports (this

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<sup>165</sup> She acknowledges that Goffman himself stated that his work was a study of middle-class Americans in an American context and so could not necessarily be generalised to all social setting.

<sup>166</sup> Specialist officers trained to identify specific individuals linked to football disorder and violence.

distinction was often expressed in class terms and in particularly rugby was often used for comparison) and football fans compared within themselves. This group further divided into 3 sub-categories of “type” involving an assessment based on a pre-determination of what visiting fans will be like; where in the ground certain supporters sit such as the family section or in season ticket sections (leading to the different policing of those supporters) and “hooligans” as compared to “real” fans.

Despite the commonality of type, O’Neill found that the type of person who could fall into the categories varied with the type of officer encountered. Further to this, different officers used different typologies depending on their role. Thus, the Mobile Disorder officers differentiated between hooligans, supporters and regular people as their role was predominantly external and they were by far more concerned with hooligans.

O’Neill found “rules of engagement” for interactions between fans and officers. These amounted to rules and conditions for behaviour that were particular to the football setting and were unwritten but understood by both sides. For example, she described supporters shouting and swearing in a manner likely to get them arrested were they to behave in the same way outwith the football environment but “getting away with it” due to unwillingness to arrest for practical reasons. The fans would take advantage of this but only to a certain extent and although they would push the limits, they would adhere to the rules of engagement and stop short of crossing the line (O’Neill:2005:78).

O’Neill then looked at how these unwritten rules were enacted. She found that, contrary to common assumption, the police did not act as one large team but rather they operated as several teams across different ranks and roles. These teams have different membership criteria, different audiences and present different definitions of situations to those audiences.

Ultimately her study found that police are internally divided and operate as small teams and that often these teams are more concerned with how they present to each other rather than to the public or the “hooligans”. Although there exists an underlying police “community” that ties them together at one level and presents them as united to outsiders, she asserts that her work shows that this unity is not the reality.



## 6.4 Conclusion

In the last fifty years research on policing has grown to become a “formidable intellectual and policy enterprise, including academics and practitioners” (Reiner:2015:309). However much of the British research has been somewhat Anglo-centric and specifically in the area of the policing of football in Scotland, academic interest has been limited, with O’Neill’s work being the only major research of note into how police operate in the Scottish football environment (O’Neill:2005). Thus, there is a clear gap in contemporary knowledge as to how football in Scotland is policed and this work aims to contribute to this area.

This research is focussed on the behaviour of officers at football matches, specifically as they utilised the OBFA. In terms of existing research examining the actions and behaviours of police officers, an extensive literature has developed around the notion of police culture(s) and the way in which the existence of such “informal occupational norms and values” (Chan:1997:43) might influence or make predictable how police officers interact with the public. In particular, police culture researchers frequently sought out deviance or wrong-doing by officers, which was often thought to be found in the way in which officers exercised discretion. This literature is relevant to this research project and greatly informs the process however, whilst notions of culture(s) and discretion may bring a degree of clarity as to what attitudes may shape police behaviour at football matches, it may not fully appreciate any systemic or structural influences on police behaviour that may exist in that setting nor sufficiently recognise the nature of the specific environment involved and the way in which it lends itself to routine practices and repetitive, multiple police/public interactions, many of which are done on a one-to-one basis at street-level. Furthermore, police culture offers limited scope to examine in depth whether police attitudes and behaviours might represent more (in a culminative sense) than simply individual or group behaviour in certain particular settings, or the part officers may play in shaping the use and development of particular legislation and how the public experience that legislation in reality.

Thus, the data derived from examining how police officers utilised the OBFA will add to what is known about the policing of football in Scotland but will need to be interpreted utilising a theoretical framework capable of encompassing but also reaching beyond occupational culture and discretion, in order to be able to meaningfully interpret the results. Such a suitable theoretical basis can be found in the work of Michael Lipsky and his concept of *Street Level*

*Bureaucracy.* I will now go on to set out this theory in more detail in the next chapter and further comment on its relevance and utility as a theoretical basis for this research project.

## CHAPTER 7 - Theory

The objective of this research is to examine the impact of Section 1 of the *Offensive Behaviour at Football and Threatening Communications (Scotland) Act 2012* on the policing of football in Scotland and how police officers in utilising the legislation may have influenced this. Whilst elements of this thesis are intended to be more sociologically descriptive in nature, it is also essential to establish an underpinning theoretical basis for the research as this will provide a conceptual framework within which findings can be placed to make sense of the data (May:2001).

The previous chapter considered theoretical aspects of police culture and discretion, both of which can help to explain general decision-making and behaviour on the part of police officers. However, this thesis seeks to focus on a particular policing environment and on a specific piece of legislation brought into that environment with the intention of it being the primary legislation to be used; introduced within an extremely politically-charged and contentious context as arguably a “flagship” policy of the Government. Therefore, there is value in not only considering the behaviour of officers and what might influence it, but also in analysing what the overall effect of that behaviour (if any) might be in terms of the policy intentions behind the legislation compared to the actual experience of the receiving supporter on the street; particularly in disputed areas where the concepts being discussed, such as offence and sectarianism, are not necessarily universally understood or agreed.

In the academic field of decision-making by public officials (such as police officers) the work of Michael Lipsky, and in particular his notion of “street-level bureaucracies” (Lipsky:1980), has become a classic text (Halliday et al:2009:405-406). SLBT identifies cultural aspects of police behaviour and also the fundamental importance of the use of discretion in police work. It recognises the impact that the environmental context of police activity has on police behaviour, specifically that much police work is experienced by individual members of the public on a relatively personal and one-to-one basis. Furthermore, and importantly SLBT also seeks to explain what influence police behaviour might have on intended policy delivery. This therefore offers a potential explanation of what practical effect in real terms officers may have on the impact of legislation through the process of operationalisation.

Although a general theory, SLBT can still be seen to be relatable to more specific or narrow policing environments such as football policing in the context of the introduction of the OBFA

as, despite the large numbers of supporters often co-located within a relatively small area, the officer/supporter interactions that constitute officer behaviour nonetheless often remain of an individual, low-visibility and street-level nature (Goldstein:1960, Skolnick:1966) and the OBFA could certainly justifiably be considered to be policy from the Government. Indeed, concentration on a particular policing environment and a specific policy may facilitate clearer and more accurate analysis.

The concept of Street Level Bureaucracy therefore sits comfortably within a research process intended to draw meaningful conclusions from the actions of police officers interacting with the public in a specific policy-related environment. Utilising SLBT can offer a deeper insight into the processes involved in the practical utilisation of legislation by officers and is a relevant and apposite theoretical framework for this research project.

Although some time has passed since the theory was first introduced the central concepts of Lipsky's arguments remain much discussed, evaluated and deployed today (Lipsky:2010:xxi). SLBT therefore continues to resonate with contemporary public sector life to an extent, not least as some of the fundamental aspects of it, such as the use of discretion, remain enduring and visible features of this work environment. However, there would nonetheless be additional benefit derived from employing SLBT as a theoretical tool in this research in that it will allow for more robust testing of its contemporary relevance and utility in describing and explaining police activity in the 21<sup>st</sup> century.

I will now look in more detail at Street Level Bureaucracy and some of the subsequent developments in Street Level Bureaucracy Theory.

## 7.1 Street Level Bureaucracy

### *7.1.1 Policy*

In *Street Level Bureaucracy* Lipsky argues that organisations, despite rules, policies and procedures that they might officially have in place, in reality often act in a manner contrary to those rules. This is due to factors affecting the performance and behaviour of individual workers within those organisations and as such these individuals become “street-level bureaucrats” whereby despite what official policy might be, the reality of the actions of a SLB is that it effectively **becomes** the public policy. Every encounter between a member of the

public and a police officer then, “represents an instance of policy delivery” (Lipsky:1980:3) and the actions of such public service workers “...*are* the policies provided by government in important respects” (original emphasis) (Lipsky:1980:xvi).

He identifies a number of relevant factors and circumstances in street-level interactions which affect such workers and the coping mechanisms which they develop in order to make sense of their surroundings, process categories of work and to be able to deal with the reality of the conditions of their working environment, a reality which often conflicts with the ideal of service held by many public-sector workers. Often such workers develop techniques to narrow the gap between their ideal and the reality which can lead to them actively perverting the service ideal.

However, Lipsky also questions how we can operate public services *without* human intervention and individuals making decisions and applying discretion and doubts as to whether as a society we are totally prepared to give up such human input. Of course, since Lipsky first put forward this theory advances in society have meant that many more things can now be achieved through technology and this issue will be examined in more detail later in this chapter.

Lipsky divides his book into four main parts. In part one he asserts his general theory of public service workers effectively delivering policy to the public. He defines SLBs as public service workers who interact directly with citizens in the course of their work and have “substantial discretion in the execution of their work”. They consist of distinct groups such as nurses or social workers however they nonetheless retain shared characteristics across the whole. SLBs directly influence people and often can come into conflict with them due to the immediacy of their interactions with the public and the impact that they can have on people’s lives and they often have to deal directly with the reaction of clients to their decisions. Police officers quite clearly explicitly fall within Lipsky’s definition of a street-level bureaucrat (Lipsky:1980:3).

Lipsky asserts that SLBs make policy in two ways: firstly, by exercising wide discretion in decisions about citizens with whom they interact and secondly in that the sum of their individual actions add up to agency behaviour. This role of policy-maker is based on two particular facets of their positions, namely “relatively high degrees of discretion and relative autonomy from organisational authority” (Lipsky:1980:13).

Discretion is a key concept and SLBs exercise high levels of it. Lipsky does not claim that they are untouched by rules and regulations which he states give a general structure and degree of standardisation to street-level policy however he links the idea of discretion with notions of

professionalism and those workers who are expected to exercise discretion in their day-to-day job.

Police officers in particular he suggests are expected to invoke the law selectively and in a practical sense could not actually make arrests on every occasion that they observe the law being broken (Lipsky:1980:14). Furthermore, he argues that the exercise of discretion is vital as many of the circumstances and situation that SLBs find themselves dealing with are too complicated for elaborate systems of rules or require human judgement and what is required is to establish “the correct balance between compassion and flexibility... and impartiality and rigid rule application” (Lipsky:1980:15-16).

SLBs have a certain degree of autonomy from their managers and, whilst they often recognise the manager’s right to issue instructions and orders (which are usually in line with organisational policies) individual orders can be considered illegitimate as frequently SLBs have differing objectives to their managers, their priorities tending to be more personal and individual to them. They introduce low-level coping mechanisms to process work (as not everything can be a priority) and this allows the organisation to function on a day to day basis, even if those mechanisms are contrary to organisational policy. SLBs therefore value their autonomy and resist any attempts to limit their discretion due to self-interest, this autonomy allowing them to often circumvent official policy in actual practice, where their interests differ. Such discretion also allows an SLB the ability to utilise a concept of “fairness” which offers them the ability to intervene on behalf of a client in a positive way as well as to discriminate (Lipsky:1980:23).

In general terms these fundamental aspects of SLBT can be seen to clearly relate to the football policing environment in that officers operating there have direct contact with their clients (supporters), have some ostensible level of autonomy from supervisors (in that they operate in small groupings throughout the football environment) and therefore appear able to exercise a level of discretion. Furthermore, in using the OBFA they were clearly concerned in implementing policy to some degree. However, the extent to which these factors of SLBT remain compelling in the contemporary football environment and truly accurately describe the processes involved will be critically analysed later in this thesis.

## 7.2 Conditions of work

In the second part of his theory, Lipsky sets out certain conditions of work that pertain to SLBs. He suggests they operate in an environment where there is a chronic lack of resources to perform the required tasks, the demand for the relevant service tends to increase to meet the supply, the goals of the service tend to be ambiguous or conflicting and the performance in terms of achievement of these goals hard to measure. Lastly, he states that a condition under which SLBs work is that their clients are typically non-voluntary.

Bureaucracies fail to provide adequate resources in two main ways: in terms of ratio of workers to clients and in terms of time. Bureaucratic decisions are often made under conditions of limited time and information<sup>167</sup>. Time limitations can be compounded (especially in the case of police officers) by the fact that SLBs will have to make quick decisions due to often being in confrontational situations where indecision can be interpreted as a sign of weakness (Lipsky:1980:30). Time can also be used up on “house-keeping chores” such as filling in paperwork.

Lipsky states that the problem of resources in service provision is complicated by the often unpredictable nature of the demand, especially with the Emergency Services, and that resources are generally inadequate due to the fact that when resources are increased to meet demand, utilisation usually merely increases to meet the new level of supply, restoring the previous inadequacy<sup>168</sup>; and further that there is a greater expectation on the part of the public than previously that the public services will intervene. The notion of a lack of resources can most clearly be seen in the football context in the fact that there will always be far fewer police officers on duty than there are supporters in the crowd, meaning that the potential for an inadequate “ideal” response to large-scale criminality.

Stress is another condition of work and SLBs react individually in this regard. Police officers are particularly affected due to the constant threat (real or perceived) of violence. Stress is also generated through the SLBs feeling that their performance is under scrutiny from superiors and others.

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<sup>167</sup> in terms of capacity to absorb it and general unavailability of it.

<sup>168</sup> He uses an analogy of a turnpike being introduced to ease traffic congestion at a location which leads to traffic levels actually increasing as more people utilise the new facility.

## 7.2.. Goals and performance measures

Lipsky argues that supervision promotes guidance towards bureaucratic goals and that performance measures offer feedback to adjust the system where necessary. Therefore, it follows that the clearer the goals and the better developed the performance measures are the more accurate the feedback and guidance can be and this is of fundamental importance to the ability of a manager to exercise control over policy (Lipsky:1980:40).

However, SLBs tend to work in organisations with conflicting and ambiguous goals, which makes them difficult to achieve. This goal ambiguity affects performance measurement as, unlike in business, there is no reality of profit and loss, and so evaluation of performance is difficult, particularly where many variables or levels of discretion are introduced. Nonetheless SLBs do indeed often establish measurements (such as number of arrests per month, for example) however such measurements are not always clear in what they mean (does an increase in arrests mean better or worse policing?) and these rarely say anything about the appropriateness of a particular action or “fairness” in the particular circumstances <sup>169</sup>.

Performance measurement can be used as a means of exercising control and so often there is a focus on what is measurable in order to be able to exercise this control, with the result that workers’ behaviour then tends to reflect “the incentives and sanctions implicit in these measurements” and so workers then start to focus on what they are being assessed on (Lipsky:1980:51).

These issue with performance measures are acutely felt in the football policing environment. Unless a large-scale and obvious act of disorder occurs to which the public might expect to see a tangible police response, arrest levels are unlikely to definitively reflect quality of performance given the possible difference in interpretation of arrest figures previously mentioned<sup>170</sup> and the generally reactive nature of football policing<sup>171</sup>. In the specific context of

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<sup>169</sup> Performance Measurement has been an issue of contention in the Police Service of Scotland in recent years and it has been argued that an over-bearing performance culture existed in the formative years of the organisation, such as around stop/searches (Murray:2014).

<sup>170</sup> For example, the same low conviction rates under the OBFA were alternatively spun as showing the Act to be ineffective and as demonstrating how the Act had been successful in reducing offensive behaviour <https://www.bbc.co.uk/news/uk-scotland-scotland-politics-35787935>

<sup>171</sup> discussed later in chapter Nine.



the OBFA, the political nature of the legislation might have led to certain officers feeling pressure to make arrests under it<sup>172</sup>.

### *7.2.2 Clients*

Clients in SLBs are non-voluntary as the service or function provided cannot be obtained elsewhere and so the client cannot disengage, meaning that client dissatisfaction is not relevant. This non-voluntary aspect is obvious in coercive agencies such as the police but is just as valid with other public sector departments that provide essential services which cannot be obtained elsewhere (Lipsky:1980:54). Nonetheless it cannot be ignored that of all SLBs, police officers enjoy a unique ability to impose their will by use of coercive force (Bittner:1967).

The power dynamic in the SLB/client relationship therefore sits in favour of the SLB, albeit all such relationships involve a degree of reciprocity, and often client compliance with their decisions can be sought by SLBs, for example where they are evaluated in terms of client behaviour or pragmatically from a police officer's perspective, where client compliance allows them to do their work smoothly (Lipsky:1980:57).

When dealing with clients, SLBs will utilise various social constructions of client. People come to interact within SLBs as individuals with very different needs and experiences however a social process of categorising and placing within standardised definitions takes place. Although clients want to be treated as individuals and have tailored solutions provided for them, workers will see the clients in terms of categories of solutions and best processing of a totality of work rather than individually (Lipsky:1980:60).

### 7.3 Patterns of practice

In Part Three, having already described Street Level Bureaucracy and then set out some of the issues facing SLBs, Lipsky goes on to describe patterns of practice which SLBs do in order to mitigate these circumstances and still provide as good a service as they can. In general terms, this involves developing routines and simplifications in response to these job stresses that limit demand and maximise the use of available resources (over and above the procedures developed

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<sup>172</sup> See section 12.3.

by their agencies), modifying the concept of their jobs to lower their objectives and thereby reduce the gap between objectives and accomplishments and modifying the concept of their clients (such in terms of “worthy” or “unworthy”) to make this distance between objectives and achievements appear more acceptable.

The routines and simplifications Lipsky describe are the rationing of services, both in terms of fixing levels in relation to other goods and service and in terms of limiting amongst different clients, controlling clients and work situations and the processing of clients.

In terms of controlling work situations Lipsky acknowledges that typically all social orders depend on the cooperation of their members and that cooperation is neither wholly coerced nor given freely but that SLB/client interactions are generally structured so that SLBs control their content, timing and pace (Lipsky:1980:117). When specifically discussing police officers he notes that they develop control measures as a pre-condition of interaction through routinizing approaches to their safety in those interactions, such as physically positioning themselves in order to maximise their safety in the event of attack, projecting a public image that they are always ready to use violence if necessary or developing capacities to identify potential threats from individuals based on particular factors (such as gait, dress etc) which act as an early signpost for an officer’s control requirements. However, such processes might be self-fulfilling in that approaching and treating clients in a hostile or abrasive manner, having assessed them as requiring such a style of control, may actually provoke the types of behaviours predicted (Lipsky:1980:122-123). This notion is particularly pertinent to the policing of football supporters where officer behaviour has been shown to have the capacity to directly influence crowd behaviour<sup>173</sup>.

Lipsky then goes on to describe how SLBs in practice have to engage in the processing of their clients in order to actually facilitate day to day work tasks. The strategies, stereotypes and mechanisms they devise are seen not only as necessary coping measures to deal with the inherent limitations of the circumstances, but as actual functions of doing the job in the first place. This client processing can be seen to apply to the football environment in the way that officers employ typologies of supporters (O’Neill:2005) and is analysed in more detail in Chapter Ten.

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<sup>173</sup> Discussed in section 6.3.

#### 7.4 Future of SLB

In the final section of his book Lipsky discusses the future of SLB and what steps might be taken to influence the SLB environment to improve it. He suggests that this might be achieved through increased professionalism or by more client involvement in the governance of service agencies which would improve client input into how SLBs define their roles (Lipsky:1980:196). He stresses the importance of accountability, suggesting that it is “the link between bureaucracy and democracy” (Lipsky:1980:160) but he identifies potential issues with greater accountability in that it actually might lead to a poorer service (in terms of in practice leading to a reduction of options available to clients) and that such accountability would lead to prioritisation which would in fact mean less scrutiny of those areas deemed less important and so give a false impression of increased accountability without actually restraining behaviour, creating a symbolic veneer allowing for the deflection of criticism (Lipsky:1980:164). In any event, he argues, bureaucratic accountability is all but impossible to achieve amongst lower level workers due to the levels of discretion they enjoy. Managers take steps to try to increase this accountability however this is difficult as workers are in a position to subvert such efforts. They are often the main source of information from which managers receive reports about performance and furthermore workers are in a strong position due to the reliance bureaucracies have on them and so managers need to tread carefully in introducing measures that would alienate them and push down productivity and accountability further (Lipsky:1980:163).

#### 7.5 Development of SLBT

Lipsky formulated his theory of Street Level Bureaucracy well over 30 years ago, and since then his original concepts have been critically assessed and re-evaluated in light of an evolving public-sector environment. For example, SLBT has adapted to take into account a public-sector environment that is more diverse and where more state functions are contracted out to external companies (Maynard-Moody and Portillo:2010). Lipsky himself also latterly identified the devolving of service provision and delivery to external agencies as a major change in the social and political environment since his original theory was put forward, along with an increasing awareness of the importance of financial budgets (and the need to reconcile financial output

with income) and, in America at least, an increasingly conservative perspective on public policy (Lipsky:2010:212-214).

Taylor and Kelly re-assessed Lipsky's theories concerning the discretion available to SLBs to formulate their own rules concerning policy implementation in light of public-sector reforms, in particular increased managerial control, that had occurred since Lipsky's ideas were first published (Taylor and Kelly:2006). They examined different types or areas of discretion around rules, values and tasks to see what, if any, reforms such as increased inspection, accountability to line managers and customer involvement might have had on the exercise of discretion.

They argued that professionals in the eighties had a great deal of influence in making decisions at the local level, which led to the exercise of the wide discretion which Lipsky saw, however successive Governments challenged this discretion by introducing policies to make professionals more accountable for their actions through more audit and control measures, leading to a diminishment of their ability to directly contribute to policy (Taylor and Kelly:2006:632).

However, as well as this "top down" pressure on professionals from management, "bottom up" pressure directed at professionals from users had increased, due to the enhanced role of the customer in evaluating services, which influences professionals by increasing their awareness of what effect their decisions might have on clients who might complain or whose opinions might influence future developments.

The authors conclude that there is an argument that similar levels of discretion are exercised by professionals as was the case in Lipsky's time, given that they still need to develop their own rules of engagement and use initiative to deal with situations that arise, however their ability to effectively make the policy that they carry out has been "significantly reduced" due to the fact that they are now so closely monitored. This is a compelling argument which carries implications for assessing the football policing environment and will be looked at in more detail in Chapter Twelve.

Evans and Harris describe the two competing arguments that have developed over the question of the exercise of professional discretion in the modern context of increasing rules and regulations in terms of the "curtailment" or the "continuation" arguments and suggest an alternative theory (they say to "break the impasse") that one should not automatically equate the existence of more rules with more control over professional discretion and that it may be profitable to regard the exercise of discretion in neutral terms of "gradations of freedom to

make decisions” rather than in absolutes of “good” and “bad”, meaning that the exercise of professional discretion should be evaluated on a case by case basis (Evans and Harris:2004:871).

### *7.5.1 State Agent/Citizen Agent*

In trying to explain how street level workers deal with the circumstances of their everyday work environment and essentially why they do what they do, Steven Maynard-Mooney and Michael Musheno suggested that everyday street level work involved a coexistence of two concepts: the “state-agent narrative” and the “citizen-agent narrative”, the tensions between which fundamentally influenced behaviour (Maynard-Moody and Musheno:2003). The state-agent narrative they describe as a general expectation of or demand for an application of rules and policies based on a popular perception of the state as an “edifice of the law” which is tightly run and based on adherence to predictable procedures with any deviation or application of discretion done in a manner consistent with hierarchal policy. They suggest that, as this is the prevailing narrative, any notion that workers’ own moral beliefs might influence decision-making is discomfiting to academics but that nonetheless individual workers are still strongly influenced by who the people they are dealing with actually are<sup>174</sup> and accordingly they do make moral and personal value-based judgments in their decision-making. They therefore put forward a concept of “citizen-agent narrative” which they argue sits besides, if not always harmoniously, state-agent narrative, and which allows a worker to assist or hinder citizens to a greater or lesser extent outwith rigid guidelines and that such street-level judgments (whether legitimate or not) exist and are “an irreducible element in governing the modern state” (Maynard-Moody and Musheno:2003:5). The state-agent narrative, they argue, is linked to an “expectation of law abidance” and the citizen-agent narrative to a “desire for cultural abidance”.

Their research found that street level workers acted on assessments of clients’ character and identities all the time. In terms of identities street level workers were extremely conscious of their own identities and proper place in the structure of their work environment, recognising themselves as “wielders of power”, but also as members of groups based on characteristics

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<sup>174</sup> They “deal with faces” to use the authors’ phrase.

such as age, gender and class and also as members of professional groupings (Maynard-Moody and Musheno:2003:21). Workers took their identities with them into their place of work and so used these identities to “get a fix” on clients and work out who they were, ascribing them an identity as part of this process. This ascribed social identity carries meaning and consequence but such identities are often “flattened” and unsophisticated due to the brief and often stressful nature of many encounters. In particular police officers frequently get a brief single encounter with an individual which affords very little time to “fix” them and, due to the fear and uncertainty inherent in the occupational identity of street officers, they tend to consider clients on the basis of potential threat thus tending to place clients in rather “one-dimensional stigmatised categories” (Maynard-Moody and Musheno:2003:83-84).

This fixing of identities by workers is closely linked to their moral judgement about citizen-clients and such moral judgments “infuse all levels of street-level decision making” (Maynard-Moody and Musheno:2003:93). Clients are judged by workers on perceived worth and once this decision is made they are then treated on that basis in four general ways namely: normatively “good” treatment by following the rules; extra-ordinary treatment for those deemed worthy, a pragmatic approach of doing what can be done in the circumstances and a less pragmatic, poorer service for those deemed unworthy of a second chance.

When it came to the idea of workers being policy-makers, they argued that the state-agent narrative suggested an adherence to rules such that in terms of interactions workers could be seen as policy makers in that they “actualise” policy however in citizen-agent terms the ethnographic narratives recounted to them during their research lacked the “coherence and consistency” to be called policy (Maynard-Moody and Musheno:2003:11).

This notion of state and citizen agents may be seen to be reflected in the pressure felt by officers at football matches to negotiate a dual approach which recognises the expectation of the public that good order is maintained on the one hand (“law abidance”) but which is also sympathetic to the social and cultural aspects of football fandom (“cultural abidance”).

### *7.5.2 Advances in technology and personal interactions.*

A vital aspect of Lipsky’s theory is that SLBs can be defined in part in the way in which they directly interact with members of the public. However increasingly technological advances have greatly influenced and re-structured the nature of and need for face-to-face encounters.

Bovens and Zouridis suggest that some traditional aspects of street-level bureaucracy have been “supplanted” by what they describe as “screen-level” or “system-level” bureaucracy, due to the increased use of websites and IT systems replacing and reducing street and person-to-person interactions. Thus, decisions are made by officials through the use of computers, lessening “street” time and leading to prescription in the decision-making process (and less discretion) through the use of electronic templates or programmed software (Bovens and Zouridis: 2002:177). In some instances, technological advances have led to low level interactions with the public which remove any notion of the exercise of discretion from the process, such as in a scheme in the Netherlands where traffic cameras linked to computers send out automated fines to transgressors (Bovens and Zouridis: 2002:180)<sup>175</sup>.

However, the nature of the influence that computer technology has had on the exercise of discretion in a SLB context is disputed. Buffat describes the emergence of two perspectives: “curtailment theory” and “enablement theory” (Buffat:2015). The curtailment view is that the exercise of discretion by workers is hindered due to factors such as a lack of ability to influence the information flow or involvement in decision-making being replaced by computer programmes although critics of this perspective have suggested that it uses rather narrow, simplistic definitions of discretion which are only suitable for limited SLB environments (Buffat:2015:153).

“Enablement theory” suggests that the implementation of Information Technologies in the work environment can in fact facilitate the use of discretion. The creation of more information actually obscures acts of discretion by workers from managers, remote supervision (thanks to ICT) means that, although managers have more information at their disposal about what workers are ostensibly doing, they are often not co-located and so lose the close insight into what workers are actually doing.

Furthermore, some studies have shown that individuals tend to use ICT interfaces such as web pages or forms for simplistic non-confrontational task but prefer to use human interaction for more complex situations where conflict exists or there is the perception of the need for more elaborate discussions. In summary Buffat suggests that the reality is that “no unilateral effects of technology can be assumed” (Buffat:2015:157).

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<sup>175</sup> It should be recognised that the authors do caution against generalising their findings as they looked at certain types of more routinized SLBs rather than less routinized ones such as nursing or policing (p180).

## 7.6 Conclusion

This chapter has sought to set out and describe the theoretical basis for this research which can be found in the work of Michael Lipsky and Street Level Bureaucracy Theory. SLBT situates police officers as public service workers who interact directly with the public and enjoy some degree of autonomy from their supervisors and large amounts of discretion in their day to day work. Such workers are under considerable strain in terms of resources and their ability to achieve the ideal results within the constraints presented by their work environment. As a result, they create coping mechanisms and strategies to be able to actually process their work tasks and it is these mechanisms which lead to the reality of what is experienced by the client on the ground often diverging from the higher organisational policy intent.

SLBT has been chosen for this purpose as it is a classic theory which directly concerns decision-making processes and behaviour of police officers in the field and further considers the impact of those activities on the nature of the policy which they deliver. This therefore links closely with this study of officers working in an operational policing environment (football policing) whilst utilising specific policy-laden legislation (OBFA), and therefore appears well-suited to facilitating meaningful analysis and providing insight into the processes found there.

The findings of this research will be presented in Chapters Nine, Ten, Eleven and Twelve. Although there will be some degree of description in these chapters in order to fulfil the objective of providing an updated sociological account of how football is policed in Scotland, the findings in each chapter will also be analysed in terms of key aspects of SLBT, specifically: conditions of SLB; simplifications and routines, discretion and policy-creation to demonstrate the extent to which this theory can contribute to understanding of the police use of the OBFA in policing football. The aspects have been chosen as both discretion and policy-creation are fundamental aspects of SLBT which any analysis involving SLBT simply requires to address, whilst the conditions and simplifications headings are used as the data ultimately collected lent itself to these particular areas of SLBT although, importantly, both are nonetheless also key areas for examining and testing the extent to which the SLBT model can be found in the modern football policing environment and therefore its continued utility in explaining police behaviour there.



## **CHAPTER 8 - Methodology**

### 8.1 Introduction

Having discussed the theoretical basis for this research in the previous chapter, I will now set out the methodological approach that was used. This chapter will discuss some general issues facing police researchers before explaining in detail the methodology employed and the justification for so doing. The chapter concludes by reflecting on some specific issues, considerations and experiences pertinent to the design and conduct of this research and how they were addressed and negotiated.

The Research Design of any research project is simply the framework to be followed in conducting research; it “connects the research questions to data” and consists of identified strategy, conceptual framework, subjects and methods for collection and analysis of data (Punch:1998:66). Thus, it is the process whereby one identifies the data required to answer the research question, where those data can be found and the most appropriate methods by which those data can be gathered.

The actual methods used for collection are only one aspect of the Research Design (Henn et al:2006:57) and it is important to distinguish the two; to explain this King and Wincup utilise a military analogy of the design as the strategy employed at HQ i.e. the need to first decide what data is required to answer the question and from what sources, prior to considering the tactics used in the field (in this case the employment of specific methods to gather those data) (King and Wincup:2008:23). However, although a “gold standard” design may be desirable, the reality of much research is that other pragmatic factors will have an influence on design and the researcher must develop a Research Design that is feasible, practicable and valid within the constraints and limitations present (Francis:2000:42).

The methodology should flow logically from the primary theoretical basis for the research however it is important to note that such strategies are not developed in isolation as stand-alone concepts within that particular theory but rather are influenced by the wider theoretical processes and the world-view of the researcher. The purpose of research is to generate knowledge and so this process in turn requires some basic philosophical understanding of the nature of knowledge and how genuine knowledge can be developed (Bottoms:2008:76). Therefore, one needs to be aware of the concepts of epistemology, which concerns the theory

of knowledge and the nature of knowledge and belief, and ontology or the theory of the nature of being or “what is” in terms of structures of reality (Matthew and Ross:2010:17-18). Due to the fact that there are different ways in which people view the social world, it follows that there are competing stances on what claims can be made about the knowledge we can gain from studying it (Matthews and Ross:2010:23).

Henn et al describe two basic paradigms for the nature of knowledge, the positivist paradigm (associated with quantitative methods) and the interpretative paradigm (associated with qualitative methods) (Henn et al:2016:10). The positivist approach describes the notion that there are facts which are observable and exist independently outside of the social actors involved and its origins drew on the contemporary success of the natural science outlook of the late nineteenth century (i.e. the attitude that social sciences could and should be studied in a similar manner to the natural sciences) whereas an interpretative approach assumes that knowledge is produced from the social constructions and theoretical interpretations of the knowers and so there is no objective knowledge as such; the main difference between the two approaches therefore being the difference between the focus on causal explanation and interpretative understanding (Bottoms:2008:89).

Thus, the way in which we consider knowledge exists and what the nature of the social world actually is, influences the way in which we gather, interpret and understand knowledge about what is in that social world. Broadly an ontological position of objectivism, that social phenomenon have an existence of their own independent of the social actors, involves a positivist epistemological understanding whilst a constructionist approach involves the belief that social phenomenon are only real in so far as they are continually being revised and reworked by the social actors involved, that there is no social reality independent of the meaning for the participants (crucially involving the researcher as well) and this can be understood through an interpretative assessment of the phenomenon. A third general position is one of realism. This accepts that there is an independent reality in the social world but that this is more than that which can be simply detected by our senses and also exists in hidden social structures which cannot be seen (although the consequences of them can be observed). (Matthews and Ross:2010:26).

There is no requirement (or indeed space) to expand further on this point at this time - the important idea to be aware of when formulating a Research Design is simply that there are basic theoretical principles which underline any approach to any research and so in turn this may tend to lead to researchers choosing particular methodological approaches which are sympathetic to his or her overall general theoretical stance and so the choice of method might

potentially be based on the researcher's own preferences rather than the applicability of the method to the task in hand (Francis:2000:31).

## 8.2 Research considerations

### *8.2.1 General*

There are a number of general considerations to take into account when planning and implementing research. Whilst one may be able to devise the perfect methodology to achieve one's research aims on paper; practical considerations will come into play which will mean that the ideal research is rarely possible in reality and compromise is almost always required to some extent<sup>176</sup>. More obvious universal factors such as time, budget and access are generally finite or limited in some way (either intentionally or structurally) and there are other subtler general influences. Morgan and Hough identify some other general factors which in their experience have had at least an indirect bearing on research findings including the political nature of the subject matter, the specific political context in which it is undertaken, the question of who is sponsoring the research and potential career ramifications for the researchers (Morgan and Hough:2008). Politics (in a non-party political sense) is particularly significant and Hughes suggests that "all social research has a political dimension" (Hughes:2000:235).

### *8.2.2 Police research*

As well as generic factors to be considered when formulating an appropriate Research Design, there are also a number of issues that are inherent in doing any form of research involving police officers. Police research is often concerned with identifying deviance or at least involves controversial subjects, due to the very nature of policing, and as such there is often a reticence from officers to participate and a lack of trust due to fears of misrepresentation (Reiner and Newburn:2008:353) necessitating that the researcher finds a method to somehow "pierce their protective shield" (Holdaway:1983:5). Even where participation is authorised by senior officers, ultimately meaningful engagement with researchers is often in the gift of the research

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<sup>176</sup> That is not to say that such compromise positions are not able to be justified in their own right.

subjects meaning that individual officers enjoy “considerable discretion... as to whether and how they support academic research” (Cockbain:2015:21).

In this instance, it was clear that the contentious nature of the subject matter was just such a controversial topic that might lead officers to shy away from participation for fear of criticism. As already mentioned, the whole issue of the introduction of the Act and the way in which it was policed received some considerable public criticism (which this research later found was acutely felt by some officers) and officers were under a great deal of scrutiny even at a personal, individual level<sup>177</sup>. At a corporate level senior officers may have had misgivings about any research that could result in potentially critical findings and even if there was no overt criticism as such, mere association can create false assumptions; Finn in his study of sectarianism in the workplace found some resistance from employers who were unwilling to participate in the study for fear that the participation associated them with the issue of sectarianism and implied that there was a problem at their firm (Finn et al:2008).

Fortunately, in this research I ultimately met no such organisational or individual reticence.

### 8.2.3 Access

Access is often a problem for ethnographic research. Gaining the required access to the proposed subjects can often be the most difficult part of participant observation studies (Hammersley and Atkinson:1983:54) and this can be exacerbated within closed institutions such as the police. Often access is gained through what are termed “Gatekeepers” however there is frequently a distinct power imbalance between researcher and Gatekeeper and the latter can greatly influence what is seen even where the researcher has been granted permissions and access from a higher authority (Hughes:2000:240). Even if access is gained then within the environment there are structural issues in the nature of police work, such as relative secrecy and isolation, that mean the police construct a culture which is wary of outsiders, which makes a researcher’s job difficult (Punch:1993). O’Neill gained her access to police officers for her ethnographic study into Scottish policing of football through a police officer who also happened to be a part-time student at her University and she acknowledged that without this

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<sup>177</sup> For example, a football Spotter was personally targeted by the Press over comments on his Facebook account (Musson:2013).

relationship it would probably have been difficult to gain such access (O'Neill:2005). I will consider my own personal access issues in more detail later in this chapter.

#### 8.2.4 *Insider status*

Brown describes four types of police researchers, all of whom have varying degrees of access afforded to them by their status, namely: *Inside Insiders*, *Outside Insiders*, *Inside Outsiders* and *Outside Outsiders* (Brown:1996). The terms refer to a serving officer researching his colleagues, a former police officer researching his erstwhile colleagues, a non-officer but police employee researcher researching police officers and someone with no police connection at all researching police officers respectively. Serving officers might be considered to have some advantages over non-officers in terms of good access or relevant experience however they also may feel anxiety over their research and in particular the thought that they might let their colleagues down with the results (Holdaway:1983) or bring to the research the risk of the officer having pre-conceived notions on the nature of the criminality that he was researching<sup>178</sup>. Westmarland suggests that officers researching officers may find it difficult to step outside of the police culture themselves, thus potentially “tainting” any analysis done by them (Westmarland:2008:263-264). In terms of officer participation a perception of official support for the project might alienate some subjects due to the implications of representation of the “management” (Reiner and Newburn:2008:355). A further potentially negative aspect of being a police employee researcher is the status of such researchers can actually make them particularly vulnerable should their findings or research agenda prove to be unwelcome (Holgersson:2015:106-107). I will consider the particular ramifications of my own insider status in more detail later in this chapter.

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<sup>178</sup> For example, Deuchar and Holligan quote police officers in Glasgow commenting on the “*low numbers of sectarian-related incidents which are actually reported*” (Deuchar and Holligan:2008:14). Although there is an established notion of the “dark figure” of crime, the basis for this particular assertion on the part of the officers is not clear and may speak to pre-conceived notions about the prevalence and nature of sectarianism in their area of responsibility which exist outwith any substantive evidence of same.

### 8.3 Chosen methodology

The nature of the policing of football and how specific legislation is practically implemented by officers and what influence they may have on this clearly places relevant and crucial data for this research within the day to day football environment and specifically in the behaviours, routines and activities of the police officers working there as they interact with football supporters.

However, SLBT suggests that many of these interactions occur in circumstances of “low visibility” and so a primary methodology that directly targeted such data first hand was required. Although in order to find out why people do certain things or behave in certain ways it is probably most practical to ask them (as the truth of the answers to such questions is private and internalised and so is generally hidden from view), a major flaw in such a strategy for enquiry is that people construct ideas of themselves which may cause misleading or inaccurate results as their perceived understanding of themselves may not actually be accurate representations after all (Gillham:2008:1-2). By observing people operating in the environment or culture of interest it is therefore possible to establish the reality of what occurs, rather than that “reality” filtered through interviewees’ idealistic view of themselves. Furthermore, a more qualitative approach was needed in order to gather deep, textured data from which the normally unseen motivations, influences and structures which dictate officer decision-making and behaviour could be interpreted and unpicked, such a qualitative research style being associated with understanding motivations and meaning in an effort to understand behaviour rather than just a case of testing theories (Henn et al:2006:149-150).

I therefore concluded that direct observation of the key interactions and behaviours of officers implementing the OBFA in the relevant environment would be the most suitable and realistically achievable method by which the most relevant raw data of sufficient quality and quantity could be gathered with which the Research Question concerning the impact of the OBFA on the policing of football and the influence of officers’ own behaviour on this could be answered. Thus, the collection of data for this research project was achieved primarily through ethnographic direct observations of different police officers in a variety of roles at football matches in Scotland, mostly during season 2013-2014, and in a variety of venues throughout the country. I attended twenty-six matches at seventeen different grounds, the matches being both domestic and international and spanning a number of different cup and league competitions. My main focus was on the police which is where I felt that the majority

of data of interest would lie; although I was wary that, despite such partisanship offering finer detail of the chosen subjects, it also carried with it the risk of presenting only the in-group perspective at the expense of the perspective of the out-group (Adang:2016).

Yet observations alone, whilst providing the main rump of the data, cannot always provide the complete picture and may leave gaps in areas that require further explanation or prove vulnerable to mis-interpretation. Furthermore, the mere presence of an observer will always change the situation to some degree and so other methods are therefore required to counteract this effect (King and Wincup:2008:32). The use of multi-method approaches to data collection has become more popular and triangulation of data between methods can improve the validity of the findings, the idea being that if the same conclusions can be reached using different techniques or data sources when studying the same subject matter or problem, then confidence in those conclusions is improved (Jupp et al:2000:59)<sup>179</sup>. Therefore, the primary method of direct observation was supplemented by the use of some semi-structured interviews of officers and other identified stake-holders and also by reference to documentary data<sup>180</sup>. The use of such interviews was intended to provide important complementary data and, as they were conducted after my period of observations, they also afforded an opportunity to explore in more detail any issues which I had observed but could not fully decipher and to test conclusions already drawn from observations. Official documents provided additional background knowledge but were also often important in bringing clarity to official policy positions, a crucial consideration in SLBT.

I will now discuss observation in more detail.

#### 8.4 Observation types and issues

Observation can generally be described as being of two types: structured (or systematic) and participating (or unstructured or ethnographic). Structured observation has its origins in psychology and tends to be concerned with the collection of relatively easily processed quantitative data in short time-scales. Participating observation has a sociological background

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<sup>179</sup> Although a multiple-method approach does not automatically enhance validity and should only be used where it genuinely enriches the understanding of the issue of interest (Noaks and Wincup:2004:10).

<sup>180</sup> Such as policy documents, published research documents, written operating procedures and official guidance from relevant organizations such as PSoS, Crown Office and Scottish Government.

and is primarily concerned with the understanding of cultures and processes through prolonged collection of more qualitative data (Denscombe:2007:205-206). These definitions are simplistic however and it is often not as simple as to be able to stick to such rigid forms.

Gillham notes that although “unstructured” is a term used to differentiate from “structured” in concept, this is slightly misleading as no observations, no matter how open-ended, can be truly without structure as it would be far too chaotic to achieve anything in such a case. (Gillham:2008:39).

There are some variations within participation observation. Total participation is done in a covert manner, where the researcher is immersed in the culture which he or she is studying and is interacting with the subjects without them realising that research is being conducted. Such research is ethically contentious but might be considered more justifiable in terms of access and accuracy (eg Holdaway 1983, Lowe:2011)<sup>181</sup> or the physical safety of the researcher (e.g. Patrick:1973)<sup>182</sup>. Denscombe describes further variations such as participating in a normal setting where the researcher is known to certain Gatekeepers but not the majority of the people involved or *participation as observer* where the researcher’s role is well known and he or she effectively shadows someone at a distance rather than being more immersed in the proceedings (Denscombe:2008).

Matthews and Ross quote Gold describing four types of observation (Gold:1958): the complete participant (where observations are done completely covertly); participant as observer (where the participant has overt stance as a researcher); observer as participant (where the researcher moves away from participating in the research group) and complete observer (the opposite of complete participant where the researcher is completely detached and ideally invisible from the group being observed) and state that they prefer to view Gold’s four roles as points on a continuum (thus allowing for infinite positions) rather than as four distinct positions (Matthews and Ross:2010:258).

For this piece of research, I was an *Inside Insider* researching my colleagues and my observational stance was a form of mostly participation as observer where I would be known as a researcher to the police officers who I was accompanying.

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<sup>181</sup> Both working police officers conducting “inside” research on fellow officers without their knowledge.

<sup>182</sup> Research conducted on a violent Glasgow gang.



#### 8.4.1 Deciding what to observe

In order to identify what should actually be observed a dual approach was adopted, which encompassed both the practical logistics and conceptual themes of the observations. In practical terms I identified three different strands to structure observations around: the *type* of match, the *processes* of the match and the *perspectives or roles* of the match. Conceptually I focussed attention on looking for evidence of a number of identified key elements of the theoretical stance adopted.

#### 8.4.2 Types

The legislation pertained to *regulated football matches* which were defined as having the same meaning as in the *Police, Public Order and Criminal Justice (Scotland) Act 2006* (relating to FBOs) namely all association football matches played anywhere in the United Kingdom where one or both clubs represent a country or territory, is a member of the SPFL or is a member of the English or Welsh professional leagues.

Although the legislation could also cover matches not actually played in Scotland, I focussed my research within this country. Punch identified the benefits of working with the same shift group when doing research into police in Amsterdam in order to identify routine and to develop relationships (Punch:1993), however I wanted to examine police use of the Act across a wider spectrum and tried to get a spread of different teams and different areas of the country (to see if there was evidence of any regional variations).

As already identified the OBFA could be traced to the “Shame Game” featuring the Old Firm clubs and its genesis, evidenced by the anti-sectarian rhetoric common amongst the political classes involved at the time, was steeped in the sectarian tradition often heavily associated with them. Indeed, in terms of football at least, Rangers and Celtic are “considered to be the major sectarian protagonists” (Flint and Kelly:2013:3). Furthermore, initial statistics relating to the use of the legislation indicated that the supporters of both teams were the most heavily represented (Goulding and Cavanagh:2013a). Thus, it was likely that data relating to the use of the OBFA would be generated in such matches and so they would have to feature when identifying matches to attend. That said the legislation applied to supporters of all clubs and it was equally important to ensure that other clubs were also considered and represented to ensure balance and to make sure that a wider picture developed. In the end, I attended twenty-six

matches including league matches, cup matches and internationals in Glasgow, Lanarkshire, Ayrshire, Fife, Tayside and Edinburgh. Twenty different domestic clubs were involved as well as three international teams. This amounted to approximately 130 hours of observations.

Also, on a number of occasions I attended matches as a paying customer. I felt that this was of some value in that it afforded experience wholly from the supporters' perspective and lessened the likelihood of me directly influencing the behaviour of officers; however I was aware that those same factors might make my experience narrower and somewhat limited (although of course even this might tell me something as to the nature of the "average" supporter's experience) and also that merely by attending an event even as a passive spectator I nonetheless become a participant and take part in the social setting to a certain extent (Mackellar:2013:58).

#### *8.4.3 Processes*

It was important to identify different processes involved in the policing of football matches. This would help to give structure to the phenomenon of the football match across time and space and thereby assist in analysing what has been observed and in deriving meaning and comprehension from it. By identifying a framework of routine processes around the policing of football, a clearer picture may emerge of exactly how and where these processes were (or were not) influenced by, or indeed had influence on, the OBFA. From my own experience of policing matches I was already aware of many of the basic common processes which occur, such as those involving the briefing of officers and supporter segregation and management, however during initial observations I anticipated that I might be able to identify further ones.

#### *8.4.4 Roles and perspectives*

O'Neill identified a number of different police roles and functions at football and SLBT is clear that there are different and competing motivations and objectives between front line and management staff in the public-sector environment. Therefore, I identified the importance of observing across a spectrum of roles and ranks to offer a wider range of perspectives and to allow for comparison.

The different functions and roles which officers will fulfil at a football match relate to both rank and duty. It is worth noting that these two aspects are not mutually exclusive and so for

example within a particular type of duty, such as the specialists of FoCUS, there are both front line constables and also higher-ranking supervisors who might “double-hat” in the sense that they bring with them not only considerations and attitudes pertaining to the FoCUS role, but also they are subjected to the requirements, pressures and influences that come with also being management.

#### *8.4.5 Conceptual themes*

Once I had established the basic parameters around which the practical aspects of my observations could be constructed, I then identified a number of conceptual themes to be used to further guide me in recognising what I was actually looking at during the observations. Although I would be constrained to a certain extent by the nature of the behaviour of the particular officers that I happened to be observing on a particular day and so to an extent I would require to take in “the whole picture”, it was also important to identify and look for certain key indicators, directly related to the theoretical stance of the research, to make sense of the data and facilitate analysis.

To that end I focussed on any direct or indirect interactions between officers and supporters paying particular attention to the trigger for the interaction and the nature, structure, outcome and power dynamic of it. I also specifically looked for any reference to or use of the OBFA by officer or supporter, situations where officers may exercise discretion, any manifestation of what could be regarded as sectarianism and any indications of the categorising of supporters by the police

#### 8.5 Interviews

To help fill in any gaps in knowledge from the observations and improve the strength of the findings I conducted some interviews with relevant stakeholders. Interviews in a research context can take a number of different forms or styles. At one end of the scale they can be highly structured involving the choosing of predetermined responses, similar in style to a questionnaire but allowing the researcher the opportunity to ask follow-up questions to explain things that might not be clear, through to completely unstructured interviews that allow respondents free reign to develop the conversation in a way they choose based on general

themes introduced by the researcher (King and Wincup:2008:31). These have also been termed *informal*, *structured* and *guided* interviews (Vanderstoep and Johnston:2009:224-225). I chose to conduct semi-structured (guided) interviews, defined as:

“a qualitative data collection strategy in which the researcher asks informants a series of predetermined but open-ended questions” (Ayres:2008:810),

as this would provide me with more control over the content of the interview as I could have a basic structure around which I could formulate questions (derived from initial analysis of my observations) without limiting the scope of the potential responses by the use of closed questions.

Due to practical considerations, I aimed to interview only a small sample of interviewees as realistically, due to there being only one researcher, the time and effort required to transcribe and analyse the data that would have been generated from multiple interviews would have been prohibitive. Nonetheless this relatively small sample was still sufficient to allow me to verify certain aspects arising from the observations and to clarify key points.

I tried to identify potential interviewees across a range of stakeholders however my focus during observations had been mostly on police officers and so I felt that this should be where I should also concentrate my interviews. My interview subjects therefore consisted mostly of police officers, but also included two supporters’ representatives (R1, R2) and a club Safety Officer. The officers involved were FoCUS officers at a number of different ranks (F1, F2, F3, F4) a Match Commander (M1), a Spotter and a number of non-specialist uniformed officers (U1, U2, U3, U4). I aimed to conduct approximately ten to twelve interviews and in the end, I actually completed thirteen.

Officers were identified by me or self-selected by volunteering. Through the process of arranging my observations I had already made some contacts in FoCUS and so I was easily able to ask for volunteers, selecting a high-level manager (F4), a middle-manager (F3) and two constables (F1, F2) to reflect the different layers of the unit. The two constables were intentionally selected as being from two different Legacy Forces<sup>183</sup> to hopefully give a broader range of insight.

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<sup>183</sup> The 8 previous Scottish forces which combined to form the PSoS in 2013 are collectively referred to as “Legacy Forces”.

Uniformed officers were selected simply by making requests of supervisor associates to ask for volunteers. There was a slight snowballing effect to this process as other officers were suggested to me by interviewees. The Match Commander was a senior officer associate who I knew was a qualified Match Commander but who had not been a Match Commander at any of the matches I had previously observed at. The Spotter was a former colleague who worked with me in a different department many years ago who I approached<sup>184</sup>. The Safety Officer I had met during my observations and he had offered to help me in the future with my research if he could and so I subsequently contacted him to be interviewed formally. Finally, the two fans' representatives are both reasonably publicly well-known supporters of Rangers and Celtic respectively and I identified them as such and contacted them directly through social media on this basis<sup>185</sup>.

## 8.6 Reflexivity

Having discussed some of the general issues to be considered when devising an appropriate design and methodology for a research project and then explained the Research Design of this thesis, I will now consider some of the specific issues encountered during this particular research and what steps (if any) were taken to mitigate the impact of these issues. In so doing I acknowledge the limitations of the design and also the potential for the work to be influenced by external factors.

In ethnographic research in particular issues of reflexivity and bias are pertinent. The researcher has to reflect on the possible influences that his or her actions or presence may have on the subject matter being researched and how his or her philosophical approach and personal experiences may shape the collection and interpretation of the data gathered. Denscombe states that:

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<sup>184</sup> I was aware of the fact that, with the exception of the FoCUS officers, the officers I interviewed were all relatively local and that this was therefore a narrow sample however the practical considerations of travelling large distances to complete single interviews made this option unviable.

<sup>185</sup> I chose Rangers and Celtic as I felt that both clubs were the two mostly associated with sectarianism and therefore the Act and I had a finite number of interviewees that I felt I could do. One of these interviewees suggested that I was being "lazy" by only speaking to them and not to other clubs' supporters.

“As researchers, the meanings we attach to things that happen and the language we use to describe them are the product of our culture, social background and personal experiences. ...It is not a voyage of discovery which starts with a clean sheet.” (Denscombe:2007:69)

and suggests that researchers give some short account of their “self” in their work to supply readers with “some insight into the possible influence of the researcher’s self on the interpretation of events” (*Ibid*). Whilst generic factors such as age and gender may influence my personal outlook, I have other particular traits, experiences and cultural references which could be considered to particularly resonate with aspects of the research and therefore potentially have an influence on my interpretation of data.

Most obviously I am police officer with over 18 years’ service which brings with it considerable previous experience of interacting with members of the public and practically using legislation, both in general and specifically in the football environment. Arguably I am therefore influenced by police culture(s) previously discussed which might “taint” my analysis (Westmarland:2008:263-264) and I may have preconceptions regarding how football is or should be policed based on previous experience. I will discuss my police status and what issues arose from it in more detail later in this chapter.

Furthermore, prior to joining the police I served in the British Army, service which included duties in Northern Ireland, and I have unashamedly unambiguous views on the legitimacy of the actions of terrorist organisations such as the IRA and the UVF, informed greatly but not exclusively by this personal experience. Given that cultural expression of Irish Republicanism and Loyalism can manifest amongst elements of the support of both Celtic and Rangers and that such so-called “political sectarianism” was a key driver in the introduction of the OBFA, this experience might imply to some a certain starting perspective when discussing some fan behaviours<sup>186</sup>.

It is also the case that I have lived for most of my life in the West of Scotland, immersed in and imbued with the local culture, and so the sectarian dynamic is by no means unfamiliar territory to me. Indeed, I can recall many personal experiences of what I would deem to be sectarianism, as witness, victim and perpetrator, along with apocryphal stories related to me by family members.

Finally, I am also a football supporter and over the years have attended many hundreds of matches in that capacity. This brings with it substantial personal experience of football fandom

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<sup>186</sup> I did indeed witness such manifestations on multiple occasions during the fieldwork.

and whilst this may inform my analysis in a productive manner, there is also a risk that my experiences are historical rather than current and that my existing knowledge is disproportionately based on the experiences of supporting just one club.

In practical terms there is little more that can be done regarding most of these aspects of my own personal backstory other than to acknowledge the existence of such potential influences. This both forewarns the reader and also focusses self-reflection on these factors. Through such proactive self-awareness, particularly at the collection and analysis stages<sup>187</sup>, I tried to minimise the impact of potential bias however sub-conscious influences by their nature are more difficult to counter-act. As Reiner and Newburn concede with regard to the influence of the researcher on the data, “all one can do is seek to be reflexively aware of this and interpret material in the light of probable biases” (Reiner and Newburn:2008:356). Furthermore, in the often-emotive context of discussing sectarianism in Scotland, accusations of bias will always be possible<sup>188</sup>.

I will now set out in more detail some of the specific practical considerations faced when both planning and conducting this particular research and how they were addressed.

### 8.7 Specific practical issues in designing methodology

In practical terms the Research Design was most influenced by questions of personal circumstances and of access.

#### *8.7.1 personal circumstances*

I was entirely self-funded for this project. Whilst this actually afforded me a certain sense of freedom in some regards (particularly in that I did not feel any obligation to a sponsor) my lack of funding beyond my own means meant that I worked entirely on my own and also had to carefully consider the extent to which I could afford to travel and to attend matches.

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<sup>187</sup> Along with a degree of independent scrutiny from academic supervisors.

<sup>188</sup> For example, one of the authors of a study into sectarianism was accused of bias due to her membership of a “pro-IRA” fanzine - “author of sectarian study is member of pro-IRA fanzine”. *The Herald* 13<sup>th</sup> December 2009.

Fortunately, I was able to attend the majority of matches accompanying police officers and so did not have to pay an entry fee and I also was occasionally able to travel to away matches with the police officers that I was shadowing for that day in police-provided transport.

I also studied on a part-time basis. This meant that I had to do my full-time job as well as study and do fieldwork, which I found extremely challenging. Whilst my employment was relevant to my research topic, my specific role within the police for most of the duration of this project was in no way connected to football or territorial policing and so any time I spent doing fieldwork was very much my own. I was not employed in a role where I could combine my day-to-day work with my study project, as some part-time students in full time employment are able to do. Given that the majority of football matches are scheduled to take place at weekends this could have limited me in my ability to attend matches in person to gather data and had to be factored into my methodological selection process however during the observation phase I was fortunate to benefit from working a Monday to Friday shift pattern in a relatively uncomplicated role and so I actually had the majority of my weekends free. Of course, this methodology did not just consist of simply attending at the venue but also required me to set aside time to subsequently write up and analyse my observations.

### 8.7.2 access

As previous mentioned, access can often be problematic for researchers. However, as a police officer, I was appreciative of and undoubtedly benefited from the fact that I already had a degree of access. I knew the structures, I knew who had responsibility in certain areas and I knew who to approach and how to do it. Although I would still require Gatekeepers in some areas, I nonetheless understood those areas and was therefore well informed on the most pragmatic ways to obtain my objectives. That said the power dynamic was still not in my favour and, as a lower member of a hierarchal, disciplined organisation, I could easily have been denied with very little scope for any form of appeal. Just as my status as an *Insider* gave me an advantage over an uninformed external approach in some regards, so it also put me at a potential disadvantage insofar as any senior officer would know my status and (lack of) power and be comfortable in dismissing my requests whereas an external researcher might be considered more difficult to refuse.



Another immediate issue was how to gain access to football matches, after I had decided which ones would be suitable to attend. I had a number of options available to me. I could approach football clubs individually for permission and gain access through them. This would allow me into matches however my movement within grounds might have been limited as clubs would doubtless have been unwilling to offer me an “access all areas” pass for safety and security reasons and would also have probably deferred to the Match Commander on some aspects of my desired access anyway. Furthermore, the clubs could not have offered me the complete access to police officers performing their various duties that I desired.

Another option was to pay into games as a member of the public without the involvement of the police or the clubs. In the first instance, this would have meant considerable expense by having to purchase tickets however this was also unsatisfactory for other reasons. As a ticket-holding member of the public I would have limited scope to move around to different areas within the ground (as my ticket would be for a specific area and supporters are segregated and closely monitored within grounds) and I would therefore not be able to watch all aspects of the interactions of supporters and officers (albeit I could have excellent first-hand experience of officers and supporters if I could get tickets for particularly relevant areas such as sections of grounds for “away” support). There was also the possibility that for some of the more popular matches, I might be unable to secure a ticket at all.

The final method of gaining access considered was through the police. At the start of my research this would have entailed approaching a number of different forces however as my project continued the previous forces within Scotland merged to form the PSoS covering the entire country. Access through the police overcame a number of the main obstacles in my path. Entrance would be free of charge and I would be able to get access to different areas and different police officers once within the ground. I would obviously have to speak to the relevant clubs to inform them of my work and confirm their acceptance of this however the police already had well-established lines of communications with clubs which would assist me in this process. It was quickly established that an approach to the police would be the preferred option however even once this decision was made there arose two options for progression. As I was self-funded and doing the study in my own time, effectively unconnected with my employment, I could have made formal contact with the police to request access as any other external researcher might do. In the end, however, I thought it more expedient to choose the second option and request permission through my official chain of command.

## 8.8 Specific practical issues faced conducting research

Once a design had been decided, there were a number of further practical issues to be faced during the actual conduct of the research. In particular I had to consider whether to wear uniform, how I would actually physically conduct the fieldwork, my personal safety and the ramifications of my status as a police officer.

### *8.8.1 wearing uniform*

As I had decided to gain access to football matches through the police, I also then had to consider whether I might have to attend matches in uniform. It may seem strange that I might contemplate wearing uniform when conducting research as an independent researcher however I was aware that my status as “off duty” in such circumstances might not be so clear cut as it could be argued that I was *de facto* placing myself on duty by my presence there accompanying other police officers and as a consequence my employer would have a legal duty of care towards me and so might insist on me wearing uniform and carrying appropriate Personal Protective Equipment (PPE)<sup>189</sup>. Two immediate concerns were presented by the prospect of me wearing uniform. Firstly, in doing so I would unequivocally be there as an on-duty officer and this would raise an expectation for me to react in certain ways. Whilst I would feel obliged to assist in any major incident should one occur anywhere at any time, even if I were in plain clothes and off-duty, I did not want to be diverted from my main purpose of observing by being obliged to participate in minor policing tasks or by having to be conscious of how my own actions (or lack of them) might appear to onlooking members of the public. More importantly from a research perspective I also did not want to unduly influence the behaviour of supporters. Whilst I envisaged being in the close company of officers for the majority of my time, I also wanted to be able to stand off situations to observe from a distance and so as best as possible be able to blend into the background on such occasions and not overly influence. When discussing ethnographic observations on police in Amsterdam Punch noted the issue of the visibility of police uniforms (and consequently the visibility of the accompanying researcher

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<sup>189</sup> It should also be noted that even when ostensibly off duty, in certain circumstances police officers would be expected to intervene or become active and in doing so they would be considered to have officially placed themselves back on duty.

who is *not* wearing one (Punch: 1993:194) and O'Neill found that she was occasionally mistaken for a plain clothes detective during her research (O'Neill:2005).

For these reasons I chose not to wear uniform; ultimately during the actual observations, I felt that I often was able to maintain a level of neutrality and anonymity due to being in plain clothes however as anticipated it was equally clear that on many occasions, despite my plain clothes, I was identifiable as at least associated with the police in some manner and was undoubtedly treated as such by many of those who saw me. My proximity to officers, keen interest in proceedings and presence unchallenged in certain areas made this inevitable to an extent and I particularly recall on one occasion receiving inquisitive looks from some away supporters as I sat near stewards in an otherwise unoccupied "no-man's land" between rival supporters.

### *8.8.2 Conducting fieldwork*

In terms of actually doing the research I generally followed officers around in their duties from pre-match briefing to the "stand down" being called after the final whistle. Depending on the duty this included attending pre-match briefings, staying in the Control Room, being in disorder vans and occasionally rather conspicuously standing on the trackside. On some occasions I did not stay right beside officers when they got involved in matters as I felt to do so would compromise their ability to perform their task or my safety. For example, on one occasion I did not follow officers into a section of crowd when they went to make an arrest but rather watched proceeding from a short distance away.

In considering how to record my findings I decided to use a small notebook and make contemporaneous notes. I contemplated using a Dictaphone however felt that this might unnerve the officers I was with, given the permanent nature of the recording made and the fact that I would be literally giving voice to the thoughts that I was wanting to record (some of which may not have been positively viewed by the officers). Such a device might also be mistaken for a radio by supporters, giving the impression that I was a plain-clothes officer, and in any event the noise within many stadia might limit the effective use of such a device. In her study O'Neill made mental notes and then jotted them down later as she did not want to draw attention to herself at the time or make any of the participants uncomfortable by making notes in front of them. She employed memory techniques to remember things but also occasionally

would use a small notebook in the toilet to scribble down notes during games (O'Neill:2005). Whilst I also considered that making notes in front of subjects might be disconcerting for them I was not confident that I would be able to faithfully remember what I had seen were I to make notes at a later time and so felt compelled to make notes as I went along, although I did try to write in bursts during more opportune moments or lulls in activity and to limit the amount of blatant note-taking as best as possible. Occasionally in dynamic situations note-taking was required to be deferred to a later time.

### *8.8.3 Personal safety*

Personal safety is often a consideration for researchers where the nature of the subjects and/or the environment presents potential physical risk and certainly physical threats and intimidation are often experienced by ethnographic researchers studying football violence at close quarters (Giulanotti:1995a). However, whilst I witnessed some clear but reasonably minor threatening and intimidatory behaviour by some supporters (directed towards both rival supporters and police officers), I never felt that my own personal safety was particularly compromised to any great extent during the fieldwork. I never met anyone with whom I had had previous professional dealings and in any event this prospect was not overly concerning given that I would always be in close proximity to officers who could offer protection during fieldwork and the reality is that subsequently meeting a previous "client" in a private or social setting is an occupational hazard that all officers need to be prepared for at any time. The lack of threat felt during fieldwork was most likely due to taking pragmatic precautions in circumstances where this might be an issue (such as not accompanying officers into a stand to make an arrest as outlined above) and my usual proximity to police officers, but also possibly reflects the reality of a relative lack of actual violence and disorder occurring at football.

The only occasion where I felt in any way threatened was when accompanying FoCUS officers in a town centre prior to a midweek evening match. We attended a violent confrontation between two Risk groups situated at either end of a short, narrow road. In the melee I found myself caught between the two groups, wary of venturing too far in either direction for fear of being mistaken for a rival Risk supporter and assaulted but also slightly disconcerted by the prospect of remaining where I was as more police officers arrived at speed, mistaking me for one of the protagonists and robustly seeking an explanation for my presence in the middle of the disorder.

## 8.9 Considerations and experiences as a police officer researcher

Whether in uniform or not, simply my status as a police officer conducting research raised some issues, both practically and ethically. In practical terms as a colleague with a certain amount of existing knowledge about policing this may have had the effect of leading officers to alter their behaviour in my presence and therefore not give a true reflection of genuine interactions with members of the public. For example, they might reasonably anticipate a level of existing knowledge about practice and therefore be more open about what they were doing in the assumption that I would not be as easily misled about procedure as a non-police officer researcher might be. Similarly, they might also be stricter and more formal in applying the law than they would normally be for the same reason. As already stated most of the officers that I worked with quickly seemed to become relatively relaxed in my company, particularly some FoCUS officers with whom I worked on a number of occasions and was able to build up a rapport with, and I never detected any overt hesitation, indecision or body-language that would suggest that they were overly conscious of my presence when interacting with supporters or were concerned by my “official” status (in terms of being endorsed by the hierarchy).

Of course, the other side of the police experience coin was that I had to be alive to the possibility that I might allow my existing knowledge to seep too far into the process of interpreting what I was witnessing and I was particularly careful to try to not assume that I knew what officers were doing in given situations or why. This generally entailed frequently directly asking officers to explain particular actions and I often had to preface such questions with a quick explanation of my reasoning for doing so as it was often clear that some felt that the answers to many of these questions should be patently obvious to a fellow police officer.

### *8.9.1 Ethical*

A number of different ethical considerations arose, mainly centring around issues of consent<sup>190</sup> and conduct.

Due to wearing plain clothes my status both as a police officer and a researcher was not always apparent and so some of my research subjects might not have been aware that they were

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<sup>190</sup> Consent was only a potential issue for observation subjects. Interview subjects all signed a specific consent form.

subjects. Although I always carried my police identification card, I never overtly displayed it other than at pre-match briefings I attended (as they all took place within police buildings and so I was required to wear identification for security reasons); only once did a Match Commander actually directly refer to my presence and reason for being there during a briefing. To counter this lack of awareness I always introduced myself as a serving police officer doing academic research to those I was to be accompanying for the day and would explain what I was doing to them in very general terms. Of course, my “official” standing and ostensible endorsement by the hierarchy may have compromised any notion of true consent, given that some officers may have felt compelled to accommodate me, however I have already noted that in such circumstances individual officers still retain a great deal of discretion as to the extent to which they genuinely participate (Cockbain:2015:21). In my case I did not feel that any officer that I shadowed held back or was particularly wary. In fact, many of them seemed genuinely interested in my work and were often keen to share their opinions. However, the possibility remained that I might come into contact with other officers at a given match who were unaware of my status and purpose for being there. Furthermore, although my focus would be primarily on police officers, it was highly likely that I might also observe members of the public with whom those officers interacted who would likewise be unaware of my role. Waddington noted a similar issue when he conducted research on Metropolitan Police officers policing demonstrations in London in that by moving around with his police guides, he would inevitably encounter other officers who were unaware of his status and so he would not have fully informed consent from all of his subjects (Waddington:1994). In reality this issue was extremely difficult to overcome effectively. Where I could I would briefly tell uninitiated police officers why I was there however this was not always practicable to do. Occasionally officers would question my presence to which I would directly respond or sometimes my “escort” would introduce me. On one occasion my presence standing at a vomitory was queried by the Safety Officer who had spotted me on CCTV from the Control Room and I was approached by nearby stewards to identify myself.

In the circumstances I believed this situation to be ethically acceptable and I was satisfied that the primary subjects of my research for the day were all aware of my status. Any collateral subjects would not necessarily be so aware however they would at least be most likely seen in public spaces where they would be conscious of some level of public scrutiny to a certain extent – if not necessarily for the precise purpose of research. Very often it would be clear to both officers and supporters alike that I held at least some kind of “official” status by virtue of my mere presence, particularly when in areas where supporters would not normally be such as at

the pitch side. I tried to avoid such blatant intrusions where I could (at one game I was able to stand in the terrace nearby whilst my primary subjects were at a static position on the narrow track at the pitch side) however this was not always possible if there was no physical space available in the stand close enough that I would not become separated should the officers have to move to another location.

The other major ethical consideration was that of witnessing bad practice or even criminality during fieldwork. What to do in the event of witnessing crime committed by subjects has always presented a moral and ethical dilemma for criminological researchers. I had to consider the possibility that I might be required to compromise my independence as a researcher should a member of the public commit an offence in my presence, either by taking direct action there and then or by acting as an official witness. As already alluded to although I would technically be off-duty, in certain circumstances I might be expected to place myself back on duty. I decided that, given that I carried no PPE and that generally I would be where many other police resources were deployed anyway, I would only intervene or assist in serious cases that required an immediate response (such as officers being assaulted) and I would simply rely on experience and my natural instinct to be able to identify such scenarios if and when they arose, although I anticipated that such incidents would be unlikely. In the event I never experienced a situation where I felt that I had to become directly involved in a policing capacity and never felt ethically compromised in this regard.

However, given that my focus for observations was on the police, I equally had to consider the scenario of witnessing inappropriate, neglectful or even illegal action by police officers (eg Punch:1993, Norris:1993). In this event policing researchers require to make a moral decision as to the extent to which they are prepared to have “guilty knowledge” of criminality and to establish clear lines within themselves and with subjects as to what they are prepared to witness (Polsky:1971:130-138). By passing on information relating to such issues some researchers may feel that they may risk harming future access to research subjects, compromising true informed consent and the general trust of participants (particularly if they had previously been assured of confidentiality) and even exposing vulnerable victims or witnesses to harm should a crime be reported (Westmarland:2001). Furthermore, some researchers have felt that they owed a strong moral obligation to their subjects (Ferdinand et al:2007:527). Ultimately, policing researchers have a personal responsibility and choice to find resolutions to the ethical dilemmas which they are presented with (Ferdinand et al:2007:540) and Westmarland suggest

that this invariably will involve a “compromise that sets the seriousness of the particular incident against the potential outcome” (Westmarland:2001:527).

Arguably there is an enhanced dilemma for police officer researchers. Whilst some “normal” researchers are able to ethically justify even committing crime whilst carrying out participant observation (Pearson:2009, Armstrong:1993<sup>191</sup>), police officers are duty-bound to uphold the law which would require them to act upon any infractions of same, a professional imperative therefore existing as well as a moral one. Of course, the notion of police discretion and the fact that officers do not always act where they might, have already been discussed at length in a previous chapter, however it is important to recognise that by not acting in certain circumstances, even if technically “off-duty”, officers might conceivably leave themselves open to misconduct charges of neglect of duty. This could also extend to witnessing non-criminal conduct where proper procedure was not carried out or where behaviour was inappropriate or uncivil. In my particular case my status as a Supervisor within a hierarchal, disciplined organisation would increase expectation that I would recognise inappropriate behaviour by officers and challenge it. Furthermore, there was a chance that this status might influence the behaviour of those research subjects who were aware of my rank in situations where I out-ranked them. For example, they might expect guidance or defer to me in certain situations<sup>192</sup> or they might alter their behaviour to that which they thought might more meet with Supervisory approval. To minimise this, I never referred to my rank when introducing myself as a police officer to colleagues and where they were aware anyway, I stressed that I was there in a private, non-police capacity to which rank was not applicable. Nonetheless it clearly remained in the minds of some subject officers who continued to refer to me in terms of rank<sup>193</sup>.

As well as rank, the specific police role of the researcher might also influence research subjects. For example, for a period during the life of this project I worked in a department the function

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<sup>191</sup> Both admit to criminality whilst researching football hooligans.

<sup>192</sup> Inexperienced officers might rightly expect someone who they knew to be a Sergeant to offer guidance where they were unsure of the course of action to take in a dynamic situation so I had to consider whether it would be professionally and morally acceptable simply to say to them “pretend I’m not here” in such circumstances, particularly if their chosen course of action was patently flawed.

<sup>193</sup> Terms often used such as “Sarge” or “Gaffer” may have been less formal but nonetheless acknowledged rank.



of which was to challenge inappropriate behaviour by officers<sup>194</sup>. Such departments often attract general suspicion and mistrust from police officers given the nature of their remit and, although I was not in this unit during the time that I completed the fieldwork and so this was not a consideration for me, had that been the case then it is not unreasonable to conclude that had this information been known by those being observed then they may have been particularly wary of their actions, potentially leading to modified behaviour.

In general terms during the research I felt that officers seemed to accept me readily and mostly quickly gave the impression of carrying on as if I were not there. This may have stemmed from being given a certain amount of trust as a fellow officer and the fact that officers generally appeared comfortable with me. Perhaps I was not seen as much as an outsider (and consequently posed less of a threat) as I could converse in “police-speak” and had a degree of empathy and so was recognised as still “one of them”, despite my efforts to project the image of a researcher rather than a police officer. The officers I accompanied may have been less conscious of a need to “baby-sit” someone totally unfamiliar with their surroundings and therefore did not need to spend as much time being concerned with me.

As for potentially witnessing inappropriate behaviour I recognised the importance of drawing clear lines regarding the limits of what I could accept (Polsky:1971:130-131) and was unequivocal that I would feel obliged to take action if I witnessed officers committing actual criminality however I would simply have to judge any other type of conduct-based scenario on its own merits at the material time with the presumption being that in order to preserve my neutrality I would be unlikely to directly interfere unless the situation was extreme. Whilst I required to bring an appropriate level of academic rigour and integrity to this research project and wore a researcher’s hat throughout, I am nonetheless first and foremost a full-time police officer which I believe brings with it unique responsibilities and for professional and pragmatic reasons<sup>195</sup> I was very comfortable that during the fieldwork I was always a police officer conducting research rather than a researcher who happened to be a police officer.

Despite this, although I certainly witnessed scenarios that might have played out differently had I been the officer dealing with the situation and where I very possibly would have chosen to pursue a different approach, during the fieldwork I never once felt uncomfortable or that I

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<sup>194</sup> the PSoS Counter Corruption Unit.

<sup>195</sup> On a pragmatic level I was not prepared to risk any action or inaction that might ultimately threaten my employment and livelihood.

was witnessing something so far removed from an acceptable course of conduct that the circumstances would require me to directly intervene. This may have been as a result of my presence moderating usual behaviour or simply that the officers I observed did not do anything “wrong”. Of course, I filter such analysis through my own concepts of what “wrong” is and recognise that there are competing interpretations of this in the football policing environment (for example some supporters would consider the filming of supporters by police as “wrong”). Any criminality that I witnessed was committed by members of the public and always in the presence of other police officers such that I was never in a position of deliberating whether to report it or not or asked to provide a witness statement.

### 8.10 Conclusion

An appropriate and relevant Research Design is required for any research project to ensure that, within the chosen theoretical framework, the correct data required to answer the Research Question(s) are identified and that suitable methods are utilised to gather those data from the most relevant sources. However, pragmatism will always have to feature in any design as the realities of structural limitations or finite resources come into play.

The design utilised here centred on an ethnographic approach to identify and examine the nature of officer/supporter interactions in the context of football matches and the application of the OBFA. Observation was identified as the most suitable way to illuminate the detail of those interactions, occurring as they did dynamically and often in less visible areas, however this was bolstered by the use of a limited number of interviews and scrutiny of relevant documents in an effort to strengthen the validity of any conclusions. The design was influenced by a number of practical issues, particularly lone researcher and self-funding status, and I acknowledge that there were some limitations to the process, notably concerning the breadth of my selection of officers for interview<sup>196</sup>, my use of a single researcher over such a wide spread of matches which ran the risk of only providing a narrow “snapshot” of events at a given time and place rather than identifying wider processes, and my focus on police officers at the expense of supporters. Nonetheless, in the circumstances I believe that I arrived at a sufficiently

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<sup>196</sup> I also did not involve British Transport Police officers who could have brought their experiences of policing football supporters travelling to and from matches on the rail networks to the research.

robust methodology which was fit for purpose and which provided the data required to address the Research Question.

During fieldwork further challenges were faced. As an *Inside Insider*, a serving police officer conducting research on colleagues, I benefitted from good access to research subjects however I also had to be wary of how this status might influence the behaviour of those subjects and I took steps where possible to minimise these effects. Similarly, I required to reflect on other aspects of self, in addition to being a police officer influenced by police culture(s), which might unduly influence my interpretation and analysis of data and strive to lessen their impact through awareness and acknowledgement.

Ethically I had to consider how my status as an officer would be conveyed to research subjects and how lack of this knowledge might impact on notions of consent. Furthermore, I had to consider what I would do in the event of witnessing criminality or inappropriate behaviour by officers or supporters. I had to clearly delineate where I stood ethically as a researcher and professionally as a police officer. Ultimately, I decided to maintain a balance where I considered myself to be an independent researcher as a default but where my responsibilities as a police officer would take primacy in the event of witnessing criminality committed by officers or a major incident occurring. However, in the event I was never placed in a situation where I felt that I was ethically compromised or faced a particular ethical dilemma at any stage of the research and I am confident that the entire process withstands ethical scrutiny.

I will now go on to discuss my findings in next section of this thesis.

## **CHAPTER 9 – Conditions of Street Level Bureaucracy**

The data from this research are set out in the following four chapters which are structured around four salient themes drawn from SLBT, each covered by a distinct chapter, which are: the conditions of SLB; simplifications and routines, discretion and policy creation. These four key theoretical aspects are structured progressively and have been selected to enable meaningful analysis and are not intended to represent an all-encompassing review of all aspects of SLBT. As well as including theoretical analysis the chapters will also be descriptive to a degree with a view to fulfilling the objective of providing a contemporary account of how officers police football matches in Scotland.

Lipsky describes a number of particular conditions of work that are features of SLBs including inadequate resources, demand for services increasing to meet supply, ambiguous goal expectation and poor performance measurement (Lipsky:1980:27-28). Furthermore, he suggests that a fundamental aspect of an SLB is the use of discretion within a model of relative autonomy from supervisors (Lipsky:1980:13). Such discretion is facilitated by conditions of “low-visibility” in which officers generally operate (Goldstein:1960).

This chapter will examine the policing of Scottish football and the use of the OBFA in terms of three of these key features of the SLB environment namely: limited resources; the low-visibility nature of interactions and unclear goals with a view to analysing the extent to which these elements are present in the football policing environment and thereafter to critically assess how these aspects of SLBT might assist in providing understanding of how the police utilised the OBFA.

### 9.1 Limited resources

As described in Chapter Seven, Lipsky suggests that SLBs use various coping mechanisms to deal with the fact that the reality of their workplace environment does not match up to the ideal and argues that there are a number of inherent features of SLBs requiring the implementation of these mitigating coping mechanisms. One such condition is that of limited resources.

Lipsky describes SLBs as providing inadequate resources in two main ways, namely in terms of the ratio of workers to clients and in terms of time (Lipsky:1980:29) and notes that for police

officers in particular time, both to gather relevant information and in which to act, is particularly limited (Lipsky:1980:30).

At football matches, there is a huge disparity between the number of officers on duty and the number of fans in attendance. An assessment is made as to the anticipated number of officers required based on previous fixtures and current intelligence available however ultimately there will always be far more supporters than officers present<sup>197</sup>. Of course, the mere presence of large numbers of supporters compared to officers will not necessarily indicate a lack of adequate resources *per se*, as the vast majority of supporters will not require the provision of any kind of direct “service” from those officers (beyond the most basic reassurance or facilitation derived from mere presence), however there is a potential issue should significant criminality or disorder occur and this became increasingly relevant in the context of the utilisation of the OBFA. An apparent strengthening of the political will to proactively confront some of the behaviours previously tolerated combined with the categorising of more mundane and prevalent behaviours such as singing songs or displaying banners (as opposed to more “traditional” (but less common) prohibited behaviour such as violent disorder) as being potentially criminal conduct, meant that greater numbers of supporters were likely to fall foul of the Act and therefore far greater numbers of potential offenders would be generated, with no commensurate increase in policing levels.

Furthermore, even if greater numbers of officers were made available to cope with increased demand, inadequate resourcing in other areas would prohibit being able to make large numbers of arrests (at least at the time of the offence occurring). The infrastructure to facilitate arresting people in terms of vehicles to transport prisoners to police stations, the time required to process a prisoner into custody on arrival there<sup>198</sup> and the number of holding cells available, would not be able to support large-scale increases. At one match I attended in Dunfermline a relatively small number of arrests were made yet the cells quickly became full and it was decided that any further custodies would have to be taken to Kirkcaldy, some 15 miles away.

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<sup>197</sup> A context of a general lack of financial resources in recent years should also be recognised. This has resulted in a drive to have less officers and more stewards at matches and also to draw officers for matches from those already on duty rather than pay overtime to those who would normally be off-duty, resulting in those officers no longer being available to the citizens of their “home” areas where they would normally have been on duty at that time.

<sup>198</sup> To save money cell facilities at many police stations have been closed and centralized into a small number of large “Custody Suites”. As a result, particularly at busy periods such as weekends, long queues can form at these locations leading to officers and prisoners waiting considerable periods of time.

Lipsky stressed that for police officers in particular time was often a limited resource, both in terms of time to gather information and time to act (Lipsky:1980:30). However, while circumstances still arose where officers had to make quick decisions with limited information and take action in dynamic situations, generally the routine nature of the football event and lack of complex problems present, offered a degree of control to officers such that scarcity of time was not often keenly felt. Furthermore, in situations where time could be an important factor, officers developed routines and simplifications to ameliorate the impact of this, such as the favouring of delayed arrests where offenders would not be arrested in the stadium at the time of the offence but would be arrested some days or weeks later, usually at their home address in what were often sensationally described as “Dawn Raids”<sup>199</sup>. This technique pragmatically recognised the officer safety concerns and resource imbalance of sending a limited number of officers into a large crowd of supporters to make an arrest but also effectively extended the time available to officers in which to fully evaluate and assess the circumstances presented to them<sup>200</sup>, allowing them to regain control of the process and the client by controlling the content, timing and pace of the interaction (Lipsky:1980:120).

Thus, the football environment is one where resources are clearly finite and limited and officers would be unable to cope with every potential infringement of the law (Lipsky:1980:14). The idea of a potential lack of resources is inherent in policing large crowds but depends on the level of law-breaking present; with the introduction of the OBFA potential vulnerability to arrest greatly increased highlighting the issue of limited resources, which was not better illustrated than when large numbers of supporters, potentially hundreds or thousands, all sang a song in contravention of the Act at the same time. In this context a lack of resources can be seen to be directly linked, through SLBT, to officer behaviour in terms making arrests, officer safety considerations and, despite it being the policy of Government, failure to arrest every supporter indulging in offensive sectarian behaviour.

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<sup>199</sup> This is where officers attend at an address to arrest a suspect early in the morning. They have attracted some criticism for being disproportionate and having a sinister, totalitarian symbolism. Alternatively, it may simply be pragmatic to attend at a suspect’s address when there is an increased likelihood of finding them at home.

<sup>200</sup> Often largely involving the assessment of CCTV evidence.

## 9.2 Visibility

Lipsky describes SLB interactions as taking place at “street-level” where workers and client interact directly at the point of service delivery. The relative autonomy from supervisors enjoyed here serves to facilitate the worker’s potential personal influence on proceedings, the potential for such influence being enhanced by the circumstances of reduced visibility in which these interactions frequently occur (Goldstein:1960). The following section will examine the nature of officer/supporter interactions at football and offer comment on the extent to which low visibility remains a relevant factor in the contemporary football environment.

### *9.2.1 Street Interactions and Stadium Interactions*

The same officers can have different duties, depending on which period of the match event they occur<sup>201</sup>. These periods can be understood generally in terms of pre-match, during match and post-match<sup>202</sup>. However, as well as a temporal framework for understanding and describing police activity at football, a spatial paradigm can also be applied. The geographical contexts of police officer interactions with football supporters can be simply divided into two distinct settings: namely outside or inside of the football ground and its immediate environs. The terms *street interactions* and *stadium interactions* will be used to distinguish between these environments<sup>203</sup>.

Stadium interactions occur inside the ground. In general, this is an easy distinction to make, given that spectators have to go through control systems such as turnstiles to enter the ground which create a clear and distinct barrier between the two environments of inside and outside. Inside grounds is actually defined to a degree for the purposes of legislation prohibiting the

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<sup>201</sup> This is described in more detail in Chapter 11.

<sup>202</sup> The “during match” period could be further sub-divided into first-half, half-time, second-half and last 10 or 15 minutes in terms of specific activity.

<sup>203</sup> The term street interactions to describe those interactions between officers and supporters that occur in the football environment but outwith the stadium where the relevant match is being played. This should not be confused with “street” in the sense of “Street Level Bureaucracy” and the distinction is made in order to analyse visibility in terms of notions of control and surveillance and the different dynamics presented by both environments and not to suggest that interactions between officers and fans inside the ground do not count as “street level” in terms of SLBT.

entering of stadia whilst drunk or in possession of alcohol or controlled containers mentioned in Chapter Three. These offences refer to the “relevant area of a designated sports event” which is defined as any area where “spectators... are granted access on payment” *or* from where “a designated sporting event may be viewed directly”<sup>204</sup>.

Although the outside environment can be distinguished from the inside environment to a certain extent by virtue of simply being that which is not the inside environment, the extent of the outside environment, and therefore the areas in which street interactions in policing football terms occur, is less clearly defined. Certainly, as supporters move towards their ultimate destination of the stadium they tend to coalesce and the supporter in a specific football environment dynamic becomes increasingly pronounced however, depending on the nature and distance of supporters’ journeys, which may involve negotiating arterial routes, transport hubs and city centres, journeys from home to stadium may involve considerable time and distance and therefore can commence far from the actual stadium itself and encompass spaces not necessarily normally associated with football or specific football grounds.

The OBFA legislation partly addressed this question for its own purposes as it pertained to behaviour “in relation to a regulated football match” but where “in relation to” included not only within the ground or entering or leaving the ground but also if it occurred “on a journey to or from the regulated football match”, which specifically included even journeys which included “overnight breaks”. Furthermore, the scope of the Act extended to “any place (other than domestic premises) at which such a match is televised” which could remove a relevant interaction literally hundreds of miles from the actual stadium itself if, for example, officers were called to a pub in Lerwick where a match being played in Glasgow was being shown. Nonetheless for my purposes a simple understanding of street interactions as being interactions between football supporters and police officers occurring outwith the confines of the actual stadium will suffice.

The outside environment is characterised by a far larger and more varied geography and topography (including streets, pubs, modes of transport and transport hubs, town centres, open areas, parks, residential areas etc), less control, less or no CCTV<sup>205</sup> and supporters being more dispersed and more mobile. The inside environment occupies a far smaller area with regulated spaces and areas allowing for more control, excellent surveillance capabilities in the form of

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<sup>204</sup> *Criminal Law (Consolidation) (Scotland) Act 1995*.

<sup>205</sup> albeit some club CCTV systems also have very good coverage of the immediate vicinity of their respective grounds and many urban areas have council run open-space CCTV systems.



CCTV and closer supervisory oversight and larger numbers of mostly static supporters more closely located together within much smaller spaces.

### 9.2.2 *surveillance*

The level of surveillance present within the football environment is greater than that envisaged in Lipsky's time and adds enhanced scrutiny to police behaviour and interactions which was not previously there. This enhanced surveillance comes mainly from the existence of CCTV systems in football grounds and their immediate environs but also from portable mobile 'phone technology carried by supporters. This echoes the notion of increased "bottom up" pressure from the public described by Taylor and Kelly (Taylor and Kelly:2006).

Levels of surveillance can be linked to where officers are physically located in time and space relative to the event, with more surveillance generally being present inside the stadium than outside, and so in *stadium interactions* with supporters rather than in *street interactions*; and to the role of the officer, the nature of some roles offering more scope for less visibility than others. This is not to say that there are no low visibility interactions occurring within the football ground however a combination of excellent CCTV coverage, being physically closer to scrutinising supervisors on the ground (both specific supervisors and those who are not the officers' own supervisor but who are distributed in close enough proximity to potentially have some oversight of the officers' actions nonetheless) and the increased concentration of supporters whose behaviour, such as the singing of offensive songs, is itself generally more visible as a result of that increased concentration, combine to make the inside environment one where low visibility encounters are less likely.

Increased surveillance has the effect of compromising the low visibility nature of many areas and situations which would previously have enjoyed high levels of relative privacy. Many officer/supporter interactions continue to occur in conditions of low visibility and as such an important condition of SLBT remains relevant to the football environment, however improved levels of surveillance have led to improved scrutiny of these interactions by supervisors, shrinking these areas of low visibility and therefore having a potential effect on the use of discretion by officers.

If factors such as notions of control, surveillance and concentration of supporters, vary the dynamics of the two environments of inside and outside and as a consequence help to shape and influence the nature of interactions between police officers and supporters; it follows that

if these factors differ between the outside and inside environment, so too will the nature of street and stadium interactions potentially differ. Recognising this spatial model allows us to use SLBT to understand how the different spaces of football might also bring with them different influences on the decision-making processes of officers which has ramifications for understanding the nature of officer behaviour and decision-making, and how it might alter or be affected by particular circumstances or a change of environment.

Potentially this influence of surveillance on the use of discretion could affect supporters in a both a negative or a positive way. Whilst officers feeling less inclined to deviate from a consistent application of “official” policy if under CCTV surveillance or if being filmed by another supporter on a mobile ‘phone may on the face of it be seen to protect supporters from unfair discriminatory behaviour by that officer, SLBT recognises the ability of officers to deviate in a positive manner to the benefit of the client as well (Lipsky:1980:23) and so such a scenario of heightened scrutiny may in fact lead to officers feeling increased pressure to pursue the more punitive official line rather than, for example, issue a mere verbal warning, to the detriment of the supporter.

The assertion that levels of surveillance may directly influence discretion is a fundamental argument of this thesis and will be examined in more detail in Chapter Twelve which focuses on discretion.

### 9.3 Unclear goals

Lipsky states that unclear goals are a feature of the SLB environment and that agency goals often conflict or are ambiguous (Lipsky:1980:40-41). This lack of clarity can arise from the general nature of many public service agencies which often have rather idealised functions which are inherently difficult to achieve or define such as to achieve “good public health” or from multiple agency objectives accruing over time but never being rationalised in any meaningful way (*Ibid*). The issues with unclear goals are often further exacerbated by the fact that there are often inadequate performance measures in place to assess the extent of the achievement of these goals, the nature of the work not lending itself to such measurement as “the most important dimensions of service performance defy calibration (Lipsky:1980:168). Also, Lipsky suggests that goal conflict in SLBs can derive from the tensions between client-centred goals and organisational goals and from where there are differing expectations of what the role of the SLB actually is (Lipsky:1980:43-46).

These latter aspects could be seen in particular in the use of the OBFA at football matches as the effective creation of a larger client-base (through increasing the potential for criminality to occur), reduced the scope for officers to tailor responses to individual circumstances and increased the necessity to create mechanisms and simplifications to mass process clients and also through potentially differing understandings of the role of officers at football in the eyes of supporters, Government and officers themselves, in terms of primary being there, for example, to facilitate public safety or enforce the law or even, with particular regard to the OBFA, proactively prosecute a political hate-crime agenda.

Specifically, in the case of the OBFA, there arose a lack of clarity around the purpose and execution of the legislation at executive level given the problematic use of the concept of sectarianism<sup>206</sup> which created ambiguity at the delivery end of the process and enabled circumstances whereby there was potential for differing policy outcomes. The OBFA was meant to bring clarity to an area perceived as problematic however it didn't really define what the "problem" was, with the rushed nature of the Act's introduction rather implying a belief that it was self-evident. Although ostensibly straight-forward at a superficial "sound-bite" level, in fact ambiguous concepts such as "sectarianism" and "offensiveness" created legislation that did little to clearly explain the type of behaviour that it criminalised (Scottish Human Rights Commission:2012) but nonetheless left officers requiring to negotiate this issue on the ground where, in the stands and terraces, contention and confusion seemed mostly to revolve around the singing of "offensive" songs.

### *9.3.1 Supporters singing songs*

Despite concern over the arbitrary nature of the notion of "offence" and therefore the potential for disagreement over the legitimacy of singing particular songs being clearly expressed as the OBFA Bill was being considered (McWhirter:2014, Scottish Human Rights Commission:2012), neither the Police, the Crown Office (COPFS:2016a) nor the Government issued a specific list of activities or songs that were to be prescribed. Indeed, the Lord Advocate made it clear that he considered that it was "not appropriate to issue a list of songs, words, banners or chants which are deemed offensive" (Mulholland: 2012a). It should be acknowledged that whilst not producing a definitive list, the Lord Advocate offered some

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<sup>206</sup> See section 1.4.

guidance on songs suggesting that lyrics that were likely to be considered threatening or as expressing hatred included those which “promote or celebrate violence against another person’s religion, culture or heritage” or which are “hateful towards another person’s religion or religious leaders, race, ethnicity, colour, sexuality, heritage or culture” (Mulholland:2011:4). In terms of conduct which a reasonable person is likely to find offensive it was stated that it would not be sufficient merely that an individual was offended but rather it had to be shown that it was reasonable for someone to be so offended and that officers had to have concern for “proportionality, legitimate football rivalry and common sense” when deciding what is reasonable offence. Examples of behaviour likely to be offensive to a reasonable person were given as flags, banners and chants “in support of a terrorist organisation” or, with due regard to the circumstances and context, that “glorify, celebrate or mock events involving the loss of life or serious injury”. A lack of clarity in some of this guidance is immediately apparent, such as what might be considered “legitimate” football rivalry and by whom. Furthermore, the Lord Advocate’s Guidelines also stated that the Act:

**“WILL NOT** (original emphasis) ... criminalise football banter or bad taste in the absence of any other aggravating, threatening or offensive behaviour” (Mulholland:2012:5)

However, this makes no allowance for competing interpretations of where “bad taste” might stray into “offensiveness”. The Scottish Government policy document was accepting of the rightful existence of banter in football by stating that “there will always be passion, pride, allegiance and, indeed, banter [in football]” (Scottish Government:2011a:3) but stated that some supporters mistakenly consider “provoking, antagonising, threatening and offending” to be part of supporting a team, a view that it states is no longer acceptable, thereby conflating these terms and types of behaviour and creating grey areas between notions of provocation, antagonization and banter. The term “banter” is in itself loosely defined and interpreted and is ill-suited to matters of legal definition. When does banter move beyond acceptability? The Social Attitudes Survey on Sectarianism found that 34% of respondents felt that jokes about Catholics and Protestants were acceptable as long as they did not offend anyone (Hinchcliffe et al:2015) yet the AGTS felt that “passive acceptance of sectarian banter” should be challenged (Morrow et al:2013:30).

During my observations, it became clear that confusion was indeed a substantive issue in practice<sup>207</sup>. On occasion I heard officers being directly asked by fans what songs they were allowed to sing and what they could not. However, it was obvious that on many occasions officers were unaware of the nature of some of the songs being sung and of the symbolism of flags being displayed<sup>208</sup>. This lack of knowledge could stem from a lack of interest in football, a lack of knowledge of the subject matter (one East Coast officer informed me that his colleagues in that area had very little knowledge of sectarianism as it was a “*West Coast issue*” and not something which they normally had to deal with) or even such practical matters as not being able to understand certain songs being sung due to regional accents. On more than one occasion non-Glasgow officers told me that they often simply could not understand what some West Coast fans were singing due to their accents<sup>209</sup>. At one match, I heard an officer update the Control Room that he could hear songs “*possibly of an abusive nature*” emanating from a particular section of the ground, indicating a lack of knowledge as to whether they were or not and also suggesting that it might have been the case that potentially offensive songs were being sung without many police officers realising it. This frequently led to situations where FoCUS officers were instructed by Match Commanders to inform the Control Room when they identified offensive singing so that the Control Room could then pass this information on to the rest of the officers in the ground via radio<sup>210</sup>. However even Match Commanders did not always agree as on one occasion I witnessed a new Match Commander and his mentor discuss and disagree over whether a particular chant that had just been sung within a particular ground might be deemed offensive under the legislation or not.

There was also very often confusion and some anger on the part of some fans as to why action was not being taken against opposition fans for what they perceived as offensive behaviour by them. This was most fervent when those same fans were being challenged by police about *their* behaviour. Frequently, often based on an apparent assumption that any songs or chants that

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<sup>207</sup> It should be noted that this is in some contradiction to the Hamilton-Smith review which found little confusion in practice amongst fans as to what behaviours might be considered illegal under the Act (Hamilton-Smith et al:2015:41).

<sup>208</sup> even though the Lord Advocate’s guidelines for the OBFA make it clear that it is “a matter for the judgement of a police officer” whether songs are threatening, express hatred or are reasonably offensive (Mulholland: 2012a).

<sup>209</sup> Similarly, I personally attended a match where fans from the north of Scotland sang a song which I could genuinely not discern a word of, despite being situated literally right beside them.

<sup>210</sup> the most extreme example of this I witnessed was at an international match where Croatian football spotters were asked to inform the Control Room if Croatian supporters were “singing anything racist in Croat”.

referenced Ireland were automatically "sectarian" and therefore automatically illegal, it was common to see irate fans questioning police officers about what was being done to challenge the behaviour of the opposition fans who were clearly singing songs that they thought should be deemed illegal, such as *The Soldiers' Song* or *The Sash*, but were not.

To add to the confusion, it appeared that some songs became designated as offensive based on the use of certain clear and obvious "trigger" words that directly referenced religious words or paramilitary terminology such as *Fenian*, *Orange* or *IRA* whereas other songs were deemed offensive by virtue of the overall subject matter and so no specific trigger word was needed. Thus officers would be alerted to the potential use of these trigger words by the commencement of the singing of a relevant song but would have to wait until the particular word was actually used before the crime was considered to be complete; for other songs (such as *Roll of Honour*), which did not contain these obvious definitive markers in the lyrics, evidence of individuals singing a reasonable proportion of the song for a length of time was required so that evidence could be led that they were fully aware of the nature of what they were singing<sup>211</sup>. Where supporters had an awareness of this, some fans sang the majority of some of these songs but intentionally missed out the particular lines or words that could be seen to be offensive. As one officer commented fans were "*Changing the lyrics when getting to the tickly bit*"<sup>212</sup>.

However, Goodall states that there is growing research that suggests that "ethno-religious offence can be transmitted in the absence of overtly sectarian language" (Goodall et al:2015a:292) and so sectarian intent or meaning can be inferred by those targeted to receive certain songs, even if specific words are not actually used. Therefore, it might not necessarily be relevant to the perceived offensiveness of certain songs if certain words are actually used, however inferring intent (or sufficient reckless indifference) when key components of *actus reus* are not present is problematic, particularly when motivation for singing many of these songs is contested in the first place.

It appeared that there was a focus on religious and paramilitary language by the police. Briefings mentioned "sectarian behaviour" and religious or paramilitary songs almost

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<sup>211</sup> This rule of thumb was explained to me as having been decided by the PF following discussions between FoCUS and COPFS.

<sup>212</sup> Comment made during observations.

exclusively<sup>213</sup>. Of course, this may just be a realistic reflection of the reality of the prevalence of this type of language over other types at some football encounters and the fact that the other strands of diversity protected in the act (such as transgender identity or disability) appear to be included in recognition of an overarching anti-hate crime agenda rather than to target specific behaviour commonly seen at football grounds<sup>214</sup>, however there is also the possibility of officers suffering from “tunnel vision” to an extent and primarily always looking at potentially offensive songs in these terms, possibly ignoring any other aspects of these songs, such as their threatening nature, in the absence of any overtly sectarian marker. At one match, I heard a loud and sustained chorus of “*the Hibeas are gay*”, which was undoubtedly used in a pejorative manner and so might be said to fall under sec1(4)(e) of the Act (sexual orientation), however this appeared not to register in any way with any of the officers on duty. Furthermore, such a focus on sectarian terms may also have risked automatic Pavlovian responses to events by officers without suitable assessment in terms of the other tests required by the Act. For example, I witnessed a young Partick Thistle supporter being arrested for singing “*Fuck your Pope and fuck your Queen*”. This lyric is part of a song sung by Thistle fans which is intended to distance them from the sectarian Old Firm dynamic of which they are contemptuous, the full lyric being “*We hate the boys in Royal Blue, we hate the boys in Emerald Green, fuck your Pope and Fuck your Queen*”. Whilst “*Pope*” is most certainly a word associated with religion, at his subsequent trial the Sheriff gave the supporter an absolute discharge and stated that he was “*not the sort of person who creates the problem and needs this legislation*”<sup>215</sup>.

An apparently inconsistent approach in the “State” narrative concerning the use of certain words and phrases also caused confusion amongst supporters and illustrated how unclear goals in terms of SLBT could affect what officers actually did on the ground. The following sections will look at two particular examples to highlight this namely the word *Hun* and the song *Roll of Honour*.

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<sup>213</sup> one exception being when a Match Commander pointed out that a female Assistant Referee was taking part that day and so officers were to listen for “*sexist comments*”.

<sup>214</sup> As Waiton has pointed out there is little or no evidence of the likes of disablist or transgender abuse in Scottish football (Waiton:2012:63).

<sup>215</sup> <http://www.dailyrecord.co.uk/news/scottish-news/student-convicted-under-controversial-anti-sectarian-3037633> (last accessed 14/08/170).

### 9.3.2 “Hun”

Further uncertainty and confusion were derived from the apparent effective banning of certain words with religious overtones, such as “*Fenian*”, but not other words perceived by many to also have similar connotations. The word “*Hun*” has long been known as a pejorative term for Rangers supporters. More than one theory over the origins of the use of the word in the Rangers context exists including simply the popular perception that many Rangers fans hold pro-monarchy views and the Germanic origins of the current British Royal Family (“*Hun*” being a pejorative term for Germans encouraged by British propaganda since the First World War) and the use of the term in newspaper reports of disorder by Rangers fans at away matches in England in the early sixties. Nonetheless the term has come to be understood by many to refer to Protestants in general or at least be used with anti – Protestant intent (McKillop:2013:204) both in Scotland and in Northern Ireland<sup>216</sup> and the anti- sectarian charity Nil By Mouth lists “*Hun*” as a sectarian term<sup>217</sup>. *Celtic Trust* Spokeswomen Jeanette Findlay giving evidence to the Justice Committee of the Scottish Parliament claimed that the word *Hun* had “*never been used to refer to a Protestant*” but rather meant “*Rangers Supporter*” (Scottish Parliament:2011:170) however when it was pointed out by a Committee Member (himself a Celtic supporter) that Celtic fans also use the word against Hearts fans, she claimed that this was simply because Celtic fans sometimes called Hearts the “*Wee Rangers*”. However, it may be worth reflecting on exactly *why* Hearts are considered as a smaller version of Rangers by some Celtic fans, and exactly what cultural characteristics the clubs share that would lead to such a comparison. A perceived common Scottish Protestant identity is surely possibly one.

During my observations, I heard the term “*Hun*” directed at both Hearts and Kilmarnock fans by Celtic supporters. Despite evidence suggesting that the term has now come to mean more than simply a reference to a Rangers supporter for some people, this word did not fall foul of the OBFA, despite protestations for such recognition being made to the First Minister by some Rangers supporters (Williams:2015). The SFA considered the word “offensive” in finding Celtic player John Guidetti guilty of making comments of an offensive nature for singing “*The Huns are deid*” during a television interview (SFA:2015). The *Public Attitudes to Sectarianism*

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<sup>216</sup> “KAH” standing for “Kill All Huns” has been used in graffiti incidents in Northern Ireland eg <http://www.newsletter.co.uk/news/kill-all-huns-painted-on-small-orange-hall-1-7510096> (last accessed 14/08/17).

<sup>217</sup> <http://nilbymouth.org/history/> (last accessed 14/08/17).



Survey found only 8% of respondents considered it acceptable for a non – Protestant to use the term “*Hun*” to describe a Protestant in casual conversation (Hinchcliffe:2015:41), mirroring findings in the NFO report stating that 61% of respondents thought the term “*Hun*” was unacceptable (NFO:2003:16). There has been a criminal case where use of the words “*Dirty horrible Huns*” written on a T-Shirt was held to be a religiously aggravated Breach of the Peace in 2008<sup>218</sup> however more recently in 2012 a sheriff held the word not to be religious in nature (Hamilton:2012).

Song lyrics referring to “*beating the Huns on New Year’s Day*”<sup>219</sup> suggest that the term certainly once referred only to Rangers and its supporters however there is clear evidence that the meaning of the term “*Hun*” has evolved in certain contexts, illustrating the problem of where words and phrases can have contested meanings in society and that the situation can arise where a word is used with one intention by the speaker but is received and understood differently by the listener. Thus, where officers appear unconcerned by the use of such words but are interested in the use of other arguably similar ones, can give rise to dissatisfaction with both the effectiveness of the act and the performance of the officers.

### 9.3.3 *Roll of Honour*

*Roll of Honour* is a song sung by some Celtic supporters and the song is contested as either glorifying terrorism or as a legitimate expression of political identity. The lyrics reference the 1981 Hunger Strikers by name however the song does not specifically mention the terrorist organisations of which they were all members (PIRA and INLA), nor does it refer to any specific violent act or terrorist incident. The lyrics do describe the men as “*Irish Soldiers*” and encourages people to “*fight on*” however it is not at all clear that it is a song “in support of terrorist organisations” as the Lord Advocate’s Guidelines require.

During the season of my observations some supporters of Celtic displayed banners comparing the recognised leader of the 1981 Hunger Strikers, Bobby Sands, to William Wallace, an historic Scottish figure who was a hero of the Scottish Wars of Independence, and also

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<sup>218</sup> [http://www.heraldscotland.com/news/12374233.Celtic\\_fan\\_in\\_court\\_over\\_T\\_shirt\\_jibe/](http://www.heraldscotland.com/news/12374233.Celtic_fan_in_court_over_T_shirt_jibe/) (last accessed 14/08/17).

<sup>219</sup> Author’s own experience.

displayed banners quoting lines from the unofficial Scottish anthem, *Flower of Scotland*, in order to illustrate what was in their opinion hypocrisy and double standards by the authorities in this matter<sup>220</sup>. The essence of the point being that it was deemed acceptable to sing a song glorifying nationalist freedom fighters who pursued their ends of National Independence by violent means when they were constructed and framed in Scottish nationalist terms however deemed unacceptable when the same processes had an Irish context.

This song was recorded and released as a chart single by the *Irish Brigade* band in 2014 at the behest of Fans Against Criminalisation (FAC:2014), ostensibly to raise funds for FAC but more pointedly to again illustrate what they saw as the victimising nature of circumstances whereby a song in the national charts which could be heard on the radio could not be sung at a football match without fear of arrest. The song got to number thirty-three in the charts and, despite protests, a ten second snippet of the track was played on Radio One on 16 February 2014 during the chart countdown show, the BBC acknowledging the offence caused to many but believing that to ban the track outright would have been contrary to the principles of freedom of speech<sup>221</sup>.

In fact the potential illegality of the singing of this song was not specifically introduced by the OBFA, the Lord Advocate making it clear in a letter to the Justice Committee that convictions for Breach of the Peace for singing the song had occurred prior to the introduction of the Act (Mulholland:2013), however there is nonetheless a mixed message here and an apparent inconsistency of “State” approach to the expression of the same sentiments. I witnessed people being arrested under OBFA for singing *Roll of Honour* at football grounds, ostensibly as it was deemed reasonably offensive and likely to stir up public disorder. However, in Glasgow commemorative marches, sanctioned by Glasgow City Council, have been held by Republican organisations to honour the Hunger Strikers. I personally attended one in 2011 where a number of bands paraded on various public roads before culminating in a rally in Queen’s Park in Glasgow. A number of speakers eulogised the Hunger Strikers before their names were individually solemnly read out to the acclaim of the small crowd, in effect an actual “Roll of Honour”. Arguably this commemorative display was just as offensive to those appalled by terrorist violence as the singing of the *Roll of Honour* song and, as it occurred in a public place,

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<sup>220</sup> Such as “*They fought and died for their wee bit hill and glen*”.

<sup>221</sup> Response to complaint to BBC through online complaints process made by author for purposes of eliciting an official response on this subject.

was just as likely to incite public disorder amongst those passers-by who might be so offended. Such mixed messages doubtless add to the confusion of any supporter who might attend such a rally one day but then go to a football match the next. Whilst context has been argued to be the fundamental distinction between such political rally statements and the football environment (McAskill:2016) this does not really address the alleged inherent offensiveness of the relevant material nor does it serve to alleviate allegations that football fans are being unfairly discriminated against.

Nonetheless the singing *Roll of Honour* at a regulated football match ultimately became liable to be treated as criminal conduct under the OBFA. Following *McDonald (PF) v Anthony Cairns*<sup>222</sup> in 2013 it was established that any supporter singing the song would have a case to answer and in *Donnelly and Walsh v Dunn* in 2015 the Appeal Court held that the accused should reasonably have known that singing this particular song could be considered offensive<sup>223</sup>.

#### 9.3.4 Unclear goals summary

A lack of clear enough direction from policy-makers resulted in there being increased scope for officers on the ground to fill in the gaps. Thus, officers with potentially different interpretations of what the issues were and potentially different concepts of their role in the football environment in relation to the OBFA, implemented subjective legislation and in so doing were able to influence its application and delivery. Addressing “offensive” behaviour at football was not new itself, only the legislation was; as one officer put it:

*“the police didn’t suddenly start dealing with offensive behaviour at football in 2012. We just dealt with it using this legislation.”* (F3)

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<sup>222</sup> *McDonald (PF Dingwall) v Joseph Anthony Cairns* [2013] HCJAC 73

<sup>223</sup> *William Donnelly and Martin Walsh v John Dunn (PF)* [2015] HCJAC 35

And so, this process of interpretation of what constituted sectarianism or offensive behaviour was not done in a vacuum but rather could draw from existing officer experiences, constructions and prejudices.

The confusion generated by the OBFA stemmed from the rushed, ill-thought out nature of the process and the lack of knowledge of the actual subject matter (sectarianism) by policy-makers<sup>224</sup>. The Act was a knee-jerk reaction by politicians looking for a quick fix and desiring to be seen as strong leaders (Flint:2008) and more represented political grand-standing than serious coherent policy-making. Nonetheless SLBT shows how where such unclear aims exist regarding specific policy, this can have the effect of facilitating officers on the street directly influencing policy outcomes and delivery based on their own agenda and therefore potentially moving away from the original intent of the policy makers.

#### 9.4 Conclusion

This chapter examined a number of key conditions which Lipsky describes as being present in Street Level Bureaucracies and found them to be relevant to officers utilising the OBFA in the Scottish football environment. Indeed, in the examples of unclear goals and limited resources it can be seen that not only do these factors exist for officers policing football in a general sense, but further that specifically in terms of the operationalisation of the OBFA their relevance became starker as already limited resources were stretched further through the process of increasing the potential clientele by widening the net of what behaviour might be considered criminal and that the unclear policy message underpinning the OBFA led directly to confusion as to its application on the ground.

This offers support for the argument that SLBT has some utility in explaining the processes behind officer behaviour and decision-making when implementing the OBFA and indeed when policing football more generally. Such factors reinforce the requirement for officers to introduce coping mechanisms, covered in the next chapter, which in turn leads to circumstances facilitating deviation from official policy on the ground and the potential creation of new, different policy in its place.

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<sup>224</sup> Indeed during the earlier stages of the OBFA Bill's progress through Parliament the Justice Minister Roseanna Cunningham seriously suggested that blessingly oneself "aggressively" might constitute an offence under the Act (Scottish Parliament: 2011a: 27).

However, in terms of the low-visibility nature of officer/client interactions which SLBT suggests facilitates the use of discretion, the nature of the policing environment at football matches in Scotland is such that supervisors enjoy an enhanced ability to oversee the activities of officers on the ground and as such our framing of SLBT has to adjust to take this contemporary surveillance capacity, far more advanced and ubiquitous from when Lipsky first mooted SLBT, into account. Certainly, a low-visibility dynamic still very much exists however it is compromised by surveillance levels such that they potentially reduce the instances of the use of discretion by officers, making them less likely to deviate from official policy.

Furthermore, this also demonstrates the influence that technological advances continue to have on SLBT as suggested by Bovens and Zouridis (Bovens and Zouridis:2002). However, the nature of this influence can be distinguished from their notion of “screen level bureaucracy” as the surveillance technology at play here does not fundamentally alter the physical mechanics of the interaction as such (by replacing one of the actors) but rather the personal human interaction remains the same but is simply opened up to more supervisory scrutiny by virtue of the available technology.

## 10. CHAPTER 10 – Simplifications and Routines

Lipsky states that in general people “seek to simplify their tasks and narrow their range of perceptions in order to process the information they receive and develop responses to it. They create routines to make tasks manageable” (Lipsky:1980:83). He argues that due to the presence of systemic factors, SLBs create such routines and simplifications in their work as coping mechanisms to help them bridge the gap between the ideal that they want and the reality of what it is that they can actually achieve with what they have at their disposal. These simplifications are a crucial feature of SLBT as it is within these small processes of routine and simplification devised by workers that the notion of SLBs effectively “making” policy can be found (Lipsky:1980:84). Routines are understood as “habitual patterns by which tasks are performed” whereas simplifications are “symbolic constructs in terms of which decisions about potentially complex phenomena are made, utilizing a smaller set of cues than those presented by the phenomena” (Lipsky:1980:251).

SLBT specifically suggests that the police often use routines to control work situations and clients. It is often not as easy for the police to control their work environment as it is for other SLBs as interactions often take place on “neutral or hostile turf”(Lipsky:1980:120), however they use routines to control clients as best as possible, for example by positioning themselves in such a way as to minimise risk from a physical attack, developing capacities for suspicions to identify those who might be guilty of some offence (based on markers such as gait, dress etc (Skolnick:1966:42-43)) or by the “husbanding of resources” (Lipsky:1980:123-126).

This chapter will examine the presence of such routines and simplifications within the football policing environment with a view to critically assessing the extent to which they might be understood as coping mechanisms in terms of SLBT and what influence, if any, they might have had on the way in which police officers implemented the OBFA. In particular there will be a focus on the categorisation of supporters. However, prior to this it is worth spending a short time considering routine as a concept in itself within the football environment both to highlight its ubiquitous nature and to draw a distinction between such inherent routine and the routines described by Lipsky.

## 10.1 Routine

Lipsky theorises that officers develop routines as coping mechanisms in response to unfavourable conditions of work, however it was evident that the notion of routine also was generally present as an inherent feature of participation in the football event and that participants, supporters and officers alike, knew what they were doing, had a sense of familiarity and mostly adhered to set, mutually understood patterns of behaviour<sup>225</sup>. Football matches have been played regularly at certain grounds for many years and it was evident that local police had developed familiar, tried and tested practices and policies in relation to this<sup>226</sup>. Notably officers in Glasgow possessed a great deal of corporate knowledge of policing large scale football events, likely due to the three largest football grounds in Scotland: Celtic Park; Hampden and Ibrox, being situated there. This was summed up by one officer who stated:

*“there’s a set way of things happening at football in terms of the briefing, in terms of people deploying, there’s an expectation how that will work over the course of the event...you know, there’s kind of a formula for how it takes place”<sup>227</sup>(F3)*

Another felt that police roles:

*“are simplistic and... [matches are] very organised... the procedures you have to follow are much the same” (U2)*

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<sup>225</sup> This resonates with the finding set out in more in detail Chapter Eleven concerning notions of contingency and facilitation largely explaining police presence at football matches.

<sup>226</sup> The only exception to this that I witnessed was in some of the lower league areas that Rangers visited as they progressed up through the leagues, where local police and club officials were not so used to the nature and size of the Rangers support that visited.

<sup>227</sup> The notion of such familiar attitudes, routines and behaviours also resonates with Pierre Bourdieu’s social theory of *Habitus* which describes how routinized practices are performed as second nature as socialised tendencies and processes are deposited within persons in the form of “*trained capacities and structured propensities to think, feel and act in determinant ways*” (Wacquant:2005:316). *Habitus* is a “*structuring structure*” created through an interplay of free will and social structures over time, and thus is produced unconsciously (Bourdieu:1984:170). Therefore, it guides behaviour and thinking and has the ability to influence our actions and the construction of our social world.

Whilst some matches might throw up the occasional unusual issue or might involve large numbers of people, there remained a pervading air of routine in most of the police deployments that I witnessed. Amongst most officers there seemed to be little perceived as out of the ordinary or difficult about the roles and tasks performed. Some officers resented such duties as their normal shifts might have been altered to accommodate the game whereas one officer I spoke to enjoyed it as it was “*something different*” from day to day duties<sup>228</sup>. Others were obviously disinterested in football and football fans and seemed to see it purely as a duty to discharge hopefully as quickly and uneventfully as possible.

This attitude of expectation of relative routine seemed to be confirmed even at the highest level as I witnessed on more than one occasion Match Commanders spend time in pre-match briefings covering relatively trivial and peripheral matters such as officers using mobile ‘phones, standing in groups of more than two and even how they should not wear their scarves too far up their faces.

This echoes the findings of Adang and Brown who described observing very few interactions between supporters and police officers at a Scottish match as they were unnecessary due to the routine nature of the event and the fans being accepting of the police presence and the self-evident nature of police measures (Adang and Brown:2008) and also that there exists to some extent unwritten rules, in terms of role and performance, between the police and fans as explored by O’Neill (O’Neill:2005).

This notion of routine was equally apparent from the supporters’ perspective who also mostly appeared aware of set and mutually accepted routines and behaviours; most fans knowing where to go, what to do and what not to do. The vast majority of supporters appeared to go about their business of attending the ground, watching the match and then departing at the conclusion with little issue or contention. Indeed, some routines appeared to be so well established and accepted that supporters would engage in them without prompting. For example, on one occasion I witnessed a female supporter deviate from her direct path to the turnstiles to approach the two police officers I happened to be with who were standing off to one side. She opened her shoulder bag in front of them for them to look inside and search even though they had not spoken to her at all, were not on her direct path to the turnstiles or indeed had searched anyone else’s bag prior to that moment. Nonetheless the supporter’s expectation was such that she anticipated that her large bag would normally be searched prior to entering.

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<sup>228</sup> Opinion offered during observations.



Such established routine patterns of behaviour were visible across the entire football experience and not just limited to potential interactions with the police; it was clear that many supporters went to football matches with the same group of friends or family, meeting at the same places and times, using the same transport modes and routes, and often sitting in the same areas of the ground and generally following the same “drill” every weekend<sup>229</sup>. The main exception to this was in the case of away supporters who would be in a less familiar environment than normal however even then these circumstances were still able to generate routinized behaviours around common features such as mode of transport (for example people travelling to different locations but on the usual supporter’s bus with the same group of friends or family).

Therefore, “routine” in terms of mundane and repetitive interactions is to an extent inherent in the policing of football. However, I also found evidence of routines and simplifications which might be better explained in terms of the coping mechanisms of SLBT. This could be seen for example in how officers approached and interacted with large groups of supporters in a manner clearly influenced by concerns for personal safety and the perception of potential violence; a version of this phenomenon specific to the context of the OBFA being the emerging preference for “Dawn Raid” style retrospective arrests described in the previous chapter. Similarly examples of “resource husbanding” could be seen, such as when a FoCUS officer justified inaction on his part in relation to a supporter outside a football ground apparently breaking the law because it was only ten minutes before kick-off and the Match Commander was “*in his ear*” on the radio to get into the ground where his particular FoCUS skills were required and so would not be happy if he was delayed. However, the most obvious example of a simplification by officers was seen in the manner in which officers processed supporter clients by categorising them, and it is on this categorisation that I will now focus.

## 10.2 Categorisation of Supporters by Police

SLBs transform individuals from people into *clients* as a process of SLB, assigning them the characteristics of one of a small number of standardised categories developed for the purpose

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<sup>229</sup> One interviewee noted that these routine patterns might evolve or change over a prolonged period of many years of support with different personal circumstances being influencing factors, such as employment, moving home, bereavement or becoming a parent.

(Lipsky:1980:59-60). This categorisation of people into clients who are easier to process is part of the process of SLBs modifying their concept of their jobs and their clients to “reduce the strain between capabilities and goals” (Lipsky:1980:141). This re-conceptualisation of clientele by its nature is linked to the SLBs re-conceptualisation of their work because “concepts of the job imply concepts of the client” (Lipsky:1980:151-152) and so by dividing clients into categories SLBs are also able to justify private re-conceptualisations of work. Thus, assigning the status of being morally or socially *worthy* of assistance or of being a co-operative client, for example, allows the SLBs to justify giving them the best of their service whilst similarly justifying denial of service to those who are not deemed so worthy (*Ibid*).

### *10.2.1 typologies*

During the fieldwork evidence was gathered of client processing of supporters into categories by officers which led to different treatment based on those categories. O’Neill uses Goffman’s dramaturgical model to show that officers use typologies as a method of establishing informal guidelines that inform police action at football matches and interaction between supporters and officers and that because the police encounter thousands of different fans at every match, they tend to categorise them so as to be able to cope (O’Neill:2005:76). She identified common typologies made by officers as being those between fans and members of the public, football fans and fans of other sports (such as rugby) and distinctions made within the category of football fans themselves. These she suggested were where officers had a pre-determined idea of what visiting fans would be like, how some fans would behave dependant on where they sat within the ground, and the distinction made between “hooligans” and “real” fans, all of whom would be policed differently because of these typologies.

During the research I too noted evidence that confirmed O’Neill’s distinctions between football supporters and supporters of other sports and between football supporters and other members of the public. It certainly appeared that there was a distinct recognition of football as a different or special environment by police officers, both as individuals and as a body, given that the behaviour of many supporters that I witnessed arguably would be treated in a different manner by officers outwith the context of a football match. In particular I witnessed abusive chanting, shouting and swearing, antagonistic gesticulating and hand gestures and aggressive posturing; behaviour that would undoubtedly be challenged if displayed elsewhere. Officers interviewed acknowledged this difference, one stating that fans within the grounds can:

*“lose all sense and credibility and when they leave the ground they turn back into some normal human being” (F1)*

And another stated that:

*“I’m fully expecting on a Saturday somebody is going to be swearing at the referee or calling one of the players a naughty word or whatever it may be ... so it’s only natural that there is a bit of leeway in those kinds of terms you know folks getting excited just needs a word - ok calm down”.* (F2)

One explicitly stated that in the stadium:

*“you’re going to hear language that in isolation, in a different location may be deemed as unacceptable... in my experience you hear things that the general population of the crowd accept as being the way a football match is because of the passion involved... as police officers we have no choice but to accept that but manage it carefully”.* (U3)

This recalibration of tolerance by officers is perhaps a pragmatic recognition of limited police resources<sup>230</sup> or a recognition that some behaviours at football games are not seriously meant and are mere markers of identity with no depth of sentiment (Massie:2016, Bruce et al:2004) and therefore do not represent a serious threat to public order and even if they are done with intent the actual likelihood of disorder occurring is slim given the increased control of supporters and effective use of segregation. Nonetheless, officers continue to make a distinction between supporters (certainly within stadia) and members of the public and so supporters continue to “get away with” behaviour that they might not get away with elsewhere (O’Neill:2005:78).

### *10.2.2 Away supporters*

It was also obvious that contingencies were made for visiting supporters that were not made for home fans and that travelling supporters were often clearly considered to be a potential

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<sup>230</sup> Discussed in section 10.1.

source of concern. This was not necessarily due to a specific expectation of violence or disorder from the travelling *Risk* element but appeared also to derive from the appreciation that in general away supporters would have a lack of familiarity with their surroundings and local processes or may feel a certain sense of freedom being away from the rules and constraints of their home ground<sup>231</sup>. Certain away supporters (Rangers and Celtic specifically) were considered more likely to indulge in offensive singing<sup>232</sup> and the extent of travelling support would also be a relevant consideration for officers, whether that be due to its large, dominating size such as with the Old Firm clubs whose travelling fans actually sometimes outnumber home supporters, or smaller groups of away fans who may be considered more vulnerable due to their relative lack of numbers.

This distinction could manifest in tight controlled channelling of all away supporters in entering and egressing the ground, away supporters being forced to stay in the ground for a period of time prior to being allowed to depart at the end of the match<sup>233</sup> and the amount of police attention they received inside the stadium. It was relatively common to see police and stewards surrounding the away support and focussing all their attention inwards towards them, thereby confirming a pre-determination or assumption of where any threat to order may originate.

### 10.2.3 “Decent” fans and Risk

Officers also commonly processed fans into “decent” and *Risk* groups and the distinction made was stark both in terms of the disproportionate time and effort spent policing these *Risk* supporters and also the attitude often shown towards them.

I often noted evidence of the idea that “ordinary” fans made up the majority of the crowd and that the police did not want to inconvenience these supporters unnecessarily. Some officers referred to *scarfers*<sup>234</sup> and at one pre-match briefing there was specific mention of not upsetting

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<sup>231</sup> Constraints such as potential sanctions from their own club or the lack of anonymity in sitting in the same seat beside the same people every week if they are season ticket holders.

<sup>232</sup> A number of officers expressed the opinion that Rangers fans were the most culpable in this regard.

<sup>233</sup> At one International game I attended, the away fans were held on and released in two separate staggered groups due to the potential for fighting between these two groups as they consisted of supporters of two rival domestic teams.

<sup>234</sup> This is a colloquialism to refer to an “ordinary” fan as opposed to “Hooligans”, the basis being that such fans wear football scarves whereas Hooligans tend not to display any team colours at all.

“*decent fans*”. This was in contrast to those who were considered to be *Risk* supporters<sup>235</sup>. Both in briefings and in practice there seemed to be a distinction made between the way in which these two groups were to be treated - “positive engagement” being quoted for decent fans but “robust” policing being reserved for those who were assessed and categorised as presenting some kind of threat to the order of the event and morally judged as requiring different treatment. One Match Commander spoke of “*identifying dafties*” early on to “*set the tone*” by giving them early attention or warnings<sup>236</sup>. There seemed to be an expectation of a common understanding of who might qualify as a “*daftie*” and equally who might be considered “decent”.

This notion of de-legitimising so-called non-decent supporters was reinforced and made explicit in a feature on the PSoS website describing the work of FoCUS in which the author refers to individuals who attend football “to engage in violent, aggressive or offensive conduct with opposing supporters” as “not football supporters [who have] no place in the game” and distinguishes them from “true supporters [who] do not want them there” (PSoS:2016). Whilst such facile, self-righteous “sound-bites” are understandably attractive to both police and politicians in such circumstances, this is a simplistic statement that homogenises multiple intricate supporter dynamics, behaviours and motivations and makes sweeping assumptions regarding the generally accepted nature of football fandom and the opinions of thousands of supporters, imposing an “official” narrative on “true” fandom, without offering a basis for doing so. For many causing offence to the opposition is integral to the football experience (Waiton:2012:8) and “winding up” is a deeply rooted aspect of football fandom (Hamilton-Smith:2015:82). Furthermore, it pejoratively conflates causing violence and causing offence as worthy of equal condemnation and in an apparent attempt to justify the activities of the police in this regard.

*Risk* supporters are those supporters who are assessed as presenting a risk to order at football matches. Violent supporters were traditionally described as *Hooligans* in the sixties and seventies and then latterly as *Casuals* in the eighties and nineties and more recently such problematised supporters also now encompass the more European notion of *Ultras* supporters’ groups (Lawrence and Pipini:2016).

The Scottish Casual scene evolved in the eighties and nineties, mirroring the trend in England, and involved organised violence amongst groups such as the *Aberdeen Soccer Casuals*

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<sup>235</sup> Similar to the distinction between “real fans” and “hooligans” noted by O’Neill (O’Neill:2004:74).

<sup>236</sup> Noted during observations.

(Aberdeen), the *Capital City Service* (Hibernian), the *Celtic Soccer Crew* (Celtic) and the *Inter-City Firm* (Rangers) to name but a few. Activity seemed to dwindle towards the turn of the century however recently there have been claims of a resurgence with organised gangs allegedly attached to over two thirds of Scottish clubs<sup>237</sup>. Indeed, the role of Football Spotter evolved in the nineties out of the desire to identify and monitor those individuals involved in football-related violence.

A number of self-styled *Ultras* groups have appeared in Scottish football in recent years, most notably the *Green Brigade* of Celtic and the *Union Bears* of Rangers. They appear to have adopted some of the common traits of *Ultra*-style support in that they are often overtly political but also pride themselves in noisy and passionate support of their team, including the use of banners, songs and pyrotechnics, however they have not generally displayed the violence often associated with many of their European counterparts.

The term “*Risk* Supporter” is actually defined by the European Union for the purposes of guidance on the policing of international football in Europe as:

“a person, known or not, who can be regarded as posing a possible risk to public order or anti-social behaviour, whether planned or spontaneous, at or in connection with a football event” (European Council:2006)

This is wide definition, which can lead to subjective interpretations of what constitutes anti-social behaviour. This definition is contained in the PSoS Football Standard Operating Procedure (SOP)<sup>238</sup>, however, it is not at all clear that there is a consistent knowledge or understanding of it outside of FoCUS. I found that “*Risk*” was often used in a generic manner to describe all problematised supporters, which could sometimes result in conflation between fans regarded as *Casual* supporters intent on organised violence and (generally younger) *Ultra* supporters. This issue of the commonplace categorising of discernible fan groups as all *Risk* was identified as a potential problem in the Review of the OBFA conducted in 2015 which stated:

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<sup>237</sup> <http://www.bbc.co.uk/sport/football/35544730> (last accessed 14/08/17). Although there is no in-depth definition of what is meant by “*casual culture*” in this article and perhaps tellingly ACC Higgins appears to conflate “*casual, hooligan element*” with “*Ultras*”.

<sup>238</sup> SOPs are formal written guidelines for procedures to be followed by officers in situations as diverse as claiming for expenses to dealing with a sudden death. They are intended to provide guidance and consistency but might also be viewed in terms of a management tool for prescribing behaviour, thereby limiting discretion.

“This categorisation of young supporters and ‘singing sections’ as *Risk* groups, whilst potentially appropriate on occasions, also seemed commonplace and potentially problematic, in particular when sections of supporters, who whilst maybe having the potential to be offensive, were clearly not associated with more violent disorder, came to draw on the scarce police assets and resources normally reserved for violent risk groups.” Hamilton-Smith et al:2015:56)

Some officers suggested to me that there was increasing crossover of personnel between *Ultra* and *Casual* groups, a view also expressed by some officers interviewed for the 2015 Review (Hamilton-Smith et al:2015:56), and certainly some of these *Ultra* groups have used overtly physical methods against police officers trying to enter the support to make arrests or seize banners and been responsible for occasions of extensive vandalism and disorder<sup>239</sup>, however my observations suggested that nonetheless there was often a clear distinction to be made between *Ultra* groups such as the *Green Brigade* and the *Union Bears* and the more “traditional” *Casual* elements of those respective supports.

Officers appeared to identify *Risk* from being told that they were such by other officers, from personal experience or knowledge of the previous behaviour of individuals, by association, from intelligence briefings or through attributes or behaviours such as being young and male, wearing no football colours, wearing certain types and brands of clothing, singing, displaying banners, using pyrotechnics or from where they were located within grounds.

“Decent” fans seemed to generally be identified as those fans who were not readily identifiable as *Risk* or who displayed no other obvious negative indicators, although an insight into the processing of supporters as “decent” might be gained from examining an example concerning an officer interviewee (U1) who explained to me how he had once let a supporter who was very drunk into a ground, despite attempting to enter a football match whilst drunk being a specific arrestable offence<sup>240</sup>. The officer’s initial impression was that this male was too drunk to be allowed into the ground however he cited as relevant in his ultimate decision-making process the fact that the supporter appeared to be a season-ticket holder, was wearing a football top (therefore not identifying as *Risk* who tend not to wear football colours), was with a group of

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<sup>239</sup> <https://www.theguardian.com/football/2013/dec/09/celtic-suspends-green-brigade-fans-motherwell> (last accessed 06/11/18).

<sup>240</sup> Section 20 (7) (b) *Criminal Law (Consolidation) (Scotland) Act 1995*.

friends and that he was not overly loud or swearing. Ultimately, he said that he admitted the fan as he “*didn’t want to ruin their day*”. Despite legislation existing to prohibit intoxicated supporters from entering football grounds and the officer’s own assessment that this supporter was sufficiently intoxicated to qualify as “drunk”, the supporter was nonetheless morally assessed and categorised by the officer as being “decent” and not deserving of his day being ruined and so was treated differently by being let into the ground.

#### *10.2.4 different treatment*

Once identified as *Risk* these supporters were often treated differently by officers. As already stated, officers were often briefed that they should show a robust policing style to such “non-decent” supporters. These fans were subjected to more frequent and thorough searching on entering grounds in contrast to those fans perceived to be “decent”; on one occasion, I witnessed an officer request to search the shoulder bag of an ostensibly respectable female prior to her entering the ground however he actually only made a joke about the prospect of finding a meat cleaver within the bag as he looked at the outside of it and waved her through without actually searching the bag at all.

In the outside environment, considerable efforts were often made to “fix” *Risk* supporters (i.e. establish their location) as soon as possible to afford the Match Commander a perception of a degree of control and many Match Commanders appeared to take comfort from knowing the location of at least one set of *Risk* supporters. Once located the supporters would be constantly monitored, often quite overtly and on occasion arguably disproportionately. At one ground, I saw a group of 40-50 young away fans, many sporting *Ultra* branded clothes, being escorted slowly towards the ground by a large number of police and a following disorder van, doing nothing more than singing loudly and jumping around and little else to apparently merit such attention. On this occasion and others, I got the impression that many of the young supporters, despite frequent general protestations to the contrary, actually enjoyed the attention they received from the police and revelled in the image of them that they perceived such attention projected.

Once within the ground *Risk* supporters were far easier to fix, giving the constraining nature of enclosed stadia, and also to separate from rival fans. Spotters and FoCUS officers would spend the entirety of the match paying attention to these fans. Depending on the layout of the ground in question, this could be from some distance but more often than not was in the immediate



vicinity of the supporters in question or at interfaces between rival supporters as a default position (even if nothing obviously illegal was occurring). An officer explained that once after identifying fans who “*looked the stereotypical football casuals*” within a ground, his group of officers were “*told to keep an eye on them and let them know that we were watching them all through the game*” (U1).

### 10.2.5 Rangers and Celtic

Another differentiation between fan groups made by police officers which I witnessed was with regard to the Old Firm teams as compared to everyone else. It appeared that supporters of the Old Firm teams often attracted an expectation of certain types of behaviour by officers. This might be in terms of disorder but was primarily in terms of offensive singing. I previously gathered evidence to suggest that officers of Strathclyde Police expected to witness sectarian behaviour at games featuring Old Firm teams which in turn might pre-dispose them to interpreting what they subsequently saw as such (Whiteford:2009) and this expectant attitude seems to continue, with the same potential risks attached. One Match Commander in a briefing talked of there being a “*Sash Bash*”<sup>241</sup> at a local Royal British Legion Club prior to a Rangers away match when describing information received that a large number of Rangers supporters simply planned to attend at the Club for a drink prior to kick off. Another at a pre-match briefing said definitively that sectarian singing *was* going to take place and everyone knew that. Conversely, I witnessed another Match Commander say at his briefing that he was not expecting any racist or sectarian behaviour from the fans as the teams involved were “*not those sort of teams*”. This is not to say that there is not a degree of policing experience becoming a factor in this situation given that statistics consistently showed supporters of Rangers to be the highest proportion of OBFA arrestees with Celtic supporters often (but not always) the second most represented (Goulding and Cavanagh: 2013, Skivington and McKenna: 2014, Davidson: 2015)<sup>242</sup> however there is a risk that this expectation can inflate the nature of the issue if officers are pre-disposed to interpreting behaviour of Old Firm fans as sectarian, leading to more

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<sup>241</sup> A slang term, potentially pejorative depending on context, for an Orange/Protestant themed social gathering.

<sup>242</sup> It should be noted that the figures for 2016-17 actually show Hibernian fans as clearly the second highest offenders however this can mostly be attributed to a single unusual event of the Scottish Cup Final 2016 where following a pitch invasion 75 Hibernian fans were arrested (Foster and Myant:2017).

attention being given to these fans, more arrests amongst these fans being made and thus the sustaining of the perception of increased sectarian behaviour by them.

It might be that the relative size (and perceived power) of certain supports can influence and distinguish the police assessment of them and therefore their treatment by police and this is particularly relevant to both Rangers and Celtic who have by far the largest supports in Scotland. According to Lipsky Police officers operate under the constant threat of violence (Lipsky:1980) and Skolnick's *Working Personality* suggested that officers constantly assessed their environment and reacted to it in terms of personal danger (Skolnick:1966). Whilst the level of actual danger officers are routinely subjected to might arguably be less than these theorists suggest<sup>243</sup>, I certainly saw occasions where officers were outnumbered by groups of supporters and were intentionally surrounded and intimidated by them. On occasion pubs were often also hostile environments for officers to go into. In terms of potentially making arrests within grounds the size and strength of the crowd and personal safety was clearly frequently a factor in decision-making processes of both individual officers on the ground and of Match Commanders. Of course, there might also be a perception of different treatment where a support is relatively weak or powerless. I heard one fan of a smaller team opine that "*we get treated like scum because there are less of us*".

### 10.3 Conclusion

Much of what constitutes policing at football matches in Scotland can be regarded as routine in nature. Well-established patterns of behaviour by both police officers and supporters and a shared understanding and expectation of how both mutually operate in the football environment has developed over time. However, officers have also clearly developed patterns of behaviour, routines and simplifications, which are designed to facilitate achieving day to day work tasks and therefore can be understood in terms of SLBT. This is particularly evident in the way that officers distinguish between types of supporters and categorise them into easy to manage generic groupings in order to overcome structural factors which inhibit being able to process supporters as individuals with specific needs and requirements. The large number of fans often present at matches present a potential client base that is too large to adequately cater for

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<sup>243</sup> Furthermore, Skolnick acknowledges that British police routinely face relatively less danger than their American counterparts (Skolnick:199:41).

individually given the limited resources available to the police in terms of officers on the ground. Officers therefore categorise those supporters into different groups who are more or less in need of police attention based on their own perception of risk, likelihood to offend and of moral worthiness to receive greater or less police attention. Officers “deal with faces” but tend to ascribe supporters rather one-dimensional and unsophisticated identities as a result (Maynard-Moody and Musheno:2003:83-84).

Where resources are limited it may seem only sensible and pragmatic that officers focus more on those individuals that might create disorder rather than the majority of supporters who are unlikely to. However, care must be taken to make sure that such processes relate only to actual job requirements as where the nature of the work appears to require differentiation between the client population, then there is “structural receptivity to prejudicial attitudes” (Lipsky:1980:115). Reiner suggest that stereotyping of sorts by the police is inevitable given the endemic suspiciousness involved in police work and the issue is not so much its use *per se* but the extent to which this is evidence-based and helpful rather than used in a discriminatory or prejudicial way (Reiner:2000:91).

However, in particular the use of the loose concept of “*Risk*” supporters and the bundling of many problematic supporters under this one banner, and *subjecting them all to the same attention*, can also cause issues. The conflation of actually violent supporters with those who are not violent but sing “offensive” songs or set off pyrotechnics may lead to inappropriate solutions being applied to some groups and to limited resources being deflected away from tackling the primary concern of violent disorder, giving some credence to the argument that the police have become increasingly concerned with policing the attitudes and words of supporters rather than their actions (Waiton:2012:36). Arguably the notion of disorder has become “softer” and is now understood to encompass offensive language and singing as well as violence or threats of violence. A weak understanding of the categorisation of actual risk associated with different types of supporter can lead to “inappropriate assessments” on the part of the police (Havelund et al:2012:5) and there are recognised issues for the police in maintaining order where groups within supporters are not differentiated between (Stott and Pearson:2007). Moreover, routinely similar treatment of what are actually varied types under the one banner of “*Risk*” may lead to a labelling effect whereby those inaccurately so labelled start to display the deviant behaviour associated with that group (Becker:1963) and calls into question the legitimacy of police activity if they are seen to apply the same “robust” standards on supporters considered by their fellow supporters as less deserving of it, having a deleterious effect on overall police/supporter relationships and undermining notions of policing by

consent. Furthermore, a strong focus on one group of supporters runs the risk that officers may have missed Section 1 OBFA offending occurring within the groups receiving less police attention.

It is worth noting that due to this police categorisation, contention surrounding the use of the Act also tended to coalesce around certain groups and so it is not at all clear that the robust policing style often complained about was the experience of the average fan or indeed that the average fan's actual matchday experience greatly changed in light of the OBFA. At most of the games which I attended large swathes of supporters appeared to continue to go through the process of attending and watching the match relatively unhindered by police activity. Some commentators made much of a deterioration of the relationship between fans and the police as a result of police enforcement of the Act (Pearson:2015, Scottish Parliament:2017a) but it is not clear how universally experienced this alleged deterioration was or how representative of everyday fans the views of vociferous opponents such as *FAC* actually were. Of course, this is not to say that discriminatory and disproportionate focus (should it have amounted to such) on some individuals was in any way justified or more acceptable merely as it only affected a small minority of supporters. If the police overtly focus on particular sub-groups of supporters, based on certain attributes and characteristics, then they require to be able to clearly justify such additional attention as necessary and proportionate to dispel any accusation of bias or prejudice. This is particularly relevant if groups within fans comprise wholly or mainly of other identifiable and distinct minority groups or particular tranches of society in relation to which there already exists suggestions of discriminatory or over-representative experiences of policing, whether perceived or real, such as in relation to the Irish Catholic population (MacMillan:2011) or stop search policies on younger males (Murray:2014) which might be alleged to be perpetuated through the football setting.

Nonetheless, the introduction of the OBFA reaffirmed this process of categorisation by introducing new concepts of "offensive fan" and "offended fan" to be fitted into the typology framework, and by swelling the potential numbers of offenders and offending behaviours, thereby increasing the requirement for officers to process their clients as a coping mechanism in the first place. Also, OBFA appeared to give impetus to a desire to confront offending at football which seemed to involve particularly targeting certain behaviours (such as singing) which were more prevalent amongst certain groups, thereby strengthening the requirement to distinguish between such groups in the mindset of officers.

This chapter argues that when policing football matches (particularly illustrated in the implementation of the OBFA) officers can be seen to create routines and simplifications to allow them to be able to do their tasks. In doing so they are therefore creating “their own rules and procedures to deal with the dilemmas of policy implementation” (Taylor and Kelly:2006:629) in a manner consistent with and explained by SLBT. By applying SLBT here the importance of such processes can be seen because in devising and applying such routines officers had a direct, individual influence on the delivery of the OBFA to the public. These processes, particularly categorisation and subsequent action or inaction based on it, to an extent identified and determined who should be targeted and the spaces and times in which the Act should apply, thus shaping peoples’ experiences of it and helping to set parameters and informal rules for its use and applicability. By focusing on certain potential offender groups and also by assessing some supporters as more or less worthy of punitive or lenient treatment, there was the risk that the provisions of the Act were not evenly applied, creating the potential for relevant behaviour to go unchecked and for the zero-tolerance intention of the original policy to be thwarted.

It should be acknowledged that there is an inherently routine nature to the policing of football in terms of many of the officer and supporter practices and habits which have developed and evolved through the many years that officers have been present at football matches and I therefore do not argue that every aspect of such “habitual patterns” of behaviours can be viewed through the prism of SLBT however it is clear that many *can* be so viewed and that SLBT can therefore be seen to provide a compelling explanation for such behaviours.

## CHAPTER 11 - Discretion

*“I think I’ve always shown discretion and I always like to think I would”*

- FoCUS officer (F2)

The use of discretion is a fundamental aspect of SLBT and will be the focus of this chapter. As already discussed discretion is both an inevitable and routine aspect of policing (Newburn and Reiner:2007:915) the availability of which actually increases as one moves down the hierarchal scale (Wilson:1968:7, Fyfe:1996:183). Discretion can be delegated in nature such that making choices and using professional judgment to negotiate situations and achieve an outcome is expected, indeed required, by managers but it can also be exercised without authority, where officers make decisions over courses of action (or inaction) based on their own values or needs (Goldstein:1960, Skolnick:1966, Lipsky:1980). Through SLBT, Lipsky argue that use of discretion, combined with relative autonomy from supervisors, allows for officers to directly influence the nature and substance of policy delivery on the ground (Lipsky:1980).

I witnessed multiple examples of the use of discretion by officers during the research however this chapter will particularly discuss only three examples to illustrate the point, the first two relating to general activity and the last one specifically relating to use of the OBFA. This will facilitate discussion on the use and extent of discretion in the football policing environment and what impact this may consequently have on our understanding of SLBT and its relevance in explaining officer behaviour there. Firstly, however, the chapter will set out some general observations about the use of discretion by officers gathered from the observations.

### 11.1 Use of discretion

It was clear during the research that police commanders expected their officers to be able to exercise discretion in certain circumstances and this was both implicit in many of the things they did but also often explicitly verbalised to officers in briefings. However, even where officers were directly told that they should use their discretion, this also undoubtedly involved an implied understanding and expectation that the officers would exercise this freedom

appropriately and proportionally. However, problematically, this in turn relied on an implicit acceptance of common values and a shared understanding of what would be an appropriate course of action in a given circumstance. For example, as discussed in the previous chapter, officers were often instructed by Match Commanders to be “robust” with those supporters who were considered to be deserving of less benevolent treatment and to pay “ordinary” or “decent” fans no unnecessary attention or cause them inconvenience. However, this relied on an assumed common understanding of which particular groups of supporters should be so problematised as “non – decent” and the framing of them within generally understood and accepted structures of perceived legitimacy, value and threat. This clearly offers the possibility of divergence between a Match Commander’s understanding of problematic supporters and the understanding of other officers. Although much *police culture* literature<sup>244</sup> suggests that officers might very often arrive at such similar understandings due to “commonalities of outlook” (Reiner:2000:87) and particular ways of looking at the world based on distinct “cognitive tendencies in police as a working group” (Skolnick:2005:264), divergence of interpretation remains distinctly possible, particularly if sub-cultures can be discerned between command, middle management and lower officers (Chan:2005).

Although Match Commanders were often explicit in sanctioning the use of officer discretion, on occasion they could be equally explicit in denying this. I witnessed some Match Commanders instruct officers not to film supporters without express permission or make arrests without first referring to the Control Room. At some matches where banners were discovered at turnstiles prior to being brought into the ground, officers were instructed that such banners should be unfurled and laid out on the ground and the Control Room thereafter be informed so that the Match Commander and Safety Officer could inspect the banner on CCTV and decide as to the suitability of the banner for being allowed into the ground.

There was also an awareness and indeed expectation of the ability to use their discretion held by many officers at street-level but also an apparent recognition that this discretion should be utilised not only in a legitimate manner but also that it might be limited by the perceived nature and severity of the behaviour taking place. One officer explained their concept of discretion in terms of a scale of different responses “*within a range of acceptable responses*” (F3) with crimes such as hate crime and domestic abuse being at the high end of the scale where discretion over disposal options was extremely limited due to the weight placed on the

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<sup>244</sup> Discussed in detail in Chapter Six.

commission of those crimes by the organisation. Another officer stated quite clearly that he believed that there was simply no option for the use of discretion for “hate crime”.

Nonetheless, despite this recognition of discretion being linked to the perceived gravity of the offence, some officers still felt that the use of their discretion might be appropriate in such serious cases, one explaining that he felt that, despite briefings about “Zero Tolerance” from the Match Commander, on occasion his experience would tell him that a “*word in the ear*” (F2) to warn the offending supporter might be the better option<sup>245</sup>. Although clearly stating that such use of his own discretion might be outwith the “Zero Tolerance” message, he justified such actions as potentially doing more good in terms of perception of the police by supporters, particularly in terms of proportionality if the supporter heeded the warning.

### *11.1.1 role and location*

Notwithstanding questions over the legitimacy or not of doing so, it was nonetheless clear that officers were still in a position to exercise high levels of personal discretion, the amount of which was often dependent on their role and location. As mentioned in the previous chapter and discussed in more detail in the next chapter, I found that the policing of football seemed to be mostly structured around routinized processes and so this generally reactive nature of police duties tended to lend itself to the use of discretion by many officers. Specific individual duties were often issued in very general terms as a certain flexibility to be able to react to situations that might arise had to be retained. This flexibility seemed to be an important consideration for many Commanders, despite the generally uneventful nature of most games that I attended.

Furthermore, there was often a lack of detailed briefing or specific duties given to officers as activity appeared to be very much dependant on what happened during the forthcoming match. For example, an individual officer might be told to patrol the outside of the ground prior to kick off and then stand at a vomitory area for the duration of the game. During that game he or she might be directed to deal with a particular situation that might arise (or they might see such a situation arise and decide to address it of their own volition without being directed (or decide not to address it at all)) but if not then they would be generally left alone (albeit they may have

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<sup>245</sup> This perhaps resonates with Egon Bittner’s concept of the police officer acting as “peace officer” utilizing “common sense” approaches to resolving issues which do not involve formal legal remedies, such as “keeping an eye” on a minor offender by way of sanction (Bittner:1967:702).



their own immediate supervisor in the area or be wary of being seen by CCTV which may provoke some form of ostensible proactivity in the form of movement around rather than simple stasis).

Some officers were expected to be more proactive externally and so for example officers tasked with anti-disorder duties often enjoyed more delegated discretion to patrol areas and attend places where they felt disorder might occur and to take appropriate steps to deal with whatever circumstances they came across within a general understanding of maintaining public order or “robustly” dealing with *Risk* supporters. However, in the event of actual disorder occurring or an intelligence picture of potential supporter intentions to commit disorder emerging, then Match Commanders would often issue more specific instruction. More specialised officers appeared to enjoy a great deal of discretion as to their activities, both inside and outside the ground. For example, often FoCUS officers would be given a relatively free reign to go where they felt appropriate (within the general understanding that this was in order to address disorderly and *Risk* supporters) and I saw Match Commanders defer to FoCUS officers’ opinions and suggestions on a number of occasions in apparent recognition of specialist knowledge and experience. A FoCUS officer stated:

*“we’ve all worked a lot of matches now that Match Commanders trust that we’ll know where to be or who to be monitoring, you know, at the right time”* (F3)

The use of discretion by officers when policing football matches therefore was commonplace, expected and accepted. Officers recognised restrictions on their discretion in terms of legitimacy of action and gravity of offence although, as the rest of this chapter will highlight, they did not always adhere to them. The following section will examine in more detail three specific examples of the use of discretion. The first describes two occasions where the same behaviour was treated differently. This is included to illustrate the power officers at the street-level still have to provide different outcomes in the same circumstances. This scope for inconsistency and variation in policy experience is closely linked to the process of categorisation of supporters described in the previous chapter, which offers some explanation for the cause of such different treatment.

The second example highlights divergence between the actions of individual officers on the ground and the intention and wish of the Match Commander, again showing the scope for inconsistency of outcome and approach but further that such outcomes can be at odds with more localised “official” intention.

The final example describes where an officer acts in a manner contrary to the higher policy intention specifically in the context of the application of the OBFA and compares it to a similar set of circumstances to highlight the differences between the two scenarios and discuss what factors might have influenced the decision-making process in both situations, using SLBT to do so. This example is used to illustrate a key assertion of this thesis concerning the influence of increased surveillance on the use of discretion in the SLB environment.

### 11.2 Treating the same behaviour differently

On three occasions, I saw police officers interact with males urinating in the street, which is an offence under the *Civic Government (Scotland) Act 1982*, and on one occasion the officers chose to issue a warning to the person involved rather than charge them with the offence as occurred in the other two scenarios. On all three occasions, the males were in very busy areas very close to the ground in question (no more than 200m) and had made some minimal effort to hide themselves from general view (although obviously not enough of an effort as they were easily spotted by the officers). Interestingly the officers who gave the warning were the same officers who were responsible for charging one of the other offenders referred to, at the same match, only a short time after the first incident. Perhaps their first inclination for such a seemingly minor offence was to warn the first offender however on being presented with the same offence shortly thereafter they felt more inclined to take action as it represented repeat offending (in their experience of the event not the second male's) however when asked why they had not charged the first male they stated that they did not do so as they claimed not to actually have physically seen the male urinate, despite the evidence of his guilt being compelling in the circumstances.

Consuming alcohol in public areas is an offence under local byelaws in most areas of Scotland however I also witnessed this being dealt with in a number of different ways by officers. Many individuals were simply given a warning and had their alcohol removed from them however other individuals I saw being formally charged with the offence Not charging supporters appeared to be a pragmatic approach by officers recognising both that alcohol appears to be an

integral part of the football experience for many (Giulianotti:1991:505)<sup>246</sup> and perhaps the relatively minor nature of the offending. Furthermore, although street drinking is a minor offence which would almost always be relatively quickly dealt with at the locus, there was clearly also a recognition from officers that limited police resources that might be better used elsewhere would be tied up going through the whole process of formally charging individuals<sup>247</sup>. There was also evidence to suggest an assessment of worthiness based on membership of supporter category and/or receptibility to initial police contact. Even where the initial inclination of an officer was to informally warn, the subsequent attitude of the perpetrator towards the officer could cause a change of heart and a more formally punitive line to be taken. This is colloquially known by officers as “Failing the Attitude Test “whereby the disposal option chosen by an officer when dealing with a member of the public can be influenced by the overall demeanour of that member of the public<sup>248</sup>. Where the member of the public shows an aggressive, confrontational or indifferent attitude towards the officer then more punitive measures are more likely to be chosen.

Although public alcohol consumption legislation applies equally to all members of the public and not just football supporters, implying a wider, more developed policy intention behind it, in the football environment officers seemed to be motivated by a pragmatic desire to minimise alcohol consumption by supporters to mitigate potential future disorder and realised that this aim could be achieved by removing alcohol from supporters irrespective of whether or not there was also an accompanying formal charge. I witnessed officers simply removing alcohol from supporters on a number of occasions without charging them with the offence and one officer even remarked to a disgruntled fan who saw his beer being poured down a drain that by only doing this he was “*doing you a favour*”<sup>249</sup>.

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<sup>246</sup> In Scotland, a study of casualties presenting themselves to the crowd doctors at Celtic Park in season 1999-2000 showed that alcohol consumption had a “significant impact” on workload with almost a quarter of casualties having alcohol as a contributory factor (Crawford et al:2001).

<sup>247</sup> This would involve a process of noting details, confirming the offender’s identity, completing a form or ticket and seizing productions. Thereafter the offender is informed that they will be reported to the Procurator Fiscal and allowed to leave.

<sup>248</sup> Also referred to as “*contempt of cop*” (Waddington:1999).

<sup>249</sup> Research has shown that such a pragmatic attitude exists in England as well where in the spirit of encouraging a “dialogue and facilitation strategy” at football minor infractions such as drinking on coaches are often overlooked (Stott:2014:267).

Both these circumstances illustrate the use of discretion by officers at football and specifically also show where the same behaviour was treated differently. This is relevant as it shows the direct influence officers still can have on the substance of policy outcomes delivered at street-level, as argued by SLBT. Furthermore, factors all cited by Lipsky as potentially influencing officer decision-making processes in terms of SLBT, such as limitations on manpower and time, the qualities of the client and the husbanding of resources can also be seen as relevant in these examples.

### 11.3 Commander's orders and intentions

The Match Commander is in charge of the police operation at a particular football match and is therefore situated as the ultimate authority in terms of how the police operation for the event should be conducted and consequently how officers should realise his or her intentions<sup>250</sup>. In policing footballing terms, the Match Commander sits at the top of the hierarchal scale with street-level constables at the bottom.

As already explained, I noted many examples where it was clear that Match Commanders expected the officers below them to exercise discretion, although the extent of this varied from Match Commander to Match Commander; some were content for officers under their command to use their discretion "appropriately", however others expressly stated that officers who wanted to make arrests or seize banners had to radio in for clearance to do so. This may have been due to a lack of faith in the decision-making capabilities of officers with regard to potentially complex matters of legal interpretation or more to do with some Match Commanders wanting to assess the safety of taking executive action in certain circumstances and how that might affect the whole dynamic of the event.

However, it was clear from sitting in on Match Commanders' briefings and then afterwards accompanying officers in their duties, that the actions and activities of officers did not always marry up with the instruction of the Match Commander. Of course, Match Commanders were not always explicit in their instruction which could lead to a lack of clarity as to their intention, which became opaquer as it was interpreted through a number of sub-briefings prior to arriving at the street-level officers. Furthermore, the use of imprecise words and concepts open to

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<sup>250</sup> Notwithstanding any strategic policing directives that may be set out in documents such as the National Strategy for Policing Football in Scotland (PSoS:2016a).

interpretation, such as one Match Commander requesting that officers show “common sense” in the event of pitch incursions, could also facilitate this process. Nonetheless straying from the Match Commander’s intent could be blatant and even actually explicitly acknowledged; for example, I witnessed an Inspector give a sub-briefing to a group of officers and tell them that he did not intend to read out a section of the order verbatim even though (he informed them) the Match Commander had specifically instructed him to do so, or spontaneous such as an incident where a FoCUS officer began filming alleged offensive singing when it broke out without asking for permission from the Match Commander despite the Match Commander specifically saying earlier that such permission should be sought. A particularly pertinent example, however, could be seen in terms of the singing of offensive songs by multiple offenders despite the Match Commander requiring “Zero Tolerance”.

### *11.3.1 Zero Tolerance Policing*

Zero Tolerance Policing is originally an American policing theory implying the aggressive prosecution of multiple, usually minor, offences and has its conceptual roots in the *Broken Windows* theory of Wilson and Kelling (Edwards:2005:142). It is an enforcement-led policing strategy tackling quality of life issues to restore social order (Johnston:2000:77). However, this American model has not really been adopted in reality in the UK beyond talking about it and has been described as “more of a rhetorical device, driven by politics and the media, than a major policy shift.” (Punch:2007:ix). It is a fashionable and populist slogan expressing a notion of harshness in criminal justice rather than a commitment to any particular tactics or strategies (Dixon:2005:483).

The rhetoric of Zero Tolerance has been frequently heard in the public sectarianism debate and specifically was in the context of the OBFA, most notably uttered by politicians and senior police officers (e.g. Strathclyde Police:2011, SNP:2011:18). It was therefore not unexpected that Zero Tolerance for sectarian behaviour was mentioned by senior officers at most of the pre-match briefings that I attended. It was often emphasised in quite strong language with phrases such as “*Can’t say enough 100% zero tolerance*” and “*absolute zero tolerance*” being used. I noticed that there was a specific “racist and sectarian behaviour” heading in many of the written orders (which most Match Commanders seemed to use as the basis for their briefings) which undoubtedly acted as a prompt for them to mention it, although on occasion it was possible that my presence might have influenced the strength of the message from some.

However, many Match Commanders that I spoke to would talk of Zero Tolerance in one breath yet implicitly recognise the limitations of resourcing and the practical inability to make countless arrests at other times. One mentioned the practical, safety implications of enforcing Zero Tolerance in terms of sending officers into large crowds to effect arrests although this particular Match Commander also clearly regarded this as merely a possible deferring of the arrest to a more suitable and safe time and location, rather than never making the arrest at all. Nonetheless, despite this often-expressed wish of Match Commanders, I witnessed apparently sectarian behaviour that went unchallenged by officers at a number of matches for a number of practical, structural and individual reasons<sup>251</sup>. The notion of true Zero Tolerance therefore is realistically more aspirational than actually achievable in these circumstances however the use of such terminology by Match Commanders certainly helped to emphasise to their officers how seriously the relevant issue was taken and how important it was regarded to be, identifying it as a “special case” for particular attention<sup>252</sup>.

This understanding of importance for behaviours deemed to be subjected to Zero Tolerance did seem to mostly translate to individual officers on the ground. This was both by the process of briefing the Match Commander’s intentions but also a general awareness of most (not all) officers in terms of the general recent publicity given to football behaviour and changing social and political attitudes towards Hate Crime in general, which has become increasingly integrated into contemporary corporate policing attitudes, strategies and thinking (PSoS:2013a, PSoS:2017a). Many officers expressed the opinion that they felt that they had little or no discretion in situations where they witnessed such behaviour, it being clear to them that in some situations a warning could be given out and that this would be accepted by supervisors as appropriate, however equally there was an understanding that in some other areas, sectarianism being one, there was no scope for this.

One officer stated that he felt that whilst arresting a whole stand of people singing a song might not be practically achievable the behaviour of a large number of people could be influenced by arresting some of the singers, thereby influencing the rest to stop singing lest they be next to be arrested. This view chimes with the previous ACPOS football policy which stated that with

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<sup>251</sup> This confirms findings from previous research where officers claimed to have witnessed sectarian behaviour at football matches which was not acted upon (Whiteford:2009).

<sup>252</sup> That said, there is always a risk that overuse of phrases can lead to a lessening of their impact due to over-familiarity. Furthermore, it could also lead to possible accusations that such phrases are employed merely as political lip-service rather than to express a true intention.

due deference to officer safety, arrests of individuals must be made in order to challenge the sectarian behaviour of a crowd (ACPOS:2009:10), an attitude which was confirmed by a senior Strathclyde Police officer during previous research I conducted who stated:

*“All you need to do is lift two people and they shut up... If you don't take action, they carry on with it, as soon as they see you take action, they stop it. In reality, you only need to lift two people at a game for what is obviously sectarianism...”* (Whiteford:2009:51)

Personally, I saw some evidence of this but other evidence to suggest that arrests did not always have such an effect. It should also be noted that arrests are likely to only have a deterring effect on ongoing behaviour if they are made at the time and in the knowledge of the other offenders whom one wishes to influence. Consequently, a preference for filming deviant behaviour at the time but arresting subsequently either at the end of the match or even days or weeks later, might be a prudent course of action in terms of officer safety but is unlikely to have a strong deterring effect on anyone other than the arrested individual.

This example once again illustrates that officers at street -level are in a position to implement actual actions that are not in keeping with or are even contrary to, the higher intention; on this occasion of police management. Similar factors as mentioned in the previous section can influence this decision-making process and in particular a lack of resources, as clearly seen in the frequent failure to implement the policy of Zero Tolerance of sectarian behaviour. However, it has to be acknowledged that even Match Commanders mostly seemed to tacitly, if not publicly, accept that true Zero Tolerance, in the face of hundreds of offenders singing an offensive song, was unrealistic and that the term was often used symbolically rather than practically. Nonetheless, despite the presence of such *de facto* structural constraints to the implementation of Zero Tolerance meaning that potentially some inactivity on the part of officers was through circumstance rather than choice, even where sufficient resources *did* exist, the football environment and the nature of officer/supporter interactions within it are such that there remained the possibility of officers consciously not enforcing the Match Commander's stated Zero Tolerance towards sectarian behaviour policy intention and such a scenario is the subject of the next example, where the impact of surveillance is examined.

#### 11.4 The influence of surveillance on discretion

Chapter Nine described how the working environs of a football match can be separated spatially and temporally into two distinct phases: namely outside the ground in the hours leading up to kick off and inside the ground immediately preceding kick off and for the duration of the match. Thus, officers and supporters can encounter each other inside the ground or outside the ground and engage in what I have termed *street interactions* or *stadium interactions*. A major distinction between the two environments is the increased visibility of officers as they interact with supporters inside football grounds compared to the lower visibility outside, low visibility being a fundamental factor in a police officer's ability to exercise discretion (Goldstein:1960) and the exercise of discretion being a key aspect of Street Level Bureaucracy (Lipsky:1980). The final example of discretion set out in the following section relates directly to the operational use of the OBFA and is used to illustrate and argue that the visibility of interactions, and therefore the use of discretion, is influenced by increased levels of surveillance.

Modern football grounds are enclosed, relatively compact spaces. They are controlled and controlling environments, where supporters are channelled towards their internal destinations through open stands and functional interior walkways and concourses. The use of CCTV in general is "ubiquitous, a normal part of everyday life" in the UK (Webster:2009:4) and this ubiquity has extended to modern football grounds for some years (indeed football grounds were amongst the first public spaces where CCTV was systematically deployed due to political and judicial concerns over football hooliganism in the eighties (Armstrong and Giulianotti:1998)). I found very high-quality CCTV in general at football grounds and some excellent coverage of fan areas such as seating areas and concourses. Club CCTV was often also available in areas immediately outside the actual entrances to the ground (although still on club property) covering the immediate environs of the stadium. However, moving further away from the stadium the landscape becomes less controlled. The reach of these cameras is diminished and the street layout is often cluttered and irregular, particularly in the case of the many older football grounds situated within residential areas.

Thus, a distinction can be made between inside areas characterised by being smaller, more compact and more densely populated with a high surveillance capability; and outside areas where fans and officers are spread over a far wider area and, notwithstanding the existence of



any public open space CCTV camera systems, the surveillance capacity of supervisors is generally diminished.

Many officers I accompanied were often acutely aware of CCTV and the fact that more senior officers could be monitoring their behaviour and be watching to see what occurred in certain situations. One Sergeant made a point of reminding his officers of this when he told them to split up the static group they had formed and patrol the area in pairs. On occasion, I saw Match Commanders in Control Rooms use CCTV systems to direct and even chastise officers via their radios and an interviewee informed me that he knew of officers working at a match who were called via radio by the Control Room to explain a course of action they had just taken (although this account was third hand rather than through personal experience). Not only could senior officers in the Control Room remotely monitor the activity (or lack of activity) of officers within the ground but crucially they also had a far clearer picture (literally) of much of the fan behaviour occurring there, meaning that they were far more likely to be aware of when supporters engaged in prohibited behaviours and therefore be expectant of the intervention of their officers.

Of course, one would expect the Match Commander to utilise the excellent CCTV often provided as that is the whole point of it being there and I do not suggest that it was used mainly for the purpose of monitoring officer activity<sup>253</sup>. However, this often followed as an obvious collateral consequence of Match Commanders using CCTV to look at supporters in different areas of the ground where officers were also likely to be and certainly better surveillance of the behaviour of fans inside grounds often meant that officers could anticipate that the Control Room might have an awareness of conduct occurring which could influence their decision to take action in relation to that conduct. One interviewee stated:

*“The Control Room at Parkhead is literally right beside the away section and they can look out the window and see you. We’re told they have a high-definition camera on the away fans all the time so they’re seeing it so you have to act”.* (U4)

Officers seemed to accept that for the most part in the stadium environment they would be subjected to CCTV coverage. Indeed, on the one occasion I heard a Match Commander

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<sup>253</sup> Although a certain level of CCTV “function creep” (Webster:2009) on the part of Match Commanders should not be ruled out either.

specifically refer to a blind spot in camera coverage at a particular ground, the officers I accompanied were very surprised by this admission as they felt that she would not want officers to know where they could go to not be seen. However, I believe that this particular admission by the Match Commander was done to highlight a potential officer safety issue and, much as I gathered evidence to suggest that many officers were wary of CCTV, it was also clear that on occasions, particularly confrontational or potentially violent ones, some officers seemed to consider being within a CCTV footprint as a positive thing.

This closer surveillance of officer behaviour was not only derived from the existence of CCTV but also from the compact and densely packed nature of the stadium environment which meant that more police supervisors were likely to be in closer proximity to officers and therefore be able to more closely oversee their activity. Interestingly the potential influence of senior officers on the behaviour of junior officers was not limited to those senior officers actually on duty. At one match, the FoCUS officer I was accompanying was due to stand in the tunnel area during the game but stated that he was wary of this as he knew that the head of FoCUS had a season ticket for that particular ground and that he would be at that particular game in a personal capacity. His seat overlooked the tunnel area and so he would be able to see the officer for the entire match.

The ability to scrutinise individual officer activity was not only held by police supervisors in the Control Room or locally in the stands as officers on the ground often also had to be aware that their actions might easily be filmed by supporters using mobile 'phone cameras (and frequently thereafter given further exposure via the internet). This was just as likely outside the ground as inside. On a number of occasions supporters potentially using mobile 'phones to film officers was specifically mentioned in briefings for officers to be aware of as was the general existence of CCTV and even on occasion the fact that broadcast television cameras were covering the game and so might capture images of officers and their behaviour.

However, this level of surveillance generally decreased in the pre-match external space, leading to reduced visibility of street interactions and consequently the ability to take unilateral action with less concern for whether it conformed to the expectations of senior supervisors. One officer interviewee summed it up stating:

*“there’s a lot less chance I’ll use my discretion inside the ground than outside the ground... because the cameras are playing a much bigger part and if you’re seen to be speaking to somebody then a lot of people can see you speaking to that person and if they’ve done something wrong then you’re going to kind of have to act on it.” (U4)*

#### 11.4.1 An example of applying discretion to the OBFA

This inside/outside dynamic (and its impact on the use of discretion) is illustrated by the following incidents where different outcomes occurred resulting from a street interaction and a stadium interaction between officers and two individual males, both of whom had apparently sung a song in contravention of the OBFA.

On the first occasion, I was present with officers on a street busy with supporters walking in the direction of a football stadium when one male across the road from us was heard to sing a song referencing a terrorist organisation, apparently contravening the OBFA. The officers immediately approached and challenged him and it became clear that the young male concerned, although Scottish, lived abroad and was attending the match whilst “back home” visiting relatives. The officer decided to warn him about his conduct only. Later the officer explained to me that he had taken a pragmatic approach and had considered the impact of the male having to return to Scotland in the future for trial should he be arrested however he also remarked that he “*probably should have*” arrested him.

At a different match, a similar situation arose whereby a foreign national was visiting Scottish friends to go to the football and was seen singing a song which also referenced terrorists within the ground during the match. He was able to be extracted from the crowd to be spoken to and it was then that his nationality was discovered and the same potential issues with living abroad came to light however on this occasion the male was arrested under the OBFA<sup>254</sup>.

In this second example, the FoCUS officers informed the Match Commander of the behaviour of the individual concerned however it was likely that he was already aware, or would soon become aware, anyway given that the singing of the group the male was part of was clear within the ground and internal CCTV coverage was good. The nature of the inside environment which increased the visibility of the supporter’s actions amongst the FoCUS officer’s colleagues and supervisors and the officer’s status as a specialist, who might be expected to recognise and act upon hearing such a song more than any other officer in the ground given his area of specialism, all served to limit the scope for any unilateral behaviour on his part. Once made aware of the circumstances the Match Commander ultimately issued an instruction to arrest the male meaning that to do anything else would have been to disobey a direct order.

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<sup>254</sup> The male was subsequently found not guilty. <https://stv.tv/news/west-central/306621-german-fan-cleared-of-ira-singing-as-he-did-not-understand-lyrics/> (last accessed 14/08/17).

In the case of the first supporter who was singing in the street the officers were operating in the outside environment where sight and knowledge of their interaction with the supporter, and of the supporter's behaviour generally, was far more limited. Outside of the officers, the subject, the subject's associates and some passers – by this interaction passed relatively unnoticed<sup>255</sup>. Despite acknowledging that the supporter engaged in conduct that was worthy of arrest under the OBFA, the officer felt able to choose not to do so. There was no threat of sanction from a supervisor as no one else was aware<sup>256</sup>.

In doing so the officer certainly exercised discretion at a basic level in terms of choosing one course of action over another (Davis:1971), however in not arresting the male under the OBFA for singing about terrorists, in the context of a clear message from senior officers and Government to have a Zero Tolerance approach to such offending, his actions on the face of it appear to lack the legitimacy required for the appropriate use of delegated discretion ((Kleinig:1996). However if such delegated discretion should be exercised within the standards of the organisation to acquire legitimacy (Skolnick:1966) then the officer might argue that to require an accused to travel all the way from abroad, potentially on more than one occasion, for court purposes for what could be considered a relatively minor example of a breach of the OBFA, may not be proportionate in the circumstances and that an initial warning to desist might be more appropriate and perfectly in line with police standards of necessity and proportionality<sup>257</sup>. Lipsky recognises that SLBs can exercise discretion in terms of a concept of “fairness” and are therefore also able to intervene on behalf of clients in a positive way (which this situation can clearly be described as). It appeared that the officer had made a judgement on the nature of the incident and possibly a moral and value-based judgement of the “worthiness” of the individual to be given a second chance (Maynard-Moody and Musheno:2003).

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<sup>255</sup> There was no open – space CCTV.

<sup>256</sup> This raises an interesting point about the status of the other officer present. Did he agree with the assessment of his colleague as to the appropriateness of the disposal? Having worked together on numerous occasions had they developed a shared understanding of appropriate thresholds for behaviour? Did the other officer not agree with the course of action but feel unable to openly disagree in front of the subject?

<sup>257</sup> This situation perhaps also illustrates competing or contradictory organizational goals, a feature of SLBT discussed in section 9.3.

### *11.4.2 Implications*

Although the circumstances and personnel are not identical, a comparison of these two similar incidents illustrates an increased ability to act ostensibly outwith policy intentions and management instruction in street interactions in the outside environment where surveillance of the particular actions and activities of the officer in question is reduced. Thus, it would appear that extent of surveillance held by supervisors and others over officers' behaviours has a potential bearing on the exercise of discretion by those officers. The proliferation of increasingly technologically advanced CCTV, particularly in the football setting, has served to open up interactions between officers and members of the public in a way that was not previously available.

It is not only the overt and specific actions of police officers physically interacting with supporters that are under scrutiny but crucially also supervisors can observe in detail the general behaviour of the fans, and with this additional detailed knowledge comes an expectation of certain actions and reactions by the officers present on the part of supervisors in respect of these behaviours, which in turn may influence an officer's decision to act in a discretionary way and choose a course of action (or inaction) which might be interpreted to be straying from the supervisory expectation.

Therefore, officers do not only have an awareness of CCTV when they are actually dealing with a client, but they can also be mindful of CCTV potentially illuminating behaviour that previously officers might have thought themselves able to ignore. It is valid to question how CCTV might make a supervisor more aware of behaviour such as sectarian singing (for example), when they could simply hear it anyway without the need for CCTV if they were situated within the ground. However modern CCTV coverage now affords supervisors greater and more accurate and detailed information in general and even the ability to clearly view specific identifiable behaviour by specific identifiable individuals, rendering redundant the former reliance on the veracity of information supplied back from officers actually "at the scene". Furthermore, it offers them insight into behaviour that is neither verbal nor large-scale (ie that he or she would not just hear or see anyway without CCTV) or that occurs outwith the line of sight of the Control Room in the environs of the ground or within concourses and internal areas.

SLBT describes an environment where the "street" is invisible to the supervisor. However improved methods of surveillance may now mean that managers often have a better view of the street than the officers and officers are aware of this. Although Lipsky is clear that SLBs

often have both unclear organisational goals and differing objectives from managers which can lead to conduct that deviates from the policy expectation, this process may be inhibited where the areas of “low-visibility” are reduced.

Furthermore, this may serve to undermine to a certain extent Lipsky’s contention that bureaucratic accountability of SLBs is all but impossible to achieve due to high levels of discretion, should such use of discretion indeed be reduced. Under normal circumstances it is hard for managers to contradict workers’ accounts of interactions as street level decisions are generally made in private and workers are often the main source of information relating to these decisions and circumstances (Lipsky:1980:161-163). However heightened levels of surveillance at football allows supervisors access to more information than before, allowing them greater knowledge of the facts with which to evaluate and assess the suitability of officer behaviour.

### 11.5 Conclusion

This chapter has set out some examples of the continued use of discretion by police officers, and in particular the ability to make discretionary judgements and decisions in a manner outwith the authorised model of delegated professional discretion, due to the hidden spaces in which officers still often operate. In this regard discretion can be seen as a feature of the policing of football in Scotland and therefore SLBT, of which the use of discretion is a fundamental aspect, can still be seen as relevant in explaining the behaviour of officers. It is clear from these examples that officers were able to produce a variety of actual experiences for clients when operationalising the policy of OBFA, highlighting the capacity for their own processes and influences to have a bearing on shaping those experiences. This was to the extent that they could act in a manner directly at odds with the higher policy intention, brought sharply into focus in the context of the OBFA with supporters continuing to sing “offensive” songs despite the policy intention of there being “Zero Tolerance” to such behaviour<sup>258</sup>.

However, it is argued that the use of discretion is diminished, and the relevance of SLBT therefore consequently also compromised, through enhanced surveillance in the football environment. Surveillance could be seen in the mobile ‘phone technology available to

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<sup>258</sup> Notwithstanding the structural barriers to enforcing “Zero Tolerance” previously discussed.

supporters who would often film officers and thereby use surveillance to provide “bottom up” pressure to influence discretion (Taylor and Kelly:2006:638) but mostly through the use of CCTV serving to open up to the scrutiny of supervisors many interactions between officers and supporters which previously would be unseen. This links directly with another fundamental aspect of the SLB environment in terms of SLBs exercising discretion when working with relative autonomy from supervisors (Lipsky:1980:13).

The enhanced surveillance capacity of supervisors not only exposes more officer/supporter interactions but also provides a better view of clients and their activities in general (improved by the fact that they are condensed in a relatively small area) to supervisors. Thus, if the supervisor is better aware of the behaviour of the supporters, this might generate an expectation of activity by his or her officers, depending on the nature of that behaviour, and Lipsky’s argument that SLB’s discretion is enhanced because they are usually their supervisor’s source of information regarding interactions with clients (Lipsky:1980:161-163) becomes weaker and seems out-dated.

It is worth recognising that levels of surveillance is not the only influence on the use of discretion revealed by this research and that there appears to be a form of almost self-regulation by officers in relation to the perceived gravity of certain offending whereby they recognise that they are less entitled to choose between courses of action outwith the “official” line where the subject matter is sufficiently serious, such as with Hate Crime. This may stem from a personal moral or professional imperative or be more pragmatic in nature (in terms of recognition of a greater risk of censure by supervisors if “caught out”), but nevertheless appears to influence some officers when considering courses of action available to them and exercising discretion.

Nonetheless such surveillance is argued to have a major impact on the use of discretion by officers and as a consequence to have an impact on our understanding of SLBT. Where discretion is greatly inhibited then the scope to deviate from official policy and indeed enter the realms of *de facto* policy creation, as fundamentally proposed by SLBT, is also inhibited. The question of the extent to which such policy creation existed when police officers utilised the OBFA will be examined in the next chapter.

## **12. CHAPTER 12– Policy Creation**

A primary contention of Lipsky is that the conditions of SLBs are such that the reality of what is done by those front-line workers tasked with realising policy at the street-level can actually deviate so markedly from the policy intention of the higher authorities that they are effectively creating policy themselves (Lipsky:1980:xvi). Lipsky asserts that SLBs make policy in two ways: firstly, by exercising wide discretion in decisions about citizens with whom they interact and secondly in that the sum of their individual actions add up to agency behaviour. (Lipsky:1980:13).

This chapter is concerned with this aspect of SLBT and will seek to critically assess the extent to which the operationalisation of the OBFA by officers on the ground resulted in deviation from official policy if at all and in so doing will make comment on the relevance and utility of SLBT in describing and explaining the processes involved.

In making any kind of comparison between intended policy and realised policy, it is obviously necessary to have an understanding of what was actually intended by the initial policy-makers and thereafter examine in more detail what police officers actually do at football matches, both generally and with specific reference to the OBFA, to be able to compare this reality with the policy ideal. Therefore, the following initial sections will be primarily descriptive in nature and will explain the way in which officers practically deliver policing at football, which will help to set the scene for what follows. There will be a particular focus on explaining what the roles and processes involved consist of in principle, as this paints the basic picture required to apply SLBT.

### 12.1 Policing football

Football matches can involve large numbers of people in the planning, support and enactment of the event, fulfilling a variety of roles and functions to add their part to the sum of the spectacle. Clearly the players on the pitch are the main protagonists for without them there would literally be no match, however a multitude of other individuals, some more visible than others, play their part in the experience. Inside the stadium ground staff maintain the playing surface, turnstile operators afford entry and caterers provide snacks and refreshment to supporters. Stewards, first-aiders, ball boys and girls all have a role to play. Outside the ground



council employees occupied with additional refuse collection or vehicle removal, official and unofficial merchandise vendors and public transport staff can all be seen as involved in the process to a lesser or greater degree. After the players, the next critical group of people present at football matches are the supporters, without whom the football match would be shorn of much of its spectacle, and the majority of others present can be described as fulfilling roles that are in support of the fans' experience in some way. Finally, both inside and out the stadia, police officers are to be found. Indeed, the large crowds of opposing fans brought together in an emotive and competitive environment have seen the presence of police officers at games from the early days of professional football.

### *12.1.1 roles*

The number of police officers deployed at football can vary dramatically depending on the assessment of what is required however the roles and functions, if not the numbers involved, tend to be constant or similar. These roles and functions can be generally described as Management and Administrative Officers, Anti-Disorder Officers, General Duty Officers and Specialist Officers<sup>259</sup>. A certain degree of overlap is possible within these general groupings; for example, some Anti-Disorder officers could be regarded as Specialists in that they might be drawn from Support Unit officers who are specifically trained in Public Order techniques and have that specific role amongst their permanent full-time duties.

Management and Administration staff includes the Match Commander, the officer ultimately in charge of the policing of the event, along with their immediate command staff who, depending on the magnitude of the match, might have responsibility for the policing of individual areas or stands. Certain officers also fulfil common administrative roles such as manning the dedicated radio channel, arranging for prisoner processing and maintaining an events log.

Anti-Disorder officers have specific roles to proactively deter disorder or react to it should it break out. These officers might be drawn from Support Unit officers who are specifically

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<sup>259</sup> This has some resonance with O'Neill who categorised her findings around the police roles of uniformed constables, plain clothes Spotters, mobile unit officers, senior officers and women police officers (O'Neill:2005) although she chose these roles as ones having the most interaction with the public rather than as definitive descriptions of all policing roles involved.

trained in Public Order techniques however often I found them to consist predominantly of local officers with no such formal training and Support Unit vans would only be present in addition to “conventional” anti-disorder officers at bigger games. Officers fulfilling this function were able to be more proactive in targeting areas outside of grounds where disorder might occur such as transport hubs or pubs, or targeting supporters who were considered more likely to be potential sources of disorder. Of course, arguably all officers could be said to potentially have an anti-disorder role, given that large-scale disorder might necessitate the use of all available officers to quell it.

Specialist officers describe those present fulfilling specialist functions or with specialist training such as Mounted Branch officers, Dog Handlers<sup>260</sup> and Intelligence Specialists, namely FoCUS and “Spotter” officers<sup>261</sup>. These officers are tasked to specifically gather intelligence relating to situations, locations or individuals who may create disorder at football matches and pass it to the Match Commander.

General Duties are fulfilled by uniformed officers and require no specialised skills. Such duties include patrolling the outside environment, assisting stewards at turnstiles, patrolling the vomitory and concourse areas during the game and acting as a Reserve or a Cordon at an interface between rival supporters.

Resources available can vary depending on the assessment of requirement made by the Match Commander and the club Safety Officer, who is the senior club representative. All matches are categorised in terms of the risk they are assessed to present and with certain gradings come minimum recommended levels of resources, both in terms of stewards and police officers. As a consequence of this it was suggested to me that some Safety Officers often started low in their discussion of assessment of risk, hoping to influence the outcome down the way to minimise the resource requirements and therefore the cost implications to the club.

### *12.1.2 Process of policing a match*

For every game, a Match Commander is appointed. He or she is the senior officer in charge of all police officers at the event although the Safety Officer of the host club is actually in overall charge of the event, until such times as a “major incident” (such as an incidence of mass

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<sup>260</sup> increasingly used to detect pyrotechnics being smuggled into grounds.

<sup>261</sup> Spotter officers are distinct from FoCUS officers.

disorder) is called whereupon the Match Commander and the police in general assume command of the situation. In practice, they appeared to work very closely with Safety Officers. The rank of the Match Commander depends on the magnitude of the game and the assessment of risk associated with it and can range from Sergeant to Chief Superintendent, with the more senior officers being put in charge of the bigger fixtures. Match Commanders tend to remain in the Control Room (where one exists<sup>262</sup>) for the duration of the match. This acts as a central point from where they can see the pitch and most of the stands and have access to CCTV, communications, club officials and other Emergency Services personnel. All Match Commanders are required to complete a specific training course at the Scottish Police College before being allocated such a duty. There is also a system of shadowing and mentoring prior to being allowed to take sole responsibility for a match.

Some days prior to the event a meeting will take place between the Match Commander with his or her planning team and representatives of the club where operational issues will be discussed. Like most other large-scale events where policing is an aspect of the occasion, an Operational Order document is prepared which sets out what the policing requirements are and how they will be achieved. Although signed off by a senior officer, in practice they are prepared by the local Operational Planning Department and for football follow a formulaic format and standard template<sup>263</sup>. This Operational Order will describe the various duties of the officers involved and which particular officer has been nominated for that duty and is circulated beforehand. The Order will specify where and when officers are to muster (meet) prior to commencement of their duty and this is generally at the police office closest to the venue some hours prior to kick off. As well as this specific Operational Order, many larger grounds have a folder of generic orders and procedures which set out the basic instructions, timings and contingency plans for the running of a match at that particular venue. Essentially this is a guidance template to be followed as the game progresses to ensure that nothing is forgotten or missed. This was described to me both as the “Script” and “the Bible”.

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<sup>262</sup> The majority of grounds I visited had a dedicated room for this purpose however at one smaller ground this was not the case and the Match Commander and his control team simply stood together to the side of the main stand.

<sup>263</sup> I found this to be to the extent that often headings which appeared to be of little relevance to that particular match would be included in some orders.

Prior to the match kicking off, Match Commanders brief their officers. I found that different Match Commanders did this slightly differently, some preferring to brief all officers involved as a group and some preferring to brief sub-commanders only, with the expectation that they would then cascade instruction to their respective teams. Often the sheer numbers of officers on duty made briefing them all at the same time a practical impossibility. However, even where Match Commanders had given a briefing to the entire police contingent, sub-commanders and those in charge of groupings of officers, invariably further brief their own officers anyway. Often, I noted that no great detail was available to pass to these officers beyond basic instructions and on many occasions, particularly for Generalist officers, this short briefing was as much a way to familiarise oneself with colleagues and supervisors that they might never have previously worked with than to actually receive specific orders.

Duties are often split into phases, particularly before during and after the game and officers can have different duties for different phases. For example, the same officers might be required to man turnstiles in the first phase then just prior to kick off, with the majority of the turnstiles effectively becoming redundant, they would come into the ground and do other duties such as Reserve.

During the course of the actual match, officers are concerned with their primary duties in line with their respective roles and at the final whistle they oversee the fans departing the stadium and ultimately dispersing. This generally happens relatively quickly and so the “stand-down”, where the Match Commander releases officers from their specific football duties once he or she is satisfied that they are no longer required, will also generally follow relatively quickly thereafter. Often this stand-down is slightly staggered depending on specific duty, Anti-Disorder officers tending to be released later than others.

These roles and processes describe the setting and basic mechanics of officers’ interactions with supporters, which in turn will assist with any assessment of how they might actually behave as SLBs in the football policing environment.

## 12.2 Policing styles

During my observations, I visited a number of grounds around the country and it became clear that there were some subtle differences in policing styles in different parts of the country. This difference was particularly (but not exclusively) evident between different Legacy Force areas, possibly reflecting a different general style of policing in that Legacy Force and the way in

which policing had evolved there, as well as the experience gained from the requirements of policing different grounds and supporters. Some areas were far more used to large crowd numbers than others and the notion of offensive singing, particularly that which might be described as “sectarian”, was by no means a universal consideration. One area I attended in particular appeared to have a far more relaxed attitude to policing football, in terms of force projection and interaction with the supporters, than I witnessed elsewhere.

This notion of different styles perhaps resonates with Moorhouse’s findings relating to the perception of fans from outwith Glasgow that they were unfairly and inconsistently treated by Strathclyde officers (Moorhouse:2006:23); although fans familiar with a particular style of policing at their home ground might perceive themselves to be victims of unfair treatment when they are treated in a manner which they are not used to but which in fact is consistent with the way in which everyone in the ground is being treated.

With the inception of the PSoS a wider debate over local policing styles evolved, with the suggestion that a single force does not cater for local needs and that a “*Strathclydification* of policing” was occurring whereby the former Strathclyde Police ethos and way of working was being foisted on the rest of the country (Fyfe:2016:172)<sup>264</sup>. Interestingly I saw some examples of slight friction between officers of Legacy Forces but nothing of great significance and mostly humorous in nature, such as the mock posters in a briefing room in Edinburgh sarcastically pronouncing “*West is Best*” and translating Glaswegian phrases into “proper” English<sup>265</sup>. That said, I witnessed one Match Commander in Fife expressly state that he had not requested “*Glasgow Spotters*” because last time they had been present they had “*pissed him off*” by “*telling him how to police*”. However, the feeling that bigger areas have an undue influence on general matters is not confined to disputes between Legacy Forces. I heard one Lanarkshire Division officer comment that he felt that the Glasgow Division was “*getting everything*” to the detriment of his area (both Divisions previously being in Strathclyde Police). Clearly if different areas of the country have slightly different styles of delivering policing, an idea which resonates with the notion of differing police sub-cultures between forces and commands (Chan:2005), then there is potential for these styles to produce differing experiences for supporters on the ground and so, if actual policy is indeed created at street level as SLBT

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<sup>264</sup> The first Chief Constable of the PSoS being the former Strathclyde Police Chief Constable.

<sup>265</sup> Prior to amalgamation Legacy force officers could still train and work together in many situations and so a degree of friction, humorous or otherwise, and Home Force – centric attitudes are nothing new.

suggests, this could therefore result in variations of that reality of policy and multiple divergences from the official intent.

However, it seems inevitable that the policing of football will become more standardised across the country as local processes become influenced by national procedures and as the movement of supervisory officers and staff between geographical areas becomes more prevalent and national specialists such as FoCUS bring common tactics to grounds all over the country. A national SOP for football was published in 2013 and a stated aim of FoCUS is to provide a consistent national approach to policing football across Scotland (PSoS:2016). Nonetheless some local differences still exist at present. For example, in Edinburgh supporters are allowed to drink alcohol in the streets following the former Lothian and Borders Force agreeing to have a relaxed attitude to drinking byelaws introduced to the city in 2007 (McCann:2013), byelaws which are strictly enforced in Glasgow and elsewhere<sup>266</sup>.

### *12.2.1 Contingency and facilitation*

Notwithstanding the possibility of some general regional differences, my observations suggest that policing at football matches in Scotland appears to be based mostly on what can be described as notions of contingency and facilitation. That is, the officers are primarily there to facilitate the routine processes of the match event including the safe movement of large numbers of the public in a relatively confined period of time and space as they travel to and from a venue and also as they watch the spectacle during the time in-between, whilst providing the ability to react to and deal with any spontaneous contingent events that may compromise public safety or good order that may occur. The vast majority of supporters appear to want to simply watch the game and can do so relatively immune from specific police interference beyond routinized processes and without having to directly come into contact with them. This is reflected in many of the duties that officers are usually allocated at matches. Common functions or roles such as “Reserve” (officers literally held in reserve to be utilised if a requirement arises), “Turnstiles” (officers standing at the outside of the turnstiles as supporters enter and “Traffic Points” reflect this notion of contingency and facilitation.

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<sup>266</sup> I acknowledge that some time has passed since the data gathering phase and this harmonization process is likely to be considerably further advanced now.

Nonetheless there is still scope for some proactivity. Officers deployed specifically on anti-disorder patrols had more proactive roles in that, when not actually attending an incidence of disorder, they would patrol areas, locations or venues where it was thought likely that disorder might occur and Intelligence officers, either Spotters or FoCUS officers, would also often proactively seek out those individuals that were considered to pose a potential risk to the orderly conduct of the event. Nevertheless, both types of officer could be said to still be reliant to a large degree on the actions of the supporters to determine the nature and extent of their own involvement in the overall operation.

Most officers therefore appeared to spend the majority of their time *being available* to act rather than requiring to act to any great extent beyond routine minor direction or facilitation. This is not to say that the process of merely being present in a public environment did not bring with it multiple subtle actions, reactions and interactions with members of the public, however officers often manned turnstiles, patrolled external and internal areas and controlled traffic flow without achieving more than the most basic of interactions with supporters if no particular or problematic issue arose that they required to deal with<sup>267</sup>. One Match Commander suggested that officers were essentially there for “*public reassurance, high visibility and to deal with any issues that emerge [to] preserve order and maintain normality*” (M1) and confirmed this notion of contingency by suggesting that matches were events entirely run by the club until “*the point where it goes wrong*” (M1). Another suggested that in the absence of any specific intelligence relating to potential disorder, games “*pretty much run themselves*”<sup>268</sup>.

This notion of availability was clear from the often scant and minimal nature of orders given to these officers in pre-match briefings<sup>269</sup>. There often appeared to be an implicit understanding that officers were aware of their roles and of what was required and that they should expect to receive further instruction only if and when that became absolutely necessary.

This then is the general policing context in which the OBFA was operationalised. Officers have different roles within the structure of policing a match and, although some roles offer more scope for proactivity than others, generally officers are present only to oversee the established

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<sup>267</sup> Of course, it is difficult to ascertain what level of deterrence or reassurance was offered by mere police presence.

<sup>268</sup> Opinion offered during observations.

<sup>269</sup> Although U2 and U3 felt they were “*well briefed*” at matches, suggesting that they felt these limited orders were nonetheless sufficient in the circumstances.

and well-known routine processes of the event, whilst maintaining an ability to react to and deal with any more significant situation that may occasionally arise.

The OBFA was introduced as the primary legislation to be utilised for football-related disorder and anti-social behaviour and so it was available for all officers within the football environment to employ. Officers employed the legislation directly at the “front line” and so had a fundamental role in determining the circumstances in which it was used and the behaviours to which it was deemed applicable.

However, much as this was legislation that every officer could potentially use, the specialist officers of FoCUS came to be seen by many supporters as almost symbiotic with the legislation given that the specific operational role of the unit often lent itself to utilisation of the legislation by FoCUS officers, that FoCUS was conceived out of the same well-publicised events that gave birth to the OBFA (serving to link the two in psyche of supporters) and further that there was increased visibility and media exposure for the unit through appearing in court as witnesses at OBFA trials which often attracted media interest.

Internally also many officers clearly considered FoCUS to be the lead officers in relation to the use of the Act and they were recognised as having an expert status. They provided guidance and advice on the OBFA and the unit was the Single Point of Contact (SPOC) for liaising with the Procurator Fiscal in relation to the Act. Thus, FoCUS could be regarded as influential actors in the relationship between the PSoS and the OBFA and as such they played a prominent role in driving processes and developing procedures in this area, arguably to an extent that might be seen as policy-influencing in terms of SLBT. It is therefore worth taking some time to consider the unit in more detail.

### 12.3 Role of FoCUS

The Football Coordination Unit for Scotland was initially set up with separate funding as a distinct unit to service all eight former Scottish police forces following the recommendations of the Joint Action Group formed at the Summit which was convened after the “Shame Game”, however it became part of the Operational Support Division of The Police Service of Scotland on the formation of that single body in April 2013. It has both an operational and an intelligence function.

The current aim of FoCUS is described as:



“to deliver the Strategic Objectives of the Police Scotland Football Working Group which are, in essence, a consistent national approach to policing football across Scotland with a view to eradicating violence, disorder and hatred from the game and thereby ensuring that people feel safe and able to attend football matches in a comfortable and secure environment”. (Police Scotland:2016).

Operationally FoCUS officers deploy to matches at the request of the Match Commander where he or she believes that there is a requirement for this particular specialism. This will normally be assessed based on intelligence received or previous experience. This includes likelihood of disorder between rival supporters or a suggestion that offensive singing may occur. Not every game will have FoCUS officers on duty. The officers usually deploy in pairs, either as a pair of FoCUS officers or one FoCUS officer teaming up with a local officer. They normally have two chest cameras and one handheld camera per pair and, unlike the Football Spotters who wear florescent police jackets with distinctive blue panels to indicate themselves as such, they do not wear any specialised clothing. In the early days of the Unit they wore “*anti-sectarian patrol*” bibs but this practice was discontinued some time ago. The primary duties of FoCUS on matchdays appeared to be concerned with monitoring potential disorder and offensive singing.

It is clear that the FoCUS officers are regarded as specialists by most other officers of all ranks. It was common to see Match Commanders ask the opinion of FoCUS officers on specific relevant operational matters and to defer to their advice. They were often given a great deal of freedom to decide what to do within extremely general guidelines and often left to “get on with it” with the assumption that they would do so effectively. Whilst this attitude allowed FoCUS officers a great deal of freedom to go about their work it also had the potential to lead to situations where other officers felt that it was the role of FoCUS to arrest and deal with OBFA offenders or offensive singing and chanting and not their own. Whether this did indeed happen was difficult to ascertain however it was clearly a belief held by some FoCUS officers of some of their colleagues in some parts of the country<sup>270</sup>.

That said this was something which was also perceived by some Match Commanders who attempted to counter it. On occasion, I heard Match Commanders specifically tell local

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<sup>270</sup> One FoCUS officer told me that at one relatively low-level game FoCUS had made at least 5 arrests as an example of local officers not doing enough.

supervisors to ensure that “normal” officers knew that arresting under OBFA was *their* responsibility too and should not be left to FoCUS. On one particular occasion, a Match Commander encouraged FoCUS officers to allow “normal” cops to make the arrest so that FoCUS officers could remain available to him within the ground.

The Specialist role of FoCUS allowed for a degree of proactivity. Prior to kick off FoCUS officers tended to do general patrols of the area but would go to areas such as pubs and railway stations where they might anticipate fans congregating. In particular if *Risk* fans were expected then they would attempt to locate them and such fans would often be filmed or verbally engaged by the officers. It was clear that some fans resented this engagement: “*Already it starts*” commented one supporter when spoken to by a FoCUS officer holding a camera outside a pub some hours before kick-off.

During the match, the FoCUS officers would generally move inside the ground and position themselves where they could observe fans. More often than not this meant at the interface between home and away support where it was anticipated that interactions would be occurring or in the vicinity of “singing sections”. That said, the quality of the hand-held camera was such that it was often possible to accurately film a supporter from the other side of a stadium and the filming of supporters was a common tactic used by FoCUS.

### *12.3.1 Use of cameras*

“When you go to away games and see the police going round with video cameras trying to find some drunk 18-year olds singing a naughty song then you think it’s a case of taking a sledgehammer to crack a nut” (Edgar:2010:91)

Despite not wearing any distinctive items of uniform it appeared to me that FoCUS officers were generally identified as such by supporters. This could be due to simple recognition of a small number of familiar faces or because of where these officers generally positioned themselves but a major signifier was most certainly the cameras they used.

Personal cameras come in two varieties: a small plastic one slightly larger and bulkier than a credit-card which attaches to the officer’s chest and a more traditional “camcorder” type device which is usually deployed one per pair of officers. The chest camera is triggered by the officer to start and stop filming and does not continuously record. There is audio but there is no control over direction or focus, the device simply recording where the officer is facing. Although there

is written warning that CCTV is in use (printed on the camera body itself) this device does not particularly look like a camera and so it is not always obvious to a subject that they are being filmed. The camcorder is extremely accurate and can be used to target specific people from some distance away. It also has a playback function whereby the operator can review footage that has just been taken whilst still at the locus.

The use of these cameras was clearly an issue of some contention and cause of irritation for many supporters and I noticed that there were different styles of filming used by different FoCUS officers in different circumstances. Some would be extremely overt in their filming style, holding the camera up in a manner that clearly indicated to supporters that they were being filmed, whereas on other occasions it was used much more subtly, being held at a low profile, almost casually. It was clear that overt filming could be used to have a deterrent effect on supporters as well as to actually gather evidence. A FoCUS officer stated this to me and I witnessed on many occasions where supporters stopped singing as they became aware of being filmed. Occasionally however some fans were acutely aware of cameras but appeared not to care. On one occasion, I saw a young male being filmed by a member of FoCUS after he had been arrested following a disturbance between fans outside a pub. He became aggressive and abusive to officers and when reminded that he was on camera he stated that he knew but “*didn't give a fuck*”. Of course, this may just have been an act of bravado on the part of an already arrested person. At another game, an individual was part of a group of fans within a ground who started to sing a variation of the *Billy Boys* called the *Gorgie Boys*<sup>271</sup>. A nearby FoCUS officer immediately started using his handheld camera to film the group from a distance of only a few metres and when this was noticed the group stopped singing and it was obvious to see them tapping their fellow supporters on the shoulder and warning them of the camera. Despite this one young male who initially heeded the warning and stopped, started singing the song again (on his own) not more than a minute later immediately in front of the officer with the camera and on uttering the trigger word “*Fenian*” was promptly arrested.

The subtler form of filming is more difficult to assess as it might have represented an attempt to gather evidence of wrong-doing without alerting the perpetrators (ie filming in the hope or expectation of them singing something incriminating) or simply a recognition that overt filming can negatively affect the mood of the crowd in certain circumstances. Most officers were acutely aware of the impact the use of handheld cameras could have on the mood of the crowd

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<sup>271</sup> This version is sung by Hearts fans, Hearts originating from the Gorgie area of Edinburgh, and substitutes “*Billy*” for “*Gorgie*” but retains the “*Fenian blood*” line.

and were circumspect in using them; at one match, a FoCUS officer informed me that he intentionally did not use his hand-held camera when close to supporters in a stand (but just relied on his chest-mounted one) as he felt that if he had done so on that occasion the “*crowd would have erupted*”.

Within grounds cameras tended to be used when singing broke out. Outside the ground filming appeared to be less common but appeared to be primarily used to get footage of supporters considered to be *Risk* for identification purposes. I also witnessed cameras being used to take footage of individuals giving their personal details to officers. This included both arrested individuals and those suspected of offences who were warned that they might retrospectively be charged with offences when other footage was reviewed.

Thus, the nature of some of the external filming was arguably more intrusive and personal than the filming occurring inside the ground, occurring as it did at a more intimate level and often where there were no obvious offences being committed at that specific time, and it is easy to understand why some fans might see this as intrusive or even intimidating to a certain extent (although officers I accompanied clearly explained why they were filming to those who actually asked). Nonetheless although filming was clearly an important tactic available in terms of crowd control and evidence gathering, it was by no means constantly used by officers. Officers seemed to commence filming when they thought it appropriate. This was most usually when singing of particular songs occurred, both inside and outside the ground, but also when confrontational situations arose - it appeared with a view to gathering first-hand evidence of disorder or of getting evidence of the presence of certain individuals for future identification. On occasion, they would be specifically asked to get footage of certain events by immediate supervisors or by the Match Commander from the Control Room.

Sometimes officers appeared to be filming the supporters with the cameras when in fact they were not, the cameras actually being used to review previous footage, to identify if certain *Risk* supporters were sitting in a stand (not filming the individuals but rather using the excellent zoom function of the camera to allow the officer to identify those individuals from a safe distance) and even to film a (non-playing) player in the crowd for potential evidential purposes<sup>272</sup>.

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<sup>272</sup> At one derby match I attended a foreign ex-player was identified sitting amongst the away support. This particular player had a racist song specifically dedicated to him and so a FoCUS officer filmed a short amount of

Occasionally officers would be challenged by supporters over this overt filming and specifically what authority they had to do. In general terms, the *Human Rights Act 1998* introduces the European Convention of Human Rights into UK law and Article 8 of the Convention provides for a Right to Respect for Private and Family Life. Any breaches of Convention rights must be done in accordance with the law and so, for example, covert surveillance must be authorised in terms of the *Regulation of Investigatory Powers (Scotland) Act 2000* (RIPSA). Generally, no such authorisation is required when filming overtly however on occasion I saw some surveillance activity by officers at football matches where the overt nature was not altogether clear and nonetheless there still requires to be some form of justification for such activity. On a number of occasions, I saw officers briefed to tell supporters who queried the use of cameras that the legal basis for doing so was Section 20 of the *Police and Fire Reform (Scotland) Act 2012*, which sets out the general duties of a constable namely: to prevent and detect crime and to maintain order: I am unaware if this has been tested in court however it seems doubtful that fulfilling general duties would actually give *carte-blanche* to film supporters so intrusively without some further compelling specific basis<sup>273</sup>.

The role of FoCUS officers and how they performed it particularly illustrates a number of relevant aspects of SLBT. They clearly operated with a degree of autonomy from supervisors (Match Commanders) and were able to exercise considerable discretion in where they went and who they engaged with. Operating in relatively small groups they were acutely aware of the issues surrounding lack of resources when consideration was given to making arrests and also their position as subject “experts” afforded them a fundamental role in the process of categorising supporters and particularly of authoritatively assessing who should or should not fall within problematised categories. Furthermore, by filming supporters in relation to offensive behaviour, a tactic considered contentious by many, they exercised considerable influence on the general nature of the delivery and client experience of the policy of the OBFA.

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footage of this player to evidence him being present at the ground in case the home support became aware of him and started singing “his” song.

<sup>273</sup> It should also be noted that there are obligations on the police regarding the retention and destruction of personal data such as video recordings in terms of the *Data Protection Act 2018*.

## 12.4 Delivering and Creating Policy

To this point this chapter has attempted to describe the reality of how police officers go about the business of policing football matches and the following section will now go on to critically examine the extent to which such activity was aligned with the policy intentions of the OBFA or deviated from it and if so whether this was to the extent that effectively new policy was created and implemented on the ground in terms of SLBT.

### *12.4.1 Lack of clarity*

As previously discussed<sup>274</sup> there was an element of ambiguity surrounding the actual policy intention of Government when introducing the OBFA. This therefore hinders any accurate assessment of whether policy has been fully implemented or not and reflects the SLBT notion of unclear or conflicting organisational goals set by those in authority resulting in workers on the ground often having only a limited understanding of policy intention or being offered only loose guidance for what is expected of the implementers (Hill:2003:267).

At a fundamental level the OBFA was initially intended to target sectarian behaviour however this was actualised in statute in terms of “offensive behaviour”, creating some uncertainty over what that meant in practice, given the contested nature of sectarianism and subjective nature of “offence”. Furthermore, despite Governmental assertions to the contrary (Scottish Parliament:2011c:5), the legislation appeared not to be part of any particularly structured, overarching strategy; the product of political expediency and hubristic grandstanding rather than well-researched and developed policy; the law being used by the Government to make a political point (McWhirter:2014).

A Government Policy Memorandum accompanying the OBFA Bill did offer some direction, and expressly stated that “the objective of the bill is to tackle sectarianism by preventing offensive and threatening behaviour relating to football matches” (Scottish Government:2011a:1) however there is no indication as to what “tackling” actually represents or how it is measured. Further guidance was offered by the Lord Advocate in terms of official Guidelines although even these explicitly placed the responsibility for deciding what behaviour fitted the criteria of the statute with police officers on the ground, the Guidelines stressing that

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<sup>274</sup> Section 9.3.

it was for officers to decide what was offensive, what expressed hatred or what was threatening (Mulholland:2012a). This lack of clarity over policy message could also be seen at police Executive level where for example, even as late as 2016, one Assistant Chief Constable declared that in the context of offensive behaviour at football matches supporters should report to police simply anything that makes them “*feel uncomfortable*”<sup>275</sup>.

#### *12.4.2 Extent to which official policy was applied or deviated from*

Nonetheless, it could be argued that there was a definite statement of general policy intent on the part of the Government in terms of sectarianism, notwithstanding that the use of terms and concepts open to wide interpretation greatly muddied the waters when it came to practical application. This research found that officers tended to focus attention on the singing of offensive songs and that such songs seemed to be predominantly “sectarian” in nature and in this sense in making arrests in this way officers could be argued to be acting in line with the intended policy. Even where contention lay around the legitimacy of criminalising the singing of certain “political” songs, it appears that to do so was the intention of the Government. However, in making the OBFA the primary legislation for addressing disorder and anti-social behaviour at football matches, the risk of the subsuming of all disorderly behaviours into the sectarian bracket in the eyes of many onlookers increased. Despite the policy memorandum expressly stating an intention to target *all* offensive and threatening behaviour whether overtly sectarian in nature or not, the general focus on sectarianism meant that when behaviours such as mass pitch invasions<sup>276</sup> or street brawls between Hamilton and Falkirk fans<sup>277</sup> were prosecuted under the OBFA, it perhaps gave both an inflated sense of the extent of sectarianism at football and arguably saw the use of the legislation expand into areas beyond which a common perception of the scope of the Act would interpret as being relevant or necessary. However, even if officers were applying the intended discernible policy of government in general terms, for practical reasons discussed previously, such as a lack of resources or the ability to utilise discretion, officers still could and sometimes did provide street-level outcomes which were not consistent with this over-arching policy intention and certainly they could not

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<sup>275</sup> <http://www.bbc.co.uk/news/uk-scotland-35317169> (last accessed 26/09/17).

<sup>276</sup> Such as following the Scottish Cup final of 2016.

<sup>277</sup> <https://www.dailyrecord.co.uk/news/scottish-news/football-thugs-arrested-in-dawn-raids-1544513>

enforce the “zero tolerance” desire of the politicians. Evidence was found to show that officers could regularly provide variable outcomes for similar sets of circumstances and specifically in terms of application of the OBFA, that in the appropriate circumstances, they had the ability to act in a manner clearly contrary<sup>278</sup>. However, could such deviations be said to amount to different, agency policy as SLBT suggests?

Lipsky argued that the ability to make policy comes from the ability to exercise discretion and relative organisational autonomy (Lipsky:1980:1). Fieldwork showed that officers still retain levels of general autonomy and the ability to exercise discretion<sup>279</sup> and certainly, as the people actually utilising OBFA on the ground, they could be regarded as at least the agents for the operationalisation of the policy and so as creating the policy to that basic extent or at least having an influence on its delivery. However, limits to unchecked influence existed.

For a start the OBFA legislation was by its nature controversial and attracted the scrutiny of both pressure groups such as FAC and the media. Therefore, the way in which it was implemented and the behaviour of officers in general were subjected to additional public exposure which may have influenced behaviour. For example, a specific FoCUS officer’s picture and name were featured on a large banner displayed by the Green Brigade at Celtic Park in 2017 (Fowler:2017). Indeed, FAC actively encouraged the monitoring and reporting of police behaviour by fans<sup>280</sup>. Furthermore, there was also an element of self-regulation by officers who appeared to recognise a hierarchy of types of offending in terms of their ability to legitimately exercise their discretion when dealing with it, with sectarian offending being regarded as an area where very little discretion is available if any. Also FoCUS liaised closely with the Procurator Fiscal to seek guidance and direction over the reach of the OBFA and, as the ultimate prosecuting authority in Scotland on whose behalf the police effectively operate when reporting criminality, it is likely that their opinion on such matters would be seen by officers as compelling. Finally, as already described in some detail, increased levels of surveillance in the football environment also impinged on the ability to exercise discretion, limiting unilateral, unauthorised behaviour.

It has been argued that officers were particularly zealous in their application of the OBFA legislation (McKenna:2014, Lavalette and Mooney:2013) and as such the extensive surveillance of supporters and “in your face” proactivity alleged was an aspect of the

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<sup>278</sup> Chapter 11.

<sup>279</sup> Chapter 11.

<sup>280</sup> <http://fansagainstcriminalisation.com/>



implementation of the OBFA which might be considered to be a specific and intentional course of conduct constructed and pursued by the police hierarchy. However, such activities are probably better described more as operational tactics than as “policy” and there is little to suggest that this style of policing distanced the general policing outcomes greatly from what was desired by Government. Indeed, arguably such proactivity actually reflected the gravity with which the Government wanted such offending to be treated and the level of seriousness at which it was taken.

Overall, there was not enough evidence to suggest that what was being done by officers when implementing the OBFA on the street on a regular and consistent basis was greatly at odds or contradictory to the general anti-sectarian policy message and did not target many of those behaviours seen to be the issue (singing, chanting and displaying banners being specifically singled out by the Government (Scottish Government:2011a:5)).

### 12.5 Conclusion

The findings indicate that Lipsky’s notion that SLBs are able to deviate from official organisational policy remains relevant to Scottish police officers operating in the football environment; however, Lipsky also argued that in doing so they actually created public policy, the sum of their individual actions amounting to “agency behaviour” (Lipsky:1980:13) and I found less evidence to substantiate this in relation to the OBFA. Whilst the conditions to allow for acting contrary to official policy remain to an extent, closer general control over officers in the football environment limits the opportunities to do so in any consistent way. Certainly, some officers could be argued to be more consistently influential in the process of policy delivery. FoCUS for example, had a particularly specialist involvement in the early implementation of the OBFA and were involved in hands-on use of the legislation. They were acknowledged internally as being experts in this area and were used to train other officers in issues relating to the OBFA. Thus, a small group of officers could exert a major influence on developing the overall police response to the Act and on how the Act was delivered at the coal-face and therefore may have a more direct and consistent influence on a particular field than general SLBs in the broader area might have, however not to the extent, in this situation, to suggest that they created policy.

Nonetheless, it is clear that where an officer behaves in a manner which is contrary to official policy, for example in the instance where the officer did not arrest the supporter singing a song

which referenced a proscribed terrorist organisation, despite a zero-tolerance approach to such offending, described previously<sup>281</sup>, what he is doing cannot be described as such. Nevertheless, even if it is not official policy it remains “something” which can be observed. However, to describe it as a form of “policy” implies a structure and a consistency that could be argued to involve more than individual thoughts and motivations. Whilst SLBs are subjected to common influencing factors and arrive at similar techniques for mitigating those factors whilst working in environments that share common characteristics, there are nonetheless potentially extremely individualistic motivations for certain decisions which tend to lead away from notions of policy. For example, one SLB might allow personal prejudice or bias to influence their decisions when dealing with a particular client and whilst that might be the experience of that individual client it is perhaps difficult to describe that specific experience as agency “policy” likely to be consistently practised by other SLBs who may not share the same personal bias. Maynard-Moody and Musheno similarly found it difficult to describe the ethnological narratives described to them in their extensive study of police officers as policy due to a lack of consistency (Maynard-Moody and Musheno:2003:11). Ultimately the constraints on officers in the football policing environment, particularly the additional levels of surveillance, tend to confirm Taylor and Kelly’s criticism of SLBT that many workers have become so closely monitored in recent years that the ability to effectively make the policy they carry out has been “significantly reduced” (Taylor and Kelly:2006).

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<sup>281</sup> Section 11.3.

## CHAPTER 13 - Conclusions

The relatively short-lived *Offensive Behaviour at Football and Threatening Communications (Scotland) Act 2012* was introduced into Scotland in controversial circumstances, following a series of events which were argued by the Scottish Government to highlight the existence of unacceptable sectarian behaviours in the Scottish football environment, behaviours which had been condoned and practiced by the “bigoted few” for many years but which were now no longer considered tolerable. Almost immediately the Act was the subject of criticism and controversy (Waiton:2012, Law Society of Scotland: 2011), as was the allegedly disproportionate and arbitrary way in which it was policed (Findlay:2016, FAC:2017:3)<sup>282</sup>, criticism which dogged it until its ultimate repeal. Crucially it also was introduced into a landscape where its primary target of sectarianism was a contested, problematic and poorly defined social phenomenon (Hamilton-Smith et al:2015:16), which was widely recognised in a general sense but about which little in-depth research had been conducted regarding its form, nature and extent.

The nature and scope of the Act situated police officers as key protagonists in the implementation of this legislation and its impact on the experiences of football supporters; the wording of the statute combined with the ability to use discretion giving officers a fundamental role in interpreting, assessing and responding to the conduct of those supporters.

This thesis offers a general study of the introduction and implementation of the OBFA by police officers and the impact that it had on the policing of football and in so doing adds to the literature on practical issues of law enforcement and provides a sociological description of the contemporary practices of police officers as they go about the business of policing football matches in Scotland.

Within this general context, the thesis also utilises Lipsky’s theory of *Street Level Bureaucracy* to analyse the extent to which police officers themselves were able to influence the impact of the OBFA through their own utilisation of the Act and interaction with supporters and in doing so critically assesses the relevance and current utility of SLBT in understanding public-sector workers’ actions in this environment and adds to understanding of how social order and disorder is constructed through interactions between law, state agencies and members of the

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<sup>282</sup> Findlay described the way in which the police operated the Act as an “affront to Human Rights” (Ibid).

public. The main conclusions are summarised in the following short sections which focus firstly on contemporary policing and latterly on theory.

### 13.1 Contemporary football policing in Scotland

Chapter Twelve described a number of different basic roles which police officers can be said to fulfil when on duty at football matches, namely: Management and Admin, Anti-Disorder, Specialist and Generalist. These roles not only describe in general terms the substance of what officers practically do, but to a certain extent can also be said to demarcate functions where greater or lesser levels of proactivity are anticipated or expected of officers.

These roles sit within an overall framework of policing the purpose of which is focussed on contingency and facilitation, in other words the enabling of effective public engagement with the event in a way which ensures public safety whilst providing the ability to react appropriately to issues which may require more serious police attention should they arise (Wilson:2012:145)<sup>283</sup>. This is a fundamental feature of the policing of football in Scotland and permeates from the strategic to operational levels. It is reinforced as the default position through the way in which officers tend to be given general duties and minimal orders which lack detail when policing football matches and is also implicit in the fact that the club is actually in overall charge of the running of the event with the police assuming control only in the event of a major incident occurring.

Familiar and routinised practices and interactions have evolved between police officers and supporters where a shared understanding and expectation of how both mutually operate in the football environment has developed over time (O'Neill:2005) and the findings indicate that this remains the case. However, some of these routines appear to have been disrupted to a certain extent by the introduction of both the OBFA and a more robust style of policing which compromised some of the previously accepted and understood norms. Thus, the Act criminalised certain behaviours which may not have been considered criminal prior to this and introduced some confusion amongst both officers and supporters as to what may actually amount to criminal behaviour. Despite some officers opining in the Hamilton-Smith review of the OBFA that the Act in fact added clarity, particularly around issues of offensiveness and

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<sup>283</sup> Arguably this reflects the police function at other public events where large crowds gather such as music concerts.

sectarianism (Hamilton-Smith et al:2015:33), the data gathered in this study suggested that the implementation of the OBFA resulted in confusion and lack of clarity about the meaning of the law. Thus, negotiating routine interactions with some sections of support became more difficult for the police and supporters when the established line over which supporters knew they could not step became more blurred in some situations – particularly when concerning so-called “political sectarianism” and behaviour apparently indicating support for terrorist organisations. It should be noted, however, that FoCUS became involved in the policing of matches slightly prior to the introduction of the OBFA and further that prior even to FoCUS coming into existence some Old Firm games had already seen officers dedicated to specific “Anti-Sectarian” duties and arrests for perceived sectarian behaviour using existing legislation had been occurring. Arguably then some form of more robust style of policing may pre-date the legislation. Certainly the OBFA may have emboldened and empowered police activity to greater heights<sup>284</sup> however potentially a different policing style and the legislation are actually both products of an overall hardening of attitudes towards sectarianism in football which stems from the “Shame Game” and it is this political intent behind the introduction of the Act that was particularly significant (Hamilton-Smith et al:2015:81).

### 13.2 SLBT

A senior police officer once commented that “*any relationship between my policies and what my officers do out on the streets is purely coincidental*”<sup>285</sup> and, although offered ironically, this comment reflects the core tenet of SLBT, namely that public-sector workers such as police officers can influence or deviate from official policy intent and effectively create new policy through the substance of their actual practices in their workplace, a policy-altering role rather than merely policy implementing (Maynard-Moody and Portillo:2010:266).

This arises primarily due to the ability to exercise discretion when dealing with their “clients” and also through having a certain level of autonomy from supervisors. SLBs utilise coping mechanisms to bridge the gap between the service ideal and the service reality in order to negotiate their day to day work environment and this, combined with other environmental factors such as a lack of resources and unclear goals, leads to situations where not only do

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<sup>284</sup> And possibly increased public expectation.

<sup>285</sup> Former Chief of Police in Rotterdam Rob Hessing (Punch:2007:37).

workers often deviate from the higher intention, but this is to the extent that the reality of what SLBs actually do at the street level becomes the *de facto* policy of the organisation as experienced by the clients. Such deviations are not necessarily the result of an overt intention to subvert official policy on the part of the public-sector workers as such but are a consequence of the process of implementation due to the fact that interpretation and choices are required in the practical work setting.

This thesis sought to utilise SLBT as a theoretical basis for a sociological examination of the police utilisation of the OBFA and further to test the continued relevance and utility of SLBT in describing contemporary police behaviour and the findings were set out in terms of four key themes of SLBT: conditions of SLB; routines and simplifications, discretion and policy-making.

### *13.2.1 Conditions of SLB*

In terms of the conditions indicative of Street Level Bureaucracies, the data suggests that many of the main conditions, such as limited resources, unclear goals and low visibility can be found in the modern football policing environment.

Limited and finite resources can be seen as a general and ongoing policing consideration in the current political and fiscal climate<sup>286</sup> and more specifically in relation to the policing of large crowds such as at football where there will always be a potential client-base far greater than the number of officers on duty. This was exacerbated to a certain extent in the circumstances of the OBFA where arguably a greater volume of crime was created due to the criminalisation of popular behaviours such as singing and a greater political imperative to take action existed, both acting to increase the strain on existing resources.

Lack of resources is likely to persist as an issue in the future. Budgetary constraints have been acutely felt in the public sector and there is little indication that this will change soon<sup>287</sup>. However, amelioration of the impact of this might be achieved by reducing the numbers of

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<sup>286</sup> “Efficiency” was cited as a major benefit of amalgamating legacy forces in 2013 and the PSoS was set a specific target of achieving £1.1 billion of savings by 2026 (<https://www.bbc.co.uk/news/uk-scotland-26690304>)

<sup>287</sup> Indeed, some Forces in England have stopped responding to some “lower level” crimes to save money (Hamilton:2017).

officers required at football matches in the future. This could be achieved through replacing officers with others such as Stewards, by fundamentally re-assessing the current risk model in terms of the actual risk involved and likelihood of disorder at matches or by reducing the level of offending. Efforts have already been made to decrease officer presence and some matches have been designated as “police-free” events however the quality of Stewards can be extremely varied and ultimately Stewards are held in far less esteem than police officers by supporters and so often struggle to influence the behaviour of deviant supporters. This is perhaps unsurprising given that, although Stewards technically have the power to eject supporters, they do not have a power of arrest or the underlying threat of legislative consequences. Furthermore, officers also arguably have a status that exists beyond the narrow confines of the football environment unlike Stewards who have no relevance or residual authoritative capital beyond that particular time and space.

Reduced offending in terms of sectarian behaviour can be achieved by influencing that behaviour. This might be done by introducing further legislation<sup>288</sup>, increasing sanctions (this could be in a criminal justice sense such as with sentencing or use of FBOs or could come from within football such as by the use of season ticket revocations, stadium bans or strict liability for clubs<sup>289</sup>) or by improving education in this field, both in a social sense to influence public attitudes and also to achieve a more nuanced understanding of the nature of such behaviour on the part of police and policy-makers. Given that the OBFA showed that such behaviour persisted even in the face of specific legislation which could potentially attract quite punitive sanctions (up to 5 years in prison), an educational approach would seem to be the most compelling.

Unclear goals clearly featured as an aspect of the use of the OBFA particularly insofar as there was not an unequivocally understood policy message. Ostensibly the OBFA was intended to tackle sectarianism at a basic, virtue-signalling level, however it was not introduced into an environment where sectarianism was a well understood or agreed upon phenomenon, a fact implicitly accepted by the Government given that so much research into sectarianism was

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<sup>288</sup> Although the OFBA has already shown that this is no guarantee of success.

<sup>289</sup> A drive to introduce Strict Liability into Scottish football whereby clubs would be held completely responsible for the behaviour of their fans, has emerged, supported by *Nil By Mouth*, referenced by the AGTS (Morrow et al:2015, Morrow:2017) and proposed as legislation by James Dornan MSP (Dornan:2016). This movement has gained some traction, despite the apparent inequity of punishing clubs for behaviour which occurs through no fault of their own (Law Society of Scotland:2017).

commissioned *after* the Act had been passed. Furthermore, the use of the inherently subjective concept of offensiveness stripped further precision from the process.

It therefore stands to reason that the effects of this could be diminished by clearer, better thought-out policy and law-making. Specifically, in the area of sectarianism this should involve greater research into the nature of sectarianism and the reality of the societal issues that it is linked to in order to produce coherent and informed future legislation (if required). Already productive research in this area has been conducted through the AGTS, attempts have recently been made to formally legally define sectarianism (Morrow et al:2018) and sectarianism was included in an all-encompassing review of Hate Crime completed by Lord Bracadale (Scottish Government:2018).

Lastly, visibility still influences the nature of officer/supporter interactions however visibility in the football environment is particularly enhanced, reducing the extent of the low-visibility interactions which facilitate unfettered use of discretion. This can be more pronounced depending on whether these interactions occur inside or outside the stadium. Increased visibility mostly has occurred due to enhanced levels of CCTV surveillance available to supervisors however other structural factors such as a spatially and temporally concentrated client-base and greater scrutiny from the public can also be relevant. This increased surveillance has impacted on officer use of discretion, a fundamental aspect of SLBT.

As this enhanced surveillance is particularly noticeable in the football environment it may not currently have the same impact on discretion applied in other day-to-day policing environments. However, in the future it is highly likely that technological advances will result in surveillance becoming more ubiquitous across the spectrum of policing activity. The circumstances of officer/client interactions have markedly changed since Lipsky first set out his theory due to technological advances and with cameras becoming smaller and more accurate in definition and storage systems becoming more reliable and capable of dealing with far more data than before, combined with a culture-shift in the use of CCTV and the advent of a “Surveillance Society” in late modernity (Norris and Armstrong:1999), surveillance and monitoring of officers by supervisors is only likely to increase in the future. Already the radios carried by all PSoS officers have a GPS function capable of pinpointing their exact physical location and body-worn cameras are becoming more and more utilised by police forces<sup>290</sup>;

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<sup>290</sup> Recently the Metropolitan Police announced a scheme to roll-out such cameras to all front-line officers. <http://news.met.police.uk/news/rollout-of-body-worn-cameras-191380>



increasing integration of such functions in the future, such as body-worn cameras which continuously “live-feed” to a central point for Command and Control purposes is surely inevitable. Furthermore, civilian use of camera technology is also ever-increasing with not only advances in mobile ‘phone technology but also the increasingly common use of dash-cams, *Go Pro* cameras by cyclists and even drones (Ackerman:2011). Thus, the increased utilisation of ever-improving surveillance technology in the future will lead to increased surveillance of officers beyond specialist venues and settings such as football and into the mainstream of everyday policing. This will inevitably result in further erosion of the low-visibility conditions required for the exercise of discretion thereby undermining the relevance of SLBT.

### *13.2.2 Routines and simplifications*

The conditions synonymous with SLBT set out above can all be identified in the football policing environment and accordingly routines and simplifications which Lipsky described as being the result of a process of workers trying to cope with the contradictions and challenges of their work by reducing “the strain between capabilities and goals” (Lipsky:1980:141)) created by such conditions could also be identified. In particular the routine categorisation of supporters by officers could be seen as such a process of simplification whereby re-conceptualisation of clients helps to justify private re-conceptualisation of work by SLBs (Lipsky:1980:152).

However, whilst such categorisation occurs and clearly falls within the SLBT model, this may not be the sole explanation of this process. Categorisation might simply be a pragmatic method of utilising policing experience and knowledge to operate more effectively under pressure to be efficient (Skolnick:1966) and link in with the desire not to hinder “normal” supporters unnecessarily in line with the notion of facilitation described in section 12.2.1. Alternatively O’Neill suggests that such categorisation can be understood as part of the process of creating informal guidelines for practical officer/supporter interactions (O’Neill:2005:76).

Nonetheless SLBT offers a persuasive explanation and such a theoretical mapping of process can be beneficial in recognising and acknowledging when and how the potential for undesirable consequences may arise, thereby affording the opportunity to take steps to address them before they occur. Therefore, the importance of this comes not so much from the issue of categorisation itself but from the comprehension that it opens the door to inappropriate or counter-productive use of resources, bias or prejudice on the part of the police, requiring

thought to go into ensuring that where it occurs it is evidence-based and helpful instead (Reiner:2000:91).

### *13.2.3 Discretion*

Although there are factors which tend to limit it, discretion remains a strong feature of the policing environment. Officers exercised discretion regularly and furthermore it was clear that there was an expectation on the part of senior ranks that the police officers under their command should use their discretion in given circumstances, in terms of using their professional judgement to choose between various appropriate courses of action, and that officers were fully aware that they were delegated a certain level of personal discretion. Officers were also aware that the ability to exercise personal discretion was reduced in the case of certain types of offending considered to be particularly serious, sectarian behaviour being one such case. This was understood by officers but it was nonetheless common to see Match Commanders use “Zero Tolerance” rhetoric as a mechanism to expressly limit the use of discretion.

General use of discretion could be influenced by the role and the location of the particular officer, in terms of expectation of proactivity and extent of visibility, and it is a main argument of this thesis that increased surveillance of officers, primarily by supervisors via CCTV, has served to reduce the use of discretion by those officers<sup>291</sup>.

Confirmation of the exercise of discretion is perhaps unsurprising given it is considered to be inevitable in policing by some<sup>292</sup> and Lipsky himself compellingly argues that discretion cannot be totally removed from areas such as policing as human interaction is required to a certain extent both to actually deliver services but also as many of these situations will always be potentially ambiguous and simply require human judgement (Lipsky:1980:199). There will always be an element of context-specific interpretation of laws required which makes discretion in policing unavoidable (Waddington:1999:43) and the issue is not so much the matter of discretion itself, but rather uncontrolled discretion (Davis:1969).

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<sup>291</sup> Care should be taken in drawing any firm conclusions from this study as both the relatively specialised setting and the limitations of the methodology are acknowledged and additional research would be required in these areas to strengthen and advance this hypothesis.

<sup>292</sup> Section 6.2.2.

#### *13.2.4 Policy?*

The data indicate that Lipsky's notion that SLBs are able to deviate from official organisational policy remains relevant to police officers operating in the Scottish football environment and specifically to when they were implementing the OBFA (notwithstanding any issues with accurately identifying actual policy intentions); however there is little evidence to suggest this is structured, different or consistent enough to represent new policy to fulfil Lipsky's original assertion regarding the creation of agency policy and to this extent SLBT falls short in accurately describing these processes. Latterly Lipsky himself expanded on what he meant by such a policy creation role and seemed to curtail it slightly by suggesting that whilst their "discretionary and unsanctioned behaviours ... [may amount to] ... patterned agency behaviour overall" they still operate "in the context of broad policy structures... [and do not] ... articulate core objectives or themselves develop mechanisms to achieve them" (Lipsky:2010:221-222). Thus, whilst sporadic instances of major deviation remain possible in this particular environment, it is difficult to stray too far or in too obvious a fashion. Improved surveillance of officers by supervisors means that there is simply much more scope to be "found out" and also in the case of contentious policy such as the OBFA, there is often additional scrutiny from empowered clients and the media<sup>293</sup>. In this way, whilst the officers utilising the OBFA could be seen as SLBs actualising policy, they could not be described as creating new or different policy in any coherent, meaningful way when doing so.

#### 13.3 Summary

In summary this study has found that the OBFA did have some significant impact on the policing of Scottish football. A more proactive style of policing was evident, reflecting a new or invigorated political will, and, while aspects of this may have slightly pre-dated the legislation to a certain extent, it was clear that the introduction of the OBFA nonetheless empowered officers to enhance and focus the drive to address sectarian behaviour and that they did this to a far greater extent than ever seen before. Furthermore, the net was cast wider than the "traditional" sectarianized behaviours of Old Firm supporters to include the "offensive"

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<sup>293</sup> In a general sense, additional external scrutiny of behaviour also exists from bodies such as the Police Investigations and Review Commissioner.

behaviour of supporters of any club, thereby subjecting a wider fanbase to this modified policing experience<sup>294</sup>. The Act also brought more attention onto the behaviour of officers themselves with officers, particularly those in FoCUS, having to adapt to operating under far greater public scrutiny. This additional interest has not greatly diminished with the demise of the OBFA and the political climate remains such that in October 2018 the PSoS felt it necessary to commission an independent review of the policing of football in Scotland (PSoS:2018).

Furthermore, it is argued by some that the OBFA resulted in a souring of the relationship and erosion of trust between supporters and the police (Pearson:2015). Whilst it is difficult to gauge the extent of this<sup>295</sup>, it is obvious that this became the case with at least some groups of supporters and as a consequence the management and control of those groups became more strained and problematic for the police.

In terms of what influence the police themselves may have brought to bear on how the OBFA was utilised, certainly officers were important actors in delivering the policy experience to the public, given that they were on the ground actually using the legislation. However, by employing SLBT as a tool for analysis it can be seen that, despite the ability to exercise discretion still offering officers the opportunity to stray from official policy intentions in the actions they carried out in certain circumstances, regarding the fundamental substance of the ostensible policy intention of the OBFA particular factors limited any such deviation to the extent that they could be regarded only as unstructured and episodic rather than consistently applied alternative policy.

Nonetheless, as policing will always be about interacting with the public to some extent, albeit recent years have seen mechanisms for the de-personalisation of police interactions increase, such as the greater use of call-centres or on-line reporting of crime, there will remain “an irreducible requirement that public employees interact with citizens to determine the nature and extent of public services they should receive and to provide those services through interactions with them” (Lipsky:1980:201). Where officers interact with members of the public and utilise legislation, often in dynamic and stressful situations, there will always be a need to assess and interpret the information available, within the particular context, and thereafter decide on and implement a course of action and, despite the emergence of factors which limit this, these interactions and decisions can still occur outwith effective supervisory oversight.

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<sup>294</sup> Albeit the police nonetheless still tended to focus efforts on Old Firm supporters.

<sup>295</sup> There is little evidence to suggest that the average supporter’s individual policing experience was greatly affected.

It is therefore unlikely that discretion (nor, consequently, the potential for deviation from the original policy intention) will ever be totally eradicated or controlled and as such a fundamental aspect of SLBT will persist, thereby maintaining the relevance of this theory to an extent in terms of offering an explanation for the behavioural process of police officers in contemporary society, if being less compelling regarding them creating new policy in doing so, albeit requiring to be modified to recognise the significant impact that improved surveillance in the modern era has had on curtailing discretion.

### 13.4 Legacy and future

The OBFA has been consigned to history however what lessons might be drawn from this brief and divisive period of Scottish socio-political history?

#### *13.4.1 Sectarianism*

It seems unlikely that interest in sectarianism will wane in the coming years, given the increased political and social attention in it that the OBFA period witnessed and the burgeoning anti-sectarian “industry” or “trade” (Waiton:2012, Devine:2014) of commentators, academics, charities and other funded groups which has developed and is sustained on the back of the framing of sectarianism as a substantive and substantial threat to societal harmony and cohesion in Scotland.

Arguably debate, legislation and even research into a “problem” can be understood as merely continuing the social construction of that problem rather than as a solution to it and the self-perpetuating nature of increasing anti-sectarianism endeavours leading to the production of more “evidence” of sectarianism, thus leading to the perceived need for more anti-sectarian endeavours, is likely to sustain both for some time to come. Furthermore, if football continues to see manifestations of ostensibly sectarian sentiment through songs, chanting and banners then although there may still be similar arguments over the extent to which this represents anything deeper in general society, such displays are also sure to continue to sustain and focus the efforts of those who would seek to challenge it. The AGTS was quite clear in stating the view that any strategic effort to address the remnants of sectarian sentiment in Scottish society

would not succeed without addressing the sectarian problems within and around football (Morrow et al:2015:7).

#### *13.4.2 Policy-makers*

The Act was argued to have both increased offensive singing at football (Celtic Football Club:2017:3) and to have reduced it (PSoS:2017b:2)<sup>296</sup>; the efficacy of the Act in achieving its basic policy goal therefore being in doubt. The OBFA also singled out football fans as the target for sanctions in relation to certain behaviour, which was inherently discriminatory. Whilst much of this behaviour clearly happens in a football context this is not exclusively so; thus, it could be argued that sectarian behaviour as such was not actually the primary target of the OBFA but rather supporters were and the legislation conceptually framed football fandom as the starting point for problematising the phenomenon of sectarianism. Thus, the inherent discriminatory nature of the legislation immediately rankled with many supporters by implicitly blaming them for what many perceive to be a societal ill at large, which served to alienate fans from both the legislation and those enforcing it from the start. Furthermore, whilst the provisions of the Act defined criminality in terms of existing legal concepts of hate crime and threatening behaviour they also introduced the subjective notion of offensiveness, which brought with it clear issues around defining what could legitimately be considered offensive and the right to freedom of expression.

If legislation has a part to play in addressing sectarian behaviour in the future then it is incumbent on policy-makers to learn the lessons of OBFA and introduce well-thought out, evidence-based and coherent legislation which avoids unnecessarily singling out certain tranches of society and which uses clearly defined concepts consistent with democratic and equitable principles.

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<sup>296</sup> Neither of the two parties offered any particular evidence for their assertions. As previously stated, annual statistical data in relation to OBFA charges and arrests were made available from the Scottish Government for some time but as also previously stated such bare data do not give a clear picture of prevalence as fewer or more arrests might be due to factors other than simply more or less of the behaviour in question. Certainly 71% of supporters recent polled felt that the Act had not been effective in preventing unacceptable behaviour at football (Supporters Direct:2017).

### *13.4.3 Policing football*

In policing terms, the Act was the backdrop to the development of enhanced corporate knowledge about the policing of football and of techniques and strategies to manage and moderate fan behaviour but was also argued to have been the basis for disproportionate police activity and the “harassment and intimidation” of supporters (Braiden:2013a). Therefore, good practice can be identified for continued use and the suitability of some practices might be worthy of re-evaluating entirely.

Salient lessons from the OBFA period include that a single unit (FoCUS) offering consistency, best practice and a single point of contact for effective liaison with external partners can be considered as a positive model. Also, as officer behaviour can directly influence the behaviour of crowds and in particular can provoke disorder from fans who were previously placid where disproportionate or indiscriminate police activity occurs, the practical theory behind such crowd dynamics should be more widely taught to all officers who perform duties at football matches and also regular and clear lines of communication with supporters through clubs and/or supporters’ organisations would facilitate the management of perceptions on both sides and emphasize the reciprocal nature of football policing and the counter-productivity of making the supporter/police relationship unnecessarily adversarial and confrontational.

Senior officers may also benefit from reflecting on how quickly the legislation, and consequently the implementation of the legislation by officers, became heavily politicised in nature, particularly in the context of the general increased politicising of policing with the advent of the PSoS (Scott:2015), and what role they might be able to play in mitigating the consequences for general officers of any such similar process in the future.

Football is a prominent and important social phenomenon which has a regular and considerable impact on policing in Scotland. As such it is a rich environment for research from which meaningful academic knowledge can be derived, which can both drive general theoretical development and also better inform and equip policy-makers and practitioners who operate within this setting. In particular there is great value in studying the theoretical and practical issues involved where policing coincides with policy and the reality of how policy is actually delivered within the football policing framework and the processes involved, in order to enhance understanding and to identify opportunities to improve and develop strategies for policy and service delivery in an efficient, effective and equitable manner. As the first football-specific legislation introduced in Scotland in many years the OBFA represented key new policy

and illustrated well some of the problematic issues faced by practitioners when operationalising such policy at the coal face. Through particular focus on the life and use of the OBFA, this thesis has sought to add to this academic knowledge and increase and develop understanding of both the policing of football in Scotland and also of notions of Street Level Bureaucracy. Despite the demise of the OBFA, the dominant position football occupies in contemporary popular culture and the demands it continues to place on policing, combined with an apparently enduring desire by the Authorities to regulate and control behaviour at football matches, including behaviour in areas that finds relevance outwith the specific football environment and which reflects wider social patterns (such as with sectarianism), will undoubtedly see the policing of football in Scotland remain a relevant and fruitful area of political and sociological interest for some considerable time to come.

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## **APPENDIX – Song lyrics**

This appendix sets out the lyrics of some of the contested songs referenced in the body of this thesis. There may be some slight variations or “add-ons” in usage unknown to the author.

### **The Roll of Honour:**

*Read the roll of honour for Ireland's bravest men  
We must be united in memory of the ten,  
England you're a monster, don't think that you have won  
We will never be defeated while Ireland has such sons.*

*In those dreary H-Block cages ten brave young Irishmen lay  
Hungering for justice as their young lives ebbed away,  
For their rights as Irish soldiers and to free their native land  
They stood beside their leader - the gallant Bobby Sands.  
Now they mourn Hughes in Bellaghy,  
Ray McCreesh in Armagh's hills  
In those narrow streets of Derry they miss O'Hara still,  
They so proudly gave their young lives to break Britannia's hold  
Their names will be remembered as history unfolds.*

*Through the war torn streets of Ulster the black flags did sadly sway  
To salute ten Irish martyrs the bravest of the brave,  
Joe McDonnell, Martin Hurson, Kevin Lynch, Kieran Doherty  
They gave their lives for freedom with Thomas McElwee.  
Michael Devine from Derry you were the last to die  
With your nine brave companions with the martyred dead you lie  
Your souls cry out "Remember, our deaths were not in vain.  
Fight on and make our homeland a nation once again !"*

## **The Famine Song:**

*I often wonder where they would have been  
If we hadn't have taken them in  
Fed them and washed them  
Thousands in Glasgow alone  
From Ireland they came  
Brought us nothing but trouble and shame  
Well the famine is over  
Why don't they go home?*

*Now Athenry Mike was a thief  
And Large John he was fully briefed  
And that wee traitor from Castlemilk  
Turned his back on his own  
They've all their Papists in Rome  
They have U2 and Bono  
Well the famine is over  
Why don't they go home?*

*Now they raped and fondled their kids  
That's what those perverts from the darkside did  
And they swept it under the carpet  
and Large John he hid  
Their evils seeds have been sown  
Cause they're not of our own  
Well the famine is over  
Why don't you go home?*

*Now Timmy don't take it from me  
Cause if you know your history  
You've persecuted thousands of people  
In Ireland alone  
You turned on the lights*

*Fuelled U boats by night  
That's how you repay us  
It's time to go home.*