



Select Committee on the European Union

EU Security and Justice Sub-Committee

Corrected oral evidence: Post-Brexit police co-operation

Tuesday 3 November 2020

10 am

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Members present: Lord Ricketts (The Chair); Lord Anderson of Ipswich; Lord Anderson of Swansea; Lord Arbuthnot of Edrom; Lord Dholakia; Baroness Finn; Baroness Goudie; Baroness Hamwee; Lord Kirkhope of Harrogate; Lord Lexden; Lord Polak; Baroness Primarolo; Lord Rowlands.

Evidence Session No. 1

Virtual Proceeding

Questions 1 - 26

Witnesses

I: Deputy Assistant Commissioner Richard Martin, National Police Chiefs' Council's Lead for Brexit; Sir Rob Wainwright, Former Executive Director of Europol.

USE OF THE TRANSCRIPT

1. This is a corrected transcript of evidence taken in public and webcast on www.parliamentlive.tv.

Examination of witnesses

Deputy Assistant Commissioner Richard Martin and Sir Rob Wainwright.

Q1 The Chair: Welcome to this public evidence session with the House of Lords EU Security and Justice Sub-Committee on post-Brexit police co-operation.

We are fortunate to have two witnesses with us this morning: Sir Rob Wainwright, former head of Europol, and Deputy Assistant Commissioner Richard Martin, the National Police Chiefs' Council lead for Brexit. Rob and Richard, you are welcome. You have both kindly given evidence already to our predecessor committees, but now that we are in the final days of the negotiation, your assessment of the implications of a deal or of no deal for police co-operation with the EU, and therefore for the safety and security of all of us, is very relevant and will be very helpful to us in assessing the outcome, whatever that is, in the weeks ahead.

As you know, this is a public session. It is being broadcast. We will take a record and we will send you that record for correction. Members will ask questions one by one, and there will be time at the end for supplementary questions from anyone who would like to follow up.

To get us started, we will talk quite a bit this morning about a range of institutions, a lot of acronyms and so on, so I thought it might be helpful to set the context for those watching. Could you both give us a couple of concrete examples of how police co-operation with the EU has helped law enforcement in the UK up to now, to make it a bit more real for everyone watching? How is the daily activity of UK policing being helped in concrete ways by working closely with the EU?

Deputy Assistant Commissioner Richard Martin: Yes, we use our EU powers extensively. To take something simple, the Schengen Information System, which is the system that EU countries put wanted people, stolen property or missing people on, is very much linked to our own national system. Every time one of my police officers is on the streets and checks a vehicle or a person, that automatically goes from the English system out into SIS, so we know whether that person is wanted overseas or is missing from somewhere, or whether the vehicle is stolen.

It is real-time as well: as soon as we circulate somebody, it goes on to that system. For us, information is key. The speed at which we get information and intelligence is key. It allows us to take some action right there and then, especially with that system.

If we move further out from there, if somebody is wanted on a European arrest warrant—whether we have circulated somebody we think is a suspect or one of the EU countries has—again, as soon as we check that on the PNC we will know whether that person is wanted or not. Then we can take some action and arrest them. They might be dangerous in the community, or they might be wanted in Poland—for instance, for burglary. My officers can arrest them straightaway and take them into custody, which diminishes any risk they may pose to anybody in our

communities. The process of extraditing them out to their own country to face justice is a part of that.

ECRIS, the European Criminal Records Information System, means that if my officers stop somebody or somebody is in custody, we can check whether they have previous convictions or are dangerous. We can then use a legal basis to deny them bail, for instance, so they are not on the streets committing more crime.

One of the newer elements is the Prüm decision, which allows us to search against European databases for DNA taken from crime scenes and so on. If, for instance, a foreign national has committed a burglary over here and left some DNA, we can immediately make that exchange, identify them as a suspect and take action. For us, it is about arresting people who could cause risks to our communities in many different ways. It is about recovering stolen property. It is the everyday action that most police forces would do and which the public would recognise.

The Chair: It is the real-time connectivity that makes a big difference in all those areas.

Deputy Assistant Commissioner Richard Martin: Yes, very much. Missing people is an important area of policing and takes up a substantial part of our time. About 250,000 people go missing in the UK a year. Some of those might go missing for an hour, a day or even longer, but as soon as my officer goes to a place, takes details of somebody who is missing and puts them on to our own computer, it is instantly available to 27 member states to see. If that person has gone overseas, they can be found and stopped if foreign law enforcement does a check. Yes, real-time is important for us.

Q2 **The Chair:** Rob, from your vantage point sitting in Europol, of what practical importance is the EU system to British policing?

Sir Rob Wainwright: Richard has given some good examples of how it affects UK policing at a practical day-to-day level. If you go up the food chain of criminal activity—major organised crime syndicates trafficking drugs to the UK or smuggling people, and large cybercriminal syndicates operating on the dark net, for example—the UK, through institutions like Europol, is able to run some 5,000 or more cases a year, all of them very significant in scale and of huge global dimensions; ultimately, in many cases in my experience, leading to significant results such as takedowns of those cybercrime dark net websites and the dismantling of large criminal syndicates.

From the examples on the streets of London or in other parts of the United Kingdom, all the way through to large global criminal cartels, for example, the context that we have been seeing is a quickening change in the global criminal landscape, one that has become much more identified with its international nature and the increasing cross-border movement of criminals and terrorists and their illicit commodities.

More and more, therefore, the criminal impacts on the United Kingdom, and indeed on other European countries, are shaped by a globalised criminal economy. That has therefore pushed a demand within UK policing to reach out much more for more effective co-ordination with our European partners. That has led to much greater use by the UK law enforcement community of the range of instruments that we have mentioned already.

The story of the EU's engagement in this area over the last 10 years is quite a success story, for one part of the EU at least, in the way it has met that rising demand, which has led to a significant growth in very practical pan-European measures to meet that demand.

From the databases that Richard was talking about to these large-scale co-ordinating platforms at Europol, and indeed other areas, the UK policing community is getting real-world impacts and benefits from its current engagement with the EU.

The Chair: Thank you. That sets the scene well and we shall dig down into each of those areas.

Q3 **Baroness Finn:** Good morning, Rob and Richard. My question is very simple and straight to the point. If there is no agreement between the UK and the EU on police co-operation, what will the policing landscape of the UK look like on the morning of 1 January 2021?

Deputy Assistant Commissioner Richard Martin: From a practical policing point of view, policing will continue and carry on, and we will use the fallback measures that we have been honing over the last 12 to 18 months with Council of Europe conventions and elements like that.

The big difference will be that our work will be slightly more complex. We talked earlier about real-time information. We will not have it real-time in the same way we do now if we leave without a deal and lose those tools. We will rely on different systems, databases and agreements with partners over information sharing. It will add more complexity to the landscape. It will make things more bureaucratic, less visible and slightly slower than they are now, and we will have to rise to meet that occasion. It will be more complex than it is currently.

Sir Rob Wainwright: Richard will be much more on top of the detail than I am. From 1 January, of course, the UK law enforcement community will have done its homework. It has been working carefully for some time now on what the contingencies look like. These will, I am sure, be in position and ready to go on New Year's Day. They will provide some mitigation for the effects of losing these instruments

Richard mentioned the convention of 1957. We have Interpol, which is somewhat similar although in important respects markedly different from Europol. None the less, it is a global platform for international police co-operation. The UK policing community still has a range of bilateral liaison officers around Europe. So it is

important that we do not exaggerate and say that we will go down to nothing. That will not be the case.

That said, I agree with Richard that, taken together, these will not fully compensate for the loss of access to EU systems, many of which are unique in nature. They might not have developed in the first place if they did not add real value to what was already in place. They cannot be easily replaced or replicated, certainly not by providing the same benefits. Richard talked about the importance of speed of transmission of data and intelligence and the uniqueness of some of the systems. Some of that will be lost.

There is also the wider point that strategic resilience is at stake in the UK policing community. To give a specific example, if a sexual offender in Germany is wanted by the German authorities and they suspect he might have fled the country and is somewhere else in Europe, if they know he is travelling on a flight to Heathrow or going to the United Kingdom via other means, Brexit or no Brexit the German authorities will alert the UK authorities directly.

Very often, by the nature of the growing cross-border dimension of how criminals operate, the authorities do not know where they have gone. The point of such a comprehensive system like the Schengen Information System and what Europol provides is to provide that strategic resilience, so wherever he may pitch up you have instruments that can help you identify and see the unknown, and can provide you with the hidden connections that are otherwise not revealed.

We might lose a touch of that strategic resilience, which is important as we try to fight the modern nature of crime especially.

Baroness Finn: Thank you very much. That is really helpful.

The Chair: There are a lot of issues there.

Q4 **Lord Polak:** Good morning. I suppose we would all like to believe, and we sincerely hope, that for the safety of all citizens the good and close relationship will not just continue but grow. I hear the point you make about strategic resilience, but even though Europe has come together in this regard now, the plane may be going to the United States or somewhere in the Middle East, so one presumes that there will be that connectivity continuing.

Can you think specifically of any other EU policing measure that is so important and vital to UK law enforcement that we would perhaps miss out on, other than the strategic resilience you have mentioned?

Deputy Assistant Commissioner Richard Martin: In relation to specific tools, there are five areas that from a geographical policing point of view we really value and are important.

At the moment we have the European arrest warrant, which is effective. It allows us to arrest immediately and then extradite people who are wanted overseas.

In the last couple of years, we have had the European investigation order, which has speeded up the process when colleagues overseas want things to be done for them on a legal basis. That has been very important.

We mentioned the Schengen Information System. To put that into context, we have over 4 million alerts on the Schengen Information System about people, property and things that my officers need to look at. We checked it 603 million times last year because it is integrated into our system. That speed and agility gets driven well from Schengen for everything that Rob was talking about, from serious and organised crime groups all the way down to missing people.

I know that Rob will talk about Europol and Eurojust, but they are really good institutions. Eurojust is the vehicle that allows us to carry out joint investigations with partners. Again, that speeds up the investigative process, because it has a legal basis underneath it.

The Prüm decision, although the new kid on the block, for want of a better phrase, has been good. We have identified over 500 suspects from DNA seized as a result of searching against Prüm.

They are the top ones that I would say are well used by us. Again, yes, there are contingencies we can fall back on, but when thinking of all the things that have come from Europol and the EU Commission and the integrated way we work, those would be the ones I would highlight.

Lord Polak: Are any of those still open to us post 1 January? On the officer-to-officer and force-to-force level, are you able to continue with any of those, irrespective of the political world that is going on around you?

Deputy Assistant Commissioner Richard Martin: That very much depends on whether there is a negotiated outcome or not. Even with a negotiated outcome, we will not have the European arrest warrant anymore. We probably will not have the European investigation order. SIS will be quite challenging to retain even with a deal.

If we go without a deal, we will not have access to any of those. By natural default, we will not be part of those institutions. Even our people in Europol would have to decamp out of the building and we would have to start negotiating a way back in without a negotiated outcome.

Sir Rob Wainwright: I will not repeat the points that Richard and I made earlier, but I agree with his list of the top few that are the most important.

Of course, it depends on whether there is a deal around this. My hope, like everyone's, is that there is. We may talk later about Europol. There are some useful precedents that the UK could draw on here.

I was struck by what you said in your introductory remarks about how you would expect the co-operation still to grow and expand further. That is a good point. We

are at a stage now, at the eleventh hour, where we need some kind of level agreement that gets us to a point of helpful transition and continuity. It might not give us quite the same as what we have now but will set in place the broad framework of what is still pretty good. I am still hoping that is the case.

That does not have to be the end of the story. If we can get to 1 January with a workable agreement, we may then look ahead to a period beyond that where the relationship can continue to grow, not least because we remain neighbours with a shared requirement and enterprise to tackle crime and terrorism. It will not be the end of the line. We just need to get to a point where we can manage this perhaps difficult point of transition in our relationship.

Q5 Lord Polak: My last question will have a simple yes or no answer, I guess. Have you been able to make those points to the Government and the negotiators?

Deputy Assistant Commissioner Richard Martin: Yes, very much. We have had some good contact on a daily—almost hourly—basis with the Home Office team and the negotiators. About a year ago I went to see David Frost with Lynne Owens from the NCA and we had a good and frank discussion about the tools we think are important.

At each stage in the negotiations, we have been in the background giving tactical advice and guidance and practical examples to the team doing the negotiating to say, “This is really important”, and, “This is the impact on policing”. That interaction has been very good and it has been a very mature relationship. We have been able to outline that.

My last point, which I think Rob has covered, is that all my interactions with all my foreign law enforcement colleagues have always been positive. There is an absolute willingness to work with us in the future. It will just be the legal basis that we will need to iron out to make that happen.

The Chair: To extend Lord Polak’s question for one moment, Richard, I remember you telling us earlier that the UK police used the Schengen Information System 600 million times in 2019. I do not know whether we have full access to it or zero access to it, or whether there is some intermediate non-member-state partial access that allows us some connectivity. If the screens go completely dark on SIS II because we are no longer a member of the EU or of Schengen, which Ministers have implied to us in the past, that would be quite serious for UK policing, would it not?

Deputy Assistant Commissioner Richard Martin: Yes. We are either in it or not in it, for want of a better phrase. There is no halfway house. We are either in Europe and in Schengen or we are not. All the work we have been doing over the last 12 to 18 months has been to get policing prepared. We call it double keying; we are putting the most important alerts from SIS also on to the Interpol system, so that if it is literally switched off at 23:59 hours on 31 December, policing will still have access to the alerts that we consider to be the most important. We have been working quite hard with the NCA to get policing to that position. I am comfortable that we

have what we need on the systems, but it is still a capability gap and it will have a massive impact on us.

Q6 Lord Lexden: I have two large and obvious questions on which you have both commented to some extent, but I wonder if I might invite you to amplify what you have said already.

What will be the main challenges facing United Kingdom police when EU collaborative measures are no longer available to them? Secondly, how can those challenges be mitigated?

Sir Rob Wainwright: Loss of intelligence I would put at the top of the tree. It is important to caveat that by saying that that impact would be felt much less on terrorism. As the Committee knows, much of counterterrorist co-operation with our European partners falls outside the EU structures. An important part of it still falls within them, but the majority of it does not. Loss of intelligence would certainly be strongly felt in the areas of serious and organised crime, cybercrime and many other areas.

Less intelligence means that you see less of the terrain of the serious criminal activity that you are seeking to police. You simply go darker in your view and vision. That has implications, because it diminishes your tactical opportunity to engage with the problem. You see less criminal activity, so you have fewer opportunities to control it.

In tactical terms, even with the opportunities you still have, you will have fewer instruments available to do something about it because you are no longer part of the pan-European co-operation measures that are available. You will have the loss of strategic resilience that I talked about earlier, as well as the loss of the ability to influence the way pan-European co-operation measures grow in the future.

Those are the main challenges. They can be mitigated by turning to alternative sources of information sharing and intelligence. I mentioned the important caveat in relation to terrorism and organised crime. Interpol has some helpful and important capabilities to offer, and the bilateral liaison officer network will continue to grow. Across the board, in all those aspects, you will get a slightly less punchy version of what you have now, but that at least mitigates for some of the loss.

Deputy Assistant Commissioner Richard Martin: I can very much echo what Rob has said. That filters its way right down to the front line on intelligence and information. It will always be critical for us to understand the picture and the threat. Without the information, it is difficult to have a proper example of it.

That said, in mitigation, there are Council of Europe conventions whereby a lot of the things we can do now that we will still be able to do. My strapline has always been that it builds delay into the system and makes things less visible.

You talked about mitigation. There are third-party countries in Europol and they are still able to influence operational decision-making, so I see no reason why we could not still do that in the UK as long as we have a reasonable footprint there.

The other thing is the International Crime Coordination Centre, which we have funded and which has been up and running for about 15 months. That has driven activity in using European tools and giving forces and officers a much bigger understanding of the tools that are available to them and, indeed, even ones that we may have to fall back on.

We have just received funding to start a national extradition unit, which we will have up and running before the end of December. The idea is that if we do fall back on Council of Europe conventions on extradition because we do not have the European arrest warrant, it becomes much more complex. We will have operational teams working from the International Crime Coordination Centre to co-ordinate the arrest and extradition of individuals. We will make it more streamlined for forces as much as we can.

In the last 18 months, we have been trying to enhance all those fallback plans. We are accepting there is a capability gap but trying to close that gap as much as we possibly can, which you would expect us to do.

Starting in the New Year, we will have designed with the College of Policing training for 43,000 investigators and 120,000 officers and staff. This is the first time we have ever been able to co-ordinate all this training and make it bespoke to individual roles. The aim is to get people in a good place to get good understanding.

With the ICCC, with the national extradition unit and with all the work we have been doing, we have certainly pushed ourselves into a much better place to be prepared for whatever happens after 31 December.

Q7 Lord Dholakia: Can I come back on the issue of co-operation? Michael Gove MP told the House of Commons recently that, “we can co-operate more effectively to safeguard our borders outside the European Union than we ever could inside”. Do you agree with that statement?

Sir Rob Wainwright: If we have more freedom to set UK border control policies that are outside the EU framework, particularly on the extent to which we restrict freedom of movement, that potentially gives us more options to manage border security, although I should stress that that is not the front-line area of my expertise.

On the other hand, as we have all been saying, the access that border officials currently have to instruments like the Schengen Information System provides everyday value in the way Richard has been describing. We should not underestimate the impact of those losses, either.

It is a mixed bag, I guess, but we have been laying out this morning that there will be important impacts from losing those. That is as much as I can say about an area that is not my primary expertise.

Lord Dholakia: Issues such as human trafficking, child sexual abuse and cybercrime have an international dimension. Will our effectiveness be affected on these sorts of issues if there is a lack of co-operation between the EU and the UK?

Sir Rob Wainwright: Those examples often have important features that go far beyond Europe in terms of the source countries for people who are trafficked to the United Kingdom, for example. It is the same with drugs. Cybercrime by its nature is a more global problem. That speaks, therefore, of the need to ensure that the UK, when engaging in its entire police co-operation efforts, does much more than just engage with its European neighbours.

Yes, the importance of continuing to use Interpol and continuing to develop the transatlantic relationship is important. But in my experience from a decade or so of working with the EU, the specific measures, for example through Europol, have allowed a more intensive focus on those crimes within Europe through the effective sharing of information and co-ordination of significant takedown operations, in some cases involving 30 countries or more.

Those kinds of measures have given considerable operational value. Again, there are benefits that should not be underestimated and would need to be compensated for in different ways after 1 January.

Lord Dholakia: Richard, a royal commission on criminal justice is being set up. What evidence would you give on co-operation with the EU?

Deputy Assistant Commissioner Richard Martin: I have not been invited, but if I am I would say that our integration and our relationships with EU law enforcement partners are strong. Sir Rob was in Europol for a long time. I visited there regularly pre-Covid.

The operational relationships are strong and good. This is about a legal basis that allows us to do the things that we currently do as opposed to an unwillingness to want to work with us. That is a lot about influence and the way British policing is still seen as high on the scale of effective policing. I would say that our relationships are strong and that we just need to make sure of our strategic influence. We need to still have the ability to project our influence overseas, because that will allow us to pick up the information, the intelligence and the systems to tackle some of the global matters you discussed.

Lord Dholakia: I have been looking at some of my emails that have just come in. An organisation called Best for Britain Ltd is responsible for a data control survey, which has effectively shown that 79% of more than 8,000 people who were recently interviewed support active co-operation between our country and the EU, and 79% of leave voters also support this particular thesis. Have the Government got this wrong? I do not know who wants to answer.

Sir Rob Wainwright: Probably neither of us, actually, because it is quite a political question. I will not speak for Richard, but I certainly will not comment on government policy in relation to that.

I guess it reflects a public desire that the effects of some of our co-operation with Europe are important to British livelihoods, and in this case, of course, we are talking this morning about Britain's security, which underlines the importance of us reaching a negotiated settlement.

Q8 **Lord Arbuthnot of Edrom:** First, I declare an interest in that my wife is Chief Magistrate of England and Wales.

To some extent you have answered this question already. It is about what happens in the event of a no-deal Brexit. The Government have told us that they have well-developed and well-rehearsed plans in place. You have told us about some rather encouraging work you have been doing over the last 18 months.

Richard, you referred to double keying and working with the NCA to put some of your work into Interpol, for example. What proportion of your work has been double keyed in that way?

Deputy Assistant Commissioner Richard Martin: Numbers-wise, we have put on it people who are wanted overseas and people who have been missing for some time, on the basis that if somebody in any of those countries comes across those individuals they will know there is a red notice for an arrest or a missing notice.

It is not the same kind of system as SIS, but it is an alert system. We have put on probably 2,000 of the main ones that we think are key. Every month, we review with forces individually who they have missing, who is wanted, and we put certain related details on to it. We have nearly 7,000 new Interpol licences, so that forces can use the Interpol system a lot more.

This has all been about preparation and getting those elements there for 31 December in case access gets switched off.

Lord Arbuthnot of Edrom: You referred to the national extradition unit. Could you give us a bit more detail on that? How would that work in the event of a no-deal Brexit?

Deputy Assistant Commissioner Richard Martin: This is all about the fact that we know we will not have the European arrest warrant after 31 December, with or without a negotiated outcome. Our preparation has been about going to the fallback measure, which is the 1957 Convention on Extradition. That is the process we use for pretty much all other countries outside Europe. It is more complex, because it means that people have to be physically arrested and put before a magistrates' court in London, and then the whole process of extradition takes place. A lot of those requests are complex by nature, and forces are not geared up to do that with the demand going up.

We were clear with the Home Office that for policing we needed a centralised approach and a set of experienced people in three operational teams across the country to do all the physical elements of locating, tracing, arresting and extraditing, with all the warrants that are required when using the Extradition Act. The idea is that we speed up the process as much as we can, albeit that we know it will be slightly slower than using the European arrest warrant.

One of the negotiations going on at the moment is trying to secure the Norway-Iceland agreement, which I am sure you will know about. For us, that is good. It is not the same as a European arrest warrant, but it gives officers the ability to make an arrest on the ground without a warrant as they can do with the European arrest warrant.

We know there are challenges. One of the wonderful things about the European arrest warrant is that there is no nationality bar on extraditing people, whereas with the 1957 convention and the Norway-Iceland agreement, some countries may refuse to extradite their own nationals if we want them. There is a process for the Crown Prosecution Service and for us to use to look at how we might prosecute.

We have about 40 staff in total doing that. We are confident that that will allow policing across the country to up its game on this and to be prepared.

Lord Arbuthnot of Edrom: What is your overall assessment of these well-developed and well-rehearsed plans that we have been told about?

Deputy Assistant Commissioner Richard Martin: We are in a good place. We know there will be a capability gap, and there is no getting away from that because some of the systems are not the same.

We have been able to hone those contingencies. Interpol has a much more manual process for putting somebody on the system than SIS does. We have done some work with the National Crime Agency to semi-automate some of those elements. The whole mission that I have set for the team on this has been about finding a way not to increase workloads on forces that are already busy but to get these capability gaps closed as much as we can. The transition period has given us the opportunity to continually drive different ways and different approaches. I am comfortable with where we are on contingencies.

Lord Arbuthnot of Edrom: Rob, do you agree?

Sir Rob Wainwright: I am in nothing like the position that Richard is in to comment on that, as I am not engaged in that kind of work. It is encouraging to hear that, though.

Let us remember the context. The European arrest warrant was born partly out of the frustration countries in Europe had with the slow and clunky nature of the 1957 extradition process. It has grown in a significant way to become much quicker and no longer plods through the diplomatic channels.

As Richard has described, there is perhaps a more modern way to refresh those instruments. We do not necessarily have to go back to something that is as slow and clunky. No doubt Richard and his teams will have learned a lot from how the European arrest warrant has worked and can borrow the benefits of that as much as possible.

I am not surprised to hear that the modern British policing capability is indeed ready for something like this and to make the best of what they can do. We are some way in between. It will not be quite as good as it is now, as Richard made clear, but it may not go all the way back to how it had to be 20 years ago.

Q9 Lord Anderson of Swansea: Slow and clunky is second-best. You have mentioned already that you have fairly regular consultation with the Home Office in general. Does that extend to a no-deal possibility?

Deputy Assistant Commissioner Richard Martin: Yes. We have gone through a number of scenarios with the Home Office. We were asked for feedback on every occasion when it has gone through the process. To be fair, the Home Office has been completely receptive to the things we highlighted and spoke about earlier, the important tools that we want. If the negotiation is successful, that is great for us. We are with them every step of the way anyway. The engagements have been good, and I am comfortable that they have taken in our issues and concerns.

Lord Anderson of Swansea: But there will be a void. To what extent are you satisfied with the preparations for no deal?

Deputy Assistant Commissioner Richard Martin: The preparations I have been involved in are focused on the policing powers and everything else. We have them in place. The capability gap tends to lead to a lot more manual elements to some of the processes that we once enjoyed. There will be more work on forces, which is why, in the International Crime Coordination Centre, we have been driving this activity to minimise that.

From a contingency point of view, at 00:01 on 1 January, policing will continue. The ICCC will be running 24/7 as it is now. We will have all our plans in place. We will be there to support forces in whatever they are doing. We will have the national extradition unit ready to help to extradite people. Although there is more work and there is a capability gap, I am comfortable with where we are and the preparation we have done.

Lord Anderson of Swansea: There is a capability gap and co-operation will continue, but it will be less smooth and more clunky, and it will be second-best.

Deputy Assistant Commissioner Richard Martin: Definitely less smooth and definitely more clunky, yes, and not the same capability that we have now, which is why we are trying to close that gap as much as we can.

The Chair: Could you give us a little more detail on the International Crime Coordination Centre? It is encouraging that you have had the time to get there. Do

you have other liaison officers at the International Crime Coordination Centre with you?

Deputy Assistant Commissioner Richard Martin: Yes, the British police officers who are here in the International Crime Coordination Centre come from all over the UK and are experienced in using international instruments, which is why we brought them in. They are giving both strategic and tactical advice.

We also have the foreign law enforcement community in London. All the embassies that have foreign law enforcement officers attached to them have the ability to sit with us, which they do regularly. We have officers deployed all around the country within the NPCC regions for support. We have access to pretty much every country by picking up the phone, because they come and work here. We also access the NCA's overseas network and the counterterrorism overseas network. Our links are good. We can link all over the world instantly and provide advice instantly.

Q10 **Baroness Hamwee:** This question rather follows on from Lord Ricketts's question. In February, which feels a long time ago now, the Prime Minister talked about having a pragmatic agreement, although he made the usual caveats about the European Court and the EU legal order, as he called it.

What does a pragmatic agreement on security and justice look like? Richard talked quite a lot about what police forces are doing. Is there more that you want to add in that description? Is the Home Office providing additional resources for the various projects you have described?

Deputy Assistant Commissioner Richard Martin: On resources, we received funding about 18 months or two years ago to set up the International Crime Coordination Centre. That allowed us to create this centre of expertise. Recently, we received funding for the national extradition unit, which is why we are now recruiting, and they will be in place by the end of the year in preparation for when we exit, which is good.

These are additional new resources for policing to do that. The important thing will be that we continue to be funded as we move into 2021 and beyond. That has allowed us to do a lot of the work that we have done on streamlining processes and designing training. From a resourcing point of view, it has been extremely useful. We have now created something that policing always needed but did not realise until we entered this challenge.

Baroness Hamwee: Is there anything more that fits within this aspiration of a pragmatic agreement?

Deputy Assistant Commissioner Richard Martin: Pragmatic for me is about trying to maintain the legal framework. Maintaining everything I can currently use would be wonderful.

In relation to anything extra, mutual legal assistance will impact on policing. We will go back to a more bureaucratic, physical, letter-writing approach to legal assistance.

That adds time. We have estimated that it adds eight to 10 hours to an application. That also ought to sit centrally. I have been badgering the Home Office to fund that element so that we can also pick that up for policing.

We have not had that funding yet. We ought to have it. It would aid policing. Other than that, the Home Office has been supportive and has allowed us to do all the work we have done in the 18 or so months to get policing to where it needs to be.

Baroness Hamwee: Good. Is the caveat about the court and the EU legal order likely to prove a stumbling block in practice?

Deputy Assistant Commissioner Richard Martin: That is for the negotiators. From a pragmatic policing point of view, there is always a court for a right of appeal wherever that may sit. For me, it is a matter for them and not something I can comment on, I am afraid.

Q11 **Baroness Hamwee:** Rob, if you have anything to add to that about pragmatism, we would be glad to hear it. I have a question about any bilateral arrangements. You mentioned bilateral liaison officers. I realised that I am not clear about what scope there is for the 27 to enter into bilateral arrangements, given that they are and will remain part of the EU.

Sir Rob Wainwright: In terms of pragmatism, we are dealing with a pragmatic part of life here: the business of security, of tracking down and arresting criminals and preventing terrorist attacks. There is a real-world, driving need to get this right. But that sense of pragmatism will be felt on both sides, because it applies as much to our European friends and neighbours as it does to the United Kingdom. We all know that.

There is a recognition that the legal and political challenges we face to getting the right kind of deal—Richard has spoken about those—involve important precedents that might be difficult to overcome. We should not underestimate them.

In pragmatic terms, however, the UK leaving the EU is without precedent. The proximity of the UK's engagement in the European security environment is also without precedent. To use Europol as an example, the volume of intelligence information that historically the UK has exchanged with Europol is at least five times greater than any other non-EU member state, including the United States. It is of a different order of magnitude.

Although those precedents are important and will have an impact, in the end we are entering new territory for all sides. We have to get to a place where the sense of a pragmatic agreement to preserve as many of those possible real-world effects will drive a sense of getting this right.

Bilateral liaison officers have always been a feature of international police co-operation, at least for the last 30 or 40 years, and the United Kingdom has maintained a healthy bilateral liaison officer network around the world, including in Europe, alongside its increasing engagement with institutions like Europol. It is true

that, over the last 10 years especially, the size of that network at least in Europe has diminished as more and more of the work has gone through a more efficient process at Europol. Richard will know the current status better than me, but it remains in place and can easily be augmented.

The culture and the practice are there for all countries to do that. It is relatively easy, although more expensive, for the UK to send police attachés to Berlin, Paris, Rome and other places and to be well received and immediately well integrated into the law enforcement communities in those capitals. It is more expensive and by its nature one-dimensional in the sense that it allows you to deal only with Anglo-Italian police requirements in the case of Rome, rather than through a more common European portal at Europol. None the less, it still adds up to being a future instrument that could be quite important.

Q12 Lord Rowlands: I will preface my questions on the European arrest warrant with a piece of information. I presume there has been a dramatic reduction in the number of European arrest warrant applications since the Government announced they were withdrawing, but there must be some still in the pipeline. What will happen to them after 31 December?

Deputy Assistant Commissioner Richard Martin: We have not seen much of a rolloff, because we have been pushing forces to use the European arrest warrant while we still have it. We have done a lot of work to maintain and even improve the way we use it at the moment. All those currently in the system have already been put on the 1957 convention. Those in the system will remain in the system. Nobody will be released. When we first thought we were going to leave with no negotiated outcome last year, we went through a whole process of making sure that everybody who is on the European arrest warrant is also on the Interpol system and on the 1957 convention. That was to reduce risk and harm to communities.

Lord Rowlands: I see. Does that mean they will go through the clunky process?

Deputy Assistant Commissioner Richard Martin: Yes. Those who are in custody will remain in custody and will not be released. Those who are wanted on European arrest warrants will switch to whatever we have after 31 December. They are on the 1957 convention now, so there is no risk of them not being enacted. If we have a Norway-Iceland agreement or anything else like that, it will be slightly more bureaucratic and clunky, yes.

Lord Rowlands: How important is it for us to negotiate a replacement for the European arrest warrant?

Deputy Assistant Commissioner Richard Martin: For me, it is important. We know we can rely on the 1957 Convention on Extradition, but we also know that that comes with challenges. For us, our contingency planning has been about trying to hone, improve and enhance the contingencies we go back on. I would advocate for as efficient a system as there can be that allows my officers to identify an individual who is wanted, to arrest them immediately without having to get a warrant, and for

them to speed through a court process. For us, that efficiency and fleetness of foot is important. Whatever is negotiated, I would want to have that.

Lord Rowlands: Would it be possible to replace it if the police were unable to maintain access to Schengen II?

Deputy Assistant Commissioner Richard Martin: No. Schengen II is the system that allows us to know about them speedily. Interpol has a red notice, which is an arrest notice, so we would go to Interpol instead. I gave you the example earlier of double keying. Everyone who is currently wanted on a European arrest warrant we have put on an Interpol notice in case that is switched off. SIS is a vehicle for information, and we can go back to Interpol. The legal basis to arrest is slightly different.

Lord Rowlands: How possible would it be to build upon what must be already quite close working relationships between prosecuting authorities as a result of the use of the European arrest warrant? Could we develop a series of bilateral arrangements to avoid the long convention type of process?

Deputy Assistant Commissioner Richard Martin: The convention is the legal basis on which we do it. There are ways of speeding up access to information and being given an early warning that somebody is coming over. The court process itself is the court process. That is also for Crown prosecutors to drive quickly. There are ways to speed it up, but it is still a clunkier version than we would expect. With the European arrest warrant, we can still extradite people here to face justice. Some countries like Germany do not have that in their constitution if you do not use the European arrest warrant. That would involve more work and more liaison between the Crown Prosecution Service and overseas prosecutors to prosecute the offence overseas in that territory.

Lord Rowlands: Is there any danger that we will go back to the old Costa del Crime scenario?

Deputy Assistant Commissioner Richard Martin: I hope not. It will be about effective relationships with people. All our overseas partners still want to work with us. There is a legal basis to extradite people. Yes, it might take a little more time, but our willingness and our reach overseas will make sure that that does not happen.

Even here, I have been asked before about whether this will be a safe haven for criminals. We have pushed so hard on getting the Interpol notices, and the International Crime Coordination Centre has worked with forces to make sure that in an ideal situation extradition does not drop. I would like to maintain the same numbers even without the European arrest warrant. I want to make sure that criminals know that this is not a safe country to come to.

Lord Rowlands: When we joined the European arrest warrant, we collected something like 60 wanted people from the Costa del Sol. Will you still be able to do that if it arises? Is there still a problem with people hiding on the Spanish coast?

Deputy Assistant Commissioner Richard Martin: There are probably criminals hiding in most parts of the world if they can keep away from us. Our current links with overseas partners are good. I do not see a situation where people can hide on the Costa del Crime. The National Crime Agency has an enormous network of overseas liaison officers who work closely with partners such as the Guardia Civil and the national police in Spain. That integration is good.

One of the contingency plans of the National Crime Agency if we leave without a deal is for a surge in overseas liaison officers who will go into Europe. They have already identified where it makes the most strategic and tactical sense. They will be deployed immediately. They have already been trained and selected. That is our projection for our ability to stop there being a Costa del Crime in the future.

Lord Rowlands: Have you identified priority areas for this? Spain? Poland?

Deputy Assistant Commissioner Richard Martin: Yes, absolutely. The National Crime Agency owns the officers. They have already done a lot of work on threat, harm and risk in the key places where they need to do capability building. That is all ready to go. People are identified and the countries they will go to are already prioritised, yes.

Q13 **Lord Rowlands:** Good. Finally, will you clarify for us how different the Norway-Iceland agreement is from the European arrest warrant?

Deputy Assistant Commissioner Richard Martin: It is fairly similar, in essence. The Norway-Iceland agreement, more effectively than the 1957 Convention on Extradition, allows a power of arrest immediately. You have probably heard me give evidence before that, at the moment, with current legislation, if my officers stop somebody on the street and we have to rely on the 1957 convention, they need to have a warrant to arrest that person, which means running off to a magistrate. It is a clumsy and ridiculous process, if I am honest.

The Norway-Iceland agreement allows us to arrest at a specific time and place. It has a lot of similarities with the European arrest warrant. The only thing it does not have is that countries do not have to extradite their own nationals. They can choose not to. With the European arrest warrant, that is not the case.

Lord Rowlands: Thank you for the evidence you have given. I was rather pessimistic about leaving the European arrest warrant, but it does not sound as bad as all that.

Deputy Assistant Commissioner Richard Martin: No, not if we can secure something like the Norway-Iceland agreement and if we can get the circulations right. Of course, we had the conversation about SIS being very effective at circulating. I know the Home Office is working on a new system to share information called iLEAP which will try to be similar to SIS. It is more about the vehicle to spread the information and the alerts and the awareness. That closes that gap fundamentally.

Q14 **Lord Kirkhope of Harrogate:** Good morning, gentlemen. I have been going back

over the evidence you gave to our predecessor committee. I seem to get the feeling that your evidence this morning is rather more cautious. Indeed, I suppose I will put it down to pragmatism, which is probably a good thing in the circumstances we find ourselves in, as Rob certainly knows as one of those who was putting together virtually all the European instruments that we have regarded as being indispensable.

I am a little concerned that we seem to be of the view that we will be able to manage much as we have before using different tools, whereas in fact the evidence we previously received was that it was pretty vital that we continued to have real-time access to databases. A lot of these instruments that we have been involved with—PNR, SIS, the EAW and of course using the GDPR—have all been absolutely vital tools in detecting terrorism and criminality.

Bearing in mind that the Government still indicate to us that they expect to have some arrangement in place so that we can at least exchange basic data, how does this seem to you? All those instruments and all that data exchange are strictly subject ultimately to European institutions, particularly the Court of Justice but also the EU Agency for Fundamental Rights and the European Data Protection Supervisor. We have also had absolutely no comment from the Government at all on cases such as Schrems II and the Privacy International judgment, and the effect that would have on obtaining data adequacy with the EU.

I am not asking you to change your worthy positions this morning or to question them further, other than to comment on how, if the Government are pursuing the need for data exchange, which I believe is absolutely vital for the real-time effects, we will square this circle. What exactly will be the position as far as law enforcement is concerned? Is there a chance of that being achieved?

Deputy Assistant Commissioner Richard Martin: There is a pragmatism here for us preparing for the worst-case scenario. In the evidence I gave last time and this morning, I have said that there is a capability difference. In an ideal world, I would retain all the tools we talked about earlier. There are fallbacks, but they are not as good. They are slower and more bureaucratic. Our job is to get ourselves into a place where, when falling back on those that we would rather not have to fall back on, we get policing into a good place. That is where I am coming from in relation to the evidence.

You are right that data sharing is absolutely critical. We can share that under the law enforcement directive even if we do not get GDPR. We think we are compliant through the Data Protection Act. That discussion is being argued at the moment between negotiators in the EU.

On data adequacy, in the legal text there is a danger that if the UK is found not to be data adequate, we would get forced out without a deal based on that data. There is a lot of work being done on that.

Everything you say about being fleet of foot and being able to share in real time is absolutely critical. Do I worry about losing SIS II? Yes, I do, very much. I would much

rather retain it, because it is live time at my fingertips and it is easy for my officers. But if I do not have it, I have to make do with what comes closely behind it.

Really, the preparation is about making the best we possibly can of the contingencies that will be there and doing what policing does well, which is stepping up to the market and protecting the communities.

Lord Kirkhope of Harrogate: Rob, do you have anything to add? I know you are in a slightly different realm now, but looking back on it?

Sir Rob Wainwright: Looking back on it, I was very much part of championing the importance of data exchange, and it was instrumental to the growth of Europol and its success to support the UK and others. This is important to get right.

You mentioned data adequacy and recent judgments. There was another recent judgment just last month from the European Court of Justice regarding certain national surveillance laws, which also affects and includes the Regulation of Investigatory Powers Act in the United Kingdom. That judgment was fairly critical and held that some of these national laws were infringing on the principle of proportionality. That, arguably, makes it harder for us to find the right data adequacy position here. This is difficult terrain to navigate.

That said, I am assuming that if political consensus is reached between the two sides to get this done and to ensure some form of continuity on data transfers, it will get done.

It speaks also to a changing landscape on the whole issue of data ethics and data privacy in Europe. It is an important subject in Brussels. If anything, it is becoming more important in relation to security but also in relation to wider business effects.

Lord Kirkhope of Harrogate: That is interesting. If you look at the assumptions that we are going to make, even if we prove adequacy at a particular point in time, unless we will be moving with the European flow—you mentioned the recently decided case—there are changes all the time in the acceptability of data exchange, protection and so on which are going on through European institutions. We would either have to parallel and accept each change as we go, or we would be out of adequacy again quite soon.

Richard mentioned Schengen. We have never been in Schengen, but it is one of those compromises with Europe. We have accepted quite a number of the protocols. We have been part of the co-operation protocols that would be of use to police forces, even though we expressed with great determination that we will not be a member of Schengen.

These things all have certain nuances. The same would apply in the future. Even if we obtained adequacy, how would we maintain the adequacy without at least a recognition of the European institutions that will change the criteria?

Sir Rob Wainwright: Data privacy is also terribly important to the UK. I am not sure there is a significant difference between the UK and the rest of Europe in the understanding and recognition of how important that is. GDPR has been enacted into British law. Its principles are well met and are accepted far and wide.

There might be some fine details, particularly in relation to national surveillance laws, as they are called, and some important differences, but it is not that one thinks that data privacy is important and the other one is not. It would still give me reason to expect that some kind of agreement or arrangement could be found on data adequacy. That is what I expect.

Lord Kirkhope of Harrogate: Richard, from the point of view of the data exchange, we have expressed our views here on the pragmatism and so on. But if we meet the terms of adequacy, will the relationship be close enough on a day-to-day basis to make sure that we can use that to its fullest potential?

Deputy Assistant Commissioner Richard Martin: Yes, I do, very much. The relationships have not been affected even as we have gone through this transition period and the negotiations, certainly at an operational level and with senior colleagues. That integration and working in partnership has worked well. Yes, if we get the data adequacy agreement, I see us benefiting from it, and actually making the most we can of it. We have been clear with forces and have been taking strategic leadership on making sure that we use every opportunity to drive activity in this area. I do not see that changing in the future.

Q15 **Baroness Primarolo:** It has been interesting to hear how much we have moved forward in presentation and preparation for the end of this year.

I wondered if I could shift the discussion slightly and perhaps drill down. The Government and the EU draft negotiating text suggests that there will be broad agreement on the future co-operation with Europol and Eurojust on the basis of third-country arrangements, which are quite complex. I would quite like to look at those. I hope you are right, Rob, that even in the changing landscape with data access, something will be negotiated, because this will be crucial to opening up what you described as the post-transition future. What will we do in the future to develop on all the plans you have outlined this morning?

Let us assume that we get an agreement on Eurojust and Europol and that we get some sort of data adequacy arrangements, because we cannot exchange the information otherwise, whether we have an agreement or not. What would you see as the next steps to building back to the type of system that we want to see as a third country co-operating with member states? It cannot all be done on a bilateral basis. There has to be some central point. Let us look forward.

What would be the next steps to building back the resilience and the real-time that you have developed and shown is so important to us? Let us hear from Rob first, since he was at Europol.

Sir Rob Wainwright: Yes. Thank you. There is certainly good precedent here. Some 20 other countries, if not more, have different types of co-operation agreements

with Europol. A majority of those are so-called operational agreements that do allow for the exchange of operational information. In each case, one of the conditions and factors involved in negotiating that agreement is indeed a data adequacy test, and that remains the case.

On your assumption that that goes through and we get an agreement with the United Kingdom, first, there are important limitations. If that agreement follows the norm of these other examples, several differences would then apply to the UK's relationship with Europol compared to now, most notably no direct access to databases and no automatic right to join operational projects. We are unlikely to have membership of the governance structures such as the management board.

You asked about building back better. The United States is an interesting example. There has been an agreement with the US for some 15 or 20 years. It was rather leisurely and slow in nature at the start. Over the last decade, and certainly over the last five years, there has been a quickening of that relationship. The United States through a third-country agreement has built a strong relationship with Europol. It has one of the largest liaison offices at Europol, notwithstanding the fact that it is not a member state. It has been involved in so many operational areas, even driving some of them in de facto terms.

I get the sense that the US is an example of a significant external player with a big security contribution to make. It has grown its influence from the state at which it reached a formal agreement to one that today looks pretty sizeable and effective. It is not a member of the management board and it still has those other limitations, but in operational terms it may be a model that the United Kingdom could look towards replicating.

Baroness Primarolo: That is interesting. Thank you. Richard, would you like to comment on that point?

Deputy Assistant Commissioner Richard Martin: Rob has probably covered it in much greater detail than I would be able to. I would highlight that it depends on what third-party agreement we manage to secure at Europol.

The American example is a good one. There is a lot of influence that the Americans can bring to the table because of their ability to project operationally and through intelligence. Rob will correct me if I am wrong, but I think the British have always had a good reputation within Europol. We are the second-biggest contingent, if my memory serves me right. The size of the footprint and the relationship, as well as the reputation, go a long way to being able to do a lot of this influencing that you and Rob have mentioned in your comments.

Q16 **Baroness Primarolo:** Sir Julian King, in giving evidence to our Committee, warned that because of the new Europol regulations there would be a shift in how Europol's relationships with third countries would work in the future, that third countries would be in formal international agreements and that that would be negotiated by the EU side.

That seems to imply a cutting across of what had previously been the case perhaps with bilateral agreements moving in parallel. Do you see that as a possible challenge and, if so, how would we get around it? What I am keen to understand here, looking forward, is what we need to do next to get the best, even perhaps improving on what we have had in the past. What will the new barriers be in front of us? Do you agree with Sir Julian King that that could be a problem?

Sir Rob Wainwright: It is a notable change, yes, but it is a change to the form and medium through which a negotiated agreement takes place. In the past, Europol was responsible for negotiating directly with the third country, whereas under the arrangement Sir Julian spoke about it becomes the responsibility of the European Commission.

In a way, that makes it easier in this case, because one could say perhaps that the nature of the current negotiations could take that form or could include that form. It makes it easier in the sense that it makes it more possible to translate political will and consensus into direct action in the form of a negotiated agreement. I think Sir Julian is right to indicate an important technical feature, but I do not see it as necessarily having a material impact here.

Baroness Primarolo: Richard, do you want to comment on that before I ask my last point?

Deputy Assistant Commissioner Richard Martin: No, thanks. I think Rob has covered it adequately.

Baroness Primarolo: I think the assumption is Europol and Eurojust, and that is what we have at the end of the year. The obvious question is: will that suffice? I presume the answer is yes, it has to. Could you quickly summarise, where it is appropriate to, what the flash points will be? We will not be in exactly the same relationship. You have mentioned time and how you have tried to work on access to information for now, but there will still be challenges, and anything negotiated will take a long time. Third-country agreements take years, not months, unless there is something special about us, which there might not be.

Could you tick on a tick box, "This is okay—tick, tick, tick. We have Europol and Eurojust, but these are still the outstanding areas"? Richard, that question is really one for you in day-to-day policing, is it not?

Deputy Assistant Commissioner Richard Martin: Yes. On the tick-box element, of course, maintaining a footprint in Europol and in Eurojust is really important. To be in the tent as opposed to being outside it is very important. That allows you to continue working operationally while you negotiate whatever that third-party agreement may look like.

Of course, there is the inference, as I mentioned before, about the footprint. The positives are that we will still be able to create joint investigation teams under the 1959 convention, and we can still be invited into them by partners. I guess that is really where I come from, from an influencing point of view. If you have good

relationships within Europol or Eurojust and you have the influence to highlight where there are issues and problems, although it is delayed and the process is slower, operationally you can still make it work. For me, those are the tick boxes.

I do not want to be kicked out of Europol in particular and then have to negotiate a way back in. It is much better to be in there and then work on it from there. Operationally, we will still deliver. We will not, as Rob said, be on the management team. We will not have direct access to some of the databases. But if we are in there and the relationships are positive, and we have the good reputation that we currently have, we can still work operationally, albeit not as quickly or effectively as we are now.

Baroness Primarolo: That is good. Thank you. Rob, did you want to add anything?

Sir Rob Wainwright: No, nothing more, thank you.

Q17 **Baroness Primarolo:** Finally, I was Customs Minister when we still had our DLOs, and this is pre-SOCA and NCA. Dealing with organised crime and the way it moves to a “multi-business model”—if I can use that word in inverted commas—under the old system was a huge challenge, and it was getting that co-operation across member states in particular, but also beyond. I know my colleagues will want to follow this up, so I will not go too far down that route, but it seems to me there will be significant challenges, putting it politely, in staying on top of that very rapidly changing environment and the capabilities the criminals have there to challenge our systems, even with exchange of information. We will have to keep our eye on the ball of the changing world as well as try to catch up, are we not?

Deputy Assistant Commissioner Richard Martin: Yes, absolutely. The nature of organised crime is that it morphs. It changes its business model to reap the best reward for the lowest risk, as we all know.

However, lots of operations are conducted internationally, particularly within the Metropolitan Police, for instance, in which we do not use Europol. We are working with other countries and our Five Eyes partners—we have a lot of intelligence and links with those—and we work with European partners, not always through Europol. A lot of our joint investigation teams, although they go through Eurojust, are capable of doing that.

But you are right, it is one of those things where you really cannot take your eye off the ball at all. Again, it comes back to that strategic influence and the partnership arrangement, and making sure that we are extremely well linked and that we project very well internationally.

Baroness Primarolo: Thank you very much. Rob, do you want to add anything?

Sir Rob Wainwright: Just very briefly, you mentioned the network of drug liaison officers that Customs maintained and its equivalent that followed that certain police forces have. They were tremendous assets at the time, and they will continue to be in the future; let us not forget that.

I think I might have been responsible for managing some of those networks when you Minister. You are right that our experience was that quite rapidly, as crime changed in the way Richard has been describing, we found that they were not enough on their own. It was no longer just a case of dealing with drug shipments from Pakistan and therefore posting a liaison officer there. It was becoming a much more globalised criminal enterprise. It required greater coherence, which, of course, was led at a national level through the very establishment of SOCA first and then the National Crime Agency.

That sense of needing to have more coherence across the board, horizontal capability, led to significant changes in how we structured our response to organised crime in the United Kingdom. For the same reasons that impelled those changes here, we needed to find more coherent, comprehensive mechanisms for our European partnerships. That led to our increasing investment in these EU instruments. It has been part of responding to this changing story of crime, and although there will always be some real strengths to these other assets, as we have been saying consistently this morning it will not be quite the same.

Baroness Primarolo: Thank you. I would love to carry on asking questions, as this is an important area. Perhaps I could come back to this later if we have time, but other Members want to ask questions. I thank both witnesses very much. That was very informative and helpful, and good luck particularly to Richard. We are all rooting for you.

The Chair: Indeed, absolutely. I will pass to Lord Anderson in a moment.

Just to follow up on Europol and Eurojust, you have talked eloquently about how you can develop a third-country access arrangement, as the US has done. Are we expecting that on 1 January, if there is a deal, that deal will contain a third-country access agreement for Europol? I would find that pretty surprising. In which case, are we looking at an extra transition period in these areas where we would have a continuation of something like the current access pending negotiation of a third-country access agreement? It seems quite important to know whether we are looking at another gap there of possibly months or even years. Richard, do you have any insight into that?

Deputy Assistant Commissioner Richard Martin: If we get a negotiated outcome, there will be an operational agreement where we can continue to function within Europol while the third-country agreement is organised. We will not dip capability at that point and the third-country agreement will follow it. The only challenge will be if there is not a negotiated outcome. We will literally have to leave the building, and then that negotiation, as you quite rightly point out, will probably take some time to get back in.

The Chair: That is important, thank you. That is the end of our prepared questions, but I know that a number of Members have other questions that they would like to pursue.

Q18 **Lord Anderson of Ipswich:** It is very good to see you both again. I am coming off the

bench, as it were, with questions prompted really by what I have already heard this morning. I will just go through them.

The first relates to ECRIS. Rob, you made the point earlier that once Brexit is complete we will have an enhanced ability to refuse entry to EU nationals with criminal records. I think that will be more demanding.

Richard, you mentioned ECRIS, which as far as I recall has only ever been available to EU member states, as a quick way of enabling your officers to find out whether an EU national has a criminal record. It strikes me that the information coming from ECRIS must be particularly useful to the Border Force, especially since, as I say, after Brexit is complete we will have this enhanced ability to refuse entry.

I am interested in understanding how the Border Force can know that an incoming passenger has a criminal record in an EU country without rapid access to ECRIS. Can you comment on its operational ability from next year, either on its own or in conjunction with the police, to identify EU criminals at the border?

Deputy Assistant Commissioner Richard Martin: Unfortunately, I am not an expert on ECRIS, other than the fact that we use it and what the Border Force uses it for. It is difficult. Obviously, the more information you have at the border the more effective decision-making you can have, whether somebody has previous convictions that will not be on.

At the moment, we have what we call the Home Office serious offenders list. That is on the PNC, the police national computer. We will be able to see whether somebody is a serious offender and then decide whether to admit them or not. PNC will still be there, but then, of course, it depends on what other system is available. ECRIS is very important. It is very valuable, as we said before, with regard to previous convictions, not just people from overseas but some of our citizens who have been abroad and been convicted, so that we know some of our own people and what kind of challenges they have.

I think I have answered your question in that PNC will still be there, and we will be trying to put as much as we can on there to make those decisions in effect.

Lord Anderson of Ipswich: Rob, anything you would like to add on that?

Sir Rob Wainwright: No, I am afraid not. It is a good question, is it not?

Q19 **Lord Anderson of Ipswich:** Yes, I just do not know the answer. May I move on then? Picking up Baroness Primarolo's last question about organised crime, cybercrime and so on, looking at some of the successful cross-border organised crime investigations—we see them recorded in Europol's annual reports—can either of you give us a sense, maybe with a practical example, of how far third countries, either with or without a Europol access agreement, have been less able to contribute or less able to benefit from those investigations because they have not had full access to the various European mechanisms?

Have workarounds in practice been found and how effective have they been? I am looking for something very practical. We have had, in some ways, quite a high-level

discussion, and what I feel I am lacking is some sense from the centre of that complicated international investigation as to how different it is in reality when you are on the outside from when you are on the inside.

Sir Rob Wainwright: My practical examples are at least two years old now, unfortunately. In the case of Europol, we do not have direct access, so it is about speed, really. It is the fact that if the United Kingdom is working on a major investigation and interrogates the UK system, as it does directly at the moment, it has an instantaneous result, and that result might lead the investigation in a significant new direction. In those circumstances, as you know, very often speed is of the essence, particularly if it is a fast-moving investigation.

In the case of third-country arrangements, it means that there is a time lag, because the request to interrogate the system has to go via a central body of Europol. I cannot recall a time when that had a material impact, but then, I guess, we would not necessarily know that, would we? We would not necessarily know that an opportunity was lost by a third country because it had not interrogated the system quickly enough.

One can expect, though, given the nature of effective policing, that it is important. Here is quite a challenge, not least for Europol itself. I mentioned earlier the volume of UK intelligence that is currently shared through Europol. It is at least five times greater even than that of the United States. For that to suddenly be automatised through a direct interface and have to go through a central unit in itself is quite a burden for the agency to manage at those volumes. It might lead to even further time lags than normal, but it also leads to a significant challenge on how Europol can cope with that. That was certainly a concern we had even two or three years ago, and I am not sure what the mitigating arrangements at Europol might be for how that would happen. There is an issue here, I think, and it is essentially how quickly you can identify the right kind of information.

Lord Anderson of Ipswich: Richard, is there anything you would like to add to that?

Deputy Assistant Commissioner Richard Martin: No, I very much agree with Rob. Certainly, I can give you an example from a country outside Europe, and this is very much based on relationships. You have heard me talk earlier about our engagement with foreign law enforcement partners. We had a young American girl who was groomed online. Because we had the ICCG, the New York Police Department was able to ring the US liaison officer here, who phoned us immediately, and within six hours of her landing they had gone in, rescued her, and arrested the paedophile behind it. That is an example of having effective relationships with partners overseas and here in London to try to close some of the capability gap that Rob has outlined.

Q20 **Lord Anderson of Ipswich:** Thank you. I turn now to the European arrest warrant. Richard, you were quite bullish on a future without the EAW, and I understand how in a sense you have to be. I agree with you that the Norway-Iceland agreement would be a decent second-best, although it has the disadvantages that you

mention, and I do not doubt for a moment what you said about the strength of bilateral police liaison relationships with European partners.

Of course, extradition is not just a matter for police, and extradition from countries outside Europe remains on the whole a pretty slow and tortuous process that relies on bilateral extradition treaties. If we do not have Norway-Iceland, and until such time as we may have an effective bilateral agreement with Spain, how can we have confidence that we will not see a return to the Costa del Crime?

Deputy Assistant Commissioner Richard Martin: You are right. I think we have been relying on the 1957 convention, which is bureaucratic. That is actually about police forces making sure that we use every available international power force.

If you can imagine, two years ago there was not an international crime co-ordination centre, and there certainly would not have been a national extradition unit. We have been very proactive with forces, and will continue to be so, to make sure that they understand what the options are for them. Having an operational arm as from December will make that much more real in that we can hunt these people down. Of course, this new unit will not just arrest people here; it will collect people from overseas to face justice back in the UK. For me, making sure that we have that capability has been one of the driving forces in the negotiations that we have been doing with the Home Office. That is what will minimise the risk of returning to a Costa del Crime, for instance.

Q21 Lord Anderson of Ipswich: Thank you very much. I have one final question. It is about the future. One thing that I think has really come out of this morning is that policing and criminal justice co-operation in Europe is very much a work in progress. Both our witnesses have emphasised that some of the useful developments have come on stream in this country only very recently, examples being Prüm and the European investigation order.

Can either of you give us a sense of what is coming down the line next, whether new databases, new instruments or new organisations, and whether you think, bearing in mind that we will not have helped design them, it will be feasible for the UK to participate usefully as a third country in those mechanisms?

Deputy Assistant Commissioner Richard Martin: As you know, Prüm at the moment is DNA databases that we are exchanging. We are just about to go live with fingerprints. That is an additional capability that hopefully we will retain through a negotiated outcome. Again, that is about being able to identify people. I also know that some facial databases are being developed and are soon to be in. There are other elements queued up to come in that would be very, very beneficial for us and which I would hope are included in any outcome that we manage to maintain.

Lord Anderson of Ipswich: Thank you. Rob, is there anything you would like to add to that?

Sir Rob Wainwright: As you say, it always has been a revolving story and, even in the case of Europol, I read now from afar that the next generation of changes and modifications are already being discussed at the political level, which I am not

surprised about. We will not be part of influencing that very much in the way we were in the past.

More broadly, there are quite interesting developments in the area of combatting financial crime. There is a lot of talk in the European Parliament, the European Commission and elsewhere about the need for maybe a dedicated new agency to fight money laundering, for example. Whether that will come to pass we do not know yet. But again, it is rather a lively debate in an area that will be sadly missing British contribution.

The Chair: Thank you very much. You have both been very generous with your time, but a couple of other colleagues also want to ask supplementary questions. If anybody else does, perhaps they could signal to me.

Q22 Lord Kirkhope of Harrogate: Gentlemen, one of the other jolly things that I got involved with in the early 2000s was joint investigation teams. The interesting thing about joint investigation teams was that, although they were introduced under the auspices of the European Union, they were, of course, designed to bring two or three—a small number—police operations in different European countries together to give them some kind of status to operate for a period of time.

I am curious about whether something like that, which currently sits under a European umbrella, is in your view detachable. The whole aim of it, which was just to have two or three national forces working together, is surely worth preserving in some way when we are talking about bilaterals and how to go forward. Richard, will you comment on that?

Deputy Assistant Commissioner Richard Martin: I would very much like to preserve joint investigation teams. As you say, they have been invaluable, especially in cybercrime and human trafficking, those sorts of elements. They have been extremely useful. We can retain them under the 1959 convention. We can still have joint investigation teams, albeit that they do not come in quite the same way or have funding like the current ones do, but there is a capability there that we can still have.

I would hope that in a negotiated outcome we can still very much maintain the European part of that. If not, all our current joint investigation teams been authorised under the 1959 convention, so we will not lose any capability should we not get them. You are right: they are an invaluable part of what we do operationally.

Lord Kirkhope of Harrogate: Rob, were they useful from a Europol point of view?

Sir Rob Wainwright: Yes, very much so. I remember when they were first developed; you were also a member at the time. There is another example of where they could be detachable; it sounds as though they are. This is an example of where we can learn from our positive experience of engaging with the EU and how, with some imagination, we can continue to run, albeit in a different way, with something like these instruments.

It is also about learning and moving on for ourselves and what we can do to get the best of that. Absolutely, we should do that where we can.

- Q23 **Baroness Hamwee:** Rob, you mentioned governance in the event of our not having a deal. Just now you talked about involvement in developments and the programmes of an organisation. I wondered if you would like to say anything more about how we would be disadvantaged if we are excluded from governance. I have been wondering about budgetary arrangements. Would this mean that there would have to be annual negotiations with some organisations and, at worst, the whole issue of our membership being an annual matter?

Sir Rob Wainwright: One would hope not.

Baroness Hamwee: Quite.

Sir Rob Wainwright: I doubt you would want to go through this process on an annual basis. In the case of Europol, which I know best, in fact there are, in the normal case of a co-operation basis, no significant budgetary implications, in the sense that the United States is not paying for its access to Europol today, for example. I cannot predict what the nature of any negotiated settlement in the United Kingdom might be, but specifically in the case of Europol it never has been an issue until now. One would hope that any agreement that we have retains the sense of pragmatism that it has to be sustainable, of course, on a basis longer than 12 months.

Baroness Hamwee: Thank you. Richard, do you want to make any comments?

Deputy Assistant Commissioner Richard Martin: No, nothing to add, thank you.

- Q24 **Baroness Goudie:** Following on from Baroness Primarolo and Lord Anderson of Ipswich, and one or two other points, I am very concerned about the whole question of human trafficking, which both of you touched on. It is not just the question of the human trafficking as a whole; it is the huge amount of money that we know is made through human trafficking. How are we going to trace that money when it comes to the UK, because we know that it will come here?

Sir Rob Wainwright: Human trafficking, or modern slavery to give it its British name, is another example of where these EU mechanisms certainly help. In terms of following the money, there are important British-led initiatives that also go beyond the EU, and important initiatives that I think are bringing law enforcement closer to the banking sector to address the point that you made. Richard will have a finer view on it, I suppose, but I think those arrangements are likely to continue to grow.

I agree with the sentiment behind the question that it is an important priority, and one that we have to keep our eyes on and one that is very global in its nature, of course, far beyond the confines of Europe.

- Q25 **Lord Anderson of Swansea:** You mentioned money laundering and the new institution coming down the track. Could you say a little more about that, as in when it is hoped it will come into operation? Presumably, we have a strong interest

in this, not only because of the legislation—for example, the unexplained wealth orders or the 2018 Act and the regulations implemented in July—but the property market in London, with dirty money very much involved there, and overseas territories such as the British Virgin Islands.

To what extent would we be able to make a contribution to that, or would the EU insist on its own ideology of exclusiveness and us on our own sovereignty? It would clearly make total sense, and there would clearly be a mutuality of interest, for us to be involved at the ground floor in any new institution of money laundering.

Sir Rob Wainwright: It is by no means the case that the European Union has decided to establish such a dedicated anti-money laundering agency. It is among a range of options that I think the European Commission has put in its recent position paper and debated in the Parliament, and I know it attracts some level of support from different capitals and other regulatory bodies. As is typical, of course, it will take some while for a final position to be reached, and it is fair to say that there are arguments on both sides of the fence as to whether a dedicated agency is necessary or desirable.

Were it to come into effect, you are absolutely right that in that case the UK would be in a very different position and certainly not involved in negotiating its detail. None the less, that agency would almost certainly seek to have the best possible co-operations with countries outside the EU, not least the United Kingdom given the proximity and, of course, the importance of the UK finance sector.

Lord Anderson of Swansea: And to draw on our experience, presumably.

Sir Rob Wainwright: I would expect so, but we will be in the new terrain, will we not, of a brand new agency in this field charting the relationship with the United Kingdom for the first time in this very different climate?

Q26 The Chair: Thank you to both witnesses. If I had to sum up what I think I have heard today, it would be that when we heard from Richard in March he was very concerned about loss of capability, and about disruption to our powers of arrest, working with overseas partners and extraditing.

Today, I think I have heard that you are feeling more positive that the mitigation measures that you have had time to put in place go at least some way to closing that capability gap and perhaps put you in a better position than when you were speaking in March, particularly in the case of a no-deal scenario. I hope that is not a caricature, but that strikes me as an evolution, if I can put it like that.

Did you or Rob have any closing comments you would like to make before we finish the meeting?

Deputy Assistant Commissioner Richard Martin: Not for me, thank you. I think you have summed it up very well for my part, which is about the impact. We accept that there are capability gaps in these areas. We accept that we will have to work in a different way. What the transition period has allowed us to do is to get those

contingencies into a better spot. But there will inevitably be less visibility, it will be a little bit slower, and it will be more complex.

The Chair: Very good. Rob, closing thoughts?

Sir Rob Wainwright: I left Europol over two years ago and I am working in a different environment now, but I remain as deeply interested and, indeed, attached to the idea that our international police co-operation has to be in the best shape. I want to thank you, the Committee, for inviting me today. It is very important. I am also pleased by what I hear from Richard today, and I hope we get to 1 January with something to celebrate.

The Chair: Thank you both very much indeed. It has been fascinating, comprehensive and very informative in an important area that perhaps does not always get the public attention that some other areas of the negotiation get but is vital for everyone's safety in this country. Many thanks to all, and with that I bring this meeting to a close.