



# HOUSES OF PARLIAMENT

## Joint Committee on Human Rights

### Uncorrected oral evidence: Daesh (HC 1922)

Wednesday 15 November 2023

3.05 pm

Watch the meeting

Members present: Joanna Cherry MP (Chair); Lord Alton of Liverpool; Lord Dholakia; Dr Caroline Johnson MP; Baroness Kennedy of The Shaws; Baroness Lawrence of Clarendon; Baroness Meyer; Bell Ribeiro-Addy MP.

Questions 18 - 43

### Witnesses

I: Detective Chief Superintendent Gareth Rees, Head of Operations and Investigations, SO15 Counter Terrorism Command; Bethan David, Head of the Counter Terrorism Division in the Special Crime and Counter Terrorism Division.

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## Examination of witnesses

Detective Chief Superintendent Gareth Rees and Bethan David.

Q18 **Chair:** I will kick off with the first question as a general scene-setting question, which I will direct to Detective Chief Superintendent Rees. Can you tell us how you undertake investigations into international crimes committed by UK citizens or UK residents who were or are members of Daesh?

**Detective Chief Superintendent Gareth Rees:** Thank you. I will look at it in two different ways, first from the perspective of specific investigations against individuals and then I will go on to structural investigations, which is on a broader level, to set some context.

The investigations are highly complex and ultimately rely on acquiring evidence from a number of regions. Principally, the way we acquire evidence or the evidence we seek to gain is the same with many crimes—witness testimony, which could be evidence from seized devices or all manner of other evidence, such as evidence from the individuals concerned at the time that they are questioned.

How we investigate matters relating to Daesh and the people connected with that often will emanate from when we are aware that someone has either travelled, so they were in that area of theatre, and/or at a point where they have returned. The investigation is likely to be live throughout, at the point that they leave, while they are away and at the point when they return. At each point there will be different phases. As they leave it could be witness inquiries with their family members, searches of their home address and seizure of evidence from there to understand what the motivation might have been for leaving. It could be open-source material while they are away—for instance, postings. It could also be upon their return by interviewing them and questioning them and from anything else they have in their possession when they return.

**Chair:** What prompts an investigation? You have made it clear it is not just prompted by the return of someone. It could be prompted by intelligence or information about someone having departed the United Kingdom to go to the theatre.

**Detective Chief Superintendent Gareth Rees:** Yes. If we take you back to the origins of the conflict, we had more of that. We might be aware that people have left, and that could have come through family members, friends, or members of the public contacting police and making them aware. It could have come through our intelligence partners in those areas that make us aware of it. There are several routes that it could come from that could start an investigation at that point.

Q19 **Chair:** Investigation can commence even while the suspect is away in the theatre of war or action. Can you tell us for what crimes and under what legislation are returning Daesh members investigated by UK police?

**Detective Chief Superintendent Gareth Rees:** The nature of the offences that can be considered are wide-ranging. It might be an area where Bethan will be able to provide greater detail, but more likely it will be, due to the context, such things as genocide or crimes against humanity and the offences in those areas.

**Chair:** Does that include torture?

**Detective Chief Superintendent Gareth Rees:** Within crimes against humanity is my understanding, yes.

**Chair:** Perhaps when we come to ask Bethan questions we can expand on that. If you are dealing with a situation where an investigation is only commenced after a suspect has returned to the UK, do you have sufficient warning and time to gather the evidence required for filing charges?

**Detective Chief Superintendent Gareth Rees:** Sufficient time to gather enough evidence to lead to charges is difficult, because ultimately they are very complex investigations and sometimes span over many months and beyond to acquire evidence. The length of time and lead-in time we have can vary. We could be made aware from online communications—social media even—that people are looking to return. It could be through colleagues at the Foreign, Commonwealth and Development Office, intelligence partners, or family members. The length of time can differ as well, depending on the circumstances.

To complete a thorough investigation will take a very extended period, so it is highly unrealistic to expect that we will have time to gather sufficient evidence by the time they return, just because of the sheer complexity of the investigations.

**Chair:** When you say a very extended period, are we talking months or years?

**Detective Chief Superintendent Gareth Rees:** It is certainly months. Some things are more easily accessible than others and some things we might have. If we go back to the example of evidence that we have recovered from a home address or seized media at the point they have left, we could have a significant length of time to examine that because they have been out in theatre for some time. With material that has come back upon their return, we have less time. Similarly, the nature of these investigations requires trying to identify if there is material that has been acquired and held in other bodies, whether that is UNITAD or IIIM or those sorts of UN-mandated bodies, and those inquiries can take a lot longer.

Q20 **Baroness Kennedy of The Shaws:** I will start by asking you something more basic. How many people have returned from Daesh activities? How many returnees have we seen?

**Detective Chief Superintendent Gareth Rees:** I understand that there is quite a complexity in the data around this and I am afraid I am not able to provide exact numbers of how many have returned.

**Baroness Kennedy of The Shaws:** Give us an idea.

**Detective Chief Superintendent Gareth Rees:** If I can give a context—I am aware of the previous numbers that have been cited in earlier sessions and earlier reports—CT policing has not published or provided those details, for several reasons. We publish how many live investigations, roughly speaking, we investigate in counterterrorism policing, but we do not break those down into specific areas of returnees or otherwise. That is because the investigations are often live. We do not comment on live investigations and the status of investigations often fluctuates. They could be live for a significant period and the subjects of those investigations could be under investigation for a number of things. I appreciate that might be frustrating for the committee and I apologise for that, but I am not able to provide the numbers.

**Baroness Kennedy of The Shaws:** It could also be a way of avoiding having to tell the rather low figures there have been. Is there any sense of how many people have returned?

**Detective Chief Superintendent Gareth Rees:** They are not figures that I can provide to the committee today. I can certainly take it away and we will look to provide a written report to the committee afterwards.

**Baroness Kennedy of The Shaws:** Do you have any sense of the number of people who went to join ISIL in Iraq, Syria, in that whole region?

**Detective Chief Superintendent Gareth Rees:** Again, the numbers on that are quite complex to provide a firm figure on that. I have seen the previous reporting, but I cannot comment on that from a police perspective. I apologise.

**Baroness Kennedy of The Shaws:** Okay, let us try something else. How many people have been prosecuted for offences?

**Detective Chief Superintendent Gareth Rees:** Again without meaning to be obstructive, from a prosecution perspective that sits with the Crown Prosecution Service to comment on.

**Baroness Kennedy of The Shaws:** You must have an idea. You are a senior police officer in this area. How many people have been prosecuted? You present the evidence to the Crown Prosecution Service. They are at your mercy. How many people have been prosecuted?

**Detective Chief Superintendent Gareth Rees:** I beg to differ. I would not say they are at our mercy. That would not be accurate. In the same way that the Crown Prosecution Service would not comment on investigations, we would not comment on the number of prosecutions.

**Baroness Kennedy of The Shaws:** How many cases have you handed over to the CPS?

**Detective Chief Superintendent Gareth Rees:** I do not have that information available to be able to provide it.

**Chair:** Is that information you could get for us, Detective Chief Superintendent—not how many cases have been prosecuted but just how many reports have been made?

**Detective Chief Superintendent Gareth Rees:** I will certainly take that away and get back to the committee.

**Chair:** I know that in Scotland we say if a report has been made to the Procurator Fiscal. I presume down here if a report has been made to the CPS—not what the contents are but just the number of reports in this field. That would be helpful.

**Detective Chief Superintendent Gareth Rees:** I understand the nature of the ask and I will take that away and we will write back into the committee.

Q21 **Lord Alton of Liverpool:** Before we leave that question—because my own question was about the number of cases that have been investigated by the police, and Lady Kennedy has asked that—can you distinguish between international cases such as crimes against humanity or genocide, which you referred to in your remarks before, and torture as opposed to terrorism-related offences?

**Detective Chief Superintendent Gareth Rees:** Yes. Again, it is difficult but I will try to find a bit of context to explain that. I am not trying to be obstructive on the numbers. When we have returnees, when they have left or they are in conflict zones or they are returning, it is right to say that when we look back over the history of this we have probably principally, and certainly in those early years, viewed it through a terrorism lens. To your point, they probably started off being looked at for offences relating to—

**Baroness Kennedy of The Shaws:** When did that stop? When did you stop looking at it through that lens?

**Detective Chief Superintendent Gareth Rees:** We never stopped looking at it through a terrorism lens. I can come on to the facts where the system has matured a bit more to the point where we are similarly looking at it through a crime lens as well. We would not have stopped and never will, because ultimately we are talking about people who have travelled across and have been a member of IS, a member of a proscribed organisation, which is a terrorism offence, and they could have committed serious terrorism offences as well as potentially core international crimes.

From a system perspective that is how we would have viewed it initially in the early stages. They would have all been subject to that. Then when

they returned, with the powers that we have to engage with those people on return, if they were not being arrested we might use some of our Schedule 7 powers that can examine people at ports. That is a terrorism power to understand if they have been involved in terrorism-related activity, not a power that is afforded for core international crimes.

However, I can explain later how that sort of system has matured a little bit more to a point where we are now able, in the UK and across the whole system of international law enforcement, to look at these from a core international crime perspective as well.

**Baroness Kennedy of The Shaws:** You are in a room that is not being televised to the public. You have been given a level of confidentiality and I think you can be a bit franker with us. I want to understand at what point did you start thinking about the possibility that some of these returnees who came across your investigative table might have committed rather big crimes rather than just membership of a terrorist organisation?

**Detective Chief Superintendent Gareth Rees:** There are a couple of points there. If I may, I will first say that terrorism offences are very big crimes in their own right, as well. On the timeframe, there is no cliff edge where we did it. This is the maturing of a system. When we looked at this initially we definitely would have been hardwired to look at things from a terrorism perspective. Over the years that followed—from a UK perspective with war crimes investigations and from our international law enforcement partners and engagement and developing relationships we have had with some of the UN-mandated bodies and others—we have been able to collectively, across the ecosystem, move to a perspective where we can start to have a greater idea of being able to identify where there might be evidence of certain core international crimes. I can come on to how we can look back across that material now.

Q22 **Baroness Kennedy of The Shaws:** How are you trained to interrogate people about crimes such as atrocity crimes, crimes against humanity, the possibility of genocide? How do you get training to equip you for that kind of cross-examination of a suspect who has returned?

**Detective Chief Superintendent Gareth Rees:** The investigators that deal with our investigations for war crimes or core international crimes sit within the Counter Terrorism Command and up until about a year ago they did counterterrorism work and war crimes work. To prove the point of the evolution of the system, they are now dedicated to investigation of core international war crimes and core international crimes. They are all experienced investigators. They are highly trained interviewers already from a criminal investigations perspective. For the purposes of investigating core international crimes, they also undergo a training course, which I believe is in The Hague.

**Baroness Kennedy of The Shaws:** Are you familiar with the way in which grave crimes were committed against the Yazidi people in Iraq and on the borders with Syria? Are you conscious of all of that?

**Detective Chief Superintendent Gareth Rees:** I am conscious of that and certainly, from a war crimes team perspective, the very first structured investigation we opened in 2021 was into the Yazidi genocide.

**Baroness Kennedy of The Shaws:** When men returned to this country and came into your investigative system, were they interrogated about their possible involvement in crimes against the Yazidi?

**Detective Chief Superintendent Gareth Rees:** I cannot say exactly what was asked of each individual person. I think that questioning would probably in reality have been focused on terrorism offences. As we have matured through that we are now identifying where we can look across the material that is available on the Yazidi genocide and understand how we can identify any UK suspects in that.

**Baroness Kennedy of The Shaws:** You know, because you are a trained police officer, that one of the ways in which you seek to get that kind of information is that you would not say, "Did you ever come across a Yazidi person?" You would start by saying, "What kind of household did you live in when you were out there in Iraq? Were you in a barracks or were you living in a household? Did you take a wife?" Are those the sorts of questions that are asked of people who are being interrogated for what they did while they were abroad?

**Detective Chief Superintendent Gareth Rees:** In the investigations and the questioning of the suspects, if the senior investigating officer for an individual case felt that there were sufficient grounds at that point to arrest a person for their activity overseas, as opposed to examining them under our Schedule 7 powers, the questions would be on the offences for which they had been arrested. It is quite possible that that level of questioning may not have taken place.

**Baroness Kennedy of The Shaws:** Of course that is how you would start exploring whether somebody had in their household someone who was in fact an enslaved person. We know that enslavement for sexual purposes was part of the experience of Yazidi women and girls.

**Detective Chief Superintendent Gareth Rees:** Absolutely. I understand that point. Again, back to the maturity in the system, the counterterrorism investigation teams who deal with the broader counterterrorism investigations work very closely with and in close proximity to—in London and the national teams—our war crime teams, to understand how we can collectively identify the evidence in the system to help us bring to justice offenders who might be in the UK and have committed these atrocities.

**Baroness Kennedy of The Shaws:** To be clear, we know that intelligence assets in the community are available to you—people who are informants—who will say to you, "There is a man in our street who has just come back from somewhere. My suspicion is, given the way he is talking and the way that people refer to him, that he has been out there and within Syria and was one of the people in Iraq and was one of the

people who was part of ISIL.” You can get that information and then you have a suspect— you have somebody who is on your radar to investigate what they might have been doing. I want to know: if you have someone like that, and they are brought in, is one of the first things you do to find out whether they took a wife while they were out there?

**Detective Chief Superintendent Gareth Rees:** I feel that this comes back to the point I made just now. If someone has been brought in—in your words—on receipt of intelligence, we need to reach a bar where there are reasonable grounds to suspect that someone is guilty of an offence. That does not need to be in evidential format. There are several reasons for reaching reasonable grounds to suspect. At that point, the questioning is on the offence that they have been arrested for.

I know you are talking in a hypothetical way, but I am not aware of us receiving particular intelligence in the way that you have demonstrated where we have an individual who has committed those offences. If we did have that intelligence, it would be looked at to understand if we can launch an investigation into that individual.

**Baroness Kennedy of The Shaws:** If your starting point is that you are given information that suggests that somebody has been abroad and is likely to have been part of the ISIL operations over there and that militia, and you arrest them for being a member of an illicit organisation and going to join it, you would not confine your interrogation just to their membership of ISIL. You would try to explore what they were doing there, how they were living there, who they were living with, how they were surviving, because that is how you would gather evidence of what they were doing, if they had travelled to that part of the world.

**Detective Chief Superintendent Gareth Rees:** Absolutely. The questioning of a suspect can be broad, as long as it is relative to the matter you are investigating. I take your point there completely. It will not be so narrow and so specific, because that is not how you investigate an offence. You always look to explore all reasonable lines of inquiry. The point is that we have people—and this is again the maturing of our system—who we looked at previously through a terrorism lens, and we are now evolving that to consider matters of core international crimes.

Q23 **Dr Caroline Johnson:** A quick question picking up on what was said about numbers. We know that several people went to Syria and joined in these activities. Some of them have come back and some have not. Of those who have come back, do you think you have captured who they all are, as a proportion of the number you suspect have come back? Do you know who they all are or do you know who a fraction of them is?

**Detective Chief Superintendent Gareth Rees:** That is a very difficult question to answer. I have high degrees of confidence in our collective ability, with our intelligence partners, to identify individuals. It is a very complex situation out there, but there are multiple channels that we reach out across in CT policing. The strength of our counterterrorism

work, including our investigation of core international crimes, is the join-up with our intelligence partners.

**Dr Caroline Johnson:** You probably have most of them—is what you are saying?

**Detective Chief Superintendent Gareth Rees:** There is a strong, robust system. It is very difficult for me to say.

**Dr Caroline Johnson:** You might have missed one or two, but by and large you have most of them—that is what I am hearing there.

**Detective Chief Superintendent Gareth Rees:** I would like to think so. The system is robust. As to the confidence, I cannot speak from an intelligence perspective but I have confidence in the system from a CT policing perspective.

**Dr Caroline Johnson:** I appreciate that you may not be able to tell us the number of people, but can you tell us what proportion of the people that you know of, who have been out to Syria or wherever and have come back, where you have been able to create files for the CPS, have been charged? What proportion have been prosecuted?

**Detective Chief Superintendent Gareth Rees:** So that I do not speak out of turn from a CPS perspective, because that is a matter for them, or part of that question is, I can say and I would like to give assurance to the committee that all the people we are aware of returning who are suspected to be a member of Daesh or are returning from that conflict zone would have been subject to investigation. Each of them would be subject to investigation with an individual senior investigating officer that would then take—

**Chair:** Each of what group would be subject to investigation?

**Detective Chief Superintendent Gareth Rees:** If people are returning, we are aware of someone returning—

**Chair:** If you are aware of someone returning, they will be investigated.

**Detective Chief Superintendent Gareth Rees:** How that investigation is conducted and the evidence that is available to the investigators is on a case-by-case basis and they will each have their own senior investigating officer. Obviously we are talking about not just London. That will be reflected in other regions across the UK as well.

**Dr Caroline Johnson:** I guess the question is how effective the law is in prosecuting people who have done this. Would you say that most of those investigations have ended in a charge, or very few, or 50:50? What sort of proportion end in some sort of charge?

**Detective Chief Superintendent Gareth Rees:** There are a couple of parts of potential attrition—which might not be the right word but let us go with that. It will start off with perhaps being aware that someone has

returned, then the number who are converted from being aware of them and being investigated, through to a file being submitted to the CPS. The other matter is how many of those that are submitted to the Crown Prosecution Service are—

**Dr Caroline Johnson:** That is exactly my question, yes.

**Detective Chief Superintendent Gareth Rees:** It is that latter part, how many that have been submitted are then charged. I would have to ask the CPS to comment on that, because it is their decision to charge.

**Dr Caroline Johnson:** Okay, so how many do you submit for that decision?

**Detective Chief Superintendent Gareth Rees:** That is the point that I mentioned earlier. I will take that away.

**Chair:** I think you were going to write to us on the issue of how many reports have been submitted to the CPS.

**Dr Caroline Johnson:** But you cannot even tell us what proportion or a vague idea of what proportion of the numbers that you have investigated? Even if you cannot tell us an exact number of people, can you say about half or—

**Detective Chief Superintendent Gareth Rees:** No, I am afraid I cannot. Like I said, I will file a written submission.

Q24 **Lord Alton of Liverpool:** I will follow up on something you said about Section 7 and how you had to look at people arriving back through the terrorist lens using Section 7 powers, I think you said.

**Detective Chief Superintendent Gareth Rees:** Schedule 7, yes.

**Lord Alton of Liverpool:** Could you help the committee by saying, given that you have added that incrementally you have modified the arrangements as you have learnt with experience as it has evolved, whether we need to do anything about those powers? Do we need to formally change them in some way? Does it require anything legislative to be done? What would you advise the committee?

**Detective Chief Superintendent Gareth Rees:** In answer to your question, I do not think so. Certainly from a terrorism perspective we are not looking for any more powers and my view is that from a core international crime perspective, and from a purely law enforcement point of view, we would not be looking for any further powers in that respect.

**Lord Alton of Liverpool:** You can do it with the powers that you have?

**Detective Chief Superintendent Gareth Rees:** I would say so.

Q25 **Baroness Lawrence of Clarendon:** While you were answering Baroness Kennedy's question, it just came across to me—and probably you can explain this—that it seems as if you are not the person doing the

investigation and that there is an umbrella of people who sit underneath that, so they are the ones who would have the information that we are asking for. I am not sure if I am getting that right. You may be in charge of a certain section but you are not the one who is doing the investigation. Someone else is doing that, hence why you are not able to give the numbers for all the questions that are being asked.

**Detective Chief Superintendent Gareth Rees:** I will try to elaborate on that a bit. Absolutely, from a London perspective, the war crimes team sits within my area of business and that is why I am here today. I am the head of operations and investigations for SO15, which is London's Counter Terrorism Command. Naturally, the nature of this offending is that we have foreign terrorist fighters, who could have returned from other regions, within the United Kingdom. The counterterrorism network is made up of 11 counterterrorism units. Each one of those has its own investigations teams that look at terrorism offences. The only team for the United Kingdom that deals with war crimes and core international crimes sits within London's Counter Terrorism Command under my responsibility.

**Baroness Lawrence of Clarendon:** There is a co-ordination of information that comes in that you are able to answer the questions on, because if everybody feeds into your section that information is there. I think that is what the Chair was saying that you are going to write to us about and give us that information.

**Detective Chief Superintendent Gareth Rees:** From the perspective of core international crimes, they all sit within my area of responsibility. From the perspective of wider offences—initial counterterrorism investigations into returning fighters—that sits across the network but I can still answer to that.

**Chair:** We can pursue that with your colleague from CPS when we come to that.

Q26 **Lord Dholakia:** I want to put a further question regarding the numbers that we are asking for. Are you aware of people with dual nationality—and one of those could be British citizenship—as against the other nationality that they possess as well? Are you able to identify people that way?

**Detective Chief Superintendent Gareth Rees:** Case by case we will be able to understand the nationality and residency of individuals. Are you asking me if I am aware of the breakdown in the data of those?

**Lord Dholakia:** Yes.

**Detective Chief Superintendent Gareth Rees:** I am afraid I am not aware of that level of detail.

**Lord Dholakia:** Is it not available?

**Detective Chief Superintendent Gareth Rees:** I am certainly not aware of that at the moment. Again, we can take that away as a question from the committee.

**Lord Dholakia:** How do you effectively identify somebody from Pakistan who has British citizenship and also has dual nationality from the Pakistani Government?

**Detective Chief Superintendent Gareth Rees:** As I said, absolutely there will be knowledge case by case with individual investigations, but looking at it as an aggregated factor here I cannot give that level of detail. Absolutely every investigation will have a detailed profile of the suspects who are being investigated, and part of that will include their nationality, so 100%.

Q27 **Bell Ribeiro-Addy:** What interaction do you have with your counterparts in other jurisdictions or with international bodies such as the UN to gather evidence from outside the UK's jurisdiction?

**Detective Chief Superintendent Gareth Rees:** This is an area where there have been significant developments over recent years. There is a number of multilateral fora. There is the analytical project on core international crimes in The Hague that the UK and my teams are a member of. As we identify evidence on core international crimes through our structural investigations, we submit those to the project and that becomes a repository for members from other European law enforcement partners to access the material, so that we can help with that collective effort. Similarly, there is the EU Genocide Network, which engages again through The Hague, as an international and multinational forum.

We have other ways of engaging through organisations such as UNITAD and the IIIM, which are pivotal for us. They have developed in recent years to the point that we now have an MOU with the IIIM to understand how we can access some of that material. They might hold evidence against any UK residents who have been engaged in Daesh. Similarly, we have an engagement with UNITAD from that perspective. Again, that is a very large discussion as to how we can develop that further.

The sheer international nature of this and how we in the UK can access the material that is being generated and held across the systems is something that we have moved a long way on. We are continuing to develop it. In fact as we sit here now, the detective superintendent who leads the individual war crimes team is in The Hague seeking conversations with CIJA around a similar matter to try to understand how we can access some of that material. They are very live discussions where we have been able to make progress and our aim is to continue to make further progress.

**Bell Ribeiro-Addy:** Has any of this been significantly impacted following our departure from the EU? I know that there was a lot of talk about potential issues with information sharing, but as the discussions have died down it is not clear what impact it has had.

**Detective Chief Superintendent Gareth Rees:** Not from the perspective of engagement with mandated bodies such as IIIM or UNITAD, and indeed with the analytical project on core international crimes at The Hague. We are a full member of that and are able to engage effectively through that.

Q28 **Bell Ribeiro-Addy:** How can organisations such as NGOs provide evidence on international crimes to you? Is there a very clear procedure for them to submit evidence to your investigations and is there any guidance for them?

**Detective Chief Superintendent Gareth Rees:** They do submit that and we have a relationship with several NGOs, and indeed some of those NGOs are members of the Genocide Network. Some of them, and others who may not be part of that group, are also familiar with our war crimes referral processes into the portal and the scoping guidelines that we have with them. I had a discussion earlier this week about our clear intent to work with NGOs. Quite simply, these are such complex matters with such horrific crimes—the sheer nature of this offending. They might have the reach into communities in some countries and they are pivotal in supporting us to conduct investigations of this nature. It is a collective effort in that way and one where we actively work with NGOs, case by case and in some of our forums such as the UK Genocide Network, to try to understand how we can support one another.

Q29 **Bell Ribeiro-Addy:** What barriers would you say there are to undertaking effective investigations into international crimes?

**Detective Chief Superintendent Gareth Rees:** The barriers are in many ways the nature of the offending. Sometimes, as we have already discussed here in the context of Daesh, they span over many years, so you are looking at historical evidence. You are not looking at it in the same way as you would a crime reported in a street where you might have live evidence or CCTV and those sorts of things. The international boundaries are a challenge. The fact that the nature of this offending is in conflict zones means that there might not be readily available evidence for us to recover and, therefore, we must use other mechanisms such as UNITAD, IIIM and others.

There are several other complexities to that, not only accessing the initial evidence and material. When people are returning to the UK they are not coming back with lots of evidence on them. Physical forensic evidence is not likely to be there in many cases. They are not bringing back, in many cases, any other material or seized devices that might yield evidential gain. The lack of physical evidence is a challenge, the geography is a challenge, the conflict zone nature is a challenge, but those are challenges through the nature of the investigation. With the best will in the world, that is what we are paid to do—to do complex, challenging investigations as opposed to them being a barrier from a legislative or policy perspective.

**Bell Ribeiro-Addy:** Given some of those complexities, would you say it

is probably easier to continue with investigating such crimes or alleged crimes if they are on British soil?

**Detective Chief Superintendent Gareth Rees:** If the offending happened on British soil?

**Bell Ribeiro-Addy:** Even if the offending happened abroad in alleged contravention of our laws, would it be easier to carry out an investigation if said individual was in this country?

**Detective Chief Superintendent Gareth Rees:** In practical terms, the closer you are in geographic proximity and time to any offences that happen means that not only is it easier for you to access and identify evidence, but there is simply likely to be less attrition of the evidence, whether that is physical or people's recollection. The nature of this offending is, given the different geographical areas, that the victims in the community—the people who have been tragically affected by it—have often dispersed into other areas as well. That is why it is a collective effort across other areas so that we can share evidence through our structural investigation to support from a UK perspective and identify material to support us in any potential investigations. It is also how we can share the information we might have with other law enforcement parties so that the whole law enforcement or ecosystem can benefit and seek to bring these people to justice.

**Bell Ribeiro-Addy:** I suppose that includes interrogating them. It would be obviously much easier if they were in this country.

**Detective Chief Superintendent Gareth Rees:** If the suspects were in the United Kingdom, absolutely.

Q30 **Dr Caroline Johnson:** This is a technical question. If you had a British citizen who went across to France and while they were in France they committed a murder, the French police would investigate that. What is the definition of deciding where you would investigate a crime that occurred abroad and where you would leave it to the foreign law enforcement agencies to do that investigation?

**Detective Chief Superintendent Gareth Rees:** The principle of the offending is that where possible the offence should be investigated and prosecuted in the area that it occurred in. There are similarities in the Rwandan investigation—that if Rwanda wanted to prosecute people there for core international crimes, that is probably where it would happen. I think I am right to say that those matters get quite complex, so we would be engaging with and discussing them from a CPS perspective as well on jurisdiction and how best we approach that. I would seek Bethan's view on that from a CPS perspective.

**Dr Caroline Johnson:** I get whether they prosecute them is up to the CPS, but whether you investigate them in the first place is up to you, as I understand it. Some of them would be clear cut. If someone murders someone in France, the French can look at it. Is it dependent on the functionality of the foreign policing and justice service, or is it defined

countries or defined theatres of action that you do it in?

**Detective Chief Superintendent Gareth Rees:** Certain offences will have different jurisdictional elements and powers. Within that, the principles are that the investigation happens in the country where the offending has taken place. The nature of core international crimes is significantly different, and that offending is so severe. In those cases—for instance, looking at Daesh—the prosecutions are not going to happen in-country and it is in the UK's interest that we investigate them, which is why we do.

- Q31 **Dr Caroline Johnson:** The other question is about children. I am a children's doctor so children interest me. There seem to be two questions. When you go over there as a grown-up, you have made a decision to go there as a grown-up and you are responsible for the actions that you took because you are a grown-up. Children of three or four who are taken out there clearly have no control over where they are going or what they are doing and cannot be responsible for it, but somewhere in the middle is the criminal age of responsibility, and the awareness of what they are doing develops. They may be much older when they return, of course. How do you decide whether to treat a younger person as a witness or as a criminal? What is the age of responsibility for their decision to leave and any crimes they may commit or be induced to commit while they are overseas? We hear stories of 10 year-olds doing quite barbaric things.

**Detective Chief Superintendent Gareth Rees:** Absolutely. Our investigative approach to this, given the very nature of the activities by Daesh, is that a number of children have been minors and ultimately there might be more of a safeguarding issue than a "they are a threat" issue. While they might be young and above the age of criminal responsibility in the UK, many of them are likely to be more vulnerable people who have been taken out there and, therefore, require more safeguarding concern to reintegrate them into society as opposed to being a criminal. Everything needs to be taken on its own merits where you have evidence of what the individuals might have done, and we have to consider that at the time from an investigative perspective and with the CPS.

Often, and it is a real challenge, we have young people who are subject to—and you will clearly be very experienced from your perspective—the most horrific environment to be in at times. Ultimately the overriding issue in many of those cases is a safeguarding concern to reintegrating them back into the UK. We have to look at it on the evidence that is presented.

**Dr Caroline Johnson:** They might have gone out there as a little girl or a little boy but they may well have come back as a very dangerous adult.

**Detective Chief Superintendent Gareth Rees:** Exactly right, and that 100% is a challenge to be faced in balancing and managing the risk of that individual. They might have come back as a young, vulnerable

person and they could come back presenting risks to other people and to themselves as they go through life. We have to wrestle with that and deal with it from a risk management perspective.

**Dr Caroline Johnson:** It is case by case rather than specific.

**Detective Chief Superintendent Gareth Rees:** Yes.

**Chair:** I will follow up on one of the questions you were asked a moment ago by my colleague Bell Ribeiro-Addy. I think you mentioned that you work with a range of international bodies to gather evidence. How does that work in practice? How is that co-operation instigated?

**Detective Chief Superintendent Gareth Rees:** In several ways. If we look at practical examples, we can do a request for assistance into those bodies. If that is the analytical project on core international crimes at The Hague, we can ask, "Do you have any trace across your system of these people?" We can do a request for assistance or information and other countries and international bodies do the same thing with us—put requests for assistance into us where they might be looking for something similar. We can do that. I mentioned that we have an MoU with IIIM at the moment.

One thing to reflect on is, as I said earlier, where at the outset of this we would have been looking at it through a terrorism lens, we now, as a proof of concept, look at how we can identify a small number of key individuals. We wash that data through their holdings to understand whether, over the years, across our international partners, there is evidence that is available to us so that we can look at it through a core international crime lens. We are looking to identify the benefits of that maturity across the system and where the data has grown so that we can now use that to the benefit from an investigative perspective to try to bring some people to justice who might be in the UK. That requires a growing maturity of information, data sharing, holdings in all the different bodies so that we can access material for that reason.

Q32 **Baroness Lawrence of Clarendon:** Could you explain how you work with the CPS following an investigation into international crimes and how this might differ from investigation involving terrorism and other related offences?

**Detective Chief Superintendent Gareth Rees:** In reality, the difference is very little. From a counterterrorism policing perspective, which is where the war crimes team sits, we have specialist investigators and dedicated teams and they work alongside our specialist lawyers in the counterterrorism division of the CPS that Bethan represents. At the outset of an investigation, we will engage at an early stage with the CPS and it is right to say, first and foremost, that our scoping guidelines for any referrals we have are joint police and CPS scoping guidelines. We have early engagement with the CPS and that could include early investigative advice so that we can start understanding what offences we

might have and where we might have some challenges, whether that is jurisdictional or evidential.

The engagement is embedded within our system and it is very similar to how we work from a counterterrorism perspective. There is no significant difference, in answer to your question.

**Q33 Chair:** Sorry, Ms David, we have kept you sitting there for an awfully long time without asking you any questions, but we do have some questions for you now. Maybe you will be able to tell us how many cases concerning Daesh crimes have been referred to the CPS by the police and, of those, how many have progressed to a prosecution.

**Bethan David:** Unfortunately, and I know the committee is frustrated about this position, the CPS does not collate or publish data on the nitty-gritty breakdown of offences that you are looking at. It might assist if I explain how we look at data.

The Special Crime and Counter Terrorism Division deals with terrorism, core international crimes, national security cases and also inciting hatred. They are our four key missions. When cases come into us we record them under one of those pots. They are not mutually exclusive, so terrorism, core international crimes and some of the other aspects of our work read across, but we record them under whichever pot it feels most appropriate when the referral is made in. The view on that may change at a later date, so it might come in as terrorism but we decide it is more of a national security case, or vice versa. Other than that record at the outset, we have no further flags or breakdown of the detail that the committee is looking for.

Part of the issues on that are to do with the variables about returning foreign fighters, so people who may have travelled out to Syria may have then taken a circuitous route back to the UK. People may have been prevented from travel. They may have been involved in various activity before or after, and so for us to pigeonhole now what they did would be incredibly difficult.

On the data that comes out on prosecutions, the Home Office reports quarterly on terrorism offences and I think that is drawn from court data. Over the last 10 years, from 2014, there have been over 1,600 cases for a first hearing in the magistrates' court for terrorism-related offences. They are the ones that have been charged and they include all terrorism offences, not just those drawn from Syria. That figure does not take into consideration those who have not been charged or investigations that are still live.

Trying to give accurate data about that from our perspective is quite difficult. I am aware that the committee has received some Parliamentary Question responses from the FCDO relating to data. We cannot comment on where that data came from and I suggest that if the committee wants to follow that up, it does so with the FCDO.

It is probably worth mentioning on data and the figures: you have talked about so far about assessments for those who have travelled and those who have returned, the numbers who are referred to the CPS for a charging decision is a very small fraction of that pot. Anecdotally, while I cannot give you any specific figures, I can say that those we have charged are in double digits, not more or less than that.

**Chair:** I missed the beginning of what you said there because I was checking something. It is my fault. You were talking about a figure, so what is the figure that you were talking about that was a very small percentage?

**Bethan David:** From the figure that is being mooted for people who have returned, the number that has been referred to the CPS for a charging decision is a minimal number compared with the number of returnees and anecdotally the number of people who we have charged arising from the Syrian conflict is in double digits. We have a strong conviction rate for prosecutions. For the year ending 2022 it was 88%, which is roughly speaking where it has been for many years and is on projection for this year too.

**Chair:** But those figures about charging just cover a general pot of terrorism offences. They are not broken down. What we are really interested in and what this inquiry is about is what are we doing to prosecute returning Daesh fighters for international crimes—crimes against humanity, genocide, torture, and the like—rather than just for belonging to Daesh or ISIL. I think what you are telling me is that that sort of breakdown is not available and if we have concerns about data we should be taking them up with FCDO.

**Bethan David:** On the Parliamentary Question response I believe you have had from the FCDO about data, we do not collate or record data in that way and we are not sure where those figures came from, so that particular response should be followed up with the FCDO.

**Chair:** Okay. You are referring to the Question that was asked by my colleague, Lord Alton, who has had to leave to go the Lords Chamber, when he asked the FCDO in the House of Lords about this issue and the Government said in March 2023, earlier this year, that over 32 individuals have been convicted of terrorism offences in domestic courts after previously travelling to the Iraq-Syria theatre of conflict as Daesh fighters. That is what you are referring to.

**Bethan David:** It is.

**Chair:** So you are not sure where those figures—

**Bethan David:** No, we cannot comment on the Answer on that and refer you back to the FCDO on it.

Q34 **Chair:** Right, so we need to go back to the FCDO on that. On how investigations are carried out, can you tell me about the role that the Genocide Network plays?

**Bethan David:** Of course. The Genocide Network is the Eurojust-led international network for prosecutors and investigators in respect of core international crimes. They are meeting this week, as we speak. They meet twice a year and are very significant in drawing together and exchanging information, so collecting best practice and sharing what people are doing. There are various sessions held within the network and there are observer countries, so the UK is an observer country since Brexit. In fact, at Eurojust that was the first network that we were formally invited to sit on as an observer. Countries such as the US, Canada and Norway are also there with observer status, so it is a significant, strong network for this work.

In the UK we have the War Crimes Network that is co-chaired by the CPS and the Metropolitan Police war crimes team and that stems, in effect, from the Genocide Network. We have open and closed sessions at that forum and try to meet twice a year at least. We have had some extraordinary meetings about Ukraine too and civil society groups are also represented there.

We have Redress and Clooney Foundation for Justice, among others, but also several other civil society groups and the CPS will be hosting the next network meeting in January. At that meeting we will look at the recommendations from the Clooney Foundation and Redress in their recent report, particularly the practical recommendations, and talk through those with them, taking us through their work on that, and look to implement what is needed and what action should be taken thereafter. Again, in the UK it is a strong way in which we are connecting government departments and trying to progress this work in an informed and joined-up way.

**Dr Caroline Johnson:** You mentioned the success rate of 88%. When you are deciding to charge somebody, what is the percentage expectation of success you will get? How does 88% compare with charging for other crimes?

**Bethan David:** All our charging decisions are made under the Code for Crown Prosecutors, so they are made case by case. We look first at the evidence. It is a two-stage test. The evidential stage is whether there is sufficient evidence to bring a prosecution and only then, if you have met the evidential stage, do you go on to consider whether there is a public interest in prosecuting, which if both are positive will result in a charge. The CPS has no mandate or success rate in the number of prosecutions that we need to bring. It is done case by case and ensuring that justice is done is led by the evidence not by statistics. Each case is reviewed on its own merits.

On public interest, it is probably appropriate to say that for such serious offences there will almost always be a public interest in prosecuting, regardless of the age of the offence or the infirmity of the suspect. Assuming that there is sufficient evidence brought to us and we can meet the evidential hurdles, a prosecution is likely to follow for the offences we are talking about.

**Dr Caroline Johnson:** It is not done based on an expectation of a percentage of success rate?

**Bethan David:** No, not at all. I cannot comment on your question about how our success rate compares with other rates. I do not know what the success rates for things such as domestic violence or remits outside my division are, but if it is of interest to you I can see what data there is and get that to you.

Q35 **Dr Caroline Johnson:** My only other question is: do you feel adequately resourced? Potentially lots of people come back and we do not know how many and you are not going to tell us, but you know how many you think have come back. Do you feel adequately resourced to complete the investigations properly?

**Bethan David:** Resources are at the fore of all departments' minds most of the time and we keep that under constant review. We are fully resourced now. We are constantly looking at our levels with prosecutors and their levels of expertise. We recruited several lawyers in response to the Ukraine conflict, looking specifically for people with international law experience, which is not something we have specifically sought out before but is becoming more prevalent. We are running a further lawyers' campaign imminently and again we are looking, if feasible, for those skills.

We constantly keep that under review. We are satisfied at the moment that we are sufficiently resourced, but we are looking at different world events and how those will impact on us and the upflow of information and suspects that come through from the police. It is something that we are constantly working with but at present we are quite satisfied that we have sufficient resource.

One of the other things that as a prosecution service we draw on as a resource is expertise from the Bar and also expert evidence from academics where we need support with things such as explaining geopolitics and more complex aspects of the evidence that we need to understand to make the charging decisions but ensuring that the jury understands so that it can come to the right conclusions.

Q36 **Dr Caroline Johnson:** If the Chair will indulge me with another question about the Ukraine issue, I understand that people go abroad to somewhere such as Syria, they commit war crimes, they are British people and they come back and there is an issue with that. You are suggesting you are recruiting people for Ukraine. Are you saying that there are British people going across to Ukraine to commit genocidal atrocity out there? What sort of crimes are British people committing in Ukraine and why are the Ukrainians unable to prosecute them themselves?

**Bethan David:** Not necessarily British suspects who are going out but there are British subjects who are victims. We are also looking to support His Majesty's Government in supporting the Ukrainian prosecutor's office and investigative collection. We have been giving investigative advice to

the police about some structural investigations in relation to the Ukrainian picture.

**Dr Caroline Johnson:** Supporting the Ukrainians rather than expecting to have investigations of people over here?

**Bethan David:** That is absolutely the case, but there is also the position that they may not necessarily be British but suspects from other jurisdictions may come into the UK and we need to be prepared for that as well.

**Dr Caroline Johnson:** Detective Chief Superintendent, are you adequately resourced?

**Detective Chief Superintendent Gareth Rees:** It is a very similar response. The war crimes team sits within a wider command of the Counter Terrorism Command and we work across three different areas—counterterrorism, counterstate threats and war crimes, as it is referred to in the unit. We must keep resourcing under review and I have to keep it under review in how I flex resource across my command to be able to meet that perspective. It is a challenge looking across those areas and understanding how we can meet the demands in the three areas and balance that resource effectively, along with the funding resourcing that we are provided.

**Dr Caroline Johnson:** I get that you could always have more and you could always do more if you have more, but do you have enough?

**Detective Chief Superintendent Gareth Rees:** To a point but you could argue that people will always want more and could do more. The surge we have seen in Ukraine—I know it is outside the scope of this inquiry—is creating further demands on the teams and, therefore, to that end I have doubled the size of the war crimes team in the last year. We are now looking at how we might have to surge further resource into it and flex it across my command. That gives some perspective to not only the demands within the investigation of core international crimes but the focus of it. It is quite a clear statement of intent that the SO15 Counter Terrorism Command has three missions and war crimes is one of those key missions.

**Dr Caroline Johnson:** You are saying that you have not had additional resources to support the Ukrainians with the war crimes investigations, but you have taken money out of counterterrorism and counterstate threats to put into the investigation of war crimes that are happening overseas to people in Ukraine?

**Detective Chief Superintendent Gareth Rees:** We certainly had to balance resources across that command. I would not say taken money out, I appreciate it is semantics, but we are having to use—

**Dr Caroline Johnson:** Money that would have gone into counterterrorism policing in Britain, for the safety of British citizens, is now being used instead for supporting war crimes in Ukraine.

**Detective Chief Superintendent Gareth Rees:** Specifically Ukrainian. We have increased the size of our war crimes team in the resourcing within the Counter Terrorism Command.

Q37 **Baroness Lawrence of Clarendon:** In your view, why does the UK have such a low rate of prosecution of returning Daesh members? In particular, why has the UK so far been unable to prosecute UK citizens or residents or members of Daesh for genocide or torture or other international crimes?

**Bethan David:** On the figures for prosecution, as I have indicated, the vast majority of those who have been referred to us have been prosecuted successfully but not for core international crimes but terrorism. Charging decisions are led by the evidence and the most appropriate charges need to be selected based on the evidence. We look at charges that reflect the seriousness and extent of the offence, supported by the evidence, but also give the courts sufficient sentencing powers and any ancillary orders and also enable the case to be presented to the jury in a clear way. Witnesses and victims are absolutely paramount to the prosecution process and to seeing justice done, and supporting victims and witnesses through the process but through attaining justice is absolutely critical to the CPS.

Most of the cases that have come to us of Daesh fighters have been prosecuted for terrorism because in the main they have not been victim- or witness-led prosecutions. There have been no direct reports from witnesses of the allegations against them. The police have been proactive in investigating those individuals but it has been through social media and comms channels rather than through witnesses and victims. When they have returned to the UK, most of them have no evidence on them. As Gareth has indicated, a lot of them are stopped under Schedule 7, the ports terrorism power.

Daesh is a proscribed organisation, so looking at terrorism where we cannot look at core international crimes is absolutely critical. Core international crimes and terrorism are not mutually exclusive, so we have been looking at both sets of offences and we have been giving the police, from the outset of the Syrian conflict, early advice about possible core international crimes that they should look for. That does not mean to say that the evidence is there that will support it.

An earlier question was about the offences that we advise on. On core international crimes that may be committed and shown through social media posts and the like, we have given advice about offences relating to violence to life, in particular outrages upon personal dignity, which is quite prevalent in respect of imagery—I will not go into the details; it is graphic and not necessary but I think you get the picture—but when it has come down to it the evidence is supporting the terrorism charges as opposed to those particular matters but they are being given due consideration.

**Baroness Lawrence of Clarendon:** The paperwork that we have had

gives numbers of how many have been prosecuted in Germany but when it comes to the UK it is more or less zero. We have been told about these figures and they are not verified. Germany is able to prosecute Daesh fighters coming back but the UK has a lower rate.

**Bethan David:** Germany has had some fantastic successes, which are to be commended. When we are considering the differences between the two countries and why the Germans have had some successes with core international crimes and ours remain within the terrorism cadre, there are some key differences that have enabled them to succeed with those prosecutions.

One of the key things is that there is a different number of returnees going to Germany. There are a lot more refugees and in that cadre of refugees there are witnesses, victims and perpetrators and they are going to specific areas of the country. That is definitely one thing that has enabled Germany to take cases forward. There are also different degrees of access to evidential material. We have an adversarial system and they have an inquisitorial system, so there are some significant differences in the admissibility of evidence. That does not mean to say that we could not prosecute in the same situation but we have to convert intelligence to evidence.

I do not know enough about the German system per se but certainly in some inquisitorial systems they can adduce intelligence before the judge in a more dynamic way that is swifter. We can adduce intelligence if we convert it to evidence but it is quite complex and we may not always be able to.

Some of the other challenges that are very relevant to this are in the collection of battlefield evidence. From the outset of the conflict that we are talking about today, a lot of work developed about the collection of battlefield evidence, which is usually through the military. It is still a live conflict zone and it is incredibly complex to gather evidence in a format that is admissible and gives credible and reliable evidence. The UK has led in some of the prosecutions in introducing battlefield evidence and we have worked with the UN, the Council of Europe and other international organisations to draw up guidelines about best international practice for the collection of battlefield evidence.

**Chair:** What exactly does “battlefield evidence” mean?

**Bethan David:** It is also referred to as collected evidential material—CEM—but it is literally evidence that is collected from the conflict zone, usually by the military. It may be just waiting for the bin liner to fill.<sup>1</sup> It is not maybe the military’s primary concern, and probably not even a secondary concern, but one of their taskings is, where possible, to collect that information. In some of the office facilities in Syria that Daesh has

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<sup>1</sup> The witness has clarified that this sentence was meant to convey the message that this process “may be as basic as scooping bin liners full of material such as papers in an office of relevance”.

been using, in hospitals and the like, they have collected documentation. A huge number of USB drives, laptops and phones have been secured. That all needs to be analysed and we have been working with policing partners and in the Crown Prosecution Service with international partners to develop best practice in that to enable it to then be broken out and used in criminal proceedings for successful prosecutions.

We have seen some successful prosecutions from incidents in Afghanistan, Iraq and Syria using battlefield evidence. It is very complex because it usually involves a lot of different countries and a lot of sensitivities, but it is critical to core international crimes and terrorism prosecutions.

**Q38 Chair:** One of the things that we are most interested in is justice for the Yazidi people. Many of them have been slaughtered as part of the genocide but equally there are particularly women and girls living who have been the subject of heinous war crimes. It seems to me that the victim-led approach, looking at what they have to say, is what is needed to make prosecutions in the United Kingdom work. Do you agree?

**Bethan David:** Yes, absolutely. We are completely focused on the victim-led approach where there are key witnesses and victims who come forward. Getting accounts from those victims and witnesses is absolutely critical and that can be very challenging for all sorts of reasons.

**Chair:** There must be groups out there which are collecting testimony from the survivors of the genocide. We talked earlier about working with NGOs and international organisations. There has been a lot of lobbying of parliamentarians on behalf of the Yazidi people from NGOs and international organisations. I wonder whether what is required is a more proactive approach to gathering that and then looking at whether there are men who are British citizens or who have come here since the war, since the conflict is over, who we can now prosecute for what they did to those women and girls. I am thinking about mass rape, taking women and girls into slavery. British citizens have been involved in doing that. As a matter of law we have a proactive duty to investigate that.

Are people going out to what was the field of conflict to interview these women and girls or is information being brought to the British authorities that could be used for victim-led prosecutions? That seems to be the missing connection.

**Bethan David:** That is very much a question about investigations rather than prosecutions, so it might be better if that question—

**Chair:** I will go back to the Detective Chief Superintendent and ask him about that.

**Detective Chief Superintendent Gareth Rees:** Absolutely, and I hope to reassure the committee that we are completely with you in that respect. I mentioned earlier that we have what are called structural investigations. Structural investigations are where instead of us investigating an allegation by a person against an individual, say in the

UK, we are engaging with and trying to investigate the thematics so that we can establish whether there is evidence, witness testimony or otherwise, that we can access in the UK to support exactly what they are suggesting.

The first of those structural investigations in the UK was into the Yazidi genocide in 2021. That meant there was engagement by the war crimes team with Yazda. There is a very small Yazidi community in the UK and we engaged through Yazda with them to identify whether there was any evidence that we might have and any people who had been victims or witnesses of crimes who needed to be supported from a victim-witness perspective or there was evidence that benefited us in the UK or could benefit elsewhere. That resulted in some evidence being recovered and submitted through into the APCIC—the Analytical Project for Core International Crimes—in The Hague.

While the testimony that we recovered did not identify suspects in the United Kingdom that we could have victim-led prosecution, to your very point there was evidence and investigation relevant to that particular suspect and that was shared with the APCIC.

**Chair:** The APCIC?

**Detective Chief Superintendent Gareth Rees:** It is the analytical project for core international crimes in The Hague.

**Chair:** This was information that you gathered in the UK that you shared internationally?

**Detective Chief Superintendent Gareth Rees:** Correct.

**Chair:** I am asking the other way round. Should the UK authorities not be looking to information that has been gathered in the field of conflict that would identify British returnees as war criminals?

**Detective Chief Superintendent Gareth Rees:** My point there is that we do exactly that. I mentioned IIIM, where we are developing a sharing arrangement to do exactly that, and with other bodies and through those networks.

**Chair:** It is not bringing any results, is it?

**Detective Chief Superintendent Gareth Rees:** No, I take your point.

**Chair:** I am wondering what it is that is stopping it from getting results. Please do not think I am being overly critical, because I understand the difficulties, but it just seems that it is not bringing results.

**Bethan David:** Another thing that is worth mentioning is joint investigative teams—JITs—under the Eurojust umbrella, which is where you bring together international prosecutors and investigators from countries that have a direct nexus to a particular investigation. You sign, in effect, a memorandum of agreement about the exchange of

information. That in some ways deals with the data protection rules that you can get tied up in because it circumvents that through a different sort of agreement, to get a direct working group to investigate and take forward the prosecutions, determining which is the best forum for the prosecution once the investigation has been completed. That is quite significant in relation to the Yazidis and other international specific incidents but it came out of the structural investigation, going back to the core evidence from witnesses and victims.

**Chair:** Thank you for that. Doreen, I think you still have another question you want to ask. Sorry, I jumped in there. Forgive me.

Q39 **Baroness Lawrence of Clarendon:** Have any Daesh cases concerning international crimes been referred to the Attorney-General for consent to prosecute? If so, what was the outcome?

**Bethan David:** I am afraid that we cannot talk about specific live investigations, so I am not in a position to answer that. I would refer that to the Attorney-General's Office if you want to pursue that question.

**Chair:** Okay, we need to refer that to the Attorney-General's Office.

Q40 **Bell Ribeiro-Addy:** You have outlined a few of these already, but what do you consider to be the barriers to undertaking effective prosecutions? Are there any issues with the legal framework or practical reasons why you have not specifically been able to bring prosecutions for international crimes?

**Bethan David:** I have highlighted a few of the issues already. There are no practical challenges that are insurmountable, but we are talking about incredibly complex legal issues, so some things take a considerable amount of time when you are dealing with other jurisdictions.

I have not specifically mentioned mutual legal assistance as yet. The Crown Prosecution Service is the designated prosecuting authority in the UK to formally request evidence from overseas. That can be incredibly time-consuming. We have to carry out risk assessments before we can put in a request, depending on the country. For most of the countries concerned with the evidence that we are talking about we will need to conduct a risk assessment before making a request of victims and witnesses in particular who are in-country or on other aspects of their evidence. For the police to conduct a proper investigation, quite frequently if it is not a live conflict zone that will require them to deploy to the locality to do that, which again will be done through mutual legal assistance and require risk assessment. The UK central authority in the Home Office is part of that process and puts out guidelines and is ultimately the arbiter of whether or not a letter should go, but mutual legal assistance is terribly time-consuming even with countries that we work with closely.

I have spoken about battlefield evidence. On legislation, currently we are quite content with the toolbox that we have. We think that we have sufficient powers but it is getting the evidence to fit the legal framework.

The Redress and Clooney Foundation's recent report has made a number of recommendations about legal and practical challenges. On the legal challenges it mentions, the CPS supports a number of the recommendations that strengthen the scope of the legislation. In particular, we support the recommendations to remove the nationality and residence requirements, which would streamline things and make it a lot easier for prosecutors to provide advice on jurisdiction.

On residence, while there are some carve-outs for people who are not strictly citizens or residents, they require us to produce evidence to meet that particular legislative carve-out. Simplifying that would obviously be of benefit. It makes a recommendation to the timings, which again we fully support and I think it is a fairly uncontentious matter. Finally, they make a recommendation recognising command and superior responsibility, which again will be of benefit to prosecutors.

We support those three recommendations. We will be unpicking the recommendations they make about practical guidance further with them at the War Crimes Network in January and taking any relevant action thereafter.

**Q41 Bell Ribeiro-Addy:** The panel asked earlier about the number of people who might have come over and how many were under suspicion. Given that you do not have a sufficient amount of evidence but there is some suspicion, what is their current state at the moment? Are they being held? Are they not allowed to leave the country? What situation do they find themselves in, given that they are under suspicion and you do not have enough evidence to take forward a prosecution?

**Bethan David:** Those who have returned who are in the country and have not been prosecuted will probably fall into a number of categories, but each case is dealt with on its own merits. Each suspect will be dealt with in relation to the allegations against them. Some will have been told that there is no further action being taken against them. Alongside that, they may have been advised that if they go back out to whether it is that conflict zone or another conflict zone they will be further investigated and advised not to travel. A clear message has been given throughout this conflict that people should not travel to and support Daesh in those conflict zones. Other people may not know that they are still under investigation and there may be some who are remanded on bail with conditions, but it is case by case and each suspect will be dealt with on their own merits.

On terrorist investigations, under the terrorist legislation we have a power of detention of up to 14 days, which can be extended for longer. That is very different to core international crimes or hostile state, but if we have not made a charging decision within the period of detention, we cannot collect the evidence, they may be released and the investigation will probably continue or they will be told there is no further action.

**Bell Ribeiro-Addy:** To your knowledge, how many have been prevented from returning to the UK on the basis that they may be a danger to the

UK?

**Bethan David:** That is not something that the Crown Prosecution Service is able to answer. You would need to refer that to other departments, I am afraid.

Q42 **Baroness Meyer:** I am sorry that I missed the beginning of your very interesting and very valuable presentations. Is there anything you want to add?

**Detective Chief Superintendent Gareth Rees:** It is quite powerful to me that the people who are working in the war crimes team in the Counter Terrorism Command are specialist investigators in this area. I understand absolutely the comments made by the committee about the lack of prosecutions. They are specialists who are choosing to be in that area and they are really passionate and want to deliver justice for victims. That is their *raison d'être*, that is why they come to work. They want to do this. They want to understand and continue to develop the relationships with the different bodies and organisations to identify where the evidence is, as the Chair made the point, so they can yield evidence, fully investigate and meet an evidential threshold where people can be prosecuted in the United Kingdom.

They are very complex investigations in a very difficult scenario and difficult situation but one where I know the maturity of the system has developed over the years and I am hopeful that we will be able to achieve great results going forward. It is through no lack of commitment by the officers, the staff who work in this area, but I appreciate the concerns of the committee.

**Baroness Meyer:** It is more the legal system?

**Detective Chief Superintendent Gareth Rees:** It is more the sheer challenges of the operating environment, the nature of these offences, the dispersal across international boundaries of victims and witnesses who have been subject to the most horrific crimes and where we are working across the international law enforcement community to identify evidence to support our respective jurisdictions to be able to deliver that. That is not a value statement, it is just a statement of how we are structured and how we are delivering.

**Chair:** I think we do hear that and certainly we mean no criticism of the officers who face a very challenging environment to work in. I thought Bethan's answer about why prosecutions have worked in Germany was very interesting. It is partly because it is a different system, an inquisitorial system rather than adversarial, but you also made the interesting point that Germany has accepted refugees from the area, so there are witnesses present in Germany who may have suffered, may be victims of the crimes. I think that was the point you made. We have not brought any Yazidi women or girls to the UK, to the best of my knowledge, and there are not any routes for them to come here.

**Bethan David:** On the German successes that I know about, if we had that evidence here we would be able to prosecute. If we had those complainants in the UK we would equally have been able to seek extradition from European countries and been able to prosecute. I think it is very much about the evidence and the witnesses and victims we have. The key to improving the likelihood of returning fighters being prosecuted here is securing and preserving evidence that is reliable and admissible at the earliest stage. The inroads we have made over the last 10 years with battlefield evidence and much stronger working relationships with international counterparts is absolutely critical to that, as is the War Crimes Network within the UK, which again we are looking to strengthen and develop.

All those things will help us achieve that but with the couple of recommendations in the report I think we are satisfied that we have the tools that we need.

Q43 **Dr Caroline Johnson:** You might not be able to answer this question or you might feel it is not yours to answer. When you prosecute people, are the sentences adequate for the crimes that have been committed? Do you think they are long enough for rehabilitation in particular, and do you find yourself investigating or charging the same people twice?

**Bethan David:** Are they adequate? There are sufficient sentencing powers for terrorism offences and many have been amended to make them where life can mean life. We have seen life sentence with significant minimum terms for all sorts of different terrorist offences. There are also ancillary orders that sit alongside terrorist convictions. Core international crimes fundamentally have 30 years' imprisonment as the maximum tariff. For terrorism offences it differs, depending on the nature of the offence, and they are categorised. When someone is being sentenced, the judge determines which category they fall into and what the starting point of the sentence is. They then take into account things such as timely guilty pleas and mitigation but, yes, I think the sentencing powers are there.

Ancillary orders come alongside terrorism offences. We have the terrorism notification orders. We can also now apply for serious crime prevention orders on the back of a terrorist conviction, which might be more relevant for someone who has engaged in online activity—distributing terrorist material, encouraging, glorifying, radicalising. We might look for some specific caveats to put about their behaviour to stop them going on certain websites or contacting people or going to certain areas. I certainly think the toolkit in relation to sentencing is there across the board.

On core international crimes, as I say, the picture is a bit different from terrorism but we would equally be able to apply for a serious crime prevention order should it be appropriate. It may be that the same sort of markers are not there but that would be available.

**Dr Caroline Johnson:** Thank you. That is really helpful. Chief

Superintendent, do you find you are investigating the same people again after they have been in prison and come out again?

**Detective Chief Superintendent Gareth Rees:** The potential of reoffending or recidivism much depends on the crime types you investigate, from my policing experience. If you look at it from a terrorism perspective, Bethan has already covered the enhanced nominal management toolkit that is available to us, the conditions that can be put on you depending on the nature of the offending. The nature of criminality is that, whatever the crime type is, people sometimes reoffend. It is very difficult to say for the purpose of core international crimes but the sheer nature of society is that when people have committed crimes, they sometimes go on to reoffend, which is exactly why we have some of those conditions and orders in place to help us manage those nominals and the risks that they may pose, whatever that risk may be.

**Chair:** Thank you very much to both of you. I am sorry we have kept you for rather a long time, but it has been a very interesting session.