



Select Committee on the European Union

Home Affairs Sub-Committee

Corrected oral evidence: Brexit: Future UK-EU Security and Policing Co-operation

Wednesday 12 October 2016

10.30 am

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Members present: Baroness Prashar (The Chairman); Baroness Browning; Lord Condon; Lord Cormack; Baroness Janke; Lord Jay of Ewelme; Lord O'Neill of Clackmannan; Baroness Pinnock; Lord Soley; Lord Watts.

Evidence Session No. 2

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Questions 11 - 18

Witnesses

I: Mr Stephen Rodhouse, Deputy Assistant Commissioner, Metropolitan Police Service and National Police Chiefs' Council; Mr David Armond, Deputy Director-General, National Crime Agency.

Examination of witnesses

Mr Stephen Rodhouse, Deputy Assistant Commissioner, Metropolitan Police Service, National Police Chiefs' Council; Mr David Armond, Deputy Director-General, National Crime Agency.

The Chairman: Good morning, Mr Armond and Mr Rodhouse. Welcome and thank you for your time. Just by way of background, this session is on the record and will be webcast. You will be sent a transcript of the evidence. If you wish to make any corrections, please do so. Also, if you think we need any additional information by way of clarification, please send it to us. Before we start, it would be helpful if you could introduce yourselves and tell us a little about your respective jobs, what you do and your responsibilities.

David Armond: Thank you very much for the invitation to give evidence to the Committee. Obviously this subject is very close to our hearts at the moment. We are doing quite a lot of work around preparing alternative arrangements for our international work. I am the Deputy Director-General of the National Crime Agency. We have responsibility for dealing with serious organised crime in all its facets, and importantly in relation to this we have the lead responsibility for co-ordinating our efforts against serious organised crime internationally. We have the International Crime Bureau in Manchester, which fulfils the functions of our national central bureau for Interpol work and performs the function of supervision and relationships with Europol. We also lead the multinational European liaison bureaux with a network of around 170 officers placed around the world. I used to sit on the Europol management board, so I am very familiar with the processes. I also serve on the Interpol executive committee. From an operational perspective, I can speak with some confidence about what we get and why some of the measures are important.

The Chairman: You are also leading on Brexit.

David Armond: Yes, I am leading for law enforcement on Brexit.

Stephen Rodhouse: Good morning. My name is Stephen Rodhouse. I am a Deputy Assistant Commissioner with the Metropolitan Police. My responsibilities and portfolio in that organisation are around serious and organised crime, so it is a fairly wide portfolio. Included in that is responsibility for the Metropolitan Police international unit. More widely, I have a national policing portfolio responsibility within the National Police Chiefs' Council for foreign national offenders, a role I have held for the past two years.

Q11 **The Chairman:** Thank you very much. You will be aware that we are examining aspects of UK-EU police and security co-operation and what may be desirable following Brexit. I read with interest your description on 30 September of what you think is necessary for effective co-operation. It

would be very helpful for our purposes if you could briefly set out what priorities you have identified from an operational perspective in terms of the measures and tools that you would like to have at your disposal post-Brexit. Can you set out what you regard as absolutely crucial, what you think are important, and others that it would be nice to have? It is important for us to see the spectrum.

David Armond: In the immediate aftermath of the referendum, my agency put a paper together that set out the measures which are potentially at risk as the result of Brexit, as well as some views on the relative strengths of them backed up by operational cases. That was circulated to the National Police Chiefs' Council and other law enforcement partners. As a result, it was agreed that the NCA should co-ordinate the law enforcement effort to produce documentation and responses that would assist government departments in developing a negotiating strategy for what is important. Our response incorporates not just the measures that are important to our agency per se; it is not just about serious organised crime and our other interests, it also covers counterterrorism, responsibility for the impact of crime and how these measures support the protection of our communities through local policing. Stephen, of course, is the expert on those issues. We have produced a set of documents that lay out the immediate things that need to be considered now—what immediate risks and decisions need to be taken—followed by a view on other measures and their utility. In every case that is backed up by real operational examples. This is not theoretical; it is about how we use them, the volumes in which we use them and why that is so important. There is an attempt at what may be possible going forward, but of course the negotiating strategy and the decisions are for the Government. We are merely advising operationally.

On the question of what is immediately important, I know that the Committee will be well aware of this, but the risk closest to us relates to the signing of the Europol regulation. We are the only member state that has not signed up to the new regulation. The reason for that was that there were some concerns about some of the provisions in the new regulation as compared with the old one which have been negotiated away, but we have not yet signed it. The impact of that is that if we do not sign up to it by Christmas, we will be out of Europol on 1 May 2017. If we do sign it, that in effect will give us the period of the Article 50 negotiations to work out how we conduct our work in the European context going forward. That is the first issue for us. There have been submissions to the Home Secretary by officials in the Home Office and it is sitting with her. I am sure that there will be a decision through Cabinet in due course. That is the first thing we need to do.

If we do not do it and if we are out, the direct impact will be that we will have to take our 17-person team out of the offices in The Hague, which is a multi-agency bureau, and we will lose direct or immediate access to both the messaging exchange system known as SIENA and, more importantly, to the European information and intelligence system. We are significant contributors to that dataset; in fact we are the second largest

contributor in Europe. Our advice has been that as a country we need to make some immediate decisions on that issue. I can go into more details of what I think will be the risks if we do that. They relate to the European arrest warrant and the Schengen information system, and how we access them going forward. These are probably for us the most important tools. I can give further details about the EAW later in the session.

Access to the Schengen information system, as well as the establishment of the SIRENE bureau has been an absolute game-changer for the UK. It has increased exponentially the number of European arrest warrants for subjects who are wanted in the UK—a 25% increase since it has become available. We have put many thousands of alerts on to the system and we share millions of records with the Europeans, and of course it is directly accessible by our police officers on the street. It is linked to the police national computer so that officers can stop a car with French plates and Hungarian nationals in it, undertake checks and find details of stolen property, wanted people, alerts and the like. That is important both at our borders and on the streets.

The next important thing for us is access to the European Criminal Records Information System. This is about criminal conviction data which are accessible only under the current arrangements. We will lose access to that material immediately if we are out of Europol. On our behalf ACRO makes tens of hundreds of checks. That is important not only in terms of people who have been arrested or who we have been making inquiries about but in identifying people who might be offered work with children in the UK. Again, it is a very important tool.

Finally, there are two initiatives that will go live in the very near future. One is our membership in May of the European investigation order. That will substitute mutual legal assistance and make it much easier for our country to work with European neighbours on live investigations and on developing cross-jurisdictional prosecutions. But of course the question is whether we put significant energy into that process to stand it up just to withdraw in a few months. Then I could talk about Prüm, where we have been piloting with four countries and the results have been very promising. That, too, will have to be looked at in negotiation.

Stephen Rodhouse: This may be an obvious point but is possibly worth making at the outset. It is about the transnational nature of crime that both Dave's organisation and police forces across the country are dealing with. To articulate that, last year, there were 1.2 million arrests in the UK. Almost 200,000 of those were foreign nationals and 56% of those were from the EU. So 56% of foreign nationals arrested were from the EU. There is a system of mapping organised crime across the country, and in 42% of our known organised crime groups we have recorded at least one member as non-British.

In dealing with this threat and trying to get parity of tactics with people who may have never left the UK, information is key. Most of the measures that David outlined rely on the effective communication of information. I completely agree with everything he said: they are all

critical to volume policing, but particularly the access to criminal records data from across the EU. We now have an effective system in place that can give very speedy returns when we inquire into the criminal background of somebody that we have in custody. That allows really effective decisions to be taken about the risk that they pose and the opportunity of an immigration solution to having a risky offender in the UK.

As an example, last year the requests for overseas criminal convictions data that came back into the UK revealed 178 cases of a conviction for rape abroad and 177 for murder, which allows that information to be put on the police national computer and to be at the fingertips of officers all over the country. We have seen cases in which, if that information is not available, it presents an ongoing risk to the UK.

All the measures are important, but I would prioritise the criminal exchange data as hugely significant.

The Chairman: We went through all this debate when we decided to opt back in to the 35 measures. How does this overlap with them and which post-Lisbon measures are tools that you would like to include as a priority?

David Armond: Of the 35, I think, JHA measures we opted in to in 2014, we were consulted on 33. They are not all relevant to the work that my agency does, but we supported those that were chosen. Collectively, as law enforcement, we learned lessons from that process, because when we talked about the importance of tools, some cases we made were based on the theory of how they might be used rather than the actuality. We may have said that some looked really important from a theoretical position, but we ended up with a list of measures that really are important, and that still holds good today.

For all the measures subject to JHA, we will have to work out an alternative way of doing business in that area without the specific tool. I have said it already, but for me, the most important measures are: membership of Europol or an alternative arrangement, which I can talk about; the use of the European arrest warrant, or an alternative measure; and access to the Schengen information system. The one I have not mentioned so far, which is a post-Lisbon agreement, is our access to passenger name record data, which is incredibly important for the security of our border. We have been accessing PNR data from key partners around the world for our border security, but until this measure, some European nations were not providing us with these data—Germany being a case in point.

It is really important for our work at the border and at the National Border Targeting Centre. It gives us not only the details of the subject but addresses, bank details, telephone numbers and a whole host of other data that can be really important when we are checking against criminal records and profiling those people who might be a threat to the UK.

Lord Condon: David, could I press you on the Europol issue? Either in May, as you say, or later, when we come out of Europol, could you give us a sense of the hierarchy of the best and the worst we might face? I assume that when the UK leaves the EU, there is no possibility of retaining full membership of Europol. If we cannot do that, what options have other third countries adopted? Can you give us a best-case/worst-case scenario of what we will lose by losing full membership of Europol?

David Armond: This may sound incredibly naive, but I will say it anyway. Our starting point will be to say that we should not look at precedent; we should look at something more than that. This is the first time in history that a member state has left the Union and I think we should be aiming for access and a partnership that is different from and closer than currently exists for any other non-member state.

Lord Condon: Full membership light?

David Armond: Full membership light. I will explain what that might mean. For instance, for the first eight years of its existence, the UK probably viewed Europol as an interesting entity that had potential that had not been realised and needed serious work. We were not sure whether it would ever get up to speed. Some of the bureaucracy of structures and meetings looked to be difficult in a fast-time operational environment.

Then we got the opportunity to put a candidate up for director of Europol, and that seat, as you well know, was secured by Rob Wainwright. We put all our weight behind assisting Rob, being full partners and putting as much effort as we could into Europol. That included: establishing the largest liaison bureau for a Europol member state; having a multiagency bureau with all the disciplines represented; being neck and neck with the Germans as the nation that provides the most intelligence to the European information; and taking a lead role in the creation of processes to make Europol work. The whole EU policy cycle and the way that the serious organised crime risk assessment is conducted and operational priorities are identified is an absolute lift and shift of the UK intelligence model. It works. As we know, it has worked in this country and it has worked very well and is well supported by our European partners.

So we have been driving a lot of the decisions. We have been represented at the Europol management board and on the internal security committee, COSI, in Brussels. We have taken the responsibility on a significant number of operational responses, meetings under a programme known as EMPACT—I probably have in my notes what that acronym stands for, but I cannot immediately recall it. We take the lead in four or five of those 13 pieces of work. We are members of all of them and co-drivers of a number of them.

Our leadership, along with that of nations such as the Netherlands and France, is important in getting things done. By being part of the process, and being at the table and influencing what is going on, we would argue that we have helped to make Europol a better machine. As for alternative

arrangements, we could have an operational partnership with Europol, as a number of countries have got including the Americans, the Canadians, the Australians and even the Colombians, for instance, because of the interest in transatlantic cocaine trafficking. But we would immediately lose two things. We would still have access to the messaging system, SIENA, but we would lose our access to the Europol intelligence system. That means that all our inquiries would have to be made effectively on a law enforcement to law enforcement basis through liaison, rather than us having direct access to the system. That would be a major issue.

Lord Condon: Is that what, for example, the United States would currently do?

David Armond: The United States has a large number of representatives who are authorised to be in a relationship with Europol. They have quite a large standing office in The Hague and they can, as an operational partner, engage in joint work, if they are invited to the table and they have something to bring. But they do not have any influence in terms of what Europol does or how it does it. They are not members and cannot be heads of national units; they are not allowed in there. We might have observer status as operational partners but we would not be members. We would not be members of, or even present at, the Europol management board, and we would not be sitting at the COSI, helping to drive strategic direction. There is a lot of operational co-operation that we could continue under that agreement, but it will be suboptimal and not as good as what we currently have. Of course there is always the concern that, if we have a whole set of other instruments to replace the ones that currently exist, and our European partners continue to use EU instruments, where would we be in terms of priority when it comes to them doing our work?

Lord Condon: Have you advised the Government on how full membership, as near as damn it, might look and how that might be achieved?

David Armond: We are attempting to do this in this current arrangement and exchange of documentation. We seconded one of our people to the team in the Home Office, and we will continue to provide operational advice. But the director-general has been very clear that it is our job to provide advice and for policy units to advise on a negotiation strategy.

Q12 **Lord Condon:** Parking for the moment the big negotiation strategy at Prime Minister and EU President level, where there will be give and take around what is possible—if you have this, you can have that and so on—and just focusing on the law enforcement community, do you sense there is a willingness, and perhaps even a hope, that the EU will retain something that looks almost like full membership of Europol? There is no glee, I suppose, from the other law enforcement agencies that we might be a lesser partner.

David Armond: From experience and interaction with European partners over a long period of time, I know that there are, of course, some sensitivities at senior levels about why the UK chose this course of action. But in a practical sense there has been no change whatever to their commitment to working in partnership on a day-to-day basis. We are in continual bilateral and multilateral discussions with our partners from an operational perspective about how this is all going to work. I would not be so arrogant as to say that Europe needs the UK, but we certainly need each other. The threats that we are talking about are serious to all of the citizens of the UK. It is in everyone's interest to negotiate the best possible set of arrangements to ensure that we continue to contribute not only to the security of the UK and the protection of our citizens but also to those of the European Union.

Lord Condon: Stephen, do you want to add anything to what David said?

Stephen Rodhouse: Thank you. I endorse what he says, because of course David speaks with more experience than I do around the strategic oversight of Europol. From an operational perspective, the points that David makes about access to information about emerging and current crime threats are just as pertinent to the 43 police forces of England and Wales, and indeed beyond, as they are to the National Crime Agency. That is because we do not have a remit-based approach to these crimes. Forces across the country deal with volume crime and serious and organised crime. Areas where the EMPACT scheme is driving business that, as David said, the UK is influential in, are really pertinent to policing across the country, whether it be around people trafficking, fraud or firearms trafficking: these are all areas where having access to information and some strategic input are really significant. The impact would be felt not just at the top end of organised crime, but across policing more widely.

Lord Soley: Mr Armond, you gave a figure, I think, of 17 staff members in The Hague agency. Can you give us an idea what percentage of the total staff or of the total number that is? I am trying to get an idea, perhaps not just on this, of how big our input is in terms of staff members, and how many would in effect be pulled out.

David Armond: I just remind everyone that there are two entities within Europol. There is Europol as a body, and the people who work there are on contracts from the European Union. That amounts to about 600 people, and there are about 50 UK citizens on EU contracts, including the director. They are not our people; they are Brits who are working in the EU. That is 50 people, many in influential positions. Around that is the facility of a liaison function, where each member state, and operational partners, can site teams who can work together on a day-to-day basis. As full members, if there is a piece of intelligence to say that a human trafficking episode that will impact on three nation states is going to happen this afternoon, members of our liaison bureau, who are our staff,

can call a meeting with interested parties and work up a plan immediately.

Lord Soley: Is that the 17 people?

David Armond: That is the 17 people. Each EU member state, plus operational partners, has offices there. We have the joint-largest set of people in that organisation. That is 17 members from a number of agencies, including the Metropolitan Police.

Q13 **Lord O'Neill of Clackmannan:** You have described two sets of relationships of a semi-detached character: the American one and then the Norway, Switzerland and Iceland one—sort of the European economic zone members. Could you describe any differences between the position of the Norwegians et al, as against the Americans?

David Armond: As members of the EEA, the Norwegians have a slightly different approach to negotiations and they have a bespoke negotiated treaty on their access to different elements, some of which are the tools we talked about, along with some others. The American focus has been an operational and intelligence arrangement, and access to data around PNR, around criminal intelligence and around finding an operational arrangement with partners to do work in Europe that impacts back on the US. They are different in nature. The US one is more of an operational arrangement. But it has been difficult for them to get co-operation in all of the member states: they have close relationships with some countries, and more difficult ones in others.

This is not really answering the question, but I would just like to make another point. One of the issues of concern for our "Five Eyes" partners, for instance, is that the lack of the UK at Europol will impact on their relationships too, because sometimes they can use us as a proxy for getting work done if we are doing joint work together.

The Commission's position in relation to Europol is that there are not bespoke deals to be done here. There are two sets of arrangements: you can either be an operational partner, as I have described, which is the kind of arrangement that the Americans and the Canadians have; or you can be a strategic partner, as with Russia and Israel, which means a slightly different thing. They are in the tent, but they are not really in the tent, and they do not get access to the intelligence that other operational partners might have access to.

I am not sure that I have entirely answered your questions, but I do not think that we can look at the arrangements for Norway, Iceland or other partners and say that would do for us. There are elements of what they have done that policymakers would be sensible to look at and there are elements of operational relationships that other countries have that would do for us, but we need more than that because we are so close to Europe and because in what we do there is so much interaction. I talked about European arrest warrants earlier but our hit rate in the UK has gone up by 25% since the Schengen Information System came to bear. Our

relationships with the Europeans have been strengthened. We have the cross-border surveillance arrangements under Article 40 where we are net users not givers. We make seven times as many requests as any other member state. We will need to look at our particular operational and intelligence-sharing requirements and arrangements in a different way to a country that is quite remote from Europe. Of course, I do not think there is any precedent for a non-Schengen, non-EU country to be a member of SIS. If we are to continue to be a member of SIS, that will be a very different deal from one that anyone else has.

Lord Cormack: There might not be a precedent. I found your evidence tremendously helpful but also extremely depressing.

David Armond: I am sorry about that.

Lord Cormack: Well, no, you have told us how things are and we are grateful to you. Your remark about precedent provokes a question. We are all, throughout the continent of Europe—which is not the same as the European Union—in the business of fighting international crime, which both of you have made quite plain respects no borders. Is there not a case for having a Europol that is open to all European countries, regardless of whether or not they are members of the European Union?

David Armond: I understand the point and that is what I was saying: do you need to be in the EU to be in this outfit called Europol? But then you start looking at where the borders are. I said in my opening remarks that I sit on the executive committee of Interpol, which is altogether a different kind of agency with a different set of capabilities that need work. The European region for Interpol includes countries such as Israel and Russia. I think we should focus our strategy on saying, “We are such an integral part of the European mechanisms and we have been on this journey together. We have built this organisation and capabilities, many of which have been based on UK systems adopted by European partners. We want to continue on that journey with you because it is important to all of us”. That is the line I might, perhaps naively, take with our partners.

We still have very strong bilateral roots and arrangements. I talked about our network of overseas liaison officers. In some European countries we have significant numbers of officers deployed into stations in our embassies to run bilateral arrangements where we do lots of operational work; for instance, in Italy and Greece we upped the numbers because of the immigration crisis. We have a strong, large operational team in The Hague outwith Europol, where we work very closely with our Dutch partners, and similarly with the Spanish and Greeks. We are already making contingency plans; for instance, if we were out of Europe this year, where would it be key for us to post our officers? Also, most of our European partners have bilateral liaisons based in London. You have some members of that community in this Room listening to this evidence. They are very keen to continue to work with us because it is important to all of us.

The Chairman: Did you want to add anything?

Stephen Rodhouse: I do not think I can usefully add anything.

Q14 **Baroness Browning:** Could I ask you about Eurojust? In practical terms on a day-to-day basis, after we leave, how do you see that relationship? What would we lose? If it were replaced with a co-operation arrangement such as Norway or the United States have, how would you view that arrangement?

Stephen Rodhouse: I should preface my answer by saying that I do not have huge personal experience of working with Eurojust. I have worked with it on a number of cases and found it to be a hugely valuable facility for bringing member states together on—I will not talk about the particular jobs—high-profile investigations where facilities such as translation and the access to legal advice were hugely significant. If the proposition was that we did not have those facilities, we would lose something. I can only speculate on what that would look like in future in terms of bilateral arrangements or ad hoc arrangements on a case-by-case basis, but it would be suboptimal to the arrangement we have in place. I am afraid I do not have any insight into how other non-member states work, so I am not able to answer that.

Baroness Browning: So you are not sure how good or bad the Norway/US arrangement is.

Stephen Rodhouse: I do not have an insight into that. I would only mislead you. I apologise.

David Armond: The principal partner for Eurojust is the Crown Prosecution Service, which has been part of the discussions we have been having as a law enforcement community about what is important. It is probably better placed to answer your questions from that perspective and I am sure that at some stage the director of the CPS will be here to do so. Our main focus and our main partnership with Eurojust is about the mechanisms for working in joint investigation teams, which have been immensely important and successful. Eurojust provides a facility and the legal advice required to establish a joint investigation team and run it effectively. I can talk more about that because it will still be possible for us as a non-EU member to be part of joint investigation teams but we will not be a member of Eurojust. The CPS has a liaison officer at Eurojust. It finds that incredibly important not only in relation to the investigations we run but in talking about issues of law. There are things about concurrent jurisdictions, cross-border evidence gathering and sharing, asset freezing, extraditions, and so on. This is a mechanism for European countries to sit together with prosecutors who preside over completely different systems. They work together and come up with arrangements enabling us from an operational perspective to be more effective than we once were. In my conversations with the director of the CPS, she views membership of Eurojust as being as important to the CPS as membership of Europol is to us.

Baroness Browning: Yes, I understand that. Thank you.

Lord O'Neill of Clackmannan: We have already spoken about the operational character of the relationship with the United States. You made the point that the EEA traditions and style determine the relationship with other countries. However, at that stage you did not mention the joint investigation teams, which involve Switzerland, Iceland and Norway. Could that be a template for a relationship, or is that not directly relevant? What is your view on that model?

David Armond: A joint investigation team is not a standing entity. It is a mechanism that exists to enable not only EU member states but other interested parties to join in an initiative in which, effectively, you negotiate the position where you do away with the need for mutual legal assistance. You are not just sharing intelligence on case-building, you are sharing evidence. In layman's terms, that is the primary difference. Currently, the UK is part of 31 joint investigation teams. It is quite a substantial piece of work. I do not know the numbers for the EEA members. They definitely will not be involved in that many investigations but that model is available to them.

Again, I am not a lawyer, but I understand that the second Additional Protocol to the Council of Europe Convention on Mutual Assistance on Criminal Matters would enable us as a third country to continue in our work in joint investigation teams. That might be slightly more complicated than it currently is, but there are examples that I could probably write to you about that involve countries from around the world working as JITs with European member states.

Lord O'Neill of Clackmannan: So essentially they are ad hoc and set up for a specific purpose and therefore you might say that they are almost informal, although obviously the relationship is formal, but they are essentially sui generis.

David Armond: They are formal once they are established, and Europe plays a big part in negotiating the mechanism to do that. They could be specifically for an investigation against an organised crime group which is committing crimes that affect seven jurisdictions. We might pull together a joint investigation team to take action and determine what the best possible outcomes are for our citizens. The best outcome might be the prosecution of one element in Spain and some arrests and prosecutions in the UK and so on, and maybe some in America. That would be how it works.

We have also established JITs for thematic reasons where we want to increase the impetus and level of work against a new crime threat. They open up avenues to share intelligence and develop fast-time actions that may be based in a jurisdiction but are reliant on co-operation from other parties to the JIT. It is a useful tool and its use across Europe is building as we speak. More and more people are seeing the benefits of it.

Q15 **Lord Jay of Ewelme:** I want to move on to the broader areas of data

sharing and databases, which we have touched on to some extent. We either have or expect to have access to some pretty important databases, such as that under the passenger name records directive, Prüm decisions and the second generation SIS, all of which you have already referred to. There is also the European Criminal Records Information System. Could I put the same question as we asked in relation to Europol: which of those are critical, which are important, and which would be nice to have from the point of view of both security and law enforcement?

Perhaps a slightly broader question to put to you when you are talking about that is whether you can say something about the extent to which these databases, and indeed Europol and so on, help us in terrorism? In other words, can you separate out security and terrorism from what one might call more ordinary law enforcement?

Stephen Rodhouse: Apologies if I repeat myself, but it is quite difficult to prioritise all of those because in many cases they are what I would regard as essential for mainstream policing; that is, the ability to understand whether somebody is wanted in another country, whether they are missing, whether the vehicle they are driving is stolen and so on. Some 66 million reports are available through the SIS II system which is accessible to officers on the street. It is critical in allowing them to make decisions to safeguard the welfare of people across the country. When you take that into the custody setting where, as I talked about earlier, you have an understanding of somebody's previous convictions, that is absolutely essential. I have sat in a similar room, it may even be the same one, talking about cases where that information either was not available or was not accessed by officers. Decisions were then taken that left people at risk. You can see the significance to mainstream volume policing. It is our ambition and intention that in every case where the information is available, it is sought in order to allow decisions to be made. I apologise if I am slightly overstating the position, but I regard it as very significant that we understand the threat that is present within the country and take appropriate decisions.

For those reasons, I stress the importance of SIS II and the link it has to the European arrest warrant. Until recently, only one third of European arrest warrants were on the Police National Computer in this country because it was not clear whether the person named was likely to be in the UK. Now we have visibility of all European arrest warrants, and it is for that reason that last year we saw a 25% increase in the number of those warrants executed and people arrested. So SIS II, European arrest warrants and the ECRIS system for data exchange of convictions allow us to make sensible decisions, to monitor sex offenders and to assess whether there is a case for the removal of someone from the country. All of that is hugely significant.

David Armond: Perhaps I may make a couple of points. I think that it would be dangerous to try to separate the capabilities and relationships we need to counter terrorism as compared with other crime threats. The Prime Minister has been very clear that serious organised crime is a threat to our national security—in fact in her first National Security

Council meeting the discussion was about a whole-government approach to serious organised crime—and it is clear from the threat estimate that it is, so disengaging the two is quite difficult.

It is true that there are bilateral and multilateral arrangements between our security agencies that will exist whatever happens in relation to our EU negotiations because they are so important, but separating the two is quite dangerous because we work very closely with the CT community on those areas that cross over; that is, in relation to our cyber investigations, border security, how criminal finances work, how terrorism is funded versus how criminals move money about, how firearms get into this country and how terrorists or criminals exploit the loopholes or perhaps weaknesses in our borders as an island nation. All of those are areas where we work very closely with the CT community. I have had conversations with the seniors from the intelligence agencies who are as concerned about the loss of SIS II as we are. For them it is as important as it is for us.

It is disappointing because SIS II was ready to go in 2008. The Government of the day took a decision based on the fiscal position that it might be a major project that could wait. I was working on this project back in 2005 and I think that it has been a gamechanger. Since we have gone live there have been 6,000 hits on UK alerts across Europe, and more importantly, 6,000 hits here. It is not just about people who are wanted for crimes, the identification of stolen vehicles and plant or missing people, there is also a facility known as Article 36(3) which allows us to put on discreet alerts in relation to our CT suspects. SIS II plays an important part in tracking people under surveillance by intelligence agencies who may be seeking to cause significant harm in terms of terrorist attacks. I think that they are equally important. Steve is right: SIS II is the big one. European arrest warrants we have already spoken about.

Prüm is the one we have not spent too much time on and of course we have not seen its full effect yet. We have run a pilot with Spain, Germany, France and the Netherlands. It is not currently an automated system but it has really sped up this arrangement. The pilot has sped up our ability to share hits from our DNA datasets and fingerprint hits with those member countries. That has made us feel that we should continue with it and get the whole of Europe involved because that would be very effective. If not, we have to fall back on an arrangement which exists through Interpol that is time-consuming, bureaucratic and nowhere near as effective for protecting the public.

Lord Jay of Ewelme: Thank you. I understand the difficulties in separating law enforcement from counterterrorism, but the point you have made rather forcefully is that the organisations we have been discussing are as important for counterterrorism as they are for law enforcement.

David Armond: Absolutely.

Lord Jay of Ewelme: Thank you very much.

Q16 **Baroness Janke:** I think you have probably answered my question, which is about the precedents for non-EU members negotiating access to particular databases and data-sharing platforms and whether that would meet your needs; I think you said that probably it would not. However, you did say that as this is an unprecedented situation, you are hopeful of negotiating something, presumably based on mutual self-interest. How could that be taken forward?

David Armond: Again, I do not want to appear in any way to be ducking the question, but my job is to provide the operational case for why these tools and measures are important and to make the case, without shroud-waving, for what is important and what we could find that is almost as effective. However, whatever measure we negotiate will be less of a solution or suboptimal compared to the arrangements we currently have. We are in the club. In terms of intelligence coming to us and co-operation, we are priorities for our European partners. Naturally, if we are not a member of the EU, we might be lower down the list than we currently are in their thinking. So that is my concern.

On each of the measures, we need to take a tool-by-tool approach and work out a negotiation strategy in relation to them. Some are based on precedents—the arrangements that Norway has on particular measures might suit us—and some might be a discussion we have never had; for instance, on how a non-Schengen, non-EU member retains access to SIS II, which is a big issue. I do not know whether that answers the question.

Baroness Janke: On the mutual self-interest angle, is there a danger that this sort of negotiation will become part of a bargain, given that EU members wish to have access to British security systems as well? Is there a danger that this will become lost as a general bargaining chip in the overall negotiations?

David Armond: Again, I am a law enforcement officer and have been for the last 40-odd years. I do not pretend to be an expert negotiator or a particularly good diplomat, but our job requires us to do both those things. In any big negotiation there will be trade-offs, but I cannot envisage a situation with our European partners in which they would be willing to sacrifice those protections, arrangements and the mutually supportive work to protect our citizens from crime and terrorism—all those opportunities—on the basis of another deal.

As I said, wearing another hat, I set up and led the international work for our precursor agency, SOCA, and for this agency. We have an international network that is respected globally, which delivers results and is much sought-after by ambassadors. UK assistance in investigations, crime and counterterrorism measures is sought after from a capacity-building perspective but also because of the quality of intelligence we can provide our partners. Quite often, ambassadors and high commissioners say to me, "Your presence here doing this work gives us an opportunity to talk about trade, education, climate change and

other things that are important to the UK”, and that gives us access to conversations that might not exist. In some embassies around the world the biggest UK presence is law enforcement—our people. We want to build on that capability, so our relationships with our law enforcement partners within the EU are based not only on the multi-jurisdictional work we do but our bilateral arrangements.

Lord Watts: You said that being a member of the club gives you instant access to information, databases, and so on. Once you are out of the club you said that you might be at the back of the queue. Is there any evidence that when non-club members make requests they are put at the back of the queue? Does it take longer for America or any member from outside the EU to get the same sort of information you get now? Is it slower?

David Armond: I think it can be, but it depends on the quality of the co-operation. For instance, I or my people could pick up the phone and call a partner that we do a lot of work with and say, “We need some help on this today”, and they will absolutely do that, while with other countries, because of the very fact that it is the UK asking, even if it is important to them, they will find a reason not to do it. I will not name the countries here but you might guess what I am talking about. There is always a potential.

If a group is working in close co-operation, not on a daily basis but on a weekly or monthly one at an operational and strategic level, the idea that they might prioritise each other’s work over other people’s interests is just the natural tendency of things. I am not saying that that would be the case for every member state. It is not only a UK network overseas; there are other partners, such as “Five Eyes” partners and some European countries, which have liaison officers overseas, and in many countries we work jointly against threats in a third country such as in South America, for instance, on threats that face Europe, working together with the same team. Those arrangements will continue whether or not we are in the EU.

Baroness Pinnock: My question has been fully answered, thank you.

Q17 **Lord Soley:** My questions have been largely answered but perhaps I can just wrap them up into one question. You have indicated that Europol, the arrest warrant, SIS and passenger name records are four of the most important things; if that is not correct, please tell me. You have also both indicated that the Norway/Iceland options are very much second-best options but are better than nothing. Again, if that is not correct, perhaps you could tell me. Finally, to put them together, if there was a possibility of doing a bespoke Act of Parliament that would become an international treaty with the European Union in which we were able to maintain a lot of the structures you described—I am thinking of the example of The Hague again—would that be a way forward given that this is all part of the negotiating process?

Stephen Rodhouse: In theory it might be, but I am wary about being too definitive because it would very much depend on the terms of such legislation and agreement. I am also almost reverting to Dave's comments earlier. Our role is to advise on the operational aspects of this and how they could be achieved. I imagine they could be achieved through a number of routes but I am by no means expert enough to comment on what they might be. It comes down to the detail on this.

David Armond: I personally believe that it would be a mixture of both. For instance, as you are well aware, many countries that are part of the European arrest warrant have repealed legislation that allows them to have an extradition arrangement with another member state. That exists in the form of the EAW. If we cannot be a member of the EAW, we do not have extradition arrangements with Europe, so we need an alternative. It would seem to be optimal—second-order optimal—to have a treaty with the EU as opposed to going around and negotiating with 27 member states. That seems obvious. In those areas where there is not consensus for some other tools, we might be able to negotiate with a group or a single country to maintain that relationship for that particular tool if we cannot get it with the whole of Europe. So it will be both of the things you suggested.

Lord Soley: Would bespoke arrangements of that type be better than the Norway/Iceland option?

David Armond: I think it would. Of course, if we get a bespoke arrangement—a treaty on a set of measures, not on all of them but on some that our European partners see as important—obviously that brings in the EEA countries as well, because they have the relationship with Europe, they access the intelligence and some of the assistance through the EU. That could work.

Lord Soley: The underlying problem with all these approaches is that if you are out of it, you will not be at the top table, because you cannot take part in the decisions that are overseen by the Council of Ministers, and you cannot be any part of that. You can come in only after that phase and do that work together, whether it is by agreement, legislation or whatever. Is that right?

David Armond: When I talk about influence and the top table it is about the top table from an operational perspective, not a ministerial perspective. I stand by what I have said; I think we have been both helpful and influential in the development of the tools that currently exist under these measures. Although it is not always easy to negotiate a position where what we are suggesting as a way forward is agreed by all, there are a number of countries within the EU that show real leadership in this area and the UK is one of them. We may lose some of that influence.

Lord Cormack: Taking up that last point, it is clear that under the leadership of you and your colleagues, the UK has made an incredibly important contribution, and Europol will be the poorer for our absence.

Therefore should we not be urging Ministers—I say “we” but I appreciate that this applies to you—to do everything they possibly can to preserve an interdependence which is protective of us all? Should that be the thrust of one of our recommendations to Parliament and to Ministers?

David Armond: It would be enormously helpful to our efforts if this committee could do just that. Thank you very much.

- Q18 **Lord Condon:** Following on from that, you have described how influential the UK has been operationally, both historically and currently, in setting the agenda and implementing many of these operational arrangements. Will that legacy carry our influence forward outside the EU or do you feel that the influential role will no longer be viable outside the EU? Are there any sort of compensating mechanisms that will keep our influence centre stage? Do the Americans offer any sort of model? How do you feel about that?

David Armond: I am not sure that I am going to answer the question, but I will try. Obviously, we have a very strong Five Eyes relationship in the law enforcement community. As with other Five Eyes arrangements, we probably share intelligence and do work with the Five Eyes that we cannot achieve with any other country, including EU members—or a significant number of EU members. What I am hearing from Five Eyes partners is some concern that the European Union without the UK will mean that they have to change the nature of their relationship with the EU from a law enforcement perspective because we will lose leverage. They are worried about that, mainly because if they want things done and do not have a bilateral arrangement, they can do it through us. That applies equally to the Australians and the Canadians. I think there is some nervousness about what this might mean for global security. But certainly I guess that the Americans will continue to be influential in Europe. When we are deployed around the world outside Europe, where there are Five Eyes countries present or with interests we work very closely in a strong bilateral or group arrangement. But I think as regards our work together in Europe against joint threats, they will continue the partnership with us but also look for alternative stronger arrangements to ensure that they still have strong co-operation with member states.

The Chairman: Mr Armand, as you know, we are undertaking this inquiry so that we can spell out what the operational implications are. Can you give us some indication of the timing because, obviously, it is a bit uncertain? It would be helpful to have an indication of when we should publish the report to have the optimal influence.

David Armond: I am not sure whether I am qualified to advise on that. I just repeat what we set out as urgent when we started this session—if you like, the alligators nearest the boat—including, certainly, our continuing membership of Europol. A decision backed by Cabinet to sign the new regulation to allow us to continue our membership while Article 50 works out and we work out an alternative set of arrangements seems to me the biggest priority because, as I said, if we do not sign it effectively this year, the likelihood is that we will be out on 1 May, so that

is quite a worry to us. Then we need some decisions on whether Prüm, continued membership of SISII and some sort of arrangement around EAWs are important to us. Those are the next set of priorities. I think that we can negotiate on those from a stronger perspective if we are still members of Europol. It is not a case of it being a decision for the Europeans: if the Home Secretary or the Prime Minister decides to sign this, we are in—we qualify because we are still members of the EU until we are not.

Lord Cormack: We need to report before Christmas.

The Chairman: That is what we were intending to do anyway. Thank you very much indeed. This has been a very helpful session and we are very grateful to you. After you have reflected on this session, if there is anything you feel you want to submit to us, please feel free to send us written evidence if you so wish.

David Armond: Thank you Lord Chairman. I have a very critical team behind me who will be telling me what we did not say. If I find that is the case, I will write to the committee jointly with Steve.