

Exiting the European Union Committee

Oral evidence: The progress of the UK's negotiations on EU withdrawal, HC 372

Thursday 7 December 2017, Armagh

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Members present: Hilary Benn (Chair); Joanna Cherry; Mr Christopher Chope; Stephen Crabb; Mr Jonathan Djanogly; Richard Graham; Peter Grant; Wera Hobhouse; Stephen Kinnock; Mr Pat McFadden; Craig Mackinlay; Seema Malhotra; Stephen Timms; and Hywel Williams.

Questions 252-301

Witnesses

Simon York, Director, HMRC Fraud Investigation Service; Mike O'Grady, Deputy Head, Organised Crime Operations North, HMRC Fraud Investigation Service; Deputy Chief Constable Drew Harris, PSNI; and Assistant Chief Constable Stephen Martin, Head of Crime Operations, PSNI.

Examination of Witnesses

Witnesses: Simon York, Mike O'Grady, Deputy Chief Constable Drew Harris and Assistant Chief Constable Stephen Martin.

Q252 **Chair:** Good morning. I welcome Mike O'Grady, Deputy Head, Organised Crime Operations North from HMRC Fraud Investigation Service; Simon York, Director, HMRC Fraud Investigation Service; Deputy Chief Constable Drew Harris from the Police Service of Northern Ireland; and Assistant Chief Constable Stephen Martin, Head of Crime Operations, Police Service of Northern Ireland. You are all very welcome and we are extremely grateful to you for giving up your valuable time to meet us today so that we can take evidence formally from you as the Select Committee on Exiting the European Union.

Mr Martin or Mr Harris, on a visit to Dublin earlier this year we heard concerns that any new or visible border checks would provide an opportunity for those who are not reconciled to the peace and would wish to disrupt it to do things that they are not doing currently. What is your assessment of that risk if we do not continue to have a border where



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people can cross and goods can move without any checks whatsoever? What is the degree of risk and how concerned are you about it?

Deputy Chief Constable Harris: We know that the UK Government's position has been for no infrastructure. If there is no infrastructure, there is nowhere for protest, damage, criminal damage or terrorist attack, but violent dissident republican groups see this as an area that is contentious and will give them a further rallying call to try to engender support and drive their recruitment. It is of concern. We know from information that we have that they have a focus on this, they see it as an opportunity, but it is for us, our partners in An Garda Síochána and MI5 to cope with and deal with to thwart their terrorist enterprises.

Q253 **Chair:** With no border at the moment, there are not any activities in relation to the border to which they can direct that. They are involved in other activities that we hear about from time to time.

Deputy Chief Constable Harris: We still have a severe terrorist threat here in Northern Ireland. This year there has been four attempts on the lives of police officers and we have had 58 shooting incidents and 33 bombing incidents this year alone, so there is a threat. It does not often make it into the national press but that threat exists. It is how we manage any further growth in that threat and it is very positive that the UK has said that there will be no infrastructure on the border. That would have been an obvious point for dissident groups to rally around and to attack but also try to engender support and recruitment in local communities and further afield.

Q254 **Chair:** As you say, the terrorist threat is very real, but if there were any infrastructure or any places where vehicles had to be checked, the people doing that would need to be protected and that would have implications for you and your colleagues.

Deputy Chief Constable Harris: We work closely with other law enforcement agencies on the island, both cross-border and the other UK agencies: the National Crime Agency, HMRC and the Border Force. At the moment and going forward it is our firm intention to base our operations on intelligence, planned operations and co-ordination with our southern counterparts to make sure that those operations can happen securely and safely for the public and law enforcement staff but also that it is done with the community impact in mind. We want to act in a way that engenders community support for our actions in dealing with unlawful activity.

Assistant Chief Constable Martin: If I may supplement what the Deputy has said, there is a severe threat, which means an attack is highly likely. There have been a number of national security attacks in Northern Ireland this year. The dissident republican groups that we are currently facing do not have the capability or capacity that the provisional movement would have had during the troubles, but they have demonstrated their ability to kill people. If there was infrastructure such



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as you describe, buildings and people that reemphasised the border in a physical, tangible, visible way, I think it is highly foreseeable that dissident republicans would seek to take action against that and that could include attacking the buildings and the people.

Chair: That is very clear and very helpful. Thank you very much indeed.

Q255 **Stephen Timms:** Can I follow up on that point? Do you think it would be readily manageable if it was just cameras?

Deputy Chief Constable Harris: We already have an extensive automatic number plate recognition system in Northern Ireland and unfortunately it is subject to regular criminal damage attack. I would envisage that any infrastructure will be some form of threat, and obviously we would have to manage that, but if we place infrastructure it is very clear, from what we know of their intentions, that in some shape or form it would be subject to attack.

Q256 **Stephen Timms:** Can I ask a question about smuggling, mainly to HMRC? I visited Northern Ireland regularly while the Good Friday agreement was being negotiated 20 years ago; I remember that on the Northern Ireland side of the border you very often came across funny little petrol pumps where petrol was being sold cheaply and it was clear that it had been smuggled across the border, with a lower rate of duty paid in the Republic. There was quite a big problem with cigarettes coming across the border. What progress has there been in tackling smuggling since the Good Friday agreement was concluded? What is the current extent of smuggling across the border?

Simon York: The evasion of tax in relation to illicit tobacco and oils, as you describe, are threats that my teams deal with across the UK. The oils threat has been particularly significant in Ireland for many years. However, I think we are making really good progress.

If we reel back to about 2002 the tax gap, the amount of duty we think was lost to that sort of activity, was about £1.8 billion in the UK. We estimate it is down to about £100 million now. We think about £50 million of that is in Ireland, but even here the share of the illicit market has gone down from 26% to 8%. There has been significant progress in tackling that. You will never completely eradicate that type of activity, but there has been significant progress in reducing the amount of duty that is lost from that sort of action.

Q257 **Stephen Timms:** How much of that is because the duty is less different between the Republic and the UK now than it was previously?

Simon York: I think it is to do with a whole range of factors. Oils is a good example of how we approach many of these organised crime threats through a blended approach of a number of different things, which includes intelligence gathering and criminal investigation, but we have teams that go out and test vehicles or petrol stations.



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We have had legislative and process changes. We require dealers in oils to register with us so we can monitor all of that and a couple of years ago we introduced a new marker, alongside the Republic, and that has had a significant impact in reducing the amount of laundering that takes place. The suite of measures, the bundle of things that we do, has made a real impact on that particular threat and we use similar approaches with other threats.

Q258 Stephen Timms: Is there any smuggling in the other direction, from Northern Ireland into the Republic? Is there anything that is worth it because of duty rates or something?

Simon York: I will turn to Mike for some more detail, but it is not something we are so particularly focused on.

Mike O'Grady: I am not aware that there is a great deal of smuggling in that direction. With some of the organised crime groups, there are possibilities that cigarettes, for example, have come in through Europe, may have come into England and then go to Ireland, but the bulk of it is going from the Republic of Ireland through to the UK.

Q259 Stephen Timms: If Northern Ireland is not in the customs union in the future and because of changes in duty rates and so on the incentives for smuggling were to increase, what would be necessary at the border to handle an increased problem of smuggling?

Simon York: We do not think anything extra would be necessary at the border. We currently deal with smuggling in relation to a number of excise products, oils, tobacco and we have alcohol issues across the border, and we do not have checks at the border now for that type of thing. What would change if we left the customs union is the number of declarations that need to be made on customs duties. I know Jon Thompson spoke to you about that last week. As Jon said, although the number of declarations that would need to be made would rise significantly, that does not necessarily mean the risk would rise as significantly.

Our assessment is that the major fraud threat, the major organised crime threat, will continue to be the excise products that we are seeing now, for a whole host of reasons—including duty differentials but, critically, existing markets for those illicit goods. Criminals are in it to make profit, so they need a market to sell goods and there is a market for those sort of products. We don't have a crystal ball. Criminals will always take whatever opportunity they can to make a profit. As we have done in a long history of dealing with this type of fraud here and across the UK, we need to be very alive to and continue to gather intelligence about what those criminals are doing and adjust our operations to meet any changes in the way they carry out their activities.

Q260 Craig Mackinlay: This is a question directed to HMRC. I have done a lot of work on illicit tobacco, particularly because it is highly excisable, high



value, very low volume. I don't know the duty rates in the Republic, but I would have thought they would have to tag along with those of the UK otherwise you end up with a clear and obvious differential. When you do have illicit in the Republic and Northern Ireland—which I am sure you do at the same sort of level that we have in the rest of the UK—where do you think the main source is on the island of Ireland? Is it across from the UK or do you think the Republic borders and ports are a porous way in? How might you deal with that in the future?

Simon York: When you say the source, you mean the original source of the illicit product or where they are arriving in the UK?

Q261 **Craig Mackinlay:** I am thinking about a route, say for Polish cigarettes, travelling across Europe to a Spanish port, coming into either the Republic or coming via Calais across to the UK and into Northern Ireland and then across the island of Ireland that way.

Simon York: I will bring Mike in for a little bit of operational detail on that, but we do see a real mixture. Tobacco smuggling is the biggest organised crime threat we deal with. It is worth over £2 billion a year to us. It is very much an international threat driven by transnational organised crime groups.

Cigarettes are sourced, whether they are counterfeit or what we call cheap whites, illicit cigarettes, from across the globe. They often travel all around the globe before they arrive here in a variety of different ways and through a variety of different entry points. Mike might give you a little bit more on some of the main routes we see in relation to Northern Ireland.

Mike O'Grady: Almost all of the controlled deliveries, which is a delivery where we have some influence—we are not in charge of it but we are aware of and we are monitoring it—come through Dublin port. Dublin is a bigger port than Belfast. Belfast has the smaller feeder vessels. It is easier to hide a container of cigarettes within a big port than a small port. Almost invariably our work is cigarettes coming into Dublin port and up across the border. That is not to say that there is not some coming through the UK but the vast majority, and certainly all the controlled deliveries we have done, have followed that route.

Q262 **Craig Mackinlay:** Could you foresee the Dublin route perhaps being the route by which inbound illicit come through for the whole of the rest of the UK in the future?

Mike O'Grady: As Mr York said before, we don't have a crystal ball. It all comes down to economics really. Is there a need when we have Dover and the cost of that—the number of vehicles moving through—to reroute and put everything through Dublin? We can't tell. All we can say is we have intelligence sources that we rely on all the time. We try to keep abreast of the ever-changing methods of operation of the organised crime gangs and we try to react and respond as appropriate.



Simon York: Much more illicit tobacco enters the UK in places other than Dublin. They are not using that route now with an open border, so we can't absolutely predict things, but that does not feel to me like something that would dramatically change.

Q263 **Wera Hobhouse:** If there was a customs border between the Republic of Ireland and Northern Ireland, do you think you would need to have any more physical checks in order to prevent smuggling of either people or goods?

Simon York: No. Effectively, we already have a border for excise. There are already duty differentials, we are already dealing with smuggling, and we don't have border checks.

Q264 **Seema Malhotra:** You spoke very clearly about how you had a blended approach to organised crime. I would be very interested to know from your point of view what elements of the UK's existing criminal justice and law enforcement co-operation with the EU you currently rely on for your cross-border operations.

Simon York: That is a really important point for us. As I said earlier, the organised crime and serious fraud that we deal with is increasingly and almost always international in nature to some degree. We use a range of ways of co-operating and collaborating with those outside the UK, whether that is in the EU or beyond, but we use a lot of processes and conventions with EU member states. They are very useful and without them we would be significantly less effective.

Q265 **Seema Malhotra:** Which ones are you using a lot?

Simon York: Things like the European arrest warrant. That allows us to bring fugitives back much more quickly than extradition.

Q266 **Seema Malhotra:** What sort of difference in time could it make for you?

Simon York: They are really significant differences. I do not have those figures in front of me in relation to mainland Europe—

Seema Malhotra: In broad terms.

Simon York: —but it can be years. Certainly with numbers, there are significantly more people in Ireland, for example, brought from the south to the north under European arrest warrants than ever happened with extradition. We also have something called the Naples II convention between customs organisations in Europe. That allows us to share intelligence with EU member states of all types.

To use Mike's example from earlier, it might be something quite specific like a ship arriving in Dublin that has illicit tobacco on it that you want to pick up, or it might be generally. It also allows us to seek assistance. We might, for example, be able to ask the Dutch to do something for us in Holland—arrest people, search premises or obtain documents—and they can ask us. There is a range of things like that.



We also have mutual recognition of restraint and confiscation, which is quite important. If we have judgments in the UK on confiscation orders they will be recognised in European member states and that makes it easier to get hold of criminal assets that have been taken outside of the UK. There is a whole range of really useful measures that we use regularly.

Q267 Seema Malhotra: To check slightly further on that, what information-sharing systems do you have—for example, the European criminal records information system—and how do you access them? Do you access them jointly or do you have different operations north and south?

Simon York: I do not have all the detail of that. Some will be HMRC-specific, like the Naples II convention, which is a customs thing. Most of the others I mentioned are law enforcement-wide. Sometimes we have individual access to those and sometimes one agency will do that on behalf of others, I think.

Q268 Chair: Would Mr Harris or Mr Martin like to come in on this point?

Deputy Chief Constable Harris: We would also highlight the European arrest warrant. It is very important for both the speedy removal of suspects to other nations but also bringing suspects to this nation. In Northern Ireland last year we were engaged in 69 European arrest warrant movement of individuals. We also access the Schengen information system, which is a very important system for us. We use it at our ports in addressing the point about human trafficking.

One of the issues about the common travel area is that it is important to be able to identify dangerous individuals moving through Ireland into Northern Ireland and then maybe wanting to use the ports. We put a lot of emphasis on that and last year we stopped over 700 people on the basis of checks at ports, and the Schengen information system drives that. That is essential for the security on this island but also security on into Great Britain. We are putting extra resources into the ports to deal with that.

I would highlight Eurojust, which is a joint investigation team. That has been very successful, particularly with human trafficking and drug trafficking. We have had a number of very important operations that have dealt with individuals being trafficked between Northern Ireland and Sweden for the purposes of prostitution. The culprits have served sentences in Sweden and then been extradited to Northern Ireland to face the courts here as well. That is very important to us. We would also highlight the Prüm system—the hit/no hit by a metric check—and the vehicle recognition system.

I think all of these systems can help our security and we are engaged in the national programme to try to maintain these systems as best we can. Going forward it will depend on EU partners.

Q269 Seema Malhotra: Do you have concerns about the implications of Brexit



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or do you feel confident that with whatever scenario we exit the European Union these will still be equally available?

Deputy Chief Constable Harris: This is not a one-way street. We get a lot of information that helps our European partners and we work very hard on the information that we put up on the Schengen system through the police national database. Also, increasingly we are starting the roll-out of Prüm with further information systems to give us an advantage for identifying the critical offenders—people who have committed serious offences.

It will be a concern if they are lost, but we are highlighting into the Home Office, through various committees that we are engaged in, the problem as we see it and the need for these systems going forward. But these systems are for a safer Europe and it is not a one-way street. I think we have a lot to offer our European partners after Brexit.

Q270 **Hywel Williams:** How would the removal of the rights of free movement affect the policing of the common travel area, not only north/south but also east/west to Scotland and Wales?

Deputy Chief Constable Harris: There is a common travel area on the island of Ireland and there has been a commitment that that will carry on. The common travel area brings a lot of benefits for the movement of people and it has been in place for many decades here, since partition.

We want to see that maintained but we are also aware that criminals use the common travel area to exploit people through human trafficking or immigration crime. Our part in that particularly would be in human trafficking and we have put a lot of effort into our ports to identify vulnerable individuals being moved through, under duress or under some form of deception. We have worked closely on the island but also within these islands with the NCA in tackling human trafficking.

This is an issue that is already here. We have been dealing with human trafficking here for nearly 10 years and what we will have to watch very carefully is how that threat changes over time.

Q271 **Hywel Williams:** Would the removal of the right of free movement complicate matters in the work that you are already doing?

Deputy Chief Constable Harris: We envisage that things will change, obviously. There is a common travel area throughout Europe and that will change, but for our location here in Northern Ireland we will still have to manage free movement right across the island. We will have to look to the pinch points where we are able to identify threats of criminality—and that, invariably, is at transport hubs and ports and airports. That is where we will concentrate our efforts in policing that particular threat.

Q272 **Stephen Kinnock:** I want to come back on the issue of EU-wide co-operation. With crime becoming increasingly cross-border, policing has to be as well, and you have mentioned a number of instruments such as the



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Schengen information system, the European arrest warrant, Prüm, joint investigation teams and so on.

I think you have also mentioned that there are different scenarios for Brexit, different types of Brexit, ranging from no deal at all through to a model that envisages very close co-operation. Have you done a study of each of those scenarios in the context of what it might mean in losing the ability to co-operate through these instruments with EU partners? What impact might that have on the security of the island of Ireland and more broadly the United Kingdom?

Deputy Chief Constable Harris: We are engaged on three pieces of work. At a national level, we have engaged with the NCA and the National Police Chiefs Council in preparing for Brexit with work on the cross-jurisdictional powers that are currently afforded to the UK by the EU. Also we are engaged with our own Department of Justice in Belfast about policy, legislative, operational resource implications, but in particular we have commissioned work jointly with the Acting Commissioner of An Garda Síochána on the implications of UK's departure.

As a police officer, and not wishing to stray into any sort of political domain, we are unsure of what the landscape is going to look like going forward but we know certain things are going to change. Our responsibility, and An Garda Síochána's responsibility, is to do our very best to maintain the safety and security of everyone on this island. We are very firmly focused on that. We have a very good working relationship with An Garda Síochána but a working relationship has to be backed up with the legislation and policy that allows information sharing, intelligence sharing and evidence sharing quickly so that investigations can move on at a pace. Those are the things that we wish to address.

Uniquely, we have an intergovernmental treaty that affords police-to-police co-operation on the island of Ireland. That will still exist beyond Brexit and we want to make sure that the provisions are used to their full for police-to-police co-operation.

What we are very clear about is that the border areas in particular do not feel that they become less safe; they could be subject to crime and people can use the border as a means to obstruct justice. We have worked very hard over the last 15 to 20 years to increase the feeling of safety and respect for the rule of law and order and lawfulness in those areas and we do not want to lose that ground. That is why we are working closely with An Garda Síochána in respect of this and scoping out what might be done.

Q273 **Stephen Kinnock:** The central management of these instruments is in continental Europe, in Brussels or other cities through the agencies of the EU and across continental Europe. Are you engaged in dialogue with those authorities—I guess it is a three-cornered triangle: yourselves, the Republic of Ireland and the EU side—to start to sketch out some of the scenarios where you could have equivalence to the Schengen information



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system and the European arrest warrant? That equivalence can only be agreed. As you say, it is a two-way street. It would need to have the agreement of the EU side and this side. What sort of dialogue are you having with the rest of the European Union on these things?

Deputy Chief Constable Harris: We are not having a direct dialogue. Our dialogue will be facilitated primarily through involvement with our own Department of Justice here but also the national law enforcement working groups that we are involved in.

The NCA and the NPCC are making representations on behalf of UK policing plc as to what the criminal justice policing landscape should be and the structures we need in place after Brexit. That is being driven by the centre. We do not have direct conversations on that, but certainly we will bring our influence and our factors—in that we have a land border—to bear on this.

Simon York: That is the same for us. The Home Office is leading on the criminal justice, law enforcement and security discussions, so it is building that picture. We are feeding into that with our evidence. We are talking to the Home Office who will be pulling that picture together but, as Mr Harris said earlier, there is a real mutual interest in law enforcement, customs, tax authorities or whatever across Europe in retaining good ways of collaborating and sharing intelligence, for example.

Q274 **Richard Graham:** Deputy Chief Constable, what we are really looking at is the likely risks and opportunities from different scenarios around Brexit. Your Chief Constable has given evidence to the Northern Ireland Affairs Committee on aspects of this. He has said two slightly different things. One is that, come what may, the relationships that you have with the garda would be unchanged and that you wanted to have an unpredictable and agile policing of the border; on the other hand in understanding what the situation would look like under no deal, you and he have been working together on the police-to-police report, which I think is going to come to you by the end of the year.

Can you give us an idea of what you see as the major risks? You touched earlier on joint investigation teams. If hypothetically there was a no deal scenario, would you be able to carry on just agreeing with your counterparts to have joint investigation teams?

Deputy Chief Constable Harris: We would have to fall back on to the other existing legal provisions. If we want to transfer information, intelligence and evidence we will have to fall back on the structures that will continue to exist. The intergovernmental agreement does create some of those structures but the piece about evidence would require international letters of request and that is a longer, probably more laborious process. The European arrest warrant provisions would have gone and we would need a new extradition treaty with Ireland to manage movement of suspects backwards and forwards.



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Q275 **Richard Graham:** Is it your understanding that you would need a formal extradition treaty rather than a simple Government-to-Government agreement on the cross-border policing issue?

Deputy Chief Constable Harris: Extradition is a judicial process and would require a treaty. We can manage the sharing of information on the basis of the intergovernmental agreement. The sharing of evidence would become a prosecutor-to-prosecutor process, so that would be beyond police-to-police co-operation.

Q276 **Richard Graham:** Does your police-to-police piece of work include what you believe would be the legislative requirements in the event of a no deal?

Deputy Chief Constable Harris: It covers areas including information sharing. That is most important and allows us to share information, but also the intergovernmental agreement was written at the time and included provisions within EU treaties, so any of those provisions that the intergovernmental agreement included would fall away. The intergovernmental agreement specifically references joint investigation teams, which requires membership of Eurojust. That may fall away and would fall away out of the intergovernmental agreement as well.

In lots of ways you can focus on the organised crime, drug trafficking and human trafficking but one also has to think simply of things like aiding the prosecution and disqualification of drunk drivers and thwarting that, as we have done. Also there are gangs coming across the border, going in the other direction and committing burglaries, going backwards and forwards and trying to use the border to thwart our efforts. It is not just the international crime. This does fall down to the risk of crimes of dishonesty, burglary and the normal incidents that both police services are dealing with.

Q277 **Richard Graham:** A question to both the Deputy Chief Constable and the Assistant Chief Constable: in terms of the value of the relationship between the two forces on either side of the border, to the extent that you are able to broadly assess, what is your understanding about how much value you are able to get from the help and co-operation of cross-border intelligence from the garda and vice versa? To what extent is it an equal relationship of equal value to both sides?

Deputy Chief Constable Harris: We see ourselves as being involved in a very strong partnership with An Garda Síochána and I know that they view it in the same way. I will ask Stephen to give some concrete examples of the operational work that goes on.

Assistant Chief Constable Martin: We are in contact with An Garda Síochána every day at different levels. For example, under the 2002 legislation we have an MOU with An Garda Síochána on intelligence sharing about sex offenders. We are in contact with An Garda Síochána several times a week, and they are in contact with us, sharing



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intelligence about sex offenders that we believe are moving from one jurisdiction to the other.

Q278 **Richard Graham:** That would not change, would it?

Assistant Chief Constable Martin: That would not change if our interpretation of the 2002 bilateral agreement between the Governments of the Republic of Ireland and the United Kingdom is correct. As the Deputy said, some aspects will fall away because some of that 2002 legislation is dependent on EU membership, but we believe that the MOUs, such as I have described, would not.

We routinely engage with them on criminal intelligence. For example, there has been a significant concern in the Republic of Ireland in the last 12 to 18 months about a feud between two organised crime gangs—the Hutch gang and the Kinahan gang. I am sure you have seen it on the media. Many people have lost their lives in this feud. We engage with An Garda Síochána and provide intelligence and information and they share it with us. That is very regular, detectives working with detectives. We share information about road traffic collisions. Recently there was a fatal road traffic collision in the north and the person went south and An Garda Síochána worked with us on that.

It is across the whole spectrum of crime from national security, working hand in glove with MI5 on crime and security in the Republic, right down through all aspects of criminality. It is a good partnership. The Chief Constable and I are going down next week to meet the Acting Commissioner about cross-border crime. We have the joint agency taskforce that came out of the Fresh Start agreement with the parties in Northern Ireland, and I co-chair that with the Deputy Commissioner.

That is a partnership made up of both policing organisations but also the National Crime Agency, HMRC in the UK, the Revenue Commissioners in the south and Home Office Immigration. We have identified priority crimes and we are working together. We have joint assessments, analytical documents, intelligence sharing, and that works very productively. I suppose our ambition is that post Brexit we can have the same capability.

Q279 **Richard Graham:** Just to be clear, is the word “ambition” your expectation?

Assistant Chief Constable Martin: It is our expectation. We have made very clear to HMG how the range of provisions that we enjoy now plays a part in allowing us to actively investigate crime and bring people to justice. In our view that must continue, but it also requires political developments, not just good co-operation between law enforcement agencies.

Q280 **Peter Grant:** I have a couple of questions primarily for the colleagues in PSNI. Richard mentioned the evidence that the Chief Constable gave in October to the Northern Ireland Affairs Committee and that they had



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been commissioned to look at the possible implications for policing, particularly around the border area, of different Brexit scenarios. My understanding was that that was intended to be completed by the end of the calendar year. Are you able to tell us whether that work is completed or is it likely to be completed by the end of the calendar year?

Assistant Chief Constable Martin: A first draft is completed and the Chief Constable and I are going down to discuss it with the Acting Commissioner next week.

Q281 **Peter Grant:** I can appreciate that aspects of it will not be suitable for wider circulation or publication, but is there an intention to make any of the findings available to either this Committee or Parliament through some other channels so that if there are implications for the effectiveness of policing, Parliament is given an indication as to where your thinking lies?

Deputy Chief Constable Harris: Yes, I think it is a document that could be shared with this Committee. It would require a careful look because we might be setting out some of our tactical weaknesses, as we would see them, and we would not wish to put those in the public domain, but by and large the vast majority of the document would be suitable for the public domain.

Q282 **Peter Grant:** Forgive my ignorance, but where does the line of political accountability for PSNI lie? Does it go through the Northern Ireland directive?

Deputy Chief Constable Harris: Yes. We have a policing board that holds the Chief Constable to account, and a Department of Justice and a Minister for Justice who is responsible for ourselves, prisons, courts and so on.

Assistant Chief Constable Martin: National security is a reserved matter and on matters of security it is the Secretary of State in the NIO.

Q283 **Peter Grant:** What impact does it have on your preparation for Brexit in the devolved areas, the routine sort policing? Does the fact that there is not a functioning Northern Ireland Executive, and has not been for some time, affect you or are you able to just carry on?

Deputy Chief Constable Harris: We do carry on, but it is nigh on 10 months and a lot has happened in that time. The debates have moved on. Some things have become clear and some have not. We have worked with officials and we have certainly made sure that the Northern Ireland voice is heard at a national level, but legislative matters that are passed at a national level, which require consent motions in Stormont, have not happened so some of our legislative provisions on, for instance, money laundering have fallen behind.

Legislatively we are losing out. We are losing out in law enforcement terms but also on the political discussion and direction that we would



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have had on even just the north/south political relationship, which in effect underpins our work in the organised crime task force and the work that we want to take forward with the joint scoping exercise. It would have been really good to have our Department of Justice Minister pushing this on as well.

Q284 Peter Grant: How confident are you that PSNI is and will continue to be adequately resourced for any additional challenges that Brexit may present?

Deputy Chief Constable Harris: We have already identified issues that we think are starting to arise. We have covered off some of these in respect of our presence at the ports and we have asked specifically for that. We do receive main grant funding from our Department of Justice but we also receive additional security funding that comes from Treasury through the Executive and funding to deal with paramilitary groups as well. We have a number of funding streams and we are building those up to counter the organised crime threat but also the threat from dissident republicans and loyalist paramilitaries.

In some way the policing issues that we face now will carry on. It is difficult for us to say what is going to be new. We do not know how it will change: will they amplify; will they diminish? As you have heard, the issue of oils has significantly diminished. I was looking at cash-in-transit robberies that we had huge problems with 10 years ago. We had 160 in one year and last year I think we had one. If you apply yourselves, law enforcement can make a big difference and we want to be able to do that.

Q285 Stephen Crabb: My question is principally to Mr O’Grady and Mr York. Last week, we heard evidence from Jon Thompson where he expressed confidence in his belief that the current approach to managing cross-border issues would continue. Whatever happens with the border and however Brexit turns out, whether the Northern Irish border becomes an EU customs frontier, the handling of day-to-day border issues—risk-based and intelligence-led investigations but deploying technology as well—that approach would continue.

Are you able to give us a flavour of how technology is being used now and potentially will be in the future? Mr Thompson indicated that what could change in the future is a greater reliance on technology. He likes to draw a distinction between what he describes as 21st century solutions and 20th century solutions. People are using technology now in handling a very difficult border area. Could you give us a flavour of how technology could be used in future?

Simon York: Some of the issues Mr Thompson was talking about, such as using technology in relation to the broader customs declaration system, is not my area of expertise. I can’t help you an awful lot on that but I am sure we could give you something in writing if you wanted that.



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In the world of law enforcement, it is becoming a more and more important part of what we do. Data analytics is particularly important. We now receive enormous amounts of data and intelligence from all sorts of sources and the ability to quickly, intelligently and with great insight get into all of that really helps us. That is one example of the way we work and it is broader than just my area.

The whole of HMRC relies on that sort of approach to what we call risk assessing and trying to identify where risks are and where we might want to intervene in whatever that is. I have been around this business for a long time in HMRC; I have seen the way we have run our business dramatically change over the last decade, from something that was a very paper-based, local-knowledge-based system to one that is really crunching vast amounts of data to great effect.

Q286 Stephen Crabb: This is quite important because at the heart of the Government's proposals, as they stand at the moment, for ensuring that there is not a hard border between north and south, whatever happens with customs arrangements, is a great emphasis of reliance on technology. One of the things that we have to do as a Committee is assess the extent to which that faith is well placed.

Simon York: I think the main thing we are talking about there is the broader sort of customs declaration system. I would go back to what I was saying earlier: that we still think the main fraud threat will be in the excise area and we are already dealing with that. That is not going to change—well, certain aspects things could change but essentially we think that will remain the same and we will have broadly the same approach to that.

Criminals are opportunistic. They may change the way they do some of it; leaving the EU may bring some changes to certain of the organised crime threats we are dealing with, as things like alcohol fraud or some of the complex VAT frauds rely to a degree on European systems. If they are no longer there that fraud would change. It would not disappear; it would change. We absolutely need to keep alive to all of that, but overall we think that is still going to be the main area we are interested in from a fraud perspective.

Q287 Stephen Crabb: To conclude, leaving the customs union should not necessitate an increase in routine checking and, therefore, should not require new permanent infrastructure?

Simon York: I think Mr Thompson was really clear what the Government's position is. HMRC's position is that we do not believe there is a need for any permanent infrastructure at the Irish border.

Q288 Mr Pat McFadden: Deputy Chief Constable, I want to ask you another couple of questions on what you were talking about a few minutes ago. You and Mr Martin have painted a picture for us of very good day-to-day co-operation with the garda, underpinned by things like the European



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arrest warrants, Eurojust, joint investigation teams and so on. You are both very experienced police officers. Could you compare this to, say, the situation 20 years ago? How is it different from then?

Deputy Chief Constable Harris: Before the European arrest warrants, extradition on the island of Ireland was very difficult. I served in this border area 30 years ago and we had good relationships with An Garda Síochána then. We just did not have the legislative vehicles underpinned by EU treaties and so on for us to work as well as we might.

In effect, people did commit crime on one side of the border to flee across to the other place. That occurred in all forms of criminality and also at the time we had a hugely severe terrorist threat that had to be policed. It is regrettable that a lot of the conversation about the border takes us back to where we were in the 1980s and shows the infrastructure of the 1980s when we, certainly in law enforcement, can see no rationale for any of that infrastructure at the moment.

But I would repeat what I said earlier. It is good that our relationships are strong—we work together; we can see that. We work for the benefit of the border communities but also the safety of the people on the island of Ireland, but it does require both legislative and policy underpinnings to allow that to happen so that we can share the evidence that cannot be challenged and we can quickly transfer individuals to face justice.

Q289 **Mr Pat McFadden:** Absent those legal underpinnings that were not there in the same way 20 years ago, the border at that time was used by some criminals to facilitate their crime by crossing it at their convenience?

Deputy Chief Constable Harris: Yes. There was the obvious problem of terrorism but if we move away from that, there was a particular issue of aggravated burglary, the burglary of older people in particular in their homes, which was a very prevalent crime 25, 30 years ago, and that was a cross-border crime. We spent a lot of time on the border, not just on the security situation but also crimes of robbery, serious burglaries, thefts, and so on.

People did evade us. We had criminal gangs that evaded police in both jurisdictions through using the border. I would repeat what I said earlier, that we have worked hard over the last 20 years to make sure that is not the case and through that to promote safety and lawfulness and the respect for law and order in those areas as well.

Q290 **Mr Pat McFadden:** I am interested in what you said about a sense of lawlessness that seemed to be there in the past. In your mind, what is the risk here if we do not get this right in the future? What is there that could be lost?

Deputy Chief Constable Harris: I do not want to paint the worst case scenario because you can start to conjure up these demons of fear and so on around us. What we want to concentrate on is that we do not diminish from where we are at the moment, and I do not see that as necessary.



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We can work through what is required so that relationships are maintained and are underpinned by some structures.

We and An Garda Síochána continue to have a focus on community safety, serving the public in the border area so that they know they are safe, that there is no idea of this sort of raiding backwards and forwards and that people do not use the border to facilitate crime and evasion from justice.

Assistant Chief Constable Martin: To illustrate it, if for example a man living in the Republic of Ireland came to Northern Ireland and committed a very serious offence of rape and went back into the Republic of Ireland, that man would know now that we would come after him and execute a European arrest warrant, if we had reasonable grounds to have one, and we would bring him back to face the law in the north.

Whatever happens as a consequence of Brexit, the sense of knowing that you will be brought to justice and that the Republic of Ireland Administration and ourselves either side of the border can come after you and bring you to book and to justice must be retained.

Simon York: I want to quickly reinforce that from an HMRC perspective. Almost all of our counter organised crime work in Northern Ireland involves co-operation or collaboration across the border. We have excellent relationships with our partners across the border but to be absolutely clear, that is underpinned by various EU processes, Europe-wide processes. We would be definitely less effective if they were not there.

Q291 **Mr Pat McFadden:** What are those EU processes?

Simon York: Those are the sorts of things we talked about earlier: intelligence sharing, the arrest warrants, confiscation of criminal assets, access to databases or joint investigation teams—the whole range of those things.

Q292 **Mr Christopher Chope:** Am I right in thinking that the Irish Republic does not participate in the Schengen information system and, if so, why is that and what difference would it make if they did? Surely if they are now going to be faced, following Brexit, with an EU border between Northern Ireland and Ireland it would be better for the EU if Ireland was part of the Schengen information system.

Deputy Chief Constable Harris: My understanding is that they are moving towards membership of the Schengen information system, of which we are presently members. That particular issue is being addressed by the authorities. I am not sure that they are there yet but I know that there is work underway that they will also attain membership of the Schengen information system.

Q293 **Mr Christopher Chope:** Why have they not yet joined the Schengen information system?



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Deputy Chief Constable Harris: I am not entirely clear, but the Schengen information system does make demands of the IT system that joins on to it. I think a lot of it is the technological issues involved in joining on to a pan-national information system.

Q294 **Mr Christopher Chope:** Is this planned to be introduced before March 2019?

Deputy Chief Constable Harris: I cannot comment on the timing, sir. I don't know what progress they are making in joining on to the system.

Q295 **Mr Christopher Chope:** I think Mr Martin was saying that you made about 900 arrests using the Schengen information system last year. Is the fact that the Irish Republic does not belong to it reducing the number of arrests that can be made at the border?

Deputy Chief Constable Harris: We use our system and we have achieved the results we have with it. What we have seen is that criminal gangs will try to evade law enforcement by entering into the Republic of Ireland and then moving into Northern Ireland and use the ports to move across into GB. That is to try to evade Schengen-type checks, so it is an important information system that directly combats the illegal movement of individuals or the movement of criminals or wanted persons.

Q296 **Craig Mackinlay:** The Belfast agreement of 1998 came into force in late 1999. We are in a different relationship with the Republic post that. It is for you to answer, but I think you were describing the situation on the border pre the Belfast agreement. You mentioned you have Prüm, which has been in place for only a year or two, and the European arrest warrant, the timing of which I am not sure about but for 12 or 15 years at best. We had a period post implementation of the Belfast agreement but pre the implementation of these other tools that we now have available under EU systems.

Did you have sufficient bilateral agreements? I know you were talking about memoranda of understanding. Did you have sufficient oomph and understanding, effective transfers and all these things that you needed at your fingertips as a result of the post Belfast agreement, before these more advanced European systems came in?

Deputy Chief Constable Harris: These things really accelerated with the Patten reforms in 2000 and the intergovernmental agreement is dated 2002. That was to fill in specific operational gaps identified by both organisations and the Northern Ireland Office at the time and the equivalent in Dublin.

There was a ministerial drive to fill in the gaps in information sharing but also things like secondment, training and civil contingency, dealing with a civil contingency on the border. There was an issue and the 2002 intergovernmental agreement was our means of addressing that.



Subsequent to that, the law enforcement European co-operation has kept moving on and we have been, as an organisation, very actively engaged in that. We have engaged in a lot of the EU research projects on criminal justice and we have applied our expertise to the European research projects. We have been active on that front, but things always move forward. In part the 2002 agreement was superseded by things like the European arrest warrant, the creation of Eurojust, the Schengen systems and the Prüm systems, but it is still there and it still facilitates good operational co-operation.

Q297 **Craig Mackinlay:** Did the 2002 agreement allow you to have very rapid extradition—as quick as the EAW?

Deputy Chief Constable Harris: No, it did not cover extradition.

Q298 **Wera Hobhouse:** Maybe you cannot help, but I am trying to think through what you have been saying. I think it is well understood that your co-operation is underpinned by EU agreements—for example, the Schengen exchange systems. I fully understand that this is one of the things that you would very much welcome being retained. Are you aware that, if we retain any of these agreements, the jurisdiction of the European Court of Justice would be coming in through the back door?

Deputy Chief Constable Harris: No, I am not aware. I had not even thought of that question.

Q299 **Seema Malhotra:** Mr Harris, I know that you mentioned that representations have been made to the Home Secretary about some of the systems that you currently have and how you might want to consider the future. Have those representations come directly from the PSNI or is that through another umbrella body?

Deputy Chief Constable Harris: It is at a national level. The NCA and the National Police Chiefs Council have been leading on a piece of work that the NCA feed into the overall Home Office picture. The Home Office also has to consider not just the policing needs but the needs of NCA, Border Force, HMRC and other law enforcement agencies. We are feeding into the national picture, but it is very important we are there because we are bringing our own perspective: we have a land border with the intergovernmental agreement and we have very practical problems of policing a rural border with market towns interspersed on either side of it.

Q300 **Seema Malhotra:** Would there have been written representations to the Home Secretary?

Deputy Chief Constable Harris: We have membership of a committee. I am not sure what papers we have submitted or whether we have helped prepare draft papers on behalf of the committee as opposed to submitting our own case. I am not quite sure.

Q301 **Seema Malhotra:** What is the specific committee?



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Deputy Chief Constable Harris: I am not sure of the name of it. It is chaired by an assistant commissioner from the Metropolitan Police and involves us and Police Scotland.

Assistant Chief Constable Martin: I do not know the name of the committee but the co-chairs are Matt Horne, who is a deputy director of the National Crime Agency, and Deputy Assistant Commissioner Richard Martin from the Metropolitan Police Service.

Chair: That is really helpful. Thank you all for coming. We have got a really strong sense of the co-operation between you and across the border currently and I want to thank you for the work you are doing. Could I say particularly to Mr Harris and Mr Martin how much we as a Committee appreciate the bravery of you and your colleagues in the face of a continuing terrorist threat? We wish you every success in your work.