

# Written evidence submitted by the Police Service of Northern Ireland (CBC0004)

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The Northern Ireland Affairs Committee has issued a call for evidence and is currently accepting written submissions on the topic “Cross-border co-operation on policing, security and criminal justice after Brexit”. Our submission has been provided below under the seven highlighted areas for examination suggested by the Committee.

The border between Northern Ireland and the Republic of Ireland is the only land border within the Common Travel Area (CTA), and is the only land border with an EU member state. This border runs for a total of 310 miles from Lough Foyle in the west to Carlingford Lough with over 300 crossings points.

## **1. What effects Brexit will have on cross-jurisdictional criminality between Northern Ireland and the Republic of Ireland.**

It is the Police Service of Northern Ireland’s view that until Organised Crime Groups (OCGs) have time to assess the vulnerabilities and opportunities EU Exit and the Protocol on Ireland/Northern Ireland (IRL/NI Protocol) presents, it is unclear what criminal opportunity it presents. It is our assessment and assumption that OCGs will exploit the Protocol for their own benefit, through whatever crime tactics provide a profitable outcome. OCGs utilise the CTA at present to enable or enhance their criminality and to avoid detection by law enforcement agency partners. Existing criminality is demonstrable including the smuggling of various illicit commodities including drugs, fuel, firearms, counterfeit and contraband cigarettes, alcohol and people. This is likely to continue and will be influenced by how significant the variances become between the two jurisdictions<sup>1</sup>. Excise variances currently provide opportunities for criminal profitability, should tariffs be imposed this could extend to non-excise related smuggling.

- *Human trafficking/vulnerability of persons* – With potential or perceptions of increased security at GB ports of entry, there is a possibility of OCGs exploiting

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<sup>1</sup> *Impact of the NI Protocol on SOC: During Transition and Beyond*, NCA Intelligence Assessment, NAC(20) 186, May 2020.

the vulnerability of the Common Travel Area (CTA) for trafficking potential victims into Northern Ireland and from there into Great Britain.

It is believed human trafficking is second only to drugs in terms of the money made by organised crime throughout the world. Most of the cases in Northern Ireland involve foreign nationals, where the victims have been brought from a third country.

- *Mobile OCGS (MOCGs)* – Our analysis tells us that MOCGs based in the Republic of Ireland continue to have a substantial impact on acquisitive crime offence levels in Northern Ireland. MOCGs are an all-island issue, affecting An Garda Síochána as well as the PSNI. Traditional policing methods are not effective against MOCGs and operating across two jurisdictions increases difficulties for police on both sides of the NI-Ireland border. The Joint Agency Task Force (JATF) has focused resources on tackling MOCGs through joint working and days of action. The NI-Ireland border plays a significant role in the crimes attributed to these gangs, and movement back and forward is regular and often uninhibited. Policing remains challenging and resource-intensive in certain areas, where there are often limited technological opportunities to assist the investigative process eg Automatic Number Plate Recognition (ANPR).

The work of the JATF could be impacted by the UK's exit from the EU. The loss of European Arrest Warrants (EAWs) may result in slower extradition of offenders between jurisdictions; however there will still be a judicial process. The Police Service of Northern Ireland dealt with 82 EAWs in 2019. The Criminal Jurisdictions Act 1975 (1976 in the Republic of Ireland) provides the legal framework for some offences committed in NI or ROI to be tried in the other jurisdiction; namely murder, manslaughter, kidnapping, false imprisonment, some criminal damage offences, some offences against the person, some explosives offences, aggravated theft, hijacking, endangering safety at aerodromes and offences relating to ships and fixed platforms.

- *Impact on border communities*

It is recognised that people in border communities conduct their daily lives within cohesive communities that straddle both sides of the Irish border, and in many cases

cross this border several times a day. With the new arrangements there are potential, real or perceived impediments to that lifestyle brought about by EU Exit.

Whilst we have prioritised and enhanced the provision of local neighbourhood policing teams in response it should not be underestimated how dissatisfaction and subsequent disengagement may impact adversely on relationships with statutory bodies including the Police. Increases in economic pressures, criminal opportunities (both organised and low level) and mistrust will exacerbate vulnerabilities and confidence within these communities and will be taken advantage of by those involved in violent extremism to advance their own agenda. There is a risk that trust, lawfulness and legitimacy could be further deteriorated. A subsequent Policing response must include not just an effective crime response but also an investment in reassurance, supportive and protective measures, with a focus on reducing vulnerability and exploitation ensuring the ability for these communities to maintain their existing lifestyles.

## **2. What effects Brexit, and the new customs arrangements under the Northern Ireland Protocol, could have on criminality between the island of Ireland and Great Britain.**

Primary enforcement for customs arrangements is the responsibility of other statutory agencies. The PSNI will act in support of these agencies with direct responsibility for organised crime. We believe there is not yet clarity on how the implementation of the IRL/NI Protocol will affect the flow of goods, their prices or VAT and import charges.

However, we do know that organised criminals and groups will attempt to exploit any and all available opportunities to make money. Changes to the economic context, either through new tariffs, taxes or borders will create criminal opportunities. Nevertheless, all business is based on supply and demand and this has to be factored into any assessment.

To understand the potential impact of EU Exit and the IRL/NI Protocol, we have to understand the current threat and trading environment which is currently based on relatively free movement and access. However, certain commodities including fuels, tobacco products and alcohol are **not** exempt from tariffs. Historically, these areas

of business have provided criminals with significant opportunities for exploitation – but only until we see the outcome of any trade deal with the EU, will we be in a position to assess where further threats could exist in the future.

- *Fuel fraud* - With regards to fuel, OCGs will continue to move between smuggling, laundering and stretching, depending on which offers the highest profit at the least risk.
- *Tobacco smuggling* - Those involved in the illicit supply of tobacco products will adapt according to differing prices and taxes.

We assess that Northern Ireland could act as the conduit for a range of goods from the EU into Great Britain. This will not only facilitate legitimate business, but also potentially a range of illegitimate businesses. Further clarification regarding “unfettered” access would be welcome. It is our concern that this could establish new and improved routes for importing of contraband into Northern Ireland and Great Britain, including drugs and weapons. Therefore, Law Enforcement Agencies (LEAs) will need increased resources to target criminal groups, gather intelligence on OCGs and improve search and detection capability at the points of entry.

There is an associated risk linked to the trafficking of vulnerable persons, enhanced information recording and data sharing relating to sea travel would greatly assist to deter and investigate the criminal exploitation of these routes.

### **3. What new barriers will be created to cross-border security co-operation between the UK and the Republic of Ireland when the transition period ends, including if no deal on the UK-EU future relationship is agreed.**

This will be wholly dependent on the outcome of the UK-EU future relationship especially any Future Security Partnership which will inform the impact on current EU Justice and Home Affairs tools. Whilst the PSNI benefits from very positive and effective cooperation with our colleagues in An Garda Síochána, both formally and informally, this is predicated with a lawful and legal basis for the interaction. As such the provision of suitable data adequacy arrangements are critical to provide the basis for continued cooperation.

It is our assessment that potential changes to Justice and Home Affairs (JHA) measures may result in operable provisions but they will be sub-optimal in comparison to the effectiveness of current arrangements. The loss of access to or use of Schengen Information System SIS II, European Arrest Warrants (EAWs), the European Criminal Records Information System (ECRIS) and Europol in particular, may result in reliance on inferior replacements. There is also risk around the possible delay or loss of information/intelligence, lack of arrest powers, additional costs and some countries refusing to extradite their citizens to the UK, in line with their constitutional position. The maintenance of readily accessible and reliable information sets remains a priority for us.

The PSNI is grateful for the opportunity to work with the Department of Justice, the Home Office and National Chiefs' Police Council in contributing our operational context to ongoing deliberations re JHA measures and contingencies. However, until greater clarity is achieved re these replacements measures many of the issues raised cannot be fully appreciated.

**4. What steps need to be taken by the UK Government, in collaboration with the Irish Government, to replace any loss of access to the European Arrest Warrant as a tool for law enforcement co-operation between the UK and the Republic of Ireland in the context of:**

**(a) a future relationship deal agreed between the UK and EU that includes arrangements for security and judicial co-operation; or**

**(b) there being no deal agreed between the UK and EU before the transition period ends on 31 December 2020.**

As a result of the outcome of EU-UK future relationship provisions confirmation will be received as to the arrangements relating to extradition. Whilst acknowledging the potential for an agreed surrender arrangement such as a similar Norway Iceland model or the proposed contingency of the European Convention on Extradition (1957) legislation (ECE) we have concerns as to potential for delays and increased costs associated with new processes. We continue to work with the DOJ, Home Office and Public Prosecution Service in preparation for such contingencies.

## **5. What steps the UK can take to replace any loss of access to existing EU data and information-sharing arrangements.**

This question falls outside the specific remit of the Police Service of Northern Ireland and will require input from bodies such as the Home Office, DoJ, NPCC and the International Crime Co-ordination Centre (ICCC).

We are aware that receiving a comprehensive data adequacy decision from the EU is the foundation to enabling us to share information. A failure to secure data adequacy could result in the UK losing capability to secure agreements and potentially jeopardise any contingency measures. The impact of not having a data adequacy decision from the EU before the end of transition would be felt most acutely in the Police Service of Northern Ireland's working relationship with An Garda Síochána. Public safety imperatives mean that we must have the legal framework to enable the spontaneous sharing of information which contributes to day to day policing, as well as combating Serious and Organised Crime.

## **6. How Brexit will affect co-operation between the PSNI and Garda, as well as UK and Irish crime agencies, in tackling cross-border crime.**

The Police Service of Northern Ireland has an excellent working relationship with our counterparts in An Garda Síochána, which provides a firm basis for practical and strategic co-operation between both services. The Joint Agency Task Force, for example sees regular cross-border collaboration across a range of policing issues such as security, rural crime and intelligence-sharing. There is a deep and embedded culture of operational co-operation with colleagues in An Garda Síochána. This can be seen in initiatives such as the Cross Border Strategy, Cross Border Crime Conference and the secondment programme between the Police Service of Northern Ireland and An Garda Síochána.

At a local operational level, PSNI Neighbourhood Policing Teams (NPT) work closely with colleagues in An Garda Síochána, holding regular joint meetings to discuss crime trends on both sides of the border. Joint teams have also been established to work on specific operational tasks, including burglary, roads policing and drugs. Regular patrols and vehicle checkpoints (VCPs) are also conducted and these are facilitated by the use of the cross-border police radio channel. District Policing

Command and Crime Department, meet colleagues from An Garda Síochána on a monthly basis to discuss crime trends, recent crime series, wanted and alerted persons and persons of interest.

However, in order to work together to prevent crime and bring offenders to justice, we need a clear legal framework within which to cooperate, including a timely data adequacy decision. Any undermining of the collaborative powers and capabilities between PSNI and An Garda Síochána currently provided through the European Justice and Home Affairs measures such as ECRIS, SIS II, Europol would have a detrimental effect.

**7. What scope exists for the UK and the Republic of Ireland to pursue alternative approaches to policing, security and criminal justice co-operation outside the EU acquis.**

With the provision of a suitable data adequacy position and the opportunity to take forward bilateral arrangements between UK and Ireland we believe there are significant opportunities to develop new approaches such as the provision of a bespoke centre of excellence relating to crime cooperation and coordination. Appropriate integration of operational and investigative collaboration across a range of agencies and remits would enhance existing capacity and capability based on the traditional collaborative “taskforce” model.

We would also seek to explore further innovative approaches such as the feasibility of immediate pursuit of serious offenders across jurisdictions.

Existing operational collaborative arrangements such as the Cross Border Strategy or the secondment programme could also be enhanced to promote a continuance of the positive working relationships currently in place and the sharing of innovation and good practice. The recent joint PSNI/An Garda Síochána report on shared learning from policing Covid illustrates our joint willingness to collaborate and learn.

*2 October 2020*