



Brexit

Implications for Policing and Security

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About us

About CoPaCC

CoPaCC was established shortly after the first PCC elections in November 2012 to monitor policing governance in England and Wales. CoPaCC now has a portfolio of services, working together to help organisations meet their governance and management challenges and opportunities.

These include:

- **Policy and delivery** CoPaCC's national overview across policing, criminal justice and blue light provides us with an unrivalled insight into what works
- **Communications and social media** CoPaCC publishes PolicingInsight.com, the UK's foremost online magazine focusing on governance, management and politics in policing and criminal justice
- **Information and insight** CoPaCC produces thematic reports and expert events covering key issues of policy and practice in the policing and criminal justice sectors
- **Monitoring standards** CoPaCC monitors standards in policing governance, assessing OPCC performance and awarding quality marks in key areas of accountability

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Contents

Introduction

4 Foreword

- Sarah Ellson of sponsors Fieldfisher

6 Executive summary

- Bernard Rix CEO, CoPaCC

Key speakers CoPaCC Brexit event

8 Transcripts of the event's keynote speeches

- Martyn Underhill, PCC for Dorset
- Sir Hugh Orde OBE QPM
- Rick Muir, Director of the Police Foundation

Insights from the CoPaCC Brexit event

20 It's time for PCCs and other police leaders to 'step up to the plate'

- John Tizard, CoPaCC Director

23 Where do policing, criminal justice and domestic security stand?

- Ian Wiggett, CoPaCC Director and former ACC in Greater Manchester Police

27 Local implications for policing and security

- Ann Griffith, Deputy Police and Crime Commissioner for North Wales

30 A police and crime panel perspective

- Mike Short, Vice Chair and co-opted member on Dorset Police and Crime Panel

Brexit views and analysis

32 The European challenge

- Chief Superintendent Gavin Thomas, President of the Police Superintendents' Association of England and Wales

34 The fallout of Brexit for policing

- Ian Wiggett, CoPaCC Director and former ACC at Greater Manchester Police

38 A user's guide for police officers and Police and Crime Commissioners

- Chief Inspector Lee Gosling, Northumbria Police and Warwick Business School

45 The constitutional implications of Brexit on policing and security

- David Northfield, Senior Associate (Barrister), Fieldfisher

47 A weaker and more isolated island

- Dr Anna Sergi, University of Essex

49 We need to talk about Brexit

- Jon Collins, CEO of the Restorative Justice Council

In the media

51 What to read next – A curated selection of news following the Brexit vote

- Bernard Rix, CEO CoPaCC

53 Brexit media links from Policing Insight's Media Monitor service

- Selected links to news, opinion, analysis and reports from mainstream and specialist media



Foreword

The legal challenge

There may never have been a moment in the referendum campaign where the legal mechanics of Brexit were fully addressed; however “Article 50” and “repeal bills” seem common parlance now. **Sarah Ellson** says that an understanding of the legal map and consideration of how our exit will be achieved are essential for anyone seeking to navigate the changes ahead

As a European law firm with leading specialists in trade, public and constitutional law, and with a special interest in the work of PCCs, we were pleased to welcome attendees at the recent Brexit event and are delighted to co sponsor this thematic report.

Recent weeks have seen a flurry of Brexit-related activity. On the legal front, while much has happened, nothing has really changed (yet). Article 50 of the Lisbon Treaty governs the process by which a member state gives notice of its intention to withdraw from the EU; this notification fires the starting gun on the formal Brexit negotiation process which, without the agreement of all of the other member states, must be concluded within two years of the UK sending it.

There is currently fierce political and legal debate on whether the UK’s constitutional arrangements require an Act of Parliament to trigger Article 50. On 13 and 17 October the High Court heard actions brought on behalf of a number of claimants seeking a declaration on this issue. The

unsuccessful party is expected to appeal, and the Supreme Court is primed to hear and decide a ‘leapfrog’ appeal in December. If the courts hold that only Parliament can trigger Article 50 we should expect criticism of ‘unelected judges’ ‘playing politics’ and perhaps the Courts will want to avoid such controversy.

‘This notification fires the starting gun on the formal Brexit negotiation’

If an Act is required, the Conservative majority in the Commons is relatively slim (with the party lacking unity on its approach to Brexit) and it does not have a majority in the Lords, but would our MPs be prepared to defeat the will of the majority of those who voted?

In tandem with the announcement of the Government’s proposed timing for triggering Article 50, the Prime Minister also announced a ‘Great

➤ Continued on next page



Foreword

Continued from previous page ➤

Repeal Bill' to be brought forward in 2017 which would make provision for repealing the European Communities Act ("ECA"). However it would not be legally viable for the UK to repeal the ECA until after it has formally left the EU (since the ECA is the mechanism which incorporates the UK's rights and duties as a member of the EU), meaning that

'Would our MPs be prepared to defeat the will of the majority of those who voted?'

the Act is expected to have a commencement date in 2019.

In fact, the bill is not anticipated to repeal any EU law; rather than allowing thousands of pieces of legislation to fall away in a moment, it is expected to preserve most pre-Brexit EU law in force in the UK and thereafter, the UK will need to go through all of the laws and decide which it wants to keep/amend and which it wants to discard.

A mammoth undertaking

The project of working through all of that will be a mammoth undertaking, particularly at a time when Parliament has much else on its plate. In addition, a substantial number of EU Directives and Regulations currently have 'direct effect' (being directly part of UK law without requiring separate domestic legislation); it is not immediately clear how, once the UK has left the EU, these will continue to have effect.

The likelihood of Parliament being able to maintain effective oversight of the process appears slim. However, trying to speed the process through the

use of Henry VIII clauses (whereby an empowering statute allows secondary legislation to alter primary legislation) carries with it questions of legitimacy and proper scrutiny. It would not be a surprise for Parliament to ask some searching questions of the Bill on this issue in particular.

Identifying risks and priorities

We will be supporting our clients, reviewing the legislation which most directly affects them and helping them assess risks and identify priorities. We will join with others of you in the policing sector in the discussions and debate and we share your hope that we can emerge from the process with the European and global cooperation needed to serve all those who are safeguarded by policing services in this country. ❖



About the author

Sarah Ellison is a partner and head of Fieldfisher's Public and Regulatory Law Group. For public bodies ranging from Police and

Crime Commissioners to the Professional Standards Authority, Sarah provides advice on statutory interpretation and the application of public policy and legislation. She regularly provides support and training for decision makers with public interest functions. She specialises in professional regulatory and disciplinary cases. She has conducted review projects on complaints handling and licensing procedures for public bodies. She frequently works on judicial reviews and appeals.

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Executive summary

A vital contribution

Bernard Rix explains how the recent Brexit: Implications for Policing and Security conference has made a valuable contribution to the discussion on making a success of Brexit – the results of which you will find summarised in this resulting thematic report

Since its establishment in late 2012, CoPaCC has published a number of Thematic reports focusing on the work of Police and Crime Commissioners. These Thematics – on transparency, innovation, public engagement and partnership – have contributed significantly to the growing understanding of what works best in policing governance. Indeed, following the publication of one of our first Thematic reports, I was invited as CoPaCC's Chief Executive to give evidence to the House of Commons' Home Affairs Select Committee inquiry into the work of PCCs. Subsequent CoPaCC Thematics have been similarly influential.

Policing and security implications

On Thursday, 23rd June, the United Kingdom voted to leave the European Union. Since then, there has been relatively little public domain discussion about, or analysis of, the likely implications for policing and security. Almost without exception, discussion and debate has focused on Brexit's economic implications.

It is only very recently that Brexit's policing and security implications have attracted attention –

for example, with the Labour Party's publication of 170 questions on Brexit (with numbers 72 to 83 focusing on law enforcement and security); and the Lords "EU Home Affairs" sub-committee inquiry into "Brexit: future EU-UK security and police co-operation".

We decided that CoPaCC would contribute to discussion of Brexit's implications for policing and security, in two ways. Firstly we organised a "Brexit: Implications for policing and security" conference, which was hosted by leading law firm Field-

'These articles identify how best to deliver policing and security benefits from Brexit'

fisher on Wednesday, 14th September. Secondly, we are publishing this Brexit Thematic. This is a collection of expert insights and analyses focusing on the effect that Brexit may have on policing and security. These articles help to identify how best to deliver policing and security benefits from Brexit whilst mitigating any potential downside.

➤ Continued on next page



Executive summary

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This Thematic begins with a summary of key contributions from the Brexit event hosted by Fieldfisher. Martyn Underhill, the Dorset PCC, kicked off proceedings with a prerecorded overview of the challenge and opportunity represented by Brexit. Sir Hugh Orde – having identified “133 or so Third Pillar Measures (TPMs)

‘This Thematic begins with a summary of key contributions from the Brexit event’

in play” – then provided a more detailed analysis of the key areas, namely 13 TPMS considered vital, and 16 more considered highly desirable. Rick Muir, Director of the Police Foundation, complemented these presentations with a consideration of the relevant societal impacts.

In the main body of the Thematic report, we then have four reflections on the CoPaCC Brexit event itself. These are from John Tizard, a CoPaCC Director with a wealth of relevant public and private sector experience; from Ian Wiggett, a former Greater Manchester Police Assistant Chief Constable and also a CoPaCC Director; from Ann Griffith, the Deputy Police and Crime Commissioner for North Wales; and from Mike Short, Vice Chairman of the Dorset Police and Crime Panel.

Our Thematic then provides more detail on the police view, with contributions from the President of the Police Superintendents’ Association of England and Wales, Chief Superintendent Gavin Thomas, and from Chief Inspector Lee Gosling of Northumbria Police. Three contributors then examine specific areas

in more detail: David Northfield of Fieldfisher considers the constitutional issues; Dr Anna Sergi of the University of Essex considers the implications for tackling organised crime; and we have a restorative justice perspective from the Restorative Justice Council’s CEO, Jon Collins.

Media perspectives

I myself provide a summary of the wider media’s perspective to date on Brexit’s implications for policing and security – including an overview gleaned from Policing Insight’s own Media Monitor service.

We would welcome any further contributions to this discussion. Please feel free to contact us at enquiries@policinginsight.com should you have any viewpoint you wish to provide that can help move this debate forward. ❖



About the author

Bernard Rix is CoPaCC’s Chief Executive and Publisher of Policing Insight. Prior to establishing CoPaCC in 2012, he worked for

over twenty years as a management consultant. During this time, he led over fifty high profile and sensitive assignments, providing specialist independent advice to police forces, criminal justice agencies, government departments and private sector across the British Isles, Europe and the Middle East. He appeared before the Home Affairs Select Committee during their investigation into the work of Police and Crime Commissioners, and regularly contributes on TV, radio and other media outlets as an expert independent commentator on policing and related topics.



Key speakers

Voices of reason

The CoPaCC Brexit: Implications for Policing and Security event had several keynote addresses from prominent figures in the policing and security services. Here we provide the transcripts from speeches made by **Martyn Underhill, Sir Hugh Orde** and **Rick Muir**



Martyn Underhill

Police and crime commissioner for Dorset

My job today is to give you the other side of the argument. I was the only PCC nationally that came out in support of Brexit.

Most PCCs walked the middle line, a couple were Remain, but I was really the only voice saying, "Let's come out," and you want to know why I said that. So, I'll explain it, but there are lots of issues to discuss. What are those issues? Well we've got Northern Ireland. That's the first one. What happens with the Northern Ireland border?

Then we have all of the issues involving Europe. So, Europol, Eurojust, European Arrest Warrant. Where do we go with that? What about Schengen and Prüm, because although we're not in the Schengen Agreement, we actually do share information through Schengen? Then you've got the border debate, which I've been very vocal on.

So, let's answer the first question, you'd be asking me: Why did you come out and get vocal over Brexit? I got very vocal over Brexit because of port security and, again, I'm one of the few PCCs nationally speaking about that subject.

A lot of PCCs say it's not their landscape. I think it is our landscape, because I'm here to keep the people of Dorset safe and I believe that our ports are porous and that's inextricably linked to the Brexit debate, which we'll look at in a moment.

Northern Ireland

So, let's go through all those issues I've just raised. The first one is Northern Ireland and I'm smiling because following as a speaker is Sir Hugh Orde, who is a legend in Northern Ireland and was the Chief Constable. So, I'm not going to try and take on

➤ Continued on next page



Key speakers

Continued from previous page ➤

Hugh Orde over Northern Ireland.

All I would say to you is that, actually, before we had the peace process, before all of the laws came in, that we now know, we had the common travel area, which effectively meant that north went south and south went to north.

There's lots of debate. If you go online, you'll see lots of debates about what happens with the north-south divide now with Brexit. Hugh will, no doubt, give a very, very articulate and in-depth explanation of that and I'm not trying to outdo Hugh Orde. It was never part of my argument for Brexit, although it is a consideration and you're here today to consider the policing implications of Brexit and you can't have that without discussing Northern Ireland.

I'm confident, having seen what politicians on both sides of the border are saying, that we will find a solution without having a hard border control coming back, which we had in the 70s, but the mechanics of that? Do we go to a common travel area? Do we just remove the borders completely? I don't know. So, we'll have to see, but actually from a policing point of view, and I know Hugh will talk about this as well, we can't remove everything, because that will completely make us open to people coming in from Europe for the wrong reasons, which we're going to talk about later on.

European Arrest Warrant

Then you get to the European Arrest Warrant. The big argument from people in Remain was, "We can't lose the EAW." Okay. Well, let's examine that. In the last five years England and Wales have applied for about 1,700, let's say, 2,000 EAWs for in Europe. Not surprisingly, because there's 27 countries in Europe, they've asked us for 55,000 EAWs.

So, this is rather like the BMW debate. Everybody in the election phase was worried about our imports and exports and, of course, people on the

Brexit side were saying, "Hang on a minute, BMW's biggest customer in the world is Britain, apart from Germany. So, they're not going to damage their own trade agreement when they export so much to us" and, equally, my words to you are, be reassured

'We can't remove everything, because that will completely make us open to people coming in from Europe for the wrong reasons'

about the European Arrest Warrant.

Europe uses it much more than we do and although it's a fantastic system and it took a long time to bring into place, we can negotiate our way out of it. The EAW process is there and it's there to stay, all we need to do, which is what Norway and other countries have done, is negotiate a similar system outside of the EU.

Europol

The one that has also attracted a lot of debate, particularly from the person who runs it, is Europol. Now, Europol is a complex arena, 904 staff involved in Europol and they are great for communication, great for intelligence and information sharing.

Again, what I say to the critics or the people who are worried, because there's lots of uncertainty out there, is, we are one of the best intelligence services in the world, whether that's from an MI5, MI6 or policing point of view, most countries look at us with envy, just like they look at our policing with envy, because we're unarmed.

Europe is not going to shoot itself in the foot over information sharing and over breaking us out of Europol. We can easily negotiate our way out and

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Key speakers

Continued from previous page ➤

keep the information sharing that we currently have. Eurojust is another organisation that is intrinsic to policing in Britain and I take the same view with Eurojust as I do with Europol.

Schengen and Prüm

When we come to Schengen and Prüm, both of those are information sharing agreements. The Schengen bit, people will get confused about, because it also means free movement of people across borders, but there is also an information sharing part to that. I believe that we can negotiate out of Schengen and out of Prüm. In fact, there's a legal argument, actually we can stay inside Prüm even if we're not a member country.

So that takes us to the big debate, which was why I came out for Brexit, which is border security. So, why did I speak about border security? Okay, well I use a really clichéd expression, but it's so true. We are only as safe as our weakest link and as long as we are in a family with 27 other countries, we are incredibly exposed to people coming across our borders without us having any control.

We know, because of the porous ports debate, because of the numerous documentaries going on about Calais, Cherbourg and Iranians being arrested in the Channel, etc. We know two things. One, that we're a very attractive country to people in the rest of Europe and two, we're a very attractive country and, arguably, third highest risk for a terrorist attack.

Now, let's deal with each of those separately. As far as being an attractive country to other people, I believe that we can close our borders, tighten our borders and actually adopt our island's nation status by coming out of Europe.

Terrorism

Let's look at the Paris attacks. One of the Paris terrorists, in fact, arguably, two, the security services

has never confirmed the second, came across into this country on the Dover ferry. Now, if you can't police Dover, which is our most secure passenger port, then we've got problems, and nobody picked up that he was coming through, nobody picked up that he actually had a European alert or that he was wanted on a European Arrest Warrant. He took photos around the country, including in

'We are only as safe as our weakest link and as long as we are in a family with 27 other countries, we are incredibly exposed'

Manchester, got back on that ferry and went back and went on to carry on with the attacks in Paris. Now, if we can do that inside the EU, that really worries me.

We have over two million people in the 27 countries now and we don't know who they are. So, if we say only one of those in every 100,000 is a confirmed terrorist here to cause us harm, that's still a lot of people who can do us harm inside Europe at the moment. We need to recover that situation. We are in a new landscape. We are facing a new terrorist threat, which is split into two.

The first bit is homegrown terrorists and if you look at what's happened in France, if you look at what's happened in Germany and other countries, and in this country, we have had homegrown terrorists. That's a separate debate, in my view, because they're already here, but when you talk about people coming into this country to do us harm, and we know we're one of the top people on the list for attacks, that's when we can get safer and more secure by leaving Europe.

➤ Continued on next page



Key speakers

Continued from previous page ➤

Passport checks

So, what do I mean by that? Well, most of you in this audience will have already been abroad in the last two years and you know and I know two things. One, because of staffing cuts, quite often you're not actually checked as you come into this country.

Secondly, if you do get checked, you are given a different channel for EU and the scrutiny is far less. I came in from abroad only a few months ago and nobody actually scanned my passport. They looked at the photo and let me through.

That's not good enough and, actually, when we have two million people and we don't know who they are, some of those people are intent on causing murder and mayhem in this country, we need to get better at that.

'We need to get better at our security to keep these evil people out and I don't believe we can do that inside the EU'

You can't get better at that if you're in the EU, because the EU has a philosophy of free travel, allowing its residents to move between countries without check and, actually, I haven't checked recently, but certainly last year you were able to go from this country into another European country with a driving licence rather than a passport, so long as it had a photo on it.

So, we need to get better at our security to keep these evil people out and I don't believe we can do that inside the EU. I was very glad when the Brexit vote came my way.

There is another issue. Someone who was in the audience now and wanted to take me on over that

discussion would say, "Hang on a minute, if we got more money invested in our security as a nation, we could do all the checks you've just talked about and still be a member of the EU."

Yes, that is a separate debate. That's the porous ports debate. That's the one I've been having with the Home Secretary. That's the one that Andy Burnham and I and various other people have been highlighting for over a year, but you have to comply with EU regulations.

EU regulations are totally and utterly geared to the free movement of people and the free trade between nations and as long as you've got free movement of people, I consider us to be at greater risk than if we were outside the EU.

The big argument, and I know Hugh will talk about this, because Hugh Orde has already made his views quite clear, is that the intelligence sharing bit leaves us exposed.

I don't accept that, because I believe we have one of the best intelligence services in this country, one of the best police forces in this country and we are desirable to most people and therefore they will not give us a bad deal when we want to exit and keep our own terms.

No Plan B

The last thing from me would be, this is a scary time. I understand that and, actually, you cannot have this debate about policing and Brexit without considering the financial implications.

One thing none of us thought about was, and of course with hindsight we now know, that government didn't have a plan B. The government plan was that we would stay inside Europe and if we didn't, it wasn't government policy, so we won't work on it. We know that civil servants didn't have a plan B.

In other words, Brexit got voted for. Arguably, we were caught with our trousers down. What that has

➤ Continued on next page



Key speakers

Continued from previous page ➤

meant in the last few weeks, apart from the turmoil caused in government and the huge changes politically, is that we are now losing civil servants from all over this country to the Brexit Department. Look at the Home Office. Olly, the second in charge to Mark Sedwell moved the Monday after the vote to set up

'Are we going to look after our intelligence sharing? Yes, I think we can, but it's going to be hard work'

the new Brexit team. That is worrying.

Of all the things you're going to hear about today, I would say there are two issues that you need to walk away with in the centre of your head. The first one is information sharing. We have to get this right. I totally accept what Hugh's going to stand up and say, which is with Schengen and with Prüm, with Europol, Eurojust and all the other issues, we are exposed. I get that, but I think we can protect ourselves with good negotiation.

The other thing you need to take away is the whole issue of the cost of Brexit. That really worries me, because we didn't have a plan B, because civil servants are being sucked out of all departments into a new Brexit team that hadn't been catered for or funded. I think in the Autumn Statement from the Chancellor, we are all going to possibly face more cuts and that's bad for policing.

Most people in the audience will have remembered last November when we had that fabulous announcement that the police protect the public, so the public's going to protect the police and the cuts have stopped. We're now all rebuilding and re-recruiting and doing all the other things we were doing 10 years ago, before 2008 hit the world.

I worry about the cost of Brexit and, as I say, when you leave here there's only two things that you should remember as you get on the tube: One, are we going to look after our intelligence sharing? Yes, I think we can, but it's going to be hard work and the government needs to work at that and two, are we going to be able to keep policing and policing budgets protected from the costs of Brexit?

All I know is, Hugh Orde is a very capable opponent. I'm sure he'll destroy everything I've just said, but at the end of the day, we are Brexit, we are going to leave Europe and all we need to do now is make sure we do it leaving ourselves as safe and as happy a nation as possible and I believe we can do that. ❖

About the speaker

Martyn Underhill was first elected as Police and Crime Commissioner for Dorset in November 2012 as an Independent candidate and re-elected in May 2016. Prior to becoming a PCC, Martyn was a Detective Chief Inspector with Sussex Police, who retired in 2009 after 30 years of service. Martyn is committed to improving the journey for victims and in November 2013, he launched his initiative The Dorset Victims Bureau – one of only two in England and Wales.

He has also long campaigned for people with mental health issues to get the right care, at the right time and in the right place. As Chair of the Mental Health PCC Working Party, Martyn helped spearhead a national campaign to improve crisis care for people with mental health needs across England. Martyn's office holds the Gold CoPaCC 2014 Award for Engagement and was commended in the CoPaCC "PCCs and Innovation" Awards, September 2014.



Key speakers



Sir Hugh Orde OBE QPM

Former President of the Association of Chief Police Officers

Following the Brexit vote, during which I campaigned to remain, there appears to have been little serious conversation about what next? Indeed, it would be fair to say it has gone very quiet indeed.

This may be because of the complex politics, and the selection of a new (Conservative) leader. The chaotic state of the opposition also does not help, and the closeness of the referendum result together with the complexity of the geographic split means that from a political perspective, whatever you say will offend someone! However, the clock is ticking, and I think the sheer complexity of the mission in terms of extraction is beginning to be realised. In policing terms, the current leadership has continued its strategy of “no comment”.

During the campaign, I would always insist that any request to me was only after an approach to the current leadership. I firmly believe that it is an obligation, not optional, for the profession to express its professional judgement on such critical issues of security and citizen safety. Sadly this did not happen, and the public were denied the opportunity to listen to the current leadership.

It may or may not be listened to by those in power, but the public (and indeed organisations) have the right to hear what the profession thinks so they can fully consider the facts when deciding - in this case how to vote. I sincerely hope that the police leadership now fully engage, both with government and, at a local level with their PCCs and their offices so those who hold the service to account fully understand the implications, and potential conse-

quences of leaving the EU.

The debate now has to move into that territory, and move away from the rights and wrongs of the campaign and its outcome. The Prime Minister is clear, “Brexit means Brexit”. The challenge will be to negotiate the best possible outcome for policing and security that at least minimises the impact of leaving and the cost of the new arrangements. In my judgement, the new world is likely to be less effective and more expensive!

Now the good news!

Well before the Prime Minister decided that a Referendum on Europe was a good idea, the issue of the Maastricht Treaty (1993) and in particular the 3rd Pillar Measures (judicial and criminal matters, known as “Justice and Home Affairs” at that time) that became known (since 2003) as Police and Judicial Co-operation in Criminal Matters required attention. The reason was quite straightforward: the UK Government had to inform the European Commission by May 2014 whether it was prepared to accept European Court of Justice jurisdiction over ALL TPMs (Third Pillar Measures) adopted prior to 2009. This requirement stems from a specific agreement secured by the UK Government - Article 10(4) Protocol 36 Lisbon Treaty.

Many of you will remember (possibly not!!) that on 15th October 2012, the Home Secretary announced that HM Government would opt out of all the third pillar arrangements. The plan being to try to opt back into those arrangements that were deemed essential to policing and security.

➤ Continued on next page



Key speakers

Continued from previous page ➤

The current challenge is of course that post that decision we no longer belong, and in my judgement this makes the situation completely different. If one is not in the club you don't get the benefits!

However, in terms of narrowing down the essential parts of the TPMs, this work has been done, both by the Home Office and the police.

The even better news here, is that there was broad agreement on what was essential. Indeed, the Home Office wanted to retain slightly more measures than the police!

So, the 133 or so measures in play were considerably reduced. The work we undertook was painstaking and based on determining their importance in relation to police operational efficiency and effectiveness. Part of this mission was straightforward as measures had been completed, (co-operation to deal with child abuse) and did not strictly require membership to work (points of contact etc).

Others required domestic legislation that is now (or already was) in place so again no impact.

The difficult area focusses on powers conferred on states providing the state is party to the structure and the agreement. This was, and still is the difficult territory. The bottom line is that the work found that 13 TPMs were VITAL. 16 more were highly desirable.

So whilst all this work is extremely helpful in terms of moving on, the plan to opt back in has to be replaced by more complex negotiations in order to get the best deal in a world where the UK looks in from the outside.

It seems to me that the next stage will require substantial engagement from the police family in its widest sense. It is a statement of the blindingly obvious that all crime, local to international, takes place in a geographic territory. The victims of crime in the UK, that have an EU dimension currently benefit in a number of ways from membership, so

it has to be right that elected PCCs need to have a role, and are consulted by government in terms of their priorities.

Equally, the current service leaders need to wake up and start to push the government to start (if they haven't already done so - and I have not picked up any activity at all) organising to produce a coherent plan of ambition. It seems to me that the citizen has a right to know, and be involved in a debate about their safety post leaving. It needs a starting point, and the service must work with government to produce this.

Obviously there will be a huge legal requirement down the line to amend, or change the legislation

'The challenge will be to negotiate the best outcome that at least minimises the impact of leaving'

to ensure the new arrangements are both lawful and proportionate.

A substantial amount of this work could be done prior to any statement around Article 50 which starts the clock ticking. In political terms there is no likelihood of this in the foreseeable future so there is time to do this work.

If "The Times" is right in terms of its [report](#) on Europol dated 9th Sept, in which it was suggested that Government will have to take some critical interim decisions prior to full exit, the I sense the politics will be highly volatile, in particular when the action required is to stay engaged until a final agreement is reached.

Again it will be important for both the service and others to continue to stress the importance of maintaining the status quo until a negotiated

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Key speakers

Continued from previous page ➤

end game is secured. So what are the critical areas to focus on in terms of local impact as well as a more national dimension?

European Arrest Warrants (EAW)

The service and government both saw this as a vital measure. It was the procedure that returned Hussein Osman back from Italy following his failed bomb attack at Shepherds Bush. However, the vast majority of EAWs are executed in relation to more routine, yet serious offences. As an ex-cop figures are slightly harder to obtain, but the last published NCA (National Crime Agency) figures tell us that we removed over 2000 criminals from the UK in 2015 under this power. The main offences were; Drugs, Rape, Burglary, Assault (GBH and ABH) Armed Robbery and Fraud. The UK issued 228 EAWs and secured the return of 150 (arrested and a further 123 who surrendered to custody- some from previous years, hence the odd mathematics).

In other words, from a local point of view, whilst the NCA lead for the country, the impact is local. There needs to be a joint effort to secure an effective and efficient (main strength of EAW) replacement to this power.

I am not persuaded that this is easy to achieve. It may well be part of some political dealing around freedom of movement. Currently some countries have clearly and publicly adopted a hard line, "no cherry picking". So the government will have a tough job.

In terms of opportunities, assuming for a moment that we can secure a deal, then we can include a proportionality clause to prevent very minor crimes being included, and ensure that the proposed addition of a European Supervision Order to allow suspects suitable for bail to remain in their own country prior to trial is included.

The biggest challenge will be to renegotiate a

single efficient process to cover all countries. I fear this will be impossible, and we will end up with a series of bi-lateral agreements with member states. It is worth remembering that prior to the EAW (which came into force in 2014) we relied on the Council of Europe Extradition Convention of 1957, before even I was born (just!) followed by the Extradition Act of 1989. The more recent Extradition Act of 2003, is in my judgement - although I am not a lawyer - no longer applicable and we will have to start all over again!

However, even if we were to create new legislation, we will have to persuade all member states to do likewise. The reason for this is straightforward, currently both parties have to be MEMBERS to benefit from mutual extradition arrangements.

The local consequences of failure are substantial. Victims access to speedy justice will be denied. It took 90 days to bring Osman back to the UK following the attack on 21st July 2005. We should remember in another terrorist case it took 14 years to extradite Abu Hamza to the USA (a "Part 2" Country). Investigations could become very expensive. One of the major advantages of a single procedure is cost and simplicity.

History tells us that many states would not extradite their citizens (pre EAW) to another country to face trial but demand the case was tried in their jurisdiction. Bearing in mind the huge increase in freedom of movement the impact of such requirements could be hugely expensive and unwieldy. Victim support is a vital part case management, and looking after both victims and witnesses at court. They are all designed for this country, not foreign travel.

Finally, the local impact of having wanted people at large whilst more complex extradition proceedings take place will also have a local consequence. In simple terms, a burglar in France is a burglar in England. The longer it takes to return such criminals (either

➤ Continued on next page



Key speakers

Continued from previous page ➤

way) could impact on local crime figures. So, top of the list for those engaged in law enforcement has to be a determined effort to create:

- A series of straightforward extradition arrangements that allow those wanted to be deported to face justice in the country where the offence took place
- National co-ordination as now part of the new arrangements through the NCA. To achieve this will probably require some statement or legal recognition of EU member states judicial systems, and their recognition of ours. There are possible HR issues to resolve here.

Intelligence sharing

The next challenge will be around Intelligence sharing and associated data, (e.g. criminal records). On the positive side, it has to be in every member states interest to continue to share information and intelligence. However, on leaving it will probably be the case that we are relegated to associate status of some description rather than being front and centre of the European intelligence community. (e.g. the current leader of Europol).

It may also be the case that the time taken to receive information that now routinely takes a few hours or is in real time will increase.

Again, in local terms any negotiation that fails to secure access at the same level as now will have some fall out. Not being able to benefit from SIS2 (Shengen Information System Update) will mean slower access to:

- Wanted person's information
- Vulnerable missing persons
- Stolen property
- And a single point of entry for liaison and obtaining further information.

From a local perspective, I see this as an issue of major concern. The ever improving access to critical information to front line officers has ensured

that the most vulnerable are better protected.

In the post EU world, we will have to ensure that data provided to other EU partners is still accessible to us. Equally we must ensure that we can feed into as well as benefit from the process in the new world. We must also ensure that access to criminal records in the routine continues in an efficient way. At the local level, we need to ensure that Magistrates and Crown Courts have the full criminal career history of EU nationals when sentencing, and investigating officers likewise so, for example a person accused of rape in the UK with similar convictions elsewhere can be subject to bad character evidence that can be so important in such offence investigations.

It could be argued that in such procedural matter, membership is unimportant. The challenge

'The next stage will require substantial engagement from the police family in its widest sense'

here is to understand that such exchange may be mechanical, but the fact that member states agreed to recognise equal weight of conviction data is based on a TPM.

Bearing in mind the enthusiasm of the leave campaign in relation to immigration, I sense there will be a considerable will to hang on to the current arrangements for political as well as practical reasons. Investment by the UK Government for the common good into these European projects will also, I think be a powerful argument during the negotiations in relation to retaining access. It is difficult to quantify the UK total contribution to SIS but a conservative estimate would be well in excess of £40m Intelligence contributes hugely to border

➤ Continued on next page



Key speakers

Continued from previous page ➤

control. By definition we will need real time access in this arena if those presenting themselves at airports, ports of (currently our check points at Calais attempting entry are to be refused entry.

So, EAWs and Intelligence are in my book, the two most important on the to do list!

Europol and Eurojust

Moving on to structures, both Europol and Eurojust were seen as essential by the Home Office and ACPO. These have a relevance to the front end of policing in that they provide the mechanisms, for example Joint Investigation Teams (JITs) and data sharing. In simple terms if one is not a member (and we won't be) one can't access the services. I sense that in terms of post exit, the Government will have to ensure some sort of associate membership status. Currently the head of Europol is a Brit, clearly that won't continue! The cost of exit is in essence the loss of influence looking forward. Generally, I sense these organisations are more relevant to serious crime investigation, but as that is a growing area of concern in the UK, together with increasing international crime, they are highly relevant.

Before I conclude, I believe that any negotiations will also have to recognise that they will be conducted against a backdrop of the common values enshrined in the European Convention of Human Rights. Of course UK domestic legislation is in place, it had to be whilst we were members of the EU. However, we are now leaving and the debate around a Bill of Rights, not Human Rights has risen again. I am not sure any thought to this issue has yet been given, it is in my judgement probably a conference in its own right, but I will simply raise the issue and leave it for another day.

So, where does all this leave the UK? I think that the role of local governance in influencing the future will be very important. If the negotiations fail

to achieve, at least the status quo in terms of law enforcement. The impact of any failure will be felt locally. PCCs can expect to be asked why access to data that could have prevented or minimised some incident was not available; or why a convicted criminal from an EU state was only found to be a serial offender post sentence. The victim of a serious crime will be entitled to an answer if the suspect flees, only to be found in the EU, unless we have negotiated an equally effective mechanism, or somehow managed to retain the EAW.

So what happens next?

Well it appears to have gone very quiet! I think PCCs need to organise and start looking at the issues as a group. They need to hold their Chief Constables to account by asking what is happening within the profession. Indeed, a joint working party of some description would seem to me to be a very good idea.

I fear the service is currently doing very little. The evidence for this was the almost complete failure to engage during the debates pre referendum. To argue it is political is simply nonsense. I feel there is an obligation for professions to make informed judgements based on experience to ensure the public and politicians understand the practitioners view. Of course such views can be dismissed or ignored, but they need to be heard.

Looking forward the service needs to make sure those negotiating the terms are fully briefed on

About the speaker

Sir Hugh Orde was President of the Association of Chief Police Officers, having begun his policing career in the Metropolitan Police in 1977. Between 2002 and 2009, he was Chief Constable of the Police Service of Northern Ireland.



Key speakers



Rick Muir
Director at The Police Foundation

During the EU referendum two contrary claims were made about the impact of Brexit on public safety. The first was that by leaving the EU we would be safer because we would regain control of our borders. This would help to prevent foreign criminals and terrorists getting into the country. The second was that by pulling out of the EU we would no longer be part of the cross-national security networks that are critical for identifying wanted persons and bringing offenders to justice.

Given that crime was never a major issue in the campaign we do not know for sure which of these arguments the public found most compelling. What we can say is that 'Secure the border' is a simpler and more evocative argument than 'Keep the European Arrest Warrant'.

What happens now?

So, now we have chosen to leave the EU, what will be the impact on public safety? This is an impossible question to answer with any precision for two reasons: first, we do not know what any new deal between the UK and the EU will look like, and second, we will never be able to easily quantify the different public safety effects of leaving the EU, plug them into a cost/benefit model and look

at the resulting balance. First, it looks like it will be very difficult to retain access to many of the law enforcement tools we currently possess as an EU member state.

For example, as Sir Hugh Orde has eloquently argued, access to the European Arrest Warrant requires both parties to be EU member states. There is no legal device for simply adding the UK into these arrangements from outside the Euro-

'Now we have chosen to leave the EU, what will be the impact on public safety? This is an impossible question to answer with any precision'

pean Union. On the face of it this would mean that the UK would have to negotiate new extradition arrangements with each member state bilaterally, which would take years.

One consequence of this may be that the UK becomes a zone of 'legal ambiguity'. Organised criminals in particular may feel it is advantageous to locate in a country that lacks effective extradition arrangements with neighbouring EU

➤ Continued on next page



Key speakers

Continued from previous page ➤

member states. On information sharing although it would appear to be in everyone's interests for the UK to retain associate membership of Europol, such a status would mean losing direct access to the data bases.

'Brexit is in part a revolt against globalization, but the truth is that we cannot somehow disconnect ourselves from the multiplicity of global networks in which we are embedded'

This would mean that it could take days rather than hours to access information on missing and wanted persons, for example.

Second, it is unclear what security benefits may accrue from changes to immigration rules. It is clear from what Theresa May said at the Conservative party conference that access to the UK labour market will be further restricted.

This could well mean more robust checks at the border and could have security benefits, but these have to be traded off against a potential loss of information sharing on DNA, wanted persons, vehicle registration and criminal records that may result from leaving the EU.

Moreover, it is arguable that a bigger challenge at our ports and airports than free movement rules is the fact that the Border Force is overstretched and under-funded.

Finally, leaving the EU will not as some perhaps imagine take us back to a golden age of national

sovereignty. We live in a more connected world irrespective of our EU membership: cheap flights, more open markets and, most fundamentally of all, the internet, mean that we are more connected to the rest of the world than at any stage in our history.

The internet in particular means that a child in the UK can be groomed, a UK based computer hacked and personal details stolen from a UK citizen, by offenders on the other side of the world, irrespective of physical border controls.

UK offenders can do the same things to people living in other countries. This will not change post Brexit and if anything will only accelerate.

Practical limits

Brexit is in part a revolt against globalization, but the truth is that we cannot somehow disconnect ourselves from the multiplicity of global networks in which we are embedded. Very simply put, so long as we use the internet, we will be exposed to crimes committed across national borders. In the long run keeping people safe will require more integration and cooperation between law enforcement in different countries, not less. ❖

About the speaker

Rick Muir joined the Police Foundation in 2015. Prior to that he was the Associate Director for Public Service Reform at the Institute for Public Policy Research (IPPR), where he led IPPR's research programme across public services, including policing, criminal justice, health and education. Between 2011 and 2013 Rick was a member of the Independent Police Commission. He has a D Phil in Politics from the University of Oxford.



Event insights

It's time for PCCs and other police leaders to 'step up to the plate'

CoPaCC Director **John Tizard** reflects on CoPaCC's recent "Brexit: Implications for policing and security" event

Many policing stakeholders contributed to the seminar discussion, including PCCs, Deputy PCCs, OPCC staff, senior and former police officers, national policing agency and government departmental officials.

Ever since the referendum result was known on 24th June everyone has been asking the same set of questions and wondering what this vote means. And answers there have been few.

The Prime Minister repeats that "Brexit means Brexit" and other ministers say that it means leaving the European Union. So that is clear then!

Much of the commentary what little political debate there has been has concentrated on the economy and immigration. This may be understandable but given that over seven thousand pieces of domestic legislation are based on EU regulations and directives this narrow focus simply will not do.

Brexit will have significant implications for policing and for police and crime commissioners across England and Wales. At this stage of the post-referendum period it is hard to know precisely what these implications will be or how the Government intends to address them.

There would seem to have been no public statement from the Home Office or the Department for

Brexit; and the national police bodies including the APCC and NPCC seem to have been as silent as the Home Office – at least in public they have.

Wishing to start some thinking and planning for policing post Brexit, CoPaCC and Fieldfisher arranged a seminar on the subject of "Brexit: Implications for policing and security" on 13th September. This was attended by representatives from a range of interested policing stakeholders, including police forces, government departments, national police agencies, OPCCs, Police and Crime Panels and local authorities.

Speakers included the PCC for Dorset, Martyn Underhill; former President of ACPO, Sir Hugh Orde; Sarah Ellson, Partner at leading law firm Fieldfisher; Rick Muir, Director of the Police Foundation; and Simon Bullock, Chief Executive of Dorset OPCC. The seminar was chaired by Bernard Rix, CoPaCC's Chief Executive.

Although the speakers and - I suspect - members of the seminar audience had cast their votes in different ways on 23rd June, they were united in their view what Brexit was a very important and critical matter for the future of policing and national security, with many issues needing to be addressed. During his contribution, Dorset PCC Martyn Underhill listed the key issues as including but not confined to "Northern

➤ Continued on next page



Event insights

Continued from previous page ➤

Ireland, wider borders, Europol, Eurojust, European Arrest Warrant, Schengen, Prüm”.

The UK benefits currently from access to the European Arrest Warrant, membership of Europol and access to its data sharing. There is a risk that these will be at risk if the UK is unable to agree new arrangements once the UK is no longer a member of the EU. The UK may have to negotiate twenty seven separate arrangements and treaty agreements to secure the same level of collaboration between police forces that exists today.

“The biggest challenge will be to renegotiate a single efficient process to cover all countries. I fear this will be impossible, and we will end up with a series of bi-lateral agreements with member states. It is worth remembering that prior to the EAW (which came into force in 2014) we relied on the Council of Europe Extradition Convention of 1957, before even I was born (just!) followed by the Extradition Act of 1989. The more recent Extradition Act of 2003, is in my judgement – although I am not a lawyer – no longer applicable and we will have to start all over again!”

“However, even if we were to create new legislation, we will have to persuade all member states to do likewise. The reason for this is straightforward, currently both parties have to be MEMBERS to benefit from mutual extradition arrangements.”

“The local consequences of failure are substantial.”

Sir Hugh Orde, at CoPaCC “Brexit: Implications for Policing and Security

The same could apply to elements of intelligence sharing. At a time of growing global crime especially digital crime and the movements of people this could be a major problem. It is possible that importance of security will mean that some continuity of collaboration will be relatively easy but this is by no means certain.

“On the positive side, it has to be in every member state’s interest to continue to share information and

intelligence. However, on leaving it will probably be the case that we are relegated to associate status of some description rather than being front and centre of the European intelligence community. (e.g. the current leader of Europol).”

“It may also be the case that the time taken to receive information that now routinely takes a few hours or is in real time will increase.”

Sir Hugh Orde, at CoPaCC “Brexit: Implications for Policing and Security

The UK has recently agreed that it wishes to pursue thirteen of over one hundred and thirty sections of the Maastricht. These are seen as being vital for tackling crime and securing the safety of the British people. There is no clarity what will happen to these thirteen policy and practice issues. Will the UK have to negotiate them with the individual member states and if so how long would that take? Organised crime will not wait for the intricacies of such diplomacy.

Already there has been a disturbing rise in hate crime against EU citizens and others living in the UK. This will require strong but effective community based policing supported by PCCs. Sir Hugh Orde stated that in addition to the benefits of community policing, such policing was a vital source of community cohesion and anti-terrorist intelligence gathering. If police budgets are cut as a result of the economic and financial impact of Brexit this form of policing could be further at risk.

The impact on policing of the referendum result will be multi-dimensional ranging from the implications for EU staff employed in the service to potential new immigration and border policies and practices to procurement legislative changes to significant changes to international police co-operation and collaboration.

The seminar heard that Brexit will almost certainly have consequences for policing the now open land border between Northern Ireland and the Republic, and possibly for the current level of operational

➤ Continued on next page



Event insights

Continued from previous page ➤

collaboration between the Garda and the PSNI. The current arrangements allow officers north and south of the border to work and co-ordinate operations extremely effectively. With EU - UK borders due to harden under Brexit, the collaboration arrangements themselves are likely to be affected.

During the CoPaCC event, the Police Foundation's Rick Muir included a fascinating wider look at the possible macro-political implications of Brexit for policing. He identified three possible such implications, including that the Government would now need to be so focused on Brexit that there would be a great deal more autonomy for PCCs (and potentially for policing leaders more widely). However, he expressed concern that this might be tempered by a tightening fiscal situation leading to policing finances again themselves being tightened.

None of these is a trivial matter. And there are many many more issues! There has to be an informed national debate about every aspect of policing in light of Brexit. This debate has in turn to inform the Government's approach to the Brexit negotiations and domestic post-Brexit.

The seminar called on policing leaders to take a lead rather than wait for the Government. Police leaders and PCCs need, those at the seminar felt, to step up to the plate and call on ministers to match their commitment to identifying objectives that should be pursued to secure effective policing on a global and community bases after Article 50 is triggered.

There was a strong consensus that the national bodies should be part of the Government negotiating teams and that they should also be involved in developing revisions to domestic legislation which will be required to ensure effective policing after Brexit. The apparent reluctance so far of the key national bodies to speak up on these issues was seen as a serious dereliction of duty but this may be about timing rath-

er than a wish to absent themselves from the debate.

Once the shape of the EU and UK negotiating positions begin to emerge, individual police services and PCCs will need to shape their responses. They would be well advised to contribute to any national initiative before this stage too, to ensure the local interests are not overlooked.

Policing and public security and public safety will change as a result of Brexit whatever form this eventually takes. The consequences are too serious to be ignored or left for some later date. Once Article 50 is triggered there will only be two years to get it right. Police leaders including PCCs need to know what they want to start and their "red lines" and to articulate these now. They need to be knocking on ministers' doors and putting the future of policing at the heart of the Brexit politics.

CoPaCC is grateful to the speakers and to the participants at the seminar, and to Fieldfisher for hosting it. We stand by to contribute to the national debate and to support the development of a far sighted police community response. ❖



About the author

John Tizard is a CoPaCC director and independent consultant. He is driven by the pursuit of social justice, fairness and equality of opportunity. John is passionate about the importance of high quality responsive public services based on a public service ethos and about democratic accountability especially local government. John's successful career has been built on these values. It has encompassed remunerated and voluntary work across the public, voluntary, community and business sectors as well as academia.



Event insights

Where do policing, criminal justice and domestic security stand?

Ian Wiggett, CoPaCC Director and former Greater Manchester Police ACC, reflects on the learning from CoPaCC's "Brexit: Implications for policing and security" event, and asks PCCs and police chiefs, "What is the plan?"

It's nearly three months since the Brexit vote, and we are still waiting to find out what happens next. The Prime Minister is reluctant to state what "Brexit" actually means, which might be sensible from a political perspective - but will just add to the current uncertainties, and may not be achievable anyway.

Where does this leave policing, criminal justice and domestic security? Well, we know there is no plan for our post-Brexit relationship with the EU, and we don't even know what the UK government wants that relationship to look like. But we also don't know the views of the police service. Police chiefs steered clear of the politics before the vote, and have said little in public since.

Martyn Underhill, the Dorset PCC, was one of the few PCCs to speak out during the referendum campaign (for Leave): he contributed to CoPaCC's "Brexit: Implications for policing and security" event. He has long argued for improved border security,

and sees Brexit as an opportunity to tighten controls.

Several retired chiefs, including Sir Hugh Orde (who also provided a keynote speech at the **CoPaCC** event), spoke out early in the campaign (in favour of Remain), pointing out the risks to the UK of losing access to shared intelligence, databases, and extradition and prosecution powers.

Voter concerns

Security was an important concern for voters in the referendum, whether economic, financial, or physical. Against a backdrop of immigrants struggling to enter the EU, scenes of the Calais 'jungle', and terrorist attacks in France and Belgium, there was surprisingly little in the way of informed discussion about how best to ensure our domestic security. We no longer live in a world where we can "pull up the drawbridge" and isolate ourselves from outside threats. People move and communicate swiftly

➤ Continued on next page



Event insights

Continued from previous page ➤

across borders. Foreign citizens will continue to come into the UK, whether as migrants, students, tourists, or for business. UK citizens will continue to travel abroad. While most of the threats to UK security are homegrown, overseas links usually appear somewhere in the chain.

The UK has built a strong reputation across Europe for its expertise in intelligence, policing and security. Recognising the risks from organised crime and terrorism operating across borders, the UK has long pushed for better security co-operation across the EU, and played a leading role in the development of Europol and Eurojust. Even though the UK opted out of the Schengen travel area, it remained a major contributor to the Schengen Information System (SIS).

Europol warrants

Some politicians have described Europol, Eurojust and the European Arrest Warrant (EAW) as unnecessary and unwanted EU interference in UK affairs. Theresa May, as Home Secretary, side-stepped that argument and chose not to implement the "Third Pillar Measures" (TPMs) in full. Instead, the UK decided to 'opt in' to those TPMs that were judged desirable. Of the 133 TPMs, many are already incorporated in UK law - but the Home Office and NPCC have identified 13 TPMs as 'vital' and 16 as 'highly desirable' for the security of the UK. These 29 TPMs must form the basis for negotiation, and the public should have the opportunity to understand the risk if these are not secured.

Crime and security is increasingly a global affair. Organised crime, cyber crime, fraud, human exploitation, child abuse, terrorism, even some forms of street crime – are hugely connected internationally. While these links are not always with the EU, there are considerable and unavoidable criminal links across Europe. David Davis and

a few pro-Brexit commentators have highlighted security and justice as an area where continued co-operation would be desirable, or even where the UK's expertise could be a useful negotiating lever. David Davis's new permanent secretary, Olly Robbins, moved across from the Home Office and will understand the issues.

Benefits of co-operation

As Home Secretary, Theresa May spoke during the campaign about the need for co-operation and intelligence sharing. She has seen at close hand the benefits of police and justice co-operation within the EU, and the effectiveness of the UK's contribu-

'Who will provide the expertise to ensure domestic security is not left to languish low down the list of 'things to do'?'

tion to European security – particularly in relation to organised crime and terrorism. But the Prime Minister also bears the scars of botched restructures of UK border security, failures in passport controls, rising immigration levels, and inability to deport foreign criminals.

We now have to ensure the security of the UK post-Brexit. This is not the time for quick sound-bites, and the public have a right to professional expertise about what is important, and why. Cross-border crime and terrorism does not exist 'somewhere else' - this is ultimately about the security of local communities. It is not just an operational issue for chief constables. PCCs must also contribute actively to the considerable amount of work that will be required over the coming years.

➤ Continued on next page



Event insights

Continued from previous page ➤

The government's focus now is on trade and freedom of movement. As Rick Muir of the Police Foundation pointed out during CoPaCC's "Brexit: Implications for policing and security" event, policing and justice is some way down the list. Banking, industry, higher education, trade bodies, even foreign governments, have all started analysing the opportunities and risks, and have begun to lobby hard for their interests. Who, then, is doing the analysis and lobbying for security issues on behalf of the local communities in the UK?

Complex arrangements

While there are huge legal and practical complexities to be worked through, there seems general agreement among professionals on the outcomes that are most important:

- Real-time intelligence sharing – the ability to quickly pass information between agencies and to access intelligence databases across Europe.
- Access to data, such as conviction records, vehicle registrations, forensic records
- European Arrest Warrant procedure to ensure offenders can be brought to justice quickly
- A practicable arrangement for the border with the Republic of Ireland; and
- A significant increase in border security resources and measures

Regardless of your views of the vote result, these capabilities are key to UK domestic security. Of course, agencies will continue to work together to combat terrorism and serious crime threats. It is in everyone's benefit, and non-EU countries are already Europol 'observers'. The UK must push to secure as good a level of access as it can, accepting that this can never be the same as full membership.

There will be legal hurdles which could prevent non-EU states from having access to EU-wide data,

or prosecuting cases overseas. These hurdles may be surmountable, but will need effort to prepare proposals and to secure agreement during negotiation. It may not be possible to find a way round everything, but it must be worth trying. This is not about the EU prying into UK business. This is about law enforcement agencies and courts being able to access and share intelligence and information, and being able to protect local communities as effectively as possible.

The alternative to the EAW is to revert to conventional extradition processes. These will take a lot longer, cost much more, and may not be as good

'Cross-border crime and terrorism does not exist 'somewhere else' – this is ultimately about the security of local communities'

at securing justice. It may be a price the public will accept for restrictions on cross-border movement. But there can be no denying that securing the UK borders will require a major uplift in resources. The Border Force has suffered cuts, and has been through disruptive re-organisations. There are reports of flight arrivals not being checked and cursory checks at ferry ports. The e-Borders scheme has experienced technical difficulties for many years. Many smaller ports and airports have little or no coverage, and have lost coastguard and police cover as well. The UK simply does not have the ships and aircraft to patrol our coasts adequately. Police special branch resources have also been cut, and prioritised to certain risks. Securing the borders will need extra staff and a much wider spread of cover.

➤ Continued on next page



Event insights

Continued from previous page ➤

'Now we have chosen to leave the EU, what will be the impact on public safety? This is an impossible question to answer with any precision'

And then there is the issue of immigration. There is an expectation of extra enforcement, which will require yet more resources. Immigration enforcement is often controversial, and will affect local community relations.

We know that much of human trafficking and sexual exploitation involves vulnerable illegal immigrants, and there is a risk that tackling these crimes could become much harder if activity goes even further underground.

On top of all this, no-one seems to know how to deal with the Irish border. Maintaining the Common Travel Area will probably be impracticable after Brexit. You cannot introduce tighter border controls with the EU, while also maintaining an open land border with an EU member state. It's not just about people movements. Any difference in access between the UK and Ireland and between the UK and the EU will provide a huge opportunity to criminals. And present another challenge to law enforcement.

All this matters to the security of local communities across the UK. Priorities may have to change, and resource levels will be a key issue. There will need to be extra investment nationally in border security and immigration enforcement, including extra police activity in these areas.

Yet there is growing expectation of further budget cuts, together with demands for tax cuts and extra investment to boost the economy. Police budgets could be cut again.

The challenge to the police service, to PCCs and police chiefs, is 'what is the plan'? Who is assessing the opportunities and threats, and preparing the negotiation position?

As the government starts to recruit trade experts and constitutional lawyers, and looks for business deals elsewhere, who will provide the expertise to ensure domestic security is not left to languish low down the list of 'things to do'?

Theresa May will understand the risks. For many even within policing, these are obscure matters, which are rather remote from day-to-day business. But our communities will notice if we cannot secure a good deal. ❖



About the author

Ian Wiggett is a CoPaCC director and former ACC in Greater Manchester Police, with responsibility for Serious Crime and Counter

Terrorism. He was the national lead for systems thinking and for casualty bureau, and was chair of the NPAS Assurance Group. Ian previously had responsibility for specialist operations within GMP. He has led work in GMP to improve responses to missing persons and mental health, and in applying systems thinking approaches across local and specialist policing. Ian began his service in the Metropolitan Police, and gained extensive experience of public order and crime investigation. After being head of CID in three London divisions, he headed the Intelligence and Performance portfolio within Territorial Policing. Following transfer to Cheshire Constabulary, he became Director of Intelligence, held commands in local policing and specialist operations, and led several forcewide change programmes.



Event insights

Local implications for policing and security

The view from North Wales – Deputy Police and Crime Commissioner **Ann Griffith** gives an overview of the CoPaCC Brexit: Implications for policing and security event and the effect of Brexit on North Wales policing

As a Plaid Cymru politician on Anglesey I campaigned to remain within the European Union. It was a terrible blow to learn the morning after the referendum that the people of Wales had voted to leave. The talk on the doorstep was the effect to business and immigration, this mirrored the media focus of the main messages of the Leave and Remain campaigns.

Superficial attention was given to the impact of Brexit for policing and security. Experts in the field warned of the dangers of Brexit prior to the Referendum but these messages were not given campaign or media attention. Thus individuals voted without all the facts available to them.

This week we have heard Theresa May PM clarify Westminster government plans for negotiations which will take place leading to the triggering of Article 50 early in 2017. It is unpalatable that the Welsh Government will not be included at the negotiating table where issues unique to Wales need to be addressed. This is of particular relevance as discussions for devolving Policing to the Welsh Government progresses.

As a newly appointed Deputy Police and Crime Commissioner for North Wales I attended the CO-PACC conference on 14th September.

We were brought up to the minute on the issues by experts in the field, European lawyers and

present and former high ranking Police officers and Commissioners from across England and Wales and Northern Ireland.

Brexit leaves us with more questions than answers in all areas of governance and we are facing a period of huge change and uncertainty.

But one thing that remains the same as it applies to policing and security is the sharing of intelligence and cooperation between countries will remain vital in understanding the movement of criminals and domestic and international terrorism into the future.

'Brexit leaves us with more questions than answers in all areas of governance'

Sir Hugh Orde [former Chief Constable of Northern Ireland 2002 - 2009 and former President of the Association of Chief Police Officers] reminded the Conference "...of the 133 measures that the UK benefits from, 13 are essential for safeguarding our citizens. These measures will need to be renegotiated."

The following are recognised as benefits to being in the European Union. What will happen post Brexit is speculation as nobody actually knows.

➤ Continued on next page



Event insights

Continued from previous page ➤

Eurojust, a judicial cooperation unit, composed of national prosecutors, magistrates, or police officers of equivalent competence, from each Member State was established in 2002 prompted by the 9/11 attacks. It controls the funds which pay for Joint Investigation Teams [JITs]. Article 85 of the Lisbon treaty defines its mission “to support and strengthen coordination and cooperation between national investigating and prosecuting authorities in relation to serious crime affecting two or more Member States.”

Europol, founded in 2009 and headed by Welshman, Rob Wainwright, is where Police and security services and customs officers from each EU member states work together. This makes for faster intelligence sharing and easier cooperation. It hosts the European Cybercrime Centre [EC3] leading on cybercrime cooperation.

Joint Investigation Teams [JITs] target cross border organised crime, human trafficking, money laundering, asset tracing, drug and arms smuggling, cybercrime and terrorism.

Since April 2015 we benefit from access to the Schengen Information System [SIS 1 & 2] i.e. real time shared intelligence database of wanted or missing persons or objects. It is the view of Ian Wiggitt, former ACC GMP that post Brexit “the UK could only be there [Europol] as an associate member or observer, and the loss of access to the shared database will be a risk.” No doubt cooperation will continue with agencies in relevant states but will be so much more difficult to coordinate once outside of Europol.

The European Arrest Warrant [EAW] allows for the most wanted criminals to be returned promptly. It was introduced 2002 in response to a growing threat from international terrorism and a recognition that extradition procedures were complex and time consuming. Theresa May as Home Secretary,

pushed through extensions to the powers as recent as November 2015. It is anticipated, post Brexit, that the UK will need to re-establish extradition procedures and intelligence sharing with EU states on state by state basis with different arrangements, leading to protracted and unwieldy extradition of criminals.

This week to coincide with the Conservative Party conference, the most senior operational police officers e.g. Lynne Owens Director General of the National Crime Agency [NCA] and her Deputy Director David Armond have spoken “Things like the European Arrest Warrant are going to be tricky.

‘Co-operation will continue with agencies in relevant states but will be so much more difficult to co-ordinate once outside of Europol’

We can't stay within that. We have got to negotiate a series of new treaties with overseas territories about extradition.”

The Prüm decision provides for the spontaneous cross border exchange of information including individual DNA profiles, fingerprint and vehicle registration data which assist in preventing criminal offences, public disorder and terrorist offences.

The COSI [Standing Committee on Operational Co-operation on Internal Security] is a Council of Minister's working group responsible for evaluating cooperation on an operational level.

The above framework is of particular relevance to the North Wales Police because of the nature of the border between the Republic of Ireland via Holyhead and north Wales. The Common Travel Area established in 1923 means that Irish and

➤ Continued on next page



Event insights

Continued from previous page ➤

British citizens can travel from the Republic into north Wales without showing passports.

Our relationship with Europol and Eurojust provides some protection in managing organised crime entering and leaving the country in this way. The expectation is that on leaving the European Union the Joint Investigation process could continue but will no longer be free and will be extremely costly. Will this cost have to be met by the North Wales Police?

Of course the lead up to the referendum and aftermath has affected how some people behave towards others. It has emboldened some people to say and do what they like to people they feel should not be living here. We have all heard about the emergence of hate crime, racism and xenophobia in communities and the spike in reporting.

I am glad to say that North Wales Police has not seen a significant rise in numbers. Only 4 people have come forward to report a hate related incident linked to Brexit. However, I appreciate that it is not big numbers that matter rather it is the impact on individuals. This has been the case in our Polish and Portuguese communities where individuals are telling that they are afraid because of what they hear is happening in other towns and cities across the UK. This intimidation is making them lead their lives differently “under the radar,” affecting their social activities and those of their children.

This is coupled by the uncertainty that individuals and families who may have lived here for many years are feeling about their future in the absence of any clarity regarding their rights to remain and work in the UK.

The Commissioner and I will work with the Chief Constable and officers of North Wales Police to ensure the victims of crime have the confidence to come forward and report the offence, safe in the knowledge they will be treated with respect. We

will also work with our partners within the criminal justice system to ensure that victims of hate crime have the confidence to come forward and report the offence, safe in the knowledge they will be treated with respect.

I shall be sharing the information gleaned at the conference with other Police and Crime Commissioners and their Deputies along with the Police Chiefs from across Wales at the All Wales Policing Group and with the Assembly Members and Members of Parliament for North Wales in order to raise awareness of the potential risks posed by Brexit. ❖



About the author

Ann Griffith took up her post as North Wales Deputy PCC on 15th August. Originally from Barmouth, after qualifying as a Social Worker 1984, moved to Anglesey, to work in the Community Mental Health Team.

She worked with all client groups before specialising in child protection.

She spent 10 years with NSPCC Cymru managing a range of projects across North Wales e.g. Risk Assessment, Therapeutic, Youth Council, NW Child Abuse /Children’s Homes Enquiry Victim Counselling, NSPCC Cymru Helpline.

Ann has worked as an Independent Social Care Consultant since 2002, Chairing Child Protection Conferences, Reviewing Children in Care, Investigating complaints, Baby Peter File Audit, Family Court Assessments, Business Manager Local Safeguarding Children Boards.

She holds a Ministry of Justice Appointment.

Ann is a Plaid Cymru County Councillor and stood as an MP in Montgomeryshire 2015 and as an North Wales Assembly Member 2016.



Event insights

A police and crime panel perspective

Vice chair and independent co-opted member on Dorset Police and Crime Panel, **Mike Short** highlights the key outcomes from CoPaCC's Brexit: Implications for Policing and Security event

As a member of the Dorset Police and Crime Panel, I attended the CoPaCC "Brexit: Implications for policing and security" seminar held on 14 September 2016 in London. Hosting the event was Fieldfisher, a leading law firm in the City. The conference was attended by a cross section representing policing, police governance and local government.

Keynote speakers

- Sarah Ellson, a Partner at Fieldfisher, who provided a legal perspective.
- Martyn Underhill, the Dorset PCC - introduced at the event by Simon Bullock, the Interim Chief Executive for the Dorset OPCC.
- Sir Hugh Orde OBE, QPM, former President of the Association of Chief Police Officers, who focused on Brexit issues for policing and security.
- Rick Muir, Director of the Police Foundation, who covered Brexit social issues that might affect policing and security.

The event was very well planned, organised and achieved the desired end state, flushing out the key issues to Policing and Security from the Brexit result of the European Union Referendum in June 2016.

'The seminar highlighted three key strategic issues for policing and security following from the Brexit referendum'

Key issues

The seminar highlighted three key strategic issues for policing and security following from the Brexit referendum result, namely:

- leadership
- requirements
- fiscal risk

➤ Continued on next page



Event insights

Continued from previous page ↘

The following are my view of key actions and implications that follow from the discussion at the seminar in each of these three areas.

Key action: Leadership

There is a need for a national (NPCC/APCC) steering group that can lobby Government (and can help to fill the current decision making vacuum in Government) in order to:

- Safeguard current agreements.
- Identify/Promote the security/policing issues that fall out of Brexit.
- Scope UK future working arrangements with the EU Police and Security agencies.

Key action: Requirements

This national steering group must agree what needs to be lobbied for (and maintained) following from a British exit from the EU. The prime candidates identified during this seminar were:

- the European Arrest Warrant;
- Joint Investigation Teams;
- Border security;
- EuroJust, the EU Integrated Rule of Law Mission for Iraq;
- EuroPol.

The discussion during this seminar led to the conclusion that intelligence on stateless terrorism would not be affected by Brexit, mainly because the UK is a Five Eyes member. The main concern was that Intelligence on organised crime/serious crime/criminal records/evidence for prosecution (which may well impact on local Policing and hence public safety) could be impaired. Tackling the requirements outlined above might negate this anxiety.

Key implication: Fiscal Risk

The cost of Brexit may affect police budgets due to resources being diverted to fund negotiations.

In conclusion

The full ramifications of Brexit are not yet known. We do not even know exactly when Article 50 will be actioned; other than "by the end of March 2017". What we do know is that change is inbound and UK Policing (in all its forms and levels of management) must plan and be prepared for the outcomes of leaving the European Union. This

'Change is inbound and UK policing must plan and be prepared for the outcomes of leaving the European Union'

planning must include maintaining current UK/EU Policing arrangements wherever possible; especially intelligence at the lower level, keeping open the day to day use of channels for the two way flow of information.

The question is - where is the Police leadership in this debate? One thing is certain; CoPaCC cannot lead this response - even if they did generate the discussion! The need for a Joint Steering Group (NPCC/APCC) must be recognised and implemented now in order to shape the Government's thinking/decision making process on policing and security as the UK extracts from the European Union. ❖

About the author

Mike Short is the Vice Chair and an Independent Co-opted Member on the Dorset Police and Crime Panel. He undertakes a portfolio of activities in the Judicial, Consumer and Education arenas.



Views and analysis

The European challenge

What will the referendum mean for policing? Ch Supt **Gavin Thomas**, President of the Police Superintendents' Association of England and Wales, explores the challenges and possibilities of the uncharted waters ahead

No subject has been discussed and debated more in the past few months – and definitely not in the past few days – than the UK's membership of the European Union.

Policing barely featured in that debate, something that has neither surprised nor concerned me. Policing is a constant: and the service deals with whatever circumstances, events and situations national politics throws up.

Our ability to adapt, respond and manage amidst change and uncertainty is one of our great strengths and something our reputation is built on.

However, the absence of policing from the EU debate must not mean that it is not now a critical subject for consideration.

The result of the referendum, and what happens next – two things I make absolutely no comment on – put three aspects of policing into sharp focus.

Hate crime

Firstly, it is clear that tensions are running high in many communities. There are many worrying anecdotal accounts of abuse and hate in circulation, and the police online hate crime reporting site has

seen an increase in reports. Hate is corrosive and divisive and causes serious harm both to people and to communities.

Our role in monitoring community tensions, keeping people safe and dealing robustly with hate crime is always important, but possibly never more so than during times of change and uncertainty.

'We need to know whether these measures will still be available to us and, if they are not, what they will be replaced with'

Our police service is the best in the world in this role, and I know we will continue to be a service that all communities can turn to for help and protection.

Reform

The second area of focus is on the future. Policing has been through a period of significant reform and more is planned.

➤ Continued on next page



Views and analysis

Continued from previous page ➤

In my view, more is needed: to make sure we are a service that is fit for the future and able to deal effectively with challenges such as the explosion in online and cyber crime, the insidious horror of child sexual exploitation and the ongoing threat to our security from radicalisation and terrorism.

'Policing is a constant: and the service deals with whatever circumstances, events and situations national politics throws up'

We need to use technology better; make investment decisions now in capabilities, equipment and training that are needed for the future; and we need to keep recruiting the next generations of officers with the skills that will be needed for future crime types that we don't even know about yet.

We cannot afford for any of this to pause. If we lose the momentum, we may end up years behind where we need to get to.

Clarity

Finally, we must have clarity and certainty. Many of the most serious crimes do not recognise borders and tools such as the European Arrest Warrant, the passenger name records directive and the ability to share information around organised crime are just a few examples of the types of co-operation policing uses every day to keep people safe.

We need to know whether these measures, developed within EU-wide arrangements, will still be available to us and if they are not, what they will be replaced with.

Our people – which is ultimately our biggest strength and what policing is built on – work under Police Regulations, many of which are derived from European Union legislation.

Their wellbeing and their working conditions are critical to our ability to function as a service and we must ensure their rights are safeguarded.

I do not envy those in power who now have critical decisions to make about the future direction of the UK, its relationship with Europe and its position in the world.

But I can provide some reassurance.

Policing is not political, but it is constant, and I speak not just for my members in the Association, but also I am sure for officers of every rank in saying that the police service stands ready to work closely with all stakeholders and all communities to ensure the UK remains a safe, secure and just society, whatever that future looks like. ❖



About the author

Chief Superintendent **Gavin Thomas** is Vice President of the Police Superintendents' Association of England and Wales.

He has served as a Detective at every rank in Gloucestershire Constabulary including Head of Crime and Protective Services and in a variety of areas including specialist crime, Counter Terrorism and as an SIO. In 2006 he attended the FBI programme at Quantico, Virginia. Gavin has also served as a Detective Chief Superintendent in Professional Standards and as a BCU commander. He has been active within the Association for many years, as both Branch and District Chair and Secretary. He was elected as National Vice President in 2013.



Views and analysis

The fallout of Brexit

Much of the UK's security depends upon its ability to work in co-operation with partners. The recent referendum and the potential departure of the UK from the EU poses a danger to that work. Former Greater Manchester ACC **Ian Wiggett** unpicks the ramifications of Brexit, and warns that it will take a lot of effort by political leaders to ensure that co-operation is not damaged.

On 4th June 2016, seven recently-retired senior chief constables wrote an open letter warning that leaving the EU posed an unnecessary risk to UK security. It was vital, they said, that the UK continued to have access to identification data and intelligence across the EU.

Sir Hugh Orde said: "This is not scaremongering, this is hard fact. If you're not in the club, you don't get the benefits." The Home Office immigration minister and former intelligence service chiefs echoed these views. Sir John Sawyers and Lord Evans said: "Counterterrorism is a team game, and the EU is the best framework available."

Immigration and security was an important theme during the campaign – and the national vote went with the Leave campaign who argued that security would best be achieved improved through tighter border controls. There is a simple and attractive argument that stopping freedom of movement will help keep criminals and security risks out of the UK. But that is too simplistic in a world where crime and criminals increasingly transcend borders.

Drugs importation, bank fraud, handling stolen vehicles, arts and antiques, disposing proceeds of

crime, importing weapons, modern slavery, human trafficking, child abuse, cybercrime – all are typically connected, sooner or later, at an international level. It is clear that there are foreign criminals operating here, and the public are frustrated at the apparent inability of the authorities to either prevent them arriving or remove them if they are caught.

But foreign criminals coming to the UK is only one aspect of international and organised crime. UK groups have extensive connections internationally, while our geographical position makes it inevitable that much of the criminality comes via EU states. The picture is unlikely to change for a post-Brexit UK, even with tighter border controls.

Counterterrorism

Terrorism is at the forefront of security concerns. The recent attacks in Belgium and France showed how networks have spread across Europe, with few countries left unconnected to external events and threats. Although the threat remains mostly UK-based, counterterrorist operations and investigations now routinely involve overseas aspects – and while these involve countries across the globe, EU

➤ Continued on next page



Views and analysis

Continued from previous page ➤

connections feature heavily. The connections are often 'virtual' (ie, via internet) rather than physical, and tackling them requires careful international co-ordination. Small pieces of intelligence and evidence secured in one state can prove to be the key jumping-off point for critical operations in another.

Even North Korea finds it impossible to shut these connections down – they are best tackled through awareness and alertness, proactive monitoring, and sharing of intelligence. Less co-operation increases the risk that the security services will miss something. The UK will still co-operate with our European neighbours after Brexit, but the quality may just not be as good.

Europol

From an operational perspective, it is vital that intelligence is shared across borders and responded to rapidly. Crime fighting is a relatively new development within the EU (Europol was only founded in 2009). Headed up by a Briton, Rob Wainwright, the agency brings together police and intelligence officers from each of the EU member states.

It allows intelligence to be passed quickly, while Joint Investigation Teams support national forces to target cross border crimes such as terrorism, organised crime, money laundering and people trafficking. The agency undoubtedly makes co-operation within Europe far easier, compared to the previous reliance on ad hoc contacts and network of bi-lateral arrangements.

The UK supported the shared intelligence database (Schengen Information System), which allows important information to be accessed by police and border forces across the EU. While the system has its limitations and is only as good as the information submitted by the separate states, it has undoubtedly helped tackle serious crime and terrorism.

Europol has a number of associate members and observers from outside the EU, but they do not have direct access to the database and cannot decide priorities. It's true that most international operations and investigations still take place through direct contact with the agencies in the relevant state(s), but this will be more difficult to co-ordinate outside of Europol. After Brexit the UK could only be there as an associate member or observer, and the loss of access to the shared database will be a risk.

The European Arrest Warrant

The European Arrest Warrant (EAW) was introduced in 2002, following the 9/11 attack in the US, when it was recognised that the extradition procedures between EU member states were too complex and disjointed to meet the growing threat. The UK was an active supporter of the EAW and joined in the first wave – many of our most serious British criminals seek to evade justice by operating from overseas.

The EAW means that wanted persons can be returned promptly – an important operational measure. Some in the Conservative Party view the EAW as an intrusion into UK sovereignty, but extensions to the powers were pushed through Parliament by Theresa May in November 2015. May clearly understands the importance of this co-operation to UK security.

We don't know what a Brexit agreement would include, but without the EAW and Europol, the UK would need to re-establish extradition procedures and intelligence sharing agreements with EU states. This may have to be on a state-by-state basis, rather than through a single treaty between the UK and the EU, and it may be that states will want differing arrangements.

A further complication could arise if the UK withdraws from the European Convention on Human Rights, as it could be argued that the UK cannot guarantee a person's rights. Brexit takes us into

➤ Continued on next page



Views and analysis

Continued from previous page ➤

the unknown. Good working relations will continue – but the UK will have weaker links with its closest neighbours, and we may miss key opportunities and intelligence links. Who knows what you don't know?

Securing our Borders

The daily reports of refugees and immigrants crossing the Mediterranean, and the struggle of EU states to deal with those pressures was undoubtedly a big factor in the referendum campaign. But implementing tighter border control has practical challenges. The UK stayed outside the Schengen zone, but we still depend to some extent on the controls conducted by Schengen states before persons can get to the UK. The UK Border Force has suffered cuts in recent years, while workload has increased.

In response to the heightened terrorist threat, the Government introduced tighter checks on people leaving and entering the UK, and stricter laws on the employment of illegal immigrants. At the same time, we have become more aware of human exploitation, modern slavery and people smuggling. These often involve complex, multi-national networks of organised criminals.

There is also the fear that ISIS terrorists and fighters will either “sneak” into the UK, or that terrorist groups will smuggle weaponry for UK-based extremists to use. As the reduced resources have been moved to the more critical ports and airports, other ports and harbours have become exposed.

The UK does not have enough patrol boats or maritime patrol aircraft to cover the Channel, for example; without co-operation from EU neighbours, the UK would need to invest in additional capability – both people and equipment – and this will take time.

If the UK remains a draw for immigrants, we are likely to see a bigger shift ‘underground’. This would put trafficked people at more risk, and make it harder to identify human exploitation. Criminals and

extremists could also remain undetected for longer. Border controls and checks are an important tool in tackling crime and gaining intelligence – but it is impossible to seal borders entirely.

Brexit offers some advantages to prevent some exploitation and to prevent some security risks – but it cannot shut out every possible threat, and much will depend on the resources and measures available to police and immigration services.

Ireland

Brexit introduces a land border in Ireland between the UK and the EU. The Common Travel Area (CTA) has existed since the 1920s, and still operates (the Republic of Ireland is also outside the Schengen zone). The CTA can continue regardless of Brexit, but EU citizens will be able to travel freely to Ireland: they could then easily cross into the UK through Northern Ireland.

While extra checks within the UK could combat that, the risk again is that they go ‘underground’. Free movement between the UK and Ireland, and thence to/from the EU gives opportunities to criminal groups to by-pass UK security measures.

Some have argued that Brexit is a risk to the security situation in Northern Ireland itself, with the fear that it would destabilise power sharing. This remains to be seen, but given the recent increase in the UK threat level from Irish Republican terrorism, any change in the security situation in Northern Ireland must be a concern for the whole of the UK.

Broader perspective

Post-Brexit there has been a surge in the number of reported hate crimes. Crimes have been reported against Germans, Swedes, Poles and Eastern Europeans, as well as black, Asian and Muslim people. Right wing extremists have always agitated against immigration, and it was a major factor in the referendum.

➤ Continued on next page



Views and analysis

Continued from previous page ➤

We don't know if this is a temporary spike, or the start of a more sinister increase in racist activity – but this will be an extra concern for stretched police forces. Brexit will not be a quick process, and immigration controls will be central to the negotiation. Given the emotion and uncertainty we have seen already, there is a high risk that tension could increase further during the coming years.

The impact of Brexit on the UK economy was also a major theme. Since the vote, the Chancellor has abandoned his budget targets, and the Bank of England has provided emergency support to the markets. It's too early to tell, but prolonged uncertainty and political leadership battles are unlikely to be positive for the economy.

We cannot rule out more cuts in public spending, including for the police and other public services. And if the economy does shrink, we could see rises in unemployment and poverty – traditionally factors linked to increases in crime. The simple answer is we don't know – but Brexit adds to a sense of uncertainty about how to plan for the next few years.

And finally

In an ideal Europe, the engineers are German, the cooks French, the lovers Italian, and the cops British – or so the old joke goes. British policing has a strong reputation internationally – including within Europe, where it has been influential within Europol and through other agencies such as CEPOL (European Police College). This is particularly the case for the states that joined from the former Eastern Bloc.

The UK has provided expertise in intelligence management, covert operations, civil emergencies, neighbourhood policing, and tackling organised crime – to name but a few. The UK model of policing is something that many countries aspire to, and the high level of professional skill that UK police

and intelligence officers offer is sought after. Our influence after Brexit may be diminished – which is a great pity.

Coming back to that letter from the chief constables, "if you're not in the club, you don't get the benefits." Over the past decade as crime and terrorism has become more complex and multi-national, the direction of travel has been towards greater international co-operation. That direction of travel will continue, regardless of the UK leaving the EU. There is no reason why Brexit should hinder co-operation, but it certainly doesn't assist it either. It will take a lot of effort by our political leaders to ensure that co-operation is not damaged. ❖



About the author

Ian Wiggett is a CoPaCC director and former ACC in Greater Manchester Police, with responsibility for Serious Crime and Counter

Terrorism. He was the national lead for systems thinking and for casualty bureau, and was chair of the NPAS Assurance Group. Ian previously had responsibility for specialist operations within GMP. He has led work in GMP to improve responses to missing persons and mental health, and in applying systems thinking approaches across local and specialist policing. Ian began his service in the Metropolitan Police, and gained extensive experience of public order and crime investigation. After being head of CID in three London divisions, he headed the Intelligence and Performance portfolio within Territorial Policing. Following transfer to Cheshire Constabulary, he became Director of Intelligence, held commands in local policing and specialist operations, and led several forcewide change programmes.



Views and analysis

A user's guide for police officers and Police and Crime Commissioners

As the full ramifications of the recent Brexit vote become clear, Chief Inspector **Lee Gosling** explores the potential impact of a complete withdrawal from the EU on UK pan-European policing functions, outlining how each aspect of co-operation with Europe currently works, and how it will need to be unravelled or replaced

Brexit has literally changed the European political landscape overnight. Among the many issues raised during both sides' campaigns was the potential for the vote to change the UK's domestic security situation, in particular in response to the threat of international terrorism.

Less emphasis, however, has been placed on UK law enforcement functions generally. This piece will briefly explore the potential impact of a complete withdrawal from the EU on UK pan-European policing functions.

Recently, Rob Wainwright, Director of Europol, said leaving the EU meant the UK would become "a second-tier member of our club," and risked losing access to a vital European security database used by British police every day.

Asked about the likely consequences of Brexit, Wainwright told the Guardian that any alternative police co-operation arrangement would be

only "partially as good" for Britain. "There will be a negative impact, it is just a question of how big or small. It is really about damage limitation," he said.

"Britain, I am sure, would negotiate some form of access to Europol in the same way as Norway

'There will be a negative impact, it is just a question of how big or small. It is really about damage limitation'

and Iceland, so they would become a second-tier member of our club – still useful but not, for example, having direct access to our database, not being able to lead any of our operational projects, not having the influence in our organisation that they do at the moment."

➤ Continued on next page



Views and analysis

Continued from previous page ➤

What does this really mean? Brexit campaigners say the UK could negotiate new security agreements outside the EU, but Wainwright warned of legal and practical difficulties.

He said it could take years to negotiate the “historic first” of access to the SIS database for a non-Schengen, non-EU country. Brexit “has the potential to harm the UK’s ability to fight terrorism and crime, because of the extent to which police co-operation, information systems and other capabilities in the EU have become embedded in the [British] police community and, to a lesser extent, the intelligence community.”

Background

Following the signing of the Maastricht Treaty (also known as the Treaty on European Union 1992) on 7th February 1992, a number of EU agreements were met. The treaty came into force on 1st November 1993.

‘The effect on the UK in this area depends on the extent of free movement after a vote to leave. This is currently an unknown quantity’

There have been many kinds of formal and informal international police co-operation over the past 100 years. The first multilateral arrangements led to the formation of Interpol, which gives technical and operational support to 190 member countries worldwide.

There have been Council of Europe treaties, 175 other multilateral arrangements, and the police themselves have set up practitioner-led cooperation arrangements.

There are numerous areas underpinned by EU membership; this blog examines the following:

- European Arrest Warrant (EAW)
- Schengen Information System (SIS 1 & 2)
- Joint Investigation Teams (JITs)
- Europol/ Eurojust
- Prüm Decision (in part) automated exchange of DNA, fingerprints and vehicle data).
- European Investigation Order (EIO)
- Committee on Operational Co-operation on Internal Security (COSI).

What would happen to all this if the UK left the European Union?

The UK’s departure from the EU will involve negotiations leading to an exit treaty. Under that deal, it would presumably be possible for some parts of EU criminal law to continue as before.

The effect on the UK in this area depends on the extent of free movement after a vote to leave. This is currently an unknown quantity.

If the settlement involved a “clean break”, the UK would be freed from the burdens imposed by EU criminal law but also deprived of its benefits.

The unwanted consequences of allowing free movement of goods and people under EU law are the free movement of criminals and crime. EU criminal law was created to deal with this problem. So the effect on the UK in this area depends on the extent of free movement after a vote to leave. This is currently an unknown quantity.

European Arrest Warrant (EAW)

The EAW is the mechanism by which wanted individuals are extradited from one EU member state to another, either to face prosecution or to serve a term of imprisonment following an earlier conviction in that country. The EAW has been in operation for eight years and has now become a

➤ Continued on next page



Views and analysis

Continued from previous page ➤

mainstream tool. A House of Lords EU Committee report on the UK's decision to opt out of police and justice measures considered the operation of the EAW.

The Committee concluded, amongst other things, that: "The EAW is the single most important of the measures potentially subject to the withdrawal decision. Relying upon alternative extradition arrangements is highly unlikely to address the criticisms directed at the EAW and would inevitably render the extradition process more protracted and cumbersome, potentially undermining public safety."

Pre-EAW example:

On 4 November 1995 Rachid Ramda, an Algerian national, was arrested in the UK in connection with a terrorist attack on the Paris transport system. France sought extradition from the UK. The legal process took 10 years and it was not until 2005 that his extradition was finally completed. He was convicted and sentenced in March 2006 to ten years' imprisonment.

Post-EAW example:

Hussein Osman, a naturalised British citizen born in Ethiopia, was identified as a suspect for the failed bomb attack at Shepherd Bush Tube Station on 21 July 2005. The UK sought his extradition under the relatively new EAW arrangements.

His extradition was completed in September 2005. On 9 July 2007 Hussain Osman was found guilty at Woolwich Crown Court of conspiracy to murder and sentenced to a minimum of 40 years imprisonment.

Extradition to and from EU states could continue to work should the UK withdraw from the EU. However, when judged from a law enforcement and public safety perspective, this would create a

system that was substantially less effective than the current EAW process.

Schengen Information System (SIS/SIS II)

The UK is not a member of the EU's passport-free Schengen zone and gained access to the database in April last year after negotiating a special deal.

The initial benefit of joining SIS II is that for the first time it will provide UK law enforcement agencies with real time access to information (via SIS II alerts). The UK will also have the ability to place alerts on the system, extending the reach of UK law enforcement into Europe with unheralded immediacy.

'This would create a system that was substantially less effective than the current EAW process'

SIS II has been recognised by the Home Office and others as important to the UK as it will deliver several key strategic benefits:

- Reduced criminality – particularly via the ability to screen wanted criminals at border controls.
- Greater identity assurance and protection at the border.
- Improved public and law enforcement officer protection.
- Improved judicial and police cooperation across the Schengen Area.

The current Home Office estimate for implementation of SIS II in the United Kingdom is around £39 million. Additionally, there is an annual cost of £500,000 to the Commission for its costs in running the system, and operational costs of approximately £3-£4million for running

➤ Continued on next page



Views and analysis

Continued from previous page ➤

the system in the United Kingdom, supporting technology and the people to manage it.

SIS relies heavily on the EAW. SIS does not require the EAW to operate and it can in theory operate with another extradition system. However, SIS effectiveness would be significantly reduced by not having the EAW.

A significant and unique barrier effect is generated by the SIS/EAW system, which currently deters many criminals that would otherwise see the UK as a haven and potential destination of choice for criminality.

The UK government (along with the rest of the EU) have spent millions of pounds preparing for the implementation of SIS in terms of staff committed and the IT infrastructure to support it. If the UK did fully withdraw from the EU, the UK may be liable for the costs of the rest of the EU member states having to redesign SIS to work without the UK.

The exchange of criminal records

This aspect seeks to ensure that a conviction in one state is given the same weight in all. For instance, if a person from Poland is convicted of burglary in the UK and it is discovered that he has 12 convictions across the EU for burglary, the UK courts must treat these 12 convictions as they would for UK matters when it comes to bad character and sentencing. In addition, they provide a mechanism by which these convictions can be quickly obtained.

Romanian rapist convicted using foreign convictions as bad character evidence

A Romanian national, 'A', was arrested in the UK on suspicion of raping a prostitute and a vulnerable female adult in London. A request for conviction data identified a previous conviction for rape of a vulnerable adult in Romania.

An application to use the previous conviction as bad character evidence was made by the prosecuting counsel and was granted by the judge. 'A' was convicted of four counts of rape, one count of false imprisonment, two counts of assault by penetration and one count of actual bodily harm.

An indeterminate prison sentence was imposed with a recommendation that he serve at least 11 years. The prosecuting counsel was firmly of the view that 'A' would have been acquitted but for bad character evidence, given the extreme vulnerability of the victims as witnesses.

'The NCA are deporting EU nationals who have been identified as posing the highest risk to the UK and putting in place measures to refuse them re-entry'

Since April 2010, the UK Central Authority for the Exchange of Criminal Records (UKCA-ECR) has been sharing serious foreign conviction information with NCA of EU nationals subject to criminal proceedings in the UK for minor offences.

The NCA are deporting EU nationals who are identified as posing the highest risk to the UK and putting in place measures to refuse them re-entry.

Since 2006, the UKCA-ECR has received in excess of 500 notifications of UK nationals convicted in other EU states of sexual offences, many of which fulfil the requirements of sex offender registration under the Sexual Offences Act 2003. These persons are now being managed within the sex offender management system to protect the British public.

➤ Continued on next page



Views and analysis

Continued from previous page ↩

Joint Investigation Teams (JIT)

JITs are legal agreements between two or more states whereby a cross border crime is investigated. They are designed to speed up the investigation, reduce bureaucracy and are very successful.

The JIT creates an agreement between the states whereby each country investigates the crime in their own country by using their own domestic powers without having to resort to letters of request. For example, consider a murder investigation JIT between England, Germany and France.

Operation Veerde

Operation Veerde was a JIT with the Czech Republic and Eurojust and was an investigation into human trafficking, prostitution and rape of females brought to the UK by an OCG. 33 victims were located in the Czech Republic. A JIT was agreed so that the UK and Czech police could gather evidence using domestic laws quickly. Nine suspects were indicted in England on behalf of both states. All nine were convicted of trafficking offences and sent to prison.

Operation Golf

This is a long term JIT between the Metropolitan Police, the Romanian National Police and Europol. One part of the operation was to tackle a Romanian gang that was trafficking children into the UK and has so far resulted in the arrest of 126 suspects for a wide range of offences. These include human trafficking, benefit fraud, theft, money laundering and child neglect offences.

Eurojust and Europol

Membership of these organisations is a prerequisite for certain other measures. One of these is the JIT. JITs were designed by Eurojust (and

Europol) pursuant to Article 13 of the 2000 EU Convention on Mutual Legal Assistance.

In theory, we do not have to be a member of Eurojust to form a JIT, but Eurojust control the funding for JITs. One of the many benefits of the JIT system is that Eurojust can provide significant funds to run the JIT.

'The UK may be liable for the costs of the rest of the EU member states having to redesign SIS to work without us'

This money includes equipment, travel, outside resources etc. Without membership of Eurojust, the JIT process would move from being free to UK law enforcement, to attracting a sizeable cost.

Europol

Europol performs many functions such as the exchange of intelligence between police, customs and security services. As of 2013, they host the European Cybercrime Centre, 'EC3'. This will lead on cybercrime co-operation and will be the first attempt at a joined up approach in this difficult area.

The remit is to provide a response not only against criminal cybercrimes but also cyber-attacks by terrorists and foreign intelligence agencies. In addition, Europol is an integral part of SIS.

Prüm Decision

The Prüm decision established rules and procedures for the automated searching and transfer of "reference data" held in national DNA analysis files

↩ Continued on next page



Views and analysis

Continued from previous page ➤

– these contain individual DNA profiles which may be used to establish a match or ‘hit’, but which do not reveal the identity of the data subject – as well as fingerprint data, and certain vehicle registration data.

The decision provides for the spontaneous exchange of information (including personal data) in order to prevent criminal offences and maintain public order and security for major events with a cross-border dimension including the exchange of information (including personal data) on individuals where particular circumstances give reason to believe that they may commit a terrorist offence.

‘Without membership of Eurojust, the JIT process would move from being free to UK law enforcement, to attracting a sizeable cost’

As an example, on 21 May 2015 a double homicide and robbery was committed in Vienna by one offender. After finalisation of crime scene work and DNA analysis, DNA profiles from the offender were loaded in the national DNA Database with ‘no hit result’ at noon on 29 May 2015, with the fully automated Prüm searches starting shortly afterwards.

Minutes later, the Austrian crime scene stains from the offender generated a ‘hit’ to a reference profile stored in the Netherlands, and additionally to an open stain stored in Germany. Following immediate forensic confirmation which began on the afternoon of the same day, the second step request for providing the background information to Netherlands and Germany was made.

On Tuesday 2 June 2015 the information from

the Netherlands and Germany was obtained.

The Netherlands reference profile sprang from a Polish offender. His DNA had been sampled and stored after committing grievous bodily harm in 2011. The German open stain profile was secured in Germany in January 2015 after a burglary.

With the actions of the target wanted persons unit and the assistance of Prüm, the offender was located and arrested on 8 June 2015 in Düsseldorf; Germany. With first results of the information shared via the Prüm process – stains found at crimes committed by the offender – police were also able to link the offender to a Swedish homicide.

The identified Polish offender was extradited from Germany to Austria and is presently in ‘investigative court custody’ in Vienna. He made a comprehensive confession to the crimes he had committed.

European Investigation Order (EIO)

This provides EU member police forces with the power to compel UK police to carry out investigations on their behalf. These may include interrogation of suspects, interception of communications and bank records, and the handing over of DNA samples and fingerprints.

COSI (Standing Committee on Operational Co-operation on Internal Security)

The COSI is a working group within the Council of Ministers which co-ordinates matters of police and security.

From the very beginning, operational co-operation has been a stumbling block to the development of police co-operation. Aside from the limited progress made through Europol and the deployment of JITs, co-operation was initially limited to a biannual meeting from 2000 onwards

➤ Continued on next page



Views and analysis

Continued from previous page ➤

of the Club of Berne, a forum bringing together heads of national security services from a number of European countries and geared towards voluntary information exchange in fields such as counter-espionage, organised crime and terrorism.

COSI's responsibilities are to evaluate the general direction of, and shortcomings in, operational cooperation; adopt concrete recommendations; and assist the Council under the 'solidarity clause'

Conclusion

Opposing arguments and forecasts have developed with some suggesting that in the wake of the vote, very little will change. This is not to say, however, that nothing will change. Outside the EU, the UK may find itself less able to influence and participate in European dialogue to counter common threats.

Britain would also lose some ability to increase its security by pressing for standards in other EU member states to be raised. Working through the EU's institutions, the UK has tried to establish a European 'buffer zone' between itself and international criminals seeking to traffic illegal drugs, contraband and prostitutes into Britain.

Upon EU withdrawal, the UK would lose much of its authority to shape EU legislation in these areas. The UK would also have to leave Europol and Eurojust.

In addition, since Britain would no longer be able to use the EAW, it might become a haven for fugitives fleeing from justice in other EU countries. The UK could agree new bilateral extradition treaties with individual member states; Denmark, the only member state which does not participate in EU policing and justice policy, already does this. However, they have found that having separate treaties with EU countries on policing and justice issues is not particularly streamlined or effective.

The more present danger is the social tensions

that the Brexit vote has exacerbated and which may spread across the Union and become a destabilising force that will accelerate processes of radicalisation.

Vox news outlet reported that from Thursday, 23 June – the day of the referendum vote – to Sunday 26 June, there were 85 reports of hate crimes made to the country's True Vision reporting system, compared to just 54 reports in the corresponding four-day period one month previously.

Ultimately, many years will pass before we fully understand the consequences to the UK's security and law enforcement arrangement in the wake of any form of Brexit.

As Professor Steve Peers, University of Essex, blogged recently: "In the event of Brexit, there is a very high likelihood that cooperation between the UK and the remaining EU would be reduced (although not to zero). And in light of the UK's opt-outs and the limited effect of EU law on purely domestic matters, it cannot seriously be argued that UK law enforcement and intelligence agencies are 'controlled by the EU.'"

On this basis we are left with a situation where only time will allow us to truly interpret the Brexit impact on UK/EU policing arrangements which given the challenges faced by UK policing generally, is far from ideal. ❖



About the author

Lee Gosling has been a serving police officer for 16 years, and is a Chief Inspector. He has held a variety of roles, including AFO, Crime and organisational development. He is currently developing leadership schemes within the force. He is a member of the Society of Evidenced Based Policing and force lead.



Views and analysis

The constitutional implications of Brexit on policing and security

David Northfield, of leading law firm Fieldfisher, takes a first look at the Brexit vote's constitutional implications for policing and security

It is rare to be able to combine a professional interest in both policing and constitutional law. The Brexit vote is a reminder to be careful what you wish for. At present, there is no certainty about the effect the vote will have on Britain's policing arrangements, and even the best guess can only outline where we need to get to, without addressing the more immediate question of how we get there. This article considers what the practical implications of the vote might be from a constitutional perspective.

A sticky wicket

Should the United Kingdom remain a member of the European Union or leave the European Union? The referendum question was elegant in its simplicity. However, deciding to leave was the easy part. Coming up with a workable alternative is a very different proposition. The ongoing debate about what sort of arrangements the UK can expect to agree with the EU and the rest of the world highlights the number of different views about what arrangements the UK should pursue, and what can realistically be done in practice.

As far as policing and security are concerned, this matters. Cross-border crime and cross-border co-operation are vital issues. They are intimately related to a globalised world, rather than whether Britain is a member of the EU. Leaving the EU will not make

them go away, and Britain needs a strategy to deal with them.

Up yours, Delors?

A popular caricature of the EU ever since Britain's accession has been of unelected Eurocrats telling Britain what to do. This misses the point. Although less obviously 'of Europe than France or Germany, Britain has led the way in instituting substantial amounts of EU law. Don't tell the Metric Martyrs, but there is quite a lot of it that we would like to keep.

In his article, Ch Supt Gavin Thomas pointed out that 'tools such as the European Arrest Warrant, the passenger name records directive and the ability to share information around organised crime are just a few examples of the types of co-operation policing uses every day to keep people safe'. Sir Hugh suggests that in 2013 Chief Constables agreed that there were at least 13 EU measures Britain benefits from which are 'essential in keeping citizens safe', also expressing a less than optimistic view as to whether we will be able to retain such measures.

You Don't Get What You Deserve, You Get What You Negotiate

We are now in a situation where, to a greater or lesser extent, cooperative, EU wide measures are up for grabs, and we must negotiate with the rest of the EU.

➤ Continued on next page



Views and analysis

Continued from previous page ➤

As with any negotiation, there are horses to be traded. While one would expect those negotiating Britain's exit from the EU (as well as EU Member States themselves) to make security a high priority, we are at a stage where there can be no certainty about what arrangements we will be able to effect. As several EU officials and European politicians have pointed out, allowing Britain to leave the EU on favourable terms may put the wider European project at risk by making exit appear attractive and pain free. It is at least possible that the EU will not give Britain all that Britain desires, if only pour encourager les autres.

Gordian knots

There is more in the way of a successful deal than *realpolitik*. Negotiating our arrangements with the EU is one thing. Putting them into practice is quite another. As Sir Hugh points out, the fact that aspects of EU wide cooperation rely on the UK being part of '3rd Pillar Agreements' (which themselves rely on substantial harmonisation between Member States' domestic judicial arrangements) means that effecting the same or similar arrangements from outside the EU may at the very least be very difficult, and very complicated.

Gallingly (for civil servants in particular), there is no quick and accurate way to quantify how much EU legislation has become part of domestic UK law. What is known is that several thousand pieces of primary and secondary legislation have incorporated EU obligations into domestic law, while a substantial number of EU directives have 'direct effect', being directly part of UK law without requiring separate domestic legislation. Even the most conservative estimates suggest that it will take up most of the work of a single five-year Parliament to fully itemise which elements of UK law derive from EU obligations, to decide which parts we wish to keep, and to ensure that those parts go on the statute books.

What will be the effect on policing and security measures? Although perhaps less affected by EU legislation than other areas of domestic policy, they are not immune. The European Arrest Warrant system is a good example of an EU measure which has been incorporated into UK law using domestic legislation (the Extradition Act 2003 and various Orders made under it). This regime may need to be substantially amended, if not fully unpicked and replaced. Other, arguably more mundane matters such as police hours/overtime are dealt with by the Working Time Regulations 1998 (which incorporated EU requirements and opt-outs). These will have to jockey for position for parliamentary and executive time and consideration with any number of other priorities.

Parting shots

With a depleted civil service (which has shrunk by one fifth since 2010) undertaking the largest administrative exercise since 1945, it would be brave to bet that everything will run smoothly. Perhaps the best we can hope for is a slow but efficient grind where we end up with many of the arrangements we had previously with minimal disruption. The worst we might expect may be far worse. ❖



About the author

David Northfield is a Senior Associate (Barrister) at Fieldfisher who specialises in governance and public law issues in sectors such as policing and professional regulation. He has acted for and advised a number of PCCs in applications for judicial review and on disciplinary issues, as well as in relation to policy and resource management.



Views and analysis

A weaker and more isolated island

How could the Brexit vote affect the UK's ability to deal with organised crime? **Dr Anna Sergi** of the University of Essex argues that the UK's isolation could be game changing for criminal gangs – and in the worst way

A common misunderstanding about the European Union is that the free movement of goods and people also allows criminals and illicit goods to move unchecked across state borders.

It was suggested during the EU referendum campaign that organised crime groups in the country are run by foreigners from Eastern Europe who get in to Britain as a result of the EU's relaxed policies.

So it follows, for those arguing for Brexit, that greater border control is the only way to stop the problem. And of course, a pro-Brexit campaigner would argue that the only way to achieve that control is to leave the EU.

But they would be wrong. British isolation is more likely to present criminals with an opportunity.

Working together

To deal with organised crime, such as drug trafficking or other kinds of smuggling, national police forces need to work together. They need to share databases of information and intelligence. Law enforcement needs to move fast to follow international criminals across borders. Policing needs to be simultaneous.

Leaving the European Union will not prevent cross-border organised crime. It would be like building a two-metre-wide wall in a 200-metre-wide river – it would displace the flow but certainly not reduce it.

Take, for example, one of the most internationalised criminal groups operating today – the Calabrian 'ndrangheta. While originally from Italy, the main interests of these criminal clans are now split across various countries. They operate globally, including in Germany, Switzerland, the Netherlands, the US, Australia and Canada. There were also signs of operations in the UK in the form of a complex case involving a former IRA member and a London-based law firm.

Legal asymmetries

What is most important for the 'ndrangheta is not the porosity of borders but the legal asymmetries that exist between states.

This can be seen, for example, in the different regulations currently operating for the European Arrest Warrant in the UK, when compared to the rest of Europe. The UK has introduced a new "proportionality test", which essentially makes it more

➤ Continued on next page



Views and analysis

Continued from previous page ➤

difficult to extradite a person from the UK for some less serious offences.

However, organised criminals do not always commit serious offences; more often than not minor offences could be the red flags for criminals and criminal activities abroad and across borders.

If Britain were to leave the EU, it might be able to impose tougher terms on immigration, but it would drift further into legal asymmetries like this.

Australian law enforcement faces just such a problem, struggling to share information about the 'ndrangheta with their counterparts in Italy because there isn't enough co-operation.

Going it alone

Increasing border controls only creates more asymmetry. The UK would be out of step with the rest of Europe. In fact, it would eventually become a more desirable location for criminal activities.

After leaving the EU, Britain would need to negotiate multiple bilateral agreements with other countries, not to mention the EU institutions that work with agencies such as Europol or Eurojust. Britain would be left with a complex and unwieldy network of agreements to manage.

And while the authorities waste time and energy navigating these agreements, criminals would be left to trade into an even more isolated island.

Criminal groups have the means, the know how and the money to cross any type of border and they would continue to do so while the authorities waste time and energy navigating Britain's various international agreements.

Game changing

Britain's new found isolation could be game changing for criminal gangs – and in the worst way. Leaving the EU would not, for example, stop illegal drugs from being imported into the UK, but any

increased cost and risk of doing so would push up street prices and reduce the quality of the product – which is dangerous for the general public.

The same can be seen in Australia, where the challenge of getting through customs and the high expense of importing drugs leads to just such a problem.

When it comes to policing and fighting organised crime at the global level, Brexit would only make for a weaker and more isolated Britain. That's an appealing prospect for certain criminal networks – and a nightmare for law enforcement agencies. ❖

This article was first published by The Conversation as Brexit could make life easier for organised crime gangs



About the author

Anna Sergi holds a PhD from the University of Essex where she currently lectures in Criminology. She holds an LLM from King's College London and a Master Law Degree from the University of Bologna, Italy. Her research specialism is in organised crime studies, mafia studies and comparative criminal justice systems. She has worked as a consultant for the Australian Institute of Criminology and she has visited in research positions Flinders Law School, in Adelaide, Australia, and New York University Law School and as a Research Assistant seconded to the National Crime Agency in London. Prior to dedicating herself to the academic career, Anna has briefly worked for the private sector, in the Forensics and Anti-Money Laundering Department of Pricewaterhouse Coopers in Milan, Italy and in the Italian Desk and Litigation Department for Withers LLP in London.



Views and analysis

We need to talk about Brexit

Jon Collins, CEO of the Restorative Justice Council, argues in favour of using restorative justice principles to help heal the Brexit rifts now evident in society

It's been nearly a month since we woke up to Brexit, and things have moved fast. Since then we've had Cameron's resignation, Gove's Brutus act, 'mothergate', new PM Theresa May and the most comprehensive cabinet reshuffle I can remember. More seriously, and away from our political melodrama, the horrific attack in Nice has added yet another incident to the lengthening list of recent events almost too awful to bear. The referendum is so last month.

Only it isn't really. Not only will Brexit dominate the political and economic environment for years to come, but the damage caused by the toxic referendum campaign is yet to be addressed. Because the referendum campaign revealed a country divided. Young against old. Cities versus rural areas. And while 'leave' won, almost half the country voted the other way. Even raising the topic at a recent dinner led to a vicious row, despite all of us having voted the same way.

Through this process, a huge amount of damage has been done, just as it was in the Scottish referendum where the wounds are still very far from healed. And you can see the impact everywhere. In the worrying rise in hate crime. In the total contempt in which too many remainers hold those who voted to leave. In the rush of UK citizens looking to emigrate. And in a febrile atmosphere where it perpetually feels like we're living on the edge of a precipice.

What can we do?

So far, so obvious, but what do we do about it? Time will help, of course – it always does. But that doesn't mean we shouldn't take more active steps to address what's happened head on.

Of course, we need to respond to the symptoms. I blogged recently about taking a restorative response to hate crime, for example. We also need to deal with the underlying harm caused and really

➤ Continued on next page



Views and analysis

Continued from previous page ➤

address the damage done. At the moment, that's just not happening.

Too much of the debate that has followed Brexit has focused on the impact at a national, political level. We've seen Labour MPs' assault on Jeremy Corbyn's leadership and a total reshaping of the government. But what we haven't had, and surely

'What we haven't had, and surely desperately need, is a national conversation involving ordinary people about how we fix this mess'

desperately need, is a national conversation involving ordinary people about how we fix this mess.

We're looking, then, at how we can use dialogue and conversation to address the harm caused and move on. That sounds like a restorative process to me. And in recent weeks I've heard colleagues talking about embedding our approach to the Brexit fallout in a restorative ethos. There's much to recommend this. A more restorative culture would create a better environment to deal with these issues in a constructive way.

A restorative culture

But it's still too abstract for me. Of course we want to live in a more restorative culture. It's embedded in the RJC's vision. I don't just want to talk about it, though, I want to do it.

What does that mean? How does it work? How to do we get people who have barely heard of restorative justice to go the whole way to embracing a restorative approach? We have ideas, as (I hope) you'd expect. Work with schools and young

people, of course, and the National Citizenship Service, for example, but there's still a lot of thinking to do. We need firm plans which can be put into action, and soon.

It's easy to overstate the significance of events when you're living through them. But this really does feel like a pivotal time for the UK. Decisions taken in the coming months and years will shape the country for future generations. If we know one thing from restorative practice, it's that we need to address the harm caused before we can really move on.

So how do we do it? How do we put restorative principles at the heart of a national conversation about healing the rifts caused by Brexit?

These aren't rhetorical questions, I really want to know. The RJC wants to play a part in this but we need your help. Any answers? You know where to find us, and we'd be very pleased to talk about it. ❖



About the author

Jon Collins is Chief Executive Officer of the Restorative Justice Council. The RJC is the independent membership body for the

field of restorative practice. It sets standards, provides quality assurance and advocates the widespread use of all forms of restorative practice, including restorative justice. Jon joined the RJC in May 2014 having previously been deputy director of the Police Foundation, an independent policing think tank, since May 2011. Jon has previously worked at the Criminal Justice Alliance, the Fawcett Society and at Nacro, the crime reduction charity. He is also a governor of a London primary school.



In the media

What to read next

In the week following the Brexit result, CoPaCC's **Bernard Rix** identified some of the Brexit articles to date that contain a must-read policing and security perspective

There's been a wealth of speculation and opinion since the Brexit vote last week. When combined with strong emotions on both sides of the argument, it creates significant difficulty for those wishing to produce level-headed analyses to inform the policing and security response to these fast-changing times.

Areas of impact (potential and actual) on policing and security following the Brexit vote

- **Hate crime:** A rise in hate crime incidents already [acknowledged](#) by NPoCC, and reflected in [this tweet](#) by the Greater Manchester PCC.
- **Border control:** The Calais mayor [wants](#) changes to the deal which allows Britain to carry out immigration checks on the French side of the English Channel, whilst Dorset Police have [stepped up](#) marine patrols over migrant concerns.
- **Relationship between police forces (and other relevant bodies) in England, Wales, Scotland and Ireland:** The majority of the population in Scotland and Northern Ireland voted for Remain. Will that lead to a greater political (and policing) separation of one or both from England and Wales?

- **Police funding:** The Chancellor's [statement](#) yesterday, and his [interview](#) on BBC Radio 4 Today this morning, has warned of tax rises and spending cuts – which could in due course have an impact on police and security spending.
- **Officer and staff employment:** The Police Federation has [stated](#) that “police officers’ rights must be protected following EU exit vote”.
- **European Arrest Warrant:** Sir Hugh Orde's [article](#) this morning for Policing Insight identified this, in his view, as “heading the list” of NPoCC's 133 policing and security measures deriving from the EU.
- **Intelligence sharing:** Following the Brussels terrorist attacks, the FT (and others) [commented](#) on pan-EU police forces’ “failure to share intelligence”. Will a British divorce from the EU make matters worse?
- **Joint Investigation Teams (JITs):** Also highlighted by Sir Hugh's article, a JIT is an [investigation](#) team set up by two or more EU Member States to investigate specific cases.
- **EuroPol and Eurojust:** [Europol's](#) declared aim is “making Europe safer”, whilst [Eurojust](#) acts

➤ Continued on next page



In the media

Continued from previous page ↘

as the European Union's judicial co-operation unit.

- **Less resource available for 'business as usual'?** If the Brexit implications above (and others not yet identified) require policing management time to address, that implies that less time will be available for other matters.

Articles: Pre-Referendum

- **EU referendum: impact of an EU exit in key UK policy areas.** This paper by the House of Commons Library from February 2016 looks at how policy areas (including police and justice co-operation) might change.
- **'The process of withdrawing from the European Union'.** This by the House of Lords European Union Committee during the 2015-16 Session of Parliament.
- **The Fieldfisher blog** keeps you up to date on the latest legal developments related to Brexit.

Selected articles

- **Robert Peston, Friday 24th June.** "I cannot tell you what our future security and policing ar-

rangements will be with the rest of the EU".

- **Adam Smith Institute: 'Evolution not revolution'.** Argues that "the best exit route is for the UK to step back to a position in the European Economic Area ('EEA') and the European Free Trade Association ('EFTA').
- **Guardian: 'Public services braced for uncertainty after the out vote'.**
- **Economist: 'A tragic split'.** The Economist suggests how to minimise the damage of Britain's exit.
- **BBC News: 'EU Brexit referendum: France's Calais seeks border deal changes'.** and **Independent: 'Calais Mayor says France should reconsider treaty stopping migrants entering UK via Channel Tunnel'.**
- **Guardian: 'Britain is not a rainy, fascist island – here's my plan for ProgrExit'.** by Channel 4 News' Paul Mason.
- **The Times: 'Fears that Whitehall will struggle to cope'.** The Times reflects on the civil service not having the skills needed to draw up new international trade agreements.



In the media

Brexit media links

Analysis, opinion, reports and news from mainstream and specialist media concerning policing and Brexit

Links exported from Policing Insight's [Media Monitoring service](#)

Analysis

[Difficulties of Brexit for Ireland can't be underestimated](#)

The Irish Times, 5/10/2016

[Where's the beef? Our take on criminal justice policy at Tory conference](#)

Crest Advisory, 4/10/2016

[Keeping Europe safe: Counterterrorism for the continent](#)

*ForeignAffairs.com - Registration at source
16/8/2016*

[Why is the EU appointing a British security chief after Brexit?](#)

*The Independent
3/8/2016*

[Theresa May: Home Office record-breaker](#)

*BBC
12/7/2016*

[In the aftermath of Brexit, police must improve hate crime training](#)

Social tensions have been exacerbated by the EU referendum, and current training for officers bears little resemblance to working on the frontline says Loretta Trickett, Researcher, Nottingham Trent University
*The Guardian
11/7/2016*

[Getting to Brexit: Some key challenges](#)

University of Surrey, 6/7/2016

[Policing after Brexit](#)

Police Foundation, 1/7/2016

Opinion

[Why the government should offer an amnesty to the UK's illegal immigrants](#)

Closing long term cases would allow a short-staffed Home Office to focus on higher risk areas and improve post-Brexit border control
*The Guardian
11/10/2016*

["The perfect storm" – our ports are in crisis](#)

Dorset PCC Martyn Underhill: "For the last year I have been campaigning for the Home Office to carry out a full and frank review of small port security and it's clear they've done very little to increase protection to our coastal borders."
*Dorset OPCC
21/9/2016*

[Leaders: Police Scotland steps up to mark on Brexit security](#)

There are many unknowns post-Brexit, but Police Scotland has put the nation's security and fight against terrorism top of the agenda
The Scotsman, 26/8/2016



In the media

Opinion (continued)

May's mantra: security, security, security

The Times - Subscription at source, 7/8/2016

Five years on from the 2011 riots, it would be foolish to think our cities are safe

from post-referendum disorder

The Independent, 31/7/2016

Tough issues on policing and care of the service will need to be addressed head on

by new Home Sec and PM

Police Federation of England and Wales, 12/7/2016

Theresa May speech: "We can make Britain a country that works for everyone"

Theresa2016.com, 11/7/2016

Brexit vote could see defence budget reduced

Parliament.uk, 10/7/2016

Ask Fed – Andy Fittes on how Brexit will affect policing

Police Federation of England and Wales, 9/7/2016

How will Brexit affect the country's cops?

It will be some time before the dust settles on the fall out of the referendum result, writes

Royston Martis

*Police Oracle - Subscription at source
4/7/2016*

What a difference a week makes

Vice Chair Calum Macleod reflects on a rollercoaster week of activity following the UK's decision to leave the European Union and the unknown landscape ahead for UK policing.

*Police Federation of England and Wales
1/7/2016*

Unity & respect needed, not hate crime

CC Sarah Thornton's Blog

National Police Chiefs' Council (NPCC), 30/6/2016

Reports

Amber Rudd, Home Secretary: Speech to Conservative Party Conference

Conservatives.com, 5/10/2016

Full list of new ministerial and government appointments

gov.uk, 19/7/2016

Department for Exiting the European Union

gov.uk, 15/7/2016

EU Referendum: An open letter from Avon & Somerset Chief Constable and PCC

In the wake of the EU Referendum, we want to take the unusual step of writing an open letter to reassure our communities that we will do everything we can to keep them safe.

Avon & Somerset OPCC, 5/7/2016

EU Referendum Analysis 2016: Media, Voters and the Campaign

Early reflections from leading UK academics

Political Studies Association, 3/7/2016

News

Race and religious hate crimes rose 41% after EU vote

BBC, 13/10/2016

Hate crimes soared after EU referendum, Home Office figures confirm

Report finds there were more than 5,000 hate crimes in July – up 41% on previous year

The Guardian, 13/10/2016



In the media

News (continued)

Labour's 170 questions for the Tories on Brexit: #72-83 on law enforcement and security

This is the list of 170 questions – one for each day before Theresa May's self-imposed deadline to start the process for leaving the EU – which has been sent by shadow Foreign Secretary Emily Thornberry and shadow Brexit Secretary Sir Keir Starmer in a letter to David Davis in the run-up to an Opposition Day debate

LabourList, 12/10/2016

Government agreeable to using Irish ports and airports to control immigration to UK

James Brokenshire says countries would work to tackle illegal immigration post-Brexit

The Irish Times, 10/10/2016

Damning report condemns rising 'racist violence and hate speech' by politicians and press in post-Brexit UK

David Cameron and Nigel Farage are among the British politicians and institutions accused of fuelling rising xenophobia in the UK as debate continues to rage over Brexit, the refugee crisis and terrorism.

The Independent, 4/10/2016

Amber Rudd to announce new plans to deport EU criminals

The Home Secretary will today pledge to change the law to make it easier to deport European criminals, even before the UK has exited the EU.

PoliticsHome, 4/10/2016

Revealed: Whitehall's plan to rid the country of foreign criminals

The Sunday Telegraph - Registration at source 2/10/2016

Brexit means Britain's police have work cut out in tackling Europe-wide crime, says NCA chief

The Independent 1/10/2016

Amber Rudd urged to sign new Europol protocol

The Scottish government has written to UK Home Secretary Amber Rudd urging her to sign protocols on membership of the European crime-fighting agency Europol.

BBC 30/9/2016

EU Commissioner says Denmark can't have 'parallel' Europol deal

A senior EU official told Denmark's leaders on Tuesday that they would not get the crossborder policing deal they have been seeking since Danes voted in a referendum to quit Europol.

Reuters 27/9/2016

Met Police chief investigated over Ukip and Brexit support – and could face being sacked

The head of the Metropolitan Police's CCTV squad could face being sacked after posting a number of online comments in support of Ukip and Brexit.

Express, 20/9/2016

Home Office prepared to pay up to £80m for French port security

BBC, 20/9/2016

Hate crime has no place here, May tells Polish PM

The Times - Subscription at source 10/9/2016



In the media

News (continued)

May risks party backlash by signing Europol pact

The Times - Subscription at source
9/9/2016

Lasting rise in hate crime after EU referendum, figures show

Statistics released by NPCC show record figure was reached in final week of July – a 58% increase on 2015 total
The Guardian, 8/9/2016

Chief officers drawing up Brexit strategies

Police Oracle - Subscription at source
31/8/2016

Home Secretary Amber Rudd in France for security talks

BBC, 30/8/2016

Politicians fuelled rise in hate crimes after Brexit vote, says UN body

UN committee says politicians should share blame for surge in racist crimes during and after EU referendum campaign
The Guardian,
27/8/2016

UN blames UK politicians for Brexit hate crime spike

BBC, 26/8/2016

Police Scotland raise Brexit crime concerns

Police Scotland have set up a Brexit response team amid concerns exiting the EU could leave the country vulnerable to criminality.
The Scotsman,
25/8/2016

Race hate crime rises on the railways

Number of incidents rises sharply following the decision to leave the EU
Mail Online
22/8/2016

Race hate crime on UK railways soared after Brexit vote, figures show

British Transport police recorded 119 suspected incidents in fortnight after EU poll, up 57% on previous two weeks
The Guardian
22/8/2016

UK set to quit EUROPOL first before EU police force launches expansion

Britain is preparing to leave the European Union (EU) one organisation at a time - with the first aim of quitting the bloc's police force.
Express,
10/8/2016

Security at small ports 'our biggest new threat'

The Sunday Times - Subscription at source
7/8/2016

New UK commissioner appointed EU's security chief

Mail Online,
3/8/2016

Police watchdog to investigate response to hate crime reports

Ministers to publish action plan after sharp rise in number of alleged incidents of hate crime following EU referendum
The Guardian,
26/7/2016



In the media

News (continued)

[Theresa May visits Northern Ireland to insist border controls will not be erected after Brexit](#)

The Telegraph,
25/7/2016

[Hate crime 'still far too high' post-Brexit – police](#)

BBC
23/7/2016

[Met Police deputy chief links Brexit vote to hate crime rise](#)

The deputy chief of the Met Police has linked a rise in reports of hate crimes to the result of the EU referendum.

BBC
20/7/2016

[UK may be forced out of Europol in less than a year as top officer warns of security risks following Brexit vote](#)

Mail Online
17/7/2016

[Met police received more than 500 reports of hate crimes after Brexit vote](#)

London force typically averages 20-50 a day but saw a spike following EU referendum

The Guardian
6/7/2016

[Relationships with EU police forces 'stable'](#)

Police Oracle - Subscription at source, 3/7/2016

[Police deal with 400% increase in hate crimes after vote to leave](#)

The Times - Subscription at source, 1/7/2016

[Police and Crime Commissioners call for unity](#)

Association of Police and Crime Commissioners (APCC)
1/7/2016

[Dorset Police marine patrols stepped up over migrant concerns](#)

BBC, 28/6/2016

[PM condemns 'despicable' post-EU referendum hate crimes](#)

BBC, 28/6/2016

[Police log fivefold rise in race-hate complaints since Brexit result](#)

National Police Chiefs Council reports increase in incidents filed to crime website

The Guardian, 30/6/2016

[Brexit security concerns are unfounded says former counter terror chief](#)

Leaving the EU would make little if any difference to the UK's security, a former senior counter terrorism officer has suggested..

Police Professional,
27/6/2016

[Fight against terrorism 'more difficult' now](#)

Senior police say it is essential they continue to work closely with their European counterparts to help keep Britain safe.

Sky News,
25/6/2016