



OFFICIAL REPORT
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Justice Sub-Committee on Policing

Monday 1 March 2021

Session 5



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JUSTICE SUB-COMMITTEE ON POLICING

3rd Meeting 2021, Session 5

CONVENER

*John Finnie (Highlands and Islands) (Green)

DEPUTY CONVENER

*Margaret Mitchell (Central Scotland) (Con)

COMMITTEE MEMBERS

*Rhoda Grant (Highlands and Islands) (Lab)

*Fulton MacGregor (Coatbridge and Chryston) (SNP)

*Rona Mackay (Strathkelvin and Bearsden) (SNP)

*Liam McArthur (Orkney Islands) (LD)

*Shona Robison (Dundee City East) (SNP)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Assistant Chief Constable Patrick Campbell (Police Scotland)

Deputy Chief Constable Will Kerr (Police Scotland)

CLERK TO THE COMMITTEE

Diane Barr

LOCATION

Virtual Meeting

Scottish Parliament

Justice Sub-Committee on Policing

Monday 1 March 2021

[The Convener opened the meeting at 11:00]

Decisions on Taking Business in Private

The Convener (John Finnie): Madainn mhath, a h-uile duine, agus fàilte. Good morning, everyone, and welcome to the third meeting in 2021 of the Justice Sub-Committee on Policing. We have no apologies.

Agenda item 1 is to decide whether to take in private item 3, which is a review of the evidence that we hear today, and item 4, which is consideration of a draft report. Do we agree to take items 3 and 4 in private?

As no member objects, we agree to take those items in private.

The sub-committee is also asked to decide whether any further drafts of our report on remote piloted aircraft systems and body-worn cameras should be considered in private at future meetings. Do we agree to consider drafts of the report in private?

As no member objects, we agree to take future draft reports in private.

Brexit and Policing

11:01

The Convener: Our main item of business is an evidence session on the impact on policing in Scotland of the United Kingdom's withdrawal from the European Union, which follows on from our previous session on the topic, on 26 October 2020. I refer members to paper 1, which is a note by the clerk, and paper 2, which is a private paper.

I welcome our witnesses from Police Scotland: Deputy Chief Constable Will Kerr, who is responsible for local policing; and Assistant Chief Constable Patrick Campbell, who is the lead on organised crime, counter-terrorism and intelligence. I invite Deputy Chief Constable Kerr to make some brief opening remarks.

Deputy Chief Constable Will Kerr (Police Scotland): Good morning, convener and members. Thank you for the opportunity to come along and engage with you again by giving evidence on this important issue. My evidence last October was characterised largely by uncertainty, as we awaited the terms of our withdrawal from the European Union. At that stage, we were working on the basis of reasonable worst-case scenarios, which set out the worst plausible risks that we could work to. Fortunately, a lot of those have not turned out to be the case. On some of the issues with law enforcement tools, which we spent a lot of time talking about at the meeting, there was a relatively straightforward solution through the negotiated settlement; on other issues, less so. I will look at that in a bit of detail.

When the UK Government announced a negotiated outcome on 24 December 2020, it left only a matter of days for Police Scotland to prepare for issuing fast-track guidance to our officers and staff. During the two-week period of EU exit, our international bureau worked 24/7, and our Brexit delivery team provided an on-call facility to support the force. We had to run those elements, like everything else, alongside our continuing response to the challenges of the Covid-19 pandemic, which is undoubtedly masking the full effects of Brexit.

As Police Scotland's submission to the sub-committee highlights, we are still very much in the early stages of understanding the impact of the trade and co-operation agreement. To date, there has been minimal detriment to co-operations, but there are a number of caveats to that.

I will make a couple of basic points that might help with questions that the sub-committee might have. We have maintained very strong relationships across the United Kingdom and with our international partners. We have retained our

seconded detective inspectors with Europol in The Hague and with Interpol in Lyon, which has been massively beneficial to us.

We were, and remain, worried that we could end up with slower, more bureaucratic processes to replace our previous access arrangements to justice and home affairs measures. Although we have uplifted our international bureau to try to mitigate that, we simply will not know how some of the measures will work in practice until we see that happening. For example, the complete loss of access to the second iteration of the Schengen information system—SIS II—is a significant loss to law enforcement in the United Kingdom as a whole. We have replaced that access, and we are trying to partly mitigate the loss through the use of Interpol red notices, but the new system will not be quite as good or quite as fast. We are still working within a three-month grace period in which the EU permits us to use SIS II for existing inquiries only. There is a number of on-going legal challenges to the United Kingdom in respect of extradition and the European arrest warrant, and it will take some time for those to be resolved.

Data adequacy is another issue that has an impact across all areas of justice and home affairs. In order to highlight to the sub-committee that there is still an on-going iterative process, I note that a draft adequacy decision was published on 17 February, I think, just a couple of Thursdays ago, and data negotiations and data adequacy are still subject to a six-month bridging capability, so there are still a lot of details to be finalised in that regard. Just as we are working through the impact of the trade and co-operation agreement, so are all the EU member states, which are having to build it into their domestic law.

In the interests of brevity, I will not go into detail on our arrangements for civil contingencies, but I am happy to answer questions about that. I said to the sub-committee previously that our arrangements on civil contingencies in Scotland are as good as any that I have seen. Over the past few months, from the macro level—in the Scottish Government resilience room—down to the 32 local resilience partnerships, that has proven to be the case.

In my previous two evidence sessions, I talked about the importance of using tempered language. I now add to that the importance of public patience. We are now entering what will be—we are already in—an event-rich 2021 for Police Scotland. Whereas my previous evidence was characterised by uncertainty, my evidence today is characterised by two important elements. The first is concurrency: there is currently a lot going on in Scotland. The second is the need for adaptability and flexibility in the police service.

I will stop at that point, convener. I am happy to take any questions, and I thank you for the opportunity to make some opening remarks.

The Convener: Thank you for those opening remarks, DCC Kerr. I also thank all the witnesses who provided written evidence to the sub-committee—as ever, it has been very helpful.

Before we move to questions, I remind members to indicate who their question is for, and I remind all attendees to wait just a moment for their microphone to be activated before speaking.

I will ask the first couple of questions. My first question is for DCC Kerr. Can you provide a general overview of the engagement that has taken place with your EU counterparts since 1 January 2021?

Deputy Chief Constable Kerr: There are on-going arrangements, in particular through our seconded detective inspector out in The Hague. In addition, we in Scotland are lucky in that we have a significant number of bilateral relationships with European law enforcement partners, and we have been able to use those to good effect.

With your indulgence, convener, I ask ACC Campbell to add a wee bit of practical flavour to answer your question fully.

Assistant Chief Constable Patrick Campbell (Police Scotland): Good morning, convener and members. We engage daily—as DCC Kerr indicated—with our counterparts in Europol and Interpol. We also engage regularly with EU member states. For example, a European arrest warrant was recently activated in Spain. There is on-going engagement from Police Scotland through our law enforcement counterparts there, as well as on the Crown Office side, and we have an alert and an arrest warrant activated in the EU member state. In addition, we continue to engage with the Home Office and representatives of Police Scotland, the Crown Office and the Scottish Government sit on the internal security board. We engage in that way through the UK Government, but we still have a very good relationship with law enforcement across the European Union.

The Convener: At an early stage in the Brexit negotiations, the UK and the EU recognised that there would be a mutual interest in maintaining law enforcement co-operation as far as possible. It is heartening to hear the examples that you have given. Do you get the sense that EU partners are as keen to maintain that level of co-operation?

Assistant Chief Constable Campbell: From a law enforcement perspective, the relationship has been maintained and is very strong across the EU member states. Between law enforcement agencies, there is still an appetite for mutual co-operation and continued engagement. That has

certainly not been reduced in any way by the position in which we find ourselves just now.

The Convener: I will push you a little further on that. I presume that it is perhaps a bit too early to say whether that co-operation would extend to judicial matters.

Assistant Chief Constable Campbell: There is an understanding that the negotiated outcome has resulted in sub-optimal measures being put in place across a number of areas—there is no getting away from that. However, in the early stages, from what we can see, there is limited negative operational impact on law enforcement. As I said, some of the contingency planning and the measures that are now being put in place, such as the framework to address the loss of the European arrest warrant, have resulted in the continuation of arrests in Scotland and across the EU member states.

The Convener: That is helpful and reassuring.

Members have some questions, including on the European arrest warrant. The first set of questions comes from Rona Mackay.

Rona Mackay (Strathkelvin and Bearsden) (SNP): My question, which is fairly general, is for DCC Kerr. It goes without saying that Police Scotland can operate and carry out its functions only where there is clarity around the law and the legal procedures under which it operates. Are you satisfied that, as things stand, you are operating with sufficient clarity? Are there any areas of concern that still need to be addressed? If there are, which of those is the most significant?

Deputy Chief Constable Kerr: As I indicated in my introductory comments, there are still some ongoing legal challenges and issues around data adequacy that will take a wee bit of time to resolve.

The best way that I can describe the situation is that there are three groups of justice and home affairs measures. First, there are the new arrangements, such as the new fast-track arrangement for extradition that replaced the European arrest warrant, which gives us largely the same capabilities that we had before. On mutual legal assistance, we have, again, largely retained access to the European investigation order procedure, which is great—that is what we want—and access to orders on asset freezing and confiscation.

Secondly, there is a category of measures in which we have retained capability, but under new provisions. I will not go through those in detail, but they include Europol and Eurojust; passenger name records—PNRs; the Prüm system for the exchange of biometric data such as DNA and fingerprints; and access to criminal records. It will

take us a bit of time to develop practically how exactly we can use those provisions.

The third category concerns the loss of access to systems such as law enforcement alerts under SIS II.

To answer your question, those are the three broad areas. The first area is relatively straightforward, albeit that the arrangements will still be subject to some judicial scrutiny and challenge and the domestic laws of the EU member states. However, with regard to the middle group of measures, in which we have retained capability under new provisions, those provisions will undoubtedly need to be tested, judicially and practically. It is impossible, therefore, to give an accurate answer to the question.

To go back to the convener's question at the beginning of the session, what gives us some encouragement and hope is that all EU member states' law enforcement agencies want and need those arrangements between police services and law enforcement agencies to work as much as we do. Nevertheless, there is still not complete clarity on how they will work in practice.

Rona Mackay: Is there a sense that some of the arrangements are temporary? You are currently doing everything that you can, but at the back of your mind is the idea that things could change. How well understood are the guidelines among the members of the rank-and-file force? Are they fairly confident about what they can and cannot do now?

Deputy Chief Constable Kerr: That is a good question. The arrangements are temporary to an extent, as we are still in transition. For example, we are still in the three months of D20, which takes us up to 31 March 2021. I remind members that D20 is the new name for operation yellowhammer, which set out reasonable worst-case scenarios; fortunately, most of those scenarios have not materialised, or are still being masked by Covid. The fact that the current situation is temporary is also partly a result of Covid. It is hard to get a true sense of what the full long-term impact will be.

On your specific question about those on the front line, we have spent a lot of time and have done a lot of work, including in the bridge period between Christmas eve and 31 December 2020, on getting instructions out. As you would expect, we did a lot of preparatory work in 2020. The changes do not affect front-line officers to a great extent—they mostly affect our specialist teams, which work with ACC Campbell at Gartcosh. We are very confident that they are absolutely all over what they do.

Rona Mackay: Thank you—that is helpful.

11:15

The Convener: Our next series of questions is from Shona Robison.

Shona Robison (Dundee City East) (SNP): We have touched on the European arrest warrant issues in general. It would be helpful if the witnesses, starting with DCC Kerr, could give us a bit more detail on where things are with the new arrangements. You talked about retained capability under the new provisions. Can you tell us a bit more about the detail of the alternative provisions that have replaced the European arrest warrant?

Deputy Chief Constable Kerr: Yes, I am happy to do so. We were concerned about two aspects of the new fast-track arrangement to replace the European arrest warrant. The first was mandated time limits for surrender—we wanted to ensure that if we needed to get people back into the United Kingdom and Scotland quickly, we could do that. The second was the immediate power of arrest. We have embedded the Norway-Iceland arrangement, so we have been able to retain both those aspects in the new fast-track arrangement. Any EAWs that were issued before 31 December 2020 are still valid in the UK and the EU member states until 1 January 2022, so we have a transitional period for those.

To answer your question practically, I ask ACC Campbell to give you not so much a lot of operational detail as a sense of how the arrangements have worked over the past couple of weeks, if that would help.

Shona Robison: Yes—that would be good.

Assistant Chief Constable Campbell: The new arrangements are working relatively well at the moment. The European arrest warrant worked really well for law enforcement in Scotland, with a significant number of arrests across the EU, and within Scotland for our member state colleagues. The new system follows the principles and framework of the EAW, and it is a warrant-based system. I can give you some examples of how it has worked. In the first couple of days of January, we successfully arrested a Polish male in Glasgow. An alert was activated on our systems, and he was subsequently arrested and thereafter extradited to Poland. There is an on-going appeal in that case.

Likewise, in the European Union, a male has been arrested in Spain, as I indicated earlier, and we hope to arrest a further male in Poland as a result of successful activation through the new warrant-based system. Again, however, there are on-going legal appeals in those two cases. How that plays out, and the legal position in that respect, will be established over the coming months. Operationally, however, the replacement

for the European arrest warrant has so far worked well and is enabling us to keep the communities of Scotland safe. As DCC Kerr indicated, warrants that were issued prior to 31 December 2020 are still live and active under the terms for retained European arrest warrants, so we can still use them at this stage.

Shona Robison: Can you clarify whether warrants that were being executed up to 31 December are still being executed under the previous arrangements?

Assistant Chief Constable Campbell: Yes, they are.

Shona Robison: On the extradition processes, you said that the operational issues are being managed quite well. However, it seems that there are legal issues; you mentioned that there are appeals on-going. Do you have any concerns that those cases will run into any difficulties under the new arrangements that previously did not exist, or are the arrangements still to be tested, given that we are at an early stage in the process?

Assistant Chief Constable Campbell: Yes, they are still to be tested. The first appeal hearing is on 8 March at Edinburgh sheriff court, so we will, at that stage, get a better understanding—I hope—of exactly what the legal position is. We anticipated that there would be legal challenges in respect of the new framework, as there are with any new piece of legislation. However, operationally, the activation on police systems across the EU and in the UK under the new arrangements has worked relatively well.

Shona Robison: Those legal challenges would not have happened previously, but they are happening now because there is an attempt to test the robustness of the system. The outcomes in those test cases are therefore quite important, are they not?

Assistant Chief Constable Campbell: Absolutely. There are a number of on-going legal challenges to law enforcement across the UK, not just in Scotland. As I said, the landscape of how that plays out, and what comes from it, will be established over the coming months.

Shona Robison: It would be helpful for the sub-committee—or potentially for our successor committee—if we could hear from you again in the light of the information arising from those test cases as they go through the courts.

I have finished exploring my areas of questioning on the EAW, convener, unless anyone else wants to come in.

The Convener: I agree that the legal challenge aspect is an important issue, and it would be helpful for the sub-committee to get some updated information on those appeals.

I want to ask the witnesses—perhaps DCC Kerr, in the first instance—about the issue of data exchange, to which you alluded in your answer to Rona Mackay. Agreement has been reached on the automatic exchange of fingerprint, vehicle registration and DNA information, as well as passenger name records, which contain information about airline passengers reserving or checking in for flights. Can you outline the importance of retaining those arrangements?

Deputy Chief Constable Kerr: Yes, I certainly can. They are critical not only for live-time policing operations, but for retrospective investigations. We sometimes need to know, for investigative reasons, where people are travelling to and for what purpose, at what time, on what flight and to what country. Even the exchange of information under ECRIS—the European criminal records information system—or Prüm, which is more for biometric data, can sometimes make or break a serious crime case. All those sources of information are critically important, and the ability to share them with partners in live time is critical.

That is why, to be honest, we will feel the loss of the Schengen information system. It involves not just the exchange of live information on cases or biometric data, but real-time alerts. With SIS II, there were more than 60 million nominal alerts.

The Convener: We will come to questions on that area.

Is the new arrangement for data exchange entirely in line with the Prüm framework? Is there any deviation at all?

Deputy Chief Constable Kerr: Fortunately, we have retained the ability, which we had under Prüm, to undertake reciprocal automated searching of the EU police systems relating to DNA and fingerprints, and—in the future—vehicle registration mark data. That is one of the areas that we have categorised as retained capability under the new provisions.

The Convener: The next set of questions, which is from the deputy convener, Margaret Mitchell, is on the Schengen information system.

Margaret Mitchell (Central Scotland) (Con): My first question is for DCC Kerr. You said that the public has to be patient, which I think is absolutely right. What you have said this morning is encouraging.

When I was looking over the papers, I was conscious that there were a lot of acronyms. There are very good bodies in place, such as the Brexit team in Police Scotland. It would be good to get a handle on those, and for information on the key bodies to be made available to the public to aid their understanding. That is just a comment in passing.

We know that the deal that has been secured means that Police Scotland will no longer have access to the Schengen information system. It is clear that that leaves a gap, which has been mitigated by the increased use of Interpol notices and diffusions, and the potential future use of the international law enforcement alert platform. Can you tell us, in layman's language, what is happening?

Deputy Chief Constable Kerr: We certainly love our acronyms in policing, and when we add ours up and compare them against those that the police have in EU member states, it is clear that we have a lot of acronyms here.

I will deal with your question in two parts. First, what have we retained in terms of law enforcement—[*Inaudible.*—]alerts, and what is the replacement under the Interpol arrangements? I will try to explain that to a reasonable extent in layperson's terms, but please stop me if I do not.

As members will remember, during the negotiations, the EU insisted that there was no legal basis for the UK to retain access to SIS II. We are therefore reliant solely on European member states making better use of the Interpol system to share their circulations with the UK. I will give you a wee bit of practical flavour on that. Interpol has 197 member states. We deal with those alerts in two ways: either through a red notice, which, given that there are 197 member states, takes a bit longer than going out to 27 member states, or through a diffusion, which is more geographically limited—for example, if there is an investigative reason for us to deal only with south-east Asia, western Europe or North America. Either way, although the Interpol system is very good—I have a meeting with the executive director of Interpol on Thursday to discuss this and a range of other issues—it is not as good as the arrangement that existed before, with live-time alerts under the Schengen information system.

I hope that that gives you a wee bit of flavour. We are confident that, over time, we will be able to build up a more expedient system using Interpol red notices and diffusions, but that will take a wee bit of time. In the meantime, the expedience for law enforcement simply will not be there, and will not be as good as what existed under SIS II, and there is no point in us trying to say otherwise.

Margaret Mitchell: That is really helpful. You mentioned diffusion, and I take it from what you said that that involves all the 197 member states of Interpol. In a way, that is good, as we get information from a wider range of countries, but dealing with that information is more problematic. You are saying that if the issue relates to a certain geographical area, you can take that aspect out of the equation and try to communicate with the people in Interpol who are involved in that

particular incident. Is that an accurate interpretation of how the system would work?

Deputy Chief Constable Kerr: Yes—that is exactly how it would work. However, as I said, as a function of the scale and size of the system, and the fact that we are dealing in global as opposed to just European information, these things can take a wee bit longer. We are having to develop the efficacy of the red notices and diffusions to catch up with what SIS II gave us automatically.

Margaret Mitchell: Is there an issue with regard to the need for member states, wherever they are, to ensure that changes are put into their domestic law to facilitate the new operations?

Deputy Chief Constable Kerr: Yes. With 197 member states, there is—as you will understand—a range of different equities at play with regard to the countries with which we want to share information. What you say is a reasonable characterisation of the situation.

Margaret Mitchell: You touched on the important issue of the live, real-time exchange of information between us and our EU partners. That is a crucial aspect, and I suppose that it applies to Interpol too. It would be excellent to have that in place across 197 member states. How is that being progressed to the point at which the system can supply live-time information?

Deputy Chief Constable Kerr: The difficulty is that when we put out information through a red notice or diffusion, we are then dependent on 197 member states—or, with a diffusion, however many states may be involved, whether it is 13 or 15, or 20 if it is regionally based—coming back on that, having checked their systems. The system is automatically inherently slower than what existed through a central system that involved, at that point, 27 other EU member states and us. As I said earlier, as we left SIS II, there were some 60 million nominal alerts on it. We could put out an alert and get a real-time hit. Within 10 minutes, we would be told if somebody whom we were looking for in Perth or Cairnryan was actually in Poland or France. The new system will inevitably be a bit slower and burdensome on us as a result of our having to go through a process of checking up to 197 times.

11:30

Margaret Mitchell: Looking through our background paper, I could not help but be impressed by what Police Scotland has done to put in place a contingency plan to address the risk of a worst-case scenario, and to try to anticipate how it would deal with that. In my view, that is in large part why there seems to be quite a degree of optimism as we move forward, so I thank you for that.

Rona Mackay: I echo what the deputy convener said. The work that Police Scotland has done is very impressive indeed.

I want to follow up on some of the comments that have been made. I do not wish to labour the point, but are you confident that the planning that you are now doing to mitigate the loss of access to SIS II will fully replicate what that system stood for? Will there be disadvantages, no matter how much planning you do?

Deputy Chief Constable Kerr: The short and simple answer is no, it will never fully replicate what we had under SIS II. It will be slower, more bureaucratic and slightly more burdensome on us. We will simply have to mitigate the risks as best we can.

Fulton MacGregor (Coatbridge and Chryston) (SNP): Good morning, panel. My question follows on from the questions that Rona Mackay and Margaret Mitchell asked. You mentioned Police Scotland's engagement with Europol. Can you tell us a bit more about what that currently looks like, and what outcomes are being sought?

To follow on directly from Rona Mackay's question, do you have any confidence that your on-going engagement will be able to replicate fully the strength of your previous relationships with EU partners? If not, to what extent might it be able to do so?

Deputy Chief Constable Kerr: I will separate my answer into two halves. Retaining access to Europol as a third country is, in many respects, great. It allows us to retain the majority of our current capability, and it allows the UK to maintain liaison bureau status. However, on the other side, we are no longer a member of Europol, so we lose the sense of influence over its future direction and priorities that we had before. More broadly, the UK was a big player and partner in Europol and would have continued to be very influential, and we have lost that. We have retained the capabilities, but we do not have as much influence, and we certainly do not have as much of a voice.

With your indulgence, convener, I ask ACC Campbell to add a wee bit of flavour on what that might mean for us in practice.

Assistant Chief Constable Campbell: We have maintained a presence in Europol. We have a detective inspector who is based over there just now, and a UK liaison bureau has been maintained. As DCC Kerr indicated, we now have third-country status. However, we have a presence, which is important, alongside the EU states that are resident in the Europol building in The Hague. Any inquiries that we have are still channelled through Europol—for example, if we have an inquiry that involves Romania or France;

we are doing a lot of work with the French just now on the preparations for the 26th United Nations climate change conference of the parties—COP26.

A lot of our work with Europol is still channelled through our relationship with UK law enforcement in The Hague, which we have maintained and which is significant. The fast-response and information-sharing elements are still present. There is an impact, in that we are now excluded from a number of the various Europol forums in respect of voting conventions and so on, but it is significant that we maintain that presence in order to allow our on-going operational engagement to continue.

Fulton MacGregor: I thank you both for that answer. I have another question, on the flexible response unit, but it might be more appropriate to ask that later.

Rhoda Grant (Highlands and Islands) (Lab): Good morning, panel. In a previous session, you let us know that you were looking at civil contingency preparations. What did you test as part of that work, and what was the outcome? Did you subsequently need to test other contingencies, given the deal that was reached with the EU?

Deputy Chief Constable Kerr: I will give members a flavour of what we did in Scotland on civil contingencies. We took a slightly better approach—of course, I would say that, on behalf of Scotland—than some of our colleagues in England and Wales in how we translated the reasonable worst-case scenario. As we said in our previous evidence session, the reasonable worst-case scenario is not a prediction, but a set of the worst plausible risks. However, the past 10 or 11 months have taught us that that is a narrow definition, post the pandemic. In February last year, we would never have thought that some of this stuff would have happened.

The arrangements in Scotland were based on an all-risk approach, which assumed that we could have a lot of stuff happening at once; it could be based on weather, protest or the pandemic. We stood up the national co-ordination centre, which was soft launched on 7 December last year and formally set up on 28 December. It is still running, from 7 am to 11 pm, with an on-call facility outside those hours.

I will outline what some of the civil contingencies have been able to do because of the reach from Scottish Government level down through the local resilience partnerships. In our previous evidence session, we discussed concerns about Cairnryan port and what we would do if there was a significant overflow of freight there. We set up operation overflow, which was managed through

the Dumfries and Galloway resilience partnership. It effectively took over Castle Kennedy airfield in order to provide a significant amount of capacity if that was needed. It was not needed, so the facility has now been stood down. The operation involved Transport Scotland, which procured and serviced the site, and a range of other partners coming together through the local resilience partnerships to ensure that we could address all the risks at once.

There could have been additional freight at Cairnryan and bad weather at the same time, along with all the on-going residual impacts of managing the pandemic. The approach that has been taken is very sensible: anything could happen, so we should plan for it all happening at once. If it does not happen, at least we can stand down some of the capabilities and assets.

Rhoda Grant: People were anticipating other issues, such as illegal fishing and border violations, as well as people trafficking, which is an issue that is close to my heart. Were there any incidents along those lines relating to Brexit that you can report? We were aware of some issues with regard to fishing. Have you any intelligence on whether there are likely to be other issues, or an increase in the types of violations that I have mentioned?

Deputy Chief Constable Kerr: At this stage, we do not have a significant amount of information on violations that I can share with the sub-committee. However, as I said earlier, the pandemic is masking a lot of issues because there has been significantly less movement.

I will make two specific points on your question. First, people-based trafficking is a critical issue. Serious and organised crime gangs have developed over the past five years, and they are now more interested in people-based commodities. They can sell and make a profit from drugs just once, whereas a vulnerable person can be trafficked and exploited, and a gang can make money from them, repeatedly. The movement of vulnerable people across borders, and within Scotland, causes us a significant amount of concern.

The other issue relates to our on-going concerns about the Northern Ireland protocol. We are spending a significant amount of time on understanding, and keeping an eye on, the impact of that. Members will be aware that there have been a number of issues with Northern Ireland staff being removed from ports in Belfast and Ireland and then put back again, given the response from the loyalist community in Northern Ireland. We have not yet seen any of that play out on the west coast of Scotland, but we are keeping a close eye on it, and we are in close contact with the Police Service of Northern Ireland.

Liam McArthur (Orkney Islands) (LD): Good morning, colleagues. DCC Kerr's answer segues perfectly into the line of questioning that I want to pursue, which is on mutual aid. During the negotiation process, there was considerable focus on the potential impact on the border between Ireland and Northern Ireland. Given the way in which the negotiations developed, that issue has played out perhaps a little differently than was anticipated when you previously appeared before the sub-committee.

It would be useful to understand what engagement you have had. You talked about your discussions with colleagues in Northern Ireland. To what extent have you discussed the provision of mutual aid by Police Scotland to address any issues that are playing out in that regard? How would you assess whether such provision could be accommodated alongside what you described earlier as a whole range of concurrent demands on Police Scotland, which may make it slightly more difficult to free up the resources that might be requested?

Deputy Chief Constable Kerr: I will ask ACC Campbell to comment on intelligence sharing and relationship management in the island of Ireland, north and south, and what we have been doing to try to mitigate any risks associated with the common travel area.

First, I will answer the specific question on mutual aid. We were concerned about the situation, and in the early days we made significant arrangements for what would happen if we had to send some mutual aid officers across to Northern Ireland. The threat has probably diminished quite significantly over the past 10 or 11 months. We always have arrangements in place, through the national police operations centre, for mutual aid to go from Scotland to London, as it did in the early part of last year, or to Northern Ireland or any part of the United Kingdom. However, this year, it is more likely that mutual aid will be characterised by assets coming to support Scotland and Police Scotland, not least for the COP26 event at the end of the year. We are bringing in thousands of additional mutual aid officers, both general and public order, and specialists to support us in policing that massive event in Glasgow in November.

ACC Campbell can cover some of the CTA-based equities in what we are doing with regard to intelligence sharing and so on.

Assistant Chief Constable Campbell: There is a lot of on-going work just now in respect of the border vulnerabilities. We sit on the Ireland/Northern Ireland protocol group with the Home Office, the PSNI and the Garda, and a number of other partner agencies, so we are well up to date with the issues that are transpiring just

now. We have seen an increase in traffic coming through the common travel area. For example, there has been a 470 per cent increase in freight coming through the port of Rosslare, direct from the EU, bypassing the UK mainland. Thereafter, that traffic comes through to Northern Ireland and to the UK mainland through Cairnryan. We are monitoring that just now.

With regard to the criminal use of the route by some hauliers, we are well engaged on information and intelligence sharing with the PSNI and the Garda. We have weekly meetings with both agencies to share information, and we are watching closely for any increase in tensions in Northern Ireland and how that may manifest itself in Scotland. There is a lot of work going on daily and weekly in that regard.

Liam McArthur: That is helpful.

You mentioned an increase in the volume of freight movements through Rosslare. Is it expected that that will be an on-going trend? Will it therefore require an on-going commitment of resource from Police Scotland over the medium to longer term, or is it a bit too early to say at this stage?

Assistant Chief Constable Campbell: It is a bit early to say at this stage. The traffic coming into Rosslare is a result of the so-called Brexit buster deals that have been advertised; the freight is coming directly from the ports in northern France. We are not really seeing any concerns about traffic coming from the ports of Belfast and Larne into Cairnryan at this stage, but we are monitoring that very closely.

11:45

As DCC Kerr indicated, some of the checks on freight at Belfast were postponed a couple of weeks ago as a result of increased tensions, but they are now back on. However, we are still working out how those tensions will manifest themselves with regard to checks on haulage and freight coming from Northern Ireland to the UK mainland. We are still within the six-month period in which the framework for that is being developed.

The Convener: There is a question from Fulton McGregor.

Fulton MacGregor: Convener, I point out first, in case you did not see it, that DCC Kerr has put an R in the chat box; I do not know whether it relates to the previous question.

The Convener: I beg your pardon. DCC Kerr, do you wish to come in on the topic?

Deputy Chief Constable Kerr: No—thank you for the opportunity, but I am happy to move on.

The Convener: Forgive me—I am monitoring all the various bits and pieces on the screen, and I missed your request to speak. I am sorry about that.

We go back to Fulton McGregor's question.

Fulton MacGregor: It is a brief question on the flexible response unit. As has been said, that unit has been the primary responder to matters arising from Brexit. Can the witnesses provide a wee bit more detail on the types of work that the flexible response unit has been involved in? I know that it is due to be reviewed this month—it is 1 March today. What do you expect that the review will entail? Will the unit be kept in its current form, or will there be a change to it?

Deputy Chief Constable Kerr: As you will remember from our previous session with the sub-committee, the flexible response unit showed the difference in, and the value of, having a single national police service in Scotland. It gave us the resilience, capacity and flexibility to move across the country as we needed to.

In that session, I think that I said that it was intended to cut the numbers. There were about 300 officers in flexible response units, and that number has been cut to about 225. As I said at the time, 50 of those officers were from the north of the country, but most of the deployment was in the central belt; we did not think that it was fair to retain that capacity from the north, when that area was not getting the benefit of it.

Since the unit was set up in August 2019, it has been deployed around 34,500 times. The vast majority of those deployments—practically all of them—have not been Brexit related. The unit has been a national asset that has enabled us to move across the country very quickly to deal with things such as the Extinction Rebellion environmental protests, the weather issues that we have recently experienced and the train derailment. There has been a range of operational deployments in response to both normal and exceptional policing demand. The unit has been massively beneficial, and has offered significant operational assistance through its operational response across the country.

On the specific question about what is going to happen in the review period at the end of March, we are very unlikely to stand down the flexible response unit at that time. As I said in response to one of the convener's questions at the start of the meeting, we are entering an incredibly busy, event-rich year, and we will need that single national asset to give us the flexibility and resilience to operate across the country. The £60 million of additional revenue for 2021-22, which is a recurring investment from the Scottish Government, has meant that we no longer have a

structural deficit. That has significantly helped us to maintain that capacity and resilience as we move forward.

I hope that answers the question, but I am happy to come back on any of those points if I have missed anything.

Fulton MacGregor: I am happy with that answer.

The Convener: That completes our questions. I thank DCC Kerr and ACC Campbell, and their colleagues, for all their work in relation to not only the challenges posed by Brexit that we have been discussing today, but the Covid pandemic.

Before we conclude, I must raise an issue with DCC Kerr with regard to the evidence that ACC Williams gave to the sub-committee on 18 January, on the use of drones. I have read his evidence carefully, and I note in particular his reference to the Regulation of Investigatory Powers (Scotland) Act 2000 and updated assessments. The sub-committee is now in receipt of a revised assessment from Police Scotland, which clearly shows that the intended use of drones goes way beyond what was outlined by ACC Williams. It includes football matches, demonstrations and the collation of evidence from locations for the Crown, which goes way beyond searching for missing persons. Members' questions to ACC Williams were straightforward, and I pressed him on issues around RIPSA.

The proposed extended use of drones, however benign in intention, would be like closed-circuit television—to the layperson, it is surveillance; DCC Kerr acknowledged the importance of lay interpretation earlier. It would be a significant escalation.

I have exchanged correspondence, on the sub-committee's behalf, with ACC Williams on the matter. All that correspondence is in the public domain—as you know, we publish everything. It would be a matter of grave concern if we had been given misleading, inaccurate or incomplete information.

DCC Kerr, I ask that you get Police Scotland to check the *Official Report* of the 18 January meeting and advise the sub-committee of any inaccurate, misleading or incomplete information that has been provided. In addition, I ask that Police Scotland examine the letters that have been sent in response to that meeting, in order to ensure that the sub-committee is provided with all the information by 5 pm this Thursday, please.

Deputy Chief Constable Kerr: Yes—of course, convener. I will be very happy to take that away and do what you have described.

The Convener: Many thanks indeed. Again, I thank you and ACC Campbell for your evidence at today's meeting.

That concludes the public part of today's meeting. The next meeting of the sub-committee will be our final meeting in the current session of Parliament and will take place on Monday 15 March, when we will take evidence from Martyn Evans, the newly appointed chair of the Scottish Police Authority, along with the soon-to-be-appointed permanent chief executive of the SPA. In the meantime, any follow-up scrutiny issues will be dealt with by correspondence, which—as I said—will be published on our website.

As previously agreed, we now move into private session.

11:51

Meeting continued in private until 12:09.

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