



ASSOCIATION OF
CHIEF POLICE OFFICERS



NPIA
National Policing
Improvement Agency
**PRACTICE
IMPROVEMENT**

Practice Advice on

EUROPEAN CROSS-BORDER INVESTIGATIONS

This has been published as an interim product due to the development of Authorised Professional Practice (APP) and may be published in an alternative format in the future as part of the APP programme.

2012

Produced on behalf of the Association of Chief Police Officers
by the National Policing Improvement Agency

This practice advice contains information to assist policing in the United Kingdom. It is **NOT PROTECTIVELY MARKED under the Government Protective Marking Scheme**.

This practice advice has been produced by the National Policing Improvement Agency (NPIA) on behalf of the Association of Chief Police Officers (ACPO). It will be updated according to legislative and policy changes and re-released as required.

The NPIA was established by the Police and Justice Act 2006. As part of its remit the NPIA is required to develop policing doctrine, including practice advice, in consultation with ACPO, the Home Office and the Police Service. Practice advice produced by the NPIA should be used by chief officers to shape police responses to ensure that the general public experience consistent levels of service. The implementation of all practice advice will require operational choices to be made at local level in order to achieve the appropriate police response.

(This publication is available as a PDF only.)

If you would like to receive this publication in an alternative format, please contact:

Specialist Operations Centre
Wyboston Lakes, Great North Road
Wyboston, Bedfordshire MK44 3BY

Telephone: 0845 000 5463

Email: soc@npia.pnn.police.uk

All other enquiries relating to this publication should also be addressed to the Specialist Operations Centre at the above address.



ASSOCIATION OF
CHIEF POLICE OFFICERS



NPIA
National Policing
Improvement Agency
PRACTICE
IMPROVEMENT

Practice Advice on
**EUROPEAN
CROSS-BORDER
INVESTIGATIONS**

2012

First published 2012
National Policing Improvement Agency
Fry Building, Marsham Street
London SW1P 4DF

ACPO and the NPIA would like to express their thanks to all those involved in the drafting of this document. All of the responses during the consultation phase of this project were appreciated and contributed to the final document.

© NPIA (National Policing Improvement Agency) 2012
© ACPO (Association of Chief Police Officers) 2012

All rights reserved. No part of this publication may be reproduced, modified, amended, stored in any retrieval system or transmitted, in any form or by any means, without the prior written permission of the National Policing Improvement Agency and the Association of Chief Police Officers or their duly authorised representative.

For copyright specific enquiries, please telephone the National Police Library on 01256 602650.

Contents

Preface	9
PART ONE	
Criminal Proceedings Based in England, Wales and Northern Ireland	11
1 Introduction	13
2 International Liaison Officers	15
3 Command Structure	19
4 Overseas Law Enforcement Agencies	21
5 Collecting and Sharing Information and Intelligence	25
6 Victim and Witness Management	69
7 The Prosecution Phase	93
8 Media	101
9 Death of a UK National Overseas	105
PART TWO	
Criminal Proceedings outside the UK	109
10 Introduction	111
11 Command Structure	115
12 Initial Response	117
13 Information, Intelligence and Evidence Sharing	121

PART THREE

Operations with Foreign Law Enforcement Agencies	149
14 Operations with Foreign Law Enforcement Agencies	151

PART FOUR

Deployment of UK Police Abroad	173
15 Deployment of UK Police Abroad	175

PART FIVE

Jurisdiction and Transfer of Crime	181
16 Transfer of Crime	183
17 International Incidents and Jurisdiction	189

PART SIX

Extradition and INTERPOL Notices	195
18 Extradition	197
19 INTERPOL Notices	213

PART SEVEN

Interpreters, Translators, Lipspeakers and Speech-To-Text Reporters	217
20 Interpreters	219
21 Translators	239
22 Sign Language Interpreters, Lipspeakers and Speech-to-Text Reporters	245
23 Strategic Considerations	249

PART EIGHT

Key Statutes, Conventions and other Legal Instruments	251
24 Key Statutes, Conventions and other Legal Instruments	253

PART NINE

Agencies and Organisations	291
25 Prosecution Authorities	293
26 Law Enforcement	297
27 International Cooperation Groups	323
28 Welfare and Support	339
29 Administration	351
30 Others	363
Appendix 1 European Arrest Warrant – Offences	365
Appendix 2 SOCA Databases	367
Appendix 3 Annex A Acknowledgements	373
Appendix 4 Abbreviations and Acronyms	377
Appendix 5 References	381

Preface

The UK's growing multi-national population presents many, and varied challenges. These include:

- Different cultures and languages;
- Increasing demands on education, welfare, employment and health services;
- Tension between differing cultural and ethnic groups in local communities and neighbourhoods;
- Increasing demand on local, regional or national infrastructures;
- Maintaining the rule of law and the increasing pressure on the Criminal Justice System (CJS).

In addressing issues on law enforcement, the UK Police must focus on non-UK nationals as both perpetrators and victims of crime. In fact, many fall prey as victims to their own countrymen (or women). There are also the career criminals who seek easy targets across national boundaries for their criminal enterprise.

The European Union now has twenty-seven Member States. With freedom of travel and minimal controls of people and goods flowing across its borders, the EU is only as strong as its borders. For reasons such as unrest, famine, poverty, failing states, health needs and a perception of fear, many of the world's people seek a better place to live.

Someone living in any of the twenty-seven EU countries has free access to all its Member States. Some of these people become victims of crime, many are murdered and those who survive violence do not know where to turn. The perpetrators seek to undermine the justice process, to prevent their capture or frustrate an investigation. Some flee to their homeland or seek freedom elsewhere.

It is imperative that law enforcement agencies have the skills, knowledge and information to investigate crime which crosses national borders. This includes the law, rules, policies and processes in other countries, as well as information about the individuals involved – whether they are perpetrators of crime, victims or witnesses. UK law enforcement agencies need such skills and knowledge to help them work with international authorities and colleagues effectively.

This practice advice has been developed to assist investigators and law enforcement agencies to meet these demands. It is a working tool to introduce and steer agencies through a difficult and complex arena. It is hoped that, in time, this work will be extended beyond Europe.

In writing this document the research team have interviewed many colleagues who have experience of conducting enquiries outside the UK. Those individuals represented numerous agencies (see Annex A) and openly shared their lessons learned from many complex cases.

Further assistance is available from international liaison officers, regional intelligence units and the Serious Organised Crime Agency (SOCA) (as well as many others). This practice advice complements the assistance they can provide in cross-border cooperation, collaboration and investigations.

PART ONE

Criminal Proceedings Based in England, Wales and Northern Ireland



Introduction

Millions of people travel to England, Wales and Northern Ireland (NI) for both business and pleasure each year. It is inevitable that while here some of these people will become the victims of crime.

Contents

1.1 Introduction	14
-------------------------	-----------

1.1 Introduction

An investigation with international connections is likely to be similar to any investigation based within the borders of England, Wales and NI. In most cases, the only significant difference will be that investigators will need to liaise with law enforcement agencies (LEA) located overseas who may not necessarily have direct interest in the investigation or any prior knowledge of it.

Where an investigation has an international connection, UK investigators should first seek advice from the force International Liaison Officer (ILO) and the Crown Prosecution Service (CPS) or local prosecutor.

Investigators must not contact agencies and organisations directly but should first contact their force ILO.

Where investigations involve a foreign national, investigators must undertake relevant checks beforehand to establish with whom they are dealing. This can help to identify criminal connections and previous convictions or alerts which may have a significant impact on the safety of the police and the public.

2

International Liaison Officers

Every police force in England, Wales and NI has an International Liaison Officer (ILO) who acts as a central point of contact for all incoming and outgoing international enquiries for the force area.

In most forces the ILO will be located in the Force Intelligence Unit (FIU) or equivalent HQ Department and be available during normal office hours only. They can provide advice and guidance for any international enquiries that an investigator may consider necessary. However, investigators should be mindful that the capacity of the role will vary between forces.

Contents

2.1	The Role of the Force International Liaison Officer	16
2.2	Working alongside International Liaison Officers	16

2.1 The Role of the Force International Liaison Officer

At present there is no standard role description or national training for the role, although, invariably, all ILOs will deal with comparable requests and enquiries on behalf of investigators based in their force area.

In most instances the ILO will be able to offer the following assistance as a minimum:

- Provide advice and guidance on conducting international enquiries;
- Act as the force central contact point for SOCA, Europol and INTERPOL;
- Work with investigators to understand expectations and realities when conducting international investigations or enquiries;
- Request conviction histories for all prisoners;
- Disseminate relevant material and guidance throughout the force;
- Identify specific crime scene marks and liaise with foreign LEAs to establish identification;
- Details relating to wanted and missing persons;
- Carry out proactive enquiries in conjunction with force priorities and developing issues;
- Liaise with divisional intelligence teams to help identify future concerns;
- Continually review the role to monitor further positive interaction with internal departments and outside agencies;
- Assist with missing persons enquiries with an international link;
- Act as the central contact point for ensuring the execution of incoming Mutual Legal Assistance (MLA) requests.

2.2 Working alongside International Liaison Officers

In some police forces the ILO will not be a serving police officer and may not have an in-depth knowledge of investigative practice. They may also be undertaking the role in addition to other commitments within the department, and will usually follow standardised processes imposed on them by the organisations they liaise with.

To help achieve the best possible outcome, investigators may wish to consider the following practical suggestions:

- Approach the ILO as early as possible to explain and discuss requirements.
- Be willing to listen to alternative and possibly more effective ideas.

- Make sure that the ILO fully understands why a particular request is urgent – however, leaving a request until the last minute does not constitute urgent.

Do not submit **all** requests as urgent. (Doing so may place significant pressure on a requested state as not all EU Member States have the same policing structure as England, Wales or NI.)

- Complete all parts of all forms submitted to the ILO as accurately as possible, making sure that any 5x5 gradings are carefully completed to prevent requests being rejected or returned.
- Understand that what may appear ‘normal’ in an investigation based in England, Wales or NI, may not necessarily be normal practice in another state. A short explanation may, therefore, be required.
- Understand it may not be possible for the ILO to say how long a request will take to action. Some states are inundated with requests on a daily basis and investigators must remain patient.

3

Command Structure

The command structure for an investigation with an international dimension is likely to be similar to an investigation based entirely within England, Wales or NI.

Contents

3.1	Command Structure	20
-----	-------------------	----

3.1 Command Structure

Senior investigating officers (SIOs) in the UK manage investigations from start to finish. This includes issues relating to international media interest, foreign victims, foreign family members and cooperation with international and domestic law enforcement agencies (LEA).

SIOs must, however, respect the intentions and processes in other foreign states and within all LEAs. In doing so, they will avoid upsetting or disrupting already effective working relationships.

Where an investigation attracts the attention of national or foreign media, input from senior police staff or a more intensive response may be necessary on a regional or national basis. This applies particularly when requesting initial advice or assistance. For further information see **ACPO (2009) Guidance on Command and Control** and **ACPO (2007) Practice Advice on Critical Incident Management**.

In a complex investigation requiring a nationally coordinated response, the senior officer in charge should consider liaising with ACPO Police National Information and Co-ordination Centre (PNICC) as soon as possible. PNICC can advise on national policing responses and provide access to the President of ACPO, who is able to arrange any multi-agency involvement where necessary.

Early engagement with SOCA can also be beneficial. SOCA can set up a national major incident room to help manage the transfer of information, intelligence and evidence.

4

Overseas Law Enforcement Agencies

In many cases there is a danger that the complexities of cross-border investigations can be over-exaggerated because of the involvement of various policing structures and, in some instances, more than one investigating authority.

Political pressure may also influence the direction of an investigation. This may include a denial that a problem exists or has links to a particular state.

Contents

4.1	Dealing with Overseas Law Enforcement Agencies	22
4.1.1	Policing within the EU	22
4.2	Adversarial Legal System versus Inquisitorial Legal System	23
4.3	Working with Foreign Crisis Teams and Official Groups	23

4.1 Dealing with Overseas Law Enforcement Agencies

All members of the investigative team should take into account the potential complexities relating to international policing and cultural differences. For further information see **14 Operations with Foreign Law Enforcement Agencies**.

- Cross-border investigations with Germany have involved face-to-face meetings which proved highly effective in providing a mutual understanding of each party's situation and helped to build an effective working relationship based on mutual trust and understanding.

Investigators may have concerns regarding possible corruption, based on previous first-hand experiences or following conversations with colleagues. If the investigation team identifies corruption, the SIO is advised to contact the prosecutor assigned to the case as soon as possible. The prosecutor then has the opportunity to contact Eurojust. (For further information see **27.3 Eurojust**). In cases where corruption is identified, Eurojust can facilitate alternative methods for conducting cross-border investigations. Eurojust is also able to assist investigations where there is a lack of interest or support from representatives of another country.

4.1.1 Policing within the EU

There may be subtle or significant differences in the policing and criminal justice structures between countries. The following may help to highlight some of these.

- The differences between foreign detention laws (eg, in certain EU Member States, detention of a suspect allows for an interview to be undertaken, even in instances where not all the facts are known by interviewing officers).
- Police staff and members of foreign LEAs may not be willing as a matter of course, or readily understand the need, to provide written statements for their part within an investigation. Instead, the prosecutor will present any evidence to the court.
- The role of Family Liaison Officer (FLO) does not formally exist in most countries.
- Foreign investigators may use mediums/psychics as part of an investigation.
- Community policing may not exist or have the same importance as it does in England, Wales or NI.
- Certain EU Member State LEAs may not understand the need for additional and formal enquiries to be carried out once a suspect has made an admission of guilt.

- In certain EU Member States the prosecutor makes the arrest. The police may only have a power to detain.

For further information on individual countries, see **ACPO (2012) Factfile for Investigators: European Member States and Iceland, Switzerland and Norway.**

4.2 Adversarial Legal System versus Inquisitorial Legal System

An Adversarial legal system is a common law system in which the trial judge, the investigators and the prosecution are separate functions. Once the investigation is complete and charges are laid, the trial judge presides over proceedings allowing the prosecution and the defence to present their arguments before the court. This is the system in place throughout England, Wales, NI, Ireland, Cyprus and Malta.

An Inquisitorial legal system is a civil law system. It is based on adjudication in which the judge undertakes an active role in the investigation by examining the evidence and preparing reports. This system is in place in the majority of EU Member States.

For countries outside the EU investigators are advised to liaise with the force ILO, who can make further enquiries via SOCA International.

4.3 Working with Foreign Crisis Teams and Official Groups

A number of EU Member States employ crisis teams or other groups to represent and assist national citizens when overseas should they become a victim of a serious crime, or are caught up in a disaster or accident. These groups can have a positive and negative impact on an investigation.

Investigators approached by a foreign crisis team or other official group should:

- Understand the purpose of the particular team and what they can offer, eg, the team may be willing to facilitate the transportation of victims and family members to a force area to assist in the investigation or for attendance at court.
- Understand the governance of the team and how the team operates.
- Obtain details about the work the team or group has previously been involved in where possible, eg, any previous dealings with a UK police force. The SIO may wish to liaise with that SIO to help establish previous experiences or suggestions.
- Set boundaries for the foreign crisis team or official group in relation to its input into the investigation, but allow them to assist wherever the SIO feels it is necessary and possible.
- Identify whether the team has the responsibility to relay shared information on the investigation back to the state they represent, and whether this information will also be given to the media.

- Use an independent interpreter and a force FLO to accompany investigation team members who visit foreign consulates or embassies to meet foreign representatives, victims or family members.
- Hold all meetings with foreign crisis teams or official groups on neutral premises. This can prevent one side from inadvertently controlling any part of the proceedings.

5

Collecting and Sharing Information and Intelligence

Investigations that include an international link will require one or more cross-border enquiries to be carried out. Such enquiries may relate to tracing vehicles, suspects, victims or witnesses, or checking bank account details. In all cases investigators must first contact the force ILO for advice and assistance.

Contents

5.1	European Data Protection Rules	28
5.2	Requesting Information or Intelligence from Foreign LEAs	28
5.3	Police-to-Police Enquiries	28
5.3.1	Requirements for Police-to-Police Enquiries	30
5.3.2	Dual Criminality	30
5.3.3	Investigative Link/Nexus	30
5.3.4	Double Jeopardy	31
5.3.5	Assistance via Police-to-Police Enquiries	31
5.3.6	Using Information Obtained via Police-to-Police Enquiries at Court	32

5.3.7	Process for Sending Police-to-Police Enquiries – Contact Established	32
5.3.8	Process for Sending Police-to-Police Enquiries – No Contact Established	33
5.4	The EU Swedish Initiative	34
5.5	Sending Police-to-Police Requests to Non-EU Member States	35
5.6	Embassy or Diplomatic Routes	36
5.7	SOCA Liaison Officers	36
5.8	Sources of Information Which May Facilitate Police-to-Police Enquiries	37
5.8.1	SOCA Databases	37
5.8.2	Resources Held by Agencies and Organisations	37
5.9	Intelligence Sharing	37
5.9.1	Sharing Process	37
5.9.2	Special Considerations	38
5.10	Mutual Legal Assistance (MLA)	39
5.10.1	Legislation and other Instruments Relating to MLA	39
5.10.2	Types of Assistance Available	41
5.10.3	Admissibility of Evidence	42
5.10.4	Process for Issuing an LOR	42
5.10.4.1	Police Responsibilities	43
5.10.4.2	Crown Prosecution Service	44
5.10.5	Format and Content of Requests	44
5.10.6	Additional Information for Specific Requests	46
5.10.7	Translation of an LOR	48
5.10.8	Sending an LOR	49
5.10.9	Confidential Requests	49
5.10.10	LOR no Longer Required	49
5.10.11	Grounds for Refusal	49
5.11	Obtaining Overseas Police and Criminal Records	50
5.11.1	Obtaining Criminal Records from EU Member States	51
5.11.2	Application Process	52
5.11.3	Non-EU Requests	53
5.11.4	General Points to Consider with Requests	53
5.11.5	‘No Trace’ or ‘No Record’ Returns	54
5.11.6	Convictions Received from Overseas	54
5.11.7	Bad Character and Foreign Conviction Evidence	55
5.11.8	Sentencing and Foreign Conviction Evidence	55
5.11.9	Bail and Foreign Conviction Evidence	55

5.11.10	'Three Strike Offences' and Foreign Conviction Evidence	56
5.12	Forensic Evidence	57
5.12.1	Forensic Strategies	58
5.12.2	DNA Search Considerations Prior to International Requests	58
5.12.2.1	Search Considerations Prior to International Requests	59
5.12.2.2	Procedure for Submitting Requests	59
5.12.3	Obtaining Fingerprints from Overseas	60
5.12.4	Scene Preservation	60
5.13	Firearms Enquires	61
5.13.1	Process for Carrying Out Checks	61
5.14	Obtaining Financial Information from Overseas	61
5.14.1	Investigative Considerations	62
5.15	Asset Tracing	62
5.15.1	Contact Points	62
5.16	Recovering Exhibits from Overseas	63
5.16.1	Practical Considerations	63
5.16.2	Transportation of a Firearm as an Exhibit	63
5.16.2.1	Necessary Documentation	64
5.16.2.2	Importing Firearms into the UK	65
5.16.2.3	Exporting Firearms from the UK	66
5.16.2.4	Continuity of Evidence for Exhibited Firearms	67
5.16.2.5	Copies of Documentation Required	67
5.17	Internet as a Tool to Assist Investigations	67
5.17.1	Internet Service Providers	68

5.1 European Data Protection Rules

Data protection rules vary across Europe. However, the Council Framework Decision 2008/977/JHA on the protection of personal data processed via police and judicial cooperation on criminal matters (Data Protection Framework Decision) was implemented in 2010. It provides a minimum appropriate standard of data protection where personal data is exchanged between EU Member State law enforcement authorities.

Despite this investigators need to be aware that several EU agreements have their own data protection rules which set out use limitations for data supplied under that agreement.

When considering whether to share personal data with third states outside the EU, investigators need to consider whether additional data protection safeguards should be established. Advice must be sought where investigators intend to share personal data with non-EU States that retain the death penalty or have a record of poor human rights. For further details, contact the Force Data Protection Representative.

5.2 Requesting Information or Intelligence from Foreign LEAs

The process for requesting information or intelligence from a foreign LEA is as follows:

- If the correct contact details in the requested state are known, applications for intelligence can be sent directly to that person using the force ILO. This is known as police-to-police enquiries, but it must be remembered that sending a request directly will not be secure. For a secure transmission, investigators must liaise with their force ILO, who can then submit requests via SOCA International. (In customs matters, however, police-to-police enquiries are often referred to as Mutual Administrative Assistance.)
- If contact details are unknown, the ILO must submit all requests to SOCA International on an INTERPOL Enquiry Form.
- Requests for information from other EU Member States in relation to serious offences which attract a custodial sentence of more than one year should be made under the terms of the Swedish Initiative. (See **5.4 The EU Swedish Initiative**).

5.3 Police-to-Police Enquiries

Police-to-police enquiries are an informal process whereby a police officer in the requesting state asks for assistance from a police officer in another state to gather or exchange information and intelligence, or sometimes evidence, for an investigation or prosecution. It is the responsibility of the force ILO to facilitate police-to-police enquiries.

If evidence can be obtained by either police-to-police enquiries, Mutual Legal Assistance (MLA) or Letter of Request (LOR), police-to-police enquiries are often a much quicker and less complicated route, being generally quick to arrange and not requiring the additional

involvement of a prosecutor or judge. For further information on Mutual Legal Assistance see **5.10 Mutual Legal Assistance (MLA)**.

Police-to-police enquiries can be a useful research tool to enable a well-focused MLA request to be made.

Police-to-police enquiries can assist in:

- Finding out if a particular company building exists in an EU Member State. Once confirmed, an MLA request can then be sent to search these premises for evidence, with the name and location of the company building clearly specified.
- Identifying the company (and its address) responsible for a particular telephone number so that the subsequent MLA request can ask for an evidential statement to be taken from an employee of that specific company.
- Identifying the registration details of an overseas registered vehicle seen in England, Wales or NI. Initial checks can provide acknowledgement that records exist and a subsequent MLA request from the prosecutor can request the necessary evidence.

Although there are no strict rules on when to use the police-to-police method for seeking assistance, the rules of the assisting country will determine the purpose for which such assistance can be provided. As a general guide it can be used for:

- The exchange of intelligence;
- The exchange of information which is already in the public domain, for use as evidence;
- The exchange of some evidence obtained through non-coercive measures. It should be noted that different countries have different rules on what can be obtained in this way. Some matters that might be classified as non-coercive in one jurisdiction may be classified as coercive in another.

It is important to establish how likely a challenge is, and whether the added security of an LOR is necessary. Investigators should, therefore, seek advice from the prosecutor.

Investigators should be aware that police-to-police enquiries can leave an 'investigative footprint' in another state and if this has happened they must identify it.

In counter-terrorism and allied matters, investigators should contact the MPS International Liaison Section (SO15) for advice and assistance. They can be contacted by telephone: 020 7230 1212.

5.3.1 Requirements for Police-to-Police Enquiries

Before an investigator submits a request to obtain intelligence or information directly from another Member State via police-to-police enquiries, they must first be satisfied that:

- It is lawful to do so under UK law and that there is no reason to believe that it will be excluded as evidence;
- It is lawful to do so under the law of the foreign state;
- The foreign state has no objection.

In cases where no previous contact has been established with the LEA overseas, investigators should liaise with the force ILO, who can establish contact through SOCA International.

Police-to-police enquiries are based on mutual cooperation. If contact with overseas LEAs is inappropriate, this may influence a country's involvement in further investigations.

5.3.2 Dual Criminality

Dual criminality is not required for most types of assistance. For example, a request will be executed even if the underlying criminal conduct would not be an offence under UK law, but had occurred in the UK.

If however, the assistance required is in any way coercive (search and seizure or confiscation and restraint) dual criminality is required, ie, it must be a criminal offence in both countries.

Under section 15 of the Crime (International Co-operation) Act 2003 (CICA), witnesses can be compelled to give a statement to court regardless of dual criminality.

5.3.3 Investigative Link/Nexus

All requests via police-to-police enquiries must have a link between the investigation and what it is that the investigation team wishes to achieve (a Nexus).

The police in England, Wales and NI provide a nexus as a matter of course in all aspects of an investigation, especially in relation to coercive powers. Many overseas executive authorities and law enforcement agencies, however, may not be familiar with this concept because of differences between legal systems.

5.3.4 Double Jeopardy

The UK policy position is to refuse requests where the principle of double jeopardy will be infringed. The basic principles (derived from *R v Connelly [1964]*) AC 1254:

- A person may not be tried for a crime in respect of which he or she has previously been acquitted or convicted in respect of which he or she could have been lawfully convicted in previous proceedings;
- For the rule to apply, the offence for which it is now proposed to try someone must have been committed at the time of the first charge (this covers the situation where, for example, someone pleads guilty to an offence of Grievous Bodily Harm, but following that conviction the person he or she attacked dies as a result of his injuries);
- The earlier decision as to guilt or innocence must have been the result of a valid trial process by a court of competent jurisdiction (this can include foreign courts).

Note: The Criminal Justice Act 2003 abolished the rule against double jeopardy in relation to certain serious offences where there is new and compelling evidence. Further detail is provided under section 78 Part 10 Criminal Justice Act 2003.

5.3.5 Assistance via Police-to-Police Enquiries

The extent of assistance which can or may be provided using police-to-police enquiries varies from state to state and is dependent on such factors as the:

- State's domestic law;
- Present state of relations between the states concerned;
- Attitude and opinions of the people on the ground to whom the requests are made. (Personal contacts between police officers can often prove to be invaluable and can facilitate the execution of formal MLA and extradition requests. Nevertheless, care must always be taken not to undermine the correct channels.)

It is not possible to provide a definitive list of the types of permitted enquiries, but provided that the enquiry is routine and does not require the use of coercive powers it should be possible to make it without the support of the Mutual Legal Assistance request process.

The following are examples of enquiries which may be made using police-to-police channels:

- Obtaining public records – (for example, land registration documents, papers relating to company registration);
- Contacting potential witnesses to confirm whether they are prepared to assist voluntarily with enquiries;
- Taking statements from voluntary witnesses;
- Locating missing persons;
- Obtaining lists outlining previous convictions;
- Obtaining basic subscriber details from communication service providers.

5.3.6 Using Information Obtained via Police-to-Police Enquiries at Court

Whether material can be used at court will depend on whether it is admissible under domestic rules of evidence. In determining if it should be used, the purpose for which it was provided and the views of the provider must be considered and accommodated as far as is possible within the requirements of the Criminal Procedure and Investigations Act 1996 (CPIA).

The normal rules in relation to admissibility of evidence apply to evidence obtained from overseas, regardless of whether it is obtained via police-to-police enquiries or by mutual legal assistance. The relevant prosecution authority will be able to advise investigators on this point.

If required by the providing state, the prosecution authority will issue an LOR to the other state, detailing both the information already provided and the circumstances of the police-to-police cooperation. The LOR will then contain a formal request to use the information obtained via police-to-police channels as evidence at trial.

It is essential that officers maintain a detailed audit trail regarding the police-to-police enquiries undertaken and information obtained.

5.3.7 Process for Sending Police-to-Police Enquiries – Contact Established

For police-to-police enquiries, investigators must first establish how the receiving state will accept the request. For example, certain authorities will not accept an email as an official document, instead requests will need to be faxed and certified with the official police stamp from the requesting force.

All police-to-police enquiries should be submitted on an INTERPOL Enquiry Form. The ILO will send the completed form directly to the police or LEA contact overseas, while maintaining a detailed audit trail.

Authority for sending police-to-police enquiries within the EU must be obtained from a police inspector or equivalent. (However, the force ILO should be able to advise on individual force policy.)

If a request is urgent, investigators must explain the reasons why to the ILO as soon as possible. This will help the ILO to facilitate the request by making appropriate follow-up enquiries. The investigator must also provide a full explanation of the reasons for the urgency on the INTERPOL Enquiry Form. Forms must be completed in a professional manner.

If investigators are unsure about appropriate protocols for making police-to-police requests, all requests should be routed through the force ILO to SOCA International, which has full details of the various conventions and treaties applicable.

5.3.8 Process for Sending Police-to-Police Enquiries – No Contact Established

All enquiries should be submitted to the ILO on an INTERPOL Enquiry Form for onward transmission to SOCA International which acts as the agent for all incoming and outgoing police-to-police enquiries where no previous direct contact has been established. SOCA forwards new contact requests through either INTERPOL or Europol to the relevant Executing Authority.

The force ILO is responsible for ensuring that all requests are completed in the correct format. They must also check that all relevant information has been provided and that any urgent requests are fully explained.

Authority for sending police-to-police enquiries within the EU must first be obtained from a police inspector or equivalent. (However, the force ILO should be able to advise on individual force policy.)

Following submission to SOCA by the ILO, SOCA will then translate the document or provide as a minimum, a translation of the important passages into the requested state's official language.

Where it becomes apparent that an investigation is more complex than initially thought and leads to enquiries in more than one state, investigators need to be aware of the different periods for responses to multiple enquiries. The period for a reply for outgoing INTERPOL and Europol enquiries will vary from one state to another, particularly if countries do not use an efficient electronic system.

It is likely that enquiries received by another state may sit in an ‘in tray’ until the appropriate resources are available. Sometimes replies can be received in a matter of hours or they may take several days, or even months.

SOCA will frequently request a photograph and a hard copy of a suspect’s fingerprints to be forwarded to them when an investigator requests intelligence on a suspect via police-to-police enquiries. Investigators should, therefore, make sure these are readily available so that the force ILO can send them in a timely manner.

5.4 The EU Swedish Initiative

The Swedish Initiative is a decision framework adopted by the Council of the European Union. It relates to the exchange of information and intelligence between EU law enforcement agencies. For further details of the framework decision 2006/960/JHA and the associated **Home Office Circular 30/2008**, see <http://www.homeoffice.gov.uk/about-us/publications/home-office-circulars/circulars-2008/030-2008/index.html>

The aim of the initiative is to simplify and speed up the exchange of information and intelligence between law enforcement authorities of the EU Member States. To achieve this it establishes rules to govern the practice of exchange, and places obligations on every Member State to cooperate in the exchange of information and intelligence in criminal investigations and intelligence operations.

Each Member State is obliged to exchange information and intelligence under the Swedish Initiative and cannot impose stricter conditions on the exchange of information than it would for an internal exchange.

The Swedish Initiative refers to ‘competent law enforcement authorities’, which are those expected to use the scheme. In the UK, competent law enforcement authorities are:

- All police forces in England, Wales, Scotland and NI;
- The Serious Organised Crime Agency;
- Her Majesty’s Revenue and Customs;
- The UK Border Agency;
- The Serious Fraud Office;
- The Scottish Crime and Drug Enforcement Agency (**Home Office Circular 030/2008**).

Information and intelligence are defined for the purposes of the initiative as being:

- Any type of information or data which is held by law enforcement authorities;

- Any type of information or data which is held by public authorities or by private entities and which is available to law enforcement authorities without taking coercive measures (Article 2(d)).

The form to use when making a request is annexed to the framework decision itself, but it is not mandatory. Requests must, however, contain the following mandatory items:

- All administrative information, ie, requesting Member State, requesting authority, date, reference number(s), requested Member State(s);
- Whether urgency is requested and, if so, what the reasons are;
- Description of the requested information or intelligence;
- Identity(ies) (as far as is known) of person(s) or object(s) being the main subject(s) of the criminal investigation or criminal intelligence operation underlying the request for information or intelligence;
- Purpose for which the information and intelligence is sought;
- Connection between the purpose and the person who is the subject of the information and intelligence;
- Reasons for believing that the information or intelligence is in the requested Member State;
- Any restrictions on the use of information contained in the request (handling codes).

Force ILOs should be prepared to seek advice from SOCA International about the use of Swedish Initiative requests. For further detail see **24.3.2 The Swedish Initiative – 2006/960/JHA**.

5.5 Sending Police-to-Police Requests to Non-EU Member States

Where a police-to-police request needs to be sent to a non-EU Member State, investigators should submit all their enquiries on an INTERPOL Enquiry Form to the force ILO to be sent to SOCA International.

Investigators will also need to complete a General Risk Assessment Form C where there might be some danger posed to individuals in the destination country, or where the subject might be put into a position of risk in respect of information or intelligence which is being passed. It is the responsibility of the investigator to complete the Risk Assessment Form.

Authority for sending a police-to-police request outside the EU is required beforehand from a police superintendent or equivalent. (However, the force ILO should be able to advise on individual force policy.)

Once both forms have been completed, the ILO is responsible for sending them to SOCA International. At no point should police-to-police enquires be sent directly to a non-EU Member State by the force ILO or investigator. Doing so may be unlawful and could jeopardise international cooperation.

5.6 Embassy or Diplomatic Routes

Where an embassy or diplomatic route exists, it is perfectly acceptable to use it for exchanging intelligence. It is, however, normally only used when the embassy or consulate has overseas law enforcement staff attached, such as SOCA Liaison Officers.

This method of exchange is an extension of the police-to-police route where previous contact has been established, but usually only occurs where good working relationships exist between the particular police force and embassy or diplomatic staff.

Many embassies would now prefer all requests to be sent via SOCA International. Investigators should liaise with the force ILO, who can make further enquiries via SOCA International where applicable.

5.7 SOCA Liaison Officers

SOCA liaison officers are located in British Embassies around the world to help protect the people of England, Wales and NI from harm caused by serious and organised crime. The SOCA Liaison Officer (SLO) Network currently has 113 posts in thirty-nine countries, managed through four geographical regions: the Americas, Europe, the Balkans and South East Europe, and Africa and Asia. Additionally, there are a further fifty locally engaged staff in the host countries.

Their role is to generate and develop relationships with overseas LEAs in the state in which they are based. They are tasked by the SOCA Intervention Planning Teams to help with post-arrest plans. They may also be willing to facilitate the transfer of police-to-police requests by providing local advice, establishing an appropriate point of contact and facilitating cooperation.

Their main responsibilities include:

- Collecting and reporting intelligence from overseas sources for the knowledge requirements of SOCA;
- Planning and executing intervention activity overseas in support of SOCA's tasked operations;
- Supporting the business interests of other relevant SOCA departments, including Enforcement, CHIS, Proceeds of Crime, and Technical Collection, within an overall programme that balances these interests with the primary goals of collecting knowledge and delivering impact in tasked operations;

- Operating a management and control system, the requirements and priorities of which are set by the Intervention Planning Teams in England, Wales or NI;
- Developing and sustaining an effective operational capability overseas.

For advice on contacting a SOCA Liaison Officer, force ILOs should contact SOCA International.

5.8 Sources of Information Which May Facilitate Police-to-Police Enquiries

5.8.1 SOCA Databases

SOCA International maintains access to a variety of databases which investigators can access directly or through the force ILO.

These databases can offer investigators new channels in which to carry out investigations or search for information and intelligence.

For details on the SOCA databases available to investigators, see **Appendix 2**.

5.8.2 Resources Held by Agencies and Organisations

Investigators are also advised to consider seeking assistance from the many agencies and organisations that can support an investigation, or have an interest in doing so. For example, an investigation involving the supply of workers to the agricultural industry should consider liaising with the Gangmasters Licensing Authority (GLA). This is the national regulator responsible for preventing the exploitation of workers as well as non-compliance with legislation governing the working relationship between workers and Gangmasters (often referred to as labour providers).

Another reason for liaising with dedicated agencies and organisations such as the GLA is that they sometimes have many informal networks across Europe and beyond that can provide the means by which investigators can obtain additional information or intelligence.

In certain circumstances, investigators may feel it is necessary to share intelligence with an overseas state or specific LEA as part of either a proactive policing operation or an ongoing criminal investigation where, for example, a state needs to be aware that a suspect may be en route to a particular state for a particular reason.

5.9.1 Sharing Process

All intelligence sent overseas must be submitted on an INTERPOL Enquiry Form to SOCA International via the force ILO. The intelligence must be accurately graded and have the correct handling code

5.9 Intelligence Sharing

assigned to it. Irregularities or failure to complete the necessary grading can lead to a refusal to send the information or lead to a wider or inappropriate dissemination, leaving the information open to abuse, and undermining a live investigation.

The following hypothetical example outlines the need to grade reports correctly before sending them overseas:

- An intelligence report on a registered sex offender is received by SOCA International and identified as 'urgent' for forwarding to Thailand to inform the authorities there that the subject is travelling to Thailand for a holiday the following day. The report is initially given a handling code of 5, which will prevent SOCA International being able to disseminate the intelligence.

For further information on intelligence-sharing handling codes, see **ACPO (2010) Guidance on the Management of Police Information** and **ACPO (2005) Guidance on The National Intelligence Model**.

5.9.2 Special Considerations

The investigator should always give full consideration to the facts of the case when sending intelligence overseas. Some countries may not differentiate between intelligence and information and may share any received intelligence with a range of partners, including the media.

If investigators are unsure where the intelligence they send may finally end up, they should consider not sending it and instead discuss their concerns with the ILO.

Depending on the nature of the investigation and the intelligence that the investigator wishes to send, it may be possible to sanitise the initial transmission. In the first instance, investigators should obtain assistance from the force ILO, who can liaise with SOCA International to establish the current situation with a particular state. Seeking advice is particularly pertinent when passing intelligence to non-EU States that still have the death penalty.

Investigators should be aware that the authorities in England, Wales and NI have no powers to prevent disclosure even when a condition is stipulated on the INTERPOL Enquiry Form.

Investigators must also remain mindful of their obligations outlined in the European Convention on Human Rights (ECHR). Intelligence sent to another state (particularly to those outside the EU which still have the death penalty) could be used to decide or influence a person's safety and wellbeing should they return to their home state.

Although the ECHR extends to some countries outside the EU, investigators should maintain the same level of care to prevent breaches of any ECHR Articles with all countries outside, as well as those within, the EU. Investigators should seek advice from the CPS or local prosecutor to obtain a Memorandum of Understanding (MoU) before any communication begins. The MoU is particularly important for dealing with countries where the police in England, Wales or NI have no jurisdiction or control, or opportunities to influence the actions of the police or LEAs.

5.10 Mutual Legal Assistance (MLA)

Mutual Legal Assistance (MLA) is the term used to describe the formal process whereby a judicial authority in one state requests the assistance of the judicial authorities in another state to obtain evidence located in the requested state for use in criminal proceedings or investigation in the requesting state. In England, Wales or Northern Ireland (NI), MLA requests are made in a document most commonly referred to as a Letter of Request (LOR). The terms Commission Rogatoire or Letter Rogatory are also used.

Mutual Legal Assistance can be a resource intensive and time-consuming process, placing considerable burdens on the requested state. It should therefore only be used where the evidence is necessary and expected to add value. It must not be used where material can be obtained through other means, such as police-to-police enquiries, or where material is in the public domain.

5.10.1 Legislation and other Instruments Relating to MLA

The relevant domestic legislation is CICA. Only designated prosecution authorities and judges are authorised to issue requests pursuant to the Act. Police officers or investigators are not authorised to issue these requests and if they consider that one should be issued they must liaise with the relevant prosecuting authority.

The Act contains information on both UK requests to other states, and requests from other states to the UK. Police officers can assist another state in their investigation or criminal proceedings by gathering evidence in the UK on their behalf. This includes, for example, the interviewing of witnesses on oath (section 15), the search or seizure of property (section 16), evidence via video-link and transfer of prisoners to assist in investigations. Provisions relating to restraint and confiscation are contained in the Proceeds of Crime Act 2002.

CICA provides the domestic legal basis for MLA. The UK is also party to a number of conventions, treaties and other instruments that relate to MLA cooperation with other states, thereby providing an international legal basis for such requests. These instruments will note the terms upon

which one state will give legal assistance to another. Such terms may include the procedure for making requests, grounds for refusing assistance and restrictions on the use to which the evidence may be put. Many of the conventions are multi-lateral, ie, a number of states have ratified them. For further details of several of the key instruments ratified by the UK see **24.8 Legal Instruments – Conventions and Treaties**. These include:

- European Convention on Mutual Assistance in Criminal Matters 1959;
- Convention On Mutual Assistance In Criminal Matters Between Member States Of The European Union Of 29 May 2000 (The EUMLAC), which supplements the provisions of the 1959 convention;
- European Convention On Laundering, Search, Seizure And Confiscation Of The Proceeds From Crime, Strasbourg, 8 November 1990;
- United Nations Convention Against Illicit Traffic In Narcotic Drugs And Psychotropic Substances, Vienna, 20 December 1988;
- United Nations Convention Against Transnational Organized Crime, Palermo, December 2000;
- United Nations Convention Against Corruption, New York, 31 October 2003;
- The Harare Scheme – A voluntary scheme relating to Mutual Assistance in Criminal Matters between Commonwealth States.

Responsibility for drafting and issuing an LOR rests with the relevant prosecution authority. The relevance of CICA (2003), and any particular convention, treaty or other instrument, will be a matter that the reviewing lawyer within the prosecution authority will address.

The reviewing lawyer who drafts the LOR will always note a 'basis of the request' and will reference, in that section of the letter, the relevant convention or treaty.

Prosecution authorities may make a request to a foreign state even if there are no legal instruments that can be cited in the basis of the request. In these circumstances, the request is made based on the 'good international relations between countries and their common interest in the fight against crime', and, where applicable, with regard to the principle of reciprocity, ie, that the assistance requested could be provided to the other state should they have chosen to make a similar request to the UK.

5.10.2 Types of Assistance Available

Mutual Legal Assistance can be used to request evidence of the same type routinely obtained in England, Wales or NI during a purely domestic investigation, including evidence that requires coercive measures. This includes:

- Service of summonses, judgments and other procedural documents;
- Obtaining witness statements on oath and authenticated documentary evidence, including banking evidence;
- Exercise of search and seizure powers;
- Restraint and confiscation of proceeds of crime (most proceeds of crime requests are now made pursuant to the Proceeds of Crime Act 2002, rather than CICA);
- Evidence via video conferencing;
- Bank information and account monitoring orders (in relation to certain countries);
- Surveillance and undercover operations;
- Obtaining intimate samples, such as DNA;
- Internet records and content of emails.

Under no circumstances should the police in England, Wales or NI directly contact a foreign overseas witness without first consulting either the prosecutor and/or SOCA for advice.

The purpose of an LOR is to ask the requested state to obtain specific, identifiable evidence. It should never be used to ask the requested state to initiate its own investigation, or to request that officers from England, Wales or NI attend the overseas state to undertake their own enquiries.

An LOR can only be issued for obtaining evidence and cannot be used for any other purpose. For example, it cannot be used to request assistance in locating a person in order to seek their extradition.

For longer term investigations consideration should be given to establishing a Joint Investigation Team (JIT). For further information see **14.1 Joint Investigation Teams**.

5.10.3 Admissibility of Evidence

The reviewing lawyer in the relevant prosecution authority will deal with issues relating to admissibility of evidence. In essence, the rules relating to admissibility of evidence obtained from overseas are no different from those relating to evidence obtained within the UK.

Any officer travelling to another state to assist in the collection of evidence should make a statement noting his/her involvement in this process.

Certain statutory provisions are of particular relevance with regard to evidence obtained from overseas.

- The Criminal Justice Act 1972 (CJA), section 46 relaxes the evidence requirements so that so it is possible to commit a defendant to the crown court on the basis of foreign evidence even if it does not contain a declaration of truth.
- Hearsay provisions are referenced in the Criminal Justice Act 2003 (CJA); section 117 of the Act relates to the admissibility of 'business and other documents' and relaxes the requirements imposed with regard to such information obtained via a letter of request.
- Section 116 of the CJA 2003 notes the circumstances in which a statement from a witness who is overseas can be admitted as evidence.
- Section 9 Criminal Justice Act 1967 (CJA) often causes concern in respect of foreign evidence. It must be remembered that this section is merely a mechanism for reading the statement as evidence at trial where there is no objection from the defence. Section 9 CJA 1967 has no applicability with regard to witness statements taken outside the UK. Section 10 of the CJA 1967 and the hearsay provisions of the CJA 2003 also enable agreed evidence to be put before the court.
- In practice either the defence will agree a witness statement can be heard or they will not in which case either a hearsay application will be made, or the witness will have to be called.

5.10.4 Process for Issuing an LOR

As soon as it has been identified that evidence from overseas is required, investigators should approach the prosecutor to obtain advice.

5.10.4.1 Police Responsibilities

The police do not draft the LOR. It is the responsibility of the prosecutor to draft them and ensure that they meet the standards required. The prosecutor has discretion whether or not to issue an LOR and will, therefore, need to have a proper understanding of the pertinent aspects of the case and what is to be achieved. The police must, therefore, brief the prosecutor sufficiently to ensure that they are able to properly exercise that discretion.

Investigators approaching the prosecution to discuss the possible need for an LOR are expected to provide the following information as a minimum. This information will allow the prosecutor to consider, in a timely manner, whether an LOR is appropriate and what it should contain.

- Details of the offence committed or grounds for suspecting this to be so and which offences are under investigation;
- A brief synopsis of the case;
- The full details of all subjects in the investigation as far as they are known (name, address, date of birth, aliases, place of birth, nationality, any passport numbers or ID card details);
- What evidence is required and its relevance to the investigation;
- If the evidence is to be obtained in a certain way, a justification for this, eg, why a search is necessary and why less intrusive measures will not suffice;
- Status of witnesses (witnesses or a potential offender);
- Details of any contacts previously made or relevant information and intelligence previously obtained from the requested state;
- Full contact details of any officers with whom the foreign authority may be asked in the request to liaise with, including languages spoken;
- Full contact details of any officers for whom a request is to be made in the LOR for their attendance in the other state while the enquiries are undertaken.

If police-to-police contact has already been established, investigators should present the following to the prosecutor:

- Details of the persons contacted in the requested state who have already given assistance, including names, addresses, organisation, rank, contact details;
- Nature of the contact already made and assistance given;
- Brief details of any related investigation and/or prosecution ongoing in the requested state, if applicable.

The more specific the LOR, the more likely it is that it will be executed with minimal delay. It is, therefore, recommended that investigators do not leave applications for an LOR until the last minute as this could cause significant frustration for the executing authority, delay to the execution of the request, or could result in a failure to obtain the evidence in time for it to be used at trial.

Both work and alternative contact details for an appropriate point of contact should be included in the request.

For requests to countries where English is not widely spoken, the LOR should, if possible, include the contact details for an officer who speaks the language of the requested state.

5.10.4.2 Crown Prosecution Service

CPS prosecutors in England and Wales are responsible for:

- Advising local police about MLA;
- Deciding on whether to issue an MLA request based upon the information presented by the investigator;
- Preparing and issuing the LOR;
- Identifying the most appropriate routing for the request and either sending it directly to the competent authority of the requested state or to the UK Central Authority (UKCA) for onward transmission;
- Monitoring the progress of LORs sent (although the police also can assist here).

Initial contact should be made through the local CPS representative in all cases.

For further detail regarding the Public Prosecution Service in Northern Ireland see

<http://www.courtsni.gov.uk/en-GB/Pages/default.aspx>

<http://www.cjsni.gov.uk/>

<http://www.ppsni.gov.uk/default.aspx?CATID=2>

5.10.5 Format and Content of Requests

LORs are formal documents that will be considered by judges and prosecutors overseas. They may also be considered in domestic proceedings in England, Wales and NI.

It is essential that all LORs are carefully drafted. They must be clear and concise and contain all necessary information to enable a judge or prosecutor overseas, with no prior knowledge of the case/investigation, to consider and execute the request. The content of an MLA request will be determined by the specific requirements of:

- UK domestic legislation, including CICA and POCA;
- Any relevant bilateral or international treaty;
- The legislation or procedural requirements of the executing authority;
- The case in question.

As a minimum, the prosecutor will include the following details in the LOR:

- The name of the UK authority conducting the investigation or proceedings, and contact details for queries (main investigator or prosecutor) (as well as a contact number for them outside normal working hours).
- The basis of the request, ie, the relevant international instrument (treaty, convention).
- The purpose of the request, ie, why it is being made, and the use to which the evidence obtained will be put.
- Details of the investigation or prosecution in the UK, including details of suspects or persons accused and the stage reached in the UK; for example, next court date and purpose of that hearing.
- A summary of the facts giving rise to the request.
- In numbered paragraphs, precise details of the evidence, material or other assistance required. (If original evidence or a certified copy is required, the request should say so and include undertakings for the safekeeping and return of the evidence as appropriate.)
- A date by which the evidence is required. However, deadlines must only be noted if they are genuine cut-off points otherwise the requested state may halt enquiries at the stated date believing that to continue would be a waste of resource.
- The purpose for which the evidence or assistance is required and its relevance or link to the investigation or proceedings.
- A description of any particular procedures to be followed in executing the request, whether these are essential under domestic law, and the manner in which any testimony or statement is to be taken and recorded. This should state, for example, whether the person to be interviewed is to be regarded as a witness or a suspect and include an annex setting out the questions to be asked.

- A request for UK officials, either prosecution and/or police officials, to be present in the other state when certain enquiries are undertaken. Such requests must be justified and serve a genuine purpose.
- Any undertakings or statements required by the requested state.
- Any other information which may facilitate execution of the request.
- Whether reciprocity applies.
- Confidentiality requirements.

5.10.6 Additional Information for Specific Requests

The following specific information will assist the prosecutor to compile the LOR. Investigators should consider collecting this information as early as possible.

- **For obtaining a testimony from a witness, include:**
 - full details of the witness (name, date of birth, sex, passport number and/or national identity card number);
 - details of their location, if known;
 - a full list of questions to be asked (do not ask the requested state to identify material witnesses or to interview them about matters ‘relevant’ to the investigation – the requested authority will not be in a position to determine which witnesses are material or what is and what is not relevant).
- **For obtaining a witness testimony by video-link, consider:**
 - if it is allowed under applicable international agreements and whether it will be executed in court and in the presence of a judicial authority;
 - whether successful execution of a request is dependent on the availability of a judge or sufficient court time in the requested state – it is, therefore, essential that the requested state is provided with sufficient notice;
 - the amount of time it will take a state to set up – the UKCA asks for a minimum of eight weeks’ notice to arrange execution of such requests in UK domestic courts;
 - whether the costs of hearing evidence by video-link or telephone will be borne by the requesting authority, as such hearings can be expensive and in England, Wales and NI responsibility lies with the CPS;
 - the time difference between the UK and the other state.

- **For gathering evidence through a search, include:**

- the specific material that is sought (do not ask for material ‘relevant’ to the investigation to be seized);
- the address where it is believed to be located;
- why it is believed that the material will be at that address;
- full justification for the necessity of the search as opposed to a less intrusive measure such as a production order;
- the NEXUS that clearly links the crime and the search.

Note: The judicial authority in the other state is likely to consider whether the search is both ‘necessary’ and ‘proportionate’. If it is found not to be so, it is unlikely to be ordered.

- **To obtain banking evidence, include:**

- the name of the bank in question;
- the name of the account and account holder details;
- the type of document required, eg, account opening documents, statements of account or correspondence relating to specific transactions;
- the relevant time period for which the documents are required, with a justification.

Note: Do not send out a blanket request for all other relevant documentation.

- **To request assistance in relation to telephone billing information, include:**

- the period for which billing is required along with specific reasons why.

- **To obtain permission to travel to a particular state:**

- request only where it is actually necessary to facilitate the execution of the request or will otherwise add value; in a reciprocal case would the presence of foreign officers assist?;
- a request must not ask that UK officers be permitted to travel in order ‘to undertake enquiries’ themselves. If UK officers are allowed to travel, it is to assist the authorities of the requesting state while they, officials of the requested state, undertake the request.
- for further advice on investigators and police staff wishing to travel overseas in connection with an investigation, see **6.9.3 Authority to Travel**.

- **For the freezing and confiscation of assets, include:**
 - at what stage in the investigation the assets were identified;
 - description of the assets, or state if it is not clear what the assets are;
 - any key dates;
 - how confiscation and restraint requests are processed in the particular state in question.
- **For the temporary transfer of prisoners for purposes of giving evidence consider:**
 - the dates on which the prisoner’s presence outside their own country is required, including the dates on which the court or other proceedings for which the prisoner is required will commence and are likely to be concluded;
 - information for the purpose of obtaining the prisoner’s consent to the transfer and satisfying the requested authorities that arrangements will be made to keep the prisoner in secure custody, such as
 - ♦ whether the prisoner will have immunity from prosecution for previous offences
 - ♦ details of proposed arrangements for collecting and returning the prisoner from and to the requested state
 - ♦ details of the type of secure accommodation in which the prisoner will be held in the requesting state
 - ♦ details of the escort available overseas to and from secure accommodation.
- **For cross-border surveillance consider:**
 - whether the subject is being investigated for an extraditable offence;
 - see **14.5 Cross-Border Surveillance**.
- **For controlled deliveries consider:**
 - that HMRC authorisation must be obtained prior to all inward and outbound controlled deliveries.
 - see **14.6 Controlled Deliveries**.

5.10.7 Translation of an LOR

Once completed, the LOR may need to be translated into the official language of the overseas state from which assistance is being sought, or into another language which that state has indicated it will accept.

5.10.8 Sending an LOR

It is the prosecutor's responsibility to be familiar with the appropriate processes for sending out LORs. LORs may, in certain circumstances, be sent direct to an authority competent to receive them. This is known as direct transmission. Direct transmission may be used for requests for evidence (not account monitoring orders or customer information orders) to the EU countries (except Greece) and to Jersey, Guernsey, the Isle of Man, Gibraltar, Switzerland, Monaco, Norway and Iceland. (This may be subject to change.) Requests to all other countries must go via the Central Authority. All requests pursuant to the Proceeds of Crime Act 2002 to enforce confiscation orders, requests to restrain assets and asset tracing requests once a confiscation order has been made must be sent via the Central Authority.

It is the role of the CPS or designated prosecutor to handle this process.

5.10.9 Confidential Requests

When compiling an LOR, sensitive information should be excluded wherever possible. This is because some states may later place a copy of the LOR within their public court file, allowing the media and public full access to its contents.

Where it is essential to an investigation for sensitive information to be conveyed to a requested state, the CPS has the facilities to send, securely, a separate letter containing only the sensitive information.

Investigators must seek advice from the prosecutor or the CPS regarding any confidential requests. The need for confidentiality should be considered carefully in case it causes difficulty or delay.

5.10.10 LOR no Longer Required

If, for any reason, evidence is no longer required in an investigation, for example, the trial date has arrived or the LOR is no longer relevant, the investigation team must notify the CPS or prosecutor immediately.

In response, the prosecutor will write an urgent letter asking the requested foreign authority to cease actioning the LOR, saving officials in that state valuable time and effort, and also helping to maintain professional relations.

5.10.11 Grounds for Refusal

Any decision made to provide assistance will be a matter for the competent authority of the state from which the assistance is

requested. If refused, there is usually little scope available for negotiation. In practice, refusal is rare and likely to occur only where it has not been possible to execute the request, for example, the deadlines given cannot be met or the request requires too many resources to execute it.

Assistance may occasionally be refused for legal reasons. This is either because the assistance requested is not lawful, or the subject of the request has previously been acquitted or convicted for the same offence.

5.11 Obtaining Overseas Police and Criminal Records

Where a person detained by the police is a foreign national, checks should be carried out immediately to ascertain any overseas criminal history.

Investigators may wish to obtain police and criminal records for foreign nationals to determine if:

- A foreign national held in custody in England, Wales or NI for an apparently minor offence may have a significant criminal history in their home or another EU State;
- A suspect is part of a major criminal gang, meaning that an escape attempt while in police custody is possible;
- A witness has previously provided false information in similar circumstances overseas or been found guilty of a serious criminal offence(s), which may undermine their credibility as a witness;
- A victim has any recorded history similar to that of a witness listed above.

CPS guidance to prosecutors advises that a request for foreign antecedent data is likely to be of most benefit in the following four categories:

- Persons tried on indictment at the crown court where bad character evidence could be of value (especially if a conviction would lead to the court assessing the ‘dangerousness’ of the accused); see **5.11.7 Bad Character and Foreign Conviction Evidence**.
- Persons to be sentenced at the Crown Court where an assessment of ‘dangerousness’ may be made; see **5.11.8 Sentencing and Foreign Conviction Evidence**.
- Persons charged with homicide or rape; see **5.11.9 Bail and Foreign Conviction Evidence**.
- Persons charged with a class A drug trafficking or domestic burglary offence, where prior convictions could lead to the imposition of a mandatory minimum sentence; see **5.11.10 ‘Three Strike Offences’ and Foreign Conviction**.

The Coroners and Justice Act 2009 contains provisions relating to convictions in other states and their relevance in proceedings in England, Wales and NI.

Most of these provisions came into effect in August 2010. The statute allows for a conviction from any state outside England, Wales or NI (from within or outside the EU) to be used to further a bad character application under the CJA 2003. Convictions from other Member States will also be relevant to a number of other key issues including the granting of bail and mode of trial, and in determining the seriousness of an offence and, therefore, the sentence to be imposed. Paragraphs 13-15 of Schedule 17 of the Coroners and Justice Act 2009 amend the Police and Criminal Evidence Act 1984 proving foreign convictions before courts in England and Wales. Under the amended arrangements, the EU conviction may be proved by a certificate giving details of the offence and of any sentence signed by a 'proper officer' of the foreign court. This provides an alternative method for proving conviction to the Evidence Act 1851.

The intention is to ensure that throughout the European Union a foreign conviction is given the same weight as a domestic conviction. (For specific, current information regarding the implementation of the Coroners and Justice 2009, liaise with CPS.)

Obtaining criminal records for a suspect, witness or victim should be seen as part of the investigation and not as an additional administrative task.

5.11.1 Obtaining Criminal Records from EU Member States

Where an individual is subject to criminal proceedings in England, Wales, Scotland or NI, a request can be made to EU Member States and most other overseas countries for any records detailing previous convictions, or to ascertain the absence of a police record.

Investigators wishing to obtain criminal records from within the EU should contact the force ILO, who is normally the force contact point for the UK Central Authority for the Exchange of Criminal Records (UKCA-ECR).

The UKCA-ECR will make contact with the subject's country of nationality within the EU. This process can also be applied to British nationals where there is suspicion of a possible offending career outside the UK, in an EU Member State. There is a ten-day deadline for responding to requests. Many Member States are in a position to respond within this timescale (some within a twenty-four-hour period), Others, however, do not have the mechanisms in place to provide a response within the ten-day period. It is, therefore, important to submit requests as soon as possible.

The main tasks for the UKCA-ECR are to:

- Notify the relevant member state of any conviction(s) imposed in the UK on a national from that Member State.
- Receive notification of a conviction of a UK national in another Member State and then to ensure that
 - the PNC is updated or new criminal records are created
 - convictions related to nationals from Scotland and NI are entered onto the PNC and the full details forwarded to the Scottish Criminal Records Office and the Police Service of NI
 - appropriate action is taken if fingerprints are attached to the conviction notification;
- Receive and respond to requests from all UK police forces and other law enforcement agencies for an extract of the criminal record of a national from another Member State;
- Receive and respond to requests from another Member State for an extract of the criminal record of a UK national.

5.11.2 Application Process

Requests within the EU need to be submitted on an EU Member State Request Form and contain, as a minimum, the following details:

- Full name;
- Sex;
- Nationality;
- Date of birth;
- Town/district of birth;
- Parents' names;
- Non-UK residencies;
- Identification numbers (passport, ID card details, for example Polish PESEL number, National Registration number, Social Security number).

To help the UKCA-ECR conduct conclusive and detailed searches, investigators should also consider submitting the following information where available:

- Father's name and place of birth;
- Father's nationality;
- Father's ID number;
- Mother's name and place of birth;

- Mother's nationality;
- Mother's ID number.

Although not required by the UKCA-ECR for conducting searches, investigators are encouraged to supply the following details, which can help where identity is disputed, and where police-to-police enquiries via SOCA are required:

- Distinguishing features;
- Tattoos or body scars;
- A recent photograph of the person.

When submitting a request within the EU, investigators should consider asking for both the record of prior convictions and the person's prison history. It is also suggested that the investigator asks the ILO to seek out relevant intelligence, warning signals and whether the person is wanted in another country but not yet subject to a European Arrest Warrant (EAW).

Investigators should contact their force ILO for a copy of the relevant form.

5.11.3 Non-EU Requests

Investigators wishing to obtain police and criminal records from outside the EU should contact their force ILO, who is responsible for contacting SOCA International.

5.11.4 General Points to Consider with Requests

Investigators should consider the following general points when submitting a request.

- It is likely to take longer to obtain details of previous convictions from non-EU Member States. The Council of Europe (CoE) 1959 European Convention on Mutual Assistance in Criminal Matters is a basis for obtaining conviction evidence although there is no timeframe for responses.
- When asking SOCA International for criminal records from a non-EU State, investigators must provide the appropriate CRO number so that once the information is obtained, it can be added onto the PNC.
- On all requests submitted to non-EU States via SOCA International, an explanation will be required to justify why that particular state has been identified as the source of the records. Requests must not be submitted based on guesswork, assumption or hunch.

- Submitting an enquiry to an overseas state may alert authorities that the person identified is wanted for a criminal offence and is now in England, Wales or NI. This may then be enough for that state to request extradition proceedings to remove the person. Although the extradition will not take priority over the domestic proceedings there will be handling issues to ensure that all parties, including the requesting country, are fully aware of the situation.

5.11.5 'No Trace' or 'No Record' Returns

If an enquiry is returned No Trace or No Record, investigators should consider contacting SOCA International via the force ILO to enquire whether intelligence is held on the particular offence or person, since certain EU Member States do not retain records indefinitely. Furthermore, investigators should consider other forms of information readily available. Tattoos, for example, can signify gang membership or criminal convictions. In certain cultures, tattoos can identify either a date of birth or date of entry into a state. For more information on tattoos and their significance, contact SOCA International.

5.11.6 Convictions Received from Overseas

When details of previous convictions have been returned from another EU Member State, investigators should consider liaising with the prosecutor (if the records are going to be presented in subsequent criminal proceedings) to discuss the following two considerations.

Accepted overseas previous convictions

Some overseas states use detailed personal information to record previous convictions. This means there is usually more information to prove that the subject of the criminal convictions overseas is the same person suspected in England, Wales and NI. As a consequence, many overseas states do not need to rely as heavily on fingerprints to prove convictions. It may be that previous convictions are accepted by the suspect and/or defence, as the data provided by the overseas state is enough to prove that they relate to the suspect concerned.

Disputed overseas previous convictions

If previous convictions are disputed by the suspect/defence, requests can be made for further information in order to prove the conviction. This could include DNA or fingerprints on the overseas convictions (if they exist), which can then be compared with the DNA or fingerprints taken from the suspect in England, Wales and NI.

5.11.7 Bad Character and Foreign Conviction Evidence

When details of foreign convictions are received as a result of a request, the investigating officer should liaise with the CPS lawyer at an early stage to establish whether an application is likely to be made to introduce the conviction as Bad Character Evidence (BCE).

If it is decided to make a BCE application to the court, significantly more detailed information will be required regarding the circumstances of the offence and conviction. This may include the certificate of conviction and the court's sentencing remarks, or information from the foreign investigating officer's prosecution file. This information will not be available through the UKCA-ECR. An LOR will usually have to be submitted by CPS to the appropriate country. As the LOR process can take several months, early consultation with the CPS is essential.

5.11.8 Sentencing and Foreign Conviction Evidence

It is essential that the court has a person's relevant antecedent history prior to sentencing. Criminal Practice Direction Part III.27 (Criminal Procedure Rules 2010) imposes an obligation on the police to 'provide brief details of the circumstances of the last three similar convictions and / or of convictions likely to be of interest to the court, the latter being judged on a case-by-case basis.' The Criminal Procedure Rules 2010, rule 1, require the CPS and the police to ensure that 'appropriate information' is available to the court at sentencing.

The Coroners and Justice Act 2009 amended section 143 of the CJA 2003, which in turn sets out the principles the court must follow when determining the seriousness of an offence in the context of sentencing the offender.

When assessing the seriousness of the new offence at the sentencing hearing, any previous convictions, where recent and relevant, 'must' be regarded as 'aggravating factors'. Section 143(5) of the Criminal Justice Act 2003 also provides that both convictions outside the EU and convictions in other Member States that are not 'relevant offences' can still be taken into consideration as aggravating factors in any case where the court considers it appropriate to do so.

5.11.9 Bail and Foreign Conviction Evidence

Paragraph 3 of Schedule 17 of the Coroners and Justice Act 2009 amended section 25 of the Criminal Justice and Public Order Act 1994,

which prevents the granting of bail to persons charged with homicide or rape (including attempts) and who have a prior conviction for such offences or of culpable homicide.

Under the amendments, a conviction for a 'relevant foreign offence or to culpable homicide' in another Member State will also prevent the granting of bail.

A relevant foreign offence is one that would have corresponded to a related offence in any part of the UK at the time the foreign offence was committed.

These amendments apply to any bail hearing that takes place on or after the date of commencement, of the Coroners and Justice Act 2009, ie, 15 August 2010.

5.11.10 'Three Strike Offences' and Foreign Conviction Evidence

Sections 110 and 111 of the Powers of Criminal Courts (Sentencing) Act 2000 provide, in certain circumstances, for minimum sentences for persons convicted of a third, class A drug trafficking or domestic burglary offence. Provisions in the Coroners and Justice Act 2009 require that previous convictions in other EU Member States and in other parts of the UK must also be considered. This applies provided that the offence to which the foreign conviction relates would constitute, as appropriate, a class A drug trafficking offence or a domestic burglary offence if committed in England and Wales at the time of conviction for the new domestic offence.

Under the amendments, the foreign drug trafficking or burglary conviction will only be relevant if committed after the 'relevant date', which is the date of commencement of the amended provisions, ie, 15 August 2010.

Burglary (or drug trafficking) convictions in another Member State would be relevant in the following circumstances:

- After 15 August 2010, X commits a first burglary in another Member State;
- Mr X is convicted of the first burglary;
- Mr X commits a second burglary in another Member State after the date of conviction for the first offence;
- Mr X is convicted of the second burglary;
- Mr X commits a burglary in England after the date of conviction for the second offence.

5.12 Forensic Evidence

International cooperation plays a large part in the use of forensic skills and data through the exchange of expertise in forensic sciences.

Investigators conducting a cross-border investigation should consider:

- Establishing a forensic strategy with the force forensic specialist, to facilitate the securing and obtaining of foreign forensic evidence;
- Establishing the standard of quality for any information derived from forensic science methods used;
- Establishing the compatibility of the relevant forensic science methods used;
- Understanding the value of any match information provided from any speculative DNA or fingerprint searches;
- A holistic forensic strategy to embrace all aspects of forensic intervention – specialists' knowledge and skills are available to determine the country's forensic databases and their scene intervention capabilities;
- Engaging with the overseas forensic team at the earliest opportunity, to influence the direction of a forensic strategy, resources and forensic outcome.

During any cross-border investigation, forensics can influence the success of a case by:

- Eliminating key suspects, thereby closing certain lines of enquiry.
- Identifying suspects and/or linking crime scenes by searching or recovery of evidence through interventions.
- Reducing the period for the identification of suspects of interest, and linking multiple offences.
- Searching unidentified DNA profiles, latent fingermarks and shoe marks within forensic databases of other countries. Early forensic consultation is needed between countries to maximise control of forensic opportunities to influence investigators' decision making.
- Deploying them as an intelligence tool either overtly or covertly, to support or potentially redirect an enquiry.
- Providing the necessary evidence for obtaining a EAW.
- Being incorporated into expert presentation of forensic evidence during the prosecution.

In the majority of cross-border investigations, the successful gathering of forensic material and exchange of it will rely on the professionalism of the SIO.

5.12.1 Forensic Strategies

During all major cross-border investigations, investigators are advised to liaise first with the force Crime Scene Manager and SOCA International. This is in order to discuss the appropriate forensic strategy to use and to determine the best possible approach to search databases located overseas.

5.12.2 DNA Search Considerations Prior to International Requests

Not all jurisdictions have legislation allowing them to use DNA analysis as part of a criminal investigation. Some of the Member States may have the necessary legislation but may not have the forensic analysis capability to collect, analyse and make use of this kind of evidence. INTERPOL produces a global DNA survey which contains information on the DNA capability of most INTERPOL Member States. This is available on the INTERPOL website.

Section 166 Part 4 of the Extradition Act 2003 states:

- 1) This section applies if a person has been arrested under an extradition arrest power and is detained at a police station.
- 2) Fingerprints may be taken from the person only if they are taken by constable –
 - a) with the appropriate consent give in writing, or b) without that consent, under subsection (4).
- 3) A non-intimate sample may be taken from the person only if it is taken by a constable –
 - a) with the appropriate consent give in writing, or b) without that consent, under subsection (4).
- 4) Fingerprints or a non-intimate sample may be taken from the person without the appropriate consent only if a police officer of at least the rank of inspector authorises the fingerprints or sample to be taken.

In these circumstances it is advisable to contact the Metropolitan Police Service Extradition Unit for advice, telephone: 0207 230 3191 or email extrad@met.police.uk

5.12.2.1 Search Considerations Prior to International Requests

The UK National DNA Database comprises the three national databases of England and Wales, NI and Scotland. Investigators should always ensure that the UK DNA Database has been thoroughly searched, and that all avenues of enquiry and elimination have been exhausted before submitting an international check via SOCA International. Depending on the type of investigation, investigators may wish to search the counter-terrorism specific database, accessed through the Joint Forensic Intelligence Team at the Metropolitan Police Service, which holds responsibility for the database on behalf of ACPO TAM (Terrorism and Allied Matters).

Where a search result is negative, investigators should request that the DNA profile is retained on the database until further notice, prompting the need for investigators to request further searches. This should apply to all other requests for biometric searches.

5.12.2.2 Procedure for Submitting Requests

The INTERPOL Secretariat General (IPSG) Forensic Sub-Directorate (IPSG Projects and Sub-Directorates) has developed a searchable, international DNA database. However because of privacy concerns over loss of control of national data, the database needs a profile to be uploaded onto it in order to search it; a requirement that limits many countries from using it. The database is, therefore, limited in size and effectiveness, although the UK has contributed to it.

More effective searching of international DNA databases can be obtained through searches of these databases requested via the INTERPOL DNA Search Request Form.

Search requests can be sent to as many countries as required, but the return time will vary from state to state. If the DNA request is for the sole purpose of conducting a database check or for elimination purposes, an LOR is not normally required. If, however, there is a requirement for an evidential statement to be taken in connection with the DNA request, an LOR will be required. For some countries outside the EU, DNA elimination or evidential requests for national citizens will require an LOR. At present, there is no worldwide or European-wide DNA database.

Any investigator requiring a DNA check to be made in another state needs to request that an INTERPOL DNA Search Request Form is completed by the force forensic provider, who is able to correctly fill in the necessary DNA profile information. They should then send it through to the force ILO to be sent to SOCA International.

For known individuals, investigators should send all INTERPOL DNA Search Request Forms to SOCA International via the force ILO, describing the offence and giving the criminal record number and Police National Computer ID number (PNCID) of the suspect. SOCA will then request the profile from the UK National DNA Database Delivery Unit at the NPIA.

For crime stains, where the offender is unidentified, investigators must submit an INTERPOL DNA Search Request Form including a summary of the circumstances of the offence via the force ILO. A copy of the DNA profile (in INTERPOL format) should be included on the form. This can be obtained by investigators from either their forensic science provider who obtained the DNA profile or, if the DNA profile has been uploaded to the UK National DNA Database, from the National DNA Database Delivery Unit at the NPIA.

Note: Most countries, including the UK, will not load international DNA profiles on to their domestic DNA database for retention even if the INTERPOL DNA Search Request Form requests this.

5.12.3 Obtaining Fingerprints from Overseas

To obtain fingerprints from another state, investigators should first contact the force ILO for guidance. The ILO can then liaise with SOCA International, which has responsibility for facilitating international fingerprint searches. However, the success of a search can depend on the circumstances of the request and the states involved.

5.12.4 Scene Preservation

Where preservation of a scene overseas is of critical importance to an English, Welsh or Northern Irish investigation, the SIO should first obtain permission from the foreign state to attend the scene in company with the force Crime Scene Manager to oversee the relevant work.

If required, investigators should approach their local CPS representative to discuss applying for cooperation through an LOR. They should also ask the recipient state to agree to the assistance and direction offered by the SIO or Crime Scene Manager.

If the Crime Scene Manager cannot attend, they should consult or liaise with the state concerned directly.

Investigators also need to understand that in many EU Member States, scene security may not be to the same standard as in England, Wales or NI. For example, when a property is searched, the scene may simply be sealed with an official strip of tape, no bigger than a matchbox and placed between the outer door and doorframe.

5.13 Firearms Enquires

Investigators discovering a firearm as part of an investigation in England, Wales or NI should consider conducting international enquiries to establish the weapon's origins and identified history.

5.13.1 Process for Carrying Out Checks

SOCA International has access to an electronic, automated search facility for firearms. This is known as the INTERPOL Weapons Electronic Tracing System and returns any matches as soon as the search is complete.

Investigators should submit full details of the weapon to the force ILO, who has responsibility for liaising with SOCA International.

The following details should be submitted, wherever possible:

- Any serial number(s);
- Apparent make of the firearm;
- Any model number(s);
- Details of the last known owner (if known);
- Any other relevant information relating to the circumstances in which the firearm was located.

5.14 Obtaining Financial Information from Overseas

If an investigation relates to financial crime, or where a suspect has links to another state, investigators may want information about their assets, such as houses, cars, bank accounts and financial relationships. These can help to reveal a suspect's location.

For initial advice, investigators should contact their local financial investigators, who can access the NPIA Financial Investigation Support System (FISS).

The FISS system contains comprehensive information on accessing financial information from:

- The Asset Recovery Office (ARO) in each European Union Member State. This is a secure network the sole function of which is to undertake cross-border enquiries within the EU. Europol coordinate UK access to the ARO network;
- The informal Camden Asset Recovery Intelligence Network (CARIN). This includes investigators and prosecutors across the EU, with one or two members from outside the EU;
- The worldwide Egmont Group of countries which share Suspicious Activity Report information.

All the above organisations can be accessed through SOCA International.

Where evidence is required, investigators will additionally require an LOR. The LOR can only be despatched via the CPS.

5.14.1 Investigative Considerations

Where financial records are recovered as part of an investigation, an investigator should be aware that direct contact with a foreign financial institution may:

- Cause international offence;
- Require the financial institution to alert their customer of the law enforcement enquiry.

Investigators should always use a financial investigator accredited by the NPIA to undertake cross-border enquiries.

5.15 Asset Tracing

For any crime where money appears to be the motive, financial investigation should always be considered. Asset tracing overseas may reveal a suspect's location, their associates and travel history. It may also be possible to take police action to seize cash and property, including real estate, and to freeze bank accounts.

Each European Union Member State has an Asset Recovery Office (ARO). The sole function of the ARO is to undertake cross-border enquiries within the EU.

The Europol Criminal Asset Bureau, CARIN Secretariat or SOCA INTERPOL should not be contacted initially when making an international asset tracing request.

5.15.1 Contact Points

All investigators should note that the process for conducting international asset tracing enquiries, in the first instance, is with the Asset Recovery Office (UKARO) or Camden Assets Recovery Inter-Agency Network (CARIN). The single point of contact in England, Wales and Northern Ireland is the UKARO or CARIN Team situated in the UKFIU, SOCA.

Email: ukaro@soca.x.gsi.gov.uk

Email: carin@soca.x.gsi.gov.uk

If any asset identification enquiries are required in a country that is not a member of ARO or CARIN then the UKARO/CARIN Team will provide advice on the most appropriate routing.

Telephone: +44 (0)207 238 8636

5.16 Recovering Exhibits from Overseas

The police in England, Wales and NI are able to recover any exhibits from another EU State using Mutual Legal Assistance. However, the geographical location of England, Wales and NI in relation to the rest of Europe means that transporting exhibits from an EU Member State can be difficult.

Any number of reasons may hamper the transportation of exhibits. Careful thought and preparation is, therefore, required when returning electronic and electrical-powered exhibits, firearms and large exhibits to England, Wales or NI via an international airport, port or the Channel Tunnel.

Investigators will also need to be aware of any cultural issues associated with the movement of certain items, especially when dealing with a victim and/or their possessions.

5.16.1 Practical Considerations

Investigators should consider the methods and processes the overseas state will usually use to recover evidence, before submitting a request to them. This will help to establish the priority for the search and reduce the likelihood that the requested state will act on the information received before any evidential considerations are determined.

In many cases, other states will not have the same facilities as those available to the police in England, Wales or NI. This may then prompt questioning at trial regarding the seizure process, cross-contamination and the evidential continuity of the evidence. In all instances, the most effective method for securing an exhibit from another state in line with UK police standards is to have the SIO and the force Crime Services Manager present during the recovery.

It will generally be the responsibility of the police force holding primacy for the case to determine the most suitable methods for transporting exhibits, taking into consideration the location of the investigating force.

When the transportation of evidence from an overseas state is being considered, the investigation team should contact SOCA International for advice and assistance on the most suitable methods for transferring exhibits back to England, Wales and NI.

5.16.2 Transportation of a Firearm as an Exhibit

Certain police officers, eg, those in Special Branch or Royalty Protection are issued with firearms and are authorised to carry them in connection with their duties. It may sometimes be necessary for those officers to fly to another country while in possession of their issued weapon.

Subject to handing their issued weapon over to the captain when boarding an aircraft, the officers are authorised to take them in or out of the country as their duties necessitate. The authority for the officer and their issued firearm under these circumstances is Crown Immunity.

It may be necessary for investigators to transport a firearm as an exhibit to or from the UK as part of a criminal investigation or to carry out a forensic examination.

It is not appropriate to use or request the use of the 'diplomatic bag' for this purpose as this would be in contravention of international agreements and diplomatic protocols regarding the use of this facility.

5.16.2.1 Necessary Documentation

A firearm which is not issued to the carrying officer is not subject to Crown Immunity and cannot be transported or carried in or out of the UK without an import/export licence. Investigators should obtain the necessary licence as soon possible once the need to import or export a firearm has been identified.

Prior to applying for an **import licence**, which would allow a firearm and/or ammunition to be brought into the UK, investigators must:

- Obtain in advance full details of the weapon and the quantity of any accompanying ammunition;
- Contact the Department for Business, Innovation and Skills (BIS) – Import Licensing Board, telephone: 01642 364318 or email enquires.ilb@bis.gsi.gov.uk and make the application for an import licence online.

Either the exporting country or the receiving (importing) party in the UK can submit the application for an import licence. Licences are typically granted within forty-eight hours to the police force that submitted the request.

- The licence will be issued electronically to the named applicant.

Prior to applying for an **export licence**, which allows a firearm to be taken out of the UK, investigators must:

- Register online with the Department for Business, Innovation and Skills (BIS) – Export Control Organisation via SPIRE at website <https://www.spire.bis.gov.uk/> (once an account has been created and an application submitted, a case officer will be assigned).

Export licences can take up to six weeks to be approved but are valid for two years. Only the country exporting the firearm can apply to BIS for a UK export licence and investigators are advised to apply for a returning export licence as soon as they receive the imported firearm. The licence will be issued electronically to the named applicant.

The export of a firearm to a country with a UN arms embargo in place is not permitted. BIS will advise investigators that the export is not possible when the export application is submitted. This is the case even if the firearm has been imported from that country for bona fide reasons, eg, forensic/ballistic examination.

5.16.2.2 Importing Firearms into the UK

Investigators **must never** turn up unannounced at an airport either in the UK or overseas with a firearm. Doing so could lead to a full-scale security alert.

Investigators wishing to import a firearm into the UK should, prior to arrival with the firearm, confirm that local officers in the country of departure have completed the necessary arrangements at the chosen departure airport. This can help to prevent any security alerts, and facilitate travel through the airport and the placing of the firearm onto the outbound plane.

On arrival in the UK, the firearm and/or ammunition being imported must be presented, together with the requisite import licence, to HMRC officers in the Red 'Goods to Declare' Customs channel.

It is advised that prior to UK officers travelling abroad to collect a firearm, a pre-import meeting is arranged at the planned arrival airport in the UK for when that firearm is actually brought into the UK. This should help to prevent any security alerts and facilitate movement.

Attendees at the pre-import meeting at the UK arrival airport should include:

- A senior member of the staff for the airline transports the firearm and, where possible, the person who will be on duty on the day of the import;
- A senior member of the BAA security team and, where possible, the person who will also be on duty on the day of the import;
- A representative of the Special Branch unit at the airport;
- A senior representative from Her Majesty's Revenue and Customs (HMRC);
- A senior member of the local airport police;
- The transporting/exhibits officer;
- The senior investigating officer in the case.

Investigators should, where possible, obtain a photograph of the firearm and present it at the pre-import meeting to allow all members to see what exactly is being imported.

5.16.2.3 Exporting Firearms from the UK

Investigators **must never** turn up unannounced at an airport either in the UK or overseas with a firearm. Doing so could lead to a full-scale security alert.

Investigators wishing to export a firearm from the UK should arrange a pre-export meeting at the departure airport, two or three days prior to travelling.

Attendees at the pre-export meeting should include:

- A senior member of the security team for the chosen airline and, where possible, the person who will be on duty on the day of export.
- A senior member of the BAA security team and, where possible, the person who will be on duty on the day of export. The senior member of the BAA security team can confirm the necessary assistance required to facilitate secure movement on arrival at the airport and can assist with security procedures away from public view;
- A representative of the Special Branch unit at the airport who can confirm the necessary assistance required to escort the UK officer and the firearm(s) 'airside' to witness its storage in a sealed box in a baggage container;
- A senior member of the local airport police who can confirm the necessary assistance required to assist with escorting the firearm(s) to the airport;
- A senior representative from HMRC – to check the export licence;
- The transporting/exhibits officer to whom the licence is issued, on behalf of their police force;
- The senior investigating officer in the case.

It is recommended that a photograph of the firearm be presented at the meeting to show the relevant parties what is to be exported.

When arriving at the actual UK airport of departure with the firearm it is suggested that exhibiting/escorting officers are accompanied by armed officers. This is particularly important if the weapon is capable of being fired or converted for firing as it would not be desirable for it to fall into the wrong hands as a result of theft, for example.

With regard to outgoing security checks, a secure movement should be requested in advance. This allows searching and examination to be made in the privacy of a side room rather than in full view of the public.

The SIO or the exhibits officer can request a secure movement at the pre-travel meeting.

5.16.2.4 Continuity of Evidence for Exhibited Firearms

When an airline agrees to the transportation of any 'High-Risk' item, it is standard practice for that item to be placed by them or airport security in a designated blue plastic bag and sealed with an airline's own blue seal. This bagging is normally carried out 'landside'. Whether the item is bagged by airport security landside or airside, it is advised that it should be done in the presence of the exhibits officer, who can record the number on the blue seal and check it after landing to confirm continuity.

Just before boarding the aircraft when importing or exporting a firearm, the exhibits officer should:

- Under escort, take the firearm airside (or be present when it is taken) and witness it being placed in the secure cabinet of a baggage trolley.
- Seal the cabinet using a numbered police ratchet seal, once it has been padlocked by the security manager.
- After the aircraft has landed in the other country, attend airside under escort, witness the breaking of the police ratchet seal and recover the firearm.

Under no circumstances will a firearm be permitted to be stored and transported in the cabin area of an aircraft.

5.16.2.5 Copies of Documentation Required

It is advisable to take two copies of the import/export licence to the UK airport as one copy will be retained by HMRC customs officers. A file copy should also be kept for when the case is later 'Put Away'.

It is also advisable to record details of the personnel involved in the movement of the firearms imported or exported, eg, the HMRC officer who examined the import/export licence, the BAA security manager, the airport security manager who placed the item in the secure cabinet in the baggage trolley.

It is now possible to obtain certain categories of information and public records using the internet. Such records can include:

- Land and property ownership records;
- Telephone numbers and subscriber details;
- Company owners and directors.

5.17 Internet as a Tool to Assist Investigations

In most cases, information obtained via the internet can only be used as a tool to establish whether any further evidence is likely to exist. Once established, an LOR should be applied for by the investigator and used to obtain the relevant evidence.

5.17.1 Internet Service Providers

Investigators wishing to make an enquiry via an Internet Service Provider (ISP) should be aware that the majority of ISPs are based in the United States and most will require an LOR before releasing any information. In addition, a preservation request should be submitted as soon as it is known that ISP content is wanted. Evidential criteria for securing a preservation order are stringent and can be difficult to meet.

The process for obtaining information held by ISPs is relatively complex, requiring some specialist knowledge. Investigators should, therefore, consider contacting both:

- The prosecutor for advice and assistance in obtaining an LOR and preservation order;
- SOCA International for further advice based on any previous contact with particular ISPs.

Internet Provider log-on history can be preserved for ninety days, with the possibility to apply for an extension of a further ninety days.

6

Victim and Witness Management

A European cross-border investigation, is likely to involve a significant number of victims and witnesses. The circumstances surrounding these victims and witnesses can provide considerable challenges for the investigation team, particularly in relation to identifying, locating and interviewing them, and then managing their long-term cooperation.

Contents

6.1	Locating Foreign Nationals Identified as ‘Persons of Interest’	71
6.1.1	Initial Investigative Advice	71
6.1.2	Sources Available for Locating Foreign National Victims and Witnesses	72
6.1.2.1	Engaging with Minority Ethnic Communities	73
6.1.2.2	Police Appeals to Minority Ethnic Communities	74
6.1.3	Locating Foreign Nationals Identified as Offenders	75
6.2	Managing Relationships with Non-UK Nationals	75
6.2.1	Main Points to Consider	75

6.3	Identifying Deceased Foreign Nationals	77
6.3.1	Considerations for Unidentified Bodies	77
6.3.2	Disaster Victim Identification	78
6.3.3	Good Practice	79
6.3.4	Informing Relatives Overseas	80
6.3.5	Updating Relatives Overseas	80
6.3.6	Repatriation	80
6.4	Interviewing Foreign Nationals	81
6.5	Prolonged Investigations	83
6.6	Obtaining Witness Statements from Overseas	83
6.6.1	Procedure for Obtaining Witness Statements from Overseas	84
6.6.2	Options Available for Obtaining Witness Statements from Overseas	84
6.6.3	Returning Witnesses to England, Wales or NI to Provide a Statement	85
6.6.4	Procedure for Returning Witnesses	85
6.6.5	Inducement	86
6.6.6	Obtaining a Willing Witness Statement at a British Embassy	87
6.6.7	Obtaining a Willing Witness Statement by Telephone	87
6.7	Family Liaison	87
6.8	Vulnerable Witnesses	88
6.8.1	Witness Intermediary Service	89
6.8.2	Police Considerations	90
6.9	Interviewing Suspects Overseas	90
6.9.1	Audio Recording	91
6.9.2	Investigators Present during Overseas Interviews	91
6.9.3	Authority to Travel	91

6.1 Locating Foreign Nationals Identified as 'Persons of Interest'

It may be difficult to locate identified foreign national victims or witnesses in investigations. They may be reluctant to cooperate with the police for a number of reasons, eg, lack of trust, fear of unlawful arrest or past experiences. It is also important that the investigation team fully understands the situation that foreign nationals have left behind in their home state.

Investigators must try to understand the relevant cultural and social issues that could influence a foreign national's reaction to the police. This will help them to identify:

- Communities where the individual may feel more comfortable;
- Geographical areas that they may be attracted to;
- A particular type of work that they may feel capable of or confident in undertaking.

6.1.1 Initial Investigative Advice

Previous investigations have identified that foreign nationals are likely to disappear or move into a foreign national community where they feel safe, either continuing to work or attempting to reduce the likelihood of any further contact with the police and other LEAs.

Investigators should always check the immigration status of all non-EU foreign nationals with the UK Border Agency via the UK Border Agency Evidence and Enquiry Unit.

Investigators should consider the following:

- There are no powers allowing the police to detain victims or witnesses of a crime. Investigators should build trust by expressing concern for the wellbeing of victims and witnesses, ensure that their needs are met and maintain their willingness to cooperate by providing, for example, accommodation, hot food and drinks and warm clothing where necessary.
- Foreign nationals may not trust the police for a number of reasons. This can be based, for example, on the person's upbringing or past and traumatic experiences with LEAs. Investigators should, therefore, choose their words carefully and consider how to establish the trust of the person concerned. They should also seek advice from the appropriate unit(s) in their force on any cultural issues that may arise when planning to make contact or to interview the person.
- Victims or witnesses may want asylum granted before they assist any further. Investigators must never make any promises which they cannot fulfil. During an investigation, honesty is

required of all staff involved to help alleviate any subsequent allegations by the defence of inducement. This may be something that the foreign national has not previously experienced.

- As victims or witnesses can be bullied into giving false details, investigators should make all appropriate checks on any details supplied or observed before the foreign national is encouraged to leave the scene or the police station. If they fail to do so it may be extremely difficult for investigators to locate them afterwards. In addition, checks should be carried out against any associated vehicles or subsequent drop-off points.
- Victims or witnesses may be too scared to tell the truth. This may be because they are in the state illegally and are too scared to provide their true identity for fear they will be immediately deported. They may have been deliberately supplied with stories to scare them from revealing the identity of the couriers involved in their stay or transportation.

6.1.2 Sources Available for Locating Foreign National Victims and Witnesses

There are numerous sources and methods available for investigators to trace victims and witnesses suspected or identified as being involved in a cross-border criminal investigation. Investigators must liaise with their force ILO to contact these sources. Examples are:

- UK Border Agency Command and Control Unit this is located in the North West of England and can provide details of a person's right to be in England, Wales or NI and give detention advice prior to the immigration team's attendance. They are also able to provide the visa status of a person in the UK and are directly tasked to help in any investigation involving foreign nationals who pose or are likely to pose significant harm to the public. See **26.16.3 Contact Details**.
- Driver and Vehicle Licensing Agency (DVLA). When lawfully requested, the DVLA is able to provide current and some historic details of UK driver records and registered vehicles. See **29.3.3 Contact Details**.
- EBorders – this is an electronic process whereby all details of persons travelling into and out of England, Wales or NI are recorded and available to the police and LEAs as part of their investigative process. See **26.4.3 Contact Details**.
- SOCA International are able to issue INTERPOL notices. For further information on INTERPOL notices, see **19 INTERPOL Notices**. To contact SOCA International, liaise with the force ILO.

- Department for Work and Pensions (DWP) can provide assistance in tracing individuals recorded on DWP intelligence databases. For contact details see <http://www.dwp.gov.uk/>
- UK Border Agency Evidence and Enquiry Unit – for contact details see <http://www.ukba.homeoffice.gov.uk/>
- National Health Service Database – there may, however, be difficulties in access to confidential medical information (Data Protection Act 1998).
- Open-source databases, for example, Facebook, Google and Dogpile.

6.1.2.1 Engaging with Minority Ethnic Communities

Early engagement with communities linked to potential victims, witnesses or suspects in a cross-border investigation can have significant, positive benefits for the investigation team by helping them to:

- Identify a deceased person;
- Calm fears within a minority ethnic community;
- Encourage further victims and witnesses to come forward.

When contacting individuals or groups within a minority ethnic community, SIOs and investigators must be honest about their intentions and what they want to achieve. This may be the identification of a suspect or to encourage a witness to come forward and provide a statement. Community leaders, in particular, will then be more willing to 'put forward' key witnesses or vulnerable individuals, knowing that the police will look after them.

Investigators should also liaise with the force Community Safety Teams to find out about any work they have undertaken in communities and the contacts they have already established, particularly of prominent individuals.

Many groups have been set up to assist and integrate people into British society. These groups can provide investigators with an excellent source of information, not only in relation to tracking down victims, witnesses or suspects, but also in relation to cultural, historical and political issues, which may help investigators to understand and focus the direction of the investigation.

For example, following the tragic Morecombe Bay incident in 2004, investigators were led to a respected leader within the Chinese community in London. This leader assisted the police to locate and help witnesses to come forward who had otherwise vanished following initial contact with the investigation team.

It is also advisable that the SIO in charge of the investigation considers carrying out a Community Impact Assessment (CIA). For further information on CIAs, see **ACPO (2006) Murder Investigation Manual**.

It should also be noted that migrants are more likely to see similarities and differences in facial features among members of their own community than investigators from another culture and/or country.

6.1.2.2 Police Appeals to Minority Ethnic Communities

Minority ethnic communities can be particularly difficult for investigators to interact with. In some cases, they may house illegal entrants in search of a better life or who are trying to earn money to support family members back home and for this, or for other reasons, do not wish to attract the attention of the police or other LEAs.

In such cases, investigators should try to understand the structure of the community they are hoping to engage with. They should also try to assess whether one person speaks for the whole community. It is important to ensure that the entire community is being represented.

Once the investigation team have established who they are likely to be dealing with, they should consider the following points before making initial contact with them.

- When addressing a Polish community in writing, one SIO found it appropriate to explain who they were and what their role was in the investigation through a format similar to that of a curriculum vitae. This helped the Polish community feel as if they knew the SIO personally. In addition, the SIO chose to list contact details for several of the investigation team in case he was not personally available.
- When attempting to communicate or appeal to small or specific minority ethnic communities, investigators must consider identifying and using local newspapers or other media sources intended solely for the persons concerned. Many migrants will not speak, or be capable of reading, any language other than their own. For example, investigators may wish to consider using news websites like the BBC to contact non-English-speaking users.
- In certain circumstances it may be appropriate to pay an interpreter to receive calls on a phone supplied by the investigation team, in the language that the minority ethnic community feel comfortable using.

6.2 Managing Relationships with Non-UK Nationals

6.1.3 Locating Foreign Nationals Identified as Offenders

For advice and assistance in locating foreign nationals identified as offenders, investigators should liaise with the force ILO, who has responsibility for contacting SOCA International to discuss the opportunities for issuing INTERPOL notices. For more information on INTERPOL notices, see **19 INTERPOL Notices**.

During the initial stages of an investigation in which a foreign national has been identified as a victim, witness or suspect, investigators should try to prevent losing contact with them. This applies particularly once a police officer or investigator at a scene has taken a statement or made a pocket notebook entry.

The investigation team should also attempt to understand and consider any social and cultural issues. By doing so, investigators can help build mutual trust and respect. This is particularly helpful when an investigation takes a number of years to complete and witnesses then need to be called to the trial.

6.2.1 Main Points to Consider

As a foreign national can have several reasons for not wanting to speak to an investigator or have any contact with government agencies, investigators may find it difficult to build mutual trust or confidence.

The following points may help to alleviate any complications when dealing with a foreign national for the first time:

- Investigators must try to understand what has forced or encouraged the person to come to the UK. By establishing some basic understanding, investigators may also be able to establish why they are reluctant to assist the police. (Investigators may find it hard to recognise many situations that a person has left behind so cultural training or insight will be required in certain cases.)
- When making initial contact with the foreign national, investigators must establish the correct way to write and pronounce their name. By doing so, investigators can establish which of the names provided is the first name and which is the surname. This will not only help input onto Holmes2 or other databases, but it will also mean that when addressing the foreign national in person, investigators will address them correctly by the name of their choice and not their surname. This is particularly important during informal situations and formal interviews. It also demonstrates understanding and respect. Ethnic minority naming systems are likely not to follow

the British naming system and accordingly, care should be taken not to cause confusion or offence. (Training may be required for staff on how to understand names and what they mean in the order presented.)

- Consider holding a briefing at the start of the investigation with two or more independent sources, such as an academic or community representatives to help identify any particular cultural issues.
- Many foreign nationals who are either a victim or witness may resent being approached directly by the police, especially in the presence of their co-workers or other community members. Alternative ways of contacting a foreign national that could be considered are to approach them outside normal working hours or when away from key community locations, such as mosques and use plain-clothes officers.
- Adopting a force Trace, Interview and Eliminate (TIE) policy especially for transient communities. For more information on TIE policies, see **ACPO (2006) Murder Investigation Manual**.
- Interact with minority ethnic communities and community leaders as soon as possible as this can help to initiate a relationship between the investigation team and the community. This is particularly important when a force identifies, during an investigation, a new minority ethnic community which it had not previously acknowledged and little is known about its people or structure.
- The way in which the investigator is dressed when approaching foreign nationals. When dealing with certain cultures, formal dress such as a police uniform or a suit can cause prejudice towards authoritative groups.
- Witnesses and suspects may be part of a criminal gang. Checks should always be made as soon as possible via the UKCA-ECR for EU Member States and SOCA International for countries outside the EU. Attention must be drawn to any significant body tattoos which may symbolise criminal careers or seniority within a foreign criminal organisation.
- Obtain intelligence on all suspects to thwart possible escape plans. In a particular cross-border investigation, a suspect was a member of a foreign criminal gang and an attempt to escape was made while in police custody.
- Be aware of a suspect's cultural circumstances. In their homeland, they may be able to bribe themselves out of custody even when arrested under a EAW. (For details on EAWs see **18 Extradition**). Suspects may claim to be victims of crime

in order to help conceal their involvement in the crime being investigated and other similar crimes. The initial investigator or SIO must, therefore, carry out an initial assessment and, if deemed necessary, all parties must be separated and spoken to individually, thereby removing any onlookers and non-verbal intimidation.

- It is possible that witnesses having returned to their home state will be subjected to intimidation or threats, perhaps causing them to become hostile witnesses. For example, migrant workers may be intimidated or pressured by the gang that had initially facilitated their travel.
- Investigators must also understand the significance of pressure being placed on the family of a victim or witness in another state. In one cross-border investigation, a witness's family were presented with a copy of the statement that a relative had given to the police.
- The immigration status of non-EU foreign nationals may influence their willingness to assist the police. Only in exceptional circumstances can foreign nationals be allowed beneficial changes in their immigration status. These are contained in ***Home Office Circular HOC 2/06***.

6.3 Identifying Deceased Foreign Nationals

This subsection offers investigators and SIOs additional points to consider when the suspect is thought to be a foreign national. It is not intended to replace existing advice on dealing with homicides or suspicious deaths, but is based on actual cases and good practice.

6.3.1 Considerations for Unidentified Bodies

- The investigating force should inform the Missing Persons Bureau at the NPIA so that a detailed search to be carried out against the register of missing persons and to help identify any possible matches.
- DNA enquiries must be carried out as soon as possible and any available profiles must be submitted by the force ILO to SOCA International using an INTERPOL DNA Search Request Form.
- The investigation team, following liaison with the force ILO, must consider the possibility of using an INTERPOL Black Notice. Photographs and fingerprints should be included on this notice and disseminated worldwide, following contact with SOCA International by the force ILO.

6.3.2 Disaster Victim Identification

The INTERPOL standing committee currently promotes good practice on Disaster Victim Identification (DVI) and promulgates international standards in dealing with ante-mortem and post-mortem data.

Options for investigators involved in DVI:

- INTERPOL DVI form – available in ante-mortem and post-mortem formats – it enables LEAs to provide sufficient information in an international recognised format for all INTERPOL Member States to view. Once completed, the form should be sent between INTERPOL Member States via the secure i24/7 network. This system is available to all law enforcement officers throughout the UK. To obtain access investigators should contact the force ILO.
- Technical and Investigative Support – in the event of a disaster, INTERPOL's standing committee on DVI can provide or arrange technical and investigative support.
- Coordination – in an emergency, the INTERPOL General Secretariat can coordinate DVI projects for INTERPOL Member States.
- International DNA checks – SOCA International can assist in arranging an international DNA search to be carried out, but first the requesting LEA must have undertaken a search of all UK databases.
- INTERPOL Black Notices – see **19 INTERPOL Notices**.
- FASTID – On 1 April 2010, the FAST and efficient International Disaster Victim IDentification (FASTID) Project was launched. It is partly funded by the European Commission and will establish an international system to manage inquiries concerning missing persons and unidentified bodies in the event of disasters as well as day-to-day policing, and will result in the creation of a global Missing Persons and Unidentified Bodies (MPUB) database. (<http://www.interpol.int/>)

For advice and assistance in obtaining any of the above options, investigators should liaise with their force ILO, who has responsibility for contacting SOCA International.

For further information on DVI, see forthcoming **ACPO (2011) Guidance on Disaster Victim Identification**.

6.3.3 Good Practice

During investigations in which a foreign national is identified as the victim, the following points should be considered:

- Investigators must try to identify any peculiar circumstances in which the body or bodies were found. Although this is standard police investigative practice in the UK, certain cultural rituals and methods can also help to identify particular groups. For example, certain criminal gangs do not like to leave any of the victim's blood at a scene and may remove the body to a sterile area for subsequent discovery.
- A pre-arranged pact might exist, whereby family members will deny all knowledge of a relative's existence overseas when approached by the authorities.
- To help identify foreign victims, investigators should consider presenting ante-mortem objects such as jewellery and clothing when meeting possible family members overseas.
- When dealing with DVI forms, it is advisable to encourage training for overseas officers not yet competent and to clarify between the two or more parties what is required.
- Investigators may find that using a paternity test will be more appropriate than a DNA test kit, especially when visiting countries with high humidity and when freezing the sample is either impractical or impossible.
- When taking swabs from potential family victims overseas to help identify a victim, investigators may wish to consider taking three swabs from each person. One sample for retention by the state where it is taken (in case of a disaster or incident when returning back to the force area) and two for the investigation team.
- Investigators should consider seeking assistance from the communities where a victim is thought to have belonged. This can help identify the victim through easily identifiable features or distinguishing characteristics that belong specifically to their culture or race and that would otherwise be missed by many investigators not from those communities.
- Any identification documents found on the victim's body should be checked for authenticity. Fraudulent or inappropriately obtained documents can help to provide evidence on the movement of the victim through Europe, and possibly uncover additional intelligence reports, photographs and fingerprint records.

6.3.4 Informing Relatives Overseas

If the notification of the death of a foreign national needs to be sent overseas, there are two possible routes that can be used. A message can be passed through the appropriate embassy or consulate, or via SOCA International. In either case, as much information as possible should be provided, the following being the minimum:

- Name of deceased;
- Person to be contacted – giving full name and address;
- Any information concerning the incident that the person being contacted should be made aware of, or any information that may assist local police when delivering the message;
- Full details of the person/police force with relevant contact numbers (next of kin, coroners office, hospital) that the person should contact in England, Wales or NI.

This will allow the officers overseas delivering the message to have enough information to answer the questions posed by the recipient. The message should be marked urgent. If there are any suspicious circumstances, it may be preferable to use the SOCA International route as they will establish contact with other law enforcement agencies. All requests sent to SOCA International should be made on an INTERPOL Enquiry Form.

6.3.5 Updating Relatives Overseas

Investigators wishing to travel overseas to update a victim's relatives on the progress of a case should confirm with their local CPS representative whether they require an LOR. Investigators must also conform to the Home Office Guidelines for officers travelling overseas as outlined in 6.9.3 for officers travelling overseas and register all travel plans via the force ILO with SOCA International.

6.3.6 Repatriation

In a homicide investigation involving a foreign national, the victim's body may need to be returned to a family living overseas. Investigators will need to consider the following points to make the process of repatriation as straightforward as possible:

- Establish at the outset of the investigation process who is responsible or willing to pay for the repatriation of any formally identified bodies and how the process will be undertaken.

- Deceased persons who are going to be repatriated must have their identity verified by the receiving state to make sure the person is as described. It is, therefore, advisable for the investigation team to request the presence of an official from the receiving state to verify the identity and the repatriation process to prevent any irregularities or the victim's body from being unnecessarily returned.
- The victim's family members will need to be contacted by the investigation team or by local officials to make sure they are consulted regarding any particular processes or religious obligations, before the body is prepared for transit.

In most cases where the victim's family is based outside the EU, it is unlikely that any family members will be granted permission to travel to the UK to carry out formal identification, particularly when there are clear visa restrictions.

The force should retain any money secured by the investigation that cannot clearly be identified as belonging to a victim, only handing back to the victim's family tangible items such as jewellery. This decision should be made in accordance with advice from the prosecutor.

6.4 Interviewing Foreign Nationals

In any investigation involving a foreign national, it is expected that there will be communication difficulties, particularly if they do not speak the same language as the investigating team. This can include both formal and informal interviews.

Investigators should refer to **20 Interpreters** for advice on working with interpreters but should also consider the appropriateness of the following before starting a formal interview.

- Who they are dealing with. For example, where is the interviewee/non-English-speaker from? Is the person a victim or witness? What crime is the investigation based upon? What is the interviewee's/non-English-speaker's level of education?
- Try to understand how the impact of any previous contact with the police in their country of origin may influence the person's behaviour. For example, a foreign national may feel obliged to say what the interviewer wishes to hear, thereby reducing the likelihood of physical punishment.
- Choosing appropriate interviewers to pair up with the witnesses will help with the long-term relationships, and possibly encourage cooperation up to, and including the trial.
- Confirm at the start of every interview that the police and immigration authorities are separate and that the police have no control over asylum claims or visa applications.

- Audio-recording all conversations with witnesses rather than writing a statement verbatim can help the flow, especially when using interpreters and the witnesses is nervous. Statements can then be typed up after the interview and handed back to the witness to check.
- If the person is also suspected to be a member of an organised crime group, investigators should first try to understand how such a group is set up. They should also look at how it operates and what links it may have to other nationalities, taking into account any intelligence and specialist knowledge.
- Some foreign nationals may display behaviour that suggests they can read and write. In many cases they will not say otherwise because they feel ashamed or embarrassed. Investigators should try to establish their reading and writing skills from the start in a polite, non-embarrassing way.
- It may take several interviews to discover the truth, as trust may need to be slowly established between a foreign national and the police. This often occurs with victims of human trafficking. In such cases using specially trained interviewers and surroundings which take into account the experiences and circumstances of exploitation of the individual being interviewed may be helpful. Appropriate surroundings could be, for example, a vulnerable witness suite.
- Ensure that witnesses read, or have read back to them, any statements they make, to prevent them claiming at the trial that they did not actually say a particular sentence or state a particular fact. If possible, audio-record the interpreter reading the witness's statement back to them.
- The location, such as an interview room without a window, may unnerve a witness. Items taken into the interview may have a particular meaning. Colours such as red can represent celebration, thereby contradicting any sensitivity shown by an investigator. A red notebook, may not therefore be appropriate when interviewing some witnesses and victims following a traumatic event or the loss of life.
- Work ethics are strong in most minority ethnic communities. Investigators should carefully consider the times for conducting witness interviews, since migrants may still need to send money home to support their family. Witnesses, while appearing obliging to the investigators, may resent having to lose wages and this can result in a loss of quality of the evidence that they provide.

6.5 Prolonged Investigations

Following prolonged investigations, investigators have identified these points as good practice:

- Foreign nationals should not be paid in cash as even small amounts can mean a large amount when converted into another currency;
- A vulnerable witness strategy should be in place as soon as possible;
- The investigation team should abide by the agreed plan and confirmed with the witness, to regularly provide updates on the investigation;
- Investigators may wish to consider placing an appropriate amount of credit on a witness's phone so that they can keep in regular contact, especially where they are vulnerable to intimidation;
- Consider the possibility of running through the court procedure with witnesses prior to the trial. For foreign and vulnerable witnesses, it may be necessary to use the same procedures as those used for children and young persons, thus helping to alleviate any difficulties in the translation;
- Reassure victims and witnesses on all stages of the trial process. Explain what is likely to happen when a suspect is found guilty, removing any pre-conceptions they may have.

If it is likely that a witness will be required to stay in England, Wales or NI, the investigation team must liaise with the CPS and the UKBA to discuss the possibility of the witness remaining in the UK, based on the circumstances presented.

6.6 Obtaining Witness Statements from Overseas

Under no circumstances should the police in England, Wales or NI contact a foreign overseas witness directly without first consulting the CPS and/or SOCA for advice.

In some EU States it is a criminal offence for overseas authorities to contact citizens or residents before an LOR is received and agreed (or not) by a central authority or recognised body. Officers who directly contact an overseas witness are likely to damage law enforcement relationships and any investigator visiting a state without prior approval is liable to arrest.

6.6.1 Procedure for Obtaining Witness Statements from Overseas

Investigators should always seek advice from the prosecutor before taking any action. Initiating contact with a person overseas requires compliance with a strict set of guidelines and agreements. The CPS can readily identify issues relating to a specific method or process that the requested state uses, and identify how it may influence any subsequent court proceedings.

Investigators applying for a statement to be taken from a witness in another state should provide the following information, as a minimum, to the prosecutor responsible for compiling the LOR:

- Full contact details of the witness including name, date and place of birth, sex, passport and/or nationality identity numbers;
- Details of their location, if known;
- A full list of the questions to ask them. (The requested state should not be asked to identify material witnesses or to interview them about matters relevant to the investigation – the requested authority will not be in a position to determine which witnesses are material or what is, or is not, relevant.) It should be remembered that an investigator always needs to provide a nexus between why the person needs to be questioned, the questions and the alleged criminality.

All information contained within an LOR can be viewed by the requested state and investigators. A risk assessment must, therefore, be considered against the impact of providing the information.

Investigators are also reminded that an LOR asks the overseas authority to take the statement. It is not a request for officers from England, Wales or NI to travel overseas to take it.

6.6.2 Options Available for Obtaining Witness Statements from Overseas

Officers should consider a range of options including the following possibilities:

- Inviting the witness to return to England, Wales or NI to make a statement.
- Taking the statement via police-to-police enquires (eg, asking the overseas police to take a statement from a voluntary witness) or taking the statement by telephone from England,

Wales or NI. The availability of these options should be checked in advance with SOCA.

- Using an LOR either asking overseas police to take a statement or asking the overseas judge to take a statement at court.

6.6.3 Returning Witnesses to England, Wales or NI to Provide a Statement

There are various reasons why a witness may be reluctant to travel to England, Wales or NI to provide a statement or to give evidence during court proceedings. However, when a witness returns voluntarily to England, Wales or NI in the early stages of an investigation, it can help to provide an insight into their willingness to return for any later trial.

Rather than submit a request via an LOR and have two or more police officers and possibly an interpreter travelling overseas to assist the foreign authority in taking the statement, it is likely to be cheaper and quicker for the investigation team to pay a willing witness to travel to the force area, provided there are no objections from the overseas state.

In each case, investigators should weigh up the advantages of asking a non-English-speaking witness to travel to the force area. This should take into account their personal circumstances and the fact that the interview process can result in relatively short statements – particularly where an interpreter is present. It may be more appropriate to assist overseas investigators or prosecutors who speak the same language as the witness to take the statement on the investigation team's behalf instead.

For advice on visitors coming to the UK and the requirements set by the UK Home Office, see <http://www.ind.homeoffice.gov.uk/visitingtheuk/>

6.6.4 Procedure for Returning Witnesses

Investigators should also consider the following prior to deciding whether to make arrangements for a witness to travel to England, Wales or NI to provide a statement:

- What is the expected total cost of flights, accommodation, expenses and local travel?
- Are there any transport issues, for example, what is the distance from the airport into which the witness will fly?
- Are there any visa requirements or immigration-related issues?
- Will the witness try to abscond?

- Is the witness dependant on any other person or do they have any direct dependants, eg, children or sick relatives requiring daily assistance?
- Are there any cultural issues and obligations?

Where a witness is of significant importance to an investigation, investigators should address the following points before the witness visits England, Wales or NI from overseas:

- All additional contact details are recorded, such as those of an alternative family member and those of the witness's local police station;
- There is an agreement to maintain regular two-way contact;
- The witness's welfare issues have been addressed.

The investigation team can then reduce any complications affecting the willingness of the witness to cooperate further, and can assist in presenting the prosecution with a list of witnesses still available for any subsequent trial.

For help and advice on returning a witness to England, Wales or NI, investigators should liaise with the prosecutor assigned to the case and with the force ILO.

6.6.5 Inducement

Investigators permitting a witness to travel to England, Wales or NI should record their actions throughout, to prevent any allegations of inducement.

Good practice is that investigators:

- Itemise all costs incurred;
- Evidence, where possible, that no additional money was paid to the witness in return for their cooperation.

Allegations of inducement can also relate to the period of time the witness spends away from their home state when assisting the investigation team. Investigators should, therefore, carefully arrange all meetings with the witness and be prepared to justify their decisions. For example, extended stays in the country may be required to allow the investigation team further time to confirm any relevant details raised and decide whether to take a second witness statement for clarification.

6.6.6 Obtaining a Willing Witness Statement at a British Embassy

With prior consent of the relevant overseas state and the Foreign and Commonwealth Office, British police officers stationed at a UK consulate, embassy or high commission overseas can sometimes assist in taking a witness statement.

These premises are not on British soil and statements taken there do not count as being taken in the UK. Taking a statement in this way can cause significant issues, including:

- The need to have a member of embassy staff on hand throughout the process;
- The need to have a member of embassy staff sufficiently trained to take a written statement;
- Welfare concerns, for both witness and embassy staff, which may arise during or following giving evidence, particularly in cases involving sexual abuse or violent assaults.

6.6.7 Obtaining a Willing Witness Statement by Telephone

Requests are often made to overseas states to take witness statements for minor issues, such as from a victim who has had their credit/debit cards stolen.

Many states do not object to the police officer telephoning a victim, obtaining the relevant information, reducing it to statement form and posting it to the witness for checking, signature and return. This method can be used to obtain statements in various situations – as long as the witness is in agreement and there are no objections from the overseas state concerned.

This method is not appropriate for obtaining all statements, for example, evidence from banks or internet service providers. In such cases, investigators should first contact the force ILO or prosecutor for advice.

6.7 Family Liaison

Police liaison with victims and their families through family liaison officers (FLOs) is standard practice in investigations based in England, Wales or NI. **ACPO (2008) Family Liaison Officer Guidance** provides a comprehensive explanation on how to deploy FLOs.

When dealing with victims and family members who are overseas, certain aspects of an investigation may mean that the FLO and the investigation team offer their assistance to states which do not formally recognise the importance of such a role.

6.8 Vulnerable Witnesses

Investigators dealing with vulnerable or intimidated witnesses should refer to the relevant advice provided in the Police Service guide, available from <http://www.homeoffice.gov.uk/documents/police-guide-vlnrbl-witness.pdf?view=binary>

The definitions for vulnerable or intimidated witness are outlined in the Youth Justice and Criminal Evidence Act 1999.

As a general guide, vulnerable or intimidated witnesses include:

- Children under 18 at the time of the hearing;
- Individuals with a mental disorder (as detailed under the Mental Health Act 2007);
- Individuals with an intelligence and social functioning impairment (disorders of communication);
- Individuals who have a physical impairment (including sensory impairments) or disorder;
- Individuals who have become vulnerable due to circumstances, including
 - those who have experienced domestic violence
 - those who have experienced past or repeat harassment or bullying
 - those who self-neglect and self harm
 - the nature of the offence (eg, sexual offences, rape, witnessing murder, where this involves allegations against carers/professionals)
 - racially aggravated offences
 - the racial or ethnic origin or religious beliefs of the witnesses, who may include refugees and asylum seekers
 - the domestic, social and employment circumstances of the witness
 - any religious beliefs or political opinions of the witness
 - those who are eligible due to their age, including elderly people;
- Individuals who are likely to be, or who have been, subject to intimidation because of
 - the behaviour of a defendant, his/her family or associates or anyone else who is likely to be a defendant or a witness in the proceedings;
 - the relationship of the witness to the defendant.

6.8.1 Witness Intermediary Service

Witness intermediaries are available in all police force and CPS areas in England, Wales and NI to help vulnerable children and adults with communication difficulties to give their best evidence.

The Witness Intermediary Service is helping to make the justice process accessible to some of the most vulnerable people in society. In some cases an intermediary will mean the difference between a witness being able to testify or not.

The Youth Justice and Criminal Evidence Act 1999 provides a number of special measures to assist vulnerable and intimidated witnesses to give their best evidence in court. One of the special measures introduced for vulnerable witnesses is the provision for using an intermediary to facilitate communication if approved and appointed by the courts. The intermediary can assist a witness giving evidence both during an investigation and at trial.

Section 29 of the Youth Justice and Criminal Evidence Act 1999 provides for the examination of a witness to be conducted through an intermediary approved by the courts. This measure will assist eligible prosecution and defence witnesses (in accordance with section 16 of the Act) who need help to communicate their best evidence and who fall into any of the following categories:

- Those who are under the age of 18;
- People who have a mental disorder or significant impairment of intelligence and social functioning that is likely to diminish the quality of their evidence;
- Those who have a physical disability or disorder that is likely to diminish the quality of their evidence.

An intermediary is an officer of the court, and is approved by the court to facilitate communication. Intermediaries can also provide communication assistance in the investigation stage – approval for the admission of evidence so taken is sought retrospectively from the court. The intermediary is allowed to explain the questions or answers so far as is necessary to enable them to be understood by the witness or the questioner, but without changing the substance of the evidence. Intermediaries are not investigators and their role is not the same as appropriate adults, witness supporters or expert witnesses.

For further information refer to CJS (2011) Achieving Best Evidence at <http://www.justice.gov.uk/victims-and-witnesses/vulnerable-intimidated-witnesses-guidance>

A national register of intermediaries exists which covers a wide range of communication skill areas. Access to the register is obtained by contacting:

- NPIA Witness Intermediary Team – who provide support to police officers and prosecutors in the use of registered intermediaries and offer advice on interview strategies. Intermediaries assist in victim and witness interviews, and trials in which the interviewee has limited expressive and/or receptive communication abilities because of age or disability.

Address: NPIA, Wyboston Lakes, Bedford, MK44 3BY

Enquiries: +44 (0) 845 000 5463

Email: SOC@npia.pnn.police.uk

Website: <http://www.npia.police.uk>

6.8.2 Police Considerations

- In all cases, investigators should make careful and methodical preparation to ensure that everyone is aware of each other's responsibilities and what the expected outcome will be. This should include interpreters, technical people, police interviewers and intermediaries;
- The investigation team should have the necessary facilities to show electronic photograph albums to a witness. Alternative methods can disrupt the witness's concentration and may offend them;
- Where a non-English-speaking vulnerable witness or adult with communication difficulties is required to provide evidence at a trial, the court is responsible for arranging for an interpreter to be present. For further information on interpreters, see **20 Interpreters**.

6.9 Interviewing Suspects Overseas

In some investigations, a suspect may be identified who no longer resides in the UK. If officers wish to submit a request to an overseas state to interview that suspect, they must consult the relevant prosecution authority for advice before proceeding. Any request to undertake an interview needs an LOR.

If a request is agreed by the overseas state, it is possible that the suspect may be summoned to attend court. The suspect may then be cautioned in accordance with the law of England, Wales and NI as defined in the LOR (depending on the attitude of the requested state to giving such a caution) and informed of their rights as a suspect, in the state where they are being questioned. The judge would then ask the questions set out in the LOR.

After the hearing the court will immediately draw up a transcript of the questions and answers, which the suspect is then invited to sign in the presence of the court clerk and/or judge, who will also sign the document.

Officers should be mindful that in certain EU Member States, particularly those that have recently joined the EU, free legal advice may not be available for a suspect.

6.9.1 Audio Recording

Investigators should always seek advice from the prosecutor if they wish to audio-record any interview conducted overseas. If the prosecutor is in agreement, they will draft an LOR asking for the interview to be recorded and, if necessary, for officers from England, Wales or NI to attend, possibly taking with them any necessary audio-recording equipment.

6.9.2 Investigators Present during Overseas Interviews

Investigators may consider it necessary to be present when a suspect interview is carried out overseas. The presence of an investigator from England, Wales or NI with detailed knowledge of the case can greatly assist the interviewer(s) in gathering the best possible evidence. The visit may also provide an opportunity to meet overseas colleagues face-to-face.

Any investigator who wishes to attend an overseas interview can only do so at the invitation of the host country and then just as a spectator. At no point must they initiate any actions or formally participate in any part of the process, no matter how minimal this might be. However, depending on the overseas state, investigators may be allowed to pose questions through the interviewer.

In situations where travel is not possible, investigators should consider using conference call or video-call facilities, to help provide detailed real-time knowledge of the case to the interview team.

6.9.3 Authority to Travel

Investigators must present an advice file to the prosecutor who will be responsible for drafting any subsequent LOR. The purpose of the advice file is to present an argument supporting the investigator's request to travel to the host country and be present at the interview.

If the prosecutor agrees that the investigator's presence is required, a formal request will be made in the LOR to the host country. It is a matter for the host country to consider the request and agree or reject it as they see fit.

At no point should the investigator travel without both the agreement of the prosecutor and the host country.

7

The Prosecution Phase

This section provides additional points that may need to be considered in the court process when there is a cross-border element. It is not intended to override or replace existing guidance on the prosecution phase.

Contents

7.1	Prosecution Considerations	94
7.1.1	Post-Prosecution	95
7.2	Record Management	95
7.2.1	Disclosure	95
7.2.2	Translation of Evidential Documents	96
7.2.3	Major Incident Room and HOLMES Management	97
7.3	Live Video-Links	98
7.3.1	Legislation	98
7.3.2	Preparations for Live Video-Links	99
7.3.3	Arrangements with the Court	99
7.3.4	Arrangements with Service Providers	100
7.3.5	Testing Live Video-Links	100

7.1 Prosecution Considerations

When conducting an overseas investigation there are a number of issues that could influence the admissibility of evidence and/or the trial process. In order to minimise the potential impact of these on the success of a trial, investigators may wish to consider the following points:

- The victim or their family may engage the assistance of legal representation from their own country to provide advice and support them through the investigation and trial. In these cases, investigators should respect the victims' or their families' wishes and take into account additional logistical issues that may be involved. This may include involving legal representatives in updates to the victim or their family.
- The investigation team must make the prosecutor aware of the capacity that may be required at court to seat all interested parties representing the victim and/or their family, as it is possible that the court may not have the physical space to seat the defence, prosecution and family barristers.
- For investigations attracting significant media attention, the SIO is advised to develop a suitable media strategy as early as possible, in consultation with the victim and/or their family. The purpose is to provide the best outcome for the trial. This may include pre-arranging media interaction with the family, focusing on the end of the trial rather than daily updates.
- Significant costs can be incurred when facilitating the transportation of the victim and/or their family to attend the trial and any preliminary hearings.
- It is advisable to ensure that when the victim and/or their family attend the trial, they are briefed on the English legal system and process.
- All foreign witnesses, including law enforcement officers, should be briefed on the English legal system and formal court process. This will avoid confusion and intimidation caused by a lack of familiarity with the adversarial court process.
- Where a case relies on forensic evidence, an early forensic case conference should be arranged to discuss any forensic issues, the value and effectiveness of the evidence and potential defence questions, particularly where evidence or exhibits have been obtained overseas.
- It is important to ensure that sufficient interpreters with the appropriate skills and languages are arranged in advance for the court process, as well as for the investigation. For further information see **20 Interpreters**.
- Take into account the time differences between the countries participating in a video-link case conference or trial hearing.

7.2 Record Management

7.1.1 Post-Prosecution

Any post-prosecution considerations should be similar to those for an investigation, based completely in England, Wales or NI, and should include a full debrief of the case to identify good practice and the lessons learnt.

From the outset, investigators need to be mindful of the differences between other countries and any LEAs involved.

In general, there are a number of points investigators may wish to consider. These include disclosure issues, translation of documents and audit trails for investigative actions overseas.

Investigators should consult their local prosecution representative for further information.

7.2.1 Disclosure

The normal process for obtaining evidence from an overseas jurisdiction is via an LOR. This document states the circumstances in which the evidence should, where possible, be gathered, thus ensuring that all evidence obtained is admissible in court proceedings in England, Wales and NI. The requested state is also informed that the material they provide will be used in judicial proceedings, giving them the opportunity to voice any concerns should this encroach on a domestic investigation.

During investigations, however, police officers from England, Wales or NI may receive information and intelligence from overseas jurisdictions on a police-to-police basis. Disclosure rules in England, Wales and NI mean that it may be inevitable on occasions that some of this information and intelligence will need to be disclosed as part of a judicial proceeding.

In the majority of cases this will pose no issue, as a retrospective LOR can be sent to the state which originally supplied the information, and permission will then be given to use the information as evidence. However, for various reasons, permission may be refused by the requested state. This can lead to a number of scenarios, including most commonly:

- The information is withdrawn from the prosecution case resulting in either a weakening of the case, or the withdrawal of the prosecution;
- The information is fully disclosed against the wishes of the state that provided the information.

These scenarios have inherent dangers for both the police in terms of securing a conviction at trial and for ongoing relations with a foreign jurisdiction. An LEA disregarding a request from the overseas jurisdiction for information not to be disclosed can potentially cause a political incident or the breakdown in law enforcement cooperation.

To avoid such situations, police officers should always be mindful that any information received from overseas could potentially be required as evidence. Early engagement with the overseas jurisdiction and the prosecutor is, therefore, advised to assess the evidential needs arising from information and intelligence requests. The relevant authority should be obtained to use the material as evidence at the earliest opportunity, rather than waiting until court proceedings have begun.

7.2.2 Translation of Evidential Documents

Documents received from overseas following a request or those which are voluntarily forwarded to them as part of an investigation will, in most cases, require some form of translation so that their significance to the investigation can be assessed.

In all cases, an initial assessment is recommended before a full translation is undertaken to help save time and reduce costs. Police staff with second language skills, or interpreters, may undertake such assessments (if they are willing and able to read the documents concerned), but this should not be relied upon for evidential purposes.

At no point should an interpreter be used for translating documents that would otherwise require a team of professional translators. Interpreters are, however, trained and capable of translating self-contained information and texts, such as procedural documents, witness statements and custody records. Their services can be used to help reduce time constraints, especially relating to custodial detention timeframes or to help the investigation team progress with any impending interviews.

Following any initial assessment, investigators should consider the following points:

- A single point of contact (SPoC) should be appointed to be responsible for coordinating translation services.
- The amount of time required for the translation of documents received from overseas may be extensive (especially if, for example, they are handwritten and incorporate any regional dialect).
- The costs associated with using freelance registered professionals from the National Register of Public Service

Interpreters (NRPSI) on an hour-by-hour basis can be substantial. It is suggested, therefore, that the SIO considers a formal contract of temporary employment.

- Having only the necessary and important facts translated, based on a thorough initial assessment (possibly by a police officer with second language skills or the interpreter) to save time and costs. However, investigators should not ask the interpreter to provide a summary of a document. Although capable of doing so, interpreters are not trained in legal and investigative methods or procedures and may miss important information contained in the document

7.2.3 Major Incident Room and HOLMES Management

Although the HOLMES2 database is used effectively in a wide range of criminal investigations in England, Wales and NI, it can lead to complications when dealing with cross-border investigations.

- All forces in England, Wales and NI have a HOLMES2 system and, if necessary, can join force servers for linked series or complex enquiries. This is not so with other EU Member States even though some have similar basic processes. In certain countries, eg, Germany, they do not use systems comparable to Holmes2, which issues and tracks investigative actions. This may mean that investigators do not have an auditable trail of why or when a decision was made to carry out a specific investigative action.
- Consider working out protocols with the force HOLMES Manager or the Major Incident Room (MIR) Office Manager, as well as a force Disclosure Officer, in respect of how documentation obtained overseas will be sent or transported to an incident room in England, Wales or NI. This is whether manual or using the HOLMES system.
- To avoid undue delay in processing material, consider a satellite forward control room, if possible, in the EU Member State with a secure link back to the force MIR. This will assist in processing items such as important statements or other documentation that requires additional actions either in England, Wales, NI or overseas. (This will, however, require the full agreement and cooperation of the host country.)
 - When a satellite forward control room has been put into place, not all documentation can be typed into HOLMES2 although HOLMES2 now has the facility to add documents by way of a free format facility. Printing these documents from the satellite forward control room through HOLMES2

will require the relevant application to be installed on the print daemon computer or laptop being used. A front cover sheet and end sheet, containing the standard HOLMES header and footer along with the title of the other document and the other document reference number, will be produced.

- Printing of these other documents outside of HOLMES2 will use the standard windows facility where the printer is identified by the user. This will not produce the HOLMES cover and end sheets.
- It may not be possible to activate the print daemon from the satellite forward control room and so printing may not be available. In this case technical assistance should be obtained from within force.
- If it is not possible to provide access to HOLMES2 in the satellite forward control room and more traditional methods of communicating, eg, facsimile and emails are used, a document management system should be introduced using the principles of Major Incident Room Standardised Administrative Procedures (MIRSAP).
- The identification of a Receiver in the satellite forward control room is crucial to ensuring an auditable system is in place for the dissemination and tracking of all documentation sent to, and from, the MIR.

For further information on using HOLMES2, contact the force Holmes2 Manager or email Holmes2@npia.pnn.police.uk

7.3 Live Video-Links

The use of a live video-link can be critical in situations where a case is presented before a court and a victim or witness is either too ill to fly, or is reluctant to travel to a court in England, Wales or NI. It may be chosen simply as the most cost-effective means of presentation. In these circumstances, the investigator or SIO should discuss the possibility of using a live video-link with the prosecutor.

7.3.1 Legislation

In England, Wales and NI, under section 32 of the Criminal Justice Act 1988, and the Criminal Procedure Rules 2010, the prosecution may use a live television link to enable a witness to give evidence from overseas in trials on indictment. A request for a live link at trial will be made via an LOR. For most EU Member States, the request will be made pursuant to the conditions in Article 10 of the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union of May 2000.

For further information investigators are advised to consult their local prosecution representative.

7.3.2 Preparations for Live Video-Links

When a decision has been made to carry out a live video-link, it is advisable for the investigator responsible to make the necessary preparations via their force ILO as soon as possible, taking into account the following suggestions:

- Liaise with the judicial authority or applicable court in the relevant state, which will advise on whether a live video-link is actually possible or available and what procedures will need to be adhered to. The possibility for a video-link exists for Council of Europe Member States under the Second Additional Protocol to the 1959 Council of Europe convention for mutual assistance in criminal matters.
- Identify whether the victim or witness living overseas wishes to give their evidence under oath or affirmation, ensuring that the correct wording for this and the appropriate holy books are available.
- Where the witness does not speak fluent English, an interpreter needs to be present to aid communication between the witness and the court. This is in addition to the interpreter appointed by the court in the trial courtroom.
- If requested by the overseas court, a technician should be appointed and made available in ample time to deal with any technical problems that may occur and interrupt the proceedings.
- All witnesses should to be briefed on the relevant court procedures in England, Wales or NI, making sure they understand that they may be subject to robust cross-examination on more than one occasion. Consider compiling information packs or a presentation which they can have access to in advance.
- Consider the likely costs of the video-link, which UK authorities are likely to have to bear. It may be cheaper, and more effective at trial, to have the witness travel to the UK to give live evidence.

7.3.3 Arrangements with the Court

It is important that the investigation team liaises with the Court Manager and the Listings Officer at the earliest opportunity, as not all court centres will have the necessary facilities. Courts in England, Wales or NI with the necessary equipment are often in great demand.

A time slot will need to be identified during the trial, taking account of any time differences. As part of the witness care duty, proper representations should be made to the court to try to avoid the witnesses having to give evidence very late at night or very early in the morning.

It is also important to agree timings with the defence, as it may not be possible to extend the time slot allocated and it is not good practice to have the link ended prior to the witness having concluded their evidence.

7.3.4 Arrangements with Service Providers

As part of the process for setting up the connection, the investigator will need to check if a formal contract with a service provider exists, and the costs associated with the service.

The quality of the video-link will depend on the ISDN line used. Technical advice should, therefore, be sought to ensure that the video-link established will provide an acceptable quality of transmission.

7.3.5 Testing Live Video-Links

It is essential that the investigator responsible for the video-link, contacts each of the service providers and the court to test the link, prior to the court session. Ideally, the test should take place on the latest day possible before the link-up so that any technical problems experienced can be resolved prior to the court hearing.

8

Media

Investigations in England, Wales or NI involving foreign nationals as victims or suspects are likely to attract a significant amount of media attention. This section provides some additional points that may need to be considered when a cross-border element is present. It is not intended to override or replace existing guidance.

Contents

8.1	Introduction	102
8.1.1	Media Intrusion	102
8.1.2	Foreign Media	102
8.1.3	International Media Strategies	103
8.1.4	Media Considerations at Trial	104

8.1 Introduction

When an investigation involves an overseas dimension, the responsible police force or investigation team needs to be aware that there may be intense media interest. Not only will they have to deal with the UK press, but there may also be representatives from the media overseas. Not everyone in search of a story will abide by the guidelines followed by the UK press. (In England, Wales or NI, the Office of Communications (OFCOM) and the Press Complaints Commission (PCC) are responsible for regulating the media.)

8.1.1 Media Intrusion

The foreign press are not regulated in the same way as the UK press and do not recognise the issue of sub judice. In addition, investigators must also recognise that the UK press will seek to circumvent the UK guidelines by going directly to a foreign force involved in a UK investigation.

Media intrusion must be managed to prevent unauthorised publication of information, which may ultimately undermine the prosecution case.

For example, during a case conference in another EU Member State with a high-ranking member of police staff present, UK officers were surprised when a member of the UK officer's local press telephoned the foreign officer directly, seeking information on the case.

Further examples of media intrusion can include attempts to obtain additional information on the investigation by:

- Using a false name to join websites which either the victim or friends and relatives frequent;
- Visiting the homes of the victim's and suspect's family.

8.1.2 Foreign Media

When dealing with foreign media, investigators and, in particular, the SIO should be aware that fellow overseas police officers and LEAs will openly speak to the media, frequently disclosing details of the case in line with their standard procedures. For example, during an international investigation, copies of an EAW were obtained by the media which contained confidential and sensitive details.

Although openness within policing in England, Wales and NI is recommended by ACPO, commensurate with the needs of the investigation, foreign media contact can lead to misinformation and the possibility of witness testimonies being compromised.

It may be in the best interests of the investigation to work closely with all parties involved, in particular foreign LEAs, to ensure that a joint media strategy is agreed.

To try to alleviate potential problems the investigation team should consider:

- Holding embargoed press briefings throughout the investigation so that the needs of the media and the investigative team are met without compromising the investigation;
- Having a legal adviser as a full-time member of the Gold Group to identify any potential problems and consider all aspects of the investigation;
- Holding a media conference to ensure that the media are aware of not just their own responsibilities, but also the responsibilities of the police, and to agree on any action plans.

8.1.3 International Media Strategies

At the earliest opportunity SIOs should, in collaboration with the force media liaison officer, develop a media strategy to deal with foreign media. The procedures adopted and decisions taken should be carefully recorded in the policy log to ensure an audit trail.

This may include the SIO drafting statements in conjunction with appropriate overseas authorities to remove any details about the case that may not have previously been released, and also to encourage overseas authorities to keep the SIO updated on all developments.

Any initial strategy is likely to change during protracted and high-profile investigations, especially where the momentum of foreign media is excessive.

The following points outline how the media can assist the SIO by:

- Keeping the public informed;
- Disseminating information very quickly to large audiences;
- Providing accurate and timely information to the public;
- Helping the public understand what is being done and why;
- Making appeals for information;
- Promoting confidence and reassurance;
- Developing a sense of community;
- Publicising a job well done;
- Publicising rewards in return for specific information.

ACPO Communications Advisory Group is responsible for the development and dissemination of communications best practice in relation to ACPO and the wider Police Service. It provides strategic guidance and counsel on issues as appropriate, and promotes a coordinated, professional image which enhances the reputation of the Police Service.

In the first instance, SIOs should refer to the **ACPO (2010) Guidance for Communications** for assistance in creating a suitable media strategy. However, further advice can be sought by contacting Inspector Robin Edwards at robin.edwards@btp.pnn.police.uk

8.1.4 Media Considerations at Trial

During the trial, a number of media arrangements may need to be taken into consideration. These include:

Note: If the investigation team issue an appeal for information via the UK and/or foreign press, they should expect to receive a high volume of telephone calls and messages from the public. Consideration should be given to establishing a Call Centre and Message Assessment Unit (MAU) as part of the major incident room structure.

- A need for particular witnesses to give evidence from behind a screen and allowing them to also leave the court building without being interviewed by the media. With the witness's agreement, it may be appropriate to allow the media some controlled access after the trial has concluded.
- Certain media organisations could be given access to a victim's family with the understanding that no material must be published until after the trial has concluded. The family may agree to this to ensure they will then be left alone after the trial.

9

Death of a UK National Overseas

When the death of a UK national overseas is reported, there are a number of legal and practical issues which must be addressed.

Contents

9.1	Death of a UK National Overseas	106
9.2	Obtaining Coroners' Reports from an Overseas Authority	108

9.1 Death of a UK National Overseas

If a UK national dies overseas, the British Embassy or Consulate in that state must be informed, who will notify the Foreign and Commonwealth Office (FCO). The FCO will contact the police in the relevant area in England, Wales or NI who will then deliver the bereavement message.

The FCO Consular service retains the principal responsibility for the communication and liaison with the UK family following the death of a British national overseas.

The FCO provides a 'Guide for bereaved families'. This explains the processes involved in the event of a death overseas and in identifies useful organisations and support networks.

For further information see <http://www.fco.gov.uk/en/travel-and-living-abroad/when-things-go-wrong/death-abroad>

Where a British national dies in suspicious or violent circumstances overseas it will, in almost all cases, be investigated by the appropriate authorities in that state. There are circumstances, however, where the police in England, Wales or NI may become involved. For a detailed guide to police involvement in deaths overseas, see **ACPO (2006) *Murder Investigation Manual, section 8 Inter-Jurisdictional Homicide Investigations.***

SIOs, investigators and FLOs dealing with overseas families and victims should consider the following to assist them in their roles in an investigation:

- The SIO needs to update a victim or the family members of the deceased in person with a FLO, whether this role is recognised or not by the other state;
- Since many states do not have a witness service, the investigation team must to consider who will carry out the role and whether an information pack should be created and sent to a victim or their family members living overseas.

At the time of publication, a draft memorandum of understanding between the Foreign and Commonwealth Office, ACPO and the Coroners of England and Wales is under discussion. The aims in principle are to:

- Support the next of kin of all British nationals who are victims of murder, manslaughter or infanticide;
- Assist, as far as possible, in encouraging that there is a proper and thorough investigation into the cause of death, thereby leading to an effective prosecution and trial.

Efforts to achieve these aims will be through the provision of the following:

- A professional and impartial service by appropriately trained staff who will ensure timely notification of death, and answer outstanding questions where possible;
- Relevant information and advice about local customs and procedures in the country concerned and as much information as possible about the circumstances of the death;
- Assistance to the family in the UK, and in the country where the death occurred, in making arrangements to repatriate the person concerned, ensuring relevant advice is given for example, on embalming and cremation;
- Practical and emotional support for the family when visiting the country where the death occurred.
- Updates on the progress of the investigation;
- Referral to the Victim Support Homicide Service to provide direct support and facilitate support from other organisations, if the family want it.

Irrespective of the circumstances in which the UK police become involved, it is good practice to appoint a senior investigating officer as these cases can present unique challenges because of the distances involved, the different languages, politics and cultures, and the religious and legal processes.

The SIO is responsible for the development, implementation and maintenance of the family liaison strategy if the decision is made to appoint a FLO.

Where an SIO is appointed, they should ensure that the bereaved have been referred to the Victim Support Homicide Service. Where this has not occurred, the FLO will notify the Homicide Service Team Leader of each new case of homicide within twenty-four hours of the force being notified. This will be via secure mail using a standard approved form.

It is good practice to deploy FLOs in cases involving the murder, manslaughter or infanticide of British nationals overseas. The decision on whether or not to deploy a FLO rests with the chief officer of the appropriate police force. A key part of this decision process will be whether there is an investigative role for the FLO.

9.2 Obtaining Coroners' Reports from an Overseas Authority

Deaths which occur overseas require a second coroner's report to be carried out once the body has been returned to the UK. The Coroners Act 1988 stipulates that proof of identity and the cause of death must be established. As the death has occurred overseas, investigators must liaise with the relevant overseas authorities, and the FCO, to recover any original coroner's report.

All requests by coroners for information from overseas authorities are routed through the FCO Consular Directorate's Coroners Liaison Officer (CLO). The CLO will be asked to forward the request to the relevant consular post overseas, who will request the information of the overseas authority. As soon as the report is provided, it will be returned to the coroner through the same channels.

There is no legal duty for an overseas country to supply the information and often the information can take a considerable time to be made available, if at all. However, the FCO recognises the importance of this information and will make every appropriate, diplomatic effort to obtain it.

For further information contact either:

- The Coroners Officers Association at <http://www.coronersofficer.org.uk/>
- The Coroners Liaison Officer located in the Foreign and Commonwealth Office, telephone: 020 7008 0216.

PART TWO

Criminal Proceedings outside the UK

10

Introduction

UK nationals travel abroad for business or leisure and many live abroad for long periods, while maintaining UK nationality. It is inevitable that some of these people will become the victims of crime while abroad. Conversely many foreign nationals who may be of interest to law enforcement now reside in the UK, meaning that UK forces may be called upon to provide assistance to other jurisdictions.

Contents

10.1 Legal Issues	112
10.2 Requests for UK Police Assistance	113

10.1 Legal Issues

Although based on a number of different pieces of legislation, the law in regard to providing assistance to foreign jurisdictions is relatively straightforward. The policy and procedures can, however, lead to some ambiguity due to the legal frameworks and investigative practice of different countries.

The legislation which facilitates the provision for UK assistance to foreign jurisdictions is the Police Act 1996 and the Crime (International Co-operation) Act 2003 (CICA).

UK police can assist a foreign jurisdiction with their investigation in three ways:

- By being deployed overseas, see **15 Deployment of UK Police Abroad**;
- By gathering evidence in the UK on behalf of the requesting nation via a Letter of Request (LOR);
- By gathering information or intelligence in the UK on behalf of the requesting nation via mutual assistance (police-to-police contact).

The FCO is responsible for providing support to UK victims abroad if requested. With few exceptions, it is both practically and legally impossible for police forces in the UK to carry out investigations into crimes committed against UK nationals in other jurisdictions. There is, however, a long-standing tradition of UK forces providing assistance to other jurisdictions in these circumstances when requested.

There are limitations to what UK law enforcement can provide to another jurisdiction for a number of reasons:

- Different jurisdictions have differing needs;
- The unique circumstances of each case will require different levels of need;
- There will be a difference in what individual victims and their families require;
- The differing capacities and priorities that different police forces in the UK have to provide assistance.

It should be noted that the majority of requests from foreign jurisdictions are straightforward and do not require vast amounts of resources.

10.2 Requests for UK Police Assistance

A request for UK police assistance from a foreign jurisdiction is likely to be a one-off request for the exchange of information, intelligence and/or evidence.

More serious cases, eg, where a British national dies abroad in suspicious or violent circumstances, will be investigated by the appropriate authorities in the foreign jurisdiction. There are, however, circumstances where UK police may become involved and asked to provide extensive assistance.

The likely scenarios are:

- Where the identification of the victim needs to be established and there is a need for forensic samples, eg, DNA, dental records or fingerprints from the family home.
- Where the foreign police service is asking for enquiries to be conducted in the UK.
- The victim's body is returned to England, Wales or NI. The local coroner requests UK police assistance in conducting an inquest. The coroner may also order a post-mortem, even if one was performed abroad. It is always worthwhile in these cases to speak to the coroner (through the Coroner's Office) at an early stage. See **9 Death of a UK National Overseas**.
- Murder or manslaughter where the suspect is a British national. Under section 9 of the Offences against the Person Act 1861, the suspect can be prosecuted in the UK.
- Where relatives request UK police assistance in establishing the circumstances of the death of a British national. This usually arises where the family are dissatisfied with the investigation overseas. The UK police have no power to conduct investigations overseas and the primacy of the relevant country must be respected.
- Where a formal request is received, for direct investigative assistance in the country where the death occurred. These situations will need clear terms of reference and full cost recovery for the services provided. They may also demand senior diplomatic discussions on sensitive human rights matters such as death penalty sanctions for anyone subsequently convicted.

The FCO is the central Government Department that deals with deaths of British nationals overseas. For information on dealing with the death of a UK national overseas, see **ACPO (2006) Murder Investigation Manual**.

The types of investigation listed above are focused on UK police assistance in a situation where the victim is a UK citizen travelling abroad. Other situations which will initiate UK police assistance to a foreign investigation are investigations into crimes:

- Such as fraud, committed abroad which target UK citizens at home;
- Committed abroad by UK citizens or foreign nationals residing in the UK;
- Carried out jointly with foreign jurisdictions into crimes such as drug trafficking, human trafficking and terrorism, where there are no UK victims.

Although these crimes are usually dealt with by agencies such as Europol, INTERPOL and the Serious Fraud Office or through existing bi-lateral working arrangements, this highlights the numerous ways in which UK police assistance can be instigated in foreign jurisdiction investigations.

11

Command Structure

An SIO can adequately deal with requests from abroad, within the force's routine management.

Contents

11.1	Managing Complex Investigations	116
11.1.1	Liaison with Ministers and MPs	116
11.2	Budgets and Resourcing	116
11.2.1	Costs Associated with Obtaining Evidence	116

11.1 Managing Complex Investigations

For advice and guidance in cases that may require a more resource intensive response on a regional or national scale, refer to **ACPO (2009) Guidance on Command and Control** and **ACPO (2007) Practice Advice on Critical Incident Management**.

If a UK police force becomes involved in an operation requiring a nationally coordinated response, forces should contact the ACPO Police National Information and Co-ordination Centre (PNICC).

PNICC has a national remit to advise on the coordination of a UK national policing response and to provide access to the President of ACPO, who can broker multi-agency involvement in large-scale requests for UK policing assistance.

11.1.1 Liaison with Ministers and MPs

Investigations that involve a UK victim abroad or that have attracted high media attention are also likely to come to the notice of senior government officials. Families of victims, pressure groups and members of the public lobby ministers and MPs, resulting in numerous requests for briefings. Ministers and MPs may also participate in meetings with the families involved and representatives of the victims.

It is recommended that a chief officer or the President of ACPO is asked to provide an interface between ministers and the UK operation. This will ensure a proactive approach to ministerial briefings and will provide an opportunity to explain the implications of any undertakings ministers may make.

11.2 Budgets and Resourcing

Providing information or intelligence to a foreign investigation at their request can be expensive for UK forces. Some policing conventions place an obligation on the requesting authority to reimburse the cost of such assistance.

In cases that require either a UK deployment or large-scale response, funding may be available from the requesting country, or in some cases from the FCO or the Home Office.

It should not be assumed that costs can be recovered in every case. Chief officers will need to satisfy themselves that they have identified the source of funding before agreeing to any type of assistance, especially if a deployment of officers is involved.

11.2.1 Costs Associated with Obtaining Evidence

Costs associated with executing requests are generally met by the requested state. However, where these costs are likely to be exceptionally high, the UK police force concerned should inform the requesting state, via the UK Central Authority for Mutual Legal Assistance (UKCA-MLA). The Central Authority will then liaise with the requesting state over payment of costs or modification of the request. This is a rare occurrence in reality.

12

Initial Response

A request call for a UK response to an overseas investigation can come from a number of sources. Although forces may wish to be seen to react quickly to public concern, speed is not always the most appropriate response.

Contents

12.1	Pause and Plan	118
12.1.1	Deployment of UK Police Officers Providing Assistance	118

12.1 Pause and Plan

There is often pressure on UK policing to become involved in foreign jurisdiction cases, particularly when the victim is a UK national and there is significant media interest.

The majority of requests for UK policing assistance in a foreign investigation are for UK-based lines of enquiry. These can be handled through mutual legal assistance or intelligence sharing protocols.

In all cases, chief officers and investigators must Pause and Plan before acting.

UK police do not have the jurisdiction to act unless the country concerned makes a formal request for assistance or agrees to an offer for assistance. In such cases, there is nothing to prevent forces making initial contact with the foreign state to attempt to gather more information. Forces should, however, contact the FCO, before action is taken as it is the only agency competent to broker a formal request from the country in question.

The information available to develop a detailed UK police response may be limited. In all cases, there should be an early assessment of the situation to determine the level of assistance that will be required from the UK, and how it can best be delivered.

12.1.1 Deployment of UK Police Officers Providing Assistance

On rare occasions, a request may come from a foreign state for UK policing assistance that will involve the deployment of UK officers abroad. Generally, this will be to provide family liaison where there is a UK victim. See **6.7 Family Liaison**.

UK police also receive requests for deployment either to provide investigative assistance or to supply specialist knowledge and techniques. Techniques that produce acceptable evidence in the UK may not be acceptable elsewhere.

Early consultation with the FCO is needed to determine whether deployment is the appropriate response.

The decision to deploy officers rests with the chief officer of each force. There are a number of factors that should be considered before this decision is made.

- UK police have no jurisdiction in a foreign investigation. Any deployment of UK officers abroad should be via invitation of the investigating authority only.

- The objectives behind the deployment should be clearly set out in consultation with the FCO and the host country, and a clear exit strategy for UK officers and staff should be thought out beforehand.
- A robust assessment of the viability of deploying specialist techniques in a foreign jurisdiction should be taken before deployment.
- Pause and Plan, the decision to deploy should include an assessment of the legal requirements, the information required and the way in which the results can be used by the host country. This should be done in consultation with the host country to ensure that the UK response is both proportional and supportive to their investigation.

The decision on whether to send UK police officers overseas must be ratified by the relevant Secretary of State (for example, by the Home Secretary for forces in England, Wales and NI) prior to deployment.

Under section 26 of the Police Act 1996, a letter of authorisation or its equivalent will be required for forces in Scotland and NI. For any enquiries regarding the process for requesting authorisation, contact the International Police Assistance section of the Home Office, telephone: 020 7035 1812/1813.

For further details see **15 Deployment of UK Police Abroad**.

13

Information, Intelligence and Evidence Sharing

The UK police have an obligation to support an overseas investigation where it is appropriate and is requested by an EU Member State. This may be through the provision of information and intelligence or practical assistance, such as carrying out interviews and undertaking searches.

Contents

13.1 Gathering Intelligence and/or Information via Police-to-Police Enquiries	123
13.1.1 Requests via SOCA International	124
13.1.2 Direct Requests from Foreign Jurisdictions	124
13.1.3 Requests via the Swedish Initiative	124
13.1.3.1 Spontaneous Exchange of Information	125
13.1.3.2 Provision and Use of Information	126
13.1.4 Dissemination and Disclosure	126
13.2 Gathering Evidence for Foreign Jurisdictions (Mutual Legal Assistance)	127
13.2.1 Letters of Request (LOR)	127
13.2.2 Action on Receipt of a Letter of Request	128

13.2.3	Foreign Law Enforcement Officers Attending the UK	129
13.2.3.1	Presence of Foreign State Officers at an Interview	130
13.3	Statements and Interviews	131
13.3.1	General Principles of MLA Requests for Witness Evidence	131
13.3.2	Executing Requests for Voluntary Witness Statements and Interviews	132
13.3.3	Executing Requests for Unwilling Witnesses	135
13.3.4	Section 15 Court Nominations	136
13.4	Third-Party Material Held in Confidence	137
13.5	Search and Seizure	137
13.5.1	Search Warrants Issued under CICA	138
13.5.2	Seizure under Section 19 PACE	139
13.5.3	Presence of Foreign Law Enforcement Officers during a Search	139
13.5.4	Conduct of a Search	140
13.5.5	Release of Property Evidence	140
13.5.6	Freezing Orders CICA sections 20-25	141
13.6	Request for Evidence Gathered during a UK Case	142
13.7	Assisting Overseas Court Proceedings	142
13.7.1	Judicial Hearings in the UK	142
13.7.2	Conducting Video-Link Evidence with Foreign Jurisdiction Proceedings	144
13.7.3	Conducting Telephone Link Evidence with Foreign Judicial Proceedings	145
13.7.4	UK Officers Summoned to Give Evidence Abroad	145
13.8	Family Assistance and Liaison	146
13.8.1	Deployment of FLOs Abroad	146
13.9	Media	146
13.9.1	Media Appeals in Support of a Foreign Investigation	147
13.9.2	Family Media Strategies	147
13.10	Confidentiality Clauses	148
13.11	Freedom of Information (FOI)	148

13.1 Gathering Intelligence and/or Information via Police-to-Police Enquiries

Police-to-police enquiries are an informal process whereby a police officer in the requesting state asks for assistance from a police officer in another state to gather or exchange information and intelligence, or sometimes evidence, for an investigation or prosecution. It is often a much quicker and less complicated route than the formal Mutual Legal Assistance (Letter of Request) route.

Police-to-police enquiries can help to check whether information is available and in what context. These enquiries are quicker to arrange and easier for the requested state to action, but must be carried out through the force ILO. They can also help to support the more formal request process of Mutual Legal Assistance.

Police-to-police enquiries can assist in the following ways:

- To find out if a particular company building exists in an EU Member State. Once confirmed, an MLA request can then be sent to search these premises for evidence, with the name and location of the company's building premises clearly stipulated;
- To identify the company and its address responsible for a particular telephone number so that the subsequent MLA request can ask for an evidential statement to be taken from an employee of that specific company;
- To identify the registration details of an overseas registered vehicle seen in England, Wales or NI. Initial checks can provide acknowledgement that records exist and a subsequent MLA request from the prosecutor can request the necessary evidence.

Although there are no specific rules on when to use an LOR and when not to, generally speaking police-to-police enquiries are acceptable if the requesting state requires only information and intelligence or evidence that does not require any coercive powers to obtain it.

If contact has not previously been established, police-to-police enquiries will usually be received in the UK via SOCA International and the force ILO.

Where contact has been established and SOCA International is not aware of the contact, investigators must immediately liaise with their force ILO, who is then responsible for copying in SOCA on any subsequent correspondence. This avoids duplication of effort or overlap between investigations.

13.1.1 Requests via SOCA International

In the majority of cases, police-to-police requests from a foreign jurisdiction to the UK police will come via SOCA International.

Once the request has been actioned, any information/intelligence destined for the requesting state should be submitted on the National Intelligence Report Form (A), and completed in line with **ACPO (2005) *Guidance on the National Intelligence Model*** and **ACPO (2010) *Guidance on the Management of Police Information***.

Investigators will also need to complete a General Risk Assessment Form C where there might be some danger posed to individuals in the destination country, or where the subject might be put at risk in respect of the information or intelligence being passed. It is the responsibility of the investigator to complete the Risk Assessment Form.

13.1.2 Direct Requests from Foreign Jurisdictions

It is not uncommon for foreign law enforcement officers to make direct contact with UK police.

In such cases, care must be taken when sharing police intelligence and information because once the intelligence has been passed, it is impossible to control. For further information see

13.1.4 Dissemination and Disclosure.

Investigators will also need to complete a General Risk Assessment Form C where there might be some danger posed to individuals in the destination country, or where the subject might be put at risk in respect of the information or intelligence being passed. It is the responsibility of the investigator to complete the Risk Assessment Form.

13.1.3 Requests via the Swedish Initiative

Under the Swedish Initiative, there are strict time limits and conditions that competent law enforcement authorities (LEAs) including the police must adhere to when they receive a request for information and intelligence. Force ILOs and police officers should be prepared to seek advice from SOCA International.

Forces may receive a request for information from another LEA either directly or as a request for assistance via SOCA International. All responses should be returned on the appropriate form available from SOCA International.

When completing the form, the following points apply:

- All appropriate reference numbers quoted on the request must be included on the reply. Forces may also wish to add their own reference for their records.
- Any time limits in the request should be adhered to where possible. If for any reason it is not possible to comply with a deadline, the requesting LEA must be advised of this.
- The form provides scope for allowing the information provided to be used for purposes other than those for which it was supplied. It is essential, therefore, that data protection principles are considered before sending any information. Care should be taken to ensure that the appropriate boxes are ticked to limit dissemination of the information.
- The reliability of the source and accuracy of the material provided can be assessed by ticking the appropriate boxes on the form.

Note: The Swedish Initiative is based on the principle of availability, and every effort must be made by UK police to assist investigations abroad. However, there are situations where a request based on information may be refused for one or more of the following reasons:

- Provision of the information might harm national security interests;
- Provision of the information might jeopardise the success of a current investigation, a criminal intelligence operation or the safety of individuals;
- Provision of the information is disproportionate or irrelevant for the purposes for which it has been requested;
- The request relates to an offence punishable by a term of imprisonment of one year or less.

13.1.3.1 Spontaneous Exchange of Information

If information comes to light which may assist another Member State in the detention of an offender, prevention or investigation of an offence, even if that Member State has not requested it, it can be sent to the relevant Member State using a Swedish Initiative form. All such information should relate to a category of offence listed under the European Arrest Warrant (EAW).

To ensure coordination and avoid duplication the information should be sent via SOCA International.

13.1.3.2 Provision and Use of Information

The Swedish Initiative only applies to information which is readily available to LEAs, whether it is held by them or a public or private third-party organisation. LEAs are not required to gather and store information for this purpose, or to obtain information by coercive measures in order to respond to a request.

A coercive measure is not defined in the Swedish Initiative, so each Member State should apply its own interpretation. In the UK this would normally amount to a court order, requests under the Regulation of Investigatory Powers Act 2000 (RIPA) or similar measures.

Where information or intelligence has been obtained from a Member State or a third country, and has been supplied for a specific purpose, it may not be forwarded to another Member State without the consent of the originator.

13.1.4 Dissemination and Disclosure

Although every effort must be made to share information with other LEAs, care must be taken when passing intelligence and information to foreign jurisdictions for use in their investigations. Many European countries do not differentiate between information and intelligence and the use of material as evidence.

The rules on disclosure and dissemination of investigative material vary from country to country. Investigators must ascertain the relevant disclosure and freedom of information rules for the country they are liaising with in order to ensure the protection of sensitive material.

Unless this assessment is made, material may be disclosed through foreign judicial proceedings regardless of any attached handling code.

The principals of sharing information outlined in **ACPO (2010) Guidance on the Management of Police Information** and **ACPO (2005) Guidance on the National Intelligence Model** should be adhered to in all cases.

It may be advisable for UK police to seek guidance from sources such as Eurojust, the European Judicial Network and Europol, to establish the correct disclosure and dissemination protocols for the requesting state to help make any assessment. It may also be appropriate for a memorandum of understanding (MoU) to be established.

Once information is exchanged with a foreign jurisdiction, all legally enforceable UK control is lost.

13.2 Gathering Evidence for Foreign Jurisdictions (Mutual Legal Assistance)

It is, therefore, essential that before deciding to share sensitive personal information with a foreign police force, those making such judgements have a full understanding of how the information is to be used and the circumstances under which it might be released or shared with third parties. It is recommended that the force solicitor is involved in such decision making and that advice is sought from the UKCA-MLA or SOCA International.

The Crime and International Co-operation Act 2003 (CICA) provides the domestic legal framework for UK police to provide assistance to a foreign jurisdiction investigation.

CICA (2003) section 15 provides a power for a court to be nominated by the Secretary of State (SoS) so that evidence can be taken from a witness. Section 16 deals with the need for dual criminality to be established where an application for a search warrant is to be made either pursuant to a section 13 CICA direction or where the applicant is a member of a Joint Investigation Team (JIT). Police officers can assist another state in their investigation or criminal proceedings by gathering evidence in the UK on their behalf. This includes, for example, the search for and seizure of property (section 16), the interviewing of witnesses on oath (section 15), evidence via video-link and transfer of prisoners to assist in investigations. Provisions relating to restraint and confiscation are contained within the Proceeds of Crime Act 2002.

In addition to CICA the UK is party to a number of conventions, treaties and other instruments that relate to MLA cooperation with other states. These provide an international legal basis for assisting foreign jurisdiction investigations.

With regard to the EU, the UK is party to the European Convention on Mutual Assistance in Criminal Matters 1959 as well as the Convention on Mutual Assistance in Criminal Matters between Member States of the European Union 2000 (EUMLAC). With some exceptions, the UK is duty bound to honour all requests from any EU Member State.

13.2.1 Letters of Request (LOR)

Requests for evidential material are made to the UK through a Letter of Request (LOR) from the prosecutor in the country of origin to the UK Central Authority (UKCA-MLA). An LOR will contain an outline of the case, the evidence requested and any legislation that needs to be adhered to in order to ensure that the evidence gathered is admissible in the requesting state's proceedings. The UKCA-MLA will ensure that the LOR conforms, and routes the request to the appropriate authority or police force in the UK.

The UK police must execute all requests received via the UKCA-MLA as directed, unless:

- The request contravenes domestic legislation; or
- Immediate execution of a request would frustrate an ongoing domestic investigation (in these cases the police can delay execution).

The type of assistance that can be provided under an LOR includes:

- Service of summonses, judgments and other procedural documents;
- Obtaining witness statements on oath and authenticated documentary evidence, including banking evidence;
- Use of the investigation powers of the Serious Fraud Office in London and the Crown Office in Edinburgh in cases of serious or complex fraud;
- Exercise of search and seizure powers;
- Evidence via video or telephone conferencing;
- Bank information and account monitoring orders (in relation to certain countries);
- Temporary transfer of prisoners, with their consent, to assist with criminal investigations and proceedings.

13.2.2 Action on Receipt of a Letter of Request

On receipt of an LOR, the force International Liaison Officer should;

- Ensure that the request makes sense and is grammatically and legally correct.
- Make sure that they are the most appropriate agency to deal with the request. If the request has been sent to the wrong force area, return it to the UKCA stating this fact.
- Check that the request is proportionate. Although Executing Authorities are duty bound to comply with a Mutual Legal Assistance request, the ILO can refuse to action it in certain circumstances. As a practitioner, if the ILO feels that the request is not proportionate and this can be evidenced, they can return it to the UKCA with an explanation of why it cannot be fulfilled. However, the UKCA is the ultimate arbiter.
- Check for any deadlines for execution.

- Within a month of receipt, contact the UKCA caseworker named in the covering letter to:
 - acknowledge receipt of the LOR
 - give details of the officer dealing with the case
 - give a timescale for the execution of the request
 - discuss any further details of the LOR.

All correspondence with the UKCA-MLA should include the MLA reference number, as well as any numbers given by the responsible executing authority.

13.2.3 Foreign Law Enforcement Officers Attending the UK

Incoming LORs may include a request that foreign law enforcement officers are present when a statement is taken. This will usually be to assist the overseas investigation, but sometimes it is necessary for the evidence to be admissible in the requesting state. The following points should be considered if such a request is made.

- Foreign law enforcement officers have no jurisdiction in the UK and can only attend the UK in an operational capacity if they have prior permission from the UK.
- UK police should only consider the request if there is some real material gain to the case. Although the requesting state will undoubtedly apply pressure, accommodating them can require significant resources.
- The foreign law enforcement officer may have better knowledge of the case and all the facts, which the UK police may find useful.
- When a request is authorised, it is advisable to hold an early meeting to agree terms of reference and establish what the foreign law enforcement officers hope to achieve from the visit.
- If additional requirements are identified as a result of a meeting with foreign law enforcement officers, an additional LOR will be required.
- Witnesses must consent to the presence of a foreign law enforcement officer when statements are being taken. If they do not agree, they have the right to refuse. In these cases, the witness may be summoned to court to give evidence under section 15 of CICA. It is advisable that this is explained to the witness so that they can make a decision.

- If a witness agrees to be interviewed in the presence of foreign law enforcement officers, the interview should be conducted in the following way:
 - UK officers must retain control of the interview process and the foreign law enforcement officers should only observe
 - the interview should be conducted in English.

If English is not the witness's first language, and although not being interviewed under PACE, an authorised police interpreter should be used. Some delegations of foreign law enforcement officers may be accompanied by their own interpreter, however, the use of an impartial UK interpreter is recommended.

For further information on the use of interpreters, see **20 Interpreters**.

13.2.3.1. Presence of Foreign State Officers at an Interview

If the MLA request asks for foreign law enforcement officers to attend an interview, the witness who is to give the statement should be consulted about this. They have the right to refuse.

If a witness is content to be interviewed in the presence of officers from the requesting state, the interview should be conducted in the following way.

- UK officers must remain in charge of the interview.
- Generally, the interview should be conducted in English, and UK officers must be present throughout.
- In some circumstances it may be easier for the foreign law enforcement officers to ask questions directly in their own language if this is the same as the witness's. This must, however, be translated into English so that UK officers are fully aware of all the questions asked and all conversations held.
- UK officers are present to facilitate the interview but also have a professional responsibility to the witness.
- If interpreters are used, they should be authorised police interpreters in order to maintain impartiality and to protect the witness. As when conducting domestic interviews or taking statements, although the interview is in English, the language of the statement should be in the first language of the person whose statement it is, with relevant transcriptions into English included.
- An English language copy of any statement should always be maintained by the UK officers.

See also **13.3.1 General Principles of MLA Requests for Witness Evidence**. For further information on the use of interpreters, see **20 Interpreters**.

13.3 Statements and Interviews

Where possible, the UK will always provide assistance to obtain statements for use in foreign criminal or civil matters, irrespective of whether a reciprocal arrangement is in place.

13.3.1 General Principles of MLA Requests for Witness Evidence

Using MLA, countries can request that a witness statement is taken (including on oath) from a person in another state for use in criminal investigations or proceedings.

Some requesting states always require the evidence to be sworn, attested or affirmed in the UK to make it admissible in their proceedings, irrespective of whether the witness concerned is prepared to cooperate. All requests that require sworn evidence must be made by means of a formal MLA request. Such requests cannot be accepted on a police-to-police basis. Requests for witness statements or interviews from willing witnesses (irrespective of whether they are suspects or not) may be made through police-to-police channels.

Witnesses from whom evidence may be requested fall broadly into the following categories:

- Willing witnesses
 - willing to cooperate (not a suspect)
 - willing to cooperate (suspect)
- Unwilling witnesses
 - not willing to cooperate because subject to a duty of confidentiality
 - not willing to cooperate (not a suspect)
 - not willing to cooperate (suspect).

As a result, the ways in which the witness should be approached and their evidence taken may vary.

Disclosure of an MLA Request

Requests for MLA are confidential and, as a general rule, their existence and contents should not be disclosed if at all possible. However, in the interests of fairness and also to secure their participation, the witness should be given enough information to enable them to make a decision on whether they wish to assist in relation to the request. If a witness requests full disclosure of an MLA request before they will consent to give a statement, take part in a voluntary interview or provide sworn evidence, the Central Authority should be informed. Following

consultation with the requesting state, a decision will be taken by the Central Authority on whether the contents of an MLA request can be disclosed either in full or in part.

Suspects in MLA Requests

Although witnesses may be suspects overseas, they are not generally suspected of having committed offences in the UK and cannot, therefore, be arrested to secure their attendance for interview. A suspect in an MLA case does not have to give a voluntary statement or take part in an interview. Measures under PACE and its Code of Practice C under PACE will not, therefore, apply and the interview should be conducted in the same way as a witness interview. The LOR should include any rights to be given to the suspect under the law of the requesting state, including the form any caution should take. It should also specify the manner in which the interview should be conducted, how it should be recorded and may include a list of questions to be put.

Suspect Statements and Interviews under PACE

For the reasons outlined above, suspect interviews conducted by the police on behalf of a foreign state will not generally fall under PACE. The test is whether there is the likelihood that a domestic offence has taken place that will be subject to a domestic investigation. For example, if a person is suspected of money laundering offences overseas and there has been a request for UK banking evidence and the interview of a suspect (because suspect money has passed through the UK) then offences may have been committed in the UK.

If a statement is being taken and the interview commences without the provisions of PACE being applied, but the person being interviewed admits to a UK offence during the interview, the provisions of PACE must be applied. It is a matter for the police to determine, in conjunction with the Crown Prosecution Service (CPS) where appropriate, whether the domestic offence warrants action. The UK police should inform the requesting state if a person admits a UK domestic offence. This will ensure that action is not taken which might prejudice a more serious overseas investigation. If questions of primacy of investigations and jurisdiction arise, EUROJUST can assist in resolving this.

13.3.2 Executing Requests for Voluntary Witness Statements and Interviews

This guidance applies for the following witnesses:

- Willing to cooperate (not a suspect);
- Willing to cooperate (suspect).

The requesting state may specify any legal procedure that should be adhered to when taking a voluntary witness statement or conducting a witness interview. This is important as it ensures that the evidence is gathered in a way that allows it to be admissible in proceedings in the requesting state. An example of this is where a requesting state asks for a section of a statute to be read prior to the statement being taken or interview commenced. This may include the rights a person enjoys in the requesting state, or in the case of a suspect the form a caution should take. Providing this is consistent with UK domestic law, such requests should be adhered to.

If the witness decides that he or she wants to take legal advice before cooperating, the embassy or consulate of the requesting state may be able to furnish details of persons who are able to legally advise on the criminal law or procedure of the requesting state. Any MLA request allowing for consultation with a solicitor presents particular difficulties as legal aid is not available for MLA. The Central Authority should be informed immediately if difficulties arise in relation to independent legal representation so that these can be communicated to the requesting state. The UKCA will not fund the cost of independent solicitors.

If a witness refuses to cooperate, the police ILO should inform the Central Authority so that they can consider how to proceed. The requesting authority may then make a request to the Central Authority for the witness to be compelled to court. For further information see section **13.3.3 Executing Requests for Unwilling Witnesses**.

When taking a voluntary witness statement or conducting a voluntary witness interview (both suspects and non-suspects):

- Confidentiality regarding the MLA request should be maintained;
- The voluntary nature of the statement should be stressed and the witness informed that they are not under arrest and are free to go at any time (except where UK offences are disclosed);
- Check how the requesting state has asked the statement to be taken. Taped interviews are the correct procedure for some requesting states;
- The section of any statute provided by the requesting state (including details of any rights the person might enjoy) should be read prior to the statement being taken or the interview recorded;
- Section 9 (of the Criminal Justice Act 1967) Statement Forms are only meant for statements to be tendered in evidence in UK domestic cases and so should not be used when taking a witness statement at the request of a foreign state;

- If statements are completed on the UK section **9 Statement Forms**, the statement at the top should be crossed through or left unsigned;
- At the end of the statement a short declaration along the lines of ‘this statement is made by me and is true to the best of my knowledge and belief’ should be included;
- Where witnesses require special handling (such as children, vulnerable adults or victims of sexual offences) force procedures should be followed. Officers should liaise with the Central Authority regarding the manner in which such witnesses should be approached.

In addition, the following should be adhered to if the statement being taken is from a suspect.

A suspect should be told:

- That they are suspected of committing an offence in another jurisdiction and the name of the country which suspects them of committing that offence.
- That they are not suspected of committing an offence in the UK.
- A request has been received asking that they be interviewed or have a statement taken from them.
- They do not have to agree to be interviewed or give a statement on a voluntary basis and that this is a matter for them to decide.
- They may seek independent legal advice in connection with this matter. A list of solicitors specialising in the criminal law and procedure of the requesting state may be available from the embassy or consulate of the requesting state). Legal aid is not available for MLA.
- As the person is not suspected of having committed a UK offence, they should not be given a UK caution as this may contradict the rights given by the requesting authority. A suspect cannot be arrested in relation to an MLA request unless the questioning reveals a domestic offence, in which case the process must revert to a full PACE interview or arrest and the relevant caution given. See **13.3.1 General Principles of MLA Requests**.

13.3.3 Executing Requests for Unwilling Witnesses

The guidance applies to the following witnesses:

- Not a suspect but subject to a duty of confidentiality;
- Not willing to cooperate (not a suspect);
- Not willing to cooperate (suspect).

All three categories may require a court nomination.

Not a suspect but are subject to a duty of confidentiality

Third parties who hold material in confidence (such as banks, accountants, solicitors and telecommunications companies) will generally not provide evidence to overseas authorities voluntarily. The Central Authority nominates a court to receive the evidence, under section 15 of the Crime (International) Co-operation Act 2003. See **13.3.4 section 15 Court Nominations**.

Normally, the custodian of the documents is required by the court to make a statement on oath. For example, if banking evidence is required, an official of the bank concerned usually provides the statement. If a witness is reluctant to produce this evidence, the court may summon a witness to attend court.

Not willing to cooperate (suspects and non-suspects)

If a witness refuses to give a voluntary statement or participate in a voluntary interview, the Central Authority should be informed and they will communicate this to the requesting state. The requesting state may then ask that the person be required to attend court to give evidence. The Central Authority may arrange for a court to be nominated under section 15 of CICA. This is irrespective of whether the person is a witness or a suspect. If the witness is reluctant to come to court, a summons could be applied for and issued by the court to secure their attendance.

Although section 15 of CICA allows a witness or a suspect to be compelled to appear before a court, CICA also makes it clear that a person cannot be compelled to give any evidence before a nominated court which he or she could not be compelled to give in criminal proceedings in the UK. The privilege against self-incrimination and the provisions in UK domestic law that a person charged with an offence cannot be compelled to give evidence in his or her own trial, are of particular relevance in this context.

If, having taken account of all the circumstances in the case (including the views of the UK police), it is clear that a reluctant witness is actually suspected of being involved in the commission of a criminal offence (or indeed has been charged), and could, therefore, not be compelled to give evidence, there would appear to be little point in a court being nominated and the Central Authority may choose not to do so.

It is possible that under the criminal law or procedure of the requesting state a suspect must be invited to answer questions under oath, even if all indications are that he or she would decline to answer. If a refusal by the UK to nominate a court in these circumstances is likely to prove fatal to the continuance of an overseas investigation or proceedings, the Central Authority may take this into account when determining whether to nominate a court.

The decision whether to nominate or not is always one for the Central Authority to take, having considered all of the circumstances in the case.

If the basis on which a witness should be approached needs clarification, eg whether they are a suspect, officers should contact the Central Authority highlighting their concerns. This will enable the Central Authority to consider whether it is necessary to seek further information from the requesting state in order to determine whether or how to gather the evidence. UK police have an important role in assisting the Central Authority in this process.

Legal aid

Any MLA request allowing for consultation with a solicitor causes particular difficulties as legal aid is not available for MLA. The Central Authority should be informed immediately if difficulties arise in relation to independent legal representation so that these can be communicated to the requesting state. The Home Office will not fund the cost of independent solicitors.

13.3.4 Section 15 Court Nominations

All requests for sworn evidence are executed under section 15 of CICA, which provides that a court can be nominated to receive evidence. This is usually the magistrates' court most convenient for the witness. Such requests are received by the UKCA, which will ask the force ILO to liaise with the appropriate court.

The ILO should then:

- Arrange a date for the evidence to be heard at an appropriate court;
- Inform the UKCA which court will be used and provide the date if one has been arranged;

- Provide details of the witness in writing to the UKCA, particularly if the named witness's connection to the request is not clear. For example, the request may be for banking evidence and a representative from the parent company of the bank may be providing evidence so this must be explained in writing to the UKCA.

The UKCA will then issue a section 15 court nomination to the court. Once the evidence is heard and the court certifies the evidence or statement, the court should forward it to the UKCA to pass on to the requesting state. Evidence can be returned directly only with the permission of the UKCA. In such cases, the ILO should notify the UKCA when the evidence is returned so it can keep track of the progress of the execution of a request.

13.4 Third-Party Material Held in Confidence

Requests for third-party material held in confidence, such as telecommunications and banking evidence, which is to be used evidentially by a requesting state, must be received via an LOR. Such evidence should be gathered using section 15 CICA. In these cases, either a summons or court order will first need to be obtained.

Usually the custodian of the documents is required to make a statement on oath to the court. For example, if banking evidence is required, an official of the bank concerned normally provides the statement.

13.5 Search and Seizure

The search of premises on behalf of a foreign jurisdiction differs greatly from a search that takes place under domestic legislation. The different systems of search in a number of European States means that some may not realise the strength of evidence required to obtain a search warrant in the UK.

An LOR is required for any search requested for gathering evidence for another Member State.

It is advisable, however, that consultation is held on a police-to-police basis in advance of the issue of an LOR, as this will allow UK police officers time to plan the search and verify the address for inclusion on the LOR.

On receipt of an LOR requesting a search, the UKCA-MLA will consider the following:

- Is there a sufficient link between the criminality outlined and the request?
- Is the full address of the relevant property to be searched included in the LOR?
- Does the request highlight what is expected to be recovered at the address?

- The time that has elapsed between the request and the search. (It is unlikely that a magistrate or district judge will issue a search warrant on information which is not up to date.)
- Dual criminality, ie, there must be an equivalent offence in UK law to that alleged by the requesting state.
- That the material sought is relevant to the investigation.

If the UKCA-MLA is not content with the details contained in the LOR, they will return the request to the Member State for further clarification.

If the UKCA-MLA considers the request suitable, it will issue a section 13 CICA Direction. It is recommended that the police and UKCA-MLA consult prior to the issue of a section 13 CICA Direction, to establish if both parties feel that a warrant can be obtained and whether a Direction should be granted. The issuing of the Direction, in effect, states that the UK accepts the veracity of the information supplied by the requesting state.

Note: Any other requests in the LOR which the UKCA-MLA have authorised will still be forwarded to the appropriate UK police force for action, for example, the interview of a witness.

Where police receive an LOR requesting the search of premises and it has been authorised by the UKCA-MLA, the police will then have to apply for a warrant. The warrant will only be issued at the discretion of the court.

While Mutual Legal Assistance does not remove police discretion, the police must justify their reasons for not applying for, or executing, the warrant. The majority of searches are refused because the information is too old or the link is weak.

13.5.1 Search Warrants Issued under CICA

There are two types of search warrants that may be issued under CICA.

Section 16 warrant

A section 16 warrant will be issued to search premises in order to gather evidence on behalf of a requesting state. It is comparable to a section 8 PACE warrant, but it also allows premises to be searched by an officer who is a member of a Joint Investigation Team. **See 14.1 Joint Investigation Teams.**

A section 16 warrant will only be granted if the offence indicated in the LOR would also be an indictable offence had it occurred in England, Wales or NI.

Section 17 warrant

A section 17 warrant is for lower criminality arrestable offences. Before the warrant is issued, the court must be satisfied that there are reasonable grounds for suspecting that evidence relating to the offence is on the premises 'occupied or owned' by the suspect who has been arrested or against whom criminal proceedings have been instigated.

13.5.2 Seizure under Section 19 PACE

If officers are on premises executing a search warrant under CICA and they find items which they reasonably believe relate to another offence which was committed in the UK, they may seize the items under section 19 PACE.

Section 19 does not apply if the items found relate to:

- Another offence which was committed outside the UK; or
- An offence that has not been identified on the CICA warrant.

In these circumstances the items cannot be seized.

For example, UK police search an address on behalf of France for drugs under a CICA warrant. Officers then uncover items relating to car ringing in France, but not connected to the drugs dealing. In this situation, the UK police could not seize this evidence. If, however, the evidence related to car ringing in the UK, they would be able to seize it under section 19 PACE.

13.5.3 Presence of Foreign Law Enforcement Officers during a Search

If an MLA request is for foreign law enforcement officers to be present during a search, the officer obtaining the warrant should ensure that the names of the foreign law enforcement officers are also recorded on the warrant.

The following should also be considered:

- Early consultation should be sought with the foreign law enforcement officers to outline what exactly they can and cannot do (searches carried out in the UK must comply with PACE and its Code of Practice B);
- Foreign law enforcement officers have no jurisdiction in the UK and their presence is in an advisory capacity;
- All foreign law enforcement officers should be paired with a UK officer during the search;

- The UK officer is responsible for seizing and logging exhibits in line with domestic policy;
- Evidence gathered should not automatically be given to foreign officers who have accompanied the search. For further information see **13.2 Gathering Evidence for Foreign Jurisdictions (Mutual Legal Assistance)**.

13.5.4 Conduct of a Search

All searches should be carried out according to the provisions of PACE and its Code of Practice B. The following points should also be adhered to:

- No items subject to legal privilege, excluded material or special procedure material may be seized unless specifically covered by the warrant;
- If electronic data is seized, search and sift procedures should be adhered to;
- All exhibits should be seized and exhibited as they are in the UK using UK forms.

Items subject to legal privilege

There is no authority under UK legislation to search for and seize, or to compel production of, any items which are subject to legal privilege. Legal privilege applies to legal advice communicated between lawyers and their clients, but does not apply to communications intended to further a criminal purpose. Under PACE section 10, the definition of items subject to legal privilege includes legal advice and items made 'in connection with or in contemplation of legal proceedings and for the purpose of such proceedings'.

13.5.5 Release of Property Evidence

The purpose of requesting a search in the UK is to provide evidence to the requesting state to support their investigation. Evidence will, therefore, need to be transferred to the requesting state after the search. The following points should be noted and each case should be considered individually:

- Evidence gathered should not be automatically given to foreign officers who may have accompanied the search. It is a legal requirement that all evidence gathered is passed to the UKCA-MLA to forward to the requesting state for onward transmission.

- If it is practical and appropriate for the officers to take the evidence back to the requesting state, the UKCA-MLA should be consulted prior to agreement. A full inventory of all evidence should be retained.
- Not all evidence must be released to the requesting state. The UK police should assess the value of each piece of evidence, and it may be relevant to provide copies of exhibits, keeping the originals in the UK.

13.5.6 Freezing Orders CICA sections 20-25

Sections 20-25 of the CICA came into force in October 2009 and relate to European legislation dealing with the freezing of evidence.

An overseas freezing order is an order:

- For protecting, pending its transfer to the participating country, evidence which is in the UK and which may be used in any proceedings or investigation in the participating country; and
- In respect of which the following requirements of this section are met.

All incoming MLA requests for evidence to be frozen in line with the EU legislation will be received by the UKCA-MLA at the Home Office. These incoming requests must have been made by one of the following:

- A court exercising criminal jurisdiction in the country;
- A prosecuting authority in the country;
- Any other authority in the country which appears to the territorial authority to have the function of making such orders.

And all orders must relate to either:

- Criminal proceedings instituted in the participating country in respect of a listed offence; or
- A criminal investigation being carried on there into such an offence.

On receipt of a request, a caseworker from the UKCA-MLA will telephone the force ILO or designated person to nominate an appropriate magistrates' court to deal with the freezing order.

EU legislation requires all incoming freezing orders to be considered by a court within twenty-four hours of receipt, where possible.

Once a magistrates' court has been decided on, the UKCA-MLA caseworker will send a nomination to the court copying the ILO, or designated person, into all correspondence. The court will then consider the order and whether to give effect to it.

If the court agrees to effect the order, it will issue a warrant authorising the search and seizure (or a production order for excluded or special procedure material, eg, bank evidence). The details of the search (eg, the premises to be searched and the evidence to be seized) will be contained in the initial request.

Prior to the court hearing, the ILO or designated person is advised to carry out any appropriate checks on the address or other details, and to formally advise the court of any discrepancies.

Should it become obvious to the ILO, designated person or executing officer that complying with the request will prejudice an ongoing domestic investigation, that person should make this known to the judge at the hearing. The judge then has the option of postponing the request in accordance with section 23 of CICA.

It is also advisable that the ILO, or a designated person, attends the court hearing to ensure that they receive a copy of the warrant.

Although the warrant issued does not require compliance with the Police and Criminal Evidence Act PACE, the UKCA-MLA suggests that the easiest way of conducting the search is by adhering to the codes of practice set out in PACE, thus ensuring consistency with all other MLA work.

Having seized the evidence, unless the requesting country has indicated they wish it to be sent directly to them, the executing officer must retain the evidence until such time as a request is received.

13.6 Request for Evidence Gathered during a UK Case

13.7 Assisting Overseas Court Proceedings

If evidence gathered during a domestic investigation is requested by a foreign jurisdiction, the force lawyer should be consulted at the earliest opportunity. There must be a legal gateway for evidence to be shared and it may be necessary for the requesting state to submit an LOR.

The UK police may be requested to assist in facilitating witness evidence in relation to overseas court proceedings. This could be in a number of ways.

13.7.1 Judicial Hearings in the UK

Some EU Member States, eg, The Netherlands, require the examination of a witness by way of a judicial hearing in a UK court. This evidence will be gathered in advance of the full trial in the foreign jurisdiction.

Evidence gathered in this way will be admissible in the later trial, meaning that the witness may not have to attend the later full trial. The Home Office can nominate a court near to where the witness lives. The police can be asked to take a statement, or the witness may be issued with a summons from the court.

If the witness is a serving prisoner, arrangements will need to be made to transfer the prisoner to a suitable venue prior to the hearing.

A judicial party from the requesting state may request to be present at the judicial hearing. This is likely to include a judge, prosecutor, defence counsel and a court clerk, but this may differ depending on the requesting state.

Prior to the judicial party's arrival, it should be established how they will record the evidence given. The UK must endeavour to accommodate the process required unless it contravenes domestic legislation.

In advance of the hearing, all witnesses should be briefed about the nature of the proceedings, which will be held in the presence of officials from the requesting state. Witnesses have the right to refuse to attend. However, in these cases they can be summoned to appear and give evidence under section 15 CICA.

UK police officers must be present to:

- Facilitate the judicial party;
- Ensure that the witness has a fair hearing.

The hearing should be carried out in English or at least translated into English, to ensure a full understanding of what is happening and what is being said. A copy of any product, such as a statement or recording, should be kept by the UK police as evidence of the fairness of the hearing.

It is recommended that, although the judicial party may bring their own interpreter, the UK police must use their own interpreter to ensure independent translation of the proceedings.

Although the hearing is to comply with the requesting state's legislation, the proceedings are controlled by the UK police and can be terminated at any time.

No questions should be asked that would have the effect of incriminating the witness during the hearing, and an assurance should be sought prior to the hearing that the witness is fully protected. It is the responsibility of the judge present to protect the witness and inform them (unless they have been summoned) that their attendance is voluntary and they are free to leave at any time.

Prior to the hearing, equipment brought over by the judicial party should be checked to ensure that it is compatible with UK systems. Any adaptors needed should be sourced.

13.7.2 Conducting Video-Link Evidence with Foreign Jurisdiction Proceedings

Section 30 of CICA allows a UK witness to be heard via a video-link to a foreign trial. Such requests should be received on an LOR.

In order to secure the witness's attendance at court and to allow the court to process the application, the UKCA-MLA, on behalf of the Secretary of State, will issue a direction to a named court to issue a summons/witness notification. (This is similar to the section 15 CICA process.) The court will need to set aside time to secure the evidence via the link.

The logistics involved in the process can be time-consuming for UK police, and consultation will be needed between all parties to ensure that a suitable time can be found.

The following parties are likely to be involved in such a request:

- The requesting state (which may be in a different time zone from the UK);
- The nominated UK court (the UK court may have to sit outside normal hours to accommodate the foreign hearing);
- A UK magistrate or district judge (to oversee proceedings and protect the rights of the witness);
- The court clerk (who will have to be present during the hearing);
- An interpreter (although the foreign court may have an interpreter for the benefit of the foreign hearing, the benefits of having a UK interpreter to translate procedural issues for the magistrate or district judge and the UK witness should be considered);
- The video-link provider (the majority of video-link facilities are provided by private companies and will need to be booked and tested prior to the hearing).

Courts may have a list of approved companies for providing a video-link. Each court will have different experience of managing international requests. A court may have their own arrangements in place for a video-link, or may require the police to arrange this on the court's behalf.

UK police do not need to be present at the hearing.

13.7.3 Conducting Telephone Link Evidence with Foreign Judicial Proceedings

Although requests to provide evidence to foreign judicial proceedings via telephone links are rare, some EU Member States may request this option.

Section 31 of CICA allows a UK witness to be heard via a telephone link to a foreign trial. The request must be received on an LOR, and the UKCA-MLA will issue a direction to a named court to issue a summons/notification under section 15 of CICA. The police should check whether the witness is willing to be heard (this is a requirement of section 31 of CICA) and set up a date for the hearing.

The method for carrying out a request of this nature is the same as for video-link evidence.

Requests to take DNA evidence from individuals

Occasionally, a letter of request may ask that a sample of hair or saliva be obtained from a person so that their DNA can be analysed in the requesting state. These requests will be referred to the relevant police force for execution. Requests relating to the UK DNA database will be referred to SOCA for execution.

Police officers have no powers to compel a person to provide such a sample. The subject of the request should be approached and asked whether he or she is willing to provide the sample voluntarily. Enough information should be provided to the person to allow them to make a decision. If the answer is no, the UKCA should be informed and no further action need be taken.

If the person is willing to provide such a sample, it should be taken in line with force guidelines for similar domestic cases. The sample should then be stored in line with force procedures prior to transmission.

Any questions concerning the appropriate procedures to be followed in executing a request should be referred to force lawyers.

13.7.4 UK Officers Summoned to Give Evidence Abroad

On occasions, police officers who have been involved in gathering evidence to assist a foreign investigation may be called to give evidence in court proceedings abroad.

In the majority of cases the request will come via an LOR, but on occasions it may come through a police-to-police enquiry, particularly if there has been regular communication.

13.8 Family Assistance and Liaison

The decision to summon a UK police officer to give evidence in person in foreign court proceedings is taken by the judge or magistrate in the requesting state. It is not for the UK police to question the method of evidence delivery, for example, to suggest video-link, as this is a matter for the requesting state. Under certain treaties and legislation, UK policing is under an obligation to provide the widest form of assistance possible.

The cost of a police officer attending court proceedings abroad may be met by the requesting country. Officers will require senior officer approval to travel. For further information see **15 Deployment of UK Police Abroad**.

ACPO (2008) Family Liaison Officer Guidance states that, 'it is beneficial and good practice to deploy FLOs to assist the FCO in cases where British nationals have been the victims of serious crimes or major incidents abroad'.

In foreign jurisdiction investigations, however, FLOs should only be deployed if there is an investigative need in the UK.

For further information see **ACPO (2008) Family Liaison Officer Guidance** and **ACPO (2006) Murder Investigation Manual**.

13.8.1 Deployment of FLOs Abroad

In some circumstances, a FLO may be deployed abroad to support a foreign investigation involving a UK citizen.

Individual chief officers should at their own discretion and cost, consider the deployment of FLOs abroad on a case-by-case basis.

Chief officers are encouraged to discuss such a deployment with the ACPO lead on FLO before deployment. FLOs must not be deployed abroad without ACPO authority.

For information on police assistance to criminal investigations abroad, including cases studies and recommendations for such deployments, see **NPIA (2009) Strategic Debrief of Operation Task**.

13.9 Media

Police investigations which involve a UK national, or where the police are assisting another country with their enquiries, are likely to attract attention from the UK media.

Although the media can be a useful investigative tool and support campaigns for information, they can also influence the public perception of an investigation.

It is highly recommended that the UK police have a clear media strategy to which all relevant agencies and parties have agreed. This will ensure that there is a coordinated response to the press.

Note: In many European States, the investigating authority will not brief the press (this may be because of judicial secrecy laws). This may place additional pressure on UK policing to provide information and it is essential that UK law enforcement does not inhibit or damage the foreign investigation by releasing inappropriate information to the media. In situations such a vacuum of information can be created which is then filled by media speculation.

UK officers should make themselves aware of the laws surrounding the media in the relevant jurisdictions to avoid inadvertently compromising an investigation. If foreign journalists contact UK police officers in an attempt to elicit information that is not available from official sources, no information should be given and all such contact should be reported to those in charge of the investigation in the investigating state.

There should also be consideration to providing an agreed message to officers in the UK home force, which will enable them to answer questions from members of the public.

13.9.1 Media Appeals in Support of a Foreign Investigation

Media appeals are the responsibility of the country carrying out the investigation.

If the investigation feels that there is merit in appealing for information from the UK public, the UK police can facilitate this. This should, however, only be carried out at the request of, and in conjunction with, the investigating authority.

13.9.2 Family Media Strategies

In some cases, particularly where a UK national has been murdered abroad, the victim's family may mount an independent media campaign. This may be to publicise the incident in the country where the offence occurred or in the UK as a way of canvassing public support and information.

The degree of support that UK police can offer to such campaigns will depend on the unique circumstances of each case and the legislation covering the use of media in the country concerned.

Some families may take an entirely independent line and may not seek UK police support. Such decisions should be respected.

In most cases, it will be possible to have constructive dialogue with the family at an early stage about their potential engagement with the media. This will allow an opportunity to explain how the foreign

jurisdiction deals with the media and the impact that a proactive media strategy may have on the foreign investigation.

Care should be taken when discussing the investigation with the family to emphasise the importance of not disclosing sensitive information, which may undermine the investigation if made public.

Liaison with families and monitoring their media appeals (including dedicated websites and agencies such as Crimestoppers) can enable UK police to anticipate volumes and types of information that are likely to be received.

It may be appropriate to put resources in place to cope with high volumes of calls and information. This may require a major incident room to be established in the UK. In these cases, the UK police should liaise with the foreign investigating authority about how this information will be managed.

13.10 Confidentiality Clauses

In high-profile cases involving multiple agencies, there is always the possibility that some individuals will change roles or provide information to the media after the event.

Where individuals have access to confidential information because of their involvement in a high-profile case, forces should consider using confidentiality clauses to protect that information.

13.11 Freedom of Information (FOI)

Following a high-profile investigation, it is possible that requests will be made under the Freedom of Information Act 2000 (FOI) for information about the investigative process or material.

All such requests should be referred to the force FOI liaison officer and/or ACPO Central Referral Unit which will deal with them on behalf of ACPO.

PART THREE

Operations with Foreign Law Enforcement Agencies

14

Operations with Foreign Law Enforcement Agencies

Due to the nature and complexity of cross-border criminal investigations, police in the UK may find cooperation with another EU Member State is beneficial. This can help to establish the circumstances surrounding the crime, locate evidence and/or formulate a coordinated and synchronised attack in two or more countries.

The increasing growth in cross-border traffic of both persons and goods closely influences transnational crime and helps it to flourish. As a result, cross-border police cooperation is ever more important. Following the breakdown of national borders, petty offenders and organised criminal groups are exploiting new opportunities to circumvent national-based crime-fighting initiatives.

Contents

14.1 Joint Investigation Teams	153
14.1.1 Advantages of Using a JIT	153
14.1.2 Legal Authority for Setting up a JIT	154
14.1.3 Initiating a JIT Agreement	155
14.1.4 JIT Experts	157
14.1.5 Funding a JIT	158
14.1.6 Structure and Operation of a JIT	158
14.1.6.1 The Team Leader	158
14.1.6.2 Seconded Staff	159
14.1.7 Activities	159
14.1.8 Monitoring	159
14.1.9 Participation of Europol and Eurojust	159
14.1.10 Assistance from None JIT Participating States	161
14.1.11 Evidential Considerations	161
14.1.12 Prosecution	161
14.1.13 Interpreters	161
14.1.14 Termination/Closure	161
14.2 Joint Operations	162
14.3 Parallel Investigations	162
14.4 Joint Patrols	163
14.4.1 Assistance in Cases of Disaster or Serious Accidents	163
14.5 Cross-Border Surveillance	164
14.5.1 Article 40 of the Schengen Agreement	164
14.5.2 The Role of SOCA International	164
14.5.3 Making Requests	165
14.5.3.1 Making a Request under Article 40	165
14.5.3.2 Europol Request	166
14.5.3.3 SOCA Liaison Officer (SLO) Network Request	166
14.5.3.4 Urgent Requests	166
14.5.3.5 Inbound Requests to the UK	167
14.5.3.6 Carriage of Firearms	168
14.5.3.7 Further Considerations	168
14.6 Controlled Deliveries	168
14.7 International Deployment of Covert Human Intelligence Sources	169
14.7.1 Protected Persons	169
14.7.2 Undercover Operations and Deployment	170

14.1 Joint Investigation Teams

A Joint Investigation Team (JIT) is established for a set period, based on an agreement between two or more EU Member States and/or competent authorities, for a specific purpose. Although non-EU Member States are not able to establish a JIT, they may participate in one if all other parties agree.

A JIT should be considered in all operations where cross-border cooperation is required and there is a need to share information frequently. They are appropriate in cases where close and coordinated cooperation between Member States is required to investigate crime efficiently. Decisions involving a JIT and MLA will be made by the prosecutor and the International Section of the Crown Prosecution Service (CPS).

There are no obligations for setting up a JIT if less formal ways of working are more appropriate; JITs are not intended to replace existing methods of cooperation.

It is not the seriousness of the crime that determines whether a JIT should be established, but rather the crime's international and cross-border dimension. The EU Convention on Mutual Assistance in Criminal Matters outlines provisions identifying JITs as also suitable for the purposes of a criminal investigation into cross-border phenomena **not** involving serious crime. For advice on the seriousness thresholds, or other qualifying criteria, forces should contact SOCA International.

The following are theoretical examples of when a JIT could be used effectively:

- A drug investigation in which it is known from the outset that the residence of the trafficker differs from the final destination of the drugs;
- A homicide investigation in which there are two or more victims in different states, rather than one or more responsible offender(s).

14.1.1 Advantages of Using a JIT

Investigators and SIOs should not be apprehensive about using a JIT. JITs are not intended to take officers away from their normal roles or send them abroad for long periods. They are a flexible, less bureaucratic method of exchanging evidence in cross-border investigations.

The key advantages of using a JIT are:

- The ability to share information directly between JIT members without the need for formal requests.
- They provide an opportunity for all members to be present at house searches and interviews in all jurisdictions, helping to overcome language barriers and support interviewing officers.

(Subject to the laws of the respective Member State and the written agreement.)

- The ability to request investigative measures between team members directly, dispensing with the need for multiple LORs. This also applies to requests for coercive measures.
- The opportunity to coordinate efforts immediately.
- The opportunity to build mutual trust between practitioners from different jurisdictions, working together to decide on investigative and prosecution strategies.
- The opportunity for Europol and Eurojust to directly offer support and assistance.
- The possibility to secure potentially available funding.
- They allow two or more states investigating the same matter to pull together resources, knowledge and experience.
- They offer the option for one person to act as the team leader and control the operation, as central coordinator of investigations in different countries, thereby reducing the risk of investigative duplication.

14.1.2 Legal Authority for Setting up a JIT

The legal framework for setting up a JIT is:

- **Article 13 of the Convention on Mutual Assistance in Criminal Matters 2000** (2000 MLA Convention). JITs are outlined in Article 13, with additional provisions in Articles 15 and 16.
- **Article 49 of UNAC (UN Convention against Corruption)**, which provides a basis for JITs.

Note: The Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters also provide a basis for JITs with CoE States. However, the government of the UK has declared that it does not accept Article 17 of the Second Additional Protocol in relation to Cross-border observations.

In addition, the following legal authority also exists for setting up a JIT under certain circumstances:

- **2002 Framework Decision on Joint Investigation Teams (2002/465/JHA)** which repeats Articles 13, 15 and 16 of the 2000 MLA Convention in almost identical terms;

- **1997 EU Naples II Convention (Article 24)** the so-called 1997 Naples II Convention (on mutual assistance and cooperation between customs administrations) may be used as a vehicle for mutual assistance by traditional judicial authorities conducting a criminal investigation into domestic or community customs offences;
- UN Convention against Transnational Organised Crime (TOC) Article 19 allows for a JIT to be set up to prevent and combat transnational organised crime. The Article has been drafted in a manner that allows for flexibility in its approach.

14.1.3 Initiating a JIT Agreement

A JIT should only be set up out of necessity. This means that establishing a JIT is only useful when all parties concerned feel that it is necessary to facilitate investigations by close collaboration from a stated willingness to work together.

When considering a JIT, it is recommended that investigators, prosecutors and/or judges from Member States, together with delegates from Europol and Eurojust, meet 'round table' to discuss the relevant matters at the earliest opportunity, before any formal process or agreement is prepared.

Making such an agreement should not be regarded as a bureaucratic tier of administration to be concluded before the JIT is established. The precise terms of the agreement are likely to differ between JITs, but there will be elements common to all.

Issues to consider may include:

- **An initial lack of staff and resources** – at the start of any major investigation, a lack of resources is likely to be an issue unless dedicated staff and resources are free or simply awaiting deployment. In lengthy investigations, officers and police staff may be required to fulfil full-time roles in the JIT, and this may prevent them from completing their present workload. Leave requests, sickness and career progression opportunities may cause staff to be absent during key points in the joint investigation. Staff may also be required to travel abroad, so commitments at home and at work should be taken into account when selecting staff.

- **A possible lack of an asset-sharing regime** – an agreement will have to be reached on how assets will be shared among the JIT Member States. It may be necessary to discuss options based on the assets available to each state, and look for possibilities to address any identified gaps.
- **A lack of knowledge about JITs** – advice and assistance should be sought by contacting a National JIT Expert. See **14.1.4 JIT Experts**.
- **Differences in the members' justice systems** – close liaison with Eurojust and national JIT experts will help solve any issues that may arise.
- **Differences in language** – is it possible to agree a common language or identify resources that may be needed to facilitate communication?
- **Procedures for interpreting documents received from JIT Member States** – processes, resources and the time required for translating documents received from other JIT Member States should be identified at an early stage.
- **The need for clear lines of authority in order to avoid leadership conflicts.**
- **Unexpectedly high costs resulting from the use of mobile phones.**
- **Arrangements concerning the division of any assets confiscated through the JIT** – dependant on the type of JIT, decisions will have to be made on what will happen to property seized within each of the Member States, especially if seizure laws do not exist. In England, Wales and NI, the Proceeds of Crime Act 2002 (POCA) provides details on seizure rules.
- **Media strategy** – within the EU, many different strategies exist for media contact based upon the EU judicial systems. A joint approach to dealing with the media may be beneficial. It may be more applicable to work alongside the state with the more stringent media strategy as this will help to maximise cooperation, without the fear that everything the state provides will immediately be released to the media in another state.
- **The use of family liaison advisers** – police forces in England, Wales and NI rely heavily on the roles of family liaison during major investigations, especially when victims and families are involved. Many EU Member States do not understand such reliance, and the potential benefits of it may have to be explained and queries or concerns resolved;

- **Any training** – there are likely to be a number of areas where training is required, particularly if personnel are to be seconded abroad. Seconded personnel, could for example, require instruction in the operation of the host's computer systems, operational protocols, laws and legal procedures and systems.
- **Induction** – if investigators, prosecutors and other judicial authorities are proposing to work together closely on a JIT, it might be of benefit to hold an induction event. This will provide an opportunity to deliver training, to enhance social and cultural awareness and for the parties to get to know each other in more relaxed circumstances.
- **Working hours of seconded officers and working time directive** – it may be necessary to address shift patterns and working hours to ensure staff welfare.
- **Line management of seconded members** – seconded members of a JIT will usually act under the leadership of the leader of the JIT but will have a line manager in their home state. This should not create problems in practice, but how to deal with issues such as who the seconded member should take instructions from, instances of conflict and how staffing issues (for example, poor performance) will have to be addressed.
- **Prosecutorial discussion** – prosecutors and other judicial authorities may need to consider issues in relation to future prosecutions from the outset, such as the appropriate venue for the trial, and the restraint and confiscation of criminal assets and the instruments of crime. A JIT offers opportunities to discuss the best ways to deal with, and manage effectively, the investigation and prosecution of cross-border crime.
- **Strategic management** – in some instances, not least because of the high level of resources involved, it may be prudent to establish a strategic management group to regularly evaluate the operation and progress of the JIT (against objectives) and to provide support to members.

14.1.4 JIT Experts

Every Member State and some of the EU institutions have one or more nominated JIT experts who can assist practitioners with contacting relevant parties in another Member State and in setting up a JIT. UK national JIT experts are available at the following organisations:

- SOCA International – telephone: 020 7238 8115.
- Crown Prosecution Service, International Division – telephone: 020 3357 0000.

14.1.5 Funding a JIT

Although opportunities to receive funding for JITs are available, the investigation team must never use possible funding opportunities as the primary reason for setting one up.

Eurojust are the primary source of any JIT funding. They consider it important to support the setting-up of JITs by assisting with common areas of expenditure, eg, travel and accommodation and interpretation/translation costs.

Furthermore, to meet possible infrastructure problems, a small number of laptops and mobile phones are available on loan. Eurojust cannot finance the entire cost of a JIT based on agreed European Commission rules.

All funding is by reimbursement, and there are no pre-financing opportunities. Funds can be allocated for a specific activity and made subject to a guarantee. It is not, however, possible to secure the allocation of the entire operational budget of a JIT.

For further details, police are advised to consult a national JIT expert or refer to the current guidelines at

http://www.Eurojust.europa.eu/jit_funding.htm

14.1.6 Structure and Operation of a JIT

Requests for mutual assistance in the form of a JIT must contain proposals for the composition of the team. This will be decided on when drawing up the initial agreement, along with a decision on where the team is to be located.

It is likely that the team will be sited in the Member State in which investigations are expected to be predominantly carried out. Although a fixed 'headquarters' should be agreed on, it is not necessary for all members of a JIT to be located in the same place. There is also no set requirement that a member of the JIT has to work outside their home state, even if the JIT is permanently based in another country.

14.1.6.1 The Team Leader

The leader of the team should be a representative of the competent authority participating in criminal investigations from the EU Member State in which the team principally operates, and where the investigation predominately is carried out. Any acting team leader should also act within the limits of their competence under national law.

When two or more countries are involved in a JIT, it may be difficult to determine from which country the team leader should originate. It may be necessary to have one nominated team leader in every state, each one taking the lead for operations simultaneously taking place in their own country. Coordination could then take place between the team leaders through discussion, or there may be the option to have one overarching team leader who could facilitate meetings, but who holds no further authority.

If the focus of the investigation were to move from one Member State to another, it should be possible to move teams to that other state and to nominate a team leader from it without difficulty.

It is also necessary that all team leaders understand the activities listed under Article 13 of the 2000 MLA Convention, which seconded officers may be involved in while working in a JIT.

14.1.6.2 Seconded Staff

A significant advantage of having a JIT is that seconded officers can (subject to the laws and agreement) be present during investigative tasks in another state. It is important, therefore, that seconded members are sufficiently educated in the law of the state in which they are operating, in addition to their own. The team leader is usually responsible for ensuring that an understanding exists.

14.1.7 Activities

Team members are required to carry out their tasks under the leadership of the team leader, taking into account the conditions set by their authorities during the setting up of the JIT agreement. See Article 13, paragraph 4 of the 2000 MLA Convention for more information.

14.1.8 Monitoring

The JIT agreement should specify the time limit for the operation; however, the time may be extended by mutual agreement. During the life of the JIT, the team leader(s), Europol and Eurojust representatives are required to ensure that regular reviews are undertaken to ensure that the investigation is progressing as anticipated.

14.1.9 Participation of Europol and Eurojust

As both institutions have been created to support EU Member States in their fight against organised and serious cross-border crime, their respective competences and tasks imply that Eurojust and Europol play a central role in JITs.

In accordance with the provisions in the 2000 MLA Convention, along with Article 12 of the Framework Decision, Eurojust and Europol can participate in JITs both separately and jointly. Further, Article 6 of the Cooperation Agreement between Europol and Eurojust enables both parties jointly, at the request of one or more Member States, to participate in the setting up of a JIT and to support national judicial and law enforcement authorities in the preliminary discussions concerned.

While it is not mandatory to involve Eurojust and Europol when establishing and operating a JIT, both can play a crucial role in ensuring the efficiency and operational capacity of a JIT and the overall success of the investigation. Both organisations can assist in the administrative management and act as intermediaries when obtaining advice on the current availability of any funding.

Examples of how they can assist:

- Early advice on the suitability of a JIT versus traditional means (coordination meetings or parallel investigations);
- Early practical and legal advice regarding the JIT agreement and provisions to be contained therein;
- Provision of facilities for meetings, including translations and secure surroundings, for agreement negotiations and coordination meetings;
- Provision of past experience in JITs, and core tasks of coordination and support in cross-border investigations;
- Provision of analytical support;
- Advice on current availability, conditions and procedures for funding.

The specific matters on which Eurojust can assist, and have previously assisted, are:

- Identifying whether a JIT brings added value to a specific investigation, or whether alternative measures may be more appropriate;
- Identifying core issues in JIT agreements, and providing a pre-draft of agreements;
- Assisting in extension agreements of JITs;
- Providing feedback from other JITs and dealing with issues possibly not considered at the time of drafting the actual agreement;
- During operations, assisting and facilitating MLA requests to countries not in the JIT, including countries outside the EU with which Eurojust has a cooperation agreement;

- Advising on and supporting partnership applications for funding to the European Commission.

14.1.10 Assistance from None JIT Participating States

When information or any other assistance is required from an EU Member State not participating in the JIT, or a third country outside the EU, the general procedures on mutual assistance must be applied. See **5.10 Mutual Legal Assistance (MLA)**.

14.1.11 Evidential Considerations

Officers dealing with evidence obtained through a JIT should be mindful of certain implications and obtain advice at the earliest opportunity from Eurojust, Europol or the assigned prosecutor.

Areas which investigators working in a JIT need to be mindful of are:

- The transfer of exhibits;
- The interpretation of documents;
- Disclosure;
- Telephone interception;
- Civilian and criminal infiltration and the use of informers.

14.1.12 Prosecution

The only decision that needs to be taken in relation to the prosecution of criminal offences investigated during the duration of the JIT should be the location. If there are two linked prosecutions in two countries, there may be a jurisdiction conflict which will need to be discussed and resolved between prosecutors.

14.1.13 Interpreters

Interpreters used in a JIT by other EU Member States may not be selected in a way that UK members deem appropriate; they may also not be selected from a national register. It is, therefore, advisable that their credentials are checked to verify their suitability. For advice and guidance when dealing with interpreters, see **20 Interpreters**.

14.1.14 Termination/Closure

Once the JIT has finished, the agreement will cease to exist and seconded officers must return to their own country.

14.2 Joint Operations

Joint operations cover all actions in the field of public order, security and crime prevention, jointly carried out by two or more EU Member States, whereby officers from one state act on the territory of another state. Joint operations do not include or concern criminal investigations.

Article 17 of the Prüm Decision provides that 'in order to step up police cooperation, the competent authorities may, in maintaining public order and security and preventing criminal offences, introduce joint patrols and other joint operations in which designated officers or other officials (officers) from other Member States participate in operations within a Member State's territory'.

Such operations may be carried out on land, water and in the air. Based on Article 17 of the Prüm Decision and depending on the decision of the individual Member States, the following kinds of operations can be undertaken:

- Joint patrols;
- Assistance to tourists on the street and at police stations, security of tourist sites;
- Common traffic controls;
- Accompanying supporters;
- Personal and document checks;
- Assistance during short period detentions for identification at specific events;
- Use of dogs and dog handlers for security sweeps;
- Accompanying dangerous (such as nuclear) transports;
- (Mutual) support during major events (G8 summit, world football championship);
- Sending material together with operators (for example, a water cannon);
- Setting up on-site Joint Command and Coordination Centres on an ad hoc basis;
- Joint exercises for the kind of operations covered by Article 17.

14.3 Parallel Investigations

A parallel investigation is one which is established in separate EU Member States and focuses on a crime group or crime type, and which similarly affects each Member State. The investigations, which although separate in their management structure and terms of reference, are set up to collectively disrupt or dismantle the crime group or crime type affecting all of the national jurisdictions.

They are not necessarily a cross-border operation as defined in this manual, where officers act in the territory of other Member States.

For advice and assistance in dealing with parallel investigations, contact SOCA International.

14.4 Joint Patrols

Joint patrols help to facilitate access to law enforcement by citizens from the different EU Member States concerned. They do this by, for example, improving general cooperation between the authorities and officers involved, providing practical and linguistic assistance to the officers of the host state and facilitating communication with the national authorities of the supporting state. Joint patrols can take place on land, water and in the air.

There are typically two kinds of joint patrols:

- In the border areas between Member States;
- In the framework of specific events or periods.

14.4.1 Assistance in Cases of Disaster or Serious Accidents

A particular kind of joint operation is set out in Article 18 of the Prüm Decision. It provides that:

A Member State's competent authorities shall provide one another with mutual assistance, in compliance with national law, in connection with mass gatherings and similar major events, disasters and serious accidents, by seeking to prevent criminal offences and maintain public order and security by:

- Notifying one another as promptly as possible of such situations with a cross-border impact and exchanging any relevant information;
- Tasking and coordinating the necessary policing measures within their territory in situations with a cross-border impact;
- As far as possible, dispatching officers, specialists and advisers and supplying equipment, at the request of the Member State within whose territory the situation has arisen. This provision will be most relevant between neighbouring States.

It obliges the competent authorities to agree on practical arrangements for cooperation in cases of disasters and serious accidents, for example:

- Exchange of contact points;
- Procedures to contact each other;
- Notification procedures on situations with a cross-border impact;

- Definition of security plans/disaster plans;
- Arrangements for dispatching officers, specialists and advisers;
- Arrangements for the supply of necessary equipment.

Ideally, the necessary training should be organised as part of the coordination of the policing measures between the authorities concerned.

The national central authorities and Europol have identified experts and advice to support the use of these techniques.

Officers from law enforcement agencies outside the UK do not hold the powers of a police officer while deployed in England, Wales or NI. They will act as an appropriately authorised covert human intelligence source.

For more information on setting up joint patrols, contact SOCA International.

SOCA International is the single point of contact (SPoC) for UK law enforcement seeking international surveillance assistance from other countries, particularly Europe.

14.5 Cross-Border Surveillance

14.5.1 Article 40 of the Schengen Agreement

Under Article 40 of the Schengen Agreement, participating countries agree to cooperate to continue surveillance across national borders on subjects being investigated for an extraditable offence. Article 40 is, therefore, the default method for requesting surveillance in a Schengen partner country, subject to certain conditions.

Schengen countries include Austria, Belgium, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Slovakia, Slovenia, Spain, Sweden and Switzerland.

14.5.2 The Role of SOCA International

SOCA International performs a variety of duties, including acting as the UK's SIRENE Bureau, which incorporates Article 40 cross-border surveillance for the UK.

There may be circumstances where it is preferable to route the surveillance through another international channel such as Europol, the SOCA Liaison Network or by requesting assistance using an LOR rather than through the SIRENE Bureau.

The decision for the routing of each request is made by SOCA International taking into account a number of factors such as whether it is a:

- SOCA tasked operation or project;
- SOCA tasked operation or project with parallel investigation overseas;
- Non-SOCA tasked operation (Support for UK Partners).

It is recommended that SOCA International is contacted as soon as intelligence indicates that a subject may travel abroad, so that requests for surveillance may be serviced in a timely manner.

Article 40, in certain circumstances, and if permission is granted by the receiving Member State, allows UK officers to conduct surveillance in that Member State. In most cases, however, a law enforcement agency in the Member State will conduct the surveillance on behalf of the UK operational team.

It should be noted that surveillance capabilities and levels of support will vary in each Member State; SOCA International is able to provide specific advice on a case-by-base basis.

SOCA International can be contacted by

Telephone: 020 7238 8115
Fax: 020 7238 8112
Email: london@soca.x.gsi.gov.uk

14.5.3 Making Requests

If there is time to make an application for cross-border surveillance, the request is considered as pre-planned. The subject of pre-planned requests may be placed under surveillance where there is reason to believe that they can assist in identifying or tracing a person who is suspected of involvement in an extraditable offence. This differs for urgent requests. For details on submitting an urgent request, see

14.5.3.4 Urgent Requests.

14.5.3.1 Making a Request under Article 40

In order to consider an Article 40 surveillance request, SOCA International requires:

- Reports and or intelligence logs giving details of the investigation, to include target details, descriptions and photographs, any intelligence relating to firearms, violence or previous history of counter-surveillance activity by subjects;

- A copy of the RIPA application and RIPA authorisation, which includes section 27(3) of RIPA, or similar, giving permission for the authorised activity to be carried out both in the UK and abroad;
- Details of any technical assets/firearms issues associated with the request;
- Specific details of the objectives of the request (eg, what is to be achieved, identification of associates, addresses);
- Twenty-four-hour contact details for the SIO/OIC on the ground;
- Signed copy of the SIO consideration form.

Based on this information, SOCA International will complete an Article 40 request form and send it to the SIRENE Bureau in the receiving Member State.

14.5.3.2 Europol Request

If Article 40 criteria are not met (eg, no current surveillance in the UK and no directed surveillance in place) or the case relates to a Europol case (parallel investigation), a cross-border surveillance application can be made through Europol liaison channels by way of a bi-lateral approach to another Member State.

SOCA International will allocate the case to a SOCA European Liaison Officer who will broker a response from their European counterparts. Authorisation will depend on the nature of the request and resources available within the Member State. An LOR will be required for some states and may be submitted retrospectively.

The same details required for an Article 40 request are needed to make a Europol request.

14.5.3.3 SOCA Liaison Officer (SLO) Network Request

Requests can be made by SOCA International to the SLO network in the relevant country, where appropriate. The SLO will use their law enforcement contacts to make the request and will usually require an LOR. The response will depend on the capability and legislation in individual countries. The SLO network will normally be used when Article 40 or the Europol channel is not appropriate, or when the case is of a sensitive nature.

14.5.3.4 Urgent Requests

In exceptional circumstances, Article 40 gives permission for surveillance officers from one Member State to continue surveillance on a subject in another Member State. This occurs when the continued

surveillance on a subject crosses a Member State's border without any prior knowledge. In these cases, the surveillance team must notify the appropriate SIRENE Bureau as soon as they cross the relevant border.

In a case where there is no time to obtain prior authorisation (eg, the subject crosses a border at short notice), the request can be considered as urgent. Under these conditions, the Schengen Agreement allows the surveillance to continue for a maximum of five hours, after which it must cease unless the receiving country provides the necessary surveillance capability before the deadline.

There are a number of conditions that apply to continuing the cross-border surveillance request, once officers have crossed the border into another Member State.

- Officers carrying out the surveillance comply with the law of the country in which they are operating and obey all instructions of the competent local authority.
- In cases of urgency, the officers carrying out surveillance must carry a document certifying that authorisation has been granted.
- Officers carrying out the surveillance must, at all times, be able to prove that they are acting in an official capacity.
- Officers carrying out the surveillance are prohibited from entering private property.
- Officers must not challenge or arrest the person under surveillance.

14.5.3.5 Inbound Requests to the UK

The UK is committed to carrying out inbound pre-planned operations. An agreed protocol exists which determines which agency supports which operation:

- SOCA and HMRC have responsibility for assigned matters (importations of drugs/firearms), Level 3 non-assigned matters and firearms;
- Individual forces have responsibility for National Intelligence Model (NIM) Level 2 pre-planned operations;
- If the UK cannot immediately provide a response, legislation under RIPA allows relevant surveillance (which can be either directed or intrusive) to be lawfully conducted by a foreign surveillance team for up to five hours after entering the UK (not extendable).

14.5.3.6 Carriage of Firearms

Foreign officers conducting surveillance are prohibited from bringing weapons into the UK. However, in pre-planned operations only, a SOCA Gold Commander of ACPO rank or above may authorise, subject to a risk assessment and the proper authorities, foreign-armed surveillance officers to carry firearms up to and within the confines of a UK point of entry (rail or sea, not air). Any requests of this nature will be discussed with the agency prior to authorisation being given.

14.5.3.7 Further Considerations

Cross-border surveillance must be continuous and the target must be under investigation/wanted for an extraditable offence. A suspect's activity must be passive, meaning there is no firm evidence of proactive criminal activity taking place. If such evidence exists, the alternative channels must be considered through Europol or the SOCA Liaison Officer Network.

14.6 Controlled Deliveries

A 'controlled delivery' is a technique for allowing illicit or suspect consignments of substances or objects or substitutions to pass out of, through or into the territory of one or more countries, with the knowledge and under the supervision of the competent authorities, for the purposes of establishing who is criminally involved.

Controlled deliveries can also include people. **All** cases that may involve circumventing UK immigration control (and this includes not revealing the real purpose for entry to the UK) must have prior approval from the UKBA Intelligence Directorate. See **Home Office Circular 2/06**.

SOCA International can facilitate these complex international investigations, and all controlled deliveries will be dealt with as a matter of urgency.

All Member States considering a controlled delivery request require the same basic information:

- Reason for the operation;
- Supporting facts which justify the operation;
- Type and quantity of drugs or other goods;
- Expected point of entry into and/or exit from the requested state;
- Anticipated means of transport and itinerary;
- Identity of suspects (name, date of birth, domicile, nationality, description);
- Source of authority for the operation;

- Name of the SIO in charge of the operation and means of contact;
- Details of police, HMRC or other law enforcement officers supporting the operation;
- Details of any special techniques proposed (for example, undercover officers, tracking devices).

Authorisations need to be in place from all countries involved, including the UK, guaranteeing that the suspect and the commodity will be kept under full control. In controlled deliveries, the UK SIO must undertake to arrest suspects, seize commodities and prosecute offenders. An LOR may be required for this. HMRC authorisation must be obtained prior to all inward and outbound controlled deliveries.

14.7 International Deployment of Covert Human Intelligence Sources

Criminal groups in the UK and abroad continue to develop sophisticated, organised and wide-reaching criminal enterprises.

This has an impact on legitimate businesses and its citizens. As a consequence, there is likely to be an increase in the requirement for UK law enforcement sources to be deployed to obtain information from, and about, crime group members and their criminal activities in foreign jurisdictions, and for foreign law enforcement agencies to similarly deploy sources to the UK.

All cases that may involve circumventing the UK immigration control (and this includes not revealing the real purpose for entry to the UK) **must** have prior approval from the UKBA Intelligence Directorate. See **Home Office Circular 2/06**.

Detailed guidance can be found in ***ACPO (2008) Guidance on the Lawful and Effective use of Covert Techniques [Restricted]***.

Officers should also seek advice from their Central Authorisations' Bureau and the NPIA Specialist Operations Centre, telephone: 0845 000 5463.

14.7.1 Protected Persons

The majority of developed countries and a number of developing countries have implemented some form of National and/or Local Witness Protection Programme. However, each state's witness protection programme is governed by its own legislation, policies and procedures.

International witness protection cooperation is becoming increasingly common with established networks operating throughout the world (eg, Europol Member States or bi-lateral agreements).

International relocations are costly, resource intensive and logistically difficult. This is further exacerbated by the complexity of international relations, different legislation, jurisdictions and immigration rules. Nevertheless, there are some cases where, for a variety of reasons, it is appropriate to consider international cooperation or relocations.

In the UK, the Ministry of Justice (MoJ) has recently issued **MoJ Circular 2009/07** explaining the role of the NPIA's Central Witness Bureau (CWB) and the Serious Organised Crime Agency (SOCA) in the facilitation of international witness protection cooperation. The CWB acts as the UK Government's central point of contact for international witness protection issues and provides advice and guidance to UK ministers and UK and foreign witness protection units on international witness protection.

This circular also draws attention for the need to notify SOCA International and, if appropriate, to manage, in concert, all proposed operational activity by UK witness protection units, in line with **Home Office (2004) Overseas Guidance Manual**. For further information contact the CWB at cwb.admin@npia.pnn.police.uk

14.7.2 Undercover Operations and Deployment

The use of undercover officers and informants depends on the national legislation of the different Member States. While such techniques may be deployed in national investigations, they may also need to be used in the territory of other Member States, within the framework of the national investigation of joint investigations.

The activities of UK undercover operatives deployed overseas are governed by RIPA and associated codes. This legislation also applies to overseas agency undercover operatives deployed in the UK.

All cases that may involve circumventing UK immigration control (and this includes not revealing the real purpose for entry to the UK) **must** have prior approval from the UKBA Intelligence Directorate. See **Home Office Circular 2/06 Law Enforcement Liaison with the Immigration and Nationality Directorate (IND) to Support Foreign Witnesses or Covert Operations**.

Appropriately trained undercover officers from overseas law enforcement or similar agencies may be deployed in the UK and other countries in support of UK investigations. In either cases, deployments must be authorised by the undercover operative's home authorising officer as well as the requisite authorising officer in the UK. Where the deployment is in a third country, the relevant authority in that country must give appropriate authorisation.

The national central authorities and Europol have identified experts and advice to support the use of these techniques.

Officers from law enforcement agencies outside the UK do not hold the powers of a police officer while deployed in the UK. They will act as an appropriately authorised covert human intelligence source.

For more information investigators are advised to contact their force ILO, who has responsibility for liaising with SOCA International.

PART FOUR

Deployment of UK Police Abroad

15

Deployment of UK Police Abroad

Most international enquiries can be progressed using the INTERPOL network without officers having to travel overseas. There may, however, be cases where the presence of a UK officer abroad will be required. This section provides an overview of the main points to consider when deploying police officers abroad.

Contents

15.1 Authority	176
15.1.1 Deployment to Assist a Foreign Investigation	176
15.1.2 Deployment Overseas to Further a UK Investigation	177
15.2 Considerations	178
15.2.1 Prior to Departure	178
15.2.2 Once Deployed	179
15.2.3 Further Information	180

15.1 Authority

A police officer of England, Wales and NI does not have any authority or powers overseas. An officer cannot exercise any functions in an official capacity without the express consent of the relevant foreign authority. To attempt to do so without such authority may constitute a criminal offence in many countries. As such, it is essential that officers who wish to travel abroad in an official capacity have the necessary permissions in place prior to travelling.

UK police officers travelling abroad do so at the invitation and with the permission of the requesting state. Officers visiting another state have the same status as a member of the public; they have no jurisdiction while abroad. This is no different from when a foreign law enforcement officer visits the UK.

There are limited circumstances when a UK police officer would be required to conduct enquiries abroad. In the majority of cases, the UK police will merely be assisting foreign police with an ongoing investigation.

Once the decision has been taken to deploy UK officers abroad, authority can be granted in one of two ways:

- Deployment to assist in a foreign investigation;
- Deployment overseas to further a UK investigation.

Travel arrangements should be made as soon as possible. Even in the most urgent of cases it can take up to twenty-four hours between authority being granted and the deployment taking place.

15.1.1 Deployment to Assist a Foreign Investigation

An officer can travel abroad at the request of a foreign government or investigating authority that requires assistance. This may be received via the FCO and the International Police Assistance Section at the Home Office.

Before considering whether to deploy, permission must be sought from the local police authority and the relevant chief officer. If the reason for deployment is agreed, an application should be made to the Home Secretary for a letter of authority under section 26 of the Police Act 1996.

A letter of authority is required before any assistance is provided to an international organisation or any other body which is engaged in policing activities outside the UK.

A section 26 authority confirms:

- The officer's terms and conditions of service are preserved when abroad giving assistance.
- The Home Secretary consents for the deployment. This consent ensures there is no duplication of effort in providing assistance to other countries.
- The assistance is focused on the UK's international priorities.
- That no assistance is provided to an overseas country that contradicts government policy for the country concerned.

Any enquiries relating to the procedure for an application for authority under section 26 of the Police Act 1996 should be made to the International Police Assistance Section at the Home Office, telephone number: 0207 035 4848.

15.1.2 Deployment Overseas to Further a UK Investigation

To travel abroad in support of a UK investigation, a police officer should first seek the authority of their chief constable or equivalent.

A section 26 letter is not required in these circumstances; authority to travel is requested via an LOR to the appropriate country. The Crown Prosecution Service (CPS) will draft the request. The LOR will then be sent by the CPS. For further information on LOR, see **5.10 Mutual Legal Assistance (MLA)**.

SOCA International must be contacted before a police officer travels abroad for operational reasons in support of a UK investigation. A UK investigation may have links with other international crime enquiries including organised crime. It is important to check with SOCA before travelling as the presence of UK police officers abroad could jeopardise an ongoing European investigation and in some cases put officers at risk.

SOCA liaison officers have networks with police forces in most countries and can give advice and arrange contact with the most appropriate overseas department to assist with the request.

The following information should be supplied to SOCA International prior to an officer travelling abroad:

- The full names and rank/grade of all persons;
- Individual contact details;
- Dates of intended travel;
- Flight or ferry details, or if using car, make and registration number of the vehicle;

- Details of any accommodation, including name and telephone number;
- Proposed itinerary and names and contact details (if known) of person(s) who are being visited;
- Name and twenty-four-hour contact details of supervisory officer in the UK.

Enquiries regarding operational matters should be directed to SOCA International, telephone number: 020 7238 8115.

15.2 Considerations

There are a number of considerations that UK police forces must take into account once the decision has been taken to deploy abroad.

15.2.1 Prior to Departure

Before a force deploys police officers to a foreign jurisdiction, it is suggested that a risk assessment is undertaken to ensure the safety of officers being deployed abroad. (An example of a risk assessment can be obtained from SOCA International.) Each case should be considered on its own merits, depending on the destination country, length of deployment and the level of UK involvement. The following should be considered.

- **Physical** – what is the danger of attack or health risk? Attention should be paid to medical conditions, allergies and medication that may need to be used during the deployment. Are escorting officers trained in first aid and do they carry first-aid equipment?
- **Political** – what are the implications for the British Government and the Government of the country concerned? Will this have an impact on the ability of those deployed to carry out their role or pose risks such as arrest or exploitation for political purposes while abroad? The FCO is responsible for the UK's political relations overseas. FCO advice should be sought before travelling especially to potentially politically sensitive areas.
- **Legal** – what are the legal implications for those involved? Is there a risk that UK officers could inadvertently break UK or foreign laws or jeopardise legal proceedings?
- **Economic** – what are the potential costs likely to be and who will meet them?
- **Moral** – are there any moral issues, eg, corruption or practices which would not be acceptable in the UK?
- **LOR** – when travelling to execute an LOR, officers should ensure that spare copies of the LOR are taken with them in the appropriate language in case they are needed at short notice.

- **Interpreters** – when travelling to a non-English-speaking country, officers should consider being accompanied by an interpreter.
- **Number of officers deployed** – only essential personnel should travel.
- **The Foreign and Commonwealth Office** – relevant geographical desk should be informed of the dates and purpose of any proposed visit.
- **Security of documents** – laptops and equipment should have appropriate levels of encryption or password protection.
- **Insurance** – UK officers should have adequate travel insurance with medical cover, and carry a European Health Insurance Card to ensure free medical treatment.

15.2.2 Once Deployed

Once deployed, officers should consider the following points to ensure that any evidence gathered will be admissible and the integrity of the investigation is maintained.

- **PACE** – does not apply abroad. However, if officers are deployed to obtain evidence as part of a UK investigation, they should ensure that any evidence gathered complies with UK legislation such as RIPA and PACE to ensure that it may be used without challenge in a UK court.
- **Presence** – officers should be aware that their presence abroad will not necessarily guarantee that enquiries will be conducted quickly or at all.
- **Media** – officers should not discuss their enquiries with members of the foreign media. The legal system in many foreign states does not allow liaison with the media during an investigation.
- **Professionalism** – UK officers should be professional while on deployment. (Even when not directly involved in the investigation, officers are representing UK policing abroad and should conduct themselves appropriately at all times, taking account of local customs and laws.)
- **Invitation** – officers must remember that they are deployed at the invitation of the host country. Officers have no jurisdiction and will usually only be there to observe.
- **Point of contact** – an officer in the home force should be nominated to monitor progress of the foreign enquiry and ensure that daily confirmation is received that all officers are safe and well. The deployed officers should also have access

to all out-of-office and direct numbers for all relevant agencies and departments in case of emergency. This includes the British Embassy.

An individual fact file on each European Union country is available with this practice advice. This may provide background information that will be useful for officers before their deployment.

15.2.3 Further Information

For detailed advice on the deployment of police officers overseas, contact:

International Police Assistance Section
Home Office
5th Floor, Fry Building
2 Marsham Street
London
SW1P 4DF
Tel: 020 7035 1812/1811/1813
Fax: 020 7035 6436

PART FIVE

Jurisdiction and Transfer of Crime

16

Transfer of Crime

Issues of jurisdiction may arise during a cross-border investigation. These issues will usually be straightforward and can be decided between the police and prosecutors in the relevant countries. A number of factors can affect the final decision and will depend on the circumstances of each case.

Contents

16.1 Transferring Criminal Proceedings Abroad	184
16.1.1 Legislation	184
16.1.2 Minimum Police Requirements	184
16.1.3 Securing Evidence	185
16.1.4 Translation of Documents	185
16.1.5 Submission for Transfer Abroad	186
16.1.6 Informing Victims and Witnesses	186
16.1.7 Transfer of Documents and Exhibits	187
16.1.8 Transfer Failures	187

16.1 Transferring Criminal Proceedings Abroad

It may be necessary to transfer proceedings to another state. For example, charges may be pending or have been brought in the UK against a foreign national, but the person may return to his or her own country where there is a bar on the extradition of nationals. Without the person present, it may be impossible to continue the UK proceedings. However, a formal request to transfer proceedings to the other state can usually be made in these circumstances. A transfer request is only a request. UK authorities cannot compel another state to undertake an investigation or prosecution, and authorities in other states cannot compel a UK LEA or prosecution authority to conduct an investigation or prosecution here.

There may be occasions when the UK courts may have no jurisdiction to try an alleged offence because, for example, it was committed abroad. Nonetheless, a witness may still make an allegation of a crime committed abroad to a UK police officer. In this situation the UK police may carry out enquiries here, including the taking of witness statements, but such evidence would have to be sent to the relevant authorities in the other state for them to consider their own investigation and/or prosecution.

16.1.1 Legislation

All EU Member States can transfer a criminal investigation to another EU Member State under Article 21 of the Convention on Mutual Legal Assistance 1959. However, the UK reservation to Article 21 means that the UK is not bound to accept transfer of cases.

For further information investigators should contact their local Crown Prosecution Service (CPS) representative.

16.1.2 Minimum Police Requirements

Any UK police force receiving a complaint from a UK national for an offence which occurred in another country (irrespective of the nature of that offence), must process the complaint in exactly the same manner and with the same level of professionalism as they would any offence committed within their force area. This includes obtaining as a minimum:

- A full report from the complainant;
- Statements from any available witnesses;
- All available evidence including forensic or medical evidence, and storing it in the appropriate manner.

16.1.3 Securing Evidence

Where exhibits, such as clothing or other non-paper items are seized, they should be recorded and stored in the normal way. A full description of these items and their relevance to the investigation should be included in a separate report. This report should be sent with the case papers to the authorities in the receiving country, allowing them to decide on when and how the exhibits are to be sent from England, Wales or NI.

DNA samples taken from individuals and crime scenes must be analysed using the same method for comparison – force Forensic Coordinators will always check this before progressing.

Any forensic samples, such as blood, saliva or items that may be used for obtaining DNA, should be preserved. However, difficulties of long-term storage may require that these items are examined and DNA extracted and the details placed onto an INTERPOL DNA Search Request Form by the UK police. This will allow for long-term storage of the profile and reduce transfer complications if the evidence is required.

When all the relevant enquiries have been carried out and evidence has been obtained, full details of the case and an outline of the investigation should be submitted to the Force Crime Manager, who is responsible for carrying out an objective assessment of the evidence, as if they were the receiving party.

Police staff and investigators involved in taking statements from the victim or witnesses or recovering any evidence should refrain from making any personal comments or judgements on any of the official documents.

16.1.4 Translation of Documents

The translation of statements and other relevant case documentation (including audio and video interviews) is the responsibility of the police force that conducted the enquiries. Translation is necessary to allow the receiving country to understand the circumstances of the case and to allow them to decide on whether to progress the investigation further.

Before spending time and money on translating any of the documents, it is advised that the investigation team first contacts SOCA International via their force ILO, who will help the investigation team understand:

- What the receiving state will require;
- What documentation is particularly important;
- Which documents need to be translated and how;

- Any particular standards which the translated documentation must meet;
- Into what language the documents should be translated (Switzerland and Belgium, for example, use several different languages).

16.1.5 Submission for Transfer Abroad

The process for transferring information or evidence abroad will often be via the INTERPOL network, but where a formal transfer is made pursuant to an international instrument it will usually be a request from a UK prosecution authority. Transfer via INTERPOL can be arranged by contacting SOCA International. The other country will then decide whether the case can be taken further or not. If the case is to be transferred to an EU Member State, Eurojust could play a useful role. If considering using Eurojust, it is advisable to contact the CPS first.

16.1.6 Informing Victims and Witnesses

Once the case file has been sent via the INTERPOL network, it is advisable for investigators to liaise with any victims and witnesses to notify them of the following points.

- The transfer process is, at times, very slow due to the different ways in which the judicial systems operate.
- Once all of the information and documents are forwarded to the country concerned, the police in England, Wales or NI then lose all control of the process and no longer play any part in the investigation.
- It is the responsibility of the receiving competent authority to decide how they will deal with the information received. Decisions may range from a full criminal enquiry to no investigation at all.
- Whatever the course of action taken by the receiving country, the police force in England, Wales or NI may not automatically be informed of any decisions or the results of any investigation. However, the UK officer should try and ensure that he or she is informed of the outcome in the other state.
- The victim has access to the same level of support as they would, had the crime occurred in England, Wales or NI.
- Some countries have secrecy laws preventing information from being shared during an investigation.

Investigators should also advise any victims involved in a case being investigated outside the UK, to consider instructing a local solicitor in the foreign jurisdiction or to contact the relevant local British Consulate for updates on how their case is progressing.

For serious matters, UK police should consider deploying a FLO to help the police obtain information and to assist in liaison with the victim or victim's family member(s).

Under no circumstances should an investigator or member of police staff make any assertions or promises on behalf of the investigating authorities in another country.

16.1.7 Transfer of Documents and Exhibits

The physical transfer of documents and exhibits should be carried out in a manner agreed by the relevant authorities in the two states. In many cases an LOR will be sent by the requesting state outlining any specific directions which the forwarding state must comply with.

16.1.8 Transfer Failures

If a request to transfer a criminal investigation is rejected by the receiving country, or if the investigating authorities decide not to start or, indeed, stop the investigation part way through, UK police or SOCA International has no grounds on which to lodge an appeal.

17

International Incidents and Jurisdiction

Incidents that occur in international waters or airspace may cause difficulties for investigation teams and SIOs when determining who has jurisdiction for the offence.

Contents

17.1 Incidents within International Jurisdiction	190
17.1.1 Incidents in the Air	190
17.1.2 Incidents at Sea	190
17.1.2.1 The Impact on Police Forces with Major Ports	193
17.1.2.2 Investigative Procedure for Accidents	193
17.1.2.3 Points of Contact	193
17.1.2.4 Organisations Which Can Offer Assistance	194
17.1.3 Incidents Involving Oil and Gas Installations	194

17.1 Incidents within International Jurisdiction

17.1.1 Incidents in the Air

Offences that occur in flight generally occur in international air space and include hijacking or attempted hijacking, damage to an aircraft, assaults or attempted assaults against airline staff, threatening behaviour, and carriage of firearms or prohibited articles.

UK police normally only conduct an investigation or claim jurisdiction for offences committed on UK-registered aircraft, on aircraft within UK airspace at the time of the offence or where the UK is the destination country.

UK police should seek legal advice from the CPS at an early stage when investigating incidents in the air as jurisdictional issues in this area can be complex.

17.1.2 Incidents at Sea

If an alleged offence takes place on a ship outside the UK's territorial waters, jurisdiction must be considered and police officers should seek early legal advice from the relevant prosecution authority.

In the majority of incidents involving ships at sea outside the UK's territorial waters, the relevant statute will be the Merchant Shipping Act 1995. The following matters should be considered to determine which sections of the Act, if any, accord with the facts of the case.

- Whether or not the offence alleged is one in respect of which British courts have jurisdiction, either solely for British citizens or also for British residents. For example the age of the victim is relevant in sexual offences as the extra-territorial jurisdiction of the Sexual Offences Act 2003 for certain offences against minors may make a consideration of 'ships at sea' law redundant.
- What is the suspect's nationality? This is relevant as the jurisdictional rules differ for British and non-British citizens.
- Where did the offence occur? Was it within the UK's territorial waters? In which case British courts will have jurisdiction regardless of the particulars of the case; or was it on the high seas, in a foreign port or harbour, or within another country's territorial waters?
- Was the ship registered in the UK, ie, which is the flag state?

The jurisdiction of the UK's courts to try offences committed on ships also differs between the following categories.

- British citizens on a UK ship: courts in England and Wales have jurisdiction to try British citizens for offences committed on a UK ship on the high seas or in any foreign port or harbour. See the Merchant Shipping Act 1995, section 281(a)(i-ii).

- British citizens on a foreign ship: courts in England and Wales have jurisdiction to try British citizens for offences committed, 'on any foreign ship to which he does not belong'. See the Merchant Shipping Act 1995, section 281(a)(iii). It is immaterial where the foreign ship is, ie, the ship could be on the high seas, within a foreign port or harbour, or outside a foreign port or harbour but still within another country's territorial waters. 'Belonging' to a ship involves some 'reasonably permanent attachment to it' and includes crew members and long-term guests such as research scientists and engineers engaged on a survey. It does not include ferry passengers during the duration of a short voyage.
- Non-British citizens on a UK ship: courts in England and Wales have jurisdiction to try non-British citizens for offences committed on a UK ship on the high seas; see the Merchant Shipping Act 1995, section 281(b). Additionally, the courts will have jurisdiction if the offence was committed in the UK's territorial waters, see section 2 of the Territorial Waters Jurisdiction Act 1878.
- Non-British citizens on a foreign ship: the Merchant Shipping Act does not create any jurisdictional reach for the UK courts in this scenario. Section 2 of the Territorial Waters Jurisdiction Act 1878 does apply in this scenario if the act was committed on the foreign ship when within the UK's territorial waters.

Investigations on a foreign ship

Domestic and international instruments also permit UK investigators to carry out enquiries on a foreign ship in UK territorial waters (ie, within twelve miles of the UK coast) without a letter of request. This includes the following situations:

- The consequences of the crime alleged to have been committed extend to the UK;
- The master of the ship, a diplomatic agent or consular officer of the flag state has requested assistance from the UK authorities;
- The measures are necessary to suppress the traffic in illicit drugs or psychotropic substances;
- The ship has just left UK internal waters.

For further information see Article 27(1) of the United Nations Convention on the Law of the Sea of 10 December 1982; Article 19(1) of the Geneva Convention on the Territorial Sea and Contiguous Zone 1958 (the Territorial Sea Convention); for drug offences see also sections 19 and 20 of the Criminal Justice (International Co-operation) Act 1990.

Although a letter of request is not required, the diplomatic agent or consular officer of the flag state must be informed before the investigations are carried out if the master of the ship so requests: Article 19(3) of the Territorial Sea Convention, and article 27(3) of the United Nations Convention on the Law of the Sea of 10 December 1982.

If the foreign ship is on the high seas, a letter of request must be sent to the flag state. See Article 6 of the High Seas Convention 1958, and Article 92 of the United Nations Convention on the Law of the Sea of 10 December 1982.

If an incident occurs in international waters, the nation to which the ship is registered is responsible for investigating that incident.

In the UK, the force within which the port of registration is located is the responsible force, eg, for a Hull registered ship this is Humberside Police.

Since many of the large cruise ships operators such as Cunard and P&O have vessels registered under England, Wales or NI, jurisdiction exists under statutory law for police from the UK to investigate any offence committed anywhere in the world.

This 'permissive' jurisdiction is currently based on **Home Office Circular (14/86) Police on Crime and Kindred Matters**, which states under the subheading Offences Committed on British Ships at Sea:

- If the ship is coming from or going to a country outside of the UK but its port of departure or destination is in England, Wales or NI, the investigation should be conducted by the force in whose area that port is situated;
- If the ports of departure and destination are in England, Wales or NI, the investigation should be conducted by whichever force is more conveniently placed to undertake the investigation;
- If a UK registered ship is not proceeding to a port in England, Wales or NI, the Metropolitan Police should carry out the investigation.

For drug-related offences occurring at sea in international waters, anything which would constitute a drug trafficking offence, if committed on land in any part of the UK, shall constitute that same offence if committed on a British registered ship.

17.1.2.1 The Impact on Police Forces with Major Ports

Incidents involving the loss of life, for example, a man overboard, always need a police investigation to determine that there was no criminal intent involved.

This places an emphasis on 'ports of departure or destination' to take primacy in investigations.

Presently, the only guidance on this matter is contained in section 14 of **Home Office Circular (04/86) Police on Crime and Kindred Matters** but there may be some difficulty with its interpretation. Investigators and SIOs are, therefore, advised to contact SOCA International for advice on a case-by-case basis.

17.1.2.2 Investigative Procedure for Accidents

Following an accident aboard a UK-registered ship, the owner, along with the Master or Skipper of the vessel, is required to report it to the Marine Accident Investigation Branch (MAIB) as quickly as possible.

The MAIB is responsible for examining and investigating all types of marine accidents that involve UK vessels or occur on board UK vessels worldwide. This responsibility also applies to any vessel in UK territorial waters.

The sole objective is to investigate an accident to determine the circumstances and cause with a view to improving safety at sea. It will not apportion blame or liability as the MAIB does not enforce laws, carry out prosecutions or investigate criminal offences.

17.1.2.3 Points of Contact

- To help establish the details of a ship, see <http://www.vesseltracker.com> which has over 45,000 global registered ships located on its database and contains all the details of the flag nation and owners.
- Checks via Companies House may provide telephone numbers for the registered businesses. Contact details are:
Telephone number: +44 (0)303 1234 500
Email: enquiries@companies-house.gov.uk
Website: <http://www.companieshouse.gov.uk/>
- The Marine Accident Investigation Branch (MAIB) see **17.1.2.2**, twenty-four-hour reporting contact details are:
Telephone number: 0238 023 2527
Email: maib@dft.gsi.gov.uk
Website: <http://www.maib.gov.uk>

Merchant Shipping (Accident Reporting and Investigation) Regulations 2005 and guidance notes can be accessed via the MIAB web site.

17.1.2.4 Organisations Which Can Offer Assistance

- Rail Maritime and Transport (RMT) Workers Union.
- Royal National Mission to Deep Sea Fishermen, telephone: 020 7487 5101.
- Mission to Seafarers, telephone: 020 7248 5202.
- Shipwrecked Mariners Society, telephone: 01243 78776.
- Stella Maris, telephone: 020 7588 8285.
- British and International SaLORs Society, telephone: 023 8033 7333.
- Mersey Mission to Seaman, telephone: 0151 920 3253.
- Cruise Bereavement Care, telephone: 08701671677.

17.1.3 Incidents Involving Oil and Gas Installations

Under the Petroleum Act 1998 and associated orders, oil and gas installations and any waters within 500 metres of any such installation located within the territorial sea adjacent to the UK or within the UK Continental Shelf are subject to UK criminal law.

A constable shall (on, under or above any installation in waters to which this section applies or any waters within 500 metres of such an installation) have all the powers, protection and privileges which they have in the area for which they act as a constable.

The Grampian Police Energy and Protective Security Unit may be in a position to provide advice for dealing with an incident on an oil and gas installation. Advice may also be available from the UK Police Offshore Energy Group via ACPO Terrorism and Allied Matters (TAM).

PART SIX

Extradition and INTERPOL Notices

18

Extradition

Extradition enables one state to request the surrender of an individual from another state in order for them to be prosecuted for a criminal offence, to be sentenced, or to serve a term of imprisonment following conviction of a criminal offence.

Within the European Union, the European Arrest Warrant provides an efficient and streamlined extradition system.

Contents

18.1 Extradition within the EU and European Arrest Warrants	198
18.1.1 The Extradition Act 2003	198
18.1.2 European Arrest Warrants	199
18.1.3 Application Process for an Import (Outgoing) EAW	201
18.1.4 Sending EAWs Abroad	202
18.1.5 Grounds for Refusal	203
18.1.6 After an EAW Is Executed	204
18.1.7 Practical Considerations for Collection	205
18.1.8 Non-EU Extraditions	208
18.1.9 EAW Special Circumstances	208
18.2 Incoming European Arrest Warrants (Part 1)	209
18.2.1 Practical Advice and Additional Guidance	209
18.2.2 Persons Arrested for an EAW Who Have Ongoing Domestic Matters	211
18.2.3 Non-EU Extraditions	212
18.2.4 Further Information	212

18.1 Extradition within the EU and European Arrest Warrants

Extradition is the formal procedure for returning persons located in one country to another country for one of the following reasons only:

- Prosecution;
- To be sentenced for offences for which they have been convicted;
- To carry out a sentence that has already been imposed on them.

The extradition of a person to the UK is called 'import extradition' (and is sometimes referred to as an 'outgoing request'). The extradition of a person from the UK is called 'export extradition' (and is sometimes referred to as an 'incoming request'). An extradition request cannot be made for securing the return of a person for questioning.

18.1.1 The Extradition Act 2003

The UK Extradition Act 2003 came into force on 1 January 2004. Parts 1 and 3 of the Act deal with extradition within the European Union, and transpose the Framework Decision on the European Arrest Warrant (EAW) (2002/584/JHA) into UK law. Part 1 relates to export extradition, and Part 3 to import extradition. Part 2 of the Act deals with export extradition to non-EU countries.

An EAW is based on the principle of mutual recognition of judicial decisions. This means that a decision by a judicial authority of a Member State requiring the arrest and return of a person should be recognised and executed as quickly and as easily as possible in other Member States.

The EAW has replaced the 1957 European Convention on Extradition (ECE) as the vehicle for extradition within the EU and applies to all European Union states, and to Gibraltar:

- Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Gibraltar, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovak Republic, Slovenia, Spain, Sweden and the UK.

These are referred to as 'Category 1 territories'. The ECE still governs extradition between the UK and members of the Council of Europe which are not members of the EU.

For further information, contact the Home Office:
Email: extraditionsection@homeoffice.gsi.gov.uk

18.1.2 European Arrest Warrants

The EAW has replaced previous extradition procedures between Member States of the European Union, and is operated throughout the EU.

EAWs may be import (outgoing) or export (incoming) requests.

- Export EAWs are dealt with in accordance with Part 1 of the Extradition Act 2003. (All requests received by the UK are entered onto the PNC within twenty-four hours.) For EAWs that have a connection to the UK, the UK is the 'executing state'.
- Import EAWs are issued under Part 3 of the Extradition Act 2003 (the UK is the 'issuing state').

EAWs can be issued in the following circumstances:

- Accusation EAW where the subject is accused of an offence in the issuing state, and that offence is specified on the EAW. The EAW is issued to facilitate the return of the person to that country for prosecution.
- Conviction EAW where the subject of the warrant is unlawfully at large after being convicted of the offence specified on the EAW. The warrant is issued in order to facilitate the return of the subject for the purposes of sentencing or to serve an existing sentence.

An EAW can be issued for any offence that attracts a minimum sentence of at least twelve months' detention in the issuing state and is also a criminal offence in the executing state.

Additionally, the EAW contains a list of thirty-two categories of offence that encompass the most serious offences (this list includes terrorism, racism and xenophobia) for which dual criminality does not need to be established. If a person's extradition is sought in connection with one of these thirty-two categories of offence, the conduct must be punishable in the issuing state by a minimum sentence of at least three years' imprisonment. The thirty-two serious categories of crime include:

- Participation in a criminal organisation;
- Terrorism;
- Trafficking in human beings;
- Sexual exploitation of children and child pornography;
- Illicit trafficking in narcotic drugs and psychotropic substances;
- Illegal trafficking in weapons, munitions and explosives;
- Corruption;

- Fraud, including that affecting the financial interests of the European Communities within the meaning of the Convention of 26 July 1995 on the protection of the European Communities' financial interests;
- Laundering of the proceeds of crime;
- Counterfeiting of the euro;
- Computer-related crime;
- Environmental crime, including illicit trafficking in endangered animal species and in endangered plant species and varieties;
- Facilitation of unauthorised entry and residence;
- Murder, grievous bodily injury;
- Illicit trade in human organs and tissue;
- Kidnapping, illegal restraint and hostage taking;
- Racism and xenophobia;
- Organised or armed robbery;
- Illicit trafficking in cultural goods, including antiques and works of art;
- Swindling;
- Racketeering and extortion;
- Counterfeiting and product piracy;
- Forgery of administrative documents and trafficking therein;
- Forgery of means of payment;
- Illicit trafficking in hormonal substances and other growth promoters;
- Illicit trafficking in nuclear or radioactive materials;
- Trafficking in stolen vehicles;
- Rape;
- Arson;
- Crimes within the jurisdiction of the International Criminal court;
- Unlawful seizure of aircraft or ships;
- Sabotage.

18.1.3 Application Process for an Import (Outgoing) EAW

Police forces in the UK looking for fugitives abroad must first obtain guidance and support from their local Crown Prosecution Service (CPS) representative, who will draft the EAW and is responsible for making any decision on whether to ask for extradition and presenting any applications before the appropriate judge.

The police should seek advice as early as possible, especially in cases falling around significant holiday periods such as Easter and Christmas when offices may be closed or only contain skeleton staff with little or no experience of EAWs.

The processes relating to the issue and execution of an EAW, and the subsequent surrender of the person, are time-consuming and costly. Additionally, the execution of an EAW necessarily involves the deprivation of liberty of the requested person and transfer to another country. As a consequence, applications for EAWs should only be made in appropriate cases.

For further information see **ACPO (2009) Briefing Paper on European Arrest Warrants (Part 1)**.

In 'accusation' cases, where an EAW is issued for the purpose of prosecution, the following criteria must be met before an application for a Part 3 warrant may be made by the Prosecutor:

- There are reasonable grounds to believe that the person has committed 'an extradition offence'; in practice the CPS will only apply for an EAW if the Code Tests have been passed on the evidence currently available;
- A domestic warrant for the subject must already exist, or be applied for shortly beforehand. This will usually be under section 1 of the Magistrates' Court Act 1980 (a first instance warrant). If the person has already been charged in the UK but has failed to answer bail, the domestic warrant can be under section 7 of the Bail Act 1976 (failure to attend warrant).

In 'conviction' cases, where an EAW is issued in order to sentence a person, or for the person to continue serving a sentence that has already been imposed, the following criteria must be met:

- There are reasonable grounds for believing that the person is unlawfully at large after conviction of 'an extradition offence', and either a domestic warrant has been issued in respect of the person (for example, pursuant to section 72 of the Criminal Justice Act 1967) or the person could be arrested without a warrant;

- If already sentenced, the person must have been sentenced to at least four months' detention.

In England and Wales the issuing judicial authority, as described in Article 6(1) of the Framework Decision (on the EAW) (2002/584/JHA), may be a district judge (magistrates' courts), a justice of the peace or a judge entitled to exercise the jurisdiction of the crown court.

The EAW should always be carefully drafted, and reference should not be made to sources of intelligence or sensitive information. Some Member States will, as a matter of course, allow the whole document to be publicly available and a copy to be provided to the wanted person.

18.1.4 Sending EAWs Abroad

The Serious Organised Crime Agency is the designated central authority in the UK responsible under Article 7(2) of the Council Framework Decision of 13 June 2002 on EAWs and the surrender procedures between Member States.

Once a judge has issued the Part 3 warrant, the investigator or CPS representative should forward the original to the Fugitives Team at SOCA via secure means. In urgent cases, a fax or email copy in advance can speed up the process.

Although SOCA will make every effort to ensure that the EAW is accurate and contains all necessary information before dissemination, the responsibility for the warrant's content and any subsequent liabilities lies with issuing judicial authority. That authority, however, relies on the prosecutor who drafts the EAW, who in turn relies on the information supplied by the LEA.

In rare cases, a Member State may not accept the grounds and legality of a conviction EAW and, therefore, may be reluctant to assist. In most cases, the CPS or the Fugitives Unit will be able to advise on specific legal issues where appropriate.

It is not appropriate for investigators to visit another state in relation to the EAW, once the EAW has been sent. In many cases, the investigation team will not be able to assist at all and may impede already effective working practices. Investigators should understand that it is the role of the executing state to action the EAW and not that of the issuing state.

In implementing the framework decision on the EAW, Member States and national courts have to respect the provisions of the European Convention on Human Rights (ECHR). Anyone arrested under an EAW may have a lawyer and, if necessary, an interpreter as provided by the law of the country where they were arrested.

18.1.5 Grounds for Refusal

The surrender of a person can be refused on the grounds listed in Articles 3 and 4 of the Framework Decision. These include:

- The ***ne bis in idem* or double jeopardy** principle – meaning that the person will not be returned to the country that issued the arrest warrant if he or she has already been finally judged for the same offence;
- **Amnesty** – a Member State can refuse to return a person if an amnesty covers the offence in its national legislation;
- **Statutory limitation** (similar but not identical to ‘the passage of time’ in the UK) – a Member State can refuse to return a person if the offence is statute barred according to its law (which means that the time limit has been passed and that it is too late under that country’s law to prosecute the person);
- **Age of the person** – a Member State can refuse to return a person who is a minor and has not reached the age of criminal responsibility under its national laws.

In cases where the person sought has been convicted and is a national or resident of the executing state, surrender may be refused, but only if the executing state undertakes to enforce the sentence or detention order in accordance with its national law.

In cases where the person sought is wanted for trial, and is a national or resident of the executing state, the executing state may request an undertaking that if convicted and made subject to a custodial sentence, the person must be returned to the executing territory to serve the sentence. Such an undertaking is given by the Secretary of State for the Home Department pursuant to section 153C of the Extradition Act 2003.

Investigators should also be aware of the following situations:

- **Temporary surrender** – on occasions the wanted person will be a serving prisoner in the requested Member State. In these circumstances Article 24(2) of the Framework Decision allows for the temporary surrender of the person subject to conditions agreed between the executing and requesting judicial authorities. Often an undertaking will be required in this situation, guaranteeing that the person will be held in custody for the duration of the temporary surrender, and then returned to the requested state. The Secretary of State gives such undertakings (section 153A of the Extradition Act 2003).

- **Life sentence** – where someone arrested under an EAW may be sentenced to life imprisonment, the state executing the EAW may insist, as a condition of executing the arrest warrant, that if sentenced to life, the accused person will have a right to have his or her personal situation periodically reconsidered.
- **Onward extradition to a third country** – an EAW only applies within the territory of the EU. If a person has been surrendered to another EU country under an EAW and is afterwards sort for extradition by a third country, the consent of the Member State which authorised the initial surrender will need to be sought (sections 56 to 58 of the Extradition Act 2003 refer).

18.1.6 After an EAW Is Executed

After an EAW has been executed, whether import (outgoing) or export (incoming), investigators should take into account that certain EU Member States may have procedures and processes different from those in the UK. Investigators should, therefore, make themselves aware of any differences and restrictions placed upon them by the EAW. Other points to consider:

- Once arrested, under no circumstances must the suspect be interviewed unless this complies with the limited circumstances (in which post-charge questioning is permitted under paragraph 16.5 of PACE Code C). If an interview is undertaken, the form of caution is different from that usually given, and no inferences can be drawn at trial from facts not mentioned during the interview.
- Once the surrender of the person is ordered, the requesting state has ten days to collect the suspect. In certain circumstances, an extension is possible.
- UK solicitors acting as the duty solicitor for foreign suspects may not be fully familiar with the EAW scheme. (Part 1 cases).
- If a case has a significant media interest, close liaison or negotiation may be required to politely ask the prosecutor in the state where the EAW is being actioned, not to release any details regarding the suspect's return. Prosecutors in many EU Member States frequently brief the media with precise details. This may cause security issues when a suspect is transported from one Member State to another.
- Once a suspect is convicted, they may be returned to their own state to serve out their sentence in order to facilitate future reintegration.

Once a person's surrender is ordered, the EAW is part of the background material and, in respect of outgoing requests, the EAW together with the associated file is covered by the Criminal Procedure and Investigations Act 1996 (CPIA).

18.1.7 Practical Considerations for Collection

In most circumstances an agreement will be required between the UK police force and the requested Member State, detailing how and when the suspect will be collected and transported back to the UK.

Once the hearing has taken place in the country where the subject has been arrested, and the decision has been made to agree to extradition, there is usually a ten-day period during which time the subject must be collected. During this ten-day period, however, the subject has the right to appeal up to seven days after the date of the hearing.

Officers should be aware that in this timeframe SOCA will make the initial notification to the force. It may be a day or two before the collecting force is made aware of the situation. It is advisable that close contact is maintained with SOCA from the time of arrest until the travel plans have been confirmed.

Provisional travel plans need to be submitted to SOCA by the officers collecting the subject. SOCA will then liaise with the relevant agency abroad to complete negotiations and confirm the collection plans.

Short timescales or notification periods of confirmation of collection plans may mean that flights are booked at short notice. If flights are booked before confirmation is received from the country, this is done so at the officer's or force own risk. Due to budgetary restraints non-flexible flights may be encouraged, but officers should be aware that unforeseen events may prevent specific flights being used. This could cause further costs to be involved should additional flights be needed.

Furthermore, flight availability may mean that it is not possible to complete the return flight in the same day thereby requiring outbound travel the day before the agreed return date.

Difficulties in obtaining seats together may be encountered if using an airline that prevents seats being booked in advance.

Flights must be booked with a carrier from the country requesting the extradition so that officers accompanying the suspect have relevant jurisdiction on the flight, ie, a British carrier. The Tokyo Convention 1963 establishes the jurisdiction as belonging to the state in which the aircraft is registered. This can prove useful when travel involves connecting flights.

Risk assessments

A full risk assessment must be undertaken before travel. It is imperative that the risk assessment is not understated. If an incident involving the passenger under escort occurs during the flight causing the flight to be diverted or forced to land, the impact of the reputation of the force and the potential major costs involved in compensating the airline could be huge. In some instances, an airline may wish to have sight of the force risk assessment. The risk assessment will support the application to the airline to accept a passenger under escort, and provide a briefing for officers. Some airlines may have a pro forma risk assessment, for others a verbal discussion can be sufficient. BA requires completion of a Passenger under Escort Form, which is part of the letter issued by the airline to acknowledge they have been approached to transport a suspect. It includes issues such as previous offending and aggravating factors.

The Passenger under Escort Form also requires information about the following:

- Previous threats from the suspect;
- Whether the suspect has a history of violence;
- Whether the suspect is likely to make a dirty protest, eg spitting;
- Whether there will be media interest;
- Whether the suspect is a political prisoner.

Note: An airline can refuse to transport the subject.

In all instances, written consent to transport the subject must be received from the airline.

Multi-agency communication

There are a number of agencies who will need to be kept informed about, or involved in, the movement of a subject. These include:

- The airport operator, usually BAA (particularly in connection with anticipated timescales, and details about possession of weapons or handcuffs);
- Relevant airline security;
- Relevant force airport police (eg, MET S018);
- UK Borders Agency;
- SOCA.

Collecting officers must contact the airport police. They can then arrange to escort the collection party airside.

Other considerations

- Religious and cultural requirements of the arrested person (advice may be sought from the force equality unit, FCO or Ministry of Justice).
- Are escort officers aware of airside safety procedures?
- Has the seating plan and the position of exits and toilets been researched?
- Have escort officers received
 - first-aid training (including use of a defibrillator)?
 - general aviation safety training?
- Are body cuffs required and are officers appropriately trained in restraint?
- Contingency plans should be developed in case the flight is delayed or diverted.
- How to deal with the situation where check-in staff are reluctant to issue boarding cards for the suspect in their absence.
- Options when the suspect does not have a passport
- Other countries may require completion of handover documents (there is no national UK equivalent);
- Whether to arrest the subject on the domestic warrant once onboard the aircraft or back in the UK;
- Ensure that the relevant CPS office and court are informed that the suspect is to be collected, including the anticipated date on which the suspect will be produced.

In addition, thought should be given to the following:

- Having sufficient trained officers to ensure that the suspect and any evidence can be driven back to the home force in a single journey. This may need having a reserve driver.
- Any documentation required if travelling by car.
- When travelling through another Member State, notifying their authorities in case of an incident or emergency.
- Security in relation to possible attempts to free the suspect.
- If travelling back via ship or ferry, seeking notification from the captain on when UK waters have been reached so that the domestic warrant can be actioned.
- Security issues during travel with regards to refreshment and/or toilet stops.
- Welfare needs of the detainee during transportation.

Note: The escort team bringing a suspect back into the country will have specific terms of reference for their deployment. These are set out in the documentation accompanying the EAW.

If additional duties are required, eg, collecting additional property or evidence not already identified in their terms of reference, this will require an agreed amendment to the terms of reference and may cause delays.

For further advice and information contact the MPS Extradition Unit: telephone: 0207 230 3191 or email: extrad@met.police.uk

When the person is collected, the accompanying investigator should arrest the suspect pursuant to the domestic warrant. This will be carried out once the suspect is either inside UK waters or on board a UK-bound airline and the doors are sealed.

For further advice investigators should liaise with the force ILO, who has responsibility for making further enquiries in relation to extradition and EAWs.

The force ILO may wish to consider contacting the Extradition Unit at the MPS, telephone: 0207 230 3191, or the MPS switchboard, telephone: 020 7230 1212.

18.1.8 Non-EU Extraditions

Collection arising from extraditions to the UK from countries outside the EU (referred to in the Extradition Act 2003 as Category 2 territories) will continue to be dealt with by the MPS Extradition Unit.

In appropriate cases the CPS will seek extradition from any country even those with whom the UK has no formal extradition arrangement.

The Judicial Cooperation Unit (Home Office) will be able to provide a list of the Category 2 territories.

18.1.9 EAW Special Circumstances

Where a suspect is unexpectedly discovered in a location for only a short time, and there is fear that they will disappear again if not arrested, their arrest can be requested under a provisional EAW, but only if a warrant for their arrest has been issued in the UK.

In any investigation where there is suspicion that a suspect has gone abroad, consideration should be given to requesting an EAW to prevent delays and missed opportunities. In a situation where a person wanted by another EU State is discovered in the UK and the decision is taken by that country that the person should be arrested immediately by the UK,

18.2 Incoming European Arrest Warrants (Part 1)

a provisional arrest request can be sent to the UK for the person's arrest. However, the issuing state must issue an EAW within forty-eight hours. This period can, in certain circumstances, be extended by an appropriate judge for a further forty-eight hours. The forty-eight hour period does not take into account weekends or bank holidays. See section 6 of the Extradition Act 2003 as amended by section 77 of the Policing and Crime Act 2009 at <http://www.legislation.gov.uk/ukpga/2003/41/section/6>

In addition to the UK issuing EAWs to return individuals to the UK, other Member States can issue an EAW to request the return of a subject from the UK.

When another EU Member State issues an EAW, it is forwarded to SOCA International's Fugitives Unit, which uploads the request onto the PNC and the Home Office Warnings List (HOWL). The PNC note will be on the wanted persons page and the wording will state that the individual is the subject of a SIRENE circulation; each posting is given a unique reference number.

Note: If multiple suspects are to be arrested simultaneously as part of a pre-planned operation, the investigator in charge should consider liaising with SOCA International's Fugitives Unit at the earliest opportunity so that the suspects' EAW request details can be withheld and not uploaded onto the PNC. This intervention can help prevent a suspect alerting other suspects. A risk assessment will need to be carried out before a decision is made not to upload incoming EAW suspect details onto the PNC.

When an incoming EAW arrives, SOCA Multilateral Fugitives Unit will carry out specific intelligence checks to locate the subject, liaise with the originating country to certify the EAW, and obtain identification documents from the country. If there is intelligence locating the subject in the UK, this will be disseminated to the relevant police force's EAW SPoC. For detailed guidance on the execution of a Part 1 European Arrest Warrant, see **ACPO (2009) Briefing Paper on European Arrest Warrants (Part 1)**. <http://www.npia.police.uk/en/13020.htm>

Note: The City of Westminster Magistrates' Court is only responsible for persons arrested under the Extradition Act 2003 in England and Wales. Northern Ireland and Scotland have specific extradition courts.

18.2.1 Practical Advice and Additional Guidance

In addition to, and to reaffirm particular advice outlined in **ACPO (2009) Briefing Paper on European Arrest Warrants Part 1**, these additional points have been identified following consultation with the City of Westminster Magistrates' Court, the CPS, the MPS and the Joint Operational Authority responsible for the implementation of the Schengen Information System Programme (SIS II).

When a subject is arrested under the Extradition Act (2003), the arresting officer must:

- Administer the EAW caution – ‘You are under arrest under the Extradition Act 2003. You do not have to say anything. Anything you do say may be given in evidence’.
- Ask the arrested person for their name and date of birth.
- Explain to them that they are under arrest as a result of the EAW and not the original offence(s).
- As soon as is practicable, hand the arrested person a full copy of the EAW and certificate in English and their native language for them to keep.
- Copy any identification documents and/or passports ready for faxing to the City of Westminster Magistrates Court.
- Securely retain in the force area, all identification documents and/or passports relating to the arrested person.
- Establish as soon as possible through, for example, fingerprints, the arrested person’s identity, where this is disputed.
- Make every effort to secure the arrested person’s attendance at the City of Westminster Magistrates’ Court as soon as practicable. The arrival time without referral to a judge is 12.30 on weekdays and 12:00 noon on Saturdays. Judges request that all cases that are going to arrive after that time are referred to the judge in Court 1. The judge decides whether to accept the person in the cells or order that they be housed in a London police station overnight. The judge needs to know if the person has any special needs or whether there is anything else unusual about the case, as well as the arrest time, time of transport and anticipated time of arrival.
- Compile a full statement of arrest, incorporating all points raised in **ACPO (2009) Briefing Paper on European Arrest Warrants (Part 1), section 2.1.2 The arrest**. Also provide notification that the arrested person does not have any known previous convictions.
- Fax a copy of the arresting officer’s full statement and police file to the City of Westminster Magistrates’ Court CPS department, fax number: 020 7630 1761.
- Contact the City of Westminster Magistrates’ Court with the following details
 - the arresting officer’s name, force ID number and force name
 - the full details of the person arrested
 - the time and location of the arrest
 - the name of the country that issued the EAW
 - the offence(s) outlined on the EAW
 - the expected time of arrival at the City of Westminster Magistrates Court

- whether the arrested person requires an interpreter and for which language
- whether the arrested person will wish to speak to a duty solicitor.
- Fax a copy of the arrested person's identification documents and/or passports.
- Fax a copy of the arresting officer's full statement.
- Cancel or confirm that the EAW alert has been removed on PNC.
- Notify SOCA of the arrest.
- Print a copy of the arrested person's antecedents (a disclosable copy and a prosecutor's copy) and send them with the arrested person to the City of Westminster Magistrates' Court, but separate from any personal property.
- Prepare case papers in accordance with **ACPO (2009) Briefing Paper on European Arrest Warrants Part 1 – Section 3.4 Preparation for Court.**

Following the appearance of the arrested person at the City of Westminster Magistrates' Court it is the responsibility of the arresting officer to update any bail conditions that are granted prior to the extradition hearing.

Failure to abide by these guidelines and those provided in **ACPO (2009) Briefing Paper on European Arrest Warrants Part 1** can mean that persons arrested under an EAW can claim a defence under the Human Rights Act 1998. This can lead to their discharge.

If an arrest under the Extradition Act 2003 is made outside normal office hours, the arresting officer must leave a phone message with the International Office at the City of Westminster Magistrates' Court, outlining the circumstances and the details of the person's arrest. If the arresting officer finishes duty before the International Office opens at 8 am, they must ensure that a member of staff from their force contacts them to provide the necessary information and paperwork.

18.2.2 Persons Arrested for an EAW Who Have Ongoing Domestic Matters

Occasionally, someone arrested pursuant to an EAW from another Member State will be facing prosecution for an offence in the UK. If this situation arises before or during the extradition hearing at the City of Westminster Magistrates' Court, the judge must adjourn the extradition proceedings until the domestic matter concludes. If this situation arises only during the appeal phase, the court has no power to adjourn the extradition proceedings.

If the wanted person is serving a sentence in the UK, the extradition court may adjourn extradition proceedings until that sentence has been served. Alternatively, the extradition court can consider the temporary transfer of the wanted person to the requesting state. This would be subject to the receipt of undertakings on the status of the wanted person in the requesting state during that temporary transfer; for example, an undertaking that the wanted person will be remanded in custody while in the other state.

Another possibility is that the wanted person is a witness or a suspect in a domestic case. In either of these situations the extradition process will go ahead as normal. An extradition request from another country cannot be postponed because the wanted person is a witness or a suspect in domestic proceedings in England and Wales.

For further information see **ACPO (2009) Briefing Paper on European Arrest Warrants Part 1, 2.3.1 (Domestic Offences)**.

18.2.3 Non-EU Extraditions

Arrests pursuant to extradition requests made to England and Wales from non-EU Member States are dealt with by the Metropolitan Police Service Extradition Unit.

18.2.4 Further Information

For further information and advice on the extradition process, investigators should liaise with the force ILO.

For additional information:

- NPIA (2009) Briefing Paper on European Arrest Warrants Part 1; <http://www.npia.police.uk/en/13020.htm>
- Extradition Act 2003, available at <http://www.legislation.gov.uk/ukpga/2003/41/contents>
- Contact SOCA Multilateral Fugitives Team via SOCA International, email: London@soca.x.gsi.gov.uk
- Contact the Metropolitan Police Service Extradition Unit, email: extrad@met.police.uk
- Home Office extradition webpages, available at: <http://www.homeoffice.gov.uk/police/extradition-intro11/>

19

INTERPOL Notices

INTERPOL Notices (sometimes referred to as diffusions) are messages issued by INTERPOL to share information between INTERPOL members.

Investigators wishing to issue an INTERPOL notice are advised to liaise with their force ILO, who will contact SOCA International to action the request.

Contents

19.1 INTERPOL Notices	214
19.1.1 Issuing an INTERPOL Notice	215

19.1 INTERPOL Notices

At present there are six types of INTERPOL Notices which are as follows.

Red Notice – seeks the arrest or provisional arrest of wanted persons with a view to extradition.

- A distinction is drawn between two types of Red Notice. Firstly, those that are based on an arrest warrant and are issued for a person wanted for prosecution and, secondly, those that are based on a court decision for a person wanted to serve a sentence.
- A Red Notice requires that the wanted person has committed a criminal offence, an arrest warrant has been issued, and extradition will be requested from the relevant country. If any of these criteria are not met, a Blue Notice could be requested instead.
- There is no power of arrest for individuals circulated on a Red Notice in the UK. Individuals when traced will have to be the subject of an extradition request by the relevant issuing authority.

Blue Notice – requests the collection of additional information about a person's identity or activities in relation to a crime.

- Information requested must concern unidentified offenders or their criminal records, locating an identified or unidentified international criminal, persons wanted for criminal offences and whose extradition may be requested, or identifying/locating someone related to a criminal matter (eg, witness, suspect, offender, accomplice).
- All circulations on a Blue Notice require the authority of a senior SOCA official (SG3 level or above). If the circulation of an individual is required for the purpose of an arrest then full details as for a Red Notice are required.
- Blue Notices should be reviewed at least annually.

Green Notice – provides warnings and criminal intelligence about persons who have committed criminal offences and who may be likely to repeat these crimes elsewhere in the world. Examples include individuals previously convicted for child sex offences, drug trafficking and human trafficking.

- New criteria came into force in January 2009 for the issuing of Green Notices. These are:
 - The subject of the notice must be considered to be a possible threat to public safety and/or someone likely to commit a criminal offence;
 - This conclusion is based on an assessment by a national law enforcement authority or an authorised international entity;

- The assessment is based on the person's previous criminal conviction(s) and/or other reasonable grounds, which must be stated in the request;
- Sufficient information is to be provided to allow for the warning to be relevant.

Orange Notice – warns police, public authorities and other international organisations about potential threats from disguised weapons, improvised explosive devices (IED) and other dangerous materials.

Black Notice – provides details of an unidentified body or details about a deceased person who may have used false identity/identities.

Yellow Notice – issued to help locate adult missing persons (eg, at the request of the family), missing minors, or to help identify persons who are unable to identify themselves.

INTERPOL Notices can be used at anytime as a standalone intervention but are not legally enforceable. Any result will depend on the country receiving the notice.

19.1.1 Issuing an INTERPOL Notice

Investigators should liaise with their force ILO in the first instance for assistance and guidance on issuing an INTERPOL Notice. The process is that all requests should be made by written application and submitted to SOCA International. (For Red Notices, a written undertaking must be obtained from the prosecuting authority to the effect that they can complete a formal extradition application in time.)

Once the request is received SOCA will:

- Enter the details onto the UK National Central Bureau (NCB) Notice database and place the file reference on the PNC;
- Send the notice application electronically to INTERPOL;
- After one month, check the Automatic Search Facility (ASF);
- Retain and allocate the file to a case officer, who will review it regularly;
- Contact the originator at least every twelve months to confirm whether the notice should be maintained (failure to reply within twenty-eight days will result in cancellation of the notice).

Investigators requiring a form for requesting a notice should contact their force ILO.

PART SEVEN

Interpreters, Translators, Lipspeakers and Speech-to-Text Reporters

20

Interpreters

Most EU states are multicultural and multilingual, hence the need for interpreters.

Contents

20.1 Interpreters	221
20.1.1 Obligations under the European Convention on Human Rights	221
20.1.2 The National Agreement on Interpreters	221
20.1.3 Selecting an Interpreter	222
20.1.4 The NRPSI/NRCPD Codes of Conduct	223
20.1.5 Unavailability of Interpreters and Lipspeakers	223
20.1.6 Security Requirements	224
20.1.7 Using Police Officers and Police Staff with Additional Language Skills	225
20.1.7.1 Linguistically Skilled Staff – Additional Native Language Considerations	226
20.1.8 Working with Interpreters	226
20.1.9 General Points to Consider	226
20.1.9.1 Before an Interview Commences	228
20.1.9.2 The Interview	230
20.1.9.3 Following the Interview	232
20.1.10 Obtaining Written Evidential Witness Statements Using an Interpreter	233
20.1.11 Telephone Interpretation	234
20.1.12 Interpreter's Welfare	235

20.1.13	Court Considerations	236
20.1.13.1	Use of Interpreter to Interpret at Court	236
20.1.13.2	More than One Interpreter in Court	236
20.1.13.3	Interpreter as a Witness at Court	237
20.1.13.4	Interpreter for the Defendant	237

20.1 Interpreters

For the purpose of this practice advice an **Interpreter** is a person who **conveys** the meaning of the spoken word from one language to another.

20.1.1 Obligations under the European Convention on Human Rights

A person's right to liberty, security and a fair trial are fundamental human rights protected by the European Convention on Human Rights (ECHR) and the Human Rights Act 1998, Schedule 1. The ECHR and Human Rights Act give the right to the services of an interpreter, if needed, at the stage of arrest under Article 5 (2), and during court proceedings under Article 6 (3) (a) and (e).

Article 5 (2) of the ECHR require:

- Everyone who is arrested 'shall be informed promptly, in a language which he understands, of the reasons for his arrest and of any charge against him.'

Article 6 (3) (a) and (e) of the ECHR require:

- Interpreters in criminal proceedings to be fully competent for the task and that any person charged with a criminal offence has the right to
 - be informed promptly, in a language which he understands and in detail, of the nature and cause of the accusation against him;
 - free assistance of an interpreter if they cannot understand or speak the language used in court.

20.1.2 The National Agreement on Interpreters

The Office for Criminal Justice Reform, in consultation with other criminal justice agencies and interpreter groups, has agreed a set of key principles for the use of interpreters during an investigation and any subsequent court proceedings. These are called ***OCJR (2007) National Agreement on Arrangements for the use of Interpreters, Translators and Language Service Professionals in Investigations and Proceedings within the Criminal Justice System.***

The National Agreement includes a number of key principles:

- The police and other appropriate investigating agencies must arrange for interpreters for any part of an investigation and for the requirements of the suspects or persons charged, while in police custody.

- It is the responsibility of the court to arrange for an interpreter for the defendant at court, except where the defendant appears in court up to two working days after being charged, when it is for the police or other investigating agency to make the necessary arrangements. In normal circumstances, a separate interpreter should be arranged for each defendant. The interpreter must be available to interpret for the benefit of the defendant at court throughout the day's court proceedings and not only, for example, when the defendant is giving evidence.
- It is the responsibility of the prosecution and the defence to arrange interpreters for their own witnesses in court.
- It is important to check an interpreter's experience of police and court procedures before engaging their services.
- Where possible, every interpreter working in courts and police stations should be selected from the National Register of Public Service Interpreters (NRPSI).
- If it is not possible to select an interpreter from the National Register, those selected should meet standards at least equal to those required for entry on the Register, in terms of academic qualifications or proven experience of interpreting within the Criminal Justice System (CJS).
- Wherever possible, parties to proceedings should employ the services of different interpreters. An interpreter used at a police station or in the course of an investigation by another prosecuting agency should not also be engaged to interpret in the courtroom. An interpreter used by the defence when taking instructions may, however, be used by the court to interpret for the defendant in the courtroom at the discretion of the judge or magistrate.

20.1.3 Selecting an Interpreter

Where an investigation requires an interpreter to assist in a formal interview of a victim, witness or suspect, investigators should select an interpreter from one of either:

- The National Register of Public Service Interpreters (NRPSI); or
- The National Registers of Communication Professionals working with Deaf and Deafblind People (NRCPD) (formally Signature), who promote excellence in communication with deaf and deafblind people.

NRPSI and NRCPD are approved registers that provide a minimum and measurable standard of training and quality assurance.

Members are subject to a code of conduct, standards of competence and professional skills, and disciplinary proceedings. At present the NRPSI has 2,150 members, covering nearly 100 different languages and dialects.

Interpreters selected from the NRPSI are:

- Suitably qualified;
- Experienced;
- Security vetted.

Investigators and/or interviewers are responsible for checking that the interpreter supplied is qualified, competent and security cleared to undertake the assignment. **Accepting sub-standard, unqualified and/or non-registered interpreters for the sake of expedience may have a negative impact on the investigation.**

20.1.4 The NRPSI/NRCPD Codes of Conduct

Public Service Interpreters on the National Registers are required to abide by the Code of Professional Conduct to which they are signatories.

The code of conduct ensures that communication across language and culture is carried out consistently, competently, confidentially and impartially, and that all those involved in the process are clear about what may be expected from them.

A full copy of the code of conduct can be found on the relevant websites: <http://www.nrpsi.co.uk/> and <http://www.nrcpd.org.uk>

20.1.5 Unavailability of Interpreters and Lipspeakers

Where it is not possible to secure the services of a registered Public Service Interpreter, investigators should contact the UK Immigration Authority for assistance.

If the UK Immigration Authority is unable to assist **and** where a delay or rescheduling is not possible or inappropriate, investigators are advised to consider the following alternatives:

- **Interpreters** – these can be sourced from a commercial company with the prior authorisation of a senior officer of inspector rank or above. The authorising officer must:
 - risk assess the use of an interpreter from a source other than the national register

- ensure that the interpreter used has the relevant security clearance, qualifications and experience.
- **Lipspeakers** – where it is not possible to obtain a suitable lipspeaker from the NRCPD, the following agencies may be able to assist in identifying a suitably qualified lipspeaker
 - The Agency Steering Group (ASG) c/o Neal Communication Agency Ltd, telephone: 08760 163 0556, email: agencysteeringgroup@hotmail.com The ASG can provide a list of interpreting agencies which will only use Members of the Registers of Level 3 Lipspeakers (LSPs). All agencies on the list will be able to supply a Standards of Service document that outlines the level of service delivery that a purchaser should expect, including what to do in the event of a complaint. The level of vetting/Criminal Records Bureau (CRB) checking would need to be checked individually.
 - The Association of Sign Language Interpreters (ASLI) is the professional association of BSL/English Interpreters. Only licensed members (as opposed to associate) are qualified to interpret for Criminal Justice Sector (CJS) purposes. ASLI members abide by a code of conduct, possess professional indemnity insurance and are subject to a disciplinary code. The level of vetting/CRB check would need to be checked individually. Its membership database can be searched online by region at <http://www.asli.org.uk/interpreter-search-p3.aspx>
 - The Association of Lipspeakers is a professional association of Lipspeakers. Members abide by a code of practice, and only Level 3 lipspeakers are qualified to work in the CJS. The level of security vetting/CRB clearance would need to be checked individually. The online directory of members can be searched by name or region at <http://www.lipspeaking.co.uk>
 - The Association of Verbatim Speech to Text Reporters is a professional body which can be contacted c/o UK Council on Deafness, Westwood Park, London Road, Little Horkesley, Colchester, CO6 4BS; telephone 01206 274075; text 01206 274076; fax 01206 274077.

20.1.6 Security Requirements

The ACPO National Vetting Policy 2004 states that:

- Interpreters used in police stations should be subject to a degree of vetting that includes, but goes wider than, criminality; and
- The first force to vet an interpreter should retain ownership and responsibility for the process, including renewals of clearance.

Interpreting as an occupation does not allow entitlement to criminal record checks (as it is not an exception to the Rehabilitation of Offenders Act 1974). However, those employed to assist a police force or who work with children or vulnerable adults must have first obtained a CRB disclosure certificate.

Interpreters who are on a recommended register will normally have an enhanced CRB disclosure certificate or have been subject to police vetting and a Counter Terrorism Check (CTC). An interpreter's NRPSI profile will show their vetting level and the annual NRPSI re-registration will confirm, in writing, an interpreter's CTC clearance status.

Police are encouraged to provide locally-based interpreters or interpreters used by the force on a regular basis with enhanced security checks and, where possible, national CTC clearance.

If an investigation is of sensitive nature, the SIO should always consider having the interpreter vetted to the highest possible standard.

20.1.7 Using Police Officers and Police Staff with Additional Language Skills

In emergencies, it may be necessary and/or appropriate to use linguistically skilled police officers and staff to help obtain a first account of an incident.

In these cases the senior investigator must undertake a risk assessment to determine the impact on the investigation, particularly where it is of a sensitive nature.

Police officers and police staff are unlikely to have the level of additional language skills necessary for dealing with detailed situations, **unless** they are proficient up to the native language standard.

Paragraph 13 of PACE Code C Detention, Treatment and Questioning of Persons by Police Officers states that chief officers are responsible for making sure appropriate arrangements are in place for provision of suitably qualified interpreters for people who are deaf, and for people who do not understand English. If a person appears to be deaf or have difficulty in hearing or speaking, they must not be interviewed without an interpreter unless they agree to doing so in writing. A police officer or member of police staff (who is formally qualified in interpreting) may act as the interpreter (excluding for the purpose of obtaining legal advice) but only provided that the suspect has given their agreement in writing.

Police officers or police staff with the necessary skills may also be able to scan documents received from abroad, but should never be relied upon by the investigation team to provide accurate and detailed translations.

Any additional language skills that police officers or staff possess, **must** never be used for obtaining information to be used in evidence.

It is the responsibility of the SIO and investigation team to ensure that police officers or staff with second language skills are never inappropriately used. Interpreting is not their profession and they may not have received sufficient training to carry out the role of an interpreter.

20.1.7.1 Linguistically Skilled Staff – Additional Native Language Considerations

In situations where both the interviewing officer **and** the victim or witness speak the same native language (other than English) the officer (with the appropriate interviewing skills) may take a written statement in that language, without the assistance of an interpreter.

Once completed, statements must be translated into English by a qualified interpreter/translator.

20.1.8 Working with Interpreters

The investigator should recognise that an interpreter is needed once it becomes apparent that the investigator does not linguistically share sufficient common ground to conduct clear and concise communication. This assessment should be made as early as possible to reduce the risk of miscommunication.

The use of interpreters will be particularly important when dealing with anxious, sick or frightened victims, witnesses or suspects. People may speak fluent English language in normal situations, but in stressful circumstances or when they are under pressure these skills may deteriorate.

Investigators should take care not to rely on the additional language skills of officers and staff as in some cases these may be overstated, or there may be a reluctance to admit limitations. This may be particularly relevant when they want to impress a senior officer or when in challenging situations.

20.1.9 General Points to Consider

Before interviewing non-English-speaking victims, witnesses or suspects, investigators are advised to consider the following points. They have been identified as good practice and may be applicable when working with translators, sign language interpreters, lipspeakers and speech-to-text reporters.

The following is not an exhaustive list.

- Asking where a person comes from by encouraging them to point at a map may not always identify the language they speak. Investigators should use language identification charts to determine the person's best or preferred language as skills may vary across several different languages.
- Investigators must not make assumptions based on nationality, ethnicity, appearance and/or behaviour.
- Where an educated guess or relevant documentation suggests a particular language, an interpreter in that language should be contacted in the first instance to help confirm this with the individual. Confirmation must be sought from the non-English-speaking person that they fully understand the interpreter.
- Investigators must consider the law in the country from which the individual originates. Significant differences in crime types and punishments may inadvertently influence any comments or confessions made. (When under pressure, most people will revert to what they know best and some countries may carry heavier or lesser penalties for the same crime.)
- The person responsible for requesting the attendance of the interpreter at a location or named police station must specify items that they would like the interpreter to bring with them, eg, warm clothing or a torch.
- The caller requesting the interpreter's attendance should inform the interpreter
 - of the name of the person they must report to when they arrive at a location or police station
 - who is responsible for them? This is particularly important during major incidents, involving large numbers of victims, witnesses and police staff.
- The person responsible for the meeting the interpreter should explain how the interpreter's tasks will be allocated, what they will be required to do and what is likely to be discussed.
- Investigators should make and keep a copy of the interpreter's identity card to discourage any fraudulent activity.
- Investigators should ensure that the interpreter destroys their notes while still at the police premises.

- Investigators or the SIO should consider the costs associated with retaining the services of an interpreter during an incident once they have completed their initial tasks. This should be weighed against any difficulties which may be associated with terminating and later re-engaging the interpreter's services.
- Interpreters from the National Register are not trained to deal with bereaved families or traumatic incidents. In these situations the welfare of the interpreter must be considered.
- In situations where several interpreters and victims or witnesses are involved, investigators carefully consider which interpreters are linked to each victim or witness.
- It is the responsibility of the police to address all health and safety obligations. Investigators should ensure that an interpreter attending a scene is provided (where necessary) with the appropriate equipment and/or information, eg, high-visibility tabard, stab proof vest or practical advice for speaking to detained persons.
- To identify a language where the person cannot be asked what language they are speaking, such as during intercepted communication or in hostage negotiations, the use of expert linguists should be considered. In such circumstances, investigators are advised to contact SOCA Multilateral for advice and assistance.

20.1.9.1 Before an Interview Commences

Before an interview commences, investigators **must** ensure that the interpreter:

- Knows what their responsibilities are;
- Is qualified to undertake their responsibilities in the correct manner.

Language barriers can have a significant impact on any investigation where communication between the interviewer and the interviewee is through an interpreter. To help minimise the risks associated with this situation, interviewers are advised to consider the following points:

- Ensure that a suitably qualified interpreter is appointed. (Safe, accurate and effective interpreting in an investigative context is a professional activity and it is unrealistic to expect an untrained bilingual to provide a 'safe' interpretation.)
- If an interpreter supplied by an agency is **not** a registered interpreter, the investigator must confirm with the agency (and if necessary the interpreter) that the interpreter is formally qualified to undertake the tasks required or has sufficient experience.

- Ensure that the interpreter is briefed about the nature of the assignment and the subject of the interview. Interpreters can use this briefing to prepare themselves mentally for the terminology and process, which will help to improve the quality of the interpretation. This will also afford the interpreter an opportunity to refuse the assignment if it is beyond their capabilities.

Investigators must **not** encourage interpreters to undertake any assignment that they feel unable to fulfil.

- In complex investigations, or where the interpreter will be required for long periods of time, it may be necessary to have more than one interpreter available so that they can take over. (As interpreting sign language is especially intensive, it is more likely that sign language interpreters will need to work in teams).
- Interviewers should allow additional time for conducting interviews through an interpreter since all communication is three way.
- In cases involving rape or child abuse investigators and interviewers must confirm that the most suitable interpreter has been chosen, eg, a female victim may feel more comfortable with a female interpreter.
- Investigators must consider using witness intermediaries when dealing with victims, witnesses or suspects under 18 years of age or adults with communication difficulties.
- Interviewers must understand that some words or terms will have no direct equivalent meaning in the interpreted language. In such circumstances, the interpreter will employ a range of linguistic strategies to transfer the word, phrase or concept into the other language and may require the interviewer to provide additional explanation to facilitate this.

Pre-interview discussions with the interpreter will help to avoid issues of interpretation of technical terms into other languages and cultures.

- When formulating an interview plan for interpreting, the interviewer should use clear, simple and unambiguous language. They should also structure information logically, saying precisely what is meant while speaking in a clear, audible voice, and at an even pace.
- It is important to remember that both the interviewee and the interpreter will constantly try to decode non-verbal signals as well as the spoken word.

- When deciding on the location of the interview, interviewers are advised to choose a quiet room and arrange the seating in such a way as to allow the interviewer to face the interviewee, enabling the interviewer to speak directly to the interviewee. The interpreter should sit in a position that creates a triangle and confirms that the interpreter is not directly representing any one particular party.
- The seating arrangements for a sign language interpreter are not the same as with spoken language interpreters. Both sign language users should, ideally, have full front-on views of each other from head to waist. This may be difficult to facilitate if sign language interviews are being visually recorded.

20.1.9.2 The Interview

Several rules have been identified as good practice when communicating through an interpreter and, if applied consistently, can make working with an interpreter straightforward. Investigators may wish to consider the following points:

- The interpreter is only there to facilitate communication between the interviewer and the interviewee. They are not part of the investigation team.
- The presence of an interpreter is not to relieve the interviewer (or the interviewee) of the primary responsibility for formulating questions or answers, clarifying points, checking and providing feedback.
- The interviewer must check that the interviewee understands the interpreter.
- During the introduction, the interviewer should confirm the correct way of writing the interviewee's name and any additional relevant personal details. This should also be addressed during the interview.
- The interviewer must explain the role of the interpreter to the interviewee.
- The interviewer should run the interview in the same way as when dealing with an English-speaking interviewee; the interpreter only interprets what the parties say to one another.
- In order for the interviewer to keep control of the interview process, all communication should be directed at the interviewee.
- The interviewer's attention must always be focused on the interviewee, not on the interpreter.

- At the same time as the interpreter is relaying a message, the interviewer must maintain interest in and focus on the interviewee.
- If the interviewer wishes to seek information or clarification about any relevant attitudes, perceptions or cultural norms that the interviewee may have, they must seek such information directly and not from the interpreter.
- All questions should be phrased in a way that allows the interpreter to convey the correct interpretation.
- For the communication to be effective, interviewers should regularly check mutual understanding by asking open questions, freely allowing the interviewee to also ask questions to clarify their understanding of the procedures.
- The interviewer must consider the terminology used and how it may be received by the interviewee once conveyed by the interpreter.
- To assist in explaining the role of the interpreter, the interviewer should explain the following points prior to the interview
 - the interviewer will be conducting the interview via an interpreter
 - the interpreter is completely impartial and independent from the police and the enquiry
 - the interpreter will keep confidential everything that is said during the interview
 - an interpreter is not an adviser, chaperone, solicitor or investigator and, therefore, the interviewee is not allowed to ask them any questions on process or seek any advice from them
 - the interpreter is not allowed to undertake any conversation with third parties, for example, a solicitor
 - the interviewer will refer to the interviewee directly and the interpreter will repeat everything that is said (to the best of their knowledge and abilities)
 - the interviewee should refer to the interviewer directly and the interpreter will repeat everything that is said (to the best of their knowledge and abilities)
 - the interpreter will speak in the first person
 - if either the interviewer or interviewee speaks for too long, the interpreter might stop them (the interpreter at this point should show how they will stop parties if they speak for too long; the gesture will vary in different cultures)

- if speech is too fast, the interpreter might stop the flow to accommodate accurate interpretation
 - even if the interviewee understands some English, they should still be advised listen to the interpretation first and give the answer in their native language
 - the interpreter may interact with either party to clarify what has been said to ensure the most accurate interpretation
 - the interviewee may ask the interviewer anything they wish, and the interviewer will respond in accordance with their duties and legislation
 - during this interview, the interviewer may take notes of what has been said, to assist them in their role as a police officer
 - the interviewee is entitled to ask for clarification of anything they do not understand.
- Having explained the process and before the interview begins, the interviewer should ask the interviewee if they have any questions.
 - The interpreter may make notes during the interview to help them recall what the interviewer said. These notes are **only** an aide memoire for the interpreter and must be destroyed by them on completion of the assignment.
 - Consecutive interpreting (interpreting a portion of speech at a time when the speaker has paused) permits clear understanding for the listener and allows for transcribing where the interview is being audio-recorded.
 - Interviewers must avoid cultural specific statements as they can be difficult to interpret and may be misunderstood.
 - Interviewers must avoid using colloquial expressions or phrases, eg, 'six of one and half a dozen of another', jokes or irony.
 - At the end of the interview, the interviewer must provide a summary of what has been said and explain what will happen next. This is extremely important for establishing trust and openness, particularly with people who may have fear of the police and/or judicial system.

20.1.9.3 Following the Interview

Once the interview has been terminated, the interviewer or investigation team should consider the following:

- Check all records of the interview are in order.
- Check the welfare of both the interviewee and interpreter.

- Confirm the interviewee's names and personal details are correct as established during the interview.
- Reflect on the interview process, encouraging feedback from the interpreter. This is particularly important for improving interviewing skills when further interviews may be needed in large investigations.
- During long or complex investigations, it is advisable for the SIO to consider conducting a dip sample of early interviews to check for accuracy and help identify discrepancies that the defence will highlight at court. Dip sampling for accuracy can be undertaken with the help of a translator. For more information on translators, see **21 Translators**.
- In light of the above, SIOs must consider the suitability of all interpreters for future interviews.
- Address any concerns directly with the interpreter to maintain an open and honest working relationship and encourage two-way communication.
- Refrain from asking the interpreter for their personal thoughts on the investigation or the interviewee. Interpreters are obliged to stay impartial and abide by their code of conduct. Interpreters are only able to comment when identified as an expert witness during a trial.
- If the interpreter is unavailable for a future date, the interviewer or the investigation team should book another suitable qualified interpreter.
- Ensure that any notes made by the interpreter during the interview are destroyed in the presence of the interviewer.

20.1.10 Obtaining Written Evidential Witness Statements Using an Interpreter

Where a witness has difficulty in speaking or understanding English, investigators must arrange for an interpreter to assist in interviewing the witness. See PACE Code C 13.1-11 for further information.

The interviewer should employ the same techniques and approaches for effective communications via an interpreter when dealing with a suspect, victim or witness. It is the investigator's job to ask questions and gather evidence, not the interpreter's.

The process for taking a written witness statement via an interpreter can be confusing. Investigators should establish an agreed method for taking statements with the interpreter, before starting. There are two simple but effective models for taking a statement via an interpreter.

Option 1

- The investigator puts questions to the witness to elicit the information required and the interpreter interprets the witness's responses.
- The investigator indicates to the interpreter which pieces of information should be recorded on the statement form in the language of the witness. At the end of the interview the interpreter should be asked to confirm the accuracy of what is written, and then reads the statement back to the witness in the witness's own language.
- Having built up a full statement in this way, the interpreter then produces a written translation of the statement in English.

Option 2

- The investigator puts questions to the witness to elicit the information required and the interpreter interprets the witness's responses, as in Option 1.
- Based on the interpreted responses, the investigator writes a statement in English. While writing, the investigator reads out sentence by sentence what they are writing. The interpreter simultaneously writes a translation into the language of the witness onto a statement form.
- The completed statement is then read back to the witness, who is asked to confirm the accuracy of what is written.

Investigators must remember that the responsibility for taking the statement remains entirely with the investigator (as if taking a statement from an English speaker).

The investigator must never invite the interpreter to take the statement from the witness, or to formulate questions on their behalf. The investigator must speak directly to the witness throughout the process, allowing the interpreter time to interpret what is said. Taking a statement via an interpreter requires double/triple the time normally required.

20.1.11 Telephone Interpretation

Telephone interpreting is used widely by the police, eg, Language Line Services Ltd, but is only suitable for brief and straightforward communications.

Interpreting via telephone is **not** appropriate for a formal interview of a victim, witness or suspect.

However, under the Road Traffic Act 1988, where it is not possible to secure the attendance of a face-to-face interpreter within a reasonable amount of time and the matter is time-critical (eg, for drink or drug-driving offences), interpretation via a telephone is permitted. This is provided that the interpreter is based in the UK and drawn from the NRPSI, and that audio-recordings of both ends of the conversation are made via, for example, a speaker-phone or through the force communications centre.

If there is genuinely no alternative to using a non-UK based telephone interpreter, care should be taken to ensure that they are suitably qualified and subject to codes of conduct and good practice.

20.1.12 Interpreter's Welfare

The welfare of an interpreter and linguistically skilled police staff (used to assist an investigation) is ultimately the responsibility of the person (usually the SIO) who requested their attendance at a location or named police station.

This person is also responsible for:

- Carrying out a risk assessment in relation to the interpreter's attendance, considering whether, for example, the interpreter should be met at an alternative place of safety, such as a police station, before proceeding to the scene in the company of a police officer;
- Not allowing the interpreter to be left in a room or cell with the person they are interpreting for, without a member of police staff present;
- Not allowing the interpreter to leave a police station or other premises where an assignment has taken place, either at the same time or through the same entrance or exit as the person they have interpreted for;
- Establishing the availability of suitable food and drinks, toilets and washroom facilities during lengthy events or investigations that span meal times;
- Considering whether the interpreter requires or needs referring for further support or counselling after a traumatic event.

20.1.13 Court Considerations

Prior to all court hearings that involve non-English-speakers, it is imperative that the investigation team provides the maximum possible notice to any specifically required interpreters. This will avoid delays and/or adjournments.

It is recommended that investigators obtain the interpreter's availability during the investigation phase and pass on these details to the Crown Prosecution Service (CPS) before any court dates are fixed.

20.1.13.1 Use of Interpreter to Interpret at Court

It is the responsibility of the prosecution and defence to arrange interpreters for their own witnesses at court. Where possible, parties to proceedings should employ the services of different interpreters.

Concerns relating to the competence of an interpreter are a procedural matter and where this is identified as an issue, the hearing will be adjourned for a resolution.

The CPS is responsible for the payment of the interpreter's expenses following their attendance in court to interpret the evidence of a prosecution witness; fees should be agreed prior to the hearing.

20.1.13.2 More than One Interpreter in Court

An additional interpreter may be required for trials lasting several days or weeks, to prevent interpreter fatigue.

An additional interpreter may also be needed in cases which are complex or of a particularly sensitive nature, even where there is only one defendant.

Sign language interpretation and other forms of communication to support the needs of deaf people are recognised as being particularly intensive, and it is, therefore, more likely that language service professionals will need to work as a team.

Due to the concentration required when interpreting, investigators should acknowledge the needs of the interpreter(s) and their need to take regular breaks. This will help to ensure the accuracy of the interpreting. The way in which breaks will be accommodated must be agreed in advance between the interpreter, investigators and the relevant court official(s) before commencement of any proceedings.

Where more than one defendant shares the same language, a single court interpreter may interpret for both parties during court proceedings, if appropriate and practicable.

In cases where the language spoken is so rare that a registered interpreter is not available, it may be necessary to engage two interpreters: the first to interpret from the rare language to another language (not English), and the second to interpret from the second language into English. This is known as ‘relay interpretation’.

Similar arrangements may be needed to meet the needs of a non-English-speaking deaf person.

20.1.13.3 Interpreter as a Witness at Court

If a suspect has been interviewed through an interpreter and an issue arises about what was said, the interpreter may need to give evidence. Evidence from a police officer about what the accused said in an interview, as relayed to the police officer by the interpreter, is hearsay. The only valid witness to what the defendant said is the interpreter.

All interpreters must be suitably qualified and impartial.

If an interpreter is required to give evidence, they must be given an opportunity to confirm the accuracy of any record of an interview at which they were present. This includes the opportunity to listen to audio recordings made at the time of the interview, or in the case of an interview with a deaf person, an opportunity to view the video interview.

20.1.13.4 Interpreter for the Defendant

If a defendant requires an interpreter to interpret the proceedings, it is the responsibility of the court to arrange for the attendance and payment of an independent interpreter. Where there is more than one defendant, each defendant should have a separate interpreter.

A plea cannot be accepted if the defendant has not fully understood the nature of the case to which they are pleading because they do not understand the language or because of the inadequate explanation given by their legal representative.

It is important that the CPS liaises with the court and the police to ensure that the court is aware of the need for an independent interpreter and any other relevant information, so that an appropriate interpreter can be selected.

An interpreter used at a police station or in the course of investigations by other investigating agencies should not be engaged to interpret in the courtroom. It may, however, be necessary if it is not possible to find another interpreter (for example, where the language is rare). In these cases the court and all parties must be notified of the intention to use the same interpreter for the court proceedings.

21

Translators

In an investigation documents may be written in a number of languages. It is essential when translating from one language to another, that the proper meaning is given to the written word. This requires expertise and skill.

Contents

21.1 Translators	240
21.1.1 Working with Translators	240
21.1.2 Securing Legal Translation Service	241
21.1.3 Selecting a Legal Translator	241
21.1.4 Commissioning a Translator	242

21.1 Translators

For the purposes of this document, a translator is defined as a person:

- Who conveys the written word from one language to another. (Although in some languages there is only one word for both interpreter and translator. The translator's specialism is clarified by the additional word 'written' or 'oral'.)

21.1.1 Working with Translators

The following points have been identified as good practice and provide investigators with several key issues to consider when working with a translator. Investigators should also refer to the general points raised in **20.1.9 General Points to Consider**, which identifies basic formalities that investigators are encouraged to undertake when speaking to a non-English-speaking person.

- Investigators should always assess the text to be translated in order to brief the translator efficiently, making sure the language is identified and that the document is within the capabilities of the translator.
- Investigators should be prepared to discuss realistic timescales with the translator before translation commences.
- When a decision has been made to undertake the translation of documentation, it is advisable for the investigator to establish how they wish the translated document to be presented and identify any specific layout requirements. This is particularly important in translating languages where the source document is written from right to left.
- By seeking advice at the earliest opportunity from the translator and the CPS on the most appropriate method to be used, investigators can ascertain the process for dealing with illustrations, maps and annotations since they can easily be disassociated from the relevant text following direct translation. Colours used in documents can also have different significance in different cultures, close liaison and advice are, therefore, needed to establish the meaning or status of a document, as well as the direct translation.
- Prelingually deaf people (people who were born deaf or lost their hearing before they learnt to speak) may not be able to read or write, or their ability may not be to the standard needed for CJS purposes. Consideration should, therefore, be given to using sign language, but only where the interviewee is fluent in sign language.
- Literacy levels of the reader should be taken into account in respect of any language.

- Where translations or translators from other countries are involved, enquiries must be made from the appropriate authorities in that country to ascertain the translation standards used.

21.1.2 Securing Legal Translation Service

To identify a suitably qualified translator, the investigator should ensure that translators:

- Have been objectively assessed through a nationally recognised examination set against the National Occupational Standards for Translation at level 7, as being competent in
 - English and a specified second language – including regional variations or dialects
 - a range of formal and informal registers and specialised terminology
 - knowledge and understanding of legal systems, structures and processes in the countries of both registered languages
 - translation skills – including dealing with texts from a range of written communication, eg, formal documents and text and email messages
 - knowledge and understanding of the cultural backgrounds underpinning the second language used;
- Observe a code of conduct and good practice and are, preferably, members of a professional language body with recognised disciplinary procedures to underpin that code;
- Have security vetting at the appropriate level;
- Encompass the range of language combinations required (a second translator may be required if there is more than one language identified in a document);
- Are supported by a structure which includes secure IT systems, adequate supervision and continuous professional development (CPD);
- Carry professional indemnity insurance.

21.1.3 Selecting a Legal Translator

When the skills of a legal translator are required, a person that holds a degree in Translation or a Diploma in Translation should be booked, if possible. They can be found on the NRPSI database using a search for a 'translator'. Alternatively, investigators should select them from:

- **The Institute of Translation and Interpreting** (<http://www.iti.org.uk>). The majority of ITI members are qualified translators and can provide proof of relevant qualifications.

Only Fellows and Members of the ITI should be used for translating for CJS purposes. For details of agencies experienced in carrying out work on behalf of the Government, see **28.7 Translation and Interpreting Services**.

- **The Chartered Institute of Linguist** (<http://www.iol.org.uk/linguist/linguist.asp?r=W8EMOVMKAA>). Members will have passed graduate level examinations and agreed to abide by the CIoL Code of Conduct.
- **Commercial Translation Agencies** – the ITI website includes a list of translation agencies which are members of ITI and have met ITI registration criteria. It is recommended that commercial agencies used by the police should
 - be well-established
 - engage only qualified translators belonging to professional language bodies
 - include in their services such elements as proofreading and checking.

Note: If outsourcing of translation services is being considered, reference should be made to annex F of the **National Agreement on the arrangements for the use of Interpreters**, see http://www.cps.gov.uk/legal/h_to_k/interpreters/#a02

21.1.4 Commissioning a Translator

The process for commissioning a translator will vary depending on the source. The following points may help the investigation team identify what they require.

Investigators should define:

- The length of the source text;
- The subject matter;
- The level of technicality contained within the document;
- The purpose of the translation, such as evidential, background information;
- The deadline by which the translation is to be completed;

- Any format or layout standards required;
- Any security considerations.

Once a translator has agreed their availability, an investigator or SIO should:

- Agree fees – usually based on a price per thousand words, plus a charge for checking, proofreading and any special presentation required. (For further information on rates, the MPS Language Policy and Co-ordination Team may be able to assist.)
- Identify a contact point through which the translator can clarify any ambiguities or technical terms in the text.
- Identify a delivery point and method, eg, by email.
- Agree how non-equivalencies should be dealt with, eg, the term probation may not exist in another language so should this be explained within the body of the text or as a footnote.
- Agree the level of security, ie, any requirement for encryption of electronic text, signed-for letter.
- Exchange a letter of agreement that includes terms of payment.

22

Sign Language Interpreters, Lipspeakers and Speech-to-Text Reporters

A physical impairment such as deafness and/or blindness can be a barrier to understanding. This difficulty can be compounded when the individual does not speak English.

Contents

22.1 Sign Language Interpreters, Lipspeakers and Speech-to-Text Reporters	246
22.1.1 Police Considerations	246
22.1.2 Identifying the Right Mode of Access and Communication for a Deaf or Deafblind Person	247

22.1 Sign Language Interpreters, Lipspeakers and Speech-to-Text Reporters

A **Sign Language Interpreter** is

- A person who facilitates communication between users of British Sign Language (BSL) and users of spoken English.

A **Lipspeaker** is

- A person who conveys a speaker's message to lipreaders accurately using unvoiced speech.

A **Speech-to-Text Reporter** is

- A person who produces a verbatim record of what is said, using a phonetic keyboard, to be shown instantly on a monitor or screen. The speech-to-text reporter provides a complete translation of the spoken words and environmental sounds, such as laughter and applause.

Since the consequences of misinterpreting can have a serious impact on an investigation, only qualified and experienced sign language interpreters, lipspeakers and speech-to-text reporters should be assigned for police interviews or court proceedings.

In all cases, Article 6 of the ECHR clearly requires that an interpreter be fully competent for the task assigned.

Sign language interpreters, lipspeakers and speech-to-text reporters are all listed in the National Registers of Communication Professionals working with Deaf and Deafblind People (NRCPD) Directory. The NRCPD Directory lists the interpreter's name, qualifications, specific areas of expertise, availability and contact details.

For people who are deaf or hard of hearing, the services of a lipspeaker will be required. Lipspeakers can communicate with deaf or hard of hearing people who do not know or use sign language, but who are usually skilled lipreaders of spoken English. A lipspeaker is not an alternative to a sign language interpreter and would be ineffective for a deaf or hard of hearing person whose first or preferred language is Sign Language.

Wherever practicable, only Level 3 NVQ registered, qualified lipspeakers should be used.

22.1.1 Police Considerations

Where the skills of a sign language interpreter, a lipspeaker or a speech-to-text reporter are used, the investigation team should video-record all interviews.

22.1.2 Identifying the Right Mode of Access and Communication for a Deaf or Deafblind Person

For the purposes of interviewing a deaf or deafblind victim, witness or suspect, an investigator may need to check whether a British Sign Language, English Interpreter, an interpreter for a 'foreign' sign language, or another type of language service professional is needed or most appropriate for the person concerned.

For advice and assistance see the ***National Agreement on the arrangements for the use of Interpreters*** at http://www.cps.gov.uk/legal/h_to_k/interpreters/#a02

23

Strategic Considerations

In all cases, whether involving interpreters, translators, lipspeakers or a speech-to-text reporter, forward planning and/or the development of force guidelines is essential to help with major incident and emergency planning. This will ensure that interdisciplinary teams have the capability to arrive at a scene and immediately operate together at a proficient level.

Contents

23.1 Strategic Considerations

250

23.1 Strategic Considerations

Forces should consider regional and half-yearly training scenarios with interpreters to help identify key issues and best practice. Forces should also consider training officers in the skills required for working with interpreters, lipspeakers and speech-to-text reporters.

It is advisable that police forces establish a directory of police officers and police staff with second language skills who can provide assistance in an emergency or assist officers in cultural issues and visits abroad as part of an investigation.

In addition, any police officer or member of police staff should be encouraged to have their language skills independently assessed, to establish their level of ability.

PART EIGHT

Key Statutes, Conventions and other Legal Instruments

24

Key Statutes, Conventions and other Legal Instruments

European cross-border investigations are conducted using a number of key statutes and legal instruments which can differ greatly from the usual legal provisions that investigating officers use in domestic investigations.

This section gives an overview of some of the legislation that investigators should be mindful of when dealing with a cross-border investigation. It summarises the key legislation for extraterritorial offences and legislation regarding cross-border policing cooperation, both domestically and at the European Union level.

For further information on a particular case, however officers should read any relevant Acts and consult the Crown Prosecution Service.

Contents

24.1 Extraterritorial Offences	256
24.1.1 Offences Against the Person Act 1861	256
24.1.2 Foreign Enlistment Act 1870	257
24.1.3 Territorial Waters Jurisdiction Act 1878	257
24.1.4 Explosive Substances Act 1883	257
24.1.5 Official Secrets Act 1911	257
24.1.6 Criminal Justice Act 1948	258
24.1.7 Civil Aviation Act 1982	258
24.1.8 Criminal Justice Act 1988	258
24.1.9 Official Secrets Act 1989	258
24.1.10 Aviation and Maritime Security Act 1990	259
24.1.11 Criminal Justice (International Co-operation) Act 1990	260
24.1.12 Criminal Justice Act 1993	260
24.1.13 Merchant Shipping Act 1995	261
24.1.14 Sexual Offences (Conspiracy and Incitement) Act 1996	261
24.1.15 United Nations Personnel Act 1997	261
24.1.16 Terrorism Act 2000	262
24.1.17 Anti-Terrorism Crime and Security Act 2001	263
24.1.18 Sexual Offences Act 2003	264
24.1.19 Corporate Manslaughter and Corporate Homicide Act 2007	264
24.1.20 Gangmasters (Licensing) Act 2004	265
24.1.21 Bribery Act 2010	265
24.1.22 Coroners and Justice Act 2009	266
24.2 Legislation Governing Overseas Police Cooperation	266
24.2.1 Police and Criminal Evidence Act 1984	266
24.2.2 Criminal Procedure and Investigations Act 1996	267
24.2.3 Police Act 1996	267
24.2.4 Regulation of Investigatory Powers Act 2000	267
24.3 European Union Legislation	267
24.3.1 The Schengen Agreement	268
24.3.2 The Swedish Initiative – 2006/960/JHA	271
24.3.3 Prüm Treaty – Council Decision 2008/615/JHA and 2008/616/JHA	274
24.4 Council of Europe Conventions Assisting in Legal Cooperation in Criminal Matters	278
24.4.1 Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime	278

24.4.2	Convention on the Transfer of Sentenced Persons	278
24.4.3	Additional Protocol to the Convention on the Transfer of Sentenced Persons	279
24.4.4	Council of Europe Convention on Action against Trafficking in Human Beings	279
24.4.5	Criminal Law Convention on Corruption	279
24.4.6	Additional Protocol to the Criminal Law Convention on Corruption	280
24.4.7	European Convention on Mutual Assistance in Criminal Matters	281
24.4.8	Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters	281
24.4.9	European Convention on the Compensation of Victims of Violent Crimes	281
24.4.10	European Convention on the Suppression of Terrorism	282
24.4.11	Additional Protocol to the European Convention on Information on Foreign Law	282
24.4.12	Naples II	283
24.5	UN Conventions	283
24.5.1	United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances 1988	283
24.5.2	United Nations Convention against Transnational Organized Crime 2000	284
24.5.3	United Nations Convention against Corruption 2003	285
24.6	Additional Reference	285
24.6.1	Commonwealth Countries – The Harare Scheme	285
24.7	Statutes	285
24.7.1	Crime (International Co-operation) Act 2003	286
24.7.2	Extradition Act 2003	288
24.7.3	Proceeds of Crime Act 2002	288
24.7.4	Other Statutes	289
24.8	Legal Instruments – Conventions and Treaties	289

24.1 Extraterritorial Offences

In principle, the UK limits its jurisdiction to offences committed within its territorial boundary; offences outside this area are considered to be the concern of another authority. Offences occurring abroad are usually prosecuted by the country in which they occur. However, there are a number of pieces of legislation which extend the UK's jurisdiction to include offences committed outside the UK. This group of offences are known as extraterritorial offences.

It should be noted that because the jurisdiction to prosecute is extended beyond the territorial boundaries, this does not give UK law enforcement jurisdiction to act outside ordinary territorial limits. Investigations of such offences will require considerable cross-border cooperation at a law enforcement, prosecutorial and sometimes judicial level.

Extraterritorial offences fall into two groups:

- Serious crimes such as homicide and terrorism;
- Offences which take place in no-man's-land between states.

For the latter group, without extraterritorial provisions there would be no rule of law. Traditionally, these offences took place on the high seas, but now they may also include offences where the conduct occurs in one country but the offence takes place in another.

Even though the UK may have jurisdiction to prosecute, it does not necessarily mean it will. In many cases the country where the offence took place will be seeking to prosecute as well, which could lead to a 'conflict of jurisdiction'. For information on conflicts of jurisdiction, see **27.3 Eurojust**.

Agreed guidance exists between the US and UK Attorney Generals on resolving conflicts of jurisdiction. This was agreed in 2007 and provides a framework for US and UK prosecutors to discuss and resolve such cases.

In so far as it is possible to ascertain, the following subsections (24.1.1 - 24.3) detail the legislation containing extraterritorial offences (Archbold 2-36a – 2-83). There may however, be other relevant legislation.

24.1.1 Offences Against the Person Act 1861

Section 9 of this Act makes provision for a UK subject to be prosecuted for a homicide committed outside the UK. Homicides where either the act causing the death or the death itself occurs outside the UK can be prosecuted under section 10.

Section 57 defines the offence of bigamy. A UK national will be guilty of bigamy regardless of whether or not the marriages have taken place in the UK or abroad. Non-UK persons will also be guilty of bigamy if their subsequent marriages take place in the UK.

Although powers exist under section 9 Offence Against the Persons Act 1861, investigators must remember that primacy for the investigation and prosecution remains with the country where the offence was committed and any deviation from this process must be brokered through the FCO. To arbitrarily seek alternative action is likely to provoke a significant diplomatic incident.

24.1.2 Foreign Enlistment Act 1870

Section 4 of this Act makes it an offence for a British subject to enlist or to induce a person to enlist for a foreign state which is at war with a state with which the UK is at peace.

24.1.3 Territorial Waters Jurisdiction Act 1878

This Act does not define specific offences; rather, section 2 of this Act extends the jurisdiction of the UK. Acts on board or by foreign ships, if they are committed within the UK's territorial waters, fall within the scope of the jurisdiction of the Admiral and so can be prosecuted as offences committed in the UK.

Prosecution proceedings for offences described as being under this Act shall not be instituted against a foreign citizen without the consent of one of Her Majesty's Principal Secretaries of State (or the Governor of that dominion) (section 3).

24.1.4 Explosive Substances Act 1883

Sections 2 and 3 of this Act can apply extraterritorially. The offence of causing an explosion (section 2) can be committed by citizens of the UK and the Republic of Ireland. They can commit the offence of making explosives (section 3) through their actions anywhere abroad.

British nationals who act as accessories to offences under this Act commit an offence regardless of whether their conduct was abroad (section 5). There can be no proceedings without the consent of the Attorney General (section 7(1)).

24.1.5 Official Secrets Act 1911

The whole of this Act applies to British nationals or officers acting outside the UK.

24.1.6 Criminal Justice Act 1948

Section 31 of this Act applies to crimes by civil servants abroad. A British subject, employed as a crown servant who, while acting or purporting to act in the course of his employment, commits an offence abroad, which would be an indictable offence if committed in England, shall be prosecuted as if the offence had been committed in England.

24.1.7 Civil Aviation Act 1982

This Act describes the application of criminal law to aircraft. Section 92 states that an act taking place on board a British-controlled or foreign aircraft (see note below) while in flight elsewhere than in or over the UK which, if taking place in the UK, would be an offence, shall be an offence. There is an exception where the act is expressly authorised or implied under the law of that territory when the act takes place outside the UK.

Note: Section 92 only applies to a foreign aircraft where the next landing of the aircraft is in the UK, and only if the act would constitute an offence if it had taken place in the country the aircraft is registered in.

No proceedings for offences which occur on an aircraft outside the UK can take place except by, or with, the consent of the Director of Public Prosecutions. Offences under any of the air navigation enactments are an exception to this rule (see section 92(5)).

24.1.8 Criminal Justice Act 1988

Section 134 states 'A public official or person acting in an official capacity, whatever his nationality, commits the offence of torture if in the United Kingdom or elsewhere he intentionally inflicts severe pain or suffering on another in the performance, of his official duties' (section 134(1)). See the Act for details of the exceptions and statutory defence to this offence.

Proceedings shall not begin except by, or with, the consent of the Attorney General (section 135).

24.1.9 Official Secrets Act 1989

Section 15 of this Act extends the jurisdiction of most of these offences to be extraterritorial. 'Any act done by a British citizen or Crown servant; or done by any person in any of the Channel Islands or the Isle of Man or any colony, shall, if it would be an offence by that person under any provision of this Act other than section 8(1), (4) or (5) when done by him in the United Kingdom, be an offence under that provision' (section 15).

24.1.10 Aviation and Maritime Security Act 1990

Part II of this Act provides for offences against the safety of ships and fixed platforms. Offences include:

- Seizing or exercising control over a ship (section 9) or fixed platform (section 10);
- Destroying them (section 11(1)(a));
- Damaging so as to endanger their safety or safe navigation (section 11(1)(b));
- Acts of violence likely to endanger their safety or safe navigation (section 11(1)(c));
- Placing substances likely to destroy, damage or endanger their safety or safe navigation (section 11(2));
- Attempting, inciting, aiding, abetting, counselling or procuring any of the above offences (section 11(3));
- Destruction, damage or interference with other property likely to endanger the safety or safe navigation or any ship (section 12);
- Threats aimed at the ship or fixed platform to compel someone to do something (section 13).

These offences are subject to the exception that they do not apply to a warship or other ship used as a naval auxiliary for customs or the Police Service unless:

- The person committing the offence is a UK national;
- The act is done in the UK;
- The ship is being used for one of the reasons above in the UK.

Acts committed or attempted in connection with any of the above offences will also be an offence if, had the act been done or attempted in the UK, it would have been an offence under:

- Murder, attempted murder, manslaughter, culpable homicide and assault;
- Sections 18, 20, 21, 22, 23, 28 and 29 of the Offences Against the Person Act 1861;
- Section 2 of the Explosive Substances Act 1883 (section 14).

No prosecution proceedings may commence without the Attorney General's consent (section 16).

24.1.11 Criminal Justice (International Co-operation) Act 1990

Principally, the extraterritorial aspects of this Act are for the attention of Revenue and Customs officers. Section 18 concerns drug trafficking on ships, it states: 'Anything which would constitute a drug trafficking offence if done on land in any part of the UK shall constitute that offence if done on a British ship' (section 18).

24.1.12 Criminal Justice Act 1993

Sections 1–6 of this Act describe offences of dishonesty and blackmail, which have extraterritorial jurisdiction. Section 71 also contains extraterritorial offences.

The offences of sections 1–6 are divided into two groups: Group A and Group B offences. The group A offences are:

- An offence under sections 1, 17, 19, 21, 22, 24A of the Theft Act 1968;
- An offence under sections 1, 6, 7, 9, 11 of the Fraud Act 2006;
- An offence under sections 1, 2, 3, 4, 5, 14, 15, 16, 17, 20, 21 of the Forgery and Counterfeiting Act 1981;
- An offence under section 25 of the Identity Cards Act 2006;
- The common law offence of cheating in relation to the public revenue (section 1(2)).

The Group B offences consist of:

- Conspiracy to defraud;
- Conspiring, attempting, encouraging or assisting any of the Group A offences (section 1(3)).

A person may be guilty of a Group A offence if any of the relevant events occurred in England and Wales (section 2(3)) (for a definition of relevant events see section 2(1), (2)). A person may also be guilty of a Group A or Group B offence whether or not he/she was a British citizen or in England or Wales at any material time (section 3(1)).

The Act contains a number of provisions for the exact nature of conduct, particularly for the Group B offences, which will fulfil the offence. It also states several exceptions to the offences. For full details see sections 1–6 of the Act.

Section 71 of this Act relates to taxation offences in the European Union.

24.1.13 Merchant Shipping Act 1995

Section 282 of this Act concerns offences committed by British seamen. Any act done abroad by an employee (or a person who was an employee within the previous three months) of a UK ship, which if done in the UK would be an offence, shall be an offence and be treated as if it had been done within the jurisdiction of the Admiralty.

24.1.14 Sexual Offences (Conspiracy and Incitement) Act 1996

Section 2 criminalises conduct in the UK which incites a sexual act intended (in whole or in part) to take place abroad where the intended act would be an offence in that country, and the encouraging or assisting of such an act to occur in the UK would be an offence under sections 1-12, 14, 15-26 of the Sexual Offences Act 2003. These offences do not apply where the victim has attained 16 years of age.

Note: Acts of incitement via message are held to have occurred in England or Wales if the message was either sent or received there.

24.1.15 United Nations Personnel Act 1997

This Act creates offences in relation to attacks or threats of attack against UN workers and their premises and vehicles. Acts by a person (of any nationality (section 5(3)) outside the UK against a UN worker are an offence if, had the acts been done in the UK, they would have been one of the following offences:

- Murder, manslaughter, culpable homicide, rape, assault causing injury, kidnapping, abduction and false imprisonment;
- An offence under sections 18, 20, 21, 22, 23, 24, 28, 29, 30 or 47 of the Offences Against the Person Act 1861;
- An offence under section 2 of the Explosive Substances Act 1883 (section 1(2)).

Acts against premises or vehicles are an offence if, had the acts been done in the UK, they would have been one of these offences:

- An offence under section 2 of the Explosive Substances Act 1883;
- An offence under section 1 of the Criminal Damage Act 1971;
- Wilful fire raising (section 2). Note that section 2 also includes an offence under Article 3 of Criminal Damage (NI) Order 1977.

There can be no proceedings for offences under this Act except by, or with, the consent of the Attorney General (section 5(1)), except for prosecution under the Internationally Protected Persons Act 1978, the Suppression of Terrorism Act 1978, the Nuclear Material (Offences) Act 1983 and the Terrorism Act 2000.

24.1.16 Terrorism Act 2000

This Act creates a number of offences for conduct which occurs outside the UK, which are parallel to offences for the same conduct, had it occurred in the UK.

Section 59 makes it an offence for a person to incite another to commit an act of terrorism outside the UK, which, if done in the UK, would be one of the following:

- Murder;
- An offence under sections 18, 23, 24, 28 and 29 of the Offences Against the Person Act 1861;
- An offence under section 1(2) of the Criminal Damage Act 1971.

Section 62 deals with terrorist bombing. A person who does anything outside the UK as an act of terrorism, or for the purposes of terrorism, commits an offence if, had it been done in the UK, it would be an offence under:

- Sections 2, 3, 5 of the Explosive Substances Act 1883;
- Section 1 of the Biological Weapons Act 1974;
- Section 2 of the Chemical Weapons Act 1996.

Section 63 states that a person who does something outside the UK which, if done in the UK, is an offence under sections 15 to 18 of this Act commits an offence of terrorist financing.

Section 63A makes an offence of any act by a UK national or resident done outside the UK, which would constitute an offence under sections 56 to 61 of this Act if carried out in the UK.

Section 63B states that any act of terrorism or act for the purposes of terrorism by a UK national or resident done outside the UK shall be an offence if, had it been done in the UK, it would be one of the following:

- Murder, manslaughter, culpable homicide, rape, assault causing injury, assault to injury, kidnapping, abduction or false imprisonment;
- An offence under sections 4, 16, 18, 20, 21, 22, 23, 24, 28, 29, 30 or 64 of the Offences Against the Person Act 1861;
- An offence under sections 1–5 of the Forgery and Counterfeiting Act 1981;

- An offence under sections 1 and 2 Criminal Damage Act 1971;
- Malicious mischief;
- Wilful fire raising.

Section 63C covers terrorist attacks abroad on UK nationals. Such acts of terrorism or for the purposes of terrorism to, or in relation to, a UK national, resident or protected person are an offence if, had they been done in the UK, they would be one of these offences:

- Murder, manslaughter, culpable homicide, rape, assault causing injury, assault to injury, kidnapping, abduction or false imprisonment;
- An offence under sections 4, 16, 18, 20, 21, 22, 23, 24, 28, 29, 30 or 64 of the Offences Against the Person Act 1861;
- An offence under sections 1, 2, 3, 4 or 5(1) or (3) of the Forgery and Counterfeiting Act 1981.

Section 63D makes it an offence to attack UK diplomatic premises. Acts by a person, outside the UK, of terrorism or for the purposes of terrorism in connection with an attack on premises or vehicles usually used by a UK protected person are an offence when that person is on premises or in a vehicle, and had they been carried out in the UK the act would be one of these offences:

- An offence under section 1 of the Criminal Damage Act 1971;
- Malicious mischief;
- Wilful fire raising.

Section 63D also covers the threat of an attack on relevant premises or vehicles when a protected person is there or likely to be there. Offences which are only offences under sections 63B–D are not to be started without the permission of the Attorney General (section 63E).

24.1.17 Anti-Terrorism Crime and Security Act 2001

Section 109 of this Act makes it an offence for a UK national or UK incorporated body to commit acts abroad, which, if done in the UK, would be one of these bribery or corruption offences:

- Any common law offence of bribery;
- An offence under section 1 of the Public Bodies Corrupt Practice Act 1889;
- The first two offences under section 1 of the Prevention of Corruption Act 1906.

Note: Section 2 of the Prevention of Corruption Act 1916, a presumption of corruption in certain cases, does not apply to this section.

24.1.18 Sexual Offences Act 2003

Section 72 of this Act allows prosecution in the UK of certain sexual acts committed outside the UK against children. The Act differentiates three kinds of conduct:

1. Acts by a UK national outside the UK which would be an offence in the Schedule 2 list of offences if committed in the UK.
2. Acts by a UK resident outside the UK which are an offence in that country and which would constitute an offence in the Schedule 2 list of offences if committed in the UK.
3. Where an act is committed outside the UK by a person who is neither a UK national nor resident and the act is an offence in that country, but when proceedings are brought the person is a UK national or resident, the act would be an offence in the Schedule 2 list of offences if committed in the UK.

Schedule 2 of the Act lists the offences to which section 72 applies. References to these offences include attempting, conspiring, encouraging or assisting, aiding, abetting, counselling and procuring the offence.

The offences are:

- An offence under sections 5–19, 25 and 26, 47–50 of the Sexual Offences Act 2003;
- An offence under sections 1–4, 30–41 and 61 of the Sexual Offences Act 2003 where the victim was under 18;
- An offence under sections 62 and 63 of the Sexual Offences Act 2003 where the offence was intended against a person under 18;
- Section 1 of the Protection of Children Act 1978 and section 160 of the Criminal Justice Act 1988.

24.1.19 Corporate Manslaughter and Corporate Homicide Act 2007

The offence of corporate manslaughter also applies where the harm resulting in death occurs outside the UK:

- ‘Within the seaward limits of the territorial sea adjacent to the UK;
- On a ship registered under Part 2 of the Merchant Shipping Act 1995;
- On a British-controlled aircraft as defined in section 92 of the Civil Aviation Act 1982;

- On a British-controlled hovercraft within the meaning of that section as applied in relation to hovercraft by virtue of provision made under the Hovercraft Act 1968;
- In any place to which an Order in Council under section 10(1) of the Petroleum Act 1998 applies' (section 28(3)).

24.1.20 Gangmasters (Licensing) Act 2004

The Gangmasters Licensing Act regulates the agencies that supply workers in the following areas:

- Agricultural work;
- Gathering shellfish, processing or packaging shellfish;
- The production of goods from agriculture, shellfish or fish, or products derived from shellfish or fish produce derived from agricultural work.

This Act is particularly important in that section 5 outlines the responsibilities for those supplying workers into the UK who need a licence.

If a company based abroad does not apply for the necessary licence, it commits an offence under section 12. In addition, any UK-based company using the workers supplied from that company commits an offence under section 13.

Section 14 of the Act provides a power of arrest for an enforcement officer (see section 15) in the following circumstances:

- An offence under section 12(1) or (2);
- Conspiring to commit any such offence;
- Attempting to commit any such offence;
- Encouraging or assisting, aiding, abetting, counselling or procuring the commission of any such offence.

24.1.21 Bribery Act 2010

The Bribery Act 2010 amends criminal law to establish a comprehensive scheme of bribery offences. The impact of this is that courts and prosecutors are able to respond more effectively to bribery in the UK and abroad.

For a copy of the Act see

<http://www.legislation.gov.uk/ukpga/2010/23/contents>

24.1.22 Coroners and Justice Act 2009

The aim of this Act is to deliver a more effective, transparent and responsive justice and coroner service for victims, witnesses, bereaved families and the wider public. This came into force 15 August 2010, and refers to the treatment of convictions in other Member States. It means that the UK can take into account UK offences committed in Member States and other states anywhere in the world. The admissibility of evidence of previous complaints will have a significant impact on cross-border investigations. The changes to this legislation give effect to the framework decision 2008/675/JHA 'Taking account of previous convictions'. The following processes are affected:

- Bad character;
- Bail;
- Seriousness of the offence, in the context of sentencing;
- Required custodial sentences for certain offences;
- Mode of trial;
- Young offenders – referral.

Further guidance can be sought from the coroner.

For a copy of the Act see

<http://www.legislation.gov.uk/ukpga/2009/25>

For summaries of EU legislation see

http://europa.eu/legislation_summaries/justice_freedom_security/judicial_cooperation_in_criminal_matters/jl0004_en.htm and
<http://www.publications.parliament.uk/pa/cm200809/cmbills/009/2009009.pdf>

24.2 Legislation Governing Overseas Police Cooperation

This subsection covers the main legislation which governs police interaction with overseas authorities. The majority of legislation to facilitate cooperation has been brought in to satisfy EU legal requirements. Most of the legislation, however, also applies to countries outside the EU.

24.2.1 Police and Criminal Evidence Act 1984

Under Paragraph 7 of PACE Code of Practice C of this Act, a foreign citizen may communicate at any time with their High Commission, Embassy or Consulate. Detainees should be informed as soon as practicable of this right and of their right to have their High Commission, Consulate or Embassy informed of their detention.

Note: If the detainee is a political refugee or is seeking political asylum, consular officers shall not be informed or provided with any information except at the express request of the detainee.

24.2.2 Criminal Procedure and Investigations Act 1996

Paragraph 6.12 of the Codes of Practice, drawn up under section 23 of the Act, refers to the sensitive disclosure schedule. It is suggested that 'material relating to intelligence from foreign sources which reveals sensitive intelligence gathering methods' may be the type of source included on such a schedule. For further information see **6.14.4 Dissemination and Disclosure Issues.**

24.2.3 Police Act 1996

Section 26 of this Act provides that police authorities may give assistance to international organisations and overseas police authorities. It allows a police authority to second a member of staff to them temporarily. However, such action requires the consent of the Secretary of State.

A police authority may not provide financial assistance to another jurisdiction under this section but may charge for assistance provided.

24.2.4 Regulation of Investigatory Powers Act 2000

This Act deals with the interception of communications and how to carry out surveillance. Its provisions include activities taking place outside the UK.

24.3 European Union Legislation

Countries which are part of the EU are referred to here as Member States. They have ceded part of their sovereignty to the institutions of the EU and have given the EU power to legislate on some issues. The laws made by the EU become part of the laws of each of the Member States. EU measures become part of domestic legislation once ratified and implemented into domestic legislation. However, individual countries may be exempt from applying the whole or a part of a piece of legislation in their country.

The EU legislation that follows provides the legal framework within which authorities of the Member States of the EU should act. It is not necessarily the legislation itself that is in operation in each Member State but it does, in effect, set out the minimum requirements for national laws in the areas the EU legislation covers.

In terms of policing, it is not the legislation in this subsection with which forces are directly concerned. The provisions of the EU legislation will have been transferred into a domestic Act and will be implemented in the UK in this way.

It is important to be aware that each Member State may implement EU legislation differently. For example, although France and Belgium are both parties to the Schengen Agreement, it may be enacted in French law and Belgian law in different ways. Member States are required to give effect to the EU legislation, but it is a matter for them how they do this. The result of this is that officers may have different powers in different Member States.

Looking at the EU legislation shows the common basis from which all authorities in the EU work. When working in the UK, officers and prosecutors will follow the domestic legislation such as CICA (2003), which has enacted the EU legislation. However, by referencing the EU legislation it is possible to understand what can be expected from other EU countries.

The main sources of EU legislation are primary legislation, international agreements and secondary legislation. Treaties are primary legislation which lay down the fundamental features of the European Union, while international agreements allow the European Union to develop its economic, social and political relations with the rest of the world. Regulations and directives are secondary legislation. Regulations are binding and have general application. A regulation is directly applicable, which means it takes immediate effect in all the Member States without any further action required on the part of the national authorities. A directive is binding in respect of the result to be achieved, however it is left to the national authorities of the Member States to choose the form and method of its implementation.

24.3.1 The Schengen Agreement

The Schengen Agreement is also known as the Schengen Acquis. Countries which have signed-up to the agreement are known as 'contracting parties'.

Some Member States, including the UK, are not party to all parts of the Schengen Agreement. The Schengen Agreement also allows non-EU countries to be contracting parties. This leaves a complex situation whereby some EU countries are fully compliant with the agreement, some have adopted only parts of it and there are some non-EU countries which are party to its provisions.

The purpose

The Schengen Agreement is primarily concerned with the abolition of border controls between countries; much of which has little to do with policing. Included in the agreement, however, under Title III, are a number of provisions relating to the policing and security of borders and how authorities on different sides of a border will cooperate.

Many of the provisions have been updated by subsequent arrangements such as the Swedish Initiative and the Prüm Treaty. This is particularly so with regard to the exchange of information, which has been significantly extended by the Swedish Initiative. The Schengen Agreement provisions for the exchange of information have, therefore, only been dealt with briefly here. One of the important provisions of the agreement is the Schengen Information System (SIS), which is a shared database between the contracting parties. A number of delivery options for the UK have been considered but the one agreed in principle by the Home Secretary is option 3b. This involves the SIS Programme being geared to meet an entry-into-operation date in late 2014. Once the UK has completed the Schengen Evaluation, a go-live date should then follow in 2015. For a full description of SIRENE, see **Appendix 2 SOCA Databases**. The important provision of the Schengen Agreement for cross-border investigations is cross-border surveillance.

Exchanging information and police cooperation

UK law enforcement shall assist an authority of another contracting party directly as far as is possible under national law, without requests being channelled via judicial authorities. Information received from another contracting country may not be used as evidence by the requesting authority unless the party which gave the information gives consent. A national central authority can be used to channel requests but authorities may also contact each other directly if going via the central authority would take too long (Article 39).

Information may be sent by the authorities of one contracting country to the authorities of another without having received a request from them (Article 46). UK law enforcement may second officers to authorities in other contracting countries (Article 47).

Surveillance

Surveillance of a suspect may be carried out by one contracting party in the territory of another contracting party with their permission. Permission can be sought under the request for assistance procedure. Where the matter is urgent and prior authorisation cannot be obtained,

surveillance of a suspect can be carried out for up to five hours without prior permission. The authority of the territory should, however, be notified and their assistance requested immediately. If they ask for the surveillance to stop it must cease, and at their request, the authorities of that territory will take over the surveillance (Article 40).

Surveillance operations must comply with the conditions set out in Article 40(3). Briefly, these are that:

- Officers must comply with the law of the territory they are in and obey instructions of its competent authorities;
- Although there are exceptions, officers shall carry authorisation of their surveillance;
- Officers must at all times be able to prove that they are acting in an official capacity;
- Officers may carry their service weapons during the surveillance unless refused by the party whose territory they are in;
- Entry into private homes and places not accessible to the public shall be prohibited;
- Officers may neither challenge nor arrest the person under surveillance;
- All operations shall be the subject of a report to the authorities of the contracting party whose territory they are in;
- At the request of the authorities in whose territory the surveillance took place, the authorities from which the surveillance officers have come shall assist in an enquiry subsequent to the operation in which they took part, including judicial proceedings.

Article 40(7) lists the offences where surveillance may be carried out. They are:

- Murder;
- Manslaughter;
- Rape;
- Arson;
- Forgery of money;
- Aggravated burglary and robbery and receiving stolen goods;
- Extortion;
- Kidnapping and hostage taking;

- Trafficking in human beings;
- Illicit trafficking in narcotic drugs and psychotropic substances;
- Breach of the laws on arms and explosives;
- Wilful damage through the use of explosives;
- Illicit transportation of toxic and hazardous waste.

Damage

The authority undertaking a surveillance or hot pursuit operation is liable, under the law of the contracting country whose territory they were in, for damage caused during the operation (Article 43).

For guidance on the application of cross-border surveillance, see **14.5 Cross-Border Surveillance.**

24.3.2 The Swedish Initiative – 2006/960/JHA

The Swedish Initiative was proposed in 2004. The Framework Decision itself was issued in 2006 and all of its provisions were in force by 18 December 2008.

The aim of the Swedish Initiative is to simplify and speed up the exchange of information and intelligence between law enforcement authorities of the EU Member States. To achieve this it establishes rules to govern the practice of exchange, and places obligations on every Member State to cooperate in the exchange of information and intelligence in criminal investigations and intelligence operations.

Each Member State is obliged to exchange information and intelligence under the Swedish Initiative and cannot impose stricter conditions on the exchange of information than it would for an internal exchange. Under the Swedish Initiative, however, there is no obligation to:

- Gather or store information or intelligence for other Member States (Article 1(3));
- Provide information or intelligence to be used as evidence before a judicial authority (Article 1(4)) (nor is there a right without seeking consent to use such information or intelligence for that purpose);
- Obtain information or intelligence by coercive measures (as defined by Member State receiving request) (Article 1(5)), but this can be provided if allowed under national law (Article 1(6)).

Definitions

The Swedish Initiative frequently refers to ‘competent law enforcement authorities’ and they are expected to cooperate with one another.

Note: Agencies dealing especially with national security issues are not included in this definition (Article 2(a)).

In the UK, the competent law enforcement authorities are:

- All police forces in England, Wales, Scotland and NI;
- The Serious Organised Crime Agency;
- Her Majesty’s Revenue and Customs;
- The UK Border Agency;
- The Serious Fraud Office;
- The Scottish Crime and Drug Enforcement Agency
(Home Office Circular 030/2008).

A Swedish Initiative request should be used if the offence is punishable by the requesting Member State and incurs a custodial sentence or custodial order of more than one year. An urgent response may be requested only in cases where the offence is punishable by a custodial sentence order of three years and is on the list of European Arrest Warrant (EAW) offences as follows:

- Participation in a criminal organisation;
- Terrorism;
- Trafficking in human beings;
- Sexual exploitation of children and child pornography;
- Illicit trafficking in narcotic drugs and psychotropic substances;
- Illicit trafficking in weapons, munitions and explosives;
- Corruption;
- Fraud, including that affecting the financial interests of the European Communities within the meaning of the Convention of 26 July 1995 on the protection of the European Communities financial interests;
- Laundering of the proceeds of crime;
- Counterfeiting currency, including the euro;
- Computer-related crime;

- Environmental crime, including illicit trafficking in endangered animal species and in endangered plant species and varieties;
- Facilitation of unauthorised entry and residence;
- Murder, grievous bodily injury;
- Illicit trade in human organs and tissue;
- Kidnapping, illegal restraint and hostage taking;
- Racism and xenophobia;
- Organised and armed robbery;
- Illicit trafficking in cultural goods, including antiques and works of art;
- Swindling;
- Racketeering and extortion;
- Counterfeiting and piracy of products;
- Forgery of administrative documents and trafficking therein;
- Forgery of means of payment;
- Illicit trafficking in hormonal substances and other growth promoters;
- Illicit trafficking in nuclear and radioactive materials;
- Trafficking in stolen vehicles;
- Rape;
- Arson;
- Crimes within the jurisdiction of the International Criminal Court;
- Unlawful seizure of aircraft and ships;
- Sabotage.

Provision of information and intelligence

The Swedish Initiative dictates a number of conditions for the provision and use of information and intelligence. These include time limits for requesting and providing information and intelligence, data protection, confidentiality, and reasons why a request for information may be refused.

24.3.3 Prüm Treaty – Council Decision 2008/615/JHA and 2008/616/JHA

Like the Schengen Agreement, the Prüm Treaty was originally formed outside the European Union framework. It was brought into EU law as a way of increasing cross-border police cooperation. The Treaty provides conditions and procedures for the automatic transfer of DNA profiles, dactyloscopic data (fingerprints) and vehicle registration data between Member States. It also contains conditions for the supply of information in connection with major events and for preventing terrorism.

DNA profiles

Member States are required to keep national DNA analysis files for criminal offences. Each Member State is to have a designated contact point for another Member State to contact.

Reference data from these files shall be available to other Member States. For investigating a criminal offence, a Member State shall allow another Member State to conduct searches comparing DNA profiles. Member States may only conduct searches for individual cases and then only with the compliance of the national law of the Member State whose files it is searching. The searching Member State will receive a result notifying whether or not there has been a hit. Member States may, by mutual consent, compare their unidentified DNA profiles with each other's reference data in compliance with national law and, if a match is found, supply the reference data without unnecessary delay. If a match of reference data is found, further information such as personal data is to be supplied as governed by the national law of the requested Member State.

Where, in ongoing investigations or criminal proceedings, there is no DNA profile available for an individual present within a requested Member State's territory, that Member State shall provide assistance by collecting and examining cellular material from that individual and supplying a DNA profile obtained to the requesting Member State, provided that:

- The requesting Member State specifies the purpose for which this is required;
- The requesting Member State produces an investigation warrant or statement issued by the competent authority, as required under that Member State's law, showing that the requirements for collecting and examining cellular material would be fulfilled if the individual concerned was present within the requesting Member State's territory;

- Under the requested Member State's law, the requirements for requesting and examining cellular material and for supplying the DNA profile obtained are fulfilled (Article 7).

Dactyloscopic data (fingerprints)

Member States are required to allow searches of their national automated fingerprinting identification systems. The provisions are similar to those required for DNA profiles.

Vehicle registration data

For the purpose of preventing and investigating of criminal offences and other offences falling within the jurisdiction of the courts, or to maintain public security, Member States should allow other Member States national contact points access to the following national vehicle registration data, and the power to conduct automated searches in individual cases:

- Data relating to owners or operators;
- Data relating to vehicles.

Searches may be conducted only with a full chassis number or a full registration number and in compliance with the searching Member State's national law (Article 12).

Major events

In order to prevent crime and maintain public order and security a Member State, in accordance with national law will if requested by another Member State or of its own accord, supply another Member State with any non-personal data required for those purposes. This section is particularly for sporting events, EU council meetings, or other events with a cross-border dimension (Article 13).

A Member State can, if their national law allows, supply another Member State with personal data if any final convictions or other circumstances give the Member State reason to believe that the subject will commit an offence or threaten public order or security. Data provided may only be processed for the purposes and events for which it was supplied. Data must be deleted without unnecessary delay once the purpose of receiving it has passed. In any event, data must be destroyed within one year (Article 14).

Measures to prevent terrorist offences

A Member State may, in compliance with national law, supply another Member State contact point with personal data. They may do this with or without a request from the Member State. They may give as much data as is necessary in individual cases when particular circumstances give them reason to believe that the subject will commit offences referred to in Articles 1–3 of Decision 2002/475/JHA on combating terrorism.

2002/475/JHA

Terrorist offences:

- Attacks upon a person's life which may cause death;
- Attacks upon the physical integrity of a person;
- Kidnapping or hostage taking;
- Causing extensive destruction to a government or public facility, a transport system, an infrastructure facility, including an information system, a fixed platform located on the continental shelf, a public place or private property where this is likely to endanger human life or result in major economic loss;
- Seizure of aircraft, ships or other means of public or goods transport;
- Manufacture, possession, acquisition, transport, supply or use of weapons or explosives, or of nuclear, biological or chemical weapons, as well as research into, and development of, biological and chemical weapons;
- Release of dangerous substances, or causing fires, floods or explosions the effect of which is to endanger human life;
- Interfering with or disrupting the supply of water, power or any other fundamental natural resource the effect of which is to endanger human life;
- Threatening to commit any of the acts listed in (a) to (h) (Article 1).

Offences relating to a terrorist group:

- Directing a terrorist group;
- Participating in the activities of a terrorist group, including by supplying information or material resources, or by funding its activities in any way, with knowledge of the fact that such participation will contribute to the criminal activities of the terrorist group (Article 2).

Offences linked to terrorist activities:

- Public provocation to commit a terrorist offence;
- Recruitment for terrorism;
- Training for terrorism;
- Aggravated theft with a view to committing one of the offences listed in Article 1(1);
- Extortion with a view to the perpetration of one of the offences listed in Article 1(1);
- Drawing up false administrative documents with a view to committing one of the offences listed in Article 1(1)(a) to (h) and Article 2(2)(b);

The data to be supplied for offences linked to terrorist activities is:

- The surname;
- First name;
- Date and place of birth;
- A description of the reason for concern about the subject.

The supplying Member State may, in compliance with national law, impose conditions on the receiving Member State's use of the data. The receiving Member State will be bound by any such conditions.

Joint operations and the use of arms, ammunition and equipment

Joint operations cover actions in the field of public order, security and crime prevention, jointly carried out by two or more Member States, whereby officers from one Member State act on the territory of another Member State (Articles 17 and 19). They do not include or concern criminal investigations.

Data Protection

Standard EU procedures on data protection are to be followed (Article 25).

For further information on the implementation of this decision, the Council Decision 2008/616/JHA contains a detailed specification of the database requirements.

24.4 Council of Europe Conventions Assisting in Legal Cooperation in Criminal Matters

24.4.1 Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime

The aim of this Convention is to facilitate international cooperation and mutual assistance in investigating crime and tracking down, seizing and confiscating the proceeds thereof. The Convention is intended to assist Member States in attaining a similar degree of efficiency even in the absence of full legislative harmony.

Parties undertake in particular:

- To criminalise the laundering of the proceeds of crime, and to confiscate instrumentalities and proceeds (or property the value of which corresponds to such proceeds);
- To provide forms of investigative assistance (for example, assistance in procuring evidence, transfer of information to another Member State without a request, adoption of common investigative techniques, lifting of bank secrecy). Provisional measures include freezing of bank accounts, seizure of property to prevent its removal, measures to confiscate the proceeds of crime, enforcement by the requested Member State of a confiscation order made abroad, institution by the requested Member State of domestic proceedings leading to confiscation at the request of another Member State.

24.4.2 Convention on the Transfer of Sentenced Persons

The Convention is primarily intended to facilitate the social rehabilitation of foreign prisoners convicted of a criminal offence and the possibility of serving their sentences in their own countries. It is also rooted in humanitarian considerations, since difficulties in communication due to language barriers and the absence of contact with relatives can have detrimental effects on a person imprisoned in a foreign country.

Transfer may be requested by either the Member State in which the sentence was imposed (sentencing state) or the Member State of which the sentenced person is a national (administering state). It is subject to the consent of those two states as well as that of the sentenced person.

The Convention also lays down the procedure for enforcement of the sentence following the transfer. Whatever the procedure chosen by the administering state, a custodial sentence may not be converted into a fine, and any period of detention already served by the sentenced

person must be taken into account by the administering state. The sentence in the administering state must not be longer or harsher than that imposed in the sentencing state.

24.4.3 Additional Protocol to the Convention on the Transfer of Sentenced Persons

This instrument sets out the rules applicable to transfer of the execution of sentences, firstly where sentenced persons have absconded from the sentencing state to their state of nationality, and secondly where they are subject to an expulsion or deportation order because of their sentence.

It supplements the 1983 Convention on the Transfer of Sentenced Persons, the main aim of which is to further the social rehabilitation of sentenced foreign nationals by allowing the sentence to be served in the country of origin. This Convention is founded largely on humanitarian principles, being based on the consideration that communication difficulties, language barriers and deprivation of contact with the family can have adverse effects on foreign prisoners.

24.4.4 Council of Europe Convention on Action against Trafficking in Human Beings

The Convention is a comprehensive treaty mainly focused on the protection of victims of trafficking and the safeguarding of their rights. It also aims to prevent trafficking and prosecute traffickers.

The Convention applies to all forms of trafficking, national or transnational, whether or not related to organised crime. It applies to all victims – women, men or children and whatever the form of exploitation, for example, sexual exploitation or forced labour or services.

The Convention provides for the setting up of an independent monitoring mechanism, guaranteeing parties' compliance with its provisions.

24.4.5 Criminal Law Convention on Corruption

The Criminal Law Convention on Corruption is an ambitious instrument aiming at the coordinated criminalisation of a large number of corrupt practices. It also provides for complementary criminal law measures and for improved international cooperation in the prosecution of corruption offences. The Convention is open to the accession of non-Member States. Its implementation is monitored by the Group of States against Corruption – GRECO.

The Convention is wide-ranging in scope and complements existing legal instruments. It covers the following forms of corrupt behaviour normally considered as specific types of corruption:

- Active and passive bribery of domestic and foreign public officials;
- Active and passive bribery of national and foreign parliamentarians and of members of international parliamentary assemblies;
- Active and passive bribery in the private sector;
- Active and passive bribery of international civil servants;
- Active and passive bribery of domestic, foreign and international judges and officials of international courts;
- Active and passive trading in influence;
- Money laundering of proceeds from corruption offences;
- Accounting offences (eg, invoices, accounting documents) connected with corruption offences.

States are required to provide effective and dissuasive sanctions and measures, including deprivation of liberty, which can lead to extradition. Legal entities will also be liable for offences committed to benefit them, and will be subject to effective criminal or non-criminal sanctions, including monetary sanctions.

The Convention also incorporates provisions concerning aiding and abetting, immunity, criteria for determining the jurisdiction of states, liability of legal persons, the setting up of specialised anti-corruption bodies, protection of persons collaborating with investigating or prosecuting authorities, gathering of evidence and confiscation of proceeds.

It provides for enhanced international cooperation (mutual assistance, extradition and the provision of information) in the investigation and prosecution of corruption offences.

24.4.6 Additional Protocol to the Criminal Law Convention on Corruption

This Protocol extends the scope of the Convention to arbitrators in commercial, civil and other matters, as well as to jurors. It, therefore, complements the Convention's provisions to protect judicial authorities from corruption. Countries which ratify this instrument will have to adopt the necessary measures to establish, as criminal offences, the active and passive bribery of domestic and foreign arbitrators and jurors.

24.4.7 European Convention on Mutual Assistance in Criminal Matters

Under this Convention Parties agree to afford each other the widest measure of mutual assistance with a view to gathering evidence, and hearing witnesses, experts and prosecuted persons.

The Convention sets out rules for the enforcement of letters rogatory by the authorities of a Party ('requested Party'), which aim to procure evidence (audition of witnesses, experts and prosecuted persons, service of writs and records of judicial verdicts) or to communicate the evidence (records or documents) in criminal proceedings undertaken by the judicial authorities of another Party ('requesting Party').

The Convention also specifies the requirements that requests for mutual assistance and letters rogatory have to meet.

24.4.8 Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters

This Protocol completes provisions contained in the Convention. It withdraws the possibility offered by the Convention to refuse assistance solely on the grounds that the request concerns an offence which the requested Party considers a fiscal offence. It extends international cooperation to the service of documents concerning the enforcement of a sentence and similar measures (suspension of pronouncement of a sentence, conditional release, deferment of commencement of enforcement of a sentence or interruption of such enforcement). Finally, it adds provisions relating to the exchange of information on judicial records.

24.4.9 European Convention on the Compensation of Victims of Violent Crimes

This Convention puts upon Member States that become a Party to it, the obligation to compensate the victims of intentional and violent offences resulting in bodily injury or death. The obligation to compensate is limited to offences committed in the territory of the state concerned, regardless of the nationality of the victim.

24.4.10 European Convention on the Suppression of Terrorism

This Convention is designed to facilitate the extradition of persons who have committed acts of terrorism. To this end, it lists the offences that Parties undertake not to consider as political offences or as offences

connected with political offences, or as offences inspired by political motives. The Convention empowers Parties not to consider as a political offence any act of violence against the life, physical integrity or liberty of a person.

It is expressly provided that nothing in the Convention shall be interpreted as imposing an obligation upon a Party to extradite a person who might then be prosecuted or punished solely on the grounds of race, religion, nationality or political opinion.

The requested state may not refuse to accept the request except in specific cases, such as if it considers that the offence is of a political nature or that the request is based on considerations of race, religion or nationality.

24.4.11 Additional Protocol to the European Convention on Information on Foreign Law

The Additional Protocol is designed to extend to the field of criminal law and procedure the system of international exchange of information established by the Convention.

Parties undertake to supply one another with information on their substantive and procedural law and judicial organisation in the criminal field (including prosecuting authorities), as well as on the law concerning the enforcement of penal measures. This undertaking applies to all proceedings in respect of offences the prosecution of which, at the time of the request for information, falls within the jurisdiction of the judicial authorities of the requesting Party.

The Protocol aims to eliminate economic obstacles to legal proceedings (in the field of legal aid and advice in civil and commercial matters) and to permit persons in an economically weak position to exercise their rights more easily.

24.4.12 Naples II

The Naples II Convention is drawn up on the basis of Article K3 of the Treaty on European Union. It includes mutual assistance and cooperation between customs and other competent authorities to ensure the prevention and detection of, and the prosecution and punishment of infringements of, community and national customs provisions.

The text of the Convention, comments and information is available on the website of the EU-Council at

<http://www.consilium.europa.eu/showPage.aspx?id=988&lang=en>

The Naples II Convention is a tool for mutual assistance and cooperation between, eg, competent law enforcement and judicial authorities. This Convention is not a tool for the sole use of the customs service, but enables all authorities who have, according to the national law, competences in customs legislation to cooperate with each other. Naples II allows assistance and cooperation between, eg, customs mutually, customs and the police, police mutually and customs and border guards.

The Naples II Convention is a bridge between national legislations: no authority can derive new or additional powers from the Convention. Who applies Naples II Convention and how it is applied is, therefore, the exclusive remit of the Member States. This information is available in the Member States factsheets at

<http://www.consilium.europa.eu/showPage.aspx?id=991&lang=en>

24.5 UN Conventions

The following United Nations conventions and their related protocols underpin the operational work of the United Nations Office on Drugs and Crime (UNODC).

24.5.1 United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances 1988

This Convention provides comprehensive measures against drug trafficking, including provisions against money laundering and the diversion of precursor chemicals. It provides for international cooperation through, for example, extradition of drug traffickers, controlled deliveries and transfer of proceedings.

A full copy of the Convention can be found at

http://www.incb.org/pdf/e/conv/1988_convention_en.pdf

24.5.2 United Nations Convention against Transnational Organized Crime 2000

The United Nations Convention against Transnational Organized Crime, adopted by General Assembly resolution 55/25 of 15 November 2000, is the main international instrument in the fight against transnational organised crime. The Convention is further supplemented by three Protocols, which target specific areas and manifestations of organised crime.

- The Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, was adopted by General Assembly resolution 55/25 entering force on 25 December 2003. It is the first global legally binding instrument with an agreed definition on trafficking in persons. The

intention behind this definition is to facilitate convergence in national approaches with regard to the establishment of domestic criminal offences that would support efficient international cooperation in investigating and prosecuting trafficking in persons cases. An additional objective of the Protocol is to protect and assist the victims of trafficking in persons with full respect for their human rights.

- The Protocol against the Smuggling of Migrants by Land, Sea and Air, adopted by General Assembly resolution 55/25, entered into force on 28 January 2004. It deals with the growing problem of organised criminal groups who smuggle migrants, often at high risk to the migrants and at great profit for the offenders. A major achievement of the Protocol was that, for the first time in a global international instrument, a definition of smuggling of migrants was developed and agreed upon. The Protocol aims to prevent and combat the smuggling of migrants, and promote cooperation among Member States, while protecting the rights of smuggled migrants and preventing the worst forms of their exploitation which often characterise the smuggling process.
- The Protocol against the Illicit Manufacturing of and Trafficking in Firearms, their Parts and Components and Ammunition was adopted by General Assembly resolution 55/255 of 31 May 2001. It entered into force on 3 July 2005. The objective of the Protocol, which is the first legally binding instrument on small arms that has been adopted at the global level, is to promote, facilitate and strengthen cooperation among Member States in order to prevent, combat and eradicate the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition. By ratifying the Protocol, states make a commitment to adopt a series of crime control measures and implement in their domestic legislation three sets of normative provisions. The first one relates to the establishment of criminal offences related to illegal manufacturing of, and trafficking in, firearms on the basis of the Protocol requirements and definitions; the second to a system of government authorisations or licensing intending to ensure legitimate manufacturing of, and trafficking in, firearms; and the third one to the marking and tracing of firearms.

For a copy of the United Nations Convention against Transnational Organized Crime and the Protocols Thereto, see

<http://www.unodc.org/documents/treaties/UNTOC/Publications/TOC%20Convention/TOCebook-e.pdf>

24.5.3 United Nations Convention against Corruption 2003

This Convention was brought about by the General Assembly, which recognised that an effective international legal instrument against corruption, independent of the United Nations Convention against Transnational Organized Crime, was required.

The text of the United Nations Convention against Corruption was negotiated during seven sessions of the Ad Hoc Committee for the Negotiation of the Convention against Corruption, held between 21 January 2002 and 1 October 2003. It was adopted by the General Assembly on 31 October 2003.

For a copy of the United Nations Convention against Corruption 2003, see http://www.unodc.org/documents/treaties/UNCAC/Publications/Convention/08-50026_E.pdf

24.6 Additional Reference

24.6.1 Commonwealth Countries – The Harare Scheme

The Commonwealth Scheme on Mutual Assistance in Criminal Matters, known as the Harare Scheme, is a non-binding scheme affecting Commonwealth countries.

24.7 Statutes

There are a number of key Statutes that officers should consider and use during a cross-border investigation. In many cases these Statutes will replace the usual practices that are adopted under PACE 1984. Those involved in cross-border investigations should be prepared to obtain further guidance and advice from the Crown Prosecution Service (CPS) and other experts to ensure that the correct practices are used to adhere to the legislation.

24.7.1 Crime (International Co-operation) Act 2003

The Crime (International Co-operation) Act 2003 (CICA) is the main legislation giving powers to prosecutors to use the Mutual Legal Assistance (MLA) process to obtain evidence from overseas. It also includes provisions relating to acting on requests from overseas authorities.

Making requests for assistance

Sections 7 to 9 of the Act are the primary sections concerning the obtaining of evidence from abroad.

Designated prosecuting authorities can directly issue a request for assistance. A prosecuting authority or a person charged in relevant proceedings can apply to a judicial authority to have such a request issued. A request may be issued when:

- It appears an offence has been committed or there are reasonable grounds for suspecting that one has;
- Proceedings in respect of the offence have been instituted or the offence is being investigated (section 7).

A request for assistance may be sent to:

- A court exercising jurisdiction where the evidence is held;
- An appropriate authority (in the country concerned) for receiving requests of that kind;
- The Secretary of State (UK) for forwarding to the appropriate court or authority (not for use by a person charged in proceedings).

If urgent, a request for assistance may be sent for forwarding to the appropriate court or authority via:

- INTERPOL;
- Any body or person competent to receive it under any provisions adopted under the Treaty on European Union (section 8).

Evidence obtained from a request for assistance can only be used for the purposes outlined in the request, unless prior consent for another use has been obtained. When the purpose for which the evidence was required has finished, the evidence must be returned to the appropriate authority, unless prior permission has been obtained to not return it (section 9).

Other sections of the Act deal with overseas freezing orders and requests concerning banking transactions within this practice advice.

Receiving requests for assistance

Requests for assistance from abroad can be received from:

- A court exercising criminal jurisdiction;
- A prosecuting authority;
- An authority which appears to the territorial authority to have the function of making such requests for assistance;
- The International Criminal Police Organisation;

- Any other body or person competent to make a request of the kind to which this section applies under any provisions adopted under the Treaty on European Union (section 13).

All requests must comply with the conditions set out in section 14 of the Act. Section 16 of this Act extends the statutory search powers of Entry, Search and Seizure contained in PACE 1984, Part II, section 8 to any conduct which constitutes an offence under the law of a country outside the UK, and would, if it occurred in the UK, also constitute an indictable offence (section 16(1)).

Section 17 explains the conditions under which a constable, to provide assistance to an overseas authority, can apply to a justice of the peace for a warrant 'to enter the premises in question and search the premises to the extent reasonably required for the purpose of discovering any evidence relating to the offence and, to seize and retain any evidence for which he is authorised to search' (section 17(4)).

Section 19 of the Act deals with the forwarding of any evidence seized to the overseas authority and section 26 covers powers under a warrant granted under this Act.

Note: To mitigate complications in cross-border investigations, a European Investigation Order has been proposed. Its implementation would mean that, upon the request of the local police of an EU Member State, a court or prosecutor of the EU Member State can request that one or more specific investigative measures be carried out in another Member State, by the police force of that state, to gather evidence for criminal proceedings. Measures include information on bank accounts, surveillance of real-time telephone and email usage, DNA samples and suspect and witness interviews. Although controversial, its ultimate objective is to simplify police cooperation.

24.7.2 Extradition Act 2003

Extradition is the formal procedure for returning persons located in one country to another country for legal reasons, including:

- Criminal prosecution;
- To be sentenced for offences for which they have been convicted;
- The carrying out of a sentence that has already been imposed.

It is covered by the Extradition Act 2003, which covers all extradition requests from 2004 onwards. For further information see **18 Extradition**.

24.7.3 Proceeds of Crime Act 2002

A crime involving the handling of the proceeds of crime between two European jurisdictions may create an offence in both jurisdictions simultaneously. For example, arranging to buy a property in Spain using money obtained from criminality in the UK would be an offence in both countries.

It may be easier to address ongoing criminality in the UK by a domestic money laundering investigation than to obtain evidence from overseas relating to a specific incident that has happened in the UK.

This means that, in some circumstances, financial information found in the UK that appears to relate to transactions overseas may permit the commencement of a domestic money laundering enquiry in the UK.

Examples would include documents found in the UK relating to:

- A property overseas;
- Money that has been transferred overseas from the UK;
- Running a company overseas.

If suspicion exists that any of the above may be the proceeds of UK criminality or to be a method of transferring proceeds of crime then a domestic money laundering enquiry can be commenced.

Investigators should contact their BCU or force Payback or Financial Investigation Unit in the first instance.

24.7.4 Other Statutes

There are a number of statutes that may be considered during a cross-border investigation. Many will be obscure and rarely used. Information regarding laws, the requirements of EU Member States and contact points can be obtained from the European Judicial website <http://www.ejn-crimjust.europa.eu>

There are a number of treaties, conventions and international legal instruments that will need to be considered and used during cross-border investigations. These are:

- European Convention on Mutual Assistance in Criminal Matters 1959 (and the 1978 Additional Protocol);
- Convention on Mutual Assistance in Criminal Matters between Member States of the European Union, 29 May 2000;

24.8 Legal Instruments – Conventions and Treaties

- Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime, Strasbourg, 8 November 1990;
- United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, Vienna, 20 December 1988;
- United Nations Convention against Transnational Organized Crime, Palermo, December 2000;
- United Nations Convention Against Corruption, New York, 31 October 2003;
- Commonwealth Countries: Scheme relating to Mutual Legal Assistance in Criminal Matters (The Harare Scheme).

The CPS guide to Mutual Legal Assistance on 'Treaties, Conventions and Memoranda of Understanding' provides detailed guidance on many of these instruments and conventions.

For further guidance see

http://www.cps.gov.uk/legal/l_to_o/obtaining_evidence_and_information_from_abroad/

For further guidance in relation to Public Prosecution Service (Northern Ireland) see

<http://www.courtsni.gov.uk>

<http://www.nidirect.gov.uk/justice>

<http://www.ppsni.gov.uk>

PART NINE

Agencies and Organisations

25

Prosecution Authorities

Prosecution authorities are responsible for conducting criminal prosecutions in England, Wales and NI.

Contents

25.1 The Crown Prosecution Service	294
25.1.1 Roles and Responsibilities	294
25.1.2 Assistance Available	294
25.1.3 Contact Details	294
25.2 The Serious Fraud Office	295
25.2.1 Roles and Responsibilities	295
25.2.2 Assistance Available	295
25.2.3 Contact Details	295

25.1 The Crown Prosecution Service

The Crown Prosecution Service (CPS) is the government department responsible for prosecuting criminal cases investigated by the police in England and Wales.

25.1.1 Roles and Responsibilities

The CPS is a designated prosecuting authority under the Crime (International Co-operation) Act 2003 (CICA) and, as such, CPS prosecutors are authorised to issue Letters of Request. The purpose of a Letter of Request is to obtain evidence from overseas for use in criminal proceedings in England and Wales. Evidence can be requested both before and after a person is charged with an offence. During the investigation phase, a letter of request can be issued even prior to any suspect being arrested.

Every case the CPS deals with is allocated to a reviewing lawyer who has responsibility for all aspects of the file, including the issue of Letters of Request and extradition requests.

In extradition cases, CPS prosecutors assess the evidential and public interest tests (ie, the Code Tests) prior to drafting an extradition request. EAWs, issued when extradition is sought from EU Member States, are drafted by the reviewing lawyer, and issued by a magistrate or judge. For extradition from states outside the EU, the reviewing lawyer passes information to the Extradition Unit of CPS headquarters Special Crime Division, which drafts the request. The request itself is then issued via the Home Office. The Extradition Unit also represents foreign states when requests are made for the extradition of persons from the UK.

The Confiscation Unit, a section within the Organised Crime Division (a central casework division), represents foreign states when applications are made via letters of request for restraint and confiscation of assets in England and Wales resulting from foreign criminal proceedings.

25.1.2 Assistance Available

Early consultation with the CPS is required in all investigations with an international dimension. This means that matters that may arise can be addressed at an early stage, including concurrent jurisdiction, obtaining evidence from abroad such as by letters of request, extradition and, as in any domestic case, an assessment of the evidence and charging advice.

25.1.3 Contact Details

Contact details can be obtained via the CPS helpdesk

Email: HQPolicy@cps.gsi.gov.uk
Email: info@ppsni.gsi.gov.uk

25.2 The Serious Fraud Office

The Serious Fraud Office (SFO) is an independent government department whose remit is to investigate serious and complex fraud.

25.2.1 Roles and Responsibilities

The SFO is responsible for the investigation of serious and complex fraud.

25.2.2 Assistance Available

The SFO can provide the following assistance:

- Should an element of an investigation involve serious and complex fraud, advice and guidance can be obtained from the range of specialists in the SFO. These include lawyers, accountants and investigators.
- Information sharing – the organisation has developed an intelligence capability. A new IT facility for case management incorporates the intelligence function. In this way the organisation formalises information and intelligence sharing with the police and other law enforcement agencies in accordance with NIM disciplines.
- International assistance – as well as servicing overseas requests for assistance, this unit provides information and overseas contacts for SFO investigations. This unit also records the main office holders in overseas jurisdictions responsible for requesting the collection of evidence. Such contacts include Attorneys General, Central Authorities and embassies. However, the International Assistance Unit seeks to use police and customs liaison channels such as SOCA and customs liaison officers rather than duplicate them with their own contacts.
- Anti-Corruption Unit – this has extensive contact with overseas counterparts. Their expertise and network of contacts may be of use to an SIO, although SOCA and HMRC should be contacted first for advice.

25.2.3 Contact Details

Telephone: 020 7239 7388
Email: intelligenceunit@sfo.gjs.gov.uk

26

Law Enforcement

There are a number of agencies in England, Wales and NI that either have responsibility for carrying out law enforcement activities or support those that do.

Contents

26.1 Association of Chief Police Officers and the Police National Information and Co-ordination Centre	299
26.1.1 Contact Details	299
26.2 Child Exploitation and Online Protection Centre	299
26.2.1 Roles and Responsibilities	299
26.2.2 Contact Details	300
26.3 City of London Economic Crime Department	300
26.3.1 Roles and Responsibilities	300
26.3.2 Assistance Available	300
26.3.3 Contact Details	301
26.4 e-Borders	301
26.4.1 Roles and Responsibilities	302
26.4.2 Assistance Available	302
26.4.3 Contact Details	303
26.5 Gangmasters Licensing Authority	303
26.5.1 Roles and Responsibilities	304
26.5.2 Assistance Available	305
26.5.3 Contact Details	305
26.6 HM Coroners Office	305
26.6.1 Roles and Responsibilities	306
26.6.2 Assistance Available	306
26.6.3 Contact Details	306
26.7 HM Revenue and Customs	306
26.7.1 Assistance Available	306
26.7.2 Contact Details	308

26.8 Kent Police European Liaison Unit	308
26.8.1 Contact Details	308
26.9 Metropolitan Police Service	308
26.9.1 International Assistance Unit	308
26.9.2 MPS Manhunt/SCD25 Artemis	309
26.10 Ministry of Defence	309
26.10.1 Contact Details	309
26.11 National Policing Improvement Agency	309
26.11.1 Specialist Operations Centre	309
26.11.2 Uniform Operational Support	309
26.11.3 Crime Operational Support	310
26.11.4 Central Witness Bureau	310
26.11.5 Serious Crime Analysis Section	311
26.12 National Ports Office	311
26.12.1 Roles and Responsibilities	311
26.12.2 Contact Details	311
26.13 Serious Organised Crime Agency	312
26.13.1 Roles and Responsibilities	312
26.13.2 Assistance Available	312
26.13.2.1 Drugs Team	312
26.13.2.2 Theft and Fraud Team	312
26.13.2.3 Persons Team	313
26.13.2.4 Translation Team	313
26.13.2.5 European Contact Officer (ECO)	314
26.13.2.6 Liaison Officers	314
26.13.2.7 Fugitives Unit	314
26.13.3 Contact Details	315
26.14 UK Human Trafficking Centre	315
26.14.1 Roles and Responsibilities	315
26.14.2 Assistance Available	316
26.14.3 Contact Details	317
26.15 UK Identity and Passport Service	317
26.15.1 Assistance Available	317
26.15.2 Contact Details	317
26.16 UK Border Agency – Command and Control Unit 24/7	317
26.16.1 Roles and Responsibilities	318
26.16.2 Assistance Available	318
26.16.3 Contact Details	319
26.17 UKBA Criminal Casework Division, Trace and Locate Team	320
26.17.1 Roles and Responsibilities	320
26.17.2 Assistance Available	320
26.17.3 Contact Details	320
26.18 UKBA Evidence and Enquiry Unit	320
26.18.1 Roles and Responsibilities	320
26.18.2 Contact Details	321

26.1 Association of Chief Police Officers and the Police National Information and Co-ordination Centre

When an incident requires national coordination, ACPO, through the Police National Information and Co-ordination Centre (PNICC), has three functions. These are to:

- Quickly put in place an effective system for managing information concerning an emergency;
- Coordinate the provision of mutual aid between police forces;
- Provide a facility to ensure that central government is provided with current and relevant information, and to ensure that information from a national perspective is available to police forces.

If PNICC is activated to supply mutual aid during a mobilisation event, the PNICC coordinator will manage the request for, and allocation of, resources. This role is particularly important if resources are required at multiple locations such as simultaneous terrorist incidents affecting a number of forces. Although of ACPO rank, the PNICC coordinator does not take operational responsibility for the forces involved. This responsibility remains with the assigned Gold commander.

26.1.1 Contact Details

This is through ACPO

Telephone: 020 7084 8950

Email: info@acpo.pnn.police.uk

26.2 Child Exploitation and Online Protection Centre

The Child Exploitation and Online Protection Centre (CEOP) is dedicated to eradicating the sexual abuse of children. It is part of UK law enforcement and is committed to tracking and bringing offenders to account either directly or in partnership with local and international forces.

26.2.1 Roles and Responsibilities

CEOP Centre has the national remit for coordinating investigations into internet-based sexual offences involving children. CEOP investigates online paedophile activity and is the national focal point for all related intelligence.

CEOP hosts the ChildBase image database. This database logs images of sexual abuse against children. It helps to identify if the images, victims, locations or offenders are already known to UK law enforcement and, in conjunction with INTERPOL, other international law enforcement agencies. It can also assist in identifying unknown victims, offenders and locations. Using computer 'HASH' values and facial recognition software, the database can help to determine whether details in an unidentified image are identical to details from other images (eg, face, wallpaper and clothing) which have already been identified.

26.3 City of London Economic Crime Department

26.2.2 Contact Details

Address: Child Exploitation and Online Protection Centre
33 Vauxhall Bridge Road
London SW1V 2WG

Telephone: +44 (0)870 000 3344

Email: enquiries@ceop.gov.uk

The City of London Police Economic Crime Department has a long-established involvement with cross-border investigations and holds lead force status for economic crime investigation in England and Wales. The Commissioner also retains the ACPO lead on economic crime and chairs the Economic Crime Portfolio.

The department consists of multiple specialist units and investigative teams engaged in all facets of economic crime investigation. It hosts the National Fraud Intelligence Bureau, which collates and disseminates fraud-related intelligence to all appropriate agencies in the jurisdiction and beyond.

With offices in the financial centre of the City of London, the department is ideally placed for close and ongoing engagement with the senior managers of the leading international financial institutions and business sectors.

26.3.1 Roles and Responsibilities

As a result of recommendations from the 2006 Fraud Review, the City of London Police assumed the role of national lead force (NLF) on 1 April 2008 and now has more than 200 dedicated officers.

As a result of identified national priorities, the NLF allocates resources in prioritised areas and conducts certain investigations on behalf of other police forces, thereby helping to bridge the gaps in capacity and capability that have existed previously.

26.3.2 Assistance Available

With a wealth of experience in all areas of overseas investigations, officers can provide practical guidance in all areas of cross-border investigation. This includes engagement with Eurojust, the negotiation and servicing of Joint Investigative Team (JIT) arrangements with other European partners, money-laundering enquiries and overseas corruption.

The department deals with extradition, EAWs, servicing of Mutual Legal Assistance (MLA) enquiries, obtaining evidence overseas and mutual intelligence exchange.

26.3.3 Contact Details

Initial contact should be made to the contact points listed, from where enquiries will be routed accordingly.

Fraud advice/report a fraud

Telephone: 020 7601 6999
A monitored telephone line for the report of fraud-related matters (08.00 to 18.00hrs Monday to Friday).

Email: Frauddesk@cityoflondon.police.uk

Fraud reduction/fraud training

Telephone: 020 7601 6849.

Overseas Anti-Corruption Unit Reporting Line

Telephone: + (44) 020 7601 6969
A 24/7 confidential answerphone service which allows the caller to report their suspicions either openly or anonymously.

Email: OACU@cityoflondon.police.uk

26.4 e-Borders

e-Borders monitors travellers crossing the UK's border. It receives information in advance of each journey and matches biographic details against a series of police, immigration and customs watch lists to identify those of interest. Where a suspect of immediate interest is identified, an alert is sent to the agency requiring notification. This can be to the port of arrival or departure if intervention during travel is required, to an intelligence unit or investigation team as appropriate. Traveller data received is retained within the e-Borders system and can be accessed by investigators when developing intelligence or carrying out investigations. Data mining and social networking capabilities within the system allow analysis and management of data by authorised personnel in police forces and elsewhere.

e-Borders screens travellers against a number of watch lists. For the police, this includes:

- Police National Computer
 - only wanted/missing, locate trace and other records where travel is controlled or restricted
 - lost/stolen or vehicles of interest circulated on the PNC
- Police Intelligence Watchlist;
- INTERPOL Stolen Travel Documents Database;
- Schengen Information System II once it is available in the UK

The Home Office Warnings Index (HOWI) is part of the full e-Borders watch list set. Officers should contact the Joint Borders Operations Centre (JBOC) to determine the most appropriate watch list location for their subject.

The e-Borders system is currently operated by JBOC and staffed by UK Border Agency and police personnel. Crime and police-related enquiries should be channelled through the police team. e-Borders will not capture data on all routes until 2014.

26.4.1 Roles and Responsibilities

e-Borders can assist in:

- Identifying suspects and the vulnerable in advance of an international journey to or from the UK;
- Facilitating an appropriate intervention at the port of arrival or departure;
- Providing information on the movement of intelligence targets;
- Enabling investigators of serious crime to
 - identify the travel history of a suspect or associates
 - provide background information on a suspect
 - provide evidence to support the judicial process.

26.4.2 Assistance Available

Creating entries on a watch list:

PNC

Suspects who are circulated on the PNC as wanted, missing or as a ViSOR target, are subject to a Control Order or are of current interest for any other reason, will be included in the PNC watch list provided to e-Borders.

Intelligence targets

Strict criteria, similar to RIPA standards, apply to subjects entered onto the Police Intelligence Watch list. Where it is believed that the investigation would be supported by the inclusion of a subject in this watchlist, contact should be made through the Force Intelligence Bureau or other designated office within the organisation.

Entries will only be accepted from designated points of contact within each force and organisation, and a designated officer within the originating force or organisation must approve each entry. In urgent cases entries can be accepted temporarily, subject to confirmation from a designated officer within a defined period.

Entries to this watchlist must include handling instructions to enable the JBOC to process an alert throughout the twenty-four-hour period.

26.4.3 Contact Details

Accessing e-Borders data

Traveller data will be retained, possibly for ten years (subject to agreement with the European Commission) and investigators can access this data in support of investigations into serious crime. The system can provide information on:

- A person's travel history;
- Details of bookings made for travel;
- Associations between a suspect and others within the travel database.

Contact details and the standards for police use of e-Borders, the legislative basis for e-Borders and processes to use the watch list facility or data mining capabilities can be found by contacting ebct@homeoffice.gsi.gov.uk

26.5 Gangmasters Licensing Authority

The Gangmasters Licensing Authority is a national regulator. Its role is to prevent exploitation of workers and non-compliance with legislation governing the working relationship between workers and gangmasters (often referred to as labour providers). This remit applies only to the supply of workers to the agricultural and shellfish industry and its associated processing and packaging industry.

The GLA mission statement

To safeguard the welfare and interests of workers while ensuring labour providers operate within the law. The mission is achieved by:

- Introducing and operating a system to licence labour providers, including a publicly accessible register;
- Effective communication of the legal requirement for labour providers to become licensed, and to operate and remain within the formal economy;
- Imposing the least possible burden on labour providers and labour users through efficient and effective processes and procedures;
- Developing and promoting standards for best practice in the supply and use of temporary labour, in collaboration with stakeholders;
- Checking licence holders for continued compliance with the licence conditions;

- Taking enforcement action against those who operate illegally or who for other reasons are judged unfit to hold a licence;
- Supporting enforcement of the law, by or in conjunction with the enforcement authorities of other government departments, as appropriate, through shared information and joint working;
- Maintaining a continuous review of the activities of Gangmasters and the effects of the Gangmasters (Licensing) Act 2004 and the authority on them.

26.5.1 Roles and Responsibilities

The GLA discharges this remit through:

- A licensing regime, refusing to license those not fit to operate in the industry sector regulated;
- Inspection for continued compliance, which may lead to the revocation of a licence;
- Investigation of activity by unlicensed labour providers and those who contract them, both of which are criminal offences.

Exploitation of workers can range from excessive charges for transport to work to forced labour and human trafficking by those who employ, transport, deceive, accommodate or withhold pay and documents from workers.

The GLA's licensing standards are, therefore, the cornerstone of its approach to assessing compliance. Its role in targeting labour exploitation also means that it has a significant investigatory role, necessitating the provision of specific investigatory powers, both in the Gangmasters (Licensing) Act 2004 and by amendments to other criminal justice legislation:

- Entry to premises (section 16 Gangmasters (Licensing) Act 2004);
- Entry under warrant, with force to search and seize (section 17 GLA);
- Arrestable offences (section 14 GLA, amending the Police and Criminal Evidence Act 1984);
- Use of surveillance (Regulation of Investigatory Powers Act 2000 – RIPA);
- Use of Covert Human Intelligence Sources (RIPA);
- Interception of communications (RIPA);
- Seizure of assets (Proceeds of Crime Act (POCA) 2002).

26.5.2 Assistance Available

The GLA has a small, dedicated intelligence section that offers assistance and advice relating to investigations involving workers in the agricultural and shellfish industry and its associated processing and packaging industry. The GLA presently has memorandums of understanding with:

- SOCA;
- ACPO and Association of Chief Police Officers in Scotland (ACPOS);
- The Department for Work and Pensions (DWP);
- HM Revenue and Customs;
- UK BIS (UK Department of Business, Innovation and Skills);
- The Health and Safety Executive;
- The UK Border Agency.

It is also working on information sharing agreements with:

- Local authorities;
- The Insolvency Service regarding companies involved in solvency and debt recovery;
- Bulgarian, Polish and Latvian labour inspectorates;
- National Employment Regulatory Authority.

26.5.3 Contact Details

Director of Strategy

Telephone: 0115 900 8959

For case-specific queries and intelligence exchange

Email: Intelligence@gla.gsi.gov.uk

26.6 HM Coroners Office

In England and Wales a coroner is a judicial officer appointed and paid for by the local authority. The coronial system is under the control of the Ministry of Justice, which is headed by the Lord Chancellor and Secretary of State for Justice.

Any person aware of a dead body has a duty to report it to the coroner for that district; failure to do so is an offence. This can include bodies brought into England or Wales from abroad. The coroner has a team of Coroner's Officers who carry out the investigation on the coroner's behalf. Based on the investigation, the coroner decides whether an inquest is appropriate.

26.6.1 Roles and Responsibilities

For the purposes of this practice advice, if a body (or a substantial part thereof, but not cremated ashes) of a person who has died in violent, suspicious or unusual circumstances overseas is repatriated to England or Wales, a coroner must investigate (section 8 of the Coroners Act 1988).

Note: At a date yet to be confirmed section 8 will be repealed by the Coroners and Justice Act 2009, when section 178 and Schedule 23 of the CJA 2009 are brought into force.

Coroners are not legally obliged to hold inquests in other cases, even if the next of kin insist on one. The coroner does, however, have discretion to hold an inquest in other cases where they deem it appropriate. A family may, however, ask for a judicial review where a coroner decides not to hold an inquest.

26.6.2 Assistance Available

Apart from holding inquests into the cause of death of those whose bodies have been returned to the UK, the coroner can also request information from foreign authorities. All requests for information from abroad should be routed through the FCO Consular Directorate's Coroners Liaison Officer (CLO). The CLO will forward the request to the relevant consular post overseas, who will then request the information from the foreign authority. The report, if received, will then be returned through the same channel.

There is no legal duty for foreign countries to supply this information. When information is requested, the process can be long and drawn out.

26.6.3 Contact Details

Further advice can be obtained from the FCO Police Adviser at the Consular Directorate

Telephone: 020 7008 8734.

The HMRC Criminal Investigation Directorate provides HMRC with an investigation arm to enforce the Exchequer's Compliance Policies.

26.7 HM Revenue and Customs

26.7.1 Assistance Available

International Cooperation within the European Union Countries – Naples II (since 1997, throughout the EU, a particular convention colloquially termed NAPLES II has been used by customs services to fight serious organised crime in the realm of drugs and fraud.) This EU convention can also be used by all competent law enforcement authorities in the UK.

Special Forms of Cooperation under Naples II

Principles

Customs administrations as well as other competent authorities shall engage in cross-border cooperation and shall provide each other with the necessary assistance in terms of staff and organisational support.

Cross-border cooperation is permitted for the prevention, investigation and prosecution of the infringements referred to in Article 19(2).

Article 19(2)

Cross-border cooperation within the meaning of paragraph 1 shall be permitted for the prevention, investigation and prosecution of infringements in cases of:

- (a) Illicit traffic in drugs and psychotropic substances, weapons, munitions, explosive materials, cultural goods, dangerous and toxic waste, nuclear material or materials or equipment intended for the manufacture of atomic, biological and/or chemical weapons (prohibited goods);
- (b) Trade in substances listed in Tables I and II of the United Nations Convention against illicit traffic in narcotic drugs and psychotropic substances and intended for the illegal manufacture of drugs (precursor substances);
- (c) Illegal cross-border commercial trade in taxable goods to evade tax or to obtain unauthorised state payments in connection with the import or export of goods, where the extent of the trade and the related risk to taxes and subsidies is such that the potential financial cost to the budget of the European Communities or the Member States is considerable;
- (d) Any other trade in goods prohibited by Community or national rules.

Not only do infringements cover all forms of participation (eg, instigation, involvement as an accessory) and attempts, but also the sole fact of participation in a relevant criminal organisation and the laundering of money derived from the infringements mentioned. Infringement is defined in Article 4(3)

Article 4(3)

Infringement acts in conflict with national or Community customs provisions, including, inter alia:

- Participation in, or attempts to commit, such infringements;

- Participation in a criminal organisation committing such infringements;
- The laundering of money deriving from the infringements referred to in this paragraph.

26.7.2 Contact Details

Advice on specific operational matters will be routed to an on-call senior investigating officer or the SIO responsible for International Mutual Assistance.

The HMRC and UKBA twenty-four-hour National Coordination Unit
Telephone: 0870 785 3600.

26.8 Kent Police European Liaison Unit

The Kent Police European Liaison Unit (ELU) was set up in the early nineties because of the county's close proximity to mainland Europe. The role of the ELU is coordination of European operational activity, advice concerning international enquiries and various police checks within Europe. The ELU has a vital role in gathering and sharing intelligence with its foreign law enforcement partners and supporting locally run operations.

The ELU is a force resource and all staff are linguists in French, German, Italian and Spanish. It is based in the Joint Intelligence Unit, Special Branch at Bouverie House, Folkestone, and coordinates all incoming and outgoing INTERPOL enquiries, incoming Letters of Request (LORs) and is the SPoC for European Arrest Warrants (EAW).

26.8.1 Contact Details

The ELU can be contacted during office hours

Telephone: 01303 289578

Email: elu.bouverie@kent.pnn.police.uk

26.9 Metropolitan Police Service

The Metropolitan Police Service (MPS) is responsible for policing an area of 620 square miles and a population of approximately 7.2 million in the greater London area.

26.9.1 International Assistance Unit

The MPS International Assistance Unit (IAU) has responsibility for dealing with incoming LOR and providing advice and assistance to both MPS police officers and officers throughout the UK.

To contact the MPS IAU, investigators should contact the force ILO, who has responsibility for liaising with colleagues involved in international assistance in other LEAs.

26.9.2 MPS Manhunt/SCD25 Artemis

MPS SCD25 Artemis is a dedicated manhunt unit with the remit of developing intelligence on persons wanted for serious crime who have so far been unable to be traced by traditional means.

Advice is available from MPS Manhunt, but investigators should speak to their force ILO in the first instance before making contact with a member of the Manhunt team via pager 07699 765612.

The Ministry of Defence has bases and facilities located throughout Europe and may be able to facilitate logistical requests under certain circumstance.

26.10 Ministry of Defence

26.10.1 Contact Details

Investigators wishing to contact the MOD as part of an investigation, or to seek assistance, are advised to contact the force ILO in the first instance. The ILO has responsibility for liaising with outside agencies and organisations capable of assisting in a cross-border investigation.

26.11 National Policing Improvement Agency

The National Policing Improvement Agency (NPIA) delivers a number of services to all UK forces, using teams of skilled specialist staff experienced in critical incidents, operational issues and serious crime investigations. Within the NPIA there are a number of teams which can help with a European cross-border investigation.

26.11.1 Specialist Operations Centre

The NPIA Specialist Operations Centre provides a single point of contact for police forces and key partners requesting information, advice or support in relation to covert techniques, major crime, critical incidents and uniform operations.

Telephone: 0845 000 5463
Email: soc@NPIA.pnn.police.uk

26.11.2 Uniform Operational Support

The team comprises specialist personnel with professional knowledge and expertise who can provide operational support in relation to uniform policing incidents and events, as well as rapid response for the Police Service to both national and international issues. This support is available through:

- On-site operational guidance and advice;
- Published guidance and practice advice;

- Telephone guidance and advice;
- Debriefing services;
- Training and consultancy services;
- Strategic advice.

The NPIA also acts as an interface for ACPO, the Home Office and other national and overseas organisations, providing special projects support and policy advice.

Contact is via the NPIA Specialist Operations Centre

Telephone: 0845 000 5463
Email: soc@NPIA.pnn.police.uk

26.11.3 Crime Operational Support

Crime Operational Support provides advice and support for serious crime investigations including murder, rape, series and serious sexual offences, abduction, suspicious missing persons, no body murders and other critical incidents. The section also incorporates National Advisers specialising in search, interviewing, family liaison, and forensic advice.

Contact is via the NPIA Specialist Operations Centre

Telephone: 0845 000 5463
Email: soc@NPIA.pnn.police.uk

26.11.4 Central Witness Bureau

The Bureau ensures that the quality of service provided to protected persons is improved and standardised across the UK. They work closely with ACPO and police forces to develop standards and operating procedures on witness protection, thereby promoting good practice. The Bureau also coordinates international liaison, oversees the national protection training course and develops training strategy. This ensures implementation of provisions for witness protection, as well as providing support to protection officers through services such as the National Witness Mobility Service.

For more information and to contact the Central Witness Bureau

Telephone: 0870 874 6202
Email: CWB.International@npia.pnn.police.uk

26.11.5 Serious Crime Analysis Section

The Serious Crime Analysis Section (SCAS) leads the way in the field of behavioural crime analysis, supporting criminal investigations nationally by identifying the potential emergence of serial killers and serial rapists at the earliest stage of their offending. In addition, assistance is provided on international serial cases through INTERPOL. SCAS forms part of the Crime Analysis Unit, which also contains the Missing Persons Bureau. This bureau has an international remit for supporting investigations into missing people and found remains, with work crossing over with abduction and murder enquiries.

For more information and to contact the Serious Crime Analysis Section

Telephone: 01256 602305

Email: scas.enquiries@npia.pnn.police.uk

26.12 National Ports Office

The National Ports Office (NPO) is based at London Heathrow Airport. The NPO provides a response twenty-four hours a day, seven days a week. Its primary function is to facilitate the flow of information and intelligence relating to the travel of counter-terrorism suspects.

26.12.1 Roles and Responsibilities

The majority of NPO work takes place at London Heathrow Airport and London ports.

The NPO is a point of contact for requests for assistance within the security community, SO18 Aviation Security, UKBA, JBOC and MPS SO15.

The NPO facilitates contact with regional airports in fast-moving enquiries.

National functions include:

- Wards of Court Liaison with the Tipstaff;
- Sole point of inclusion of suspects on the Home Office Warnings Index (WICU) for counter-terrorism persons of interest;
- Facilitating diverse miscellaneous requests.

26.12.2 Contact Details

Enquiries should be directed through local Special Branch representatives.

26.13 Serious Organised Crime Agency

SOCA International provides a service twenty-four hours a day, seven days a week to UK law enforcement to facilitate international law enforcement work involving the UK.

To achieve this, it has a range of capabilities, including INTERPOL, Europol, the SOCA liaison Officer (SLO) network, Schengen and liaisons with a wide range of UK and foreign bodies.

26.13.1 Roles and Responsibilities

All enquiries and activity are channelled through the Desk. From here, they are sent to one of the commodity teams – Drugs, Theft and Fraud, Persons, or Fugitives. SOCA International also has a team of translators and a European Contact Officer (ECO).

26.13.2 Assistance Available

The following teams within SOCA can assist investigators and SIOs in a variety of different investigations.

26.13.2.1 Drugs Team

This team deals primarily with drug trafficking. They work in close cooperation with SLOs posted abroad, and the Intervention Planning Teams within SOCA. The team has no formal take-on criteria, but there is a prioritisation process:

- Some work may only be actioned on follow up from the originator with an explanation of its importance. This is continually reviewed.
- The Drugs Team will not work proactively on drugs circulations from INTERPOL partners where there is no identifiable UK connection. These requests are filed and are searchable, so crossovers may arise later.
- The Drugs Team will not seek to obtain telecoms data, or facilitate requests for foreign police to conduct enquiries or searches where there is no indication of serious and organised crime, and/or where the commodity is not a Class A drug or in an appreciable trading quantity.

26.13.2.2 Theft and Fraud Team

The Theft and Fraud team facilitates international and UK enquiries using INTERPOL, Europol, the SLO network and SIRENE. The team also works closely with other SOCA departments to identify intelligence, intervention and enforcement opportunities from international casework.

Areas covered by the Theft and Fraud Team are:

- Money laundering;
- Fraud (fiscal and non-fiscal, including bank investment, internet and mass marketing, advance fee);
- Payment card offences;
- Smuggling of prohibited goods (except drugs);
- Counterfeit currency;
- Intellectual property theft;
- Environmental and wildlife crime;
- Theft, burglary and robbery;
- Going equipped to steal;
- Making off without payment.

The Theft and Fraud Team also coordinates submissions toward Europol AWFs and makes Europol Asset Tracing Requests.

26.13.2.3 Persons Team

The Persons Desk deals with offences against the person, such as assaults and murder, and similar matters such as high-risk missing persons, human trafficking and smuggling, parental child abductions, kidnap, blackmail and extortion, terrorism and aviation security offences (including hijacking) and sexual offences. The persons desk also has links with the Child Exploitation and Online Protection Centre on non-compliant registered sex offenders and online child sexual abuse images.

26.13.2.4 Translation Team

INTERPOL has four working languages – English, Spanish, French and Arabic. All except Arabic are included within SOCA International, together with a limited Italian and Portuguese capability.

The four-person Translation Team is responsible for translating written correspondence, carrying out telephone enquiries and informal interpreting to support all functions of SOCA International. It also operates an out-of-hours on-call system to provide a twenty-four-hour translation facility. Most of the team's work is translating French and Spanish into English, though in urgent, complex or high-profile cases, messages can be translated from English into French or Spanish with the approval of the team leader.

The official language for the transmission of SIRENE correspondence is English, but the language support team is often asked to assist with telephone enquiries to other SIRENE bureaux during and outside normal working hours.

The Translation Team also have expert knowledge of the countries with whom SOCA International works closest, playing a leading role in building and maintaining strong working relationships with partner countries throughout the world.

26.13.2.5 European Contact Officer (ECO)

INTERPOL European Region operates a Contact Officer system. Each National Central Bureau (NCB) nominates one or two officers to act as a point of contact for all other Member States within the region. In the UK NCB (SOCA International) the team leader of the Translation Team carries out this role.

The role of the ECO is to help progress INTERPOL cases at European level when extra assistance is required, and to perform a troubleshooting role when appropriate, eg, requesting replies to messages which, may not have been received, discussing sensitive or complex cases and giving and receiving advice on national legislation to achieve the best possible result for each enquiry. The contact officer network also allows for strong working relationships to be built up with European partner countries.

26.13.2.6 Liaison Officers

The SOCA Liaison Officer (SLO) Network represents around 140 SOCA officers deployed overseas in more than forty countries, usually based in British High Commissions or embassies. These officers collect and report intelligence from overseas sources, plan and execute activity overseas in support of SOCA's work and support the business interests of other SOCA departments overseas. They also work closely with other government departments overseas and enjoy a wide range of access to local law enforcement, intelligence services and politicians.

26.13.2.7 Fugitives Unit

The Fugitives Team has responsibility for dealing with all matters pertaining to suspects or convicted persons who are at large around the world. This includes the EAW system and extradition.

26.13.3 Contact Details

SOCA International can be contacted twenty-four hours a day, seven days a week

Telephone: 020 7238 8115
Fax: 020 7238 8112
Email London@soca.x.gsi.gov.uk

26.14 UK Human Trafficking Centre

The UK Human Trafficking Centre (UKHTC) provides a central point for the development of expertise and cooperation in relation to the trafficking of human beings (THB), working together with other stakeholders from the governmental, non-governmental and inter-governmental sectors in the UK and abroad.

Representatives at the UKHTC include police officers and police staff, two non-government organisations (NGOs), a senior university academic, members of the UKBA, the CPS, HMRC and SOCA. The UKHTC is based on the principles of the four Ps of Protection, Prevention, Prosecution and Partnership, which are developed through five work streams: Victim Care, Prevention, Operations and Intelligence, Learning and Development, and Research. These five streams are delivered by working groups, chaired by representatives from partner agencies, including NGOs.

The UKHTC is a competent authority under the National Referral Mechanism (NRM). This is a process by which suspected victims are referred to the NRM team and a decision is made on whether they are a victim of human trafficking. A positive decision brings with it support for the victim and a statutory forty-five day reflection period so that the victim can consider what they want to do.

26.14.1 Roles and Responsibilities

Prevention

There are three key areas of preventive work identified within the UK Action Plan on Tackling Human Trafficking. These are:

- Increasing knowledge and understanding of the problem;
- Working to identify and address the issues that affect the supply and demand of human trafficking;
- Maximising the collective preventive effort.

UKHTC is undertaking work in all three of these areas. As part of its preventive strategy, the UKHTC has been working to encourage the use of the Blue Blindfold campaign throughout the UK and further afield.

This is a media campaign which aims to encourage members of the general public, key professionals and law enforcement to become aware of human trafficking. This has now gained national and international recognition and received critical acclaim.

Operations - tactical advice

The UKHTC provides tactical advice to law enforcement and SIO's on human trafficking investigations and victim support, twenty-four hours a day every day of the year. Outside office hours, an on-call tactical adviser can be contacted.

Intelligence

The UKHTC is the central point for the collection and collation of data information and intelligence on all forms of trafficking. It strives to improve the local, national and international knowledge base on human trafficking. The intelligence section of the centre also has an intelligence development function and produces analytical products including assessments and reports in line with the centre's agreed work programme.

National Referral Mechanism (NRM)

The introduction of the National Referral Mechanism (NRM), following the ratification of the Council of Europe Convention on Action against Trafficking in Human Beings (April 2009), has led to a minimum forty-five-day reflection and recovery period being introduced for victims. The UKHTC is the responsible authority for the UK. First responders (which include police, local authorities, NHS, UKBA and certain NGOs) refer suspected victims to the NRM team so that a decision can be made on their status as a victim of trafficking. If this is a positive decision then support, including accommodation, is provided for them.

26.14.2 Assistance Available

- Tactical advice regarding the investigation of human trafficking offences;
- Advice on how EU partners investigate human trafficking offences and tactical options they use;
- Provision of points of contact in human trafficking teams in several EU countries;
- Provision of points of contact in NGOs in several EU countries, which can assist in care of victims and maintaining contact once a victim returns home;

- Provision of a best practice model for managing trafficking investigations between EU countries.

26.14.3 Contact Details

Telephone: (0) 114 252 3891

Fax: (0) 114 219 7336

For intelligence (dissemination and requests)

Email: intelligence@ukhtc.pnn.police.uk

For the NRM Team

Email: nrm@UKhtc.pnn.police.uk

26.15 UK Identity and Passport Service

The UK Identity and Passport Service is responsible for the investigation of any fraud in respect of a UK passport and suspected fraudulent UK passport applications.

26.15.1 Assistance Available

Investigators may wish to consider contacting the UK Identity and Passport Service when trying to identify an individual involved in a cross-border investigation or to ascertain the validity of a UK passport.

26.15.2 Contact Details

The UK Identity and Passport Service Operational Intelligence Unit

Email: OIU@ips.gsi.gov.uk

26.16 UK Border Agency – Command and Control Unit 24/7

The Command and Control Unit (CCU) was set up in 2006 following the Morecambe Bay tragedy where a number of Chinese cockle pickers died. The Agency received some criticism, in particular regarding the lack of availability out-of-office hours.

The Unit operates on a twenty-four hours a day, seven days a week basis throughout the year and is staffed by trained and experienced Immigration and Administrative Officers. The team has access to a number of systems:

- Home Office Immigration databases – information held on these databases will allow UKBA officers to establish whether an individual is known to the Agency and, if so, in what capacity.
- UKVISAs system – all UK visas that have been issued to allow entry to the UK from 1998 are recorded on this database, along with the type of visa issued, to whom and the validity of the visa.

- UK Passport Agency database – UKBA officials use this database to establish if an individual has been issued a British passport should there be suspicion that they do not have one.

26.16.1 Roles and Responsibilities

Prior to the CCU being developed, there was no one UKBA point of contact for the police out of hours. This meant that real-time immigration enquiries, immigration advice and UKBA action were not available. The CCU has developed its role so that it can provide a point of contact for the police out of hours, providing real-time immigration enquiries and immigration advice.

The main role of the CCU is to offer advice and assistance to the police nationwide, either to those police officers who encounter foreign nationals in custody or to those operating in the field. The CCU conducts the relevant checks to establish an individual's immigration status. Once this has been confirmed, the CCU has the opportunity to take any action on behalf of the UKBA. It may be that the advice provided to the police may result in an individual being arrested on behalf of the UKBA or up-to-date contact details being obtained, thereby allowing the UKBA to keep in contact with those nationals who are subject to control by the UKBA.

26.16.2 Assistance Available

General information

All foreign nationals who enter the UK need to seek permission to do so, either overseas prior to entering the UK or upon arrival. This will depend on their nationality and reason for entering the UK. EU/EEA nationals (including UK citizens) have their documents checked on arrival, but the agency retains no records of them entering or leaving the UK.

Non-EU/EEA nationals (including UK citizens) must complete a landing card on arrival in the UK and this is given to the UKBA official: this information is maintained on a Home Office database. There are no embarkation records kept or maintained of individuals leaving the UK.

Nationals of any country who have been subject to a Deportation Order and have subsequently been deported from the UK have a ten-year ban on re-entering the UK. Anyone who arrives in the UK with an outstanding Deportation Order will not be allowed entry into the country.

Assistance available during an EU cross-border investigation

- The CCU will be able to assist officers who are conducting EU cross-border investigations by establishing the immigration status of any subject who is known to the UKBA and in what capacity. The unit is available twenty-four hours a day, seven days a week, which ensures that enquiries can be dealt with from all time zones around the world, and during police working hours.
- The CCU has access to limited information on certain documents and passports and their security features. This may assist officers to detect forged or counterfeit documents.
- Contact details for other UKBA departments around the country (including overseas), airports and seaports are held and maintained.
- Providing advice on immigration policy, procedure and general practices to investigating officers.
- The CCU has access to a number of Home Office systems and the UKVISAs database. Officers are able to update any of these with information that may assist in an investigation. Information currently held on these databases can be provided to an investigating officer.

The PNC/Absconder Tracing Team

- The PNC/Absconder Tracing Team is attached to the Command and Control Unit. The main functions of the team are to monitor and control entries onto the PNC for immigration offenders and to trace those who fail to keep in contact with the UKBA. The team uses a vast number of stakeholders to locate and trace immigration offenders with a view to removing them from the UK or to bringing them back into contact with the UKBA.

26.16.3 Contact Details

The Command and Control Unit

Address: 4M building, Manchester M90 3RR
Telephone: 0161 261 1640
Fax: 0161 261 1133.

26.17 UKBA Criminal Casework Division, Trace and Locate Team

The Criminal Casework Division, Trace and Locate Team are part of the UKBA and tasked with concentrating on persons who have been assessed as due and suitable for deportation.

26.17.1 Roles and Responsibilities

The UKBA Criminal Casework Division, Trace and Locate Team is responsible for locating individuals who have left a border control area without permission, escaped from detention, breached one or more of the conditions imposed as a condition of Temporary Admission (TA), Temporary Release (TR), bail or have been released on a Restriction Order (RO), and whose current whereabouts is unknown.

26.17.2 Assistance Available

The Trace and Locate Team has extensive experience in locating foreign nationals. As a result, investigators may wish to consider contacting them when trying to locate or formally identify individuals involved in a cross-border investigation.

26.17.3 Contact Details

The UKBA Criminal Casework Division, Trace and Locate Team
Operational Manager

Telephone: 0151 213 1208 or 0151 213 1204.

26.18 UKBA Evidence and Enquiry Unit

The Evidence and Enquiry Unit is able to give general advice and guidance to a number of other government departments concerning foreign national status within the UK.

26.18.1 Roles and Responsibilities

It is the Evidence and Enquiry Unit's responsibility to carry out status checks on subjects for the stakeholder.

There are a number of teams handling different areas of work, including:

- Witness statements;
- Allegations;
- Pensions;
- Criminal Injuries Compensation Authority;
- Entry Clearance Officer (ECO) Enquiries;
- The Solicitors Regulations Authority;

- Royal Courts of Justice;
- Local Authorities;
- National Health Service Enquiries;
- Security Industries Authority;
- National Fraud Initiative;
- Vulnerable children.

26.18.2 Contact Details

Telephone: 0845 601 2298

Email: evidenceandenquiryunit@homeoffice.gsi.gov.uk

27

International Cooperation Groups

There are a number of networks and groups which support the investigation of cross-border crime.

Contents

27.1 Camden Asset Recovery Inter-Agency Network	325
27.1.1 Roles and Responsibilities	325
27.1.2 Assistance Available	325
27.1.3 Contact Details	325
27.2 Egmont Group	326
27.2.1 Roles and Responsibilities	326
27.2.2 Contact Details	326
27.3 Eurojust	327
27.3.1 Roles and Responsibilities	327
27.3.2 Assistance Available	327
27.3.3 Contact Details	328
27.4 European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the EU	328
27.4.1 Assistance Available	328
27.4.2 Contact Details	328

27.5 European Anti-Fraud Office	329
27.5.1 Roles and Responsibilities	329
27.5.2 Assistance Available	329
27.5.3 Contact Details	329
27.6 European Crime Prevention Network	330
27.6.1 Assistance Available	330
27.6.2 Contact Details	330
27.7 European Judicial Network	330
27.7.1 Roles and Responsibilities	330
27.7.2 Assistance Available	331
27.7.3 Contact Details	331
27.8 European Police Chiefs Task Force	331
27.8.1 Contact Details	331
27.9 European Union's Joint Situation Centre	332
27.9.1 Contact Details	332
27.10 Europol	332
27.10.1 Roles and Responsibilities	332
27.10.2 Assistance Available	333
27.10.3 Contact Details	333
27.11 Europol Criminal Asset Bureau	334
27.11.1 Roles and Responsibilities	334
27.11.2 Assistance Available	334
27.11.3 Contact Details	334
27.12 Foreign Law Enforcement Community	334
27.12.1 Assistance Available	334
27.12.2 Contact Arrangement	335
27.13 International Policing Assistance Board	335
27.13.1 Roles and Responsibilities	335
27.13.2 International Police Assistance Group (IPAG)	335
27.13.3 Contact Details	336
27.14 INTERPOL	336
27.14.1 Roles and Responsibilities	336
27.14.2 Assistance Available	337
27.14.3 Contact Details	337
27.15 UK Liaison Magistrates	338
27.15.1 Roles and Responsibilities	338
27.15.2 Contact Details	338

27.1 Camden Asset Recovery Inter-Agency Network

Camden Asset Recovery Inter-Agency Network (CARIN) is an informal network of judicial and law enforcement experts in the field of asset forfeiture. CARIN currently has fifty-five members, including forty-six jurisdictions and nine international organisations. Eurojust are permanent observers in the steering group.

One law enforcement and one judicial contact have been nominated from each of those states and jurisdictions to assist in cross-border cooperation in relation to tracing, freezing, seizing and confiscating assets.

27.1.1 Roles and Responsibilities

The aim of CARIN is to increase the effectiveness of members' efforts, on a multi-agency basis, to deprive criminals of their illicit profits. In seeking to meet its aim CARIN will:

- Establish a network of contact points;
- Focus on the proceeds of all crimes, within the scope of international obligations;
- Establish itself as a centre of expertise on all aspects of tackling the proceeds of crime;
- Promote the exchange of information and good practice;
- Undertake to make recommendations to bodies such as the European Commission and the Council of the European Union, relating to all aspects of tackling the proceeds of crime;
- Act as an advisory group to other appropriate authorities;
- Facilitate, where possible, training in all aspects of tackling the proceeds of crime;
- Emphasise the importance of cooperation with the private sector in achieving its aim to encourage members to establish national asset recovery offices.

27.1.2 Assistance Available

English-speaking contacts are able to assist with general questions about asset recovery in their own jurisdictions, as well as providing operational support via available legal channels.

27.1.3 Contact Details

For further information about CARIN and the support it can provide, contact the CARIN Secretariat at Europol

Telephone: 0031 703 53 1366

Email: carin@europol.europa.eu

27.2 Egmont Group

To address the threat posed by financial crimes, a number of specialised governmental agencies were created when countries around the world developed systems to deal with the problem of money laundering. These agencies are commonly referred to as Financial Intelligence Units (FIU). They offer law enforcement agencies around the world an important avenue for information exchange.

Recognising the benefits inherent in the development of an FIU network, a group of FIUs at the Egmont Arenberg Palace in Brussels decided in 1995 to establish an informal group for the stimulation of international cooperation. Now known as the Egmont Group, these FIUs meet regularly to find ways to cooperate, especially in the areas of information exchange, training and the sharing of expertise.

There are currently 108 countries with recognised operational FIU units, and others are in various stages of development. Countries must go through a formal procedure established by the Egmont Group in order to be recognised as meeting the Egmont Definition of an FIU. The Egmont Group as a whole meets once a year. The five Working Groups and the Egmont Committee are used to conduct common business, in conjunction with the Egmont Group Secretariat established in 2007.

27.2.1 Roles and Responsibilities

FIUs, as a minimum, receive, analyse and disclose information from financial institutions to competent authorities, of suspicious or unusual financial transactions. Although every FIU operates under different guidelines, most FIUs, under certain provisions, can exchange information with foreign counterpart FIUs. In addition, many FIUs can also be of assistance in providing other government administrative data and public record information to their counterparts, which can be helpful to investigators. One of the main goals of the Egmont Group is to create a global network by promoting international cooperation between FIUs.

The ongoing development and establishment of FIUs exemplifies how countries around the world continue to intensify their efforts to focus on research, analysis and information exchange in order to combat money laundering, terrorist financing and other financial crimes.

27.2.2 Contact Details

To make enquiries into the Egmont Group contact SOCA International

Telephone: 020 7238 8555
Fax: 020 7238 8112
Email: London@soca.x.gsi.gov.uk

27.3 Eurojust

Based at The Hague in the Netherlands, Eurojust is a legal body of the European Union set up to improve the effectiveness of investigating and prosecuting serious and organised cross-border crime. EU Member States are represented by either a prosecutor, investigator or judge. It may act through its members or as a college.

27.3.1 Roles and Responsibilities

Article 85 of The Treaty on the Functioning of the European Union establishes the Eurojust mission as stated below:

Eurojust's mission shall be to support and strengthen coordination and cooperation between national investigating and prosecuting authorities in relation to serious crime affecting two or more Member States or requiring a prosecution on common bases, on the basis of operations conducted and information supplied by the Member States' authorities and by Europol.

The mission statement is broadly delivered through the following objectives:

- To stimulate and improve the coordination of investigations and prosecutions;
- To improve cooperation through facilitating requests and decisions in relation to judicial issues, including those giving effect to the principle of mutual recognition;
- To provide support to authorities of the Member States to increase the effectiveness of their investigations and prosecutions;
- To proactively support and facilitate the setting up of Joint Investigation Teams;
- To strengthen relations with countries outside the European Union.

Under section 8(3)(b) of the Crime (International Co-operation) Act 2003 (CICA), a prosecutor may send an urgent request for assistance, 'to any body or person competent to receive it under any provisions adopted under the Treaty on European Union', for transmission to a court or appropriate authority (as mentioned in section 8(1) CICA). Eurojust can also assist with setting up Joint Investigation Teams and their funding.

27.3.2 Assistance Available

Eurojust can assist with conflicts of jurisdiction and in solving a range of Coordination issues where a case involves two or more Member States. Officers must consider early consultation with the UK team if there are likely to be any live issues. The UK team can arrange and preside over meetings at The Hague with relevant judicial and law enforcement authorities of the countries involved.

27.4 European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the EU

27.3.3 Contact Details

Eurojust

Telephone: +31 70 412 5252
Email: collegeUK@Eurojust.europa.eu

The mission of the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the EU (Frontex) is to help EU Member States implement EU rules on external border controls and to coordinate operational cooperation between Member States in the field of external border management. While it remains the task of each Member State to control its own borders, the Agency is vested with the function to ensure that they all do so with the same high standard of efficiency.

27.4.1 Assistance Available

The main tasks of the agency include:

- Coordination of operational cooperation between Member States in the field of management of external borders;
- Assistance to Member States in the training of national border guards;
- Carrying out risk analysis;
- Following up the development of research relevant for the control and surveillance of external borders;
- Assistance to Member States in circumstances requiring increased technical and operational assistance at external borders;
- Providing Member States with the necessary support to organise joint return operations.

27.4.2 Contact Details

Telephone: (48 22) 544 95 00
Fax: (48 22) 544 95 01
Email: frontex@frontex.europa.e

27.5 European Anti-Fraud Office

'OLAF' is the acronym for the French name of the European Anti-Fraud Office: Office européen de lutte anti-fraude. OLAF is an administrative investigative service of the EU set up to fight fraud and corruption affecting the EU, by protecting the EU budget and working in the interest of European taxpayers.

27.5.1 Roles and Responsibilities

The mission of OLAF is to protect the financial interests of the European Union and to combat fraud, corruption and any other illegal activities. Illegal activities include serious misconduct within the European institutions which has financial consequences. OLAF is not competent to fight fraud or corruption that does not involve the budget of the European Union.

27.5.2 Assistance Available

The cross-border work of OLAF may be of relevance to UK police authorities in cases affecting the financial interests of the European Union (eg, fraud with EU subsidies).

OLAF maintains regular contact with the Serious Fraud Office (SFO) and the Metropolitan Police Economic and Specialist Crime Directorate.

For police services in general, the advantage of cooperation with OLAF within their statutory remit is that OLAF is an operational administrative investigative body that is entitled to undertake on-the-spot checks in all EU Member States and non-EU Member States with which the EU has signed mutual administrative assistance agreements.

For further information refer to:

Frequently Asked Questions at http://ec.europa.eu/anti_fraud/about-us/faqs/index_en.htm

Legal Basis section at
http://ec.europa.eu/dgs/olaf/legal/index_en.html

Any competent law enforcement body in the EU may contact OLAF directly. Consequently, within OLAF's remit, the possibilities that OLAF can offer to cooperating police services go beyond those of Europol.

27.5.3 Contact Details

European Commission

Email: OLAF-COURRIER@ec.europa.eu
Fax: +32-2-296.08.53.

27.6 European Crime Prevention Network

The EUCPN (EU Crime Prevention Network) was set up by an EU Council Decision to promote crime prevention activity in Member States across the EU, and to provide a means by which valuable good practice in preventing crime, mainly 'traditional' crime, could be shared.

27.6.1 Assistance Available

The main aims of the EUCPN are to:

- Identify good practices in crime prevention and to share knowledge and experience gained between member countries;
- Accumulate and evaluate information on crime prevention activities;
- Improve the exchange of ideas and information within the Network;
- Contribute to developing local and national strategies on crime prevention;
- Promote crime prevention activities by organising meetings, seminars and conferences.

27.6.2 Contact Details

Email: eucpn@homeoffice.gsi.gov.uk

27.7 European Judicial Network

The European Judicial Network (EJN) was established in 1998 to facilitate closer cooperation in criminal matters between EU Member States. It comprises an informal network of in excess of 200 individuals across the EU who have been designated by their country as contact points, the majority of whom are English speakers. They are generally located in authorities with responsibility for judicial cooperation (eg, Ministries of Justice or prosecuting authorities).

27.7.1 Roles and Responsibilities

The EJN is responsible for improving judicial cooperation between EU Member States, particularly in combating forms of serious crime. It does this by:

- Facilitating and speeding up judicial cooperation;
- Providing legal and practical information to local authorities;
- Providing support with requests for assistance.

27.7.2 Assistance Available

The main function of the EJN is to provide background information on criminal justice issues. Problems can often arise from a lack of understanding of local legislation, practice and procedure and this is one of the areas in which the EJN can help to improve judicial cooperation in the EU in an informal manner. For example, should one Member State need to find an expert on a particular issue relating to criminal justice in another EU State, the EJN could be used to locate the relevant expert overseas.

The EJN can also assist in identifying and establishing direct contacts with the competent local authority in another Member State when sending requests for judicial assistance or a EAW.

27.7.3 Contact Details

European Judicial Network

Phone: +31 70 412 5000
Fax: +31 70 412 5505
Email: ejn@Eurojust.europa.eu

27.8 European Police Chiefs Task Force

The EU has created a task force of police chiefs from all Member States to develop personal and informal links between the heads of the various law enforcement agencies across the EU. The purpose is to exchange information and assist with the development of closer cooperation between the various national and local police forces and other EU law-enforcement agencies.

The European Police Chiefs Task Force holds regular meetings which provide task force members with the opportunity to exchange information at high level on European policing issues and practices.

The European Police Chiefs task force is seen as a top level personal communication organisation. All operative information should be coordinated through Europol.

27.8.1 Contact Details

European Police Chiefs Task Force

To contact the European Police Chiefs Task Force, contact SOCA International

Telephone: 020 7238 8115
Fax: 020 7238 8112
Email: London@soca.x.gsi.gov.uk

27.9 European Union's Joint Situation Centre

SitCen is the European Union's Joint Situation Centre. It was set up to monitor common foreign and security policy issues such as those relating to weapons of mass destruction and proliferation. It also comprises a counter-terrorism (CT) unit.

SitCen is directly attached to the High Representative of the Union for Foreign Affairs and Security Policy and consists of three units. These are: the Civilian Intelligence Cell (CIC), comprising civilian intelligence analysts working on political and counter-terrorism assessment; the General Operations Unit (GOU), providing twenty-four-hour operational support, research and non-intelligence analysis; and the Communications Unit, handling communications security issues and running the council's communications centre (ComCen).

27.9.1 Contact Details

To contact the European Union's Joint Situation Centre, contact SOCA International

Telephone: 020 7238 8115
Fax: 020 7238 8112
Email: London@soca.x.gsi.gov.uk

27.10 Europol

Europol is the European Union law enforcement organisation that handles criminal intelligence. Its aim is to improve the effectiveness and cooperation between the competent authorities of the Member States in preventing and combating serious international crime and terrorism. The mission of Europol is to make a significant contribution to the European Union's law enforcement action against organised crime and terrorism, with an emphasis on targeting criminal organisations.

27.10.1 Roles and Responsibilities

Europol has two main functions. Firstly, Europol itself with its own staff (mainly analysts and crime experts) paid for by Member State contributions and secondly, the liaison bureau staffed by Europol Liaison Officers (ELOs) from each Member State, employed by individual Member States to represent them at Europol.

In the case of the UK, ELOs are seconded SOCA officers. They have two functions: to exchange information directly with other Member States (including live-time requests for cross-border surveillance, controlled deliveries, deployment of undercover officers and other forms of operational assistance) and to ensure value for money from the UK contribution.

Each Member State has a European National Unit (ENU), usually situated within the headquarters of the national law enforcement agency. The ENU for the UK is SOCA International, and the UK ELOs are supported by SOCA International. It is through these units and agencies that all intelligence between the UK and Europol flows.

Europol also has operational (allowing the exchange of personal data) and strategic (not allowing the exchange of personal data) agreements with some Europol members states which are not part of the European Union. Non-EU Member States with liaison officers at Europol are Norway, Switzerland, the USA, Colombia, Iceland; Canada and Turkey also have agreements but do not have liaison officers at Europol. Europol also has liaison officers posted to INTERPOL in Lyon and Washington in the USA, allowing ELOs to exchange personal data directly with INTERPOL and the USA.

27.10.2 Assistance Available

Europol can assist an EU cross-border investigation as follows:

- Information exchange – the close proximity of ELOs facilitates a proactive and positive environment for information exchange. All requests are formalised in writing to present a clear audit trail. The IT system that allows information exchange is INFOEX, a simple but efficient email-based tool that allows the quantification of information exchange.
- Analytical Work Files (AWFs) – Europol AWFs are repositories of intelligence and data on specific crime problems, submitted by Member States, which Europol analytical staff use to produce strategic analysis. They represent an opportunity for Member States to pool information and analysis to obtain a stronger mutual understanding of major transnational crime issues. There are currently nineteen AWFs and the UK contributes towards most of these.
- Joint Investigation Teams (JIT) – for more information, see **14.1 Joint Investigation Teams**.

27.10.3 Contact Details

All Europol contact should be through SOCA International

Telephone: 020 7238 8555
Fax: 020 7238 8112
Email: London@soca.x.gsi.gov.uk

27.11 Europol Criminal Asset Bureau

The Europol Criminal Asset Bureau (ECAB) is part of Europol's Financial and Property Crime Unit (SC4).

27.11.1 Roles and Responsibilities

ECAB assists Member States' financial investigators to trace the proceeds of crime when assets have been concealed outside the investigators' jurisdictional boundaries, within the European Union.

27.11.2 Assistance Available

Investigators can request Europol to support their international asset tracing enquiries if:

- The criminal activity has taken place in two or more EU Member States;
- The offence falls within the mandated crime areas of Europol.

This covers most crime areas including money laundering.

27.11.3 Contact Details

All requests must be submitted on a Europol asset tracing request form accompanied by:

- A brief explanation of the investigation, indicating that the above criteria have been met;
- Any intelligence indicating why it is believed that assets are located in a particular country.

Completed requests should be sent to SOCA International for transmission to Europol.

Asset tracing request forms serve as checklists and can be obtained from ECAB by email to SC4@europol.europa.eu

27.12 Foreign Law Enforcement Community

The Foreign Law Enforcement Community (FLEC) was formed in 2005. It is an informal group of approximately seventy foreign LEA liaison officers on attachment to the UK. The group meets approximately every four to six weeks at an embassy or High Commission in London for briefings by UK law enforcement bodies.

27.12.1 Assistance Available

FLEC members may be able to provide information and assistance on the composition of LEAs within the country they represent. Many are able to provide advice on the route that an enquiry should follow, precise contact details and in certain cases immediate access to intelligence.

The following countries have liaison officers on attachment to the UK from a number of agencies, including customs, immigration, state and federal police: Albania, Australia, Bulgaria, Canada, China, Colombia, France, Germany, Greece, India, Ireland, Italy, Japan, Korea, the Netherlands, New Zealand, Norway, Poland, Romania, Russia, Slovak Republic, South Africa, Spain, Sweden, Turkey, the USA.

27.12.2 Contact Arrangement

Contacting FLEC members can be arranged through their respective embassy or High Commission.

27.13 International Policing Assistance Board

The police-led multi-agency International Police Assistance Board (IPAB) was established in 2008 to develop a strategic overview of UK aims regarding international policing assistance. Its membership includes several national organisations. The aim of the board is to better coordinate the delivery of Her Majesty's Government's cross-departmental initiatives and UK Police Service professional interests overseas, and to develop a strategic overview of UK aims in international policing assistance.

27.13.1 Roles and Responsibilities

The remit of the group includes operational development, training, capability building, peace support operations and the sharing of best practice. The board does not consider assistance that relates to investigative or operational work or activities related to counter-terrorism.

The IPAB acts in an advisory capacity only. The decision whether to release volunteers for international service remains with chief officers. The final decision whether to authorise deployments from forces rests with the relevant police authority and, as appropriate, the Home Office, Department of Justice for Northern Ireland or Scottish Government Minister.

27.13.2 International Police Assistance Group (IPAG)

The International Police Assistance Group (IPAG) was established in 2009 to provide operational support to the IPAB. The group functions as a central point of contact between the various departments (including police services) and aids communication by acting as a conduit of expert advice for all stakeholders involved in international policing assistance activities. This can include foreign countries seeking assistance and UK partners engaged in providing assistance.

The IPAG coordinates a referral process which provides advice and guidance for organisations which are considering providing overseas assistance. It is also responsible for mapping all international activities delivered by UK police services and agencies.

UK international police assistance not only builds strong and effective states but also benefits UK Police Forces and ultimately UK citizens as a whole. By actively promoting the potential benefits to constabularies and partners, IPAG can assist in ensuring the right people are selected to provide the best assistance.

27.13.3 Contact Details

IPAG members are Chief Superintendent Barry Marsden and Inspector Andy Pritchard.

Telephone: 01256 602711

Email: barry.marsden@npia.pnn.police.uk or
andy.pritchard@npia.pnn.police.uk

27.14 INTERPOL

INTERPOL is the abbreviated name of the International Criminal Police Organisation and was created in 1923. It is the world's largest international police organisation, with 187 member countries. It facilitates cross-border police cooperation, and supports and assists all organisations, authorities and services whose mission is to prevent or combat crime.

The General Secretariat is located in Lyon, France. Each member country maintains a National Central Bureau (NCB) staffed by highly trained law enforcement officials. The NCB is the designated contact point for other member countries requiring assistance with overseas investigations and the location and apprehension of fugitives. The UK NCB function is performed by SOCA International.

27.14.1 Roles and Responsibilities

INTERPOL's constitution states that its aims are to:

- Ensure and promote the widest possible mutual assistance between all criminal police authorities within the limits of the laws existing in the different countries and in the spirit of the Universal Declaration of Human Rights;
- Establish and develop all institutions likely to contribute effectively to the prevention and suppression of ordinary law crimes.

Under article 3 of the constitution, it is strictly forbidden for the organisation to undertake any intervention of a political, religious, military or racial character.

INTERPOL has identified four core functions on which to concentrate its efforts and resources.

- Secure global police communications services – INTERPOL manages a global police communications system known as I-24/7, which enables authorised law enforcement users in all of its member countries to request, submit and access critical police data instantly in a secure environment.
- Operational data services and databases for the police – INTERPOL maintains a range of databases covering key data such as names of suspected terrorists, child sexual abuse images, fingerprints, DNA profiles, stolen or lost identification and travel documents, and wanted persons.
- Operational police support services – INTERPOL has six priority crime areas on which it focuses resources: corruption; drugs and organised crime; financial and high-tech crime; fugitives; public safety and terrorism; and trafficking in human beings.
- Police training and development – INTERPOL provides specialist police training initiatives for national police forces, and offers on-demand advice, guidance and support in building dedicated crime-fighting components. The aim is to enhance the capacity of member countries to effectively combat serious trans-national crime and terrorism. This includes sharing knowledge, skills and best practices in policing and the establishment of global standards for combating specific crimes.

27.14.2 Assistance Available

The NCB based within SOCA International can provide a number of services to a UK police investigation:

- Connecting police – the NCB can be used to facilitate police-to-police contact between Member States. The I-24/7 system allows member countries to search and share crucial police data with each other.
- Databases – INTERPOL has a number of databases that can be searched through the I-24/7 system.

27.14.3 Contact Details

All INTERPOL contact should be through SOCA International

Telephone: 020 7238 8555
Fax: 020 7238 8112
Email: London@soca.x.gsi.gov.uk

27.15 UK Liaison Magistrates

The UK has experienced prosecutors, employed by the CPS, stationed in France, Spain, Italy, Pakistan and the USA.

27.15.1 Roles and Responsibilities

Known as Liaison Magistrates or Prosecutors, their function is to facilitate extradition and MLA between the host country and the UK. All are fluent in the official language of their host country.

27.15.2 Contact Details

The CPS Helpdesk

Email: HQPolicy@cps.gsi.gov.uk

28

Welfare and Support

The following support groups and agencies are able to assist the police in dealing with, and supporting, victims and witnesses. Most are able to provide ongoing support and advice to help them understand the processes and legal procedures which they may need to take part in.

Contents

28.0 Introduction	341
28.1 National Register of Public Service Interpreters	341
28.1.1 Roles and Responsibilities	341
28.1.2 Contact Details	342
28.2 Reunite	343
28.2.1 Roles and Responsibilities	343
28.2.2 Assistance Available	343
28.2.3 Contact Details	343
28.3 SAMM Abroad	344
28.3.1 Roles and Responsibilities	344
28.3.2 Contact Details	345
28.4 Signature	345
28.4.1 Roles and Responsibilities	345
28.4.2 Assistance Available	345
28.4.3 Contact Details	346

28.5 Victim Support	346
28.5.1 Roles and Responsibilities	346
28.5.2 Assistance Available	347
28.5.3 Contact Details	348
28.6 Victim Support Europe	348
28.6.1 Roles and Responsibilities	348
28.6.2 Contact Details	349
28.7 Translation and Interpreting Services	349
28.7.1 'thebigword'	349
28.7.1.1 Contact Details	349
28.7.2 K International	349
28.7.2.1 Contact Details	350

28.0 Introduction

All police forces in England and Wales need to comply with **Office for Criminal Justice Reform (2005) The Code of Practice for Victims of Crime**. The code sets out the services victims can expect to receive from the Criminal Justice System (CJS) including:

- A right to information about their crime within specified timescales, including the right to be notified of any arrests and court cases;
- A dedicated family liaison police officer to be assigned to bereaved relatives;
- Clear information from the Criminal Injuries Compensation Authority on eligibility for compensation under the Scheme;
- Information about Victim Support and either a referral on to them or an offer of their service;
- An enhanced service in the cases of vulnerable or intimidated victims;
- Flexibility with regard to opting in or out of receiving services to ensure victims receive the level of service they want.

A full copy of Office for Criminal Justice Reform (2005) The Code of Practice for Victims of Crime is available from

http://www.cps.gov.uk/victims_witnesses/index.html

28.1 National Register of Public Service Interpreters

NRPSI Ltd provides a national register of public service interpreters for use by public service organisations and their agencies to obtain professional, qualified and quality assured interpreters. The register is currently made up of the names and contact details of 2,150 public service interpreters (PSIs) covering almost 100 languages.

It comprises individuals who have satisfied selection criteria in terms of qualifications and experience, agreed to abide by a code of conduct and are subject to disciplinary procedures where there are allegations that the code has been breached.

28.1.1 Roles and Responsibilities

Public service organisations and agencies that they work through can obtain access to the national register via a subscription service, which is available through the NRPSI website via the secure online register. Senior investigating officers and other police investigators are able to access the online register if their police force is a current subscriber. The register is administered by NRPSI Ltd, a wholly owned and not-for-profit subsidiary of the Institute of Linguists.

The register provides national access for public services to professional interpreters and a system for linguists to make their services available to the public service.

The national register was established because:

- British society has become multi-lingual.
- There are legal and good practice requirements for the public services to provide equal and effective services to each individual, irrespective of language and culture. Reliable communication, where a language is not fully shared, is a basic pre-requisite for this.
- There is a risk to both public services and their clients, of employing unqualified interpreters or asking family members, fellow patients, co-defendants and children to act as interpreters.
- There is a need for quality assurance systems. Public service contexts demand reliable, safe service provision. People who need interpreters are, by definition, unable to assess the interpreter's competence for themselves. It is essential that interpreters have prior training and that objective assessment of their skills and commitment to professional codes have been made in a rigorous way.
- There is a need for a nationally consistent professional structure for public service interpreters.

28.1.2 Contact Details

NRPSI Ltd
Saxon House
48 Southwark Street
London
SE1 1UN

Company number: 020 7940 3166
New applications: 020 7940 3157
Annual registration: 020 7940 3148/3151

To subscribe: 020 7940 3115/3150
Fax: 020 7940 3123
Email: nrpsi@iol.co.uk

28.2 Reunite

Reunite is the leading UK charity that can offer practical, impartial advice, information and support to a parent whose child has been abducted and taken abroad.

The offence of abduction of a child by a parent is a criminal offence and not a civil matter as outlined in Part 1 of the Child Abduction Act 1984. See

http://www.opsi.gov.uk/RevisedStatutes/Acts/UKpga/1984/cUKpga_19840037_en_1

28.2.1 Roles and Responsibilities

Reunite aims to offer the best possible advice they can in the best interests of the child. It is not there to pass judgement on the actions of individuals or their circumstances.

28.2.2 Assistance Available

Reunite works closely with the Ministry of Justice, the Foreign and Commonwealth Office and the Home Office and provides specialist training for government departments, lawyers, academics, the police, and others who have a professional interest where a parent abducts a child.

It can offer advice for parents who fear that their child may be at risk of parental child abduction and provide them with a practical guide on how to try to prevent it from happening.

Reunite also offers a mediation service. With the help of specialist, impartial mediators, parents are able to make decisions and reach workable solutions in the best interests of their child and family as a whole.

28.2.3 Contact Details

Reunite International Child Abduction Centre
PO Box 7124
Leicester
LE1 7XX
UK

Registered Charity No. 1075729
Advice Line: +44 (0) 116 2556 234
Telephone: +44 (0) 116 2555 345
Fax: +44 (0) 116 2556 370
Email: reunite@dircon.co.uk

28.3 SAMM Abroad

SAMM Abroad (Support After Murder and Manslaughter Abroad) is a British support group for people who are bereaved through a homicide or manslaughter occurring outside the UK. It is also an action group, working for improvements in the support that UK agencies offer families after a loved one is murdered abroad.

SAMM Abroad is a registered charity (charity number: 1111724) and is affiliated with SAMM National. Membership is completely free and confidential.

28.3.1 Roles and Responsibilities

Emotional support

SAMM Abroad provides emotional support through:

- Regular meetings open to all members;
- Putting members in touch with each other, particularly after murders in the same country;
- A telephone helpline of members to call and talk to about anything (0845 123 2384);
- Email, which is available at all times on info@sammabroad.org

Providing information

SAMM Abroad collects information relevant to overseas homicides to pass on to members following their request. This can include:

- Gaining information on their loved one's death, the investigation and any trials;
- Seeking progress in the investigation into their loved one's death;
- Finding support from other organisations;
- Claiming compensation from criminal injury schemes in foreign countries.

Practical support

Resources are limited but Samm Abroad will help wherever possible, acting only on the explicit request of a member. Recent work has included:

- Writing letters to MPs, police, embassies, Foreign and Commonwealth Office and other agencies;
- Speaking to police, coroners, FCO Consular Assistance, British Consulates overseas and other agencies;
- Seeking pro bono help from lawyers;

- Helping members contact journalists;
- Helping with logistics for trials overseas, and seeking reduced airfares;
- Trying to arrange translation of documents where the FCO and other UK agencies refuse;
- Assisting with finding interpreters in the UK to help communicate.

28.3.2 Contact Details

SAMM Abroad

Phone: 0845 123 2384

Email: info@sammabroad.org.

28.4 Signature

Signature is the National Registers of Communication Professionals working with Deaf and Deafblind People (NRCPD). It administers professional registers for sign language interpreters, lipspeakers, speech-to-text reporters, deafblind manual and note takers. NRCPD is overseen by a registration board whose key role is to act as the guardian of professional standards for the communication professionals it registers.

Communication professionals provide services that facilitate effective communication between one or more deaf or deafblind person and other people in a particular situation, for example, at the doctor's, at work, in the police station reporting an incident or in a safety briefing at the local gym. Using the services of registered professionals demonstrates a commitment to meet responsibilities to provide equal access under human rights and disability discrimination legislation. It is a requirement to use only registered communication professionals in court and police environments.

28.4.1 Roles and Responsibilities

Registration is the only guarantee that providers of communication services have met safe-to-practice standards and carry professional indemnity insurance should it be required.

28.4.2 Assistance Available

Finding a sign language interpreter or speech-to-text-reporter to assist in providing services to deaf people can be difficult. NRCPD offers on its website (<http://www.nrcpd.org.uk>) a fully searchable, free-to-access database of contact details for registered communication professionals. Advice on effectively meeting the needs of an individual client can be found on their website, by emailing enquiries@nrcpd.org.uk or by telephoning 0191 383 1155 during office hours.

28.4.3 Contact Details

NRCPD
C/o Mersey House, Mandale Business Park
Belmont, Durham DH1 1TH

Telephone: 0191 383 1155
Text: 0191 383 7915
Fax: 0191 383 7914
Email: enquiries@nrcpd.org.uk

28.5 Victim Support

Victim Support is the independent charity for victims and witnesses of crime in England and Wales. It was set up thirty-five years ago and is the oldest and largest victims' organisation in the world. Every year, they contact over 1.5 million people after a crime to offer help.

Although they work closely with the police, courts and other parts of the CJS, they are a separate entity. Any support that Victim Support provides is confidential and free. They do not pass on details to anyone else without the victim's or witness's permission – unless it is an emergency and they think someone's safety is at risk.

28.5.1 Roles and Responsibilities

Victim Support gives three kinds of help to both victims and witnesses:

- Emotional support;
- Information;
- Practical help.

Help for victims

Victim Support helps people cope with crime through a network of local branches covering the whole of England and Wales. Trained volunteers offer:

- The chance to call and talk to someone in confidence;
- Information on police and court procedures;
- Help in dealing with other organisations;
- Information about compensation and insurance;
- Links to other sources of help.

Anyone affected by crime can receive help from Victim Supports, either direct from local branches or through the Victim Supportline. Services are free and available to everyone, whether or not the crime has been reported and regardless of when it happened.

Help for witnesses

Victim Support runs the Witness Service in every criminal court in England and Wales to help people worried about going to court as a witness – regardless of whether or not they were the victim of the crime.

Help is also available for family, friends and children who are attending court. The Witness Service is free and independent of the police or courts and can provide:

- Someone for the witness to talk to, confidentially, about how they are feeling before a trial;
- Information about what the witness can expect in court;
- A quiet place for the witness to wait before being called to give evidence;
- Someone to accompany the witness into the courtroom, if required;
- Practical help with claiming expenses;
- Access to people, such as court staff, who can answer specific questions about the case;
- An opportunity for the witness to discuss the case once it has finished.

28.5.2 Assistance Available

In all cases where a victim or witness has been identified, Victim Support is able to provide:

- Emotional support;
- Information;
- Practical help.

Victim Supportline is a national phone line open every day allowing victims to call directly if they would like support

Telephone: 0845 3030 900
Typetalk: 18001 0845 3030 900.

28.5.3 Contact Details

Victim Support has offices across England and Wales, including a National Centre in London. The directory for regional victim support offices can be found at

<http://www.victimsupport.org.uk/Contact%20us/A%20to%20Z%20county%20listing>

Victim Support in NI

Telephone: 028 9024 4039

Fax: 028 9031 3838

Email: info@victimsupportni.org.uk

28.6 Victim Support Europe

Victim Support Europe is a network of twenty-six non-governmental victim support organisations in twenty-one European countries, which provide assistance and information to victims of crime. Victim Support Europe promotes the establishment and development of victim rights and victim services throughout Europe.

The website for Victim Support Europe is

<http://www.victimsupporteurope.eu/>

28.6.1 Roles and Responsibilities

Victim Support Europe (formerly known as the European Forum for Victim Services) was founded in 1990 by all the national organisations in Europe working with victims of crime. Members of Victim Support Europe have developed support, information and advocacy services to victims, using the skills of trained volunteers and staff.

Victim Support Europe exists to:

- Promote the development of effective services for victims of crime throughout Europe;
- Promote fair and equal compensation for victims of crime in Europe, regardless of the nationality of the victim;
- Promote the rights of victims of crime in Europe in their involvement in the CJS and with other agencies;
- Exchange experience and information between member organisations to share best practices and knowledge.

Currently, twenty-two national organisations are affiliated to Victim Support Europe. A full list of participating national organisations can be found at

<http://www.victimsupporteurope.eu/popup/member-organisations>

A full list of participating countries can be found at
<http://www.victimsupporteurope.eu/about/>

28.6.2 Contact Details

Victim Support Europe
PO Box 14208, 3508 SH Utrecht
The Netherlands

Telephone: +31 30 2320776
Fax: +31 30 2317655
Website: <http://www.victimsupporteurope.eu/>

28.7 Translation and Interpreting Services

28.7.1 'thebigword'

'thebigword' provides face-to-face interpreting, telephone interpreting and translation services in a wide variety of languages. Working closely with the ACPO Criminal Records Office and the UKCA Exchange of Criminal Records, the organisation is experienced in the translation of criminal records, letters of request and EAW. They also translate highly sensitive documents for clients including the police, SOCA, Crown Prosecution Service – Central Fraud Group/Special Crime Division, HMRC, UKBA and the Ministry of Justice.

28.7.1.1 Contact Details

For further information on 'thebigword' or their services, contact Erica Baron (Ministry of Justice Account Manager)

Telephone: 0870 748 8000
Direct: 0113 210 7415
Mobile: 0759 578 1567
Email: erica.baron@thebigword.com
Website: <http://www.thebigword.com>

28.7.2 K International

K International provides foreign language services in over 150 languages, for UK central and local government. Working within the Translation Services Framework, the various linguistic services offered provide a means to effectively communicate with hard-to-reach groups.

Services include translation, interpreting, telephone interpreting and linguistic analysis.

28.7.2.1 Contact Details

For more information on K International, or to discuss how they can assist with translation requirements, please contact

Surinder Singh

Telephone: 01908 557922

Fax: 01908 325406

Email: surinder.singh@k-international.com

Web: <http://www.k-international.com>

29

Administration

Other organisations and government departments in the UK can provide information and assistance in an investigation through their administrative function.

Contents

29.1	CIFAS – The UK’s Fraud Prevention Service	353
29.1.1	Assistance Available	353
29.1.2	Contact Details	353
29.2	Department for Work and Pensions and Fraud Investigations Service	353
29.2.1	Contact Details	354
29.3	DVLA	354
29.3.1	Roles and Responsibilities	354
29.3.2	Assistance Available	354
29.3.3	Contact Details	354
29.4	Foreign and Commonwealth Office	355
29.4.1	Roles and Responsibilities	356
	29.4.2.1 Child Abduction	357
	29.4.2.2 Forced Marriage Unit	358
29.4.3	Contact Details	358
29.5	UK Central Authority (MLA)	358
29.5.1	Roles and Responsibilities	359
29.5.2	Assistance Available	359
29.5.3	Contact Details	360

29.6 UK Central Authority for the Exchange of Criminal Records	360
29.6.1 Roles and Responsibilities	361
29.6.2 Assistance Available	361
29.6.3 Contact Details	362

29.1 CIFAS – The UK’s Fraud Prevention Service

CIFAS is the UK’s Fraud Prevention Service. It is a not-for-profit organisation that represents over 250 member organisations in the UK, drawn from across the financial services industry. The business sectors covered by CIFAS include banking, credit cards, asset finance, retail credit, mail order, insurance and telecommunications.

The core product of CIFAS is an online database that enables member organisations to share information on fraudsters, while protecting innocent members of the public from becoming victims of identity fraud. When a CIFAS member organisation identifies a fraud, a warning is placed against the address or addresses linked to the application or account. The burden of proof required to place a warning is such that the member must have enough evidence to report a case to the police, and have carried out sufficient corroborative checks to support this decision.

29.1.1 Assistance Available

The CIFAS Police Liaison department exists to provide support to law enforcement. A memorandum of understanding on the supply of information between CIFAS and UK law enforcement was agreed by CIFAS and ACPO.

29.1.2 Contact Details

CIFAS Police Liaison Department

Telephone: 020 3004 3626
Email: Policeliaison@cifas.org.uk (for general enquires)
Policeliaison@cifas.org.uk.cjsm.net (for restricted information)
Fax: 020 3004 3603

29.2 Department for Work and Pensions and Fraud Investigations Service

The Department for Work and Pensions (Job Centre Plus) Fraud Investigations Service (FIS) is mainly responsible for investigating fraud committed by individual benefit customers misrepresenting or not reporting changes in circumstances.

The FIS (Organised) Team – investigates organised and systematic abuse of DWP claims and payments and liaises with police and other investigation agencies. Activities investigated include the use of false identities to make fraudulent applications for benefit, as well as the use of stolen, manipulated and counterfeit instruments of payment material.

The FIS (Intelligence) Team – provides support to all teams in the form of referral management, intelligence gathering and criminal analysis; it also handles information requests via the National Disclosure Unit based in Shoreham.

29.2.1 Contact Details

Area Fraud Investigator FIS (Organised) Team

Telephone: 0113 230 9221

Area Fraud Investigator FIS (Intelligence) Team

Telephone: 0115 900 8537

29.3 DVLA

DVLA has staff trained in the examination of a broad range of potentially forged and counterfeit documents from across the EU and other countries. This includes driving licences, passports and birth certificates.

29.3.1 Roles and Responsibilities

The DVLA is responsible for ensuring applicants for driving licences meet the entitlement criteria, their identity is validated and that the documents produced in support of their application are genuine documents.

29.3.2 Assistance Available

The Police National Computer holds UK driver and vehicle records, but additional data may be available direct from the agency. Police forces and agencies have appointed DVLA Liaison Officers who are able to lawfully request data via the Police Liaison Support Group within DVLA. DVLA can provide statements of evidence where relevant.

Driving Records: Current driver records are available; limited historic records may also be available in most cases.

Vehicle Records: Current and previous keepers are available together with any transactions made against the vehicle record. Such transactions may not be available on the PNC.

29.3.3 Contact Details

SIOs should contact the Police Liaison Support Group to discuss requirements on a case-by-case basis.

- The Police Liaison Support Group and Drivers Investigation Team are staffed between 7.30 to 16.30 Monday to Thursday and 7.30 to 16.00 on Fridays.

29.4 Foreign and Commonwealth Office

- There is also a twenty-four-hour call-out service via force/agency accredited officers. Out of normal hours enquiries should only be requested for the most serious of crimes, eg, matters of national security, kidnapping, murder, rape. (All requests should be authorised by the nominated force DVLA Liaison Officer, the force Control Room Inspector or an officer of the rank of superintendent or above.)
- Contact is established via force DVLA Liaison Officers.

The Foreign and Commonwealth Office (FCO) is responsible for the UK's international relations and interests around the world. One of the functions is to protect and assist British nationals overseas, including:

- Protection and assistance and issuing UK passports to British citizens abroad;
- Providing travel advice;
- Ensuring British citizens receive fair treatment under local law (whether as victims, suspects or sentenced prisoners) and respect for their human rights;
- Planning for and managing evacuations in the event of terrorism, civil disturbances or natural disasters;
- Tracing missing persons, identifying the dead and arranging repatriation or local burial/cremation;
- Supporting the next of kin of all British nationals who are victims of murder, manslaughter or infanticide;
- Assisting, as far as possible, in encouraging that a proper and thorough investigation is carried out into the cause of death, leading to an effective prosecution and trial;
- Providing advice and support for bereaved relatives and survivors.

These services are important for the prosperity of the UK and for the security of British nationals at home and abroad.

The FCO Consular Services has the principal responsibility for the communication and liaison with a UK family following the death of a British national overseas. (For further information see **9.1 Death of a UK National while Overseas**).

29.4.1 Roles and Responsibilities

FCO Consular Directorate

The FCO in London and embassies and High Commissions abroad consist of many different departments. It is the FCO Consular Directorate in London through its consuls and vice consuls based overseas that deals with British nationals in distress overseas. The Consular Directorate, resourced by desk officers working with the specific country's casework team, initially responds to the incident. The desk officers liaise with the consular officer dealing with the incident abroad. If a FLO is deployed then they will work closely with the desk officer.

Consular Directorate Police Adviser

Seconded to the Consular Directorate is a police adviser who is a serving detective superintendent from the UK police. The police adviser's role is to provide consular staff at home and overseas with advice and guidance on issues of a police or law enforcement nature, and to help form and consolidate effective working relationships between the Consular Directorate and UK law enforcement authorities.

The police adviser sits on the ACPO Homicide Working Group, the Europol Homicide Working Group and the National Executive Board for Family Liaison Officers, and can be contacted on: 020 7008 8734.

Consular Officers Overseas

On notification of a death overseas, the consular officers will:

- Liaise with local authorities, the police and the judiciary to confirm identification and establish known facts;
- Try to obtain copies of police reports for a UK coroner and the family, although there is no legal obligation for other countries to provide this information;
- Provide a list of English-speaking lawyers, doctors and interpreters to the families;
- Assist the family if they visit the country;
- Advise the family on repatriation, cultural issues, police and judicial systems;
- Liaise with the desk officer in London;
- Advise the family (if they are present in the country) of the location of the death.

Consular offices abroad do not:

- Investigate crimes or carry out criminal research;
- Interfere in criminal investigations or the judicial process;
- Provide legal or medical advice;
- Pay for repatriation, legal, medical, interpreter fees or travel to the country;
- Offer an opinion on the quality of an ongoing investigation by local law enforcement.

Local police and judicial authorities do not discuss ongoing investigations with the family. In these circumstances families are advised to engage the services of a local lawyer to represent their interests before the police or courts.

29.4.2.1 Child Abduction

The Child Abduction Section assists British nationals affected by international parental child abduction. They deal with three broad categories of child abduction:

- Abduction – where a child has been taken overseas without the other parent's consent, this may be a criminal offence under the law of England and Wales;
- Wrongful retention – where a child has been retained in a foreign country following an overseas trip;
- Threat of abduction – where there is a risk that a child will be taken overseas.

The Child Abduction Section Can

- Provide a list of English-speaking lawyers and interpreters, and provide information on travel and accommodation;
- Contact relevant authorities overseas to check on progress made in locating a child if the parent does not know where they are;
- Carry out a welfare check with the other parent's consent once a child has been located;
- Help the parent to get in touch with the relevant authorities overseas;
- Where appropriate, express to the courts overseas the UK's interest in the case and ask about progress;
- Offer advice to a parent who feels their child is at risk of being abducted.

The Child Abduction Section Cannot

- 'Rescue' a child or become involved in any illegal attempts to bring the child back to the UK;
- Locate a child if it is not known where they are;
- Offer legal advice or interfere in the legal system of another country;
- Pay for legal, travel and accommodation costs.

29.4.2.2 Forced Marriage Unit

The Forced Marriage Unit is a joint initiative with the Home Office. It can offer confidential advice and assistance to:

- Those who have been forced into marriage;
- Those at risk of being forced into marriage;
- People worried about friends or relatives;
- Professionals working with actual or potential victims of forced marriage.

On some occasions the FCO Forced Marriage Unit will help to facilitate rescues of British nationals. The FCO consular post overseas will work directly with foreign law enforcement to allow the individual to leave the forced marriage environment they are in. However, the FCO will not get involved in non-forced marriage cases where UK police require 'welfare' or 'safe and well' checks overseas. These should be progressed via police-to-police INTERPOL channels.

The Forced Marriage Unit can be contacted by telephone: 0207 008 0151.

29.4.3 Contact Details

Further, non-specific, advice can be obtained from the FCO Police Adviser at the Consular Directorate in London

Telephone: 020 7008 8734.

29.5 UK Central Authority (MLA)

The UK Central Authority for Mutual Legal Assistance (UKCA-MLA) is located in the Home Office. The Home Office acts as both the UKCA-MLA and the territorial authority for England and Wales. In its role as UKCA-MLA, it acts as the first point of contact for general queries relating to mutual legal assistance. It acts as authority for the whole UK where treaties and other arrangements require all requests to be routed through a single authority, or where a request involves execution in more than one jurisdiction.

29.5.1 Roles and Responsibilities

The Central Authorities' responsibilities include:

- Ensuring that requests for legal assistance conform to the requirements of law in the relevant part of the UK, and the UK's international obligations.
- Ensuring that execution of particular requests is not inappropriate on public policy grounds (for example, requests involving double jeopardy will not be executed; there are also issues surrounding requests where the death penalty is involved or the request is in relation to a trivial offence).
- Deciding how requests are to be executed.
- Maintaining confidentiality of requests where necessary and to such an extent as is permissible under UK law.
- Ensuring, so far as possible, that assistance is provided within an appropriate timescale (for example, taking account of trial dates).
- Drawing to the attention of the courts, the police and other UK authorities or agencies requests for evidence to be obtained in the presence of foreign law enforcement officers, prosecutors or defence lawyers.
- Seeking requesting authorities' agreement to meet extraordinary costs of executing requests, and for services such as the use of interpreters or stenographers or for duplication of documents. (Ordinarily, the UK authorities, in accordance with established international practice, will meet costs with the exception of costs related to TV or video-link evidence and costs relating to the temporary transfer of prisoners into or out of the UK.) Note: An agreement to meet extraordinary costs should be sought before they are incurred.
- Transmitting evidence received to the requesting authorities when it is not returned directly by a UK police force (and checking whether any part of the request remains outstanding).

29.5.2 Assistance Available

Central Authorities receive, transmit and deal with Mutual Legal Assistance (MLA) requests, including making the ultimate decision on whether MLA can be provided. The UK has three central authorities: the UK Central Authority, Her Majesty's Revenue and Customs and the Crown Office for Scotland.

The UKCA-MLA in the Home Office deals with all MLA requests for England, Wales and NI on behalf of the Secretary of State for the Home Department (apart from those dealt with by HMRC).

Outgoing MLA requests from England, Wales and NI to European Union countries can be sent directly to the authorities in the EU **unless** they are requests for confiscation and restraint, which must be routed via the UKCA-MLA. MLA requests for non-EU countries must be sent via the UKCA-MLA.

Requests for the Crown Dependencies and the UK Overseas Territories

The Crown Dependencies, namely the Channel Islands (Guernsey and Jersey) and the Isle of Man, and the UK Overseas Territories (Anguilla, Bermuda, British Virgin Islands, Cayman Islands, Falklands, Gibraltar, Montserrat, St Helena and the Turks and Caicos Islands) are not part of the UK. The Crown Dependencies and the Overseas Territories are themselves wholly responsible for executing requests within their own jurisdictions. Requests are usually sent to the Attorney General of the Crown Dependency or Overseas Territory from where the assistance is required.

The contact details for these jurisdictions can be found in the MLA Home Office guidelines or by contacting the UKCA-MLA

<http://www.homeoffice.gov.uk/publications/police/operational-policing/mla-guidelines-9th-ed>

29.5.3 Contact Details

UKCA-MLA

Telephone: 020 7035 1280
Fax: 020 7035 6985
Mobile: 07879668694 (24 hour)
Email: ukcentralauthority@homeoffice.gsi.gov.uk

29.6 UK Central Authority for the Exchange of Criminal Records

The UK Central Authority for the Exchange of Criminal Records (UKCA-ECR) was established in 2006 under an EU Framework Decision. Funded by the Home Office and managed by the ACPO Criminal Records Office (ACRO), it receives notifications of convictions of UK nationals in other EU Member States. It also notifies relevant EU Member States of any convictions of EU nationals in the UK.

29.6.1 Roles and Responsibilities

A prime function of the UKCA-ECR is the facilitation of conviction requests on behalf of UK police forces and other law enforcement agencies.

Where an non-UK national is subject to criminal proceedings in the UK (as a suspect, defendant, victim or witness) a request can be made to countries within the European Union in order to obtain previous convictions, or indeed to ascertain the absence of a police record.

The UKCA-ECR will make contact with the subject's country of nationality within the EU. This process can also be applied to British nationals, where there is suspicion of a possible offending career outside the UK in an EU Member State.

The main tasks for the UKCA-ECR are to:

- Notify the relevant Member State of any conviction(s) imposed in the UK on a national from that Member State;
- Receive notification of a conviction of a UK national in another Member State and then to ensure that:
 - the PNC is updated or new criminal records created
 - convictions related to nationals from Scotland and NI are entered onto the PNC and the full details forwarded to the Scottish Criminal Records Office and the Police Service of NI
 - appropriate action is taken if fingerprints are attached to the conviction notification;
- Receive and respond to requests from all UK police forces and other law enforcement agencies for an extract of the criminal record of a national from another Member State;
- Be responsible for notification of prisoners notifiable offences
- Receive and respond to requests from another Member State for an extract of the criminal record of a UK national.

29.6.2 Assistance Available

In criminal proceedings, evidence of previous convictions from within the EU can be invaluable in securing an appropriate sentence, or in ascertaining the good character of victims and witnesses.

The UKCA-ECR can make requests for criminal record histories to the following countries: Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxemburg, Malta, the Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain and Sweden.

29.6.3 Contact Details

UKCA-ECR

Address: PO Box 481 Fareham PO14 9FS
Telephone: 01489 569805
Email: UKCA@ACRO.pnn.police.uk

30

Training

The European College of Policing (CEPOL) brings together senior police officers across Europe with the aim of encouraging cross-border cooperation in the fight against crime, maintenance of public security and law and order.

Contents

30.1 European College of Policing (CEPOL)	364
30.1.1 Contact details	364

30.1 European College of Policing (CEPOL)

Established as an agency of the European Union in 2005 (Council Decision 2005/681/JHA of 20 September 2005), the CEPOL Secretariat is based at Bramshill in the UK.

CEPOL organises between 80 to 100 courses, seminars and conferences per year. Activities takes place at the National Police Training colleges of the Member States and cover a wide range of topics.

CEPOL's vision is that the agency is acknowledged by allied agencies and authorities in the policing and academic world to be the primary source of learning and development in the field of education and training for better cooperation and policing in Europe.

30.1.1 Contact details

CEPOL European Police College

CEPOL Bramshill House, Hook
Hampshire, RG27 0JW UK

Telephone: +44 (0)1256 602668
Fax: +44 (0)1256 602996
Email: secretariat@cepol.europa.eu

Appendix 1

European Arrest Warrant – Offences

Offences listed under Article 2(2) of the Framework Decision 2002/584/JHA on the European Arrest Warrant, which are punishable by a maximum term of imprisonment of at least three years in the requesting Member State, are:

- Participation in a criminal organisation;
- Terrorism;
- Trafficking in human beings;
- Sexual exploitation of children and child pornography;
- Illicit trafficking in narcotic drugs and psychotropic substances;
- Illicit trafficking in weapons, munitions and explosives;
- Corruption;
- Fraud, including that affecting the financial interests of the European communities within the meaning of the convention of 26 July 1995 on the protection of the European communities' financial interests;
- Laundering of the proceeds of crime;
- Counterfeiting currency, including of the euro;
- Computer-related crime;
- Environmental crime, including illicit trafficking in endangered animal species and in endangered plant species and varieties;
- Facilitation of unauthorised entry and residence;
- Murder, grievous bodily injury;
- Illicit trade in human organs and tissue;
- Kidnapping, illegal restraint and hostage taking;
- Racism and xenophobia;
- Organised or armed robbery;
- Illicit trafficking in cultural goods, including antiques and works of art;
- Swindling;
- Racketeering and extortion;
- Counterfeiting and piracy of products;
- Forgery of administrative documents and trafficking therein;
- Forgery of means of payment;
- Illicit trafficking in hormonal substances and other growth promoters;
- Illicit trafficking in nuclear or radioactive materials;
- Trafficking in stolen vehicles;
- Rape;
- Arson;
- Crimes within the jurisdiction of the International Criminal Court;
- Unlawful seizure of aircraft and ships;
- Sabotage.

Appendix 2

SOCA Databases

SIRENE

The Schengen Agreement was signed in 1985 in Schengen, Luxembourg on the border with France and Germany. It formed what has become known as 'the Schengen area' – an area of free circulation within the European Union created by the original five signatories to the Schengen Agreement – Belgium, the Netherlands, Luxembourg, France and Germany. Since then the number of signatories has increased to thirty and the agreement has been included in the European Union regulations for all countries joining the European Union. The success of the Schengen Agreement is such that countries that are not part of the European Union, such as Norway, Iceland, Switzerland and Liechtenstein, have also joined (or are joining) the Schengen Area. The UK is only a partial signatory of the Schengen Agreement. It will partake in the police cooperation measures as the UK has chosen to retain its border controls with the other Schengen Member States.

The Schengen Agreement contains a number of intergovernmental arrangements to ensure the security of the public and the Member States. These cover the enforcement of borders at the frontier of the Schengen Area, common visa issuing and recognition and cooperation between the police and judiciary across all Member States. In order to control and trace the movement of wanted people and missing property across national boundaries, a common IT system for exchanging information was introduced called the Schengen Information System (SIS). The Home Office is the main sponsor of this programme and has assigned the National Policing Improvement Agency (NPIA) overall responsibility for integrating the UK with the SIS.

To meet the operational requirements set out in the Schengen Agreement, every Schengen Member State must establish a Central Authority as a single contact point for exchanging supplementary information related to Schengen Information System II (SISII) data. This contact point is referred to as SIRENE – Supplementary Information Request at the National Entry. The UK SIRENE Bureau will be established within the Multilateral Branch of SOCA in the North West hub and the current 'go live' date for connection to the SIS is likely to be in 2015.

SISII will enable collaboration of law enforcement agencies across the Schengen area through the sharing of information. It functions on the principle of a centralised set of data ('Alerts') on people, vehicles and objects, which can be created, maintained and searched by all Schengen Member States.

This data, held on a central system (CS.SIS) in Strasbourg, can be accessed directly by individual Member States. Alternatively, countries may choose to produce a national copy of the system (an NS.SIS) to be accessed locally. The latter is the popular option and the one that will be used in the UK, as it provides a significant level of resilience and timeliness compared with the central access.

SOCA is the designated Central Authority for the UK, and although not currently connected to the SIS it has, since 2004, successfully coordinated requests under the Schengen Agreement, namely EAWs and cross-border surveillance.

INTERPOL I-24/7

INTERPOL is the world's largest international police organisation, with 187 member countries. INTERPOL has grown into a highly diverse organisation since its creation in 1923. It employs staff from around eighty countries, including specialists from all fields of law enforcement who are seconded to INTERPOL by their national administrations. It facilitates cross-border police cooperation, and supports and assists all agencies, authorities and services whose mission is to prevent or combat crime. The General Secretariat is located in Lyon, France.

INTERPOL has identified four core functions on which to concentrate its efforts and resources:

- Secure global police communications services – INTERPOL manages a global police communications system known as I-24/7, which enables authorised law enforcement users in all of its member countries to request, submit and access critical police data instantly in a secure environment.
- Operational data services and databases for the police – INTERPOL maintains a range of databases covering key data such as names of suspected terrorists, child sexual abuse images, fingerprints, DNA profiles, stolen or lost identification and travel documents, and wanted persons.
- Operational police support services – INTERPOL has six priority crime areas on which it focuses resources: corruption, drugs and organised crime, financial and high-tech crime, fugitives, public safety and terrorism, and trafficking in human beings.
- Police training and development – INTERPOL provides specialist police training initiatives for national police forces, and offers on-demand advice, guidance and support in building dedicated crime-fighting components. The aim is to enhance the capacity of member countries to effectively combat serious transnational crime and terrorism. This includes sharing knowledge, skills and best practices in policing and the establishment of global standards for combating specific crimes.

Effective police communication across borders is essential. One of INTERPOL's core functions is to enable the world's police to exchange information securely and efficiently. INTERPOL developed the I-24/7 global police communications system to connect law enforcement agencies in its

member countries, enabling authorised users to share crucial police data with one another and to access the organisation's databases and services twenty-four hours a day. As criminals and criminal organisations are typically involved in multiple activities, I-24/7 has fundamentally changed the way law enforcement authorities around the world work together. It enables investigators to make connections between seemingly unrelated pieces of information, thereby facilitating investigations and helping to solve crimes. Authorised users can search and cross-check data in a matter of seconds, and have direct access to databases on suspected criminals or wanted persons, stolen and lost travel documents, stolen motor vehicles, fingerprints, DNA profiles and stolen works of art. Additional enhancements enable users to adapt the interface to their own language; Greek, German, Czech and Portuguese have already been implemented.

The system has also been adapted to allow officers working in the National Central Bureau (NCB) to add and modify their own data in the organisation's databases. The NCB control the level of access other authorised users have to INTERPOL services and can request to be informed of enquiries made to their national databases by other countries. In the UK, SOCA has rolled out I-24/7 to all forces.

The ability to connect to I-24/7 in the field can greatly assist the police in their daily crime-fighting activities. Access was restricted to the NCB in the past, meaning fewer searches of INTERPOL databases and thus fewer positive matches, which ultimately translated into less criminal activity being detected.

Now, in a typical day in any country in the world, I-24/7 can:

- Help an airport immigration officer detect a passport presented by a traveller as having been reported as stolen;
- Enable a police officer to conduct a search of a vehicle's identification number to determine whether the car has been reported as stolen;
- Alert national authorities to wanted persons who may be attempting to enter by air or sea.

EUROPOL Information System

The EUROPOL information system (EIS) has been operational since 2005 and is hosted at Europol's HQ in The Hague. It is available to law enforcement agencies within the EU.

The main objective of the EIS is to support Europol and EU Member States to fight terrorism, drug trafficking and other forms of serious cross-border organised crime. The EIS provides the facility for storing, searching, analysing and displaying information related to transnational crimes,

allowing law enforcement agencies across Europe to collaborate efficiently in their investigations. The system supports automatic detection of possible hits between different investigations and facilitates the sharing of sensitive information in a secure and reliable way. The data entered onto the EIS remains under the full control of the owning Member State; another Member State or Europol cannot alter it in any way. Every search result can only be disseminated and/or used in compliance with the handling codes, to ensure that the processing of information is carried out in line with the wishes and legal framework of the owners of the information. The UK can and does restrict the access to its data where there is an operational requirement or other sensitivity.

MIND/FIND

INTERPOL believes the potential for the different INTERPOL databases to prevent terrorist incidents or serious crimes will significantly increase when police units in the field – such as border police and immigration officials – have a direct access to INTERPOL databases.

INTERPOL has developed a new technical ‘integrated’ solution to do this using, where possible, already existing infrastructure and through an automatic querying functionality. It is called MIND/FIND.

This will enable frontline law enforcement officers to query, in real time, reliable, accurate, up-to-date information related to lost/stolen travel documents, stolen motor vehicles and wanted criminals.

Mobile INTERPOL Network Database (MIND) – provides ‘offline’ access to INTERPOL’s databases at the national level for all countries that, for whatever reason, cannot implement FIND. Using the I-24/7 network, the INTERPOL General Secretariat (IPSG) can provide a country with the copy of the data that is uploaded to the IPSG (Automated Search Facilities Data Sets – ASF), which can then be accessed locally through communication between the national server and the local copy of the data (MIND device). MIND is entirely under the IPSG’s control and the IPSG is responsible for updates of the data.

Fixed INTERPOL Network Database (FIND) – provides access to INTERPOL’s databases at the IPSG through online integration and communication between the national server and IPSG’s server via I-24/7.

Benefits of FIND and MIND:

- Brings the INTERPOL databases to the front line;
- Offers real-time information for frontline officers;
- Allows external users to access INTERPOL’s databases;
- No language barriers in technical integration.

Appendix 3

Annex A Acknowledgements

- Bedfordshire Police
- Camden Asset Inter Agency Recovery Network CARIN
- CEOP
- CEPOL
- Cheshire Police
- CIFAS – The UK’s Fraud Prevention Service
- City of London Police
- Crown Prosecution Service
- Cumbria Police
- Department for Work and Pensions and Fraud Investigations Service
- DVLA
- e-Borders
- Essex Police
- Eurojust
- Europa
- European Agency for the Management of Operational Co-operation at the External Borders of the Member States of the EU
- European Anti-Fraud Office (OLAF)
- European Crime Prevention Network
- European Judicial Network
- European Police Chiefs Task Force
- European Union’s Joint Situation Centre
- Europol
- Europol Criminal Asset Bureau
- Foreign and Commonwealth Office
- Foreign Law Enforcement Community
- Gangmasters Licensing Authority
- Grampian Police
- Gwent Police
- HM Coroners Office
- HMRC
- Home Office
- Identity and Passport Service
- International Policing Assistance Board
- INTERPOL
- Joint Border Operations Centre
- Joint Port Intelligence Unit (JPIU)
- Justice Dept
- Kent Police

- Lancashire Constabulary
- Leicestershire Constabulary
- Lothian and Borders Police
- Metropolitan Police Service
- National Policing Improvement Agency
- National Register of Public Service Interpreters
- Northamptonshire Police
- Police Service of Northern Ireland
- Reunite
- Revenue & Customs Prosecutions Office (RCPO)
- SAMM Abroad
- Serious Fraud Office
- Serious Organised Crime Agency
- Signature
- Staffordshire Police
- Sussex Ports Counter Terrorism Intelligence Unit (JPIU)
- Tayside Police
- UK Border Agency
- UKBA Command and Control Unit
- UKBA Criminality Policy Team
- UKCA-ECR
- UKHTC
- Victim Support Europe
- Victim Support UK
- Warwickshire Police
- West Mercia Police
- West Midlands Police
- Wiltshire Police

Appendix 4

Abbreviations and Acronyms

ACPO	Association of Chief Police Officers
CEOP	Child Exploitation and Online Protection Centre
CIA	Community Impact Assessment
CICA	Crime (International Co-operation) Act 2003
CJA	Criminal Justice Act
CJS	Criminal Justice System
CoL	City of London Police
CPIA	Criminal Procedure and Investigations Act 1996
CPS	Crown Prosecution Service
DPA	Data Protection Act 1998
DVLA	Driver and Vehicle Licensing Agency
DWP	Department for Work and Pensions
EAW	European Arrest Warrant
ECHR	European Convention on Human Rights
ELO	European Liaison Officer
EU	European Union
FCO	Foreign and Commonwealth Office
FIB	Force Intelligence Bureau
FLA	Family Liaison Adviser
FLC	Family Liaison Coordinator
FLEC	Foreign Law Enforcement Community
FLO	Family Liaison Officer
FOIA	Freedom of Information Act 2000
FSS	Forensic Science Service
HMRC	Her Majesty's Revenue and Customs

HO	Home Office
HOLMES2	Home Office Large Major Enquiry System
ILO	International Liaison Officer
ISP	Internet Service Provider
IWETS	INTERPOL Weapons Electronic Tracing Systems
JIT	Joint Investigation Team
LEA	Law Enforcement Agencies
LOR	Letter of Request
MA	Mutual Assistance
MAIB	Marine Accident Investigation Branch
MIM	Murder Investigation Manual
MIRSAP	Major Incident Room Standardised Administrative Procedures
MISPER	Missing Person
MIT	Major Investigation Team
MLAT	Mutual Legal Assistance Treaty
MoD	Ministry of Defence
MoU	Memorandum of Understanding
MPS	Metropolitan Police Service
NIM	National Intelligence Model
NPIA	National Policing Improvement Agency
NPO	National Ports Office
OLAF	European Anti-Fraud Office
PACE	Police and Criminal Evidence Act 1984
PNC	Police National Computer
POCA	Proceeds of Crime Act 2002

RCPO	Revenue and Customs Prosecution Office
RIPA	Regulation of Investigatory Powers Act 2000
SAMM	Support After Murder and Manslaughter
SCAS	Serious Crime Analysis Section
SFO	Serious Fraud Office
SIO	Senior Investigating Officer
SIRENE	Supplementary Information Request at the National Entry (Bureau)
SIS	Schengen Information System
SISLDP	Schengen Information System Learning and Development Programme
SOC	Serious Organised Crime
SOC	Specialist Operations Centre
SOCA	Serious Organised Crime Agency
SOCO	Scenes of Crime Officer
SPOC	Single Point of Contact
T&F	SOCA Theft and Fraud Team
TIE	Trace/Interview/Eliminate
TOC	Transnational Organised Crime
UKCA	UK Central Authority
UKCA-ECR	UK Central Authority for the Exchange of Criminal Records
UKCA-MLA	UK Central Authority for Mutual Legal Assistance
UN	United Nations
UKFIU	UK Financial Intelligence Unit

Appendix 5

References

ACPO (2005) *Guidance on Major Incident Room Standardised Administrative Procedures*. Wyboston: NCPE.

ACPO (2005) *Guidance on the National Intelligence Model*. Wyboston: NCPE.

ACPO (2006) *Murder Investigation Manual*. Wyboston: NCPE.

ACPO (2007) *Critical Incident Management*. London: NPJA.

ACPO (2008) *Family Liaison Officer Guidance*. London: NPJA.

ACPO (2008) *Guidance on the Lawful and Effective Use of Covert Techniques - the Legal Framework and Covert Operational Management*. London: NPJA. [RESTRICTED]

ACPO (2009) *Briefing Paper on European Arrest Warrants (Part 1)*. London: NPJA.

ACPO (2009) *Guidance on Command and Control*. London: NPJA.

ACPO (2009) *Strategic Debrief Operation Task: Police Assistance to Criminal Investigations Abroad*. London: NPJA.

ACPO (2010) *Guidance on the Management of Police Information*. London: NPJA.

ACPO (2010) *National Vetting Policy for the Police Community* [Internet]. Available from <http://www.acpo.police.uk/ProfessionalPractice/WorkforceDevelopment.aspx> [Accessed 28 February 2012]

Brady, H. (2008) *Europol and the European Criminal Intelligence Model: A Non-State Response to Organized Crime*. Oxford: Oxford University Press.

Corsellis, A. (2008) *Public Service Interpreting – The First Steps*. Basingstoke: Palgrave Macmillan.

Council of the European Union (2008) *Council Framework Decision 2008/615/JHA and 2008/616/JHA Prum Treaty* [Internet]. Available from http://eur-lex.europa.eu/RECH_naturel.do?ihmlang=en [Accessed 28 February 2012]

Council of the European Union (2008) *Council Framework Decision 2008/978/JHA. European evidence warrant for the purpose of obtaining objects, documents and data for use in proceedings in criminal matters* [Internet]. Available from http://eur-lex.europa.eu/RECH_naturel.do?ihmlang=en [Accessed 28 February 2012]

Council of the European Union (2008) *Council Framework Decision 2002/465/JHA. Joint Investigation Teams* [Internet]. Available from <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32002F0465:EN:HTML> [Accessed 28 February 2012]

Council of the European Union (2008) Council Framework Decision 2006/960/JHA. *Simplifying the exchange of information and intelligence between law enforcement authorities of the Member States of the European Union* [Internet]. Available from <http://www.homeoffice.gov.uk/about-us/corporate-publications-strategy/home-office-circulars/circulars-2008/030-2008/> [Accessed 28 February 2012]

Crown Prosecution Service (nd) *Legal Resources* [Internet]. London: CPS. Available from http://www.cps.gov.uk/legal_resources.html [Accessed 23 September 2011]

Cunningham, D. (2008) Crossing the Line: An international case study, *The Journal of Homicide and Major Investigation*. Vol 4, Issue 2. London: NPJA.

Europol (2008) *Joint Investigation Teams Manual*. Netherlands: Europol.

Extradition Act (2003) *Codes of Practice. Statutory Instrument No. 3336*. London: HMSO.

Foreign and Commonwealth Office (n.d) *Guide for Bereaved Families* [Internet]. London: FCO. Available from <http://www.fco.gov.uk/resources/en/pdf/2855621/bereaved-families> [Accessed 23 September 2011]

Gradwell, M. (2006) Lost in Translation: The use of interpreters during Operational Lund, *The Journal of Homicide and Major Investigation*, Vol 2, Issue 2. London: NPJA.

Heydon, T. (2010) Operation Hydration – Internet Murder Enquiry, *The Journal of Homicide and Major Incident Investigation*. Vol 6, Issue 2. London: NPJA.

Home Office Circular (1986) *Police on Crime and Kindred Matters*. Home Office Circular 04/86. London: Home Office.

Home Office (2003) *The Overseas Deployment Manual for Police Officers*. Home Office Circular 011/2003. London: Home Office.

Home Office (2008) *EU Council Framework Decision 2006/960/JHA*. Home Office Circular 030/2008. London: NPJA.

Home Office (2009) *Mutual Legal Assistance Guidelines for the UK*, Eighth Edition. London: Home Office.

Pearson, S. (2008) Managing Cross-border Single Homicide Investigations, *The Journal of Homicide and Major Investigation*, Vol 4, Issue 2. London: NPIA.

Reid, S. (2009) Media: A Useful Investigation Tool, *The Journal of Homicide and Major Investigation*, Vol 5, Issue 2. London: NPIA.

Rijken, C. (2006) Joint Investigation Teams: principles, practice, and problems. Lessons learnt from the first efforts to establish a JIT, *Utrecht Law Review*, Vol 2, Issue 2 [Internet]. Available from <http://www.utrechtlawreview.org/index.php/ulr/article/view/28> [Accessed 28 February 2012]

Ronayne, G. & Tiley, R. (2011) Operation Compass – Learning Points, *The Journal of Homicide and Major Incident Investigation*, Vol 7, Issue 1. London: NPIA.

SOCA (2009) *International Liaison Officer Manual*. London: SOCA. [RESTRICTED]

SOCA (2010) *International Manual of Guidance*. London: SOCA.

