

Thematic Report on the International Co-operation Unit

Follow-up

August 2015

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Chief Inspector's Foreword

The thematic review of the International Co-operation Unit (ICU) was published in March 2014.

Crime is increasingly diverse and global. Organised crime, money laundering, fraud, human trafficking, internet crime and terrorism are rapidly expanding and frequently transcend national boundaries. To frustrate and effectively prosecute those involved in such offending, co-operation with organisations and countries beyond Scotland, including intelligence sharing, is essential.

The ICU was established in 2009-10 to deal with serious and often high profile crimes with an international dimension. It functions as the central authority in Scotland for all aspects of international criminal co-operation. The Lord Advocate (through ICU) requests assistance from other jurisdictions and represents foreign authorities and acts on their behalf on international matters in Scotland.

The thematic report found that Scotland is highly regarded and widely respected in international co-operation circles, often resulting in effective reciprocal assistance from other jurisdictions, and that specialisation had enhanced the expertise of ICU. It also identified a number of areas where there was scope for improvement.

We made 11 recommendations designed to strengthen the reputation of ICU, improve procedures to obtain and review European Arrest and international warrants and introduce more accurate monitoring systems and key performance indicators.

Two developments have contributed positively to the effectiveness of the Unit:

- Following the establishment of a single Scottish Police force, the creation of a centralised International Assistance Unit (IAU), dealing with all incoming and outgoing extraditions, provides ICU with a single point of contact with Police Scotland. The IAU alerts ICU to any new developments, including the apprehension of any fugitives.
- The re-incorporation of ICU into the Serious and Organised Crime Division (SOCD) has engendered a close working relationship between the two units and ensures that the Head of ICU is sighted on any cases with potential international links and involved at an early stage in any operational or strategic meetings.

There has been progress in a number of areas; ICU has creatively used opportunities to enhance their profile, introduced more rigour into procedures to obtain, monitor and review European and international warrants, raised awareness of their role in Crown Office and Procurator Fiscal Service (COPFS) and clarified their relationship with the Federations.

There has, however, been a lack of progress on the recording and collation of management information. This impacts on our ability to assess the effectiveness of the progression and management of cases in ICU. To address this concern, we advocate that ICU prioritises the implementation of an effective recording system and the application of their Key Performance Indicators (KPIs).

Michelle Macleod.

Michelle Macleod
HM Chief Inspector

Part 1: Introduction and Background

1. It is the practice of the Inspectorate to conduct follow-up inspections in order to promote improvement and assess the effectiveness of recommendations and their outcomes.
2. This report details the findings of the Inspectorate's follow-up inspection of the International Co-operation Unit (ICU) Thematic Report, published in March 2014.
3. The remit of ICU is to provide advice on cases with an international dimension and act as a single point of contact on behalf of judicial, law enforcement and prosecution authorities on extradition and mutual legal assistance work.
4. The aim of this follow-up review is to assess and report on the progress that has been made against our recommendations.

Methodology

- Interviews with key personnel;
- Review of practices, procedures and policies;
- Evaluation of IT and monitoring systems;
- Examination of case files.

Part 2: Progress against Recommendations

5. The thematic review made 11 recommendations. All were accepted by Crown Office and Procurator Fiscal Service (COPFS). We have rated the COPFS response to each recommendation as follows:

Achieved - COPFS has completed what was required.

Substantial progress - COPFS has made significant progress in taking forward the recommendation.

In progress - COPFS has taken some action to take forward the recommendation and there is ongoing work aimed at achieving the recommendation.

Not progressed - COPFS cannot demonstrate any progress.

6. The table below sets out the recommendations and the actions taken by COPFS.

1	ICU should continue to ensure that a co-ordinated approach is taken to reinforcing its high profile within international circles through a planned timetable of engagements and interactions.	
Action Taken	<p>While budgetary pressures have impacted on the ability of ICU to maintain a visible presence in the EU, it has maintained a high profile as evidenced by the following:</p> <ul style="list-style-type: none"> • The Glasgow Herald¹ published an extremely positive in-depth article on the work of ICU; • Participation at the International Society for the Reform of Criminal Law (ISRCL) conference entitled “Crossing boundaries, exploitation, e-crime evidence and extradition” which was held in Edinburgh in June 2015, chaired by the Solicitor General. The conference, which was attended by members of the judiciary, prosecutors, public officials and legal representatives from across Europe and the Commonwealth, provided a platform for ICU to showcase their work; • IAU raise awareness of ICU when delivering training to police officers; • ICU has retained the presence of a trainee at Eurojust and members of ICU attend meetings at Eurojust, the European Judicial Network (EJN) and the Academy of European Law (ERA). A senior member of ICU has delivered training at the EJN and ERA; 	Achieved

¹ 23 May 2015.

	<ul style="list-style-type: none"> During recent visits to the Philippines and the United Arab Emirates, the ICU head of extradition highlighted the international profile of Scotland and the role of ICU. 	
2	There should be flexibility in the allocation of different types of work within ICU for staff development purposes. All personal development plans should include measures aimed at facilitating a smooth transition for staff moving to other positions within COPFS, including opportunities to retain existing and general skills such as court advocacy.	
Action Taken	<p>The following measures have been implemented to provide more diversity for ICU legal staff:</p> <ul style="list-style-type: none"> Wherever possible, ICU deputes have undertaken general court duties, maintaining advocacy skills; Trainees in ICU are now exposed to all aspects of ICU work; A senior member of ICU now represents the Lord Advocate in extradition appeals before the Appeal Court. <p>Outstanding</p> <ul style="list-style-type: none"> It is intended to rotate deputes within ICU to expose them to all aspects of ICU work. 	Substantial progress
3	ICU should prepare and publish a defined and agreed strategic purpose and remit for the Unit to clarify and raise awareness of its role within COPFS.	
Action Taken	<p>A number of measures have been taken to clarify and raise awareness of the role of ICU. These include:</p> <ul style="list-style-type: none"> Publication, on the COPFS intranet, of a strategic remit and the objectives of the Unit; Publication, on the COPFS intranet, of a wiki page for ICU containing information and specific guidance on the work of the Unit; An arranged presentation by the UK representative at Eurojust² to representatives of COPFS, Her Majesty's Revenue and Customs (HMRC) and Police Scotland. The event is to be opened by the Solicitor General; 	Achieved

² Scheduled for October 2015.

	<ul style="list-style-type: none"> Regular input from ICU to the Sheriff and Jury and High Court Forums and the training programme for new deputies. 	
4	If the role of International Co-operation Resource Deputes (ICRDs) is retained, the good practice points identified in part 3 should be implemented.	
Action Taken	<ul style="list-style-type: none"> A revised role for the ICRDs, focusing on incoming Mutual Legal Assistance (MLAs), has been agreed; An up-to-date list of ICRDs has been published; Single Points of Contact (SPOCs) at Band G level have been established in each Federation for each of the core functions. All work allocated to ICRDs is copied to the relevant SPOC and a review system has been implemented to highlight any delays to the SPOC and ICU. <p>Outstanding</p> <ul style="list-style-type: none"> There are plans to roll out an exchange programme between ICRDs and ICU deputies to enable ICRDs to work in ICU for a week. 	Substantial progress
5	An improved IT system with mandatory fields to ensure the accuracy and reliability of ICU data should be introduced.	
Action Taken	This recommendation remains under consideration. While various options have been discussed, the viability of a new IT system is constrained by affordability in the current financial climate.	In progress
6	<p>In absence of a new IT system, the recommendations in part 5 (shown below) should be implemented to improve the existing ICU Live system.</p> <ul style="list-style-type: none"> ICU Live should be re-configured to improve the formatting to make it easier to operate; Systems should be introduced to allow managers to monitor and manage work in the Unit; Functionality of ICU Live should be improved to allow styles to be amended, and redundant styles deleted or alternatively styles should be held elsewhere, such as the Knowledge Bank in an accessible and amendable form; For certain categories of work such as outgoing requests for MLAs, where there is an active 	

	<p>investigation, the request and all correspondence should be scanned within the original case on the national IT system to provide a full record of the case in one location.</p>	
Action Taken	<p>The existing recording system – ICU Live – has been updated to add revised styles and remove those that are obsolete.</p> <p>The creation of SPOCs and the introduction of a review process, to monitor ICU work to be progressed by the Federations, will identify and tackle delays.</p> <p>Outstanding</p> <ul style="list-style-type: none"> • While ICU documents are scanned into ICU Live, they are not incorporated into the electronic criminal case. • The functionality of ICU Live has not been developed to make it more user-friendly. The preference of the Head of ICU is to replace ICU Live with a new electronic recording system but this has still to be progressed. 	In Progress
7	<p>A comprehensive checklist of the procedures and requirements for local prosecutors seeking to obtain a European Arrest Warrant (EAW) or international warrant through ICU is prepared and publicised by ICU. ICU should issue standard instructions in every such case to the Federation seeking the warrant.</p>	
	<ul style="list-style-type: none"> • ICU has published detailed guidance on the requirements for obtaining an EAW or international warrant. • ICU liaises with IAU to confirm that COPFS has obtained all relevant information and documentation for all requests for European Arrest and international warrants. <p>Outstanding</p> <ul style="list-style-type: none"> • While there is detailed guidance available on the intranet on the requirements of obtaining an EAW or international warrant, ICU has not introduced a standard letter of instruction to the Federation seeking the warrant. 	Substantial Progress
8	<p>A complete list of all cases in each Federation with an EAW or international warrant is collated by ICU and circulated to each Federation.</p>	

	<ul style="list-style-type: none"> • A list of all outstanding warrants (with a note of progress) has been issued by ICU to each Federation. • Following a recent instruction, an updated list of all outstanding international warrants will be reconciled monthly with the information held by the Federation SPOCs and IAU. 	Achieved
9	Guidance should be published on the requirements to be undertaken prior to the withdrawal of a domestic warrant in cases where there is also a European or international warrant. There should be clarity on who has responsibility for monitoring and reviewing cases with EAWs or international warrants within the Federations.	
	<ul style="list-style-type: none"> • Guidance on the requirements to be undertaken prior to the withdrawal of a domestic warrant in cases where there is also a European or international warrant has been published on the intranet, along with an operational reminder. • ICU reconciles outstanding international and associated domestic warrants with IAU at regular liaison meetings held every six weeks. This provides a further safeguard ensuring that any domestic warrants withdrawn in error are quickly identified. • The Federation SPOCs have responsibility for monitoring and reviewing cases with EAWs or international warrants. 	Achieved
10	A process should be introduced to ensure that no domestic warrant relating to a solemn case can be withdrawn without a check being made to see if there is an EAW or international warrant in existence.	
	To raise awareness of existing EAWs and international warrants, an instruction has been issued to the Federation SPOCs to add a note to the COPFS case management system when an EAW or international warrant is requested. ICU is to be notified of any change in the status of any international or European Arrest Warrant. The monthly reconciliation process referred to at recommendation 8 provides a further safeguard.	Achieved

11	Key performance indicators should be introduced as part of a performance framework for the main areas of ICU work.	
Action Taken	While KPIs for extradition and MLA work have been agreed and published on the intranet ³ , the absence of a reliable recording system prevents effective monitoring of the KPIs.	In Progress

Overview

7. Against a background of financial restraint, ICU has maintained its profile in the international arena taking advantage of various opportunities to highlight their presence and provide assistance. Through a variety of measures, including the publication of a number of guidance notes on dealing with cases with an international dimension, ICU has increased awareness of its role in COPFS. The clarification of the role of the ICRDs and the establishment of SPOCs in the Federations has undoubtedly improved communication and liaison between ICU and the Federations. The proposed exchange programme between the ICRDs and ICU deputes should further enhance this working relationship.
8. The implementation of more robust operational procedures in obtaining, monitoring and reviewing European Arrest and international warrants, in conjunction with regular discussion and reconciliation with IAU, should address the concerns highlighted in the thematic report.
9. As cases and requests to ICU often originate from jurisdictions that do not have access to the national COPFS IT systems, ICU records and monitors their work on ICU Live - a stand-alone electronic recording system. We identified a number of deficiencies with ICU Live in the thematic report and made recommendations designed to improve the quality of data held by ICU. We found that confidence in the electronic recording system used by ICU has not improved. The absence of comprehensive, accurate or reliable data creates a significant management information gap, impacting on the ability of ICU to manage, monitor and prioritise their caseload. It also prevents effective monitoring of KPIs. While we acknowledge financial considerations may constrain the option of acquiring a bespoke IT system, there has been little progress on achieving an alternative solution to address the current inadequacies.
10. Given the relatively small number of cases dealt with by ICU we urge, as a matter of priority, that consideration is given to addressing the deficiencies with the recording and monitoring of data in ICU which in turn will facilitate the effective implementation of KPIs.

³ March 2015.

Glossary

Academy of European Law (known as ERA)

A non-profit public foundation based in Trier in Germany that provides training in European Law to legal practitioners. It includes most EU members and is supported by the EU. It organises conferences and seminars around Europe.

Band G Legal Manager

Senior legal manager in COPFS.

Crown Office and Procurator Fiscal Service (COPFS)

The independent public prosecution service in Scotland. It is responsible for the investigation and prosecution of crime in Scotland. It is also responsible for the investigation of sudden, unexplained or suspicious deaths and the investigation of allegations of criminal conduct against police officers.

COPFS Federation Structure

COPFS is organised into four Federations - three geographical Federations – East, West and North – and a National Federation comprising of a number of specialist units.

Domestic Warrant

A document from the court enabling the police to arrest a person in Scotland accused or convicted of a crime.

Eurojust

An agency of the European Union (EU) dealing with judicial co-operation in criminal matters to improve the fight against serious crime by facilitating co-ordination of action for investigations and prosecutions across more than one member state. It is composed of national prosecutors, magistrates, or police officers of equivalent competence, detached from each Member State according to their own legal systems. The seat of Eurojust is in The Hague.

European Arrest Warrant (EAW)

A document from the court enabling the police to arrest a person in the EU accused or convicted of a crime.

European Judicial Network (EJN)

A network of national contact points for the facilitation of judicial co-operation in criminal matters between the member states of the European Union.

European Union (EU)

An economic and political partnership between 28 European countries.

Extradition

The action of handing over a person accused or convicted of a crime at the request of another jurisdiction to that jurisdiction or where a person is returned at the UK's request to stand trial or serve a custodial sentence.

Fiscal Officers

Administrative officers.

Forum

The level at which the case is to be prosecuted with more serious offences (solemn proceedings) being heard by a jury and less serious offences (summary proceedings) heard by a single judge.

High Court Forum

A formal discussion group in COPFS dealing with issues specific to High Court work.

HMRC

HM Revenue and Customs.

ICU Live

Electronic system used in COPFS International Co-operation Unit to record the unit's cases and case information.

International Assistance Unit (IAU)

Part of the National Intelligence Bureau of Police Scotland responsible for the handing over of a person accused or convicted of a crime to the jurisdiction of the foreign state in which the crime was committed.

International Co-operation Resource Deputes (ICRD)

Legally qualified prosecutors who are the initial point of contact for Mutual Legal Assistance.

International Co-operation Unit (ICU)

The International Co-operation Unit of COPFS functions as the central authority in Scotland for all aspects of international criminal co-operation.

International Warrant

A document from the court allowing the police to arrest a person in countries not within the EU alleged to have committed a criminal offence or having been convicted to be sentenced.

Key Performance Indicators (KPIs)

A type of performance measurement.

Knowledge Bank

COPFS information database containing legal and non-legal guidance.

Law Officers

The Lord Advocate and the Solicitor General for Scotland.

Lord Advocate

The Ministerial Head of COPFS. He is the senior of the two Law Officers, the other being the Solicitor General

Mutual Legal Assistance (MLA)

A formal process by which countries request and provide assistance in obtaining evidence located in one country to assist in criminal investigations or proceedings in another country.

Procurators Fiscal (PFs)

Legally qualified prosecutors who receive reports about crimes from the police and other agencies and make decisions on what action to take in the public interest and where appropriate prosecute cases. They also look into deaths that require further explanation and where appropriate conduct Fatal Accident Inquiries and investigate criminal complaints against the police.

PROMIS

(Acronym for ***Prosecutor's Management Information System***). COPFS computer-based case-tracking and management system.

Serious and Organised Crime Division (SOCD)

SOCD was set up in 2011 to prioritise the prosecution of serious crime and the recovery of assets from those involved in criminal activity. It works closely with COPFS Federations and law enforcement to adopt a more strategic approach to the prosecution of serious and organised crime.

Solicitor General

The Solicitor General for Scotland is the Lord Advocate's deputy. She is also a Minister of the Scottish Government.

Trainee

A trainee solicitor.

Wiki Page

Information contained on a page of the COPFS internal website.

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