

Inspectorate of Prosecution in Scotland

**Thematic Report on the
International Co-operation Unit**

March 2014

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EXECUTIVE SUMMARY

This is the thematic report of the Inspectorate of Prosecution in Scotland (IPS) on the inspection of the International Co-operation Unit (ICU).

ICU is the specialist Unit within Crown Office and the Procurator Fiscal Service (COPFS) that leads in extradition and Mutual Legal Assistance work.

International co-operation is a priority for all involved in keeping communities safe and ICU has a critical role in the investigation and prosecution of terrorism and serious crime.

This report focuses on all aspects of the work of the Unit including case-related issues. It has looked to identify and comment on strengths as well as any weaknesses.

Key Findings

The strategic decision to move towards greater specialisation in COPFS in recent years and the creation of specialist units to investigate and prosecute certain types of crime has enabled a body of expertise and, in some areas, excellence to develop and flourish. This includes ICU which was established to tackle and facilitate the prosecution of those who commit crime across jurisdictional boundaries, particularly in dealing with requests for persons to be extradited abroad.

Within the international arena contacts and reputation are of the utmost importance. Among international co-operation circles in

Europe and the rest of the world, Scotland is highly regarded and widely respected. Providing effective and timeous assistance to a foreign authority is critical in ensuring reciprocal assistance when it is required. Overall, ICU is held in high regard by the numerous authorities and organisations who work in the international field, including the judiciary.

Following the restructuring of COPFS into four Federations, the best model for liaison and interaction between the Federations and ICU requires to be addressed. There are currently different models operating within the operational Federations and the role of International Co-operation Resource Deputes (ICRDs) is no longer clear.

A debate and decision on whether ICRDs are still relevant and effective in the new COPFS structure requires to be undertaken. If ICRDs are to be retained, there are a number of areas of best practice identified in the report that should be progressed to ensure that they are an effective resource.

While the work and expertise of ICU are internationally recognised, there is a lack of awareness by many COPFS colleagues on the role and remit of ICU. In particular, there is a lack of understanding by some prosecutors on the legalities of obtaining, reviewing and withdrawing European or international warrants. This requires to be addressed and in particular, safeguards should be

introduced to ensure that domestic warrants are not withdrawn in cases where a European or international warrant has been granted, without an instruction from Crown Counsel.

The electronic recording system used by ICU is largely reliant on manual inputs and as a result the data recorded is not comprehensive, accurate or reliable. This provides a significant management information gap, impacting on the ability of ICU to manage, monitor and prioritise their caseload. This is most noticeable in dealing with incoming Mutual Legal Assistance (MLA) requests where much of the work is allocated to the Federations to progress. The absence of monitoring has resulted in periods of unexplained delay in responding to some of these requests.

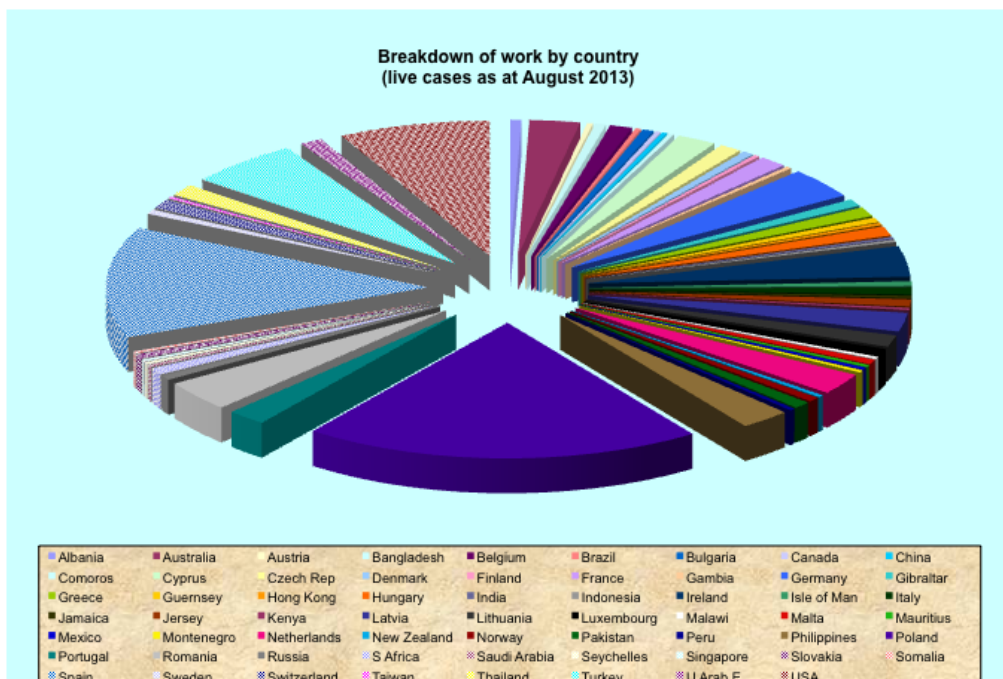
RECOMMENDATIONS

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. (See page 13)
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. (See page 15)
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. (See page 19)
4. If the role of ICRDs is retained, the good practice points identified in part 3 should be implemented. (See page 24)
5. An improved IT system with mandatory fields to ensure the accuracy and reliability of ICU data should be introduced. (See page 35)
6. In absence of a new IT system, the recommendations in part 5 for improving the existing ICU Live system should be implemented. (See page 35/36)
7. 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. (See page 40)
8. A complete list of all cases in each Federation with an EAW or international warrant is collated by ICU and circulated to each Federation. (See page 40)
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. (See page 40)
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. (See page 40)
11. Key performance indicators should be introduced as part of a performance framework for the main areas of ICU work. (See page 45)

PART 1: INTRODUCTION AND BACKGROUND

Background

1. ICU was set up as a separate entity in 2009-10 to deal with serious and often high-profile crimes with an international dimension. ICU functions as the central authority in Scotland for all aspects of international criminal co-operation. It handles all incoming and outgoing extradition cases, and deals with all incoming and outgoing requests for Mutual Legal Assistance (MLA).
2. MLA is the formal process of seeking or providing assistance in criminal investigations by sending International Letters of Request (ILoR). This can be in the form of taking affidavits and statements or obtaining search warrants with the intention of using the information as evidence in accordance with the legal requirements of the respective jurisdiction.
3. The work of ICU has steadily increased over the years. This is against a background of an increasing number of EU states, leading to a greater migration of EU workers, along with an ever expanding use of the internet contributing to a rise in international crimes many of which are organised and initiated from abroad and an increase in serious organised crime often involving an international element. New legislation, including the Extradition Act 2003 and the Crime (International Co-operation) Act 2003 has also created additional work.
4. At the time of the inspection, ICU had ongoing contact with 62 countries.



Aims and Objectives

5. The aims of this inspection were:

- To review the effectiveness and efficiency of arrangements, processes and systems employed by COPFS staff, both legal and administrative, in ICU for the implementation of the Extradition Act 2003, the Crime (International Co-operation) Act 2003, and any other international agreements in relation to extradition to and from Scotland and mutual legal assistance to facilitate prosecution or sentencing in the appropriate jurisdiction.
- To examine compliance with COPFS policy and review inter-agency working arrangements between countries, police and other criminal justice partners.

6. The objectives were:

- To assess the quality and timeliness of implementing requests from foreign jurisdictions to extradite persons from Scotland for criminal proceedings or to serve a previously imposed custodial sentence.
- To assess the quality and timeliness of implementing requests from ICU to extradite persons from foreign jurisdictions for criminal proceedings or to serve a previously imposed custodial sentence.

- To assess the quality and timeliness of the implementation of Letters of Request and co-operation from foreign jurisdictions to secure evidence for the purpose of criminal proceedings.
- To assess the quality and timeliness of requests seeking MLA and co-operation from foreign authorities to secure evidence for the purpose of criminal proceedings.
- To identify and promote good practice and areas for improvement.

Methodology

7. The review was carried out using a number of techniques based on accepted principles of inspection, including:

- Visits to Extradition Courts
- Office visits
- Interviews
- Review of case papers
- Analysis of information
- Report writing

8. This included:

- A review of all legislation and protocols relevant to international obligations.
- A review of relevant departmental policies and strategic plans.
- A review of relevant departmental internal and external protocols.

9. Interviews with criminal justice partners including sheriffs,

sheriff clerks, solicitors, advocates, police, Serious Organised Crime Agency (SOCA)¹, Scottish Government officials, United Kingdom Central Authority (UKCA), International Liaison Magistrates (ILMs) and Eurojust representatives.

10. Interviews with COPFS staff including International Co-operation Resource Deputes (ICRDs).
11. Examination of a sample of case papers - we examined 84 concluded cases and eight active cases which comprised 25% of ICU caseload at the time of the inspection.²

¹ SOCA reformed as the National Crime Agency (NCA) in 2013. See Glossary.

² Total caseload was 384 cases

PART 2: LEADERSHIP

12. There has been a strategic decision to move towards greater specialisation in COPFS in recent years. This has been actively promoted and advocated by the Law Officers. In addition to ICU, there are a number of specialist units including the National Sexual Crimes Unit, the Serious and Organised Crime Unit, the Health and Safety Division and the Wildlife and Environmental Crimes Unit.
13. In the 2009-12 COPFS Strategic Plan, the then Lord Advocate stated that she was “committed to developing specialists to deal with diverse areas, including all aspects of serious crime”.
14. Under the heading “Fighting Serious and International Crime”, it stated:

“Crime is increasingly diverse and global. Organised crime cases are accordingly increasingly complex and lengthy, and frequently require close liaison with and assistance from, colleagues working in criminal justice across the world. Overall, the number and scale of major investigations continues to increase.”
15. The response was to set up the National Casework Division (NCD) “to provide a focused proactive response to carry out major intelligence-led investigations into organised crime”.
16. International co-operation, which had previously been a discrete function of the Fraud and Specialist Services Unit, became part of the NCD, managed as a separate Unit headed up by a senior civil servant.
17. The most recent COPFS Strategic Plan 2012-15, re-affirms the strategy of having staff “develop more expertise in an increasingly complex environment”. It particularly highlights serious and organised crime where it states that COPFS “play a crucial role in Scotland’s response to serious and organised crime, working with law enforcement agencies and the Scottish Government to deliver the aims of the Serious and Organised Crime Strategy”.
18. This strategy acknowledges that many criminals in Scotland have connections that extend over the world, and that crime is expanding rapidly into new growth areas including money laundering, fraud, human trafficking, counterfeit goods and internet crime. It is recognised that to frustrate and effectively prosecute those involved in such offending, co-operation is required with organisations and countries beyond Scotland, including intelligence sharing.
19. During our review, as part of a wider re-structuring exercise, a decision was taken to re-incorporate ICU into SOCD. Within SOCD, there are now two deputy heads with one of them heading up and being responsible for the day-to-day running of ICU, reporting to the Head of SOCD, who in turn reports to the Director of the Serious Casework Group.

20. It is clear that within the international arena contacts and reputation is of utmost importance. Within international co-operation circles in Europe and the rest of the world, Scotland is highly regarded and widely respected. In the international arena, an identifiable point of contact is essential. ICU provides that point of contact, and its reputation is critical in maintaining good relations. When requesting assistance from other countries and dealing with their requests the Lord Advocate acts on behalf of foreign authorities and ICU represents the Lord Advocate.
21. The Law Officers recognise the importance of having a high profile in the international arena and play an active role in representing Scotland at a number of international forums and conferences. Of particular note is their participation on the Consultative Forum of Prosecutors General and Directors of Public Prosecutors of the Member States of the European Union. The forum focuses on improving international judicial co-operation by sharing experiences of prosecution strategies and best practices in dealing with serious and organised crime including offences affecting the financial interests of the EU, human trafficking and terrorism, the use of investigative procedures and techniques, rules of evidence, and the use of co-operation measures to assist with extradition and MLAs.
22. The Law Officers also regularly attend the Justice and Home Affairs Council which is comprised of the Interior and Justice Ministers of the Member States. The Council deals with the development and implementation of judicial and police co-operation and common policies relating to the protection of fundamental rights, migration, asylum and border management.
23. There are a number of international conferences at which the Law Officers also frequently represent Scotland including, the International Association of Prosecutors (IAP), the Commonwealth Law Ministers Meeting (CLMM), the Heads of Prosecuting Agencies Conference (HOPAC) and the International Society for the Reform of Criminal Law (ISRCL).
24. There are an ever-increasing number of international organisations involved in various aspects of law enforcement and making and maintaining contacts with such organisations is a critical part of effective working in this arena.
25. Providing effective and timeous assistance to a foreign authority goes a long way to ensuring reciprocal assistance when it is required. To enhance the reputation of the Unit it is important that the Head of ICU and the staff of the Unit maintain a high profile in this arena. Of note, in this regard, is training that has been provided by a senior member of the ICU team at the Academy of European Law at Trier in Germany on extradition to international delegates who specialise in extradition matters and also to a UK-wide body of the

- Judiciary who specialise in this area.
26. The importance of having a network of contacts is evidenced by the co-operation recently provided by Albania, who provided crucial assistance by locating an essential witness and thereafter serving a witness citation and making travel arrangements for the witness to return to Scotland to give evidence in a high-profile murder trial.
 27. This co-operation followed Scottish assistance in a case where the Albanian Government is seeking the extradition of an Albanian national alleged to have been responsible for a murder of another Albanian national in London. The person alleged to have been responsible was subsequently located and arrested in Glasgow and is the subject of ongoing contested extradition proceedings with the Lord Advocate representing the Government for the Republic of Albania. In preparing for the appeal, a senior lawyer in ICU travelled to Albania for a fact-finding exercise and to meet with senior justice officials.
 28. In another high-profile murder case, the suspect fled Scotland via the Netherlands. Over the years ICU has formed a number of contacts in the Netherlands and following representations from ICU the Dutch police detained the suspect at the airport in the Netherlands along with incriminating evidence.
 29. At present ICU interacts and deals with Eurojust, International Liaison Magistrates (ILMs), the European Judicial Network (EJN), the International Association of Prosecutors (IAP), the Ibero-American Network for International Legal Co-operation (IberRed) and the Commonwealth Network of Contact Persons (CNCP). Co-operation among foreign authorities is key as there are often no enforceable processes to ensure assistance is given or, if it is given, that it is carried out within specific timescales.
 30. Co-operation tends to be more effective and speedier when there are good inter-personal and working relationships between officials in different countries. This is particularly important when dealing with countries that are not governed by legislation or treaties with the UK. The work in such cases is akin to that involved in diplomatic negotiations.
 31. In addition ICU works very closely with other UK bodies, such as the Scottish Government, Home Office, the Judicial Co-operation Unit including UKCA, police and similar agencies, such as SOCA. We have spoken to representatives of all of those organisations and ICU is regarded favourably across the board.
 32. Being seen as credible and effective is undoubtedly an asset. Establishing a good reputation is a credit to the efforts of the ICU team to make and maintain contacts with the main international organisations. However, cementing these relationships and maintaining

their high regard could be advanced by ICU having a clear and overarching strategy.

Recommendation 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.

PART 3: STRUCTURE AND OPERATION OF ICU

33. Over the years, the composition of the Unit has altered in conjunction with changes within the wider operational COPFS structures.
34. During the course of our review, ICU has been incorporated back into SOCD and a second Deputy Head of SOCD appointed.³ One of these deputy posts has been designated as the Head of ICU, although the post also has responsibility for some of the work carried out by SOCD. The Head of ICU reports to the Head of SOCD.⁴ There are two Principal Deputes each in charge of a separate area of work, namely extradition and Mutual Legal Assistance. This has been a constant in the various reiterations of the composition of ICU. In addition, there are four prosecutors, generally split between extradition and MLA work. There is also a trainee who spends three months in ICU, mostly dealing with MLAs, and three months in The Hague assisting the National Member for the UK at Eurojust. In addition, a manager of ICU goes to The Hague every 12 weeks. The team is also supported by three administrative members of staff.
35. During much of our review, the position of Head of ICU was vacant and filled by an experienced Principal Depute as Acting Head of ICU on a temporary basis. This resulted in a reduction in the overall management capacity in the Unit with the Acting Head retaining much of his extradition portfolio.
36. There appears to be little differentiation in the work being undertaken by prosecutors and senior prosecutors within ICU suggesting that there is scope for a clearer division of responsibilities between the two grades and for senior prosecutors to take on greater responsibility for the more complex case work.
37. In general, due to the work being perceived as varied and interesting, there has been little difficulty in attracting staff to join ICU. The division of work between extradition and MLAs in the Unit was, however, commented on by some legal staff who expressed some reservations that working solely on a narrow area of work within the Unit may be too specialised and highlighted a desire to ensure that there was scope to maintain their more general court and case decision skills. The recent vacancy of the Head of ICU resulted in prosecutors within ICU undertaking work in a more diverse range of ICU

³ Post appointed at Band G – post below senior service grades

⁴ Senior Civil Servant grade

responsibilities, which they reported provided greater variety and resilience within the Unit. The recent move of ICU within the SOCD umbrella may provide greater opportunities for movement between these specialist units but that remains to be seen.

38. Greater specialisation inevitably creates tensions between developing greater expertise in a narrow field, the possible dilution of skills in other areas of work and the provision of sufficient resilience in key operational areas.

Recommendation 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.

Training

39. ICU legal members of staff receive training in a number of ways. They attend regular monthly team meetings where developments in law are discussed and analysed. While minutes of the meetings are taken, they are not published. There is also ongoing one-to-one training within the Unit and members of the Unit are given the

opportunity to attend courses run by the Academy of European Law (known as ERA) in Trier in Germany.

Good Practice

Minutes of team briefings should be recorded on the ICU internet page.

40. However, it is clear from cases we have reviewed that some prosecutors in the Federations are not clear about the processes and requirements involved in international work and there is, in general, a lack of awareness of the role of ICU and that of ICRDs.

Profile

41. ICU has made concerted efforts to raise its profile in COPFS and has had some success. This has been achieved through articles on the work of the Unit in internal communication magazines and newsletters. Participation in a European Judicial Training Network competition by COPFS trainees in which they came fourth out of a field of 44 also raised the profile of the Unit. ICU is now also represented at the Sheriff and Jury and High Court Forums and delivers a presentation at the Core Deputies' Legal Module II course attended by first-year trainees, the new Case Preparer/Investigative Assistants course and at the precognition training course.

42. For those prosecutors who have had the benefit of assistance from ICU, there was positive feedback on the service and advice they received. ICU's role in contacting witnesses to arrange for them to travel to Scotland or to give evidence by live-link from abroad was commented on as being extremely helpful and critical for the success of many high-profile cases. ICRDs were also vocal in their praise for continuous support and advice received from individual team members in ICU.

Policy

43. Within ICU there are a number of policy issues that arise. In general policy issues are dealt with by the Policy Division in Crown Office with a specific prosecutor in Policy Division having responsibility for the international policy portfolio. However, the Head of ICU plays an active role in formulating policy and works with Policy Division on international issues, providing greater input into the more practical aspects of international policy. Both ICU and Policy Division work with the Scottish Government on international issues, and regularly meet with Scottish Government colleagues and Home Office officials on UK-wide policy issues. The Scottish Government appreciate the practical insight on proposed legislation that ICU provides. More recently, due in part to a lack of

management capacity, a greater proportion of policy work has been cascaded throughout the ICU team, which has been favourably received.

44. ICU also provides Ministerial support at House of Lords and Scottish Parliament committee meetings on international affairs.

Appeals

45. Due to the specialised nature of its work ICU researches the law and prepares its own appeal cases. Appeal cases have been traditionally presented in court by advocates who have particular expertise in this area. This is an expensive resource and more recently, following training and guidance from ICU, the Crown has used internal Advocate Deputes to conduct such appeals. Appeals in this area are relatively few. There were 20 lodged in 2011, 14 in 2012 and two up to May in 2013. ICU in discussion with the Appeal Court has arranged for appeals on similar points of law to be heard together to improve waiting times. ICU also prepares any appeals that are conducted in the Supreme Court sitting in London.

Role of ICU

46. The work of the unit is currently split between extradition and MLA. Given the predominance of these workstreams, it is helpful to

have a clear understanding of the purpose and role of ICU in both areas.

Extradition Out (EO)

47. This is a request made by Scotland to foreign jurisdictions to extradite a person suspected or convicted of a crime in Scotland. In pursuing extradition, Scotland is giving an international undertaking that if the person is extradited to Scotland they will face prosecution on the charges for which they are extradited or, if already convicted, they will be sentenced. Most extradition occurs within the EU and follows a streamlined and accelerated procedure. The instrument for seeking the surrender of persons in the EU is the European Arrest Warrant (EAW). In order for an EAW to be granted, the offence committed must be an extradition offence as defined in the Extradition Act 2003.⁵

48. If the suspect resides outwith the EU, the procedure will depend on whether the country has a treaty with the UK, such as the United States of America and Australia. For those countries where there is no treaty or agreement, each request is dealt with on a case-by-case basis and the process is more complex and uncertain. Often the critical factor is establishing a point of contact and obtaining detailed information on the legal

requirements pertinent to the particular country. ICU will often send applications or requests in draft form to allow practitioners in other jurisdictions to provide advice on whether it is sufficient for them to grant a warrant. This is an excellent practice, ensuring that work is processed more efficiently.

49. An extradition offence is one where the facts that constitute the criminal conduct alleged to be committed, would constitute a crime in the executing state. In practice, in Scotland, it is usually only sought in serious cases that would be prosecuted on indictment.

50. A Scottish domestic warrant must be in existence before any warrant seeking extradition can be sought. All requests for EAWs or international warrants seeking extradition are channelled through ICU and are authorised by the Lord Advocate. ICU is responsible for drafting warrants or applications and all such warrants and applications are heard at Edinburgh Sheriff Court. Once granted, the EAW is sent to the foreign authority for action via SOCA or Interpol. Formal requests to countries with treaties are sent via the Scottish Government.

51. There are a number of documents and other pre-requisites that must be obtained by prosecutors in the Federations prior to an EAW

⁵ S148 of the Extradition Act 2003. See also Annex A.

or a request for extradition being sought by ICU including certified copy fingerprints, a certified copy of the domestic warrant and a certified copy photograph of the suspect.

Extradition In (EI)

52. Incoming requests for the extradition of persons in Scotland to other countries are usually routed to ICU through SOCA or the Scottish Government. ICU will consider the legality of the requests, and if content, will certify the request and issue it to the police for arrest. This contrasts favourably with the system in England and Wales where currently SOCA certifies and issues all applications and EAWs and there is no legal input until after the arrest. SOCA has no discretion in certifying such warrants and this can result in persons being arrested on matters that do not constitute a crime in Scotland. For example, failure to pay child maintenance is a criminal offence in some countries but not in the UK. If a warrant request for failure to pay child maintenance was received in Scotland, ICU would not certify or issue the warrant but would contact the foreign authority and provide advice on how to attempt to recover the debt whereas in England and Wales such a warrant would be certified by SOCA and issued, with the first opportunity for the EAW to be considered legally being when the prosecution lawyer appears in court with

invariably the request then being dismissed. Early consideration by ICU helps to ensure that applications and warrants submitted satisfy all legal requirements and that all relevant information is available.

53. Persons arrested on an EAW must appear in court as soon as practicable and the fugitive must be returned to the issuing country within 10 days of voluntary surrender or a court ordered surrender. On arrest, ICU will liaise with the requesting state and conduct extradition hearings in Edinburgh Sheriff Court. The person may consent to extradition but, if not, an extradition hearing must be scheduled within 21 days of the arrest. Written consent may be given at any time. It is open to the court to place the fugitive on bail or detain them in custody. Any time spent in custody counts towards any custodial sentence for which the extradition is being sought.⁶

Incoming Requests for Mutual Legal Assistance

54. Incoming requests for assistance from abroad are varied. They can come directly from the foreign authority, the Scottish Government, or from UKCA. All are processed by ICU. Some requests will be passed to the police to action, such as service of an official

⁶ See Annex B – Process Map for Incoming European Extraditions

document, or a request to take a statement from a witness. Others may have to be heard in court and these tend to be dealt with by an ICRD. Such requests include obtaining search warrants or seeking precognitions on oath or arranging for witnesses to give evidence in foreign proceedings by a live-link from Scotland. On occasion some foreign authorities may request a precognition on oath for a prospective accused.

Outgoing Requests for Mutual Legal Assistance

55. Evidence is obtained from abroad by the formal process of sending ILoRs. The Crime (International Co-operation) Act 2003⁷ allows the Lord Advocate or a procurator fiscal to request such assistance during the investigation or prosecution of a criminal case.
56. In practice letters of request are only sent in serious cases. Requests for assistance will be issued by ICU, which is responsible for verifying that outgoing requests are complete and in the proper form. As all information is obtained for the purpose of presenting it as evidence in criminal proceedings in Scotland, ICU will ensure that any request fully sets out the Scottish requirements for the provision of evidence in a form that renders it admissible before a Scottish court and

without the need to call additional witnesses in the trial.

57. Letters of request sent from Scotland seeking the assistance of criminal authorities in another country will normally be signed by an Advocate Depute or a procurator fiscal, but it may also be issued by a court, for example, on the application of an accused person or in a request for evidence by live-link from a witness outside the UK.

Purpose of ICU

58. There is no overarching document setting out the core aims of ICU. This shortcoming is remedied to a large extent by the extensive guidance on the Knowledge Bank. It contains clear and helpful information, providing contact details to whom particular issues should be directed for guidance and support. However, to provide more certainty on the respective responsibilities between those in ICU and local prosecutors, a clear and published remit would be of benefit.

Recommendation 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.

59. Within the existing guidance the first port of call for those

⁷ S7(6) of the Crime (International Co-operation) Act 2003

seeking assistance on international matters are local International Co-operation Resource Deputes (ICRDs).

International Co-operation Resource Deputes (ICRDs)

60. Due to the specialised and reputational nature of international work, it was decided that legal members of staff with some specialist training should undertake this type of work in the wider COPFS.
61. As a result, ICRDs were annexed to ICU in 2009. The intention was that ICRDs would be a legal resource based in local offices across COPFS who, after receiving training, would assist ICU by dealing with various international matters. The role of ICRDs was seen as providing a communication channel between the local offices and ICU, a resource to deal with the practical work in local courts and to engender good relations with the local International Liaison Officers (ILOs) within the police.
62. The mainstay of ICRDs' work has been dealing with incoming MLAs - that is requests by other countries for assistance. This often involves obtaining precognitions on oath from witnesses, or by organising the practicalities for evidence to be given to a foreign court by a live link.
63. Some ICRDs are also involved in seeking and
- drafting outgoing MLA requests. The reasoning for ICRDs' involvement with outgoing MLA requests is that they have access to and knowledge of the local case and can give advice to the local procurator fiscal on what steps can be taken to obtain international assistance and the available options.
64. ICRDs are not involved in incoming extradition cases, which are dealt with exclusively by ICU although some ICRDs are involved in the initial stages of seeking EAWs or advising local prosecutors on the process of obtaining such warrants.
65. As a rule, ICRDs enjoy international work. It provides an opportunity to develop different and new skills. The relationship between ICU and the ICRDs has generally worked well, although there are a number of areas that have been highlighted by ICRDs where there is scope for improvement.
66. One such area is the lack of access by ICRDs to electronic styles. The styles used by ICU are contained in "ICU Live" – an electronic system used exclusively by ICU. More experienced ICRDs have built up their own portfolio of styles but this runs the risk of the styles being inconsistent with those used by ICU and being out of date. Given the high-profile nature of most ICU cases, it is essential that the drafting of such requests is efficient and accurate, to

- ensure success and retain credibility.
67. Providing an accessible bank of approved ICU styles would be more productive and provide reassurance on the quality of the content of requests and applications.
68. The lack of a clear remit has created uncertainty for many ICRDs on their role in comparison with those in ICU. One of the functions identified for ICRDs was to draft outgoing MLAs but in practice the standard is variable depending on the level of experience of the ICRD and the prevalence of competing demands.
69. A frequent concern raised is that no specific time is allocated to ICRDs to undertake ICU work and many have highlighted difficulties in completing international work timeously due to competing demands. This has resulted in ICU becoming more involved in undertaking some work that would have previously been dealt with by the ICRDs, such as drafting warrants and requests for assistance. ICU has no influence on how work is allocated within each Federation and there is no system of monitoring such work once allocated to ICRDs. While there is a record of outstanding work recorded on ICU Live with a date allocated for the case or request to be reviewed, there is no record of outstanding work that is sitting with ICRDs or within the Federations.
70. The lack of monitoring is illustrated by delays that have arisen in some cases. In one case a request for a precognition on oath was allocated to an ICRD some five months after it was received in ICU and it then took approximately 14 months before the case was actioned by the ICRD, resulting in the sheriff who ultimately dealt with the case expressing concern at the delay.
71. In another case a request was made to take precognitions on oath from three persons. The ICRD was first asked to have an ILO check the addresses in February 2012. Following the addresses being passed to ICU on 27 February 2012, they instructed the ICRD to conduct the precognitions on oath but it was not until 18 October 2012 that the precognitions were actually taken.
72. There are some cases, however, where the work has been dealt with extremely expeditiously. Overall, performance is variable.
73. More recently the appointment of ICRDs has been sporadic and their expertise is mixed due mainly to a lack of training. When the ICRD role was initially rolled out many of the ICRDs were seconded to ICU for a period of a week with ICU prosecutors taking over their daily duties in offices. This was favourably received by the ICRDs and was effective in developing expertise and fostering

relations with ICU. It also provided ICU prosecutors with an opportunity to refresh their prosecution and court skills. This was supplemented with “ICU roadshows”. However, training has tailed off over the last two years with new recruits to ICRD posts having received little training.

74. The role of ICRDs initially worked well but more recently there are wide variations in the work undertaken by ICRDs, their level of experience, inconsistencies in the quality of their work and on how they are utilised in the new Federation structure.

75. The guidance on the work to be dealt with by ICRDs on the Knowledge Bank pre-dates the re-structuring of COPFS into a new Federation structure in April 2012, which has markedly changed the work profile of prosecutors and the structure of COPFS. There is a distinct lack of clarity on the role of ICRDs in the new structure. Following the introduction of Federations, each Federation has moved to functional working in “hubs” with some offices dealing solely with a particular work stream, such as initial decision-making or Sheriff and Jury business.

76. ICU has expressed difficulty in clarifying who it should contact in the new structure as the information on the Knowledge Bank is out of date. Lists provided by the Federations show significant changes in the body of

available ICRDs to undertake international work with many of the previous ICRDs no longer available and having been replaced by others with no previous experience.

77. Each of the Federations has adopted a different approach to dealing with international work. In the West, where the majority of such work arises, there are four ICRDs based in Glasgow. Three of the ICRDs are located in one of the three main functions – High Court, Sheriff and Jury and Summary business – and the fourth is situated in a unit dealing with financial crimes. International work is allocated according to the forum with which it is most closely linked. However, the system does not take account of any other external considerations which may cause bottlenecks and three out of the four ICRDs in the West are newly appointed and have had no training. ICU work is allocated by a single contact point, which gives more certainty than the previous system of copying requests to all ICRDs in the office to decide amongst themselves who should take on each piece of work, but the single point of contact has no management or monitoring responsibilities for the completion of the work.

78. In the North Federation there are also four ICRDs with two ICRDs in Dundee and two in Aberdeen, although they have significantly less workload than in the West. ICU sends requests for assistance to all

- ICRDs in the Federation leaving the ICRDs to decide who will take ownership. Work is dealt with mainly on a geographical basis.
79. In the East, a different approach has been adopted with all international work being filtered through a senior legal manager. There are no longer ICRDs in the East. The manager allocates international work with guidance to local prosecutors. It is of note that ICU undertakes a proportionally higher amount of international work in the East due to the fact that it is situated in Edinburgh.
80. Having a single legal manager as a point of contact for each Federation to allocate work is the approach favoured by ICU. It is seen as providing a more managed approach to delegating and monitoring the work. The introduction of a generic email box accessible to all ICRDs has been identified as good practice, providing easy access to requests.
81. One of the main benefits in introducing ICRDs was to establish a network of knowledgeable prosecutors in local offices who would liaise with their police counterparts (ILOs). However, as a result of the restructuring of Scottish policing in April 2013, there are no longer ILOs within individual divisions. Instead, there is a national International Assistance Unit (IAU) that has established a direct link with ICU rather than at a local level. This has removed the need for ICRDs to instruct local police inquiries as ICU now simply directs all inquiries through the IAU. Consequentially, it has removed any meaningful contact or relationship between ICRDs and ILOs.
82. Given the restructuring in COPFS and the police, it is questionable whether the ICRD is still an effective or necessary resource. Many of the functions undertaken by ICRDs, such as court appearances to seek warrants and to take precognitions on oath, providing that there are clear instructions from ICU, do not require any specialist skills and can be undertaken by prosecutors within the Federations.
83. Further, the lack of management and monitoring of the work of the ICRDs introduces a risk that a referral to an ICRD may introduce unnecessary delays.
84. Even with input from ICRDs, it is not uncommon for advice to be sought from ICU.
85. For the reasons specified, the ICRDs are no longer fulfilling the role that was envisaged and it is debatable whether this model fits with the new Federation structure.
86. An alternative model within the new Federation structure may be to provide a single legal point of contact in each Federation to act as

gatekeeper for ICU requests and to allocate the work according to functional responsibility. ICU would be required to provide detailed instructions for each request, including styles, to enable any legal member of staff in a Federation to deal with the request.

87. If, however, the preference is to retain ICRDs, we have identified a number of areas of good practice that should be implemented.

Good Practice
A clear remit specifying the type of work to be undertaken by ICRDs is agreed, prepared and publicised.
Clear timescales for completion of ICU work should be agreed.
Time should be specifically allocated to ICRDs to undertake ICU work.
A new training programme is rolled out and regular liaison events are held between ICU and ICRDs.
ICRDs are either given access to "ICU Live" in order to access styles, or ICU styles are placed on the Knowledge Bank for all to access.
An up-to-date list of ICRDs is published and maintained.
ICRDs are spread among the

main functions within each Federation to facilitate carrying out work connected to their function.
There is a single point of contact for ICU and ICRDs within each Federation to allocate the work, to ensure an appropriate and even distribution of work. The work should be managed and monitored by ICU and the Federations with a monthly return from ICU detailing outstanding work being sent to the point of contact in the Federations.
ICU introduces an effective review system for work sent to ICRDs.
Communal email boxes should be established within each Federation to allow more accessibility and flexibility in dealing with requests.

Recommendation 4
If the role of ICRDs is retained, it is suggested that the good practice points identified in part 3 are implemented.

PART 4: INTERNATIONAL LIAISON AND RELATIONSHIPS

88. As mentioned, securing high regard and credibility among the international community is critical when seeking mutual assistance from other jurisdictions.
89. Effective working relationships with other agencies and organisations are therefore essential to securing assistance and successful outcomes.

Eurojust

90. Eurojust is a means of facilitating the co-ordination of international work between the UK and the rest of Europe. It is based in The Hague with the UK desk dealing with the Scottish, Northern Irish and English legal systems. There is a national member and a deputy posted from the UK. It is currently dealing with approximately 350 cases although, as at September 2013, there were only 14 cases relating to Scottish proceedings. ICU has a trainee based at The Hague. The national member works with ICU when dealing with any complex or high profile work on behalf of Scotland. Members of ICU attend on a regular basis at Eurojust to monitor the work and to ensure a presence. Much of their time is spent on forging new relationships, nurturing old ones and remaining visible as a country which co-operates, thus ensuring best co-operation from foreign authorities.
91. Eurojust rules dictate that when a request is sent to more than one country a case is opened in Eurojust so that face-to-face meetings with interpreters can take place between all the countries involved, their prosecutors and police officers. This ensures all parties are fully aware of the circumstances and work together to tackle international crime. We noted that in a case involving incoming and outgoing MLAs, a misunderstanding was resolved during such face-to-face discussions and as a result full co-operation ensued.
92. Eurojust is an excellent forum for negotiation and mediation. The real value is in having an easy means of communication with other European countries that are part of Eurojust. Feedback from International Liaison Magistrates and from Eurojust officials on ICU was very positive, with Scotland being highly regarded in international circles.
93. The Council of the European Union carry out regular evaluations on member states. These are conducted by independent inspectors chosen by Eurojust. Scotland is evaluated with England and Wales and Northern Ireland as part of the UK. The most recent evaluation took place in May 2013.⁸

⁸ The report on the findings of the evaluation has not yet been published

94. The preceding evaluation was in 2007, where the UK was commended on their high standard of drafting requests and warrants. The certification process applied by ICU received favourable comments and the flexibility of the Scottish approach in amending or adding to an EAW to rectify defects was singled out as better practice than in the other parts of the UK.

95. There was a recommendation that persons working in this field should have language training to facilitate direct contact between Judicial Authorities. While we found no evidence of specific language training for those in ICU, we found evidence of direct contact in many of the files we reviewed.

96. The only negative issue mentioned in the evaluation was the lack of availability of statistical information on the time taken to complete certification.

International Liaison Magistrates

97. International Liaison Magistrates (ILMs) are based in a number of countries. The UK has ILMs based in Spain, France, the United Arab Emirates, Pakistan and Italy. Their duty is to assist the UK to obtain the best possible assistance from abroad and to facilitate assistance to foreign countries from the UK. They provide advice on legal processes both in the UK and

abroad, work with authorities in providing practical assistance such as locating a court for a witness to give evidence by a live link and direct requests to the appropriate person or department. On occasion, they will assist in drafting requests and providing updates on outstanding inquiries. The ILMs work closely with ICU. We found evidence of productive joint working. ILMs report that the quality of work coming from ICU is consistently of a high standard and they welcome the more flexible approach taken by ICU than occurs in other jurisdictions. Their only request was that they would welcome being contacted at an earlier stage in proceedings. The assistance provided by the ILMs has undoubtedly enhanced the reputation of Scotland.

Criminal Justice Partners

98. All extradition work in Scotland is heard at Edinburgh Sheriff Court by a designated body of sheriffs who deal with all extradition matters. The volume of business is consistent with approximately between 30 to 50 ongoing cases at any time with the majority deriving from the EU. While most extradition requests are ultimately successful, they do tend to proceed to a full hearing and approximately 10% of cases are continued to allow the Crown to obtain more information or clarification from the foreign authority.

99. Overall, feedback from the judiciary on the input of ICU is extremely positive and they were particularly appreciative of a presentation on extradition that was delivered by a senior manager from ICU at a UK-wide conference on extradition. There was feedback on specific cases including one that had to be withdrawn due to a lack of dual criminality, although the purported crime was rare and the problem was exacerbated by poor translation of a document.

100. Other international matters such as requests for MLA from foreign jurisdictions can be dealt with in any Scottish court. The bulk of such requests relate to taking precognitions on oath, or seeking search warrants.

101. Overall, we found a high level of satisfaction with the ICU team and, in particular, those appearing in court, from the sheriff clerks, defence solicitors and counsel who specialise in this area. There are effective working relationships and ICU regularly assists the defence to obtain information from foreign authorities.

102. Solicitors acting on behalf of accused persons did comment that there could be greater scrutiny of EAWs to identify deficiencies and some were critical of the practice of ICU to decline to give out information about the existence of an EAW. They maintained that such

information would be helpful to allow arrangements to be made for fugitives to hand themselves in. However, there are sound operational reasons for the practice adopted by ICU as there is clearly a risk of such information assisting those who are seeking to avoid apprehension and, in any event, there is always the option of surrendering voluntarily to the police.

Interpreting and Translation

103. Due to the nature of extradition hearings, interpreters are often required. Interpreters are obtained by the police prior to and for the first appearance in court and thereafter it is the responsibility of the court to obtain interpreters for future hearings. Prosecutors will make arrangements for interpreters to be present if, for example, a statement on oath is required from a non-English speaking person in a request for MLA.

104. ICU often requires the services of translators as all documents issued by ICU to other countries must be translated into the appropriate language. In some countries where there is more than one language, care must be taken to ensure that the correct language is identified. This is where local contacts made by ICU through the European Judicial Network (EJN) and other bodies and personal contacts are extremely valuable.

105. Translation has on occasions proven useful in identifying potential errors in outgoing requests including the wrong name of a suspect in part of a document, a reference to the Appeal Court instead of Court of First Instance and the omission of pages.

106. We have found instances where further clarification should have been obtained from the foreign jurisdiction where the meaning was not clear from the original translation. In one particular case, originating from Turkey, where a request was received for a precognition on oath to be taken from an accused, the sheriff refused to authorise the citation of the accused due to the poor translation and a lack of clarity on the questions to be asked and a lack of information on any procedural requirements. The request was returned and re-submitted by the Turkish authorities.

107. Care is required in monitoring translations to avoid such issues and there is scope for ICU to proactively sift out some requests for incoming MLAs and extraditions where the translation is unsatisfactory.

108. It has to be recognised, however, that the nature of international requests sometimes precludes the opportunity to review documentation in detail due to the urgency of a particular situation. One such example

that we reviewed was a case where information was received that a person for whom a warrant was outstanding in England was believed to be coming to Scotland imminently. The priority was to have the warrant certified and executed to safeguard the possibility of apprehension. When the fugitive appeared at court, the terminology of the warrant was found to be unclear and required clarification. ICU successfully resolved the apparent anomaly within days and following a hearing the fugitive was extradited and surrendered to the issuing country approximately six weeks later. We also saw in this case a good example of ICU making direct contact with the judge in the foreign country to obtain information about a new charge on an indictment there (obtained by the fugitive's defence solicitor) which was not referred to in the EAW. This query was resolved quickly due to direct email contact.

Police Scotland Fugitive Unit (FU)

109. To coincide with the establishment of a single Scottish Police Force, a Fugitive Unit was set up in March 2013. It comprises of a small, centralised team that can respond quickly. It has an excellent relationship with ICU. A small but practical change which has enabled closer working is that both the FU and ICU now use the same reference number for

cases and as ICU follows a chronological numbering system, it immediately highlights any inconsistencies in the cases both are dealing with.

110. The FU gathers intelligence about fugitives along with SOCA and Interpol and it is their function to trace and apprehend fugitives and to bring them to Edinburgh Sheriff Court as soon as possible after arrest which is usually on the same day, although occasionally they are kept overnight before their first court appearance. Their role is concluded once the fugitive is brought to court. An area of good practice identified by the FU and where ICU operates better than SOCA is that, as a result of the closer relationship between the FU and ICU, if an EAW exists, in cases of urgency, ICU will agree to the arrest as long as the certified copy of the warrant is with the officers (and fugitive) within 48 hours of arrest.

International Assistance Unit (IAU)

111. In addition to the FU, the IAU has recently been set up by the single Scottish Police Force. Effectively this means there are no longer local ILOs throughout the country as their work is now undertaken by the IAU with occasional assistance from local police officers to serve documents, take statements etc. The IAU liaises closely and directly with ICU. The main function of

the IAU is in surrendering fugitives to the issuing country once extradition has been granted, and to collect fugitives who are being returned to Scotland. They are informed by ICU of all surrenders and have 10 days from the date of the court order or when consent is intimated to arrange the return of fugitives. In exceptional circumstances, an application can be made to the court for an extension. To facilitate the increasing number of extraditions to Poland and to reduce costs involved, arrangements have been made for Polish military flights to land at Edinburgh airport. This can occasionally factor in some delays to tie in with arranged flights.

Serious and Organised Crime Agency (SOCA)

112. SOCA is the certifying authority for EAWs in England and Wales. It is also responsible for placing markers on the Police National Computer (PNC) that such a warrant exists. SOCA gathers intelligence about those who are being sought, both in the UK and abroad. While ICU has contact with SOCA HQ, there are SOCA officers based in Scotland who work more closely with ICU. One officer operates as liaison officer and sits two days per week in ICU. This is of mutual benefit to both organisations.
113. SOCA has an excellent working relationship with ICU.

In one case where the EAW had been issued by SOCA to England, the fugitive was arrested on separate matters in Scotland and SOCA sent the EAW to Scotland for execution. When ICU checked they discovered that the warrant was for non-payment of child maintenance which is not a crime in Scotland or England and thus would not be certified by ICU. The EAW was returned to England where, in accordance with current practice, it would be issued if the fugitive were to be located in their jurisdiction. The warrant would, however, be dismissed as soon as the fugitive appeared in court. This is an example of where ICU has an advantage over the procedures in other parts of the UK. It is our understanding that to avoid unnecessary procedural steps and to reduce delays SOCA and other UK partners intend to introduce a system whereby there is some legal input on issues of proportionality and compliance with their legal requirements on receipt of the EAW before certifying. In addition, they will seek to involve UK lawyers in making direct contact with judicial authorities in the country seeking extradition.

114. One example of an expeditious response by ICU that was highlighted by SOCA related to an EAW destined for England, but at the last minute (29 April 2013) intelligence indicated that the fugitive was heading to

Scotland for a brief stay with a family member. SOCA alerted ICU and he was arrested on 30 May 2013 and returned to Romania on 24 July 2013. The rapid turnaround and the co-operation between the Scottish and English police, SOCA and ICU were commended by SOCA.

115. Another example of co-operation between Scotland and SOCA concerned two brothers. Both brothers became aware that there was a warrant for their arrest and tried to evade justice. The first brother was arrested in Scotland on 29 May 2012 and returned to Poland for charges relating to fraud, drug trafficking and theft on 18 July 2012. The second brother fled south to England but due to effective co-operation between ICU, FU and SOCA was arrested in Cumbria on 6 June 2012 following intelligence provided by FU to the English police. He is currently being dealt with under the English system.

United Kingdom Central Authority (UKCA)

116. UKCA is the part of the Home Office which deals with international legal matters.

117. The Home Office represents the UK on policy matters. It relies on ICU to provide contributions and views on how new proposals are likely to affect Scottish law and whether amendments might

improve what is proposed. ICU prosecutors also attend meetings between UKCA and representatives of foreign judicial authorities to explain how the legal system in Scotland works. These contributions are valued and we received positive feedback on the relationships that ICU have with foreign judicial authorities and their expertise in the field.

118. UKCA also deals with incoming MLA requests which they pass on to ICU, as appropriate, although as the reputation of ICU spreads and an ever-increasing number of international links are forged, more and more requests are coming directly to ICU.

PART 5: IT SYSTEMS AND PROCESSES

119. Cases and requests from abroad come into ICU from a variety of sources but none of the organisations or authorities who submit requests have access to the national COPFS IT systems. As a result, ICU does not use the COPFS national IT systems but has its own bespoke system known as “ICU Live”. Within ICU Live, each case is allocated a reference number. The Fugitives Unit has now adopted the same reference numbering system as ICU, which is extremely helpful.

ICU Live

120. ICU Live is a stand-alone electronic recording system available exclusively to those in the Unit. Cases are identified by a unique number, pre-fixed by the letters EO (Extradition Out), EI (Extradition In), MO (MLA Out) and MI (MLA In).

121. ICU Live is in essence an electronic spreadsheet with each of the four main areas of work and closed cases having a discrete section. Within each section, cases are listed in numerical and chronological order. Accordingly, EO/1/13 is the first outgoing extradition case in 2013. All the information added to ICU Live is added manually. Closed cases are automatically archived, although the archive section is not categorised by the type of case.

122. On opening the spreadsheet, there are individual sections containing all relevant information relating to a case but the format is unwieldy and not user friendly. Much of the information on the spreadsheet could be added to the electronic file that sits behind the spreadsheet with more important information such as the date that the case was last reviewed being more visible.

123. As ICU Live is dependent on manual inputs, it is vulnerable to data being entered erroneously or in some cases data not being entered. We found cases where court hearings had not been updated to indicate what had occurred in court, and there was no note of the date of the next appearance.

124. The main deficiencies in data concern the recording of when an outgoing request for assistance has been issued. In general, the recording of MLAs is inconsistent.

125. Managers recognise the limitations and inadequacies of ICU Live and while there has been a concerted effort to improve the accuracy of data on ICU Live, other forms of recording data have been introduced to mitigate the lack of reliability of the system.

Availability of Data

126. The impact of the deficiencies in the collation of data means that it is difficult to obtain accurate management information and it has resulted in a number of IT reports that are theoretically available in ICU Live not being utilised.
127. For example, information on the number of cases reviewed every month or cases closed is inherently unreliable due to weaknesses in the recording of such data.
128. There are, however, some reports that can be generated with some accuracy. For example, ICU Live can be interrogated to provide data on the number of new cases each month, although it is only accurate if it is examined on the last day of every month.
129. Due to difficulties with ICU Live, since 2011 all information about work in hand, time spent in court, number of arrests, surrenders and consents to extradition at first appearance are recorded manually on a series of spreadsheets. There is also a current spreadsheet that records extradition incoming and outgoing cases that is sent monthly to the police with daily updates sent to FU and IAU. In due course, it is intended that SOCA will become the statutory keeper of data on extradition for the UK so it is essential that information provided is accurate and definitive. This data is updated by an administrative manager and we have used this data in the course of the review. In comparison, there is no such record for MLAs.
130. While there is now up-to-date information on ICU Live on all hearings conducted in a month with it recording 336 court hearings in the first six months of 2013, only a few cases pre-2013 have court hearings recorded in ICU Live. This information for older cases has to be obtained from the spreadsheets held by the Unit.
131. Another set of data that is recorded by ICU is the number of cases where the fugitive consents to extradition at the first hearing. Consent clearly minimises work by ICU. In 2011, 14 persons consented at the first hearing out of 58 arrests (24.1%). In 2012, 16 persons consented at the first hearing out of 97 arrests (16.5%) and 7 have consented at the first hearing in the first five months of 2013 out of 56 arrests (12.5%).
132. We examined the time taken to deal with incoming extraditions. However, yet again there were issues with the data with, for example, one case being recorded twice.

Monitoring of Cases

133. It is not possible to determine how many cases are allocated to ICRDs, or the length of time taken to deal with such requests or to which

office they have been sent. Chasing and monitoring, such as it is, is prompted by a review system.

134. In each case there is a “bring up” date inserted onto ICU Live. A daily list of all cases to be checked is then produced. This does ensure that cases are considered regularly and that reminders are issued to chase up information to progress cases but it does not always take account of the totality of time that the requests are outstanding and we found in some cases that no action was taken to follow up a lack of progress. In one case despite numerous requests being issued, four years elapsed with no effective action taking place.

135. In another case a straightforward request to check the existence of a person was issued in February 2012. The case was given a “bring up” date to be reviewed in April 2012 but this did not occur and it was not until August 2012 that the information was obtained and sent to the requesting authority.

136. In summary, despite ICU retaining a host of monthly statistics from a combination of sources, the data is not reliable and is thus of little value as a management tool for allocating and monitoring work, or collating information or providing replies to Freedom of Information requests.

137. The inaccuracies within the data can result in the information recorded by ICU portraying it in a poorer light than its performance actually merits. For example, from perusing the ICU spreadsheets we found an instance where the time taken to deal with the case was counted from the time that the file was opened rather than when the actual warrant had been received.

Documents in ICU Live

138. Within ICU Live, there is a “drop down” menu of available styles of letters of request, warrants and other documentation. However, the styles are not accessible to anyone other than those working in ICU and they cannot be amended, which is a significant limitation and runs the risk of an obsolete style being used. This results in prosecutors in the Federations creating and saving styles on their own desktop.

139. Further, importing documents into ICU Live is not straightforward and is further complicated if the document being imported originates from a different version of Microsoft Word as this results in the document not being accessible without a specific “workaround”. There were many documents on ICU Live which we were unable to read due to this issue.

140. All correspondence is not routinely recorded on ICU Live and in order to have a complete picture both ICU Live and Outlook have to be examined. Since 2012, shared folders within Outlook have been created for each case and all emails relating to individual cases are saved in the shared folder. Almost all files since 2012 that we reviewed contained multiple emails and letters to and from other judicial authorities and other bodies indicative of good communication with external organisations. The shared folder allows general access to all emails by the ICU team, which is invaluable if others have to work on a case in the absence of the person to whom it was allocated. This frequently occurs when dealing with extradition matters as there is no control over when a person may be arrested.

141. There is also a generic email address within ICU so that incoming mail can be accessed by all, including the liaison SOCA officer who works within the Unit. This enables the SOCA officer to answer an incoming query without waiting for it to be referred to him. He is also able to action police investigation as soon as the case or query is received, thus minimising delays.

Files

142. A full hard copy file exists for all cases containing a complete record of all

documentation and correspondence. However, due to a lack of storage space the papers are presently retained in the Unit, which is unsuitable and does not make for a pleasant working environment.

143. In conclusion, while ICU has endeavoured to make the best use of various sources of data collection within the limits of their system, an upgrade of ICU Live or a bespoke IT system designed to suit the needs of the Unit is necessary to ensure more accurate and reliable recording of data.

Recommendation 5

An improved IT system with mandatory fields to ensure the accuracy and reliability of ICU data should be introduced.

Recommendation 6

In absence of a new IT system, the following measures should be implemented to improve the existing ICU Live system.

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 investigation, the request and all corresponding documentation should be scanned within the original case on the national IT system to provide a full record of the case in one location.

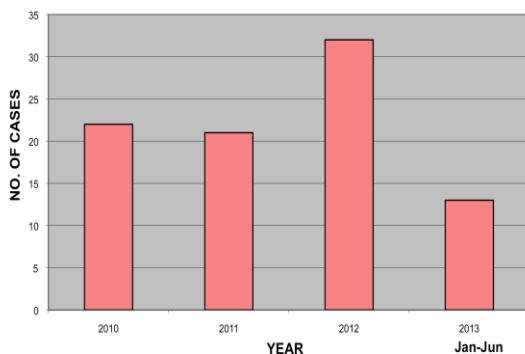
PART 6: CASE REVIEW

144. At the time of the review there were 364 live cases in ICU. We examined 99 concluded cases, including 20 out of 80 incoming extradition requests, 25 out of 49 outgoing requests for extradition, 29 out of 130 outgoing MLAs and 25 out of 105 incoming MLAs equating to 27% of the total existing ICU workload. In addition, we reviewed 8 current extradition cases.

Extradition Out (EO)

145. Scottish extradition warrants are only issued in the most serious cases and only on the instruction of the Lord Advocate. In outgoing extradition, in 2010 there were 22 new cases, in 2011 there were 21, in 2012 there were 32 and in the first six months of 2013 there were 13 new cases.

EO-CASES RECEIVED PER YEAR



146. In general we found no areas of concern in the cases reviewed with EAWs being drafted appropriately and timeously.

147. However, the use of two separate IT systems and a lack of understanding on the part of some prosecutors in the Federations on what is required by ICU to obtain an international or European warrant have caused difficulties.

148. One such difficulty identified is obtaining information and documentation from local offices, including the provision of certified copy fingerprints, photographs of the fugitive and certified copy warrants. This has resulted in delays, including in some instances several years in obtaining an EAW or international warrant where an accused person had failed to attend court or where criminal proceedings have been initiated by COPFS and in some cases has resulted in conflicting actions being taken. Such delays can lead to additional difficulties if, for example, the investigating officer is no longer working with the same investigation team. Although with the introduction of the FU and IAU, it is hoped that this will be less problematic in future.

149. In one case, the original warrant was issued in June 2005 although it was not referred to ICU for consideration until April 2007 due to the whereabouts of the fugitive being unknown and further inquiries being undertaken. The application for extradition to a non-EU country was not made until

November 2008 due to difficulties in obtaining the relevant information from the local prosecution office. The initial application was rejected as it was not in accordance with the foreign country's legal requirements and a second application was submitted in December 2009. This coincided with intelligence that the fugitive was intending to leave the country and the judicial authorities abroad agreed to provisionally arrest him on the understanding that the formal extradition request was made within 60 days.

150. In another case, despite repeated attempts by ICU to obtain information, nine years elapsed between the offence and the domestic warrant eventually being withdrawn.
151. In outgoing extraditions, the original case sits in the national COPFS system. Although, the request for an international warrant or EAW is submitted to ICU by the local prosecutor, the documentation relating to any extradition is retained in ICU Live and there is no flag in the national system to alert staff that an international warrant or EAW has been sought or exists. This causes concern as it raises the possibility of a domestic warrant being withdrawn without informing ICU.
152. An EAW or international warrant is only valid if there is a domestic warrant in existence. Therefore, if the domestic warrant is

withdrawn, the EAW and international warrant are no longer competent. Accordingly, failure to reconcile actions relating to the domestic and international warrant could lead to a person being unlawfully arrested and detained. Such a scenario would be extremely damaging to the reputation of COPFS. We are aware of cases where a lack of understanding has had the potential to expose COPFS to such risk.

153. In one case the domestic warrant granted by the High Court for an assault and robbery was sent to police in early 2003. The whereabouts of the accused at that time was unknown. In November 2008, it became known that the accused was in Ireland. Following a request from ICU to obtain a certified copy of the domestic warrant the local prosecutor erroneously requested the police to return the original domestic warrant. The police were advised that the warrant was "not to be treated as executed". In other words, the warrant was to remain active. However, complying with the request had the effect of withdrawing the warrant from the Police National Computer and thus removing the marker indicating that the accused was to be arrested.
154. In May 2009, the accused was detained in Ireland for offences committed in Ireland and in August 2009, an EAW was obtained and issued to Ireland for his arrest. Due to

- the accused serving a sentence in Ireland and, in accordance with international protocol that domestic matters require to be concluded before other international matters, no action was taken at that time. As a result it was not until December 2010 that the accused was arrested on the EAW. There then followed numerous hearings in Ireland and following the accused failing to attend at one such hearing in October 2011, a warrant was issued for him by the Irish authorities. He was arrested in Ireland in May 2012 on an unconnected Irish matter and remanded.
155. In September 2012, it came to the attention of ICU that the domestic warrant was not active on the PNC and ICU contacted the local prosecutor to inquire as to whether the EAW was still required or whether it should be withdrawn. Following discussion with the local prosecutor, ICU withdrew the EAW, although from the case papers it does not appear that Crown Counsel's instructions were obtained.
156. A similar scenario occurred in another case. The suspect in that case was one of a number of accused charged with drug offences but before proceedings could commence in Scotland, he was arrested in England in connection with an EAW issued by another European country and was subsequently extradited to that country. He was also sought by the English police on unconnected drug-related matters.
157. A domestic warrant was granted at the High Court in Scotland in March 2011 following Crown Counsel's instructions to prosecute the accused and in November 2011, it was decided to pursue an EAW. In addition to certified copy minutes, ICU erroneously requested the original domestic warrant from the local prosecutor. The EAW was obtained but on 14 February 2012 the local prosecutor advised the police that the domestic warrant should be withdrawn and requested that it was returned. The domestic warrant was therefore withdrawn on the PNC and the warrant was then sent as requested to ICU. Due to other non-related extradition proceedings no action could be taken on the Scottish EAW. In September 2012, the police via an international conduit informed the foreign authorities that the domestic warrant had been withdrawn.
158. On 9 November 2012 SOCA and the police advised ICU that the Scottish domestic warrant had been withdrawn from the PNC. Following investigation, ICU ascertained that they were in possession of the original warrant and it was re-issued to police and a new EAW was sought and obtained. The case remains active as the accused is still being dealt with on other unrelated matters in another EU country.

159. While the erroneous withdrawing of the warrant was not fatal in either case to the extradition proceedings, they demonstrate confusion on the part of some prosecutors on international requirements and in particular that the original domestic warrant in the possession of the police should not be returned unless a decision has been taken to discontinue the case.

160. They also identify the need for ICU and the functional leads in the Federations to have greater dialogue regarding cases with international warrants and EAWs. The lack of access to ICU Live and the absence of any flag on the national system creates a knowledge vacuum in the Federations of the cases that have such warrants. This could and has resulted in a domestic warrant being withdrawn without alerting ICU and it may result in any reviews of such cases not being fully informed. The absence of safeguards to ensure that any decision to withdraw the domestic warrant must be intimated to ICU and SOCA, who administer all international warrants, requires to be addressed.

Recommendations 7, 8, 9 and 10

A comprehensive checklist of the procedures and requirements for local prosecutors seeking to obtain an international warrant or EAW through ICU is prepared and publicised by ICU. ICU should issue standard instructions in every such

case to the Federation seeking the warrant.

A complete list of all cases in each Federation with an EAW or international warrant is collated by ICU and circulated to each Federation.

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.

A process is 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.

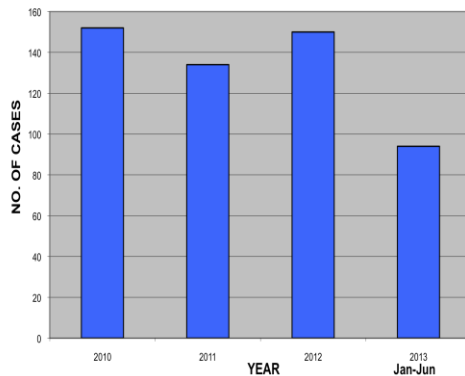
Good Practice

All such cases where there is an EAW or an international warrant should be reviewed on a regular basis within the Federations.

Extradition In (EI)

161. From the data relating to incoming extradition work, in 2010, there were 152 new cases, in 2011 there were 134 new cases, in 2012 there were 150 new cases and in the first six months of 2013 there were 94 new cases.

EI- CASES RECEIVED PER YEAR



162. Incoming requests for extradition are submitted from jurisdictions all over the world with every country having different criteria for seeking international warrants. European law provides that extradition can only be ordered when the offence is a framework offence⁹ or has dual criminality. We found that in every case we reviewed, certification was obtained timeously with any delay arising due to poorly drafted warrants being sent to ICU.

163. In one case in which Lithuania contacted Scotland about a potential warrant, ICU assisted the Lithuanian authority to draft the EAW. The EAW arrived on 21 January 2011 and was certified and issued to the police the same day with the fugitive being arrested four days later.

164. ICU valiantly seeks to assist foreign authorities to rectify any errors and to filter out cases which do not meet the criteria.

165. There were a number of cases we reviewed where ICU declined to certify as the facts did not amount to a criminal case.

166. In other cases we found that some countries issue warrants for more minor offences than others. While ICU has no option but to certify these requests, we found that following arrest, presiding sheriffs, having regard to proportionality, dismissed many cases where the offences were several years old and of a minor nature such as possession of a minimal quantity of drugs, or a breach of the peace.

167. In one case which began as an incoming MLA for a statement to be obtained from a suspect, due to his failure to co-operate, the issuing authority then sought arrest on an EAW. The offence was described as fraud but was more in the nature of a civil rather than criminal matter. ICU, along with police, tried for months to resolve the situation but in the end the EAW was executed, as no option remained. The sheriff seemed to share similar doubts as to whether the facts constituted a crime. ICU eventually prevailed upon the issuing state to withdraw the warrant in exchange for payment of the bill, achieving a satisfactory outcome in the circumstances.

168. There were a number of cases reviewed where after several court appearances the

⁹ See Annex A

EAW was dismissed due to passage of time. It is not an option for ICU to make a judgement on delays arising from other jurisdictions and to refuse to certify but the files demonstrated that ICU makes efforts to identify such cases where this is likely to be an issue and seeks chronologies from the issuing countries well in advance of the warrant being executed which, undoubtedly, assists in expediting hearings.

169. There are no time limits for certification of incoming requests for extradition. We examined the time between receipt of requests for incoming EAWs and the date of issue to the police following certification. As noted in the 2007 Eurojust evaluation, this was problematic with the data provided by ICU initially appearing to be unimpressive in respect of the average time involved, but on closer examination we found that the statistics were considerably skewed by a few cases where the delay was not caused by ICU.

170. Having reviewed these cases, we are confident that ICU is dealing with extradition efficiently and indeed better than its own data suggests. Taking such cases out of the equation, we found that the processes for dealing with incoming extradition cases to be effective, clear and straightforward with certification being dealt with quickly and following arrest

fugitives being brought to court expeditiously.

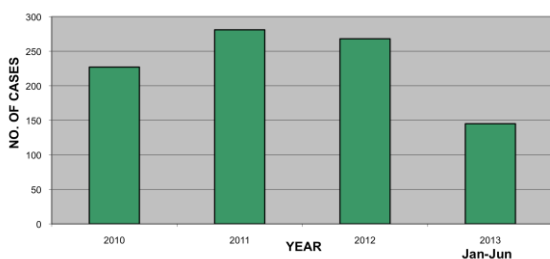
171. Of the eight court hearings we attended, in only one of those cases was extradition ordered and the fugitive surrendered to the issuing country. Extradition was granted in another case but this decision is the subject of an appeal. Two cases are still ongoing and four cases were discharged with extradition being refused.

172. It has recently been agreed with SOCA that if a fugitive is not arrested within three months and the police are unable to trace the person in Scotland, the ICU file would be closed although the warrant would remain outstanding with SOCA who would discuss how to progress the case with the issuing state. This policy should lead to a downturn in outstanding incoming extradition files held by ICU.

Incoming MLAs

173. The figures which ICU Live records for incoming MLAs show a slight increase in recent years in the amount of requests being submitted. As mentioned, the unavailability of reliable data is a major drawback in assessing the effectiveness of ICU in dealing with such work and a lack of an overview of outstanding requests can lead to delays.

MI-CASES RECEIVED PER YEAR



174. We reviewed the age profile of live MLA incoming cases. While the number of historical cases is not high, there are 11 cases which are more than two years old that clearly need to be prioritised.

175. Requests for precognitions on oath constitute a major part of incoming MLAs. These are often sought from persons who have witnessed a crime abroad, although some foreign authorities will seek a precognition on oath for a prospective accused. It is important that the rights of a person suspected of committing an offence abroad are understood by the person conducting the precognition and by the court as precognition of accused persons is not a competent procedure in Scots law. Information on such requirements should be included in the request issued by ICU. In one case where such a request was submitted to ICU in April 2011, the hearing had to be adjourned to obtain basic information about the rights of the accused being questioned. Overall, it took 29 months to deal with the request.

176. When a request for evidence to be heard via live-link to a court abroad is submitted ICU drafts a document known as Lord Advocate's Nomination. As a rule it is invariably left for the local prosecutor or ICRD to draft the application to the Scottish Court. As the information to support the application is invariably the same as contained within the Nomination, it would save time and effort if the application to the court was drafted by ICU simultaneously as the nomination, leaving the dates blank for completion locally in due course.

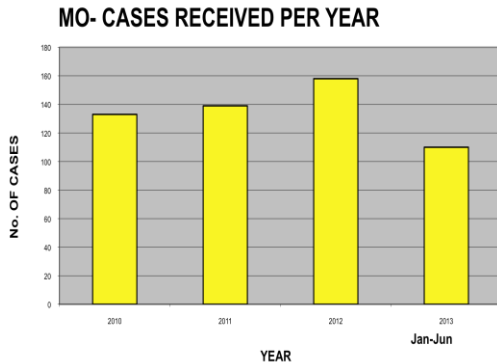
177. We found that many of more recent incoming MLAs have been dealt with solely by ICU, including issuing instructions to the ILO or police. These have generally been dealt with efficiently and timeously. Further, in cases progressed by ICU, we found that it often went beyond the terms of the request by providing additional assistance. For example, in one case it provided advice to complainers to enable them to attempt to recover money which had been obtained from them by fraud.

Outgoing MLAs

178. Outgoing MLA requests are used to obtain evidence to assist the prosecution of Scottish cases and are reliant on co-operation from other judicial authorities.

179. Requests for outgoing MLAs have been increasing. In

2010, there were 133 new cases, in 2011 there were 139, in 2012 there were 158 and in the first six months of 2013 there were 110 new cases.



180. Once the request is made, ICU has no control over timescales for receipt of the information. As in every aspect of international work, it is easier and usually quicker to deal with EU countries. Dealing with countries without treaties can be very time consuming. In one such case which began in 2007, the information required was not obtained until 2011. Although clearly if evidence is to be obtained for use in a current trial, for example, where live-link evidence is to be given or a witness is to come from abroad for a trial, there is a clear deadline and ICU has had a number of successes in obtaining the relevant evidence.

181. In general requests come from police at the investigation stage of a case, or from one of the Federations once a case has begun the prosecution process.

182. We found examples of prosecutors in the Federations not being aware of what information is required to support a request for MLA. Many requests made to ICU are directed to the United States of America seeking information from various website providers based in the United States. American prosecutors are inundated with such requests from all over the world and will consequentially only deal with requests that relate to serious offending. In Scotland, this equates to solemn cases.

183. In one case where a request for information from the United States of this nature was made by a local office, it was subsequently ascertained, after several months, that only a summary prosecution was envisaged and thus the request was inappropriate. This emphasises the importance of providing detailed information to ICU and in particular information on the proposed forum.

184. We also found evidence of successful attempts to establish and maintain good relations with foreign countries. This has led to quick responses to requests, and good results being achieved.

185. One such example of efficient working was a request for a witness statement that was sent to ICU in January 2012 for a non-EU country (Canada). ICU checked the treaty,

reviewed the draft and forwarded the request to UKCA as the central UK authority in February 2012. They, in turn, forwarded it to the appropriate country in February 2012. The interview took place on 4 June 2012.

186. We also found examples of MLAs adapting and extending the law for practical reasons. Some witnesses who give evidence by live-link refer to productions in the course of their evidence. In such cases, ICU has arranged to have two screens in use, one for the witness and one for documents.

187. In another case witnesses declined to return to Scotland to give evidence, which meant they were unable to identify the accused in court. ICU proposed resolving the issue of identification by use of live-link in reverse, with the witness identifying the accused from the screen abroad, although it was not ultimately required.

Performance Indicators

188. There are no internal or external performance key indicators for the processing of work in ICU. While it is acknowledged that there are various areas over which ICU does not have any control such as when an accused person is arrested or when a foreign country provides information, there are areas where it is suggested performance can and should be measured. For example,

performance indicators relating to timescales for responding to requests for assistance from foreign jurisdictions and in dealing with extraditions abroad could be introduced and measured.

189. However, in order to ascertain whether such targets are met, it is essential that improved recording systems are implemented.

190. Further, the recording of better management information in areas of receiving mutual assistance and achieving extraditions from abroad would allow ICU to identify areas where it is achieving success and where there is room for improvement.

Recommendation 11

Key performance indicators should be introduced as part of a performance framework for the main areas of ICU work.

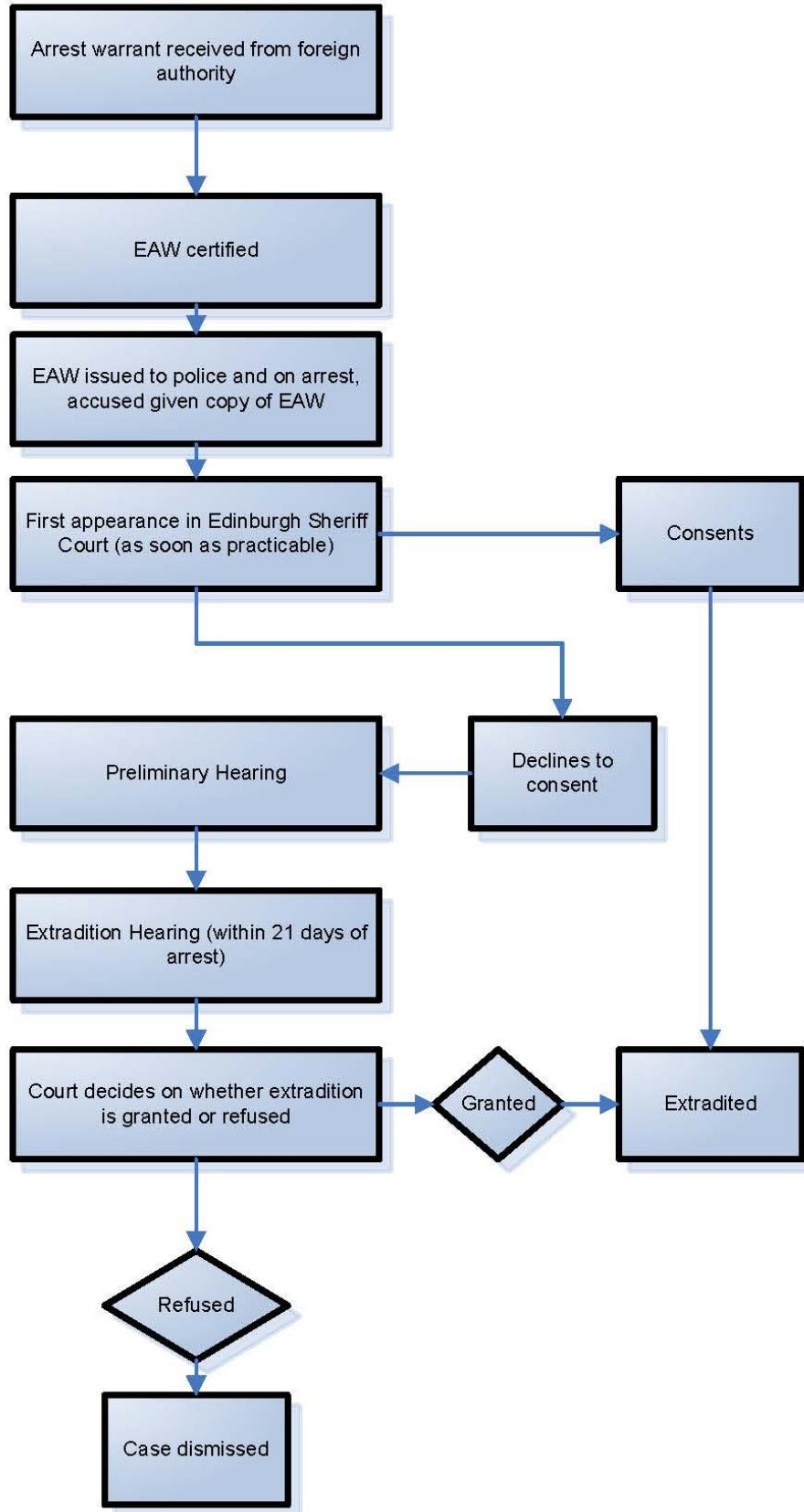
PART 7: ANNEXES

A Framework Offences

Framework Offences apply to all EU countries. The list of offences is specified in Section 148 of the Extradition Act 2003 and is set out below. Any offence listed that attracts a penalty of three years or more, is extraditable. If the offence is not listed, it must constitute a criminal offence in Scotland and the reciprocal country and carry a punishment of at least 12 months' imprisonment. If extradition is sought for a person to serve an outstanding sentence, the period of imprisonment imposed, or capable of being imposed must be four months or more.

- 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/ships
- Sabotage

B Extradition Process for Incoming European Arrest Warrants



C Glossary

Academy of European Law (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.

Advocates Depute

Advocates Depute are experienced prosecutors appointed by the Lord Advocate. Advocates Depute prosecute all cases in the High Court and present appeals in the Appeal Court.

Band G Legal Manager

Senior legal manager.

Bring-Up (B/U)

Term applied to an administrative process of ensuring case files are followed up for review on a specific date.

Commonwealth Law Ministers Meeting

A tri-ennial international conference for Law Officers from across the Commonwealth.

Commonwealth Network of Contact Persons (CNCP)

A network to facilitate international co-operation in criminal cases between Commonwealth Member countries.

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, each led by a Procurator Fiscal. All operational work is managed within the East, West and North Federations. The fourth federation is the National Federation, led by the Director of Serious Casework Group. It includes a number of specialist units including ICU and all corporate functions. Within the operational Federations, work is split into four specialist areas: decision-making on what action to take on receipt of reports from the police and other agencies, prosecution in the summary courts, prosecution in the Sheriff Court by a jury, and the investigation of cases that will be prosecuted in the High Court.

COPFS Knowledge Bank

An information database containing legal and non-legal guidance.

Council of the European Union

An EU institution where the Member States' government representatives meet to adopt laws and co-ordinate policies. Its functions include concluding international agreements and developing common foreign and security policy.

Crown Counsel

The Law Officers and Advocates Deputes.

Custody

When a person is kept in prison or a police cell.

Depute

A legally qualified prosecutor.

Director of Serious Casework Group (DSCG)

Senior Civil Servant in charge of COPFS Serious Casework Group which incorporates a number of specialist operational units including ICU, the High Court Unit, Serious and Organised Crime Division and the Scottish Fatalities Investigation Unit.

Domestic Warrant

A document from the court enabling the police to arrest a person within 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 within 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.

Europol

The EU's law enforcement agency. It operates as a major centre of expertise in key fields of law enforcement activity and as a centre for strategic intelligence on organised crime.

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.

Extradition Act 2003

The Act makes provision for a system where each of the UK's extradition partners is in one of two categories: Part 1 territories (EU states, Norway and Iceland) or Part 2 territories (all other states). Extradition from a Part 1 territory is sought by issuing a European Arrest Warrant (EAW). Extradition from a Part 2 territory involves making a request in accordance with Treaty or Convention arrangements.

Extradition offence

An extradition offence is where the alleged criminal conduct would constitute a crime in the executing State. (Dual criminality). In Scotland, such an offence must carry a penalty of at least 12 months' imprisonment. If the offence falls within the EU Framework and has a penalty of at

least three years' imprisonment then dual criminality does not need to be established.

Forum

Level of court proceedings with more serious offences being heard by a jury and less serious offences heard by a single judge.

Heads of Prosecuting Agencies Conference (HOPAC)

A bi-annual conference bringing together the heads of prosecution agencies to discuss current issues and the challenges faced by modern prosecution services in both an international and domestic context.

Hearing

Any part of criminal proceedings that takes place in a court.

Ibero-American Network for International Legal Co-operation (IberRed)

A network of contact points from Justice Ministries, Central Authorities, Prosecution Departments and General councils of the 22 Ibero-American countries. Its purpose is to enhance civil and criminal judicial co-operation.

ICU Live

Electronic system used in ICU to record the Unit's cases and case information.

Indictment

A court document that sets out the charges the accused faces in solemn proceedings.

International Assistance Unit (IAU)

Part of the National Intelligence Bureau of Police Scotland and is

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 Association of Prosecutors (IAP)

A non-governmental and non-political organisation of prosecutors committed to promoting and maintaining ethical good practice by prosecutors internationally. It advocates and supports international co-operation between prosecutors and efficiency in mutual assistance, asset tracking and other international co-operative measures.

International Co-operation Resource Depute (ICRD)

Legally qualified prosecutors who are the initial point of contact for outgoing requests from the Federations relating to Mutual Legal Assistance or extradition and who, with the assistance of ICU, provide guidance on international matters locally.

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 Letters of Request (ILoR)

The formal process of requesting and obtaining evidence from another country.

International Liaison Magistrates (ILMs)

Magistrates appointed by each Member State of the EU. They are experienced prosecutors whose

function is to facilitate extradition and Mutual Legal Assistance between countries by forming direct links with judicial authorities in the host country.

International Society for the Reform of Criminal Law (ISRCL) – Interpol

Interpol is the world's largest international police organisation. It facilitates international police co-operation and assists organisations and authorities engaged in the prevention or combat of international crime and terrorism.

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. An organisation can use KPIs to monitor how well it is performing in relation to specific aspects or activities of its work and whether it is meeting its goals and objectives.

Law Officers

The Lord Advocate and the Solicitor General for Scotland.

Live-link

Provision for a witness residing out of the UK to give evidence via a live television link in criminal proceedings in the High Court or Sheriff Court in the UK.

Lord Advocate

The Ministerial Head of COPFS. He is the senior of the two Law

Officers, the other being the Solicitor General for Scotland.

Microsoft Word

A popular word processor developed by Microsoft.

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.

National Casework Division (NCD)

Former Unit of COPFS which dealt with reported cases involving serious crime. It was merged within the newly formed Serious and Organised Crime Division in 2011.

Petition

In criminal cases, a petition sets out the charges against the accused and starts the formal court process.

Police Scotland Fugitive Unit (FU)

A dedicated unit within Police Scotland that forms part of the Organised Crime and Counter Terrorism Command, which in turn is part of the Specialist Crime Division. Its aim is to improve international policing co-operation.

Precognition

An interview of a witness by a procurator fiscal or defence lawyer taken to prepare for a court case.

Precognition on oath

An interview of a witness by a procurator fiscal or defence lawyer taken at court in front of a judge.

Principal Depute

A legal manager.

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.

Senior Civil Servant (SCS)

A senior official in the Civil Service equivalent to Deputy Director level and above.

Senior Depute

An experienced prosecutor who deals with more complex cases.

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.

Serious Organised Crime Agency (SOCA)

A national law enforcement agency with Home Office sponsorship. It tackles serious and organised crime including covert investigations and cross-border surveillance. In 2013, its operations were merged into a larger National Crime Agency (NCA).

Sheriff and Jury

Serious criminal cases heard in the Sheriff Court by a jury.

Solemn case

Serious criminal case before a judge and jury in the High Court or Sheriff Court.

Solicitor General

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

Summary cases or business

Less serious criminal cases heard before a sheriff or a justice of the peace, without a jury.

United Kingdom Central Authority (UKCA)

The central authority responsible for processing MLA requests in England, Wales and Northern Ireland.



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