

## Impact case study (REF3)

<b>Institution:</b> University of Northumbria at Newcastle		
<b>Unit of Assessment:</b> 18 (Law)		
<b>Title of case study:</b> Facilitating cross-border collaboration and preparedness for Brexit between the UK and Ireland in criminal justice agencies and government		
<b>Period when the underpinning research was undertaken:</b> 2009 – 2020		
<b>Details of staff conducting the underpinning research from the submitting unit:</b>		
<b>Name(s):</b>	<b>Role(s) (e.g. job title):</b>	<b>Period(s) employed by submitting HEI:</b>
Gemma Davies	Senior Lecturer/Associate Professor	12/09/2005 - present
Adam Jackson	Senior Lecturer/Associate Professor	01/09/2005 - present
Tim Wilson	Professor	01/05/2009 - present
Natalie Wortley	Senior Lecturer/Associate Professor	01/09/2005 - present
<b>Period when the claimed impact occurred:</b> March 2017 – December 2020		
<b>Is this case study continued from a case study submitted in 2014?</b> N		
<b>1. Summary of the impact</b> (indicative maximum 100 words)		
<p>Northumbria research has demonstrated that the political motivations and institutional infrastructures framing the Brexit negotiations presented a risk to continued efficient cross-border criminal justice cooperation. As a result of these findings, Gemma Davies created a multi-agency practitioner network, bringing together police, prosecutors, border control, academics, and policy makers from Great Britain, Northern Ireland (NI), and Republic of Ireland (Ireland). Through the network, Northumbria played a key role in generating research that helped all criminal justice agencies operating across the UK-Irish border prepare for Brexit and influenced their Brexit planning and policy development. Northumbria research informed the House of Commons Justice Committee in 2017 and the NI Affairs Committee in 2020. It also shaped Parliamentary briefings and reports ensuring the legal, political, and social nuances unique to the island of Ireland and the challenges of criminal justice cooperation guided UK Government Brexit policy.</p>		
<b>2. Underpinning research</b> (indicative maximum 500 words)		
<p>European collaboration in criminal justice has been controversial since before Britain voted to leave the European Union (EU), but uncertainty about the practical and tangible arrangements of Brexit have made research in this domain even more vital to criminal justice policy. Northumbria research has analysed the effects of European cooperation on criminal justice proceedings, especially via database sharing. These include automated databases containing DNA records, fingerprints and vehicle registration (Prüm), and criminal records (the European Criminal Records Information System – ECRIS). The research also assessed the implications for criminal justice unique to the island of Ireland, and the effects of Brexit.</p> <p>Professor Tim Wilson led two European Commission-funded projects to investigate sharing of forensic bioinformation between EU member states, with Gemma Davies and Adam Jackson as two of the co-investigators [G1, G2]. Gemma Davies, Adam Jackson, and Natalie Wortley were also responsible for the research element of a policy-focused project on criminal records [G3]. The research demonstrated that the Prüm database – which facilitates the automated sharing of information on DNA, fingerprints, and vehicle registrations – was an effective model of biometric information exchange [R1]. Davies and Jackson drew on the criminal records project to ensure the risks and benefits of information sharing were also considered in the light of ECRIS and showed that ECRIS improved on ad hoc arrangements and should be retained by the UK post-Brexit [R2]. Wilson showed that speedy and efficient sharing of information across the EU – such as forensic bioinformation and criminal records – has been critical for criminal justice agencies [R3].</p>		

As well as looking at efficacy, the research also addressed the UK Government's reservations regarding the perceived loss of national political and legal autonomy within an EU-wide system [R1, R2]. The research demonstrated that the checks and balances offered by EU cooperation are more likely to provide a more stable solution compared with bilateral agreements and needed to be at the top of the UK Government's agenda as it negotiated the UK's exit from the EU [R1-R3]. Moreover, the research showed how the criminal justice consequences of Brexit were misrepresented in political discussions as the politics of Brexit – especially repeated talk of 'retaking control of [UK] borders' – frequently misrepresented the potential consequences, in terms of undermining the continued protection of security and well-being in the UK [R3].

The implications of the research on criminal justice cooperation raised questions about the complexities of cooperation after Brexit, particularly within the context of the legal, political, and social nuances unique to the island of Ireland. As a result, Davies set up the UK-Irish Criminal Justice Cooperation Network in October 2018 in collaboration with Queen's University Belfast, funded by the AHRC [G4]. Davies' work with this interdisciplinary network co-created knowledge through practitioner engagement, including identifying research questions and conducting focus groups, combined with legal analysis. This research showed that while there had been consideration of the broader impact of Brexit on the Good Friday Agreement and consensus on the need to avoid a return to a hard border between Ireland and NI, more detailed consideration had not been given to the effect that Brexit could have on continued criminal justice cooperation across the border [R4]. Davies identified the combined risks of Brexit for NI as being an increase in criminality (terrorism, smuggling), and a reduction in the capacity to tackle such criminality through the loss of EU police cooperation mechanisms and the removal of the legal architecture underpinning informal cooperation [R4].

Davies further mapped the long, close, and difficult extradition history between Ireland and the UK [R5]. She demonstrated that the unique processes – influenced by the Good Friday Agreement as a legal and political border agreement exceptional to the UK and Ireland – justified ensuring very close surrender/extradition and mutual assistance agreements once the UK had left the EU [R5]. This work illustrated the detrimental impact that a non-negotiated outcome would have for the UK and Ireland in this field and highlighted the urgent need for bilateral agreements if a multilateral agreement with the EU was not reached [R5].

### 3. References to the research (indicative maximum of six references)

**R1. Tim J. Wilson (2016)** 'Criminal justice and global public goods: The Prüm Forensic Biometric Cooperation Model' *The Journal of Criminal Law* **80**(5): 303-326  
<https://doi.org/10.1177/0022018316668450>

**R2. Gemma Davies and Adam Jackson (2017)** 'Making the case for ECRIS: Post- 'Brexit' sharing of criminal records information between the European Union and United Kingdom' *International Journal of Evidence and Proof* **21**(4): 330-350  
<https://doi.org/10.1177/1365712717692813>

**R3. Tim J. Wilson (2019)** 'The Impact of Brexit on the future of UK forensic science and technology' *Forensic Science International* **302** <https://doi.org/10.1016/j.forsciint.2019.06.028>

**R4. Gemma Davies (2020)** 'Facilitating cross-border criminal justice cooperation between the UK and Ireland after Brexit: "Keeping the lights on" to ensure the safety of the Common Travel area' *Journal of Criminal Law* <https://doi.org/10.1177/0022018320977528>

**R5. Gemma Davies and P. Arnell\* (2020)** 'Extradition Between the UK and Ireland after Brexit – Understanding the past and present to prepare for the future' *Journal of Criminal Law* <https://doi.org/10.1177/0022018320977531>

\*External collaborator – Robert Gordon University, UK

**Research funding**

G1. PI **Wilson**, Co-I **Davies** and **Jackson**, European Commission, Directorate-General Home Affairs, 2012-2015, EUR1,150,690 (HOME/2011/ISEC/AG/PRUM/2150)

G2. PI **Wilson**, Co-I **Davies** and **Jackson**, European Commission, Directorate-General Home Affairs, 2013-2015, EUR774,946 (HOME/2012/ISEC/AG/4000004396)

G3. European Commission and the Association of Chief Police Officers (ACRO), 2009-2012, GBP10,773 (JUST/2009/JPEN/AG/CR/0717/CR-30-CE-0391992/00-30) (**Davies**, **Jackson** and **Wortley** contracted as part of ACRO funding to author the offence matching review and report included in final report).

G4. PI **Davies**, AHRC, 2018-2020, GBP35,441 (AH/S002197/1). (Co-I Professor Katy Hayward, Queen's University Belfast, political science)

**4. Details of the impact** (indicative maximum 750 words)

Research by Wilson and Davies informed and guided UK government discussions regarding the criminal justice implications for cross-border cooperation with the EU after Brexit. Research findings indicated the need for closer working by policy makers on all sides which led to the establishment of the UK-Irish Criminal Justice Cooperation Network (hereafter, the Network). This has directly enhanced the level of cooperation and coordination between criminal justice agencies in the UK and Ireland, and ensured they were better prepared for Brexit through improved policy development and increased inter-agency cooperative experience and capacity.

**4.1 Contributing to parliamentary scrutiny of criminal justice cooperation**

On 22 March 2017, the House of Commons (HoC) Justice Committee released a report describing the implications of Brexit for the justice system [E1]. Wilson, Jackson, and Davies had submitted written evidence drawing from their research, clarifying the dangerous implications of losing access to data-sharing systems post-Brexit. Wilson, who had also given oral evidence, was repeatedly cited to explain the Justice Committee's understanding of these important implications: *'Professor Wilson observed synergies between Eurojust and other EU mechanisms, citing the fact that DNA profiles are held by the judiciary in Belgium and the Netherlands, and by the police in many other places, as evidence for the necessity of the cross-cutting collaboration Eurojust facilitates'* [E1, para 12]. The Justice Committee's recognition of the risks to public safety relies on Northumbria research, quoting the written evidence warning of *'the exponential growth of transnational cybercrime'* because *'EU arrangements are part of a holistic response to some of the worst negative spillovers from globalisation'* [E1, para 14]. The report's conclusion [E1, p22-23] explained that *'transitional provisions will be essential in all areas'* and returns to Northumbria's research-informed evidence submission to justify this recommendation: *'In criminal justice, Professor Tim Wilson suggested that the UK and EU agree to freeze some arrangements beyond that date "so that we do not move down to inferior types of arrangements for a transitional period"'* [E1, para 45]. On 29 November 2018, the Justice Committee Chair wrote to the Parliamentary Under Secretary of State citing the report and the recommendation of the Committee *'that the Government should seek to maintain cooperation on criminal justice as closely as possible'* and proceeding immediately to censure, *'that was in March 2017. We are disappointed with progress to date'* [E2].

**4.2 Facilitating enhanced criminal justice agency cooperation in UK and Ireland**

Davies' creation of the Network established an evidence-based, non-political alternative route to cross-border criminal justice cooperation. For the first time, all 20 criminal justice agencies from the UK and Ireland were brought together, including practitioners at the coalface of Brexit preparations, such as: Tim Mairs, Temporary Assistant Chief Constable of Police Service Northern Ireland (PSNI); Richard Martin, Deputy Assistant Commissioner with the National Police Chiefs' Council and UK lead for Brexit and International Criminality; Declan Keating, Unit Head International Unit, Office of the Director of Public Prosecutions in Ireland; and, Jimmy Martin, Assistant Secretary, International Policy Department of Justice and Equality, Ireland. The Network held five workshops between January 2019 and November 2020, where Davies frequently presented research findings. She also used the platform to further co-create research

that was initially shared in presentations and policy briefings, before being written up as journal articles [R4, R5].

Tim Mairs, co-Chair of the Cross-Border Joint Agency Task Force and PSNI Brexit Lead, described the Network as *'a god send'* [E3]. Mairs explained that the Network, led by Davies, had *'played a key role in helping the criminal justice agencies operating across the UK-Irish border create a space where they could work cooperatively as they prepared for the uncertainties of Brexit'* [E3]. It had also *'helped to strengthen the connections between all criminal justice agencies and provided a non-political forum where the sensitivities of the Irish border could be explored'* [E3]. He concluded *'the network is not just useful it is critical'* [E3].

Network participant Helen Nisbet, Head of International Co-operation at the Crown Office and Procurator Fiscal Service explained: *'the Brexit experience has been riven by ... tensions [in] the UK policy sphere that restricts challenging precepts. This kind of safe space allows methods to be explored that can then be taken up as potential solutions'* [E4, p40]. Malcolm McBain, Head of International Co-operation at the Scottish Crown Office, similarly identified the opportunities: *'the network is a fantastic opportunity to discuss Brexit from an Irish perspective as opposed to the London-centric approach many other forums have taken'* [E4, p12]. Richard Martin, Deputy Assistant Commissioner, is the UK lead for the International Crime Coordination Centre (ICCC), which was established to provide continuity for UK Law Enforcement throughout and after Brexit. Martin explained that *'the Network is the only forum in which the ICCC has been able to engage with international partners to address the problems which Brexit could present'* [E5].

#### 4.3 Guiding criminal justice agencies practical and policy preparations for Brexit

The Network established the tools necessary for multiple agencies to cooperate effectively in the absence of a final negotiated settlement. Engaging with the Network enabled participants to tackle challenges posed by Brexit, while the research generated from it [R4, R5] also *'evidenced the potential problems that Brexit creates and put forward ways these difficulties could be mitigated'* which directly *'impacted the ICCC's preparation for Brexit thereby improving the service we are able to deliver'* according to Deputy Assistant Commissioner Richard Martin, UK lead for the ICCC [E5]. Declan Keating, Head of the International Unit at the DPP in Ireland, stated that participation in the network has enabled *'fostering key relationships with colleagues in the UK jurisdictions'* and *'Gemma Davies' research, disseminated through the Network, has been especially valuable'* [E6]. Keating explained that the research and relationships accessed through the Network have been *'important to us in resolving issues of common concern, particularly relating to the application of the [Trade and Cooperation Agreement] regarding surrender and mutual assistance'* [E6].

When questioned at the November 2019 workshop, all the 20 representatives from participating agencies confirmed that because of the Network they were better informed of the challenges of cross-border criminal justice cooperation and more prepared to meet them [E4, p43]. Similarly, all agency representatives felt that the Network had been at least *'useful'* in their organisation's preparation and coordination, with more than half relying on the Network as an *'important resource'* [E4, p44]. All of the agency representatives confirmed that the Network had played *'a key role in shaping the preparations of your organisation'* [E4, p45]. Dominic McCauley, Senior Public Prosecutor at the public prosecution service for NI, said that the Network had been *'extremely beneficial in 1) gathering/sharing information 2) building relationships and 3) developing planning for Brexit especially on issues of data/evidence sharing and extradition'* [E4, p8].

#### 4.4 Shaping policy preparation with criminal justice agencies and the UK government

Davies' research, which capitalised on the engagement with the Network and its recommendations [R4, R5], was compiled into interim and final policy briefings for the UK Government and relevant agencies [E7]. Jimmy Martin, who leads the policy areas covering the International Policy and Brexit units at the Irish Department of Justice and Equality, explained that the *'outputs of the Network have clearly highlighted the legal, political, and social nuances unique to the island of Ireland'* [E8] which have *'assisted in understanding the potential barriers*



*to effective criminal justice cooperation’ and provided an ‘invaluable resource ...necessary to sustain close cooperation in cross-border criminal justice matters’ [E8].*

Building from, and alongside, this work with criminal justice professionals, Davies worked with the NI Affairs Committee in the UK Parliament to shape an inquiry on cross-border co-operation on policing, security, and criminal justice after Brexit. Davies submitted written evidence to the inquiry and gave multiple oral and written evidence submissions to the committee in October and November 2020 that have shaped understanding and scrutiny of the policy development process [E9]. Right up until the confirmation of the UK-EU Trade and Cooperation Agreement (TCA) on December 24 2020, Davies worked with practitioners to prepare for the possibility of no deal, and since then on the basis of new provisions in the TCA. This has included briefing practitioners and training judges in NI. Joanna Dawson, Senior Researcher at the House of Commons Library, confirmed that Davies’ research had informed her understanding of the issues [E10]. Moreover, Dawson explained that this research has *‘informed confidential briefings provided to individual MPs, shadow front bench teams, and parliamentary select committees, to assist with policy development; formulating inquiry terms of reference; and scrutiny of Government ministers and departments’ [E10].*

#### 5. Sources to corroborate the impact (indicative maximum of 10 references)

Ref.	Source of corroboration	Link to claimed impact
E1	HoC Justice Committee: implications of Brexit for justice, published 22/03/2017 (HC750) – see also appended written and oral evidence from Northumbria researchers 29/11/2016	Raising awareness and improving understanding of the challenges of cross-border criminal justice cooperation and contributing to scrutiny of government
E2	HoC Justice Committee letter to Lucy Frazer 29/11/17	Corroboration of scrutiny
E3	Testimonial - Tim Mairs, Assistant Chief Constable for the Police Service of Northern Ireland and Brexit Lead	Corroborates value of Network for criminal justice organisation preparations
E4	The Network collated Questionnaire 11/2019 and follow up 11/2020	Value of Network and reach
E5	Testimonial - Richard Martin, Deputy Assistant Commissioner, UK lead for the International Crime Coordination Centre	Role of the Network and research in identifying and solving problems and guiding ICCC preparations
E6	Testimonial - Declan Keating, Senior Principal Prosecutor, International Unit, Office of the Director of Public Prosecutions, Ireland	Role of the Network and research in identifying and solving issues such as surrender and mutual assistance
E7	UKICJCN interim briefing paper 27/052020 and final policy briefing 19/11/2020	Shaping policy and implementation guides for policymakers and agencies
E8	Testimonial - Jimmy Martin, Assistant Secretary, International Policy, Department of Justice and Equality, Ireland	Importance of research on understanding policy and cooperation between agencies
E9	Gemma Davies-authored written and oral evidence October and November 2020 submitted to HoC Northern Ireland Affairs Committee	Raising awareness and Parliamentary scrutiny of the challenges and influence on recommendations to UK Government
E10	Testimonial - Joanna Dawson, HoC Home Affairs Section	Shaping content of policy briefings across UK Parliament and government