

## The Met and the Undercover Policing Inquiry (UCPI)

### What is undercover policing?

Undercover policing is a tactic for gathering intelligence and evidence with a view to preventing or prosecuting crime. It may be deployed in a very wide range of situations. These include terrorism and extremism, child sexual abuse, serious public disorder, drugs dealing, firearms dealing, contract killing, fraud, stolen and counterfeit property, money laundering, prostitution, modern slavery and human trafficking, arts and antiques, and corruption (including the criminal investigation of police misconduct).

Much of this criminality could not adequately be tackled by the police without the use of undercover policing. In general terms, the deployment of undercover officers allows access to information and evidence that may not otherwise be obtainable. It can also play a protective role in interposing police officers between suspected offenders and members of the public when crimes are carried out.

The National Undercover Working Group (NUWG) - which agrees consistent national standards and processes for undercover operatives (UCOs) within law enforcement - defines a UCO as a specially trained operative working under direction in an authorised law enforcement operation in which the operative's identity and purpose is concealed from third parties.

UCOs are deployed under direction in an authorised investigation or operation as a covert human intelligence source (CHIS).

The Regulation of Investigatory Powers Act 2000 (RIPA) defines a person as a CHIS if:

- a) they establish or maintain a personal or other relationship with a person for the covert purpose of facilitating the doing of anything falling within paragraph (b) or (c);
- b) they covertly use such a relationship to obtain information or to provide access to any information to another person; or
- c) they covertly disclose information obtained by the use of such a relationship, or as a consequence of the existence of such a relationship.

UCOs volunteer for selection, vetting, training and accreditation. Once in post they must comply with the Undercover Code of Conduct as well as the College of Policing's Code of Ethics, which applies to all police officers.

All undercover officers are accountable and adhere to a [clear national framework](#) which outlines legal and ethical guidelines within which all officers must operate.

To support the critical role of undercover policing in protecting the public, the College of Policing and National Undercover Working Group maintain a comprehensive and regularly updated Authorised Professional Practice (APP) (last republished in October 2020) drawing together the professional standards expected of police officers engaged in covert policing: <https://www.app.college.police.uk/app-content/covert-policing/undercover-policing/>.

Because of the type of work that UCOs do, it is not possible to provide full public information about how undercover operations are conducted. Doing that could put UCOs and others at

risk, and damage their ability to tackle crime. However, the Met is providing information about undercover methodology to the Inquiry to assist it in making recommendations for the future.

## What undercover policing units are being examined by the Inquiry?

Two undercover policing units have particular prominence in the Inquiry:

### Special Demonstration Squad (SDS)

The Special Demonstration Squad (originally known as the Special Operation Squad) was a covert Met unit formed in July 1968, in direct response to the violent public disorder that had occurred in Grosvenor Square, London, during the mass demonstration against the Vietnam War on 17 March 1968. It subsequently evolved over a period of many years in response to the political and public concerns at the time.

Officers of the SDS were amongst the first police officers to work undercover in a full-time way within a dedicated unit. During the early years of the SDS, there was no national undercover training and no recognised standards of what constituted best practice. Undercover policing was not subject to the legal, regulatory and professional structures, or policies and training, which are now in place.

The SDS's work had two interrelated strands: (1) gathering intelligence for the purposes of preventing public disorder, and (2) gathering intelligence to assist the Security Service in its task of defending the UK from attempts at espionage and sabotage, and from actions of persons judged to be subversive of the security of the state. The Home Office approved of and funded the SDS, whose reporting was provided to the Security Service.

The SDS gathered crucial intelligence on a wide range of groups, during what was a time of immense social change and civil unrest. During the 1970s and 1980s, for instance, the IRA started its bombing campaign in England; striking workers caused widespread disruption which culminated in the 'Winter of Discontent'; and there were a number of violent protests and riots. The unit remained operational until 2008.

### National Public Order Intelligence Unit (NPOIU)

The NPOIU was created in 1999 to gather intelligence on protest groups deemed capable of violent protest and disorder. The deployment of undercover operatives/officers was one of the methods used to gather intelligence.

The purpose of the NPOIU was to facilitate lawful protest, to develop a national threat assessment, and to help the police to prevent public order and criminal activity associated with domestic extremism. It was active in England and Wales and also worked with forces in Scotland and Northern Ireland and operational until 2011.

## How has the Met assisted the undercover policing inquiry?

Since the Inquiry was established, the Met has devoted very substantial effort, time, and resources to assisting the Inquiry. This has remained the case despite the terrorist attacks in London in 2017 and the Met's additional responsibilities arising from the coronavirus pandemic. By the end of 2020 the Met had:

- Spent more than £30m responding to the work of the Inquiry.
- Disclosed more than 80,000 documents and electronic exhibits to the Inquiry, totalling more than 600,000 pages.
- Responded to more than 230 requests and follow-up requests under Rule 9 of the Inquiry Rules 2006.
- Provided more than 100 witness statements (both under the Rule 9 process and voluntarily or within applications).
- Assisted in the review and redaction of more than 3,700 documents, totalling more than 40,000 pages.
- Been invited to consider whether or not to make anonymity applications for nearly 200 people – in a number of cases applications were not made.

To assist the work of the Inquiry, the Met has set up a dedicated team of lawyers within its Directorate of Legal Services (the “Commissioner’s Lawyers” or “CL” team), and a separate team of officers working within the Met’s Inquiry and Review Support Command (IRSC).

## Is the Met legally representing all of its serving and former undercover officers at the Inquiry?

The Met has offered separate legal representation to individual officers, both former and still serving, who were part of SDS or who were seconded to the NPOIU from the Met. Those who have accepted this offer are represented by a team which sits within – but whose responsibilities are separate from – the Met’s Directorate of Legal Services (DLS). This team is referred to as the “Designated Lawyers” or “DL”.

The DL team acting for individual officers is separate from the CL legal team acting on behalf of the Commissioner of the Metropolis, i.e. the Metropolitan Police Service as an organisation. The separation means that these officers are afforded independent legal advice, with lawyers acting on their behalf as individual clients.

A small number of officers are not represented by the DL team and instead have independent legal representation.

## What is the Met’s position on women having been deceived into intimate relationships by undercover officers during their deployment?

Some undercover officers, in their false identities, engaged in sexual relationships with the subjects of the operations, or other people with whom they had contact during their work. Put plainly: those relationships were wrong. They should not have happened; and they have caused, and continue to cause, immense hurt and suffering.

In November 2015, Assistant Commissioner Martin Hewitt made a public apology to a number of women who had been in such relationships with undercover officers (see APPENDIX 1, pages 9 and 10).

The Met is working with the Inquiry to understand how those relationships happened. It will listen to the accounts of those affected. Some of them have already spoken publicly, and

directly to the Met during mediation. Others have not yet had an opportunity to do so. The Met will seek to assure the Inquiry, and the public, that the necessary steps have been taken to ensure that such relationships do not happen again. If current practices and procedures for undercover deployments need further improvement, those improvements will be made.

All police officers are subject to a clear prohibition on improper sexual relationships in the Police (Conduct) Regulations 2020. The College of Policing guidance sets national standards on the conduct of undercover officers.

## What is the Met's position on officers creating undercover identities using the names and details of deceased children?

Undercover officers in the SDS started to use the identities of deceased children in the early 1970s to support their covert identities. They ceased to do so by 1994/5 with the advent of computerisation of the births and deaths records. However, there are examples of use by undercover officers of these identities after this time, particularly in the early years of the NPOIU.

In July 2013, the then Commissioner of the Met, now Lord Hogan-Howe, acknowledged the distress that this practice will have caused families, and apologised for the shock and offence it has caused. As was made clear then, it is not a practice in use today.

The Inquiry is exploring the development and duration of the use of deceased child identities, and evidence will be given as to why the practice was considered necessary at the time, to support the work of undercover officers.

The Met acknowledges plainly that while this practice was in use insufficient consideration was given to the impact that it might have on the families of the children concerned. The Met appreciates that it was capable of causing distress to those families, and the Met apologises for that. Personal apologies have been given to those family members who have been traced.

Today, the covert identity of an undercover officer is fictitious and the undercover unit with responsibility for managing the deployment of the officer is responsible for ensuring that they have the capacity to maintain and support their covert identities.

## Why is so little published by police organisations about undercover policing?

Providing full public information about how undercover operations are conducted could put UCOs and others at risk. It could also damage the ability of the police to use covert tactics in future operations to prevent crime.

## How has undercover policing changed in the last 50 years?

The ways in which undercover policing is now conducted and managed – to national standards set by the College of Policing and implemented by the National Police Chiefs' Council – is significantly different from what it was. So too are the laws and policies that govern and regulate that work.

Since 2000, the Regulation of Investigatory Powers Act 2000 (RIPA) has governed the authorisation and conduct of deployments of CHIS, which include police officers deployed undercover.

From 2002, the Home Office has issued Codes of Practice for CHIS, providing guidance on the applicable procedures under RIPA including for the authorisation of undercover deployments, the management of undercover officers in the field, record keeping and oversight.

The Authorised Professional Practice (APP) on Undercover Policing issued by the College of Policing draws together the professional standards expected of police officers engaged in covert activity (as well as their supervisors and authorising officers).

The APP provides that undercover officers are bound by the Code of Ethics for Policing and remain subject to the police service's misconduct regime throughout their deployment. It refers to the National Code of Conduct for Undercover Officers, which sets out twenty professional and personal standards that all undercover officers must adhere to. The APP requires all undercover officers to sign the Code of Conduct on an annual basis.

Undercover units within police forces are subject to a three year review of their accreditation by the College of Policing. Poor performance of a unit in relation to its arrangements for authorisation, governance and tactical management may result in accreditation being withdrawn.

All undercover operatives are trained to national standards. The College of Policing is responsible for the delivery of undercover training courses through qualified subject matter experts.

Independent oversight of the authorisation and conduct of undercover deployments is provided by three independent national bodies:

- a. Her Majesty's Inspectorate of Constabulary, Fire and Rescue Services (HMICFRS) has responsibility for assessing and reporting on the effectiveness and efficiency of all police forces.
- b. The Investigatory Powers Commissioner's Office (IPCO) provides independent oversight of the use and authorisation of undercover operations. It was established in 2017 by the Investigatory Powers Act 2016.
- c. The Investigatory Powers Tribunal (IPT) was established by RIPA in October 2000. It is the judicial body with responsibility for determining claims and complaints by anyone who considers themselves subject to unlawful actions by a public authority using covert techniques, such as undercover policing.

### *Sexual relationships*

All police officers are subject to a clear prohibition on improper sexual relationships in the Standards of Professional Behaviour, 'Authority, Respect and Courtesy', in the Police (Conduct) Regulations 2020. This is expanded upon in the College of Policing's Code of Ethics, which states that all police officers must:

- not engage in sexual conduct or inappropriate behaviour while on duty.
- not establish or pursue an improper sexual or emotional relationship with a person with whom you come into contact in the course of your work who may be vulnerable to an abuse of trust or power.

Both the National Code of Conduct for Undercover Officers and the CHIS Code of Practice require all undercover officers deployed by law enforcement agencies to comply with and uphold the principles and standards of professional behaviour set out in Standards of Professional Behaviour and the Code of Ethics.

The recently revised APP issued by the College of Policing in October 2020 states that:

“It is never acceptable for an undercover officer to have an intimate sexual relationship with those they are deployed to infiltrate and target or encounter during their deployment. Having an intimate sexual relationship must not be used as a tactic by a UCO.

If a UCO engages in an intimate sexual relationship (for example, they perceive an immediate threat to themselves and/or others if they were not to do so) this activity will be restricted to the minimum conduct necessary to mitigate the threat. UCOs must record and report this to the cover officer and covert operations manager immediately.”

The APP sets out the steps that must be taken in response to an officer engaging in an intimate sexual relationship, including investigating and reporting on the circumstances, and consideration by the authorising officer (AO) of whether the operation should continue and whether a referral should be made to oversight and governance bodies.

#### *Participation in criminality*

The Covert Human Intelligence Sources (Criminal Conduct) Act 2021 now gives law enforcement agencies (and others) the power to authorise CHIS to participate in criminal conduct where it is necessary to do so: (1) in the interests of national security; (2) for the purpose of preventing or detecting crime or of preventing disorder; or (3) in the interests of the economic well-being of the United Kingdom.

The Act specifies that the conduct being authorised must be proportionate to what it is intended to achieve; and that the person authorising it must take into account whether what is being sought could reasonably be achieved by other, non-criminal, conduct.

In January 2021 the Home Office published a Draft Revised Code of Practice. This includes guidance on the content of applications for authorisation and the approach to be adopted for reviews, renewals and cancellations of such authority.

#### *Deployment and management*

Undercover units are required to have appropriate infrastructures in place to enable them to provide robust management and support to undercover deployments.

Since 2014, all authorisations for the use and conduct of undercover operations by a police force are granted at the level of Commander (within the MPS) or the equivalent rank, namely Assistant Chief Constable (other police forces), and must be notified to IPCO within seven days of their grant. For authorisations that continue for a period of twelve months or more, renewals must be authorised at Chief Constable level and subject to the prior approval of a Judicial Commissioner within IPCO.

#### *Collateral intrusion*

Under RIPA, authorising officers are obliged to take measures, where practicable, to avoid or minimise collateral intrusion. Where such intrusion is unavoidable, the undercover policing activity may still be authorised provided that the collateral intrusion is proportionate to the aims

of the deployment. Any collateral intrusion must be kept to the minimum necessary to achieve the objective of the operation. This is reiterated in the most recent revision of the APP on Undercover Policing and in the CHIS Code of Practice.

In recent years, there have been significant advances in the understanding of what constitutes collateral intrusion, what is acceptable by way of collateral intrusion, and how it should be managed.

The APP for Undercover Policing has adopted HMIC's approach as articulated in their 2012 review of units providing intelligence on protests. Consideration should be given to three categories of collateral intrusion:

- inevitable intrusion (such as into the privacy of intimate associates of the subject of the operation);
- foreseeable intrusion (such as into the privacy of unknown associates); and
- general intrusion (such as into the privacy of other members of the public who come into contact with the subject).

Deliberate intrusion by undercover officers into the private and family lives of people who are not directly under investigation must be specifically justified and authorised. Additionally, safeguards are in place for handling all private information obtained during an undercover operation. Its dissemination, copying and retention must be limited to the minimum necessary for the authorised purposes of the investigation.

#### *Support for undercover police officers*

The MPS now ensures potential undercover officers complete a rigorous selection procedure. This includes psychological profiling to ensure that only those who are suitable for the demands of an undercover role are selected for interview. There is nationally accredited training for undercover operatives – for which the College of Policing is responsible.

Undercover officers are subject to ongoing training and advice from experienced officers to ensure proper development of skills and experience. There is comprehensive oversight of deployments.

**In June 2021, the undercover policing inquiry referred a case involving a former SDS officer to a “miscarriages of justice” panel. What does this mean?**

As part of its terms of reference, the Inquiry seeks to identify suspected miscarriages of justice that might have occurred due to an undercover policing operation, or an operation not being disclosed when it should have been.

To do this, a Miscarriages of Justice Panel – a dedicated panel set up by the Home Office comprising two senior members of the Crown Prosecution Service and two from the police - has been established to consider referrals made to it by the Inquiry and determine whether further action is required, which could include a further referral to the Criminal Cases Review Commission.

In June 2021, the Inquiry made its first referral. It related to an incident on 12 May 1972 when activists attempted to stop the British Lions rugby team departing the Star and Garter Hotel in

Richmond. Fourteen activists, including an undercover officer who was deployed into the activist group – known in the Inquiry as HN298 (undercover name “Michael Scott”) - were subsequently arrested and charged with obstructing the highway and obstructing a police officer in the execution of his duty.

Thirteen people including HN298 were convicted of both offences and one of highway obstruction only. Another person was acquitted. Based on the evidence received by the Inquiry, HN298 pleaded ‘not guilty’ and his true identity was not revealed either to the prosecution or the Court.

## Can i watch or follow the Inquiry hearings?

Yes. To date the Inquiry proceedings have been available to follow by attendance at the hearing venue.

A written transcript of each day’s evidence is published by the Inquiry on its website, along with written witness statements and documents referred to during the hearing.

## APPENDIX 1

### **MPS news release - published on 15 November 2015**

#### **Claimants in civil case receive MPS apology**

#### **The Metropolitan Police Service and seven women have now concluded a mediation process in relation to claims arising from long term intimate sexual relationships.**

As part of the settlement, the details of which are confidential, the MPS agreed to publish the full apology that has been given personally to those seven women.

The following is attributable to Assistant Commissioner Martin Hewitt:

"The Metropolitan Police has recently settled seven claims arising out of the totally unacceptable behaviour of a number of undercover police officers working for the now disbanded Special Demonstration Squad, an undercover unit within Special Branch that existed until 2008 and for the National Public Order Intelligence Unit (NPOIU) an undercover unit which was operational until 2011.

"Thanks in large part to the courage and tenacity of these women in bringing these matters to light it has become apparent that some officers, acting undercover whilst seeking to infiltrate protest groups, entered into long-term intimate sexual relationships with women which were abusive, deceitful, manipulative and wrong.

"I acknowledge that these relationships were a violation of the women's human rights, an abuse of police power and caused significant trauma. I unreservedly apologise on behalf of the Metropolitan Police Service. I am aware that money alone cannot compensate the loss of time, their hurt or the feelings of abuse caused by these relationships.

"This settlement follows a mediation process in which I heard directly from the women concerned.

"I wish to make a number of matters absolutely clear.

"Most importantly, relationships like these should never have happened. They were wrong and were a gross violation of personal dignity and integrity.

"Let me add these points.

"Firstly, none of the women with whom the undercover officers had a relationship brought it on themselves. They were deceived pure and simple. I want to make it clear that the Metropolitan Police does not suggest that any of these women could be in any way criticized for the way in which these relationships developed.

"Second, at the mediation process the women spoke of the way in which their privacy had been violated by these relationships. I entirely agree that it was a gross violation and also accept that it may well have reflected attitudes towards women that should have no part in the culture of the Metropolitan Police.

"Third, it is apparent that some officers may have preyed on the women's good nature and had manipulated their emotions to a gratuitous extent. This was distressing to hear about and must have been very hard to bear.

"Fourth, I recognise that these relationships, the subsequent trauma and the secrecy around them left these women at risk of further abuse and deception by these officers after the deployment had ended.

"Fifth, I recognize that these legal proceedings have been painful distressing and intrusive and added to the damage and distress. Let me make clear that whether or not genuine feelings were involved on the part of any officers is entirely irrelevant and does not make the conduct acceptable.

"One of the concerns which the women strongly expressed was that they wished to ensure that such relationships would not happen in future. They referred to the risks that children could be conceived through and into such relationships and I understand that.

"These matters are already the subject of several investigations including a criminal and misconduct enquiry called Operation Herne; undercover policing is also now subject to a judge-led Public Inquiry which commenced on 28 July 2015. Even before those bodies report, I can state that sexual relationships between undercover police officers and members of the public should not happen.

"The forming of a sexual relationship by an undercover officer would never be authorized in advance nor indeed used as a tactic of a deployment. If an officer did have a sexual relationship despite this (for example if it was a matter of life or death) then he would be required to report this in order that the circumstances could be investigated for potential criminality and/or misconduct. I can say as a very senior officer of the Metropolitan Police Service that I and the Metropolitan Police are committed to ensuring that this policy is followed by every officer who is deployed in an undercover role.

"Finally, the Metropolitan Police recognises that these cases demonstrate that there have been failures of supervision and management. The more we have learned from what the Claimants themselves have told us, from the Operation Herne investigation and from the recent HM Inspectorate of Constabulary report the more we accept that appropriate oversight was lacking.

"By any standards the level of oversight did not offer protection to the women concerned against abuse. It is of particular concern that abuses were not prevented by the introduction of more stringent supervisory arrangements made by and pursuant to the Regulation of Investigatory Powers Act 2000. The Metropolitan Police recognizes that this should never happen again and the necessary steps must be taken to ensure that it does not.

"Undercover policing is a lawful and important tactic but it must never be abused.

"In light of this settlement, it is hoped that the Claimants will now feel able to move on with their lives. The Metropolitan Police believes that they can now do so with their heads held high. The women have conducted themselves throughout this process with integrity and absolute dignity."