

<b>Meeting</b>	<b>Authority Meeting</b>
<b>Date</b>	<b>27 November 2019</b>
<b>Location</b>	<b>Council Chambers, Aberdeen</b>
<b>Title of Paper</b>	<b>Scottish Crime and Drug Enforcement Agency: Legacy Matters</b>
<b>Presented By</b>	<b>Chief Constable Iain Livingstone QPM</b>
<b>Recommendation to Members</b>	<b>For Discussion</b>
<b>Appendix Attached</b>	<b>Yes</b>  <b>Appendix A – Metropolitan Police Service Peer Review Executive Summary</b>

**PURPOSE**

The purpose of this briefing paper is to provide a synopsis of the recent independent peer review undertaken by the Metropolitan Police Service (MPS) into Police Scotland Anti-Corruption Unit's investigation in February 2019 of the Scottish Crime and Drug Enforcement Agency Special Operations Unit in 2011.

Members are invited to discuss the content of this paper.

## 1. BACKGROUND

- 1.1 A Court of Session decision on 31st January 2019 ruled in favour of a former Detective Sergeant of the Scottish Crime and Drug Enforcement Agency (SCDEA), deeming actions of the former SCDEA unfair in relation to the officer which posed a risk to the individual's mental health. The case was reported in the media on the 3<sup>rd</sup> February 2019 and referenced Special Operations Unit (SOU) documentation being destroyed in an unorthodox manner (by burning).

The circumstances giving rise to the 2019 court case stemmed from 2011 when the SCDEA Professional Standards Unit investigated allegations of poor governance and potential mismanagement of SCDEA SOU finances. The findings of the investigation were reported to COPFS at that time, who determined that there would be no criminal proceedings and referred the matter back to SCDEA for Misconduct considerations. Investigations in 2011 in relation to two SOU officers subsequently resulted in one officer receiving Management Advice. The other retired on the grounds of ill health.

## 2. FURTHER DETAIL ON THE REPORT TOPIC

- 2.1 In February 2019, under the strategic direction of Deputy Chief Constable (DCC) Fiona Taylor and Assistant Chief Constable (ACC) Alan Speirs, Police Scotland Professional Standards Department were tasked to review the following
- The 2011 investigation into mismanagement of the SOU.
  - Allegations that documents were destroyed by burning.
  - The changes in governance within the SOU.

Following conclusion of this review, the Chief Constable of Police Scotland sought further independent reassurance and oversight and as such invited the MPS to Peer Review both the 2011 investigation and the more recent 2019 review.

The MPS Peer Review concluded in September 2019 and provides strong assurance to the Chief Constable that the review conducted internally by the Professional Standards Department (PSD) in February 2019 was robust and the governance model in place today surrounding covert policing in Scotland is significantly improved and not reflective of working practices as they were within the SCDEA in

2011. All matters concerning the events in 2011 are SCDEA legacy based and pre-date Police Scotland.

### 2.3 **ASSURANCE**

Initial assessment by the MPS confirmed that in 2011 the SCDEA carried out an internal investigation. Crown Office Procurator Fiscal Service (COPFS) were engaged and determined that there was no criminality on the part of the SCDEA officer, through the incineration of documents at their offsite premises.

In concluding their determination COPFS further intimated that, poor governance and a lack of competence on the part of a number of officers was evident and signposted the SCDEA to consider misconduct on the part of a number of officers.

The MPS concluded that the Police Scotland PSD review in 2019 was well structured, balanced and thorough. The conclusions drawn mirror those of the MPS.

In summary, several officers speak to being instructed to assist in the burning of documents in a waste bin within the Osprey House car park and to being present while this happened. Those officers confirm that the documents destroyed included historical operational files / financial documents / utility bills.

Others stated that they were aware that items were being burnt within the car park but were not present at the time and had no involvement.

A Crime Stoppers Intelligence Report received on 1<sup>st</sup> March 2019 was identified by the MPS as outstanding and as such MPS detailed a recommendation that Police Scotland interview those officers named on the Crime Stopper. This has since been progressed and concluded by Police Scotland resulting in no additional or differing information from that already known.

### 2.4 **CONCLUSION**

The MPS concluded that both the Chief Constable and the Scottish Police Authority can rightly be assured that all matters from 2011 are indeed legacy based. A strong governance operating model is in place and provides robust financial management of covert policing throughout Police Scotland.

The MPS further determined that it would be highly unlikely that matters that occurred in 2011 could happen again and are confident that the governance in place represents a strong operating model which should be viewed as best practice and a flagship for other forces.

### **3. FINANCIAL IMPLICATIONS**

3.1 No financial implications have been identified as a result of this investigation

### **4. PERSONNEL IMPLICATIONS**

4.1 No personnel implications have been identified as a result of this investigation

### **5. LEGAL IMPLICATIONS**

5.1 No criminality has been identified and no legal implications have been identified as a result of this investigation

### **6. REPUTATIONAL IMPLICATIONS**

6.1 Media have previously reported events detailing investigations into these circumstances, however no new reputational implications have been identified as a result of this investigation.

### **7. SOCIAL IMPLICATIONS**

No social implications have been identified as a result of this investigation

### **8. COMMUNITY IMPACT**

8.1 No Community Impact implications have been identified as a result of this investigation.

### **9. EQUALITIES IMPLICATIONS**

9.1 No equality implications have been identified as a result of this investigation.

### **10. ENVIRONMENT IMPLICATIONS**

10.1 No environmental implications have been identified as a result of this investigation.

**RECOMMENDATIONS**

Members are invited to discuss the content of this conclusion report.



**Metropolitan Police Service  
Peer Review of Operation Towering**  
on behalf of Police Scotland

**NEW  
SCOTLAND  
YARD**



**METROPOLITAN  
POLICE**

**NEW  
SCOTLAND  
YARD**

## **Executive Summary**

- 1 This report sought to provide Police Scotland with a Peer Review of the Operation Towering report; allowing for an independent assessment by the MPS of its findings and to quality assure the veracity of the report itself.
- 2 Additionally, the MPS sought to evaluate the reviews that took place in 2011 into what unfolded within the SOU, before providing an assessment as to the change in governance into covert policing that currently exists.
- 3 The MPS consider the Operation Towering review, based on the evidence made available to be a comprehensive and well-structured evaluation of the previous investigations. The key findings are both largely consistent with the MPS assessment of events and a fair and honest reflection of the supporting material save for one issue; the incineration of documents.
- 4 Operation Towering have concluded that the documents incinerated were not detrimental to the 2011 SCDEA PSU investigation nor did they relate to any financial irregularities, rather concluding they were likely historical operational orders and similar.
- 5 This conclusion is supported through the discovery in 2011 of such financial anomalies borne out of officer A's lack of management around telephone and banking accounts (costing in excess of £10,000). Additionally SCDEA funds were used by officer A to extend a conference in order to play golf and to fund a trip to Northern Ireland for false reasons.
- 6 Having considered the rationale behind Operation Towering's assessment and in spite of the anomalies discovered, the MPS cannot confidently conclude the same assumption. The timely manner of the incineration, its closeness in time to a professional standards investigation into the SOU and the lack of any audit or record of destruction throws sufficient doubt that this can be the only conclusion.
- 7 Nonetheless we are confident the recommendations put forward by Operation Towering into this very issue would provide some resolution to the matter. The report identifies some valid lines of enquiry from Crimestoppers intelligence that should be pursued.

- 8 Our assessments of the initial SCDEA PSU review and the latter Assessment Enquiry from officer B provide sufficient reassurance that the matters involving both officer A and officer C were resolved with the most appropriate course of action, namely management advice.
- 9 It should also be noted that the Procurator Fiscal was also consulted with during this time to consider if any criminal charges should be brought. They concluded that no criminality was evident rather incompetence on the parts of officer C and officer A, allowing Senior Officers within the legacy forces to pursue any matters of misconduct against the pair.
- 10 The MPS do however feel that culpability extends beyond both officer C and officer A and that a proportion of this should be attributed to their direct line management, namely officer D. Having been responsible for overhauling how the SOU operated in 2010; the discovery in April 2011 and the findings of the subsequent reviews lay bare that officer D's oversight of the SOU was with not without fault. Furthermore, the decision to retain officer C within the SOU whilst a Professional Standards review was underway is in retrospect a questionable decision.
- 11 The overall findings of the Peer Review are very positive and as such we are confident we can provide the Chief Constable with strong levels of assurance in terms of the robustness of the work conducted by the Operation Towering team and indeed the current governance / operating structures that now exist around all areas of covert policing.
- 12 The operating model today is significantly improved when compared to the practises in place in 2011, providing sufficient reassurance that such matters would be unlikely to happen again. Its alignment to independent bodies such as the National Undercover Working Group (NUWG) and the Investigatory Powers Commissioner's Office (IPCO) demonstrate its status as a model for best practise and a flagship for other forces.