

Draft Module One Other Undercover Policing Issues List for Consultation

Introduction

1. The purpose of this document is to communicate the Inquiry's draft list of issues for its Module One investigation of undercover policing other than that carried out by the Special Demonstration Squad and the National Public Order Intelligence Unit. It should be noted that the investigation of the National Public Order Intelligence Unit includes investigation of any undercover policing that may have been carried out by its predecessor unit, the Animal Rights National Index, and its successor unit, the National Domestic Extremism Unit. Written observations on this list are invited by 4pm on Friday 28 September 2018.
2. The Inquiry, like many other public inquiries, intends to use issues lists to direct and focus its investigation to enable it better to discharge its [terms of reference](#)ⁱ.
3. The Inquiry has already published a [Module One Special Demonstration Squad Issues List](#)ⁱⁱ. Today, the Inquiry is also publishing a [Module One National Public Order Intelligence Unit Issues List](#)ⁱⁱⁱ. It is right to acknowledge that the undercover operations of those two units occupy centre stage in this Inquiry; it is the activities of some officers from those units (some confirmed, some alleged) which caused sufficient public concern to warrant a full statutory public inquiry. The undercover operations of those units are referenced expressly in the Inquiry's terms of reference; accordingly the investigation of those two units is a priority for the Inquiry. However, the terms of reference make clear that the Inquiry's investigation will not be limited to the undercover operations of those units. The Inquiry is required to inquire into and report generally on undercover police operations conducted by English and Welsh police forces in England and Wales since 1968. As Sir Christopher Pitchford stated in his [opening remarks on 28 July 2015](#)^{iv}, this Inquiry will investigate the practice of undercover policing in England and Wales from 1968 to the present, including the evolution of undercover policing for all purposes, not just in the Metropolis but throughout England and Wales.
4. In [Counsel to the Inquiry's note for the hearing on 5 April 2017](#)^v, it was again noted that, whilst the undercover operations of the Special Demonstration Squad and National Public Order Intelligence Unit (and their predecessor and successor units) are a priority for the Inquiry, undercover policing more generally, as conducted by all police forces in England and Wales (including the Metropolitan Police Service, regional units and national units such as the Regional Crime Squads and National Crime Squad), also falls within the Inquiry's terms of reference. It is this sort of

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undercover policing, which has been very often targeted at serious and organised criminals, to which this list of issues is directed.

5. As also explained in Counsel to the Inquiry's note for the hearing on 5 April 2017, the Inquiry has adopted a different, less intensive approach to its investigation of this undercover policing so as to enable the primary focus to remain on the Special Demonstration Squad and the National Public Order Intelligence Unit. The Inquiry has invited self-disclosure by police forces of both the good and the bad which has arisen from all of their other undercover policing operations. The Inquiry is taking steps to verify that the self-disclosure has been frank and representative. Individual case studies which appear to merit further investigation are being followed up by the Inquiry team. In relation to those cases, the Inquiry will adopt a more rigorous and intensive approach to investigate fully the reasons why, for example, a particular problem may have arisen in connection with a deployment. As set out in Counsel to the Inquiry's note, this has proved to be a successful strategy thus far. The Inquiry has received evidence suggestive of very productive undercover police operations that have been instrumental in bringing dangerous criminals to justice as well as evidence giving cause for concern that merits further investigation. Police forces are required to update the Inquiry in relation to these issues on an ongoing basis; indeed the Inquiry has been notified of further relevant examples since the force submitted their original witness statements. This is work that continues in parallel with the Inquiry's priority investigations.
6. This list of issues is deliberately drafted at a general level of detail and is intended to set out the overarching issues relevant to this part of the Inquiry's investigation. As explained above, individual case studies which appear to merit further investigation are being followed up by the Inquiry team in more detail. In those cases, the Inquiry is likely to look closely at issues such as recruitment, selection and training, conduct whilst deployed, management, supervision and oversight and welfare. The extent and degree to which those issues will be investigated will be determined on a case by case basis and is likely to vary.
7. Also, it should be noted that an issues list will not be set in stone. The Inquiry will, if necessary, amend it as its investigation proceeds. In particular, its investigation will be led by the evidence, and nothing in this document constrains the Inquiry from investigating any further issues that emerge from the documentary record or from witness testimony.
8. As set out in paragraph 82 of the Inquiry's [Strategic Review](#) dated May 2018^{vi}, it is anticipated that the Module One hearings in relation to other undercover policing and associated case studies will commence in March 2021.

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The draft Module One Other Undercover Policing Issues List for consultation

9. The draft issues list on which observations are sought is set out immediately below.

Draft OVERARCHING ISSUES – Module One Subsections on Other Undercover Policing

The history of undercover policing in police forces in England and Wales since 1968

1. What has been the scope, extent and purpose of undercover policing in police forces in England and Wales since 1968?
2. Under what legal and regulatory framework has such undercover policing been carried out?
3. What are the organisational structures within which such undercover policing has taken place since 1968?
4. To what extent has such undercover policing been carried out by dedicated undercover policing units within individual police forces?
5. To what extent has such undercover policing taken place outside of any such dedicated undercover policing units?
6. To what extent has undercover policing been conducted by the Special Branches of police forces?
7. To what extent has undercover policing taken place in collaboration with other police forces?
8. To what extent has undercover policing been carried out by regional police units? If so, to what extent has such undercover policing been carried out by dedicated undercover policing units within those regional units?

The contribution made by undercover policing to the prevention and detection of crime

9. For what reason(s) have police forces in England and Wales used undercover policing tactics?
10. What positive contribution has the use of undercover policing (including undercover online policing) made to the prevention and detection of crime in England and Wales, in particular serious crime?

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11. In what area(s) of policing, if any, has the use of undercover policing been particularly effective and, if so, why?

Undercover policing: operational failings and deficiencies

12. To what extent, if at all, have undercover policing operations carried out by police forces in England and Wales (including undercover online operations) either 'gone wrong' or been defective for some reason? Examples of reasons why such operations could be considered to have been defective include but are not limited to the following:
 - 12.1. Poor support;
 - 12.2. Agent provocateur/entrapment;
 - 12.3. Ineffective governance and/or oversight;
 - 12.4. Inappropriate authorisations;
 - 12.5. Inappropriate risk management;
 - 12.6. Recruitment failures;
 - 12.7. Inadequate training and/or psychological support;
 - 12.8. Inappropriate period of deployment;
 - 12.9. Specific examples of inappropriate conduct (e.g. sexual relations, commission of criminal offences, taking of controlled drugs, engaging in acts of violence);
 - 12.10. Inappropriate deployment of undercover tactics; and
 - 12.11. Use of a deceased child's identity.
13. To what extent was any undercover policing operation which was defective (for one of the above reasons or otherwise) a one-off failing or a repeated failing within a particular force? If it was a repeated failing, to what extent was the failing repeated and why?
14. To what extent, if at all, has any particular type of failing been repeated across different forces and, if so, why?
15. What have been the consequences of such operations which have 'gone wrong' or been defective for some other reason, including any impact on affected individuals?

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16. To what extent have any such operations which have 'gone wrong' or been defective for some reason either attracted adverse public criticism or an adverse judicial ruling?
17. To what extent have any such operations which have 'gone wrong' or been defective for some reason in fact never come to public attention at all?
18. In what area(s) of policing, if any, has the use of undercover policing resulted in particular and/or repeated operational concerns?
19. To what extent, if at all, do problems that have arisen in undercover policing operations carried out by police forces and/or regional units in England and Wales reflect problems that have arisen in undercover policing operations carried out by the Special Demonstration Squad and/or the National Public Order Intelligence Unit (and their predecessor and successor units)?

26 July 2018

ⁱ <https://www.ucpi.org.uk/wp-content/uploads/2016/06/Terms-of-Reference.pdf>

ⁱⁱ <https://www.ucpi.org.uk/about-the-inquiry/lists-of-issues/>

ⁱⁱⁱ https://www.ucpi.org.uk/wp-content/uploads/2018/07/20180726-NPOIU_Draft_Module_One_Issues_List.pdf

^{iv} <https://www.ucpi.org.uk/wp-content/uploads/2015/07/Opening-Remarks.pdf>

^v <https://www.ucpi.org.uk/wp-content/uploads/2017/03/20170302-Counsels-Note-for-hearing-on-5-April-2017.pdf>

^{vi} https://www.ucpi.org.uk/wp-content/uploads/2018/06/20180510-strategic_review.pdf