



**METROPOLITAN  
POLICE**

**TOTAL POLICING**

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*Dear Jenny*

Thank you for your recent letters relating to the deployment of undercover police officers. I appreciate your interest in these matters following our discussion at the recent Police and Crime Committee.

There has been some confusion about exactly where we have reached in terms of the various questions that you have submitted on these matters and I'm sorry that this hasn't been dealt with as efficiently as it could have been.

Whilst it probably isn't very productive to go over the minutiae of the various factors involved in this, I think some of the delays and confusion has probably arisen for two reasons.

The covert nature of undercover policing and the pending legal action against the MPS has meant that we are not prepared to put much of the information you seek in the public domain. Rather than respond to your individual questions with a series of negative answers, senior officers have written to you in general terms instead and this has obviously not been satisfactory from your point of view.

Secondly, as the workings of the former police authority have evolved into the new way of doing business through MOPAC, some communication processes may need to be better managed with regard to the various routes by which questions come to us.

I understand that on this matter some questions from you have come via MOPAC, some in letters direct to senior officers and others from discussions with me at the PCC. It also appears that the MPS response to previous questions was in fact sent to MOPAC prior to the last PCC meeting but not passed on to you which I think you'll agree resulted in a convoluted situation becoming even more confused.



I highlight these points not to excuse any delays but to try to ensure that similar issues are dealt with more speedily in future. Without wishing to restrict you in any way from contacting the MPS through which ever channels you prefer, perhaps you would consider copying our Corporate Development Unit in to any further questions you have so that we can manage the process more efficiently in the future.

I refer to the issues you have raised in your letters.

Her Majesty's Inspectorate of Constabulary carried out a review of undercover police tactics in 2012. The report '*A review of national police units which provide intelligence on criminality associated with protest*' can be accessed via the following link:-

<http://www.hmic.gov.uk/media/review-of-national-police-units-which-provide-intelligence-on-criminality-associated-with-protest-20120202.pdf>

The deployment of undercover officers is regulated by the Code of Practice issued by the Home Office under section 71 of the Regulation of Investigatory Powers Act 2000 'the Act'. There is a long history of using undercover officers as part of law enforcement, and it is recognised as being a lawful and ethical tactic, and at times a vital means of obtaining intelligence and evidence.

The authorisations under the Act generally require the authority of an officer at Superintendent level, as per the Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2010.

The Act does allow for the authorisation of criminal activity, including in foreign jurisdictions (Section 27(3)). Section 27 provides that conduct authorised is '*lawful for all purposes*'. This is supported by the CHIS Code of Practice (2002) which provides at paragraph 2.10 that '*In a very limited range of circumstances an authorisation under Part II may, by virtue of section 26(7) and 27 of the 2000 Act render lawful conduct which would otherwise be criminal, if it is incidental to any conduct falling within section 26(8) of the 2000 Act which the source is authorised to take.*' The CHIS Code of Practice (2010) confirms at paragraph 1.9 that these provisions continue.

Criminal activity which is beyond the scope of the authorisation will be viewed in the context of criminal/misconduct activity. A number of such issues are currently being investigated by Operation Herne.

I am unable to provide specific information in relation to the questions raised regarding Mark Kennedy in view of the sensitivity of this and the risk of collateral intrusion to others.

I am also sorry that I am unable to provide information on the deployment of undercover officers specifically in view of the potential compromise of ongoing operations. However I can confirm from a general perspective that working practices are intended both to support and ensure the safety of the undercover officers and the supervision of their deployment generally.



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That said, I understand that this is an area of policing that is of interest to you and that the answers I have provided may not have the detail that you hoped for. DAC Patricia Gallan would welcome the opportunity to meet with you personally to discuss these with you and also more generally the issue of undercover policing.

*Yours sincerely*

**Craig Mackey**  
**Deputy Commissioner**

Cc: Stephen Greenhalgh