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Your Ref:

Our Ref: 270.19



**POLICE
SCOTLAND**
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POILEAS ALBA

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Convener, Justice Sub-Committee on Policing
c/o Justice Sub-Committee Clerks
Room T2.60
The Scottish Parliament
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**Iain Livingstone QPM
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Dear John,

UNDERCOVER POLICING – FORMER SCOTTISH CRIME AND DRUG ENFORCEMENT AGENCY

I am writing to you in response to your letter of 14 February regarding the judgement of Lord Brailsford on 31 January 2019 and the proceedings associated with this case.

By way of background, this civil action concerned a former Grampian Police officer who was seconded to the former Scottish Crime and Drug Enforcement Agency (SCDEA).

Lord Brailsford found the former officer was not treated fairly following the discovery of mismanagement at the SCDEA's Special Operations Unit (SOU) in April 2011.

The case was raised against the Chief Constable of the Police Service of Scotland who inherited liabilities from legacy forces in terms of the Police and Fire Reform (Scotland) Act 2012. Police Scotland is appealing the judgement.

Following publication of Lord Brailsford's judgement it was drawn to my attention that during the former officer's evidence, she claimed that documents had been destroyed after the discovery of mismanagement in the SCDEA unit.

The case has led to legitimate interest in what took place in this unit and I wish to provide you with information about what action is now being taken and that I will report on the matter to the Scottish Police Authority.

I have instructed Deputy Chief Constable Fiona Taylor to lead a review of the chronology, previous investigations and what steps were taken at the relevant time. This work was established in early course and I have asked that the review be completed by the end of March 2019.

When completed I will consider what further steps, if any, are required to ensure the integrity of Police Scotland's response and provide public reassurance over this episode.

DCC Taylor will provide an interim update on this work at the Scottish Police Authority on 28 February and I will make a further report to the Authority in late March.

I recognise this case has generated renewed interest in the current use of undercover policing in Scotland and I would like to provide some clarity on how it is deployed by Police Scotland.

Undercover policing is a key tactic in operations tackling organised crime and online child sexual abuse. The officers who undertake these roles put themselves in challenging and often dangerous situations as they work to keep Scotland's citizens safe.

The establishment of Police Scotland has consolidated our approach to undercover policing and I am committed to ensuring the use of the tactic is undertaken in a proportionate manner in full compliance with the law.

Police Scotland is subject to annual reviews by the Investigatory Powers Commissioner's Office (IPCO) in respect of covert operations. Following their most recent inspection in September 2018 IPCO made a number of positive observations and one minor recommendation which did not relate to undercover policing.

Covert activity authorisations are now granted by officers of at least Assistant Chief Constable rank, providing stronger leadership, visibility and governance in this area. Should any authorisation run for more than 12 months, then as Chief Constable I will personally provide oversight and further authorisation as appropriate.

Undercover policing is a vital area that requires rigorous professional practice, underpinned by a clear understanding of and commitment to human rights.

As Chief Constable of Police Scotland I am committed to these principles.

I will report to the Scottish Police Authority once I have considered the findings of DCC Taylor's review and will write again to you in due course. I have copied this letter to Susan Deacon, Chair of the Scottish Police Authority and Humza Yousaf, Cabinet Secretary for Justice.

Yours sincerely



Iain Livingstone
Chief Constable

cc. Mrs Susan Deacon CBE, Chair of the Scottish Police Authority
cc. Mr Humza Yousaf MSP, Cabinet Secretary for Justice