



Mrs Gill Imery QPM
HM Chief Inspector of Constabulary

Mr John Finnie MSP
Convener
Justice Sub-Committee on Policing
Scottish Parliament

10 October 2018

Dear Convener,

HMICS Strategic Review of undercover policing in Scotland

I refer to your letter of 19 September 2018 and offer the following response.

As you are aware, the strategic review of undercover policing in Scotland was directed by the Cabinet Secretary for Justice and was undertaken by HMICS in terms of Section 74(1) of the Police and Fire Reform (Scotland) Act 2012.

Our report was presented to the Cabinet Secretary on 2 November 2017 and published on 7 February 2018. On the 8 February 2018, my predecessor Mr Derek Penman gave evidence at Justice Sub Committee on the key findings and recommendations.

Police Scotland established a steering group to oversee delivery of the 19 recommendations. HMICS is represented at the steering group as an observer and, where required, to provide context in relation to the recommendations. As this remains work in progress by Police Scotland I have forwarded your letter to the Chief Constable advising of your interest in the current status of the recommendations.

Our annual Scrutiny Plan outlines our priorities and scrutiny activities for the 2018-19 fiscal year and was developed through an extensive engagement process and consultation with stakeholders. There is no plan for HMICS to undertake any further work on undercover policing in Scotland aside from monitoring progress made against the recommendations. As outlined in our report we shall publish updates on recommendations as part of our annual reporting process.

In terms of your request for a response to recent media reporting on the subject of Domestic Extremism by Police Scotland, I am not in a position to comment or speculate on such media reporting. I can provide an observation on the Police Scotland Annual Police Plan 2017-18 under the operational priorities headed 'Counter Terrorism and Domestic Extremism'¹ which states:

'There continue to be protests around shale oil and gas extraction and unconventional oil and gas extraction, both commonly referred to as 'fracking'.

In 2017/18, we will continue to closely monitor individuals and groups that are involved/ suspected to be involved in the DE arena and explore all opportunities to disrupt and detect their activities'.

¹ <http://www.scotland.police.uk/assets/pdf/392813/annual-police-plan-2017-18>. Page 18.

It is my understanding that the two paragraphs, as highlighted above, are separate messages but could easily be misconstrued that Police Scotland continues to closely monitor individuals involved in protest. The position was clarified by Detective Chief Superintendent Gerry McLean, who publicly commented that Police Scotland "supports the public's right to protest".²

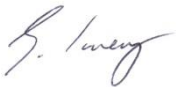
I note that the current Annual Police Plan 2018-19³ continues to recognise the threat from terrorism and domestic extremism as a national policing priority and has removed the ambiguous terms aligning operational activity under the four key elements of the UK CONTEST strategy.

The statutory framework for the use of covert surveillance in Scotland is provided by the Regulation of Investigatory Powers (Scotland) Act 2000 (RIP(S)A) and codes of practice. The law is designed to ensure that the use of covert investigatory measures by police is proportionate and that officers carrying out such activity are required by the law to consider necessity, proportionality and the impact of collateral intrusion. Each case for the use of covert investigatory measures must be considered on its own merit and subject to scrutiny and oversight.

The Investigatory Powers Commissioner's Office (IPCO) provides independent oversight of the use of investigatory powers by United Kingdom police forces. The IPCO are scheduled to carry out their annual inspection (2018) of Police Scotland examining policies, procedures and operations in respect of the use of investigatory powers.

The Commissioner provides an annual report on the exercise and performance of the powers and duties conferred by or under the Regulation of Investigatory Powers (Scotland) Act 2000 (RIP(S)A) and related legislation by public authorities across the UK to the Prime Minister and Scottish Ministers.

Yours sincerely



Gill Imery
HM Chief Inspector of Constabulary

² <http://www.thenational.scot/news/16893252.police-scotland-supports-the-publics-right-to-protest/>

³ <http://www.scotland.police.uk/assets/pdf/138327/150739/annual-police-plan-2018-19?view=Standard>

