

Chief Constables' Council

Resourcing of Op. Herne and need for NPCC UCPI Coordination Team

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1 Introduction

- 1.1 This purpose of this report is to brief Chief Constables Council on the ongoing work in relation to the National Public Order Intelligence Unit (NPOIU) and to request financial support (£1.6m) for Operation Herne to complete their work in relation to that Unit, within the terms of reference agreed by MPS with CC Creedon. The primary aim of that work is to identify any potential criminal behaviour, misconduct or potential miscarriages of justice, for reporting to the appropriate authority.
- 1.2 This work will involve examination and assessment of the centrally held documentation relating to this unit which will simultaneously support the requirement for a process to manage the assessment, redaction and disclosure of the NPOIU material to the Undercover Policing Inquiry.
- 1.3 At the NPCC Council meeting in January 2016, Chiefs were briefed on the UCPI, the SDS, the emerging knowledge of the NPOIU and the risks to the service. Chiefs agreed to collectively provide £150,000 towards the legal cost of the Pitchford Inquiry (UCPI), which would be shared across the 42 forces. Chiefs further supported the need for a review of the intelligence held by the NPOIU.
- 1.4 This report addresses three issues for Council to consider:
 - i. The resourcing requirement to carry out the initial investigative strategy through Operation

- Herne into the NPOIU based upon the centrally held material
- II. The future resource requirement in terms of the NPCC coordination team and the complexity of the disclosure, redaction and restriction processes in terms of those NPOIU operations that are subsequently scrutinised by the Undercover Public Inquiry.
 - III. The preferred IT solution to enable effective disclosure, redaction and document management.
- 1.5 This paper is also to advise CCs of the need to provide a proper process for the handling of NPOIU material to support the UCPI. A detailed process has been drafted by the NPCC Coordination Team, the principal stages of which are contained within Section 5 of this paper.

National Police Chiefs' Council

2. Terms of Reference – Operation Herne

- 2.1 The original Terms of Reference for Operation Herne, relating only to the activities of the SDS, were agreed by Chief Constable Creedon and Deputy Commissioner Mackey on the 21st June 2013. In October 2015 they were amended to include the review of the NPOIU, to understand its creation in 1999, its direction, oversight and method of operation and to identify any issues for further investigation, or for reporting to the appropriate authority.
- 2.2 In late 2015 CC Creedon wrote to all Chief Constables committing to bring to their attention any matters identified that they might need to consider in terms of misconduct matters or other issues in relation to operations linked to their Force. The NPOIU was a national unit, managed under the then ACPO TAM structures and also hosted and managed for several years in the MPS. The Home Office funded the NPOIU and had representation on the Steering Group that was established to oversee the unit.
- 2.3 Prior to its closure in 2011, it was returned to the MPS following the problems caused by the Kennedy case. Operation Herne has recovered a substantial amount of information and intelligence held centrally about the NPOIU, its operatives and operations. This has yet to be analysed in any detail and this paper proposes an investigative methodology to address this gap in line with previous decisions made by Chiefs' Council.
- 2.2 The review of the NPOIU material was prompted by numerous allegations against officers from different Constabularies and Forces who were seconded to the NPOIU. These allegations mirrored those made against MPS SDS officers and include allegations of; inappropriate sexual relationships, serious criminality and miscarriages of justice. A number of parallel civil actions have also been lodged against a number of police forces and are yet to be resolved. The engagement of Operation Herne to conduct the review of the NPOIU will ensure a consistent approach in gathering and assessing information in relation to the criminal allegations and associated misconduct. Operation Herne will also assist with handling the

relationship and disclosure of any NPOIU material to the Pitchford Public Inquiry through the NPCC Coordination Team.

3. Resources Required

- 3.1 The NPOIU material held within Operation Herne is approximately four times larger than the material in relation to the SDS. Council has already been briefed about the workings of the NPOIU between 1999 and 2011 and the fact that the unit to a greater or lesser extent was active in every force in England and Wales including the Ministry of defence Police and the Civil Nuclear constabulary. The NPOIU adopted some tactics and methodologies from the SDS and this included the use of deceased children's identities and long term intelligence deployments against identified high risk groups in areas such as animal rights, domestic extremism, political protest and climate change. It is also the case that there are allegations of improper sexual relationships, potential miscarriages of justice and a number misconduct investigations have taken place.
- 3.2 Council has already agreed the need to better understand the centrally held NPOIU material and an investigative strategy has been developed within Operation Herne. In his role as the independent lead for Operation Herne, Chief Constable Mick Creedon, has advised that in his view it is necessary to carry out an initial investigative scoping exercise so as to properly understand the material held, to assess the operational and personal risk and to better inform forces and the MPS. He has advised that in completing this work, Operation Herne will be in a position to comply with the agreed TOR in relation to the NPOIU and both the MPS and local forces will be in a position where they are able to link the national operations. In doing this forces will be in a position to better understand linked local activity and arrests, they can assess operational and personal risk and will be better able to comply with the current rule 9 requirements from the UCPI.
- 3.3 Bearing in mind the centrally held NPOIU material, such an investigation exercise could be completed within a 6 month timescale which it is suggested is a proportionate and essential response enabling Operation Herne to provide forces in England and Wales (and beyond) with a comprehensive overview of NPOIU activity. The NPOIU is a main focus of the UCPI and there are numerous 'Core Participants' with a declared interest in the unit. At present there remain outstanding issues to investigate and actual or potential civil claims, and the reality is that many forces may well not know as yet that there was NPOIU covert activity within their jurisdiction.
- 3.4 At this time the Operation Herne MIR holds seventy five (75) Iron Mountain sized storage boxes containing material attributed to the NPOIU including paper records and one hundred and eighty five (185) assorted digital media data storage devices, of which forty seven (47) are DLT backup tapes. One of these is the Legacy database which holds the archive of NPOIU material, (over one million items of information) which includes highly sensitive source material relevant to the unit. It is this information that the UCPI is in the process of currently viewing and the Inquiry team has recently made its first Rule 9 request in relation to the NPOIU.

- 3.5 The NPOIU initial investigation work to be undertaken by Operation Herne is unbudgeted within the MPS. Whilst the MPS have possession of the centrally held material outlined above, the NPOIU was a national unit and the responsibility for understanding the information and carrying out the investigative work is one to be shared by all forces. It is disproportionate and unrealistic to expect the MPS to deal with this alone and the MPS is not in a position to carry out any local investigative work in forces.
- 3.6 This matter was due to be brought to Chief's Council in April 2016 but following discussions in March 2016 the MPS submitted a Special Grant funding bid to the Home Office for the six month scoping work – this funding bid was very recently rejected.
- 3.7 The projected cost for the 6 months is £1.6m. A complete summary of the projected expenditure is shown at appendix A.
- 3.8 In October 2015 Her Majesty's Inspectorate of Constabulary was instructed by the Home Office to undertake a review of Op Herne's resourcing requirements in relation to another request for funding. In their written report to the Home Office HMIC concluded that the requested resourcing of Operation Herne (62 staff) was reasonable and proportionate taking into account that the investigation had clearly grown considerably since it started. They also reported that steps had been taken by Herne and the MPS to ensure that costs were reasonable and proportionate with appropriate oversight and governance arrangements in place.
- 3.9 Of the sixty two (62) staff required and detailed at Appendix A, with the exception of the SIO and Deputy SIO who have oversight and responsibility for all, the remaining sixty (60) staff can be divided into two distinct strands. The first group are the Major Incident Room staff (MIR) – (29) staff operating the secure CT HOLMES system; reading, indexing, research, typing management oversight and document disclosure. The second group is the outside Enquiry Team – (31) staff conducting all document identification and seizure, exhibits, enquiries, investigation and report production. This staffing requirement is in addition to the staff currently employed on Herne who are dealing with the numerous investigative strands in relation to the SDS and other elements (Herne has already investigated some specific NPOIU matters).
- 3.10 The incident room is managed tightly using CT HOLMES to comply with security requirements, meaning that material cannot be accessed remotely. All HOLMES MIR staff must therefore be located in the London although there is potential for some of the additional investigators to work remotely to the SIO's investigative strategy provided suitable security and information handling protocols are agreed. This has approach has already been utilised in the Midlands and it may be possible to replicate this across other NPCC regions. This would still require weekly (or in some cases daily) progress reports to the Herne Senior Leadership team.
- 3.11 Due to the experience gained investigating the SDS and the fact Op Herne is already investigating some elements of the NPOIU,

and due to the location of the centrally held material, Operation Herne is best placed to carry out the initial investigative work on behalf of the MPS and forces across England and Wales.

- 3.12 This report outlines the resources requirements to complete the initial investigative strategy outlined above, and to ensure that the centrally held NPOIU material is available in a form that allows for an initial assessment by the UCPI. The MPS is currently in receipt of a UCPI Rule 9 request to make available all the centrally held NPOIU material. This will be completed within the initial investigative strategy.

4. Public Inquiry Requirements and National Coordination

- 4.1 Currently Chiefs Council has agreed one year funding for a National Coordinator (Mr Andy Ward) and he is supported by a single member of staff. Forces and the UCPI are in daily contact with this Coordination Team and there are numerous benefits in a consistent and coordinated policing response.
- 4.2 In contrast to forces in England and Wales, the MPS has been involved in the preparation for the UCPI for a longer time and has started the disclosure and redaction process in relation to the SDS material alone. The MPS has an established 'Public Inquiry Team' (PIT) separate to the Herne investigation and this is currently led by a detective Superintendent with 15 members of staff. In addition, the MPS has dedicated in house legal support, leading counsel and 10 junior barristers in support. A resourcing bid is in place to increase the size of this team as the demands of the UCPI increase.
- 4.3 The main responsibility of the MPS PIT is the day to day contact with the UCPI, dealing with Rule 9 requests and the redaction and disclosure of the SDS material. After 8 months 50% of the SDS material has been dealt with and loaded onto the IT platform for the UCPI. In addition, the PIT carries out associated functions on behalf of the MPS including:
- Risk assessments and security for undercover officers
 - Obtaining witness statements
 - Manual redaction for legal and RIPA privilege material
 - Wider consideration of redaction and restriction order applications
 - Close liaison with the NPCC coordination team
 - Ensuring the proper retention and security of any relevant material along with a proven audit trail for the UCPI

5. Collation, Redaction and Disclosure processes

- 5.1 The points listed below provide an overview of the principle stages and key considerations from the MPS experience for the effective and timely disclosure to the UCPI of NPOIU material, along with recommendations for where this activity should sit;

5.1.1 Collation of NPOIU material

Operation Herne have to date collated material which includes 185 digital storage devices and paper records, as detailed in paragraph 3.4 above. This centrally held material will need to be subject of an initial assessment to provide an overview of what it incorporates, resulting in the provision of preliminary schedules.



Proposal: Operation Herne, resourced by all forces, to undertake this initial collation work of centrally held material.

5.1.2 Imaging and Scanning of NPOIU Material

The digital storage devices will need to be forensically imaged and processed onto the Forensic Tool Kit (FTK) system and hard copy documentation will need to be scanned onto the Altia system. Both of these platforms allow the material to be fully searchable.

Proposal: Operation Herne, resourced by all forces, to undertake this imaging and scanning work of centrally held material.

5.1.3 Discovery of Outstanding NPOIU material from MPS and Other Force Archives

Forces have already responded to their respective 3rd Rule 9 Request from the UCPI that required the provision of any information relating to any level of involvement with the NPOIU that they are currently aware of. As a result of the collation of the centrally held NPOIU material by Operation Herne, Forces will be notified of any operations relevant to them to allow for a further search of their own systems and archives in order locate, secure and retain any material.

Proposal: The existing NPCC UCPI Coordination Team will disseminate the information to the identified individual force level SPOCs who will need to undertake this work at the local level.

5.1.4 Initial Assessment of Centrally Held NPOIU Material by the UCPI

The UCPI legal team are in the process of viewing material on the FTK system in MPS premises to identify which cases/material they wish to consider in further detail within its terms of reference. This usefully narrows the extent of material that has to be prepared for disclosure to the UCPI and consequently transferred onto the Relativity system. Once the UCPI have determined the material to be considered this will generate further Rule 9 requests.

5.1.5 Review and Redaction of Material

Any NPOIU material that the UCPI request disclosure of will require an initial (stage 1) assessment to identify and remove anything subject of Legal Professional Privilege or Part I RIPa. This has the potential to involve Operation Herne, multiple police forces and 3rd party organisations or individuals.

Proposal: To be undertaken by the NPCC UCPI Co-Ordination Team which will require an increase in resources to

i) oversee this review and redaction stage, ii) ensure the benchmarking of this work and iii) coordinate between Operation Herne, forces and 3rd parties.

5.1.6 Disclosure of Material to the UCPI

Material requested by the UCPI at this stage will be loaded onto the Relativity system. The approach to be taken by the UCPI in relation to the NPOIU material is still unclear, however the Inquiry has requested reassurance about the integrity of the exhibits and the processing methods employed for data retrieval. Should all NPOIU material be required, bulk submissions may be made after stage 1 redactions are completed. However, should the Inquiry make individually themed requests, relevant documents will have to be identified, scheduled and disclosed. Supporting statements or briefing notes may be required to provide clarification or a narrative to assist presentation of results.

Proposal: To be undertaken by the NPCC UCPI Co-Ordination Team after increase in resources, overseeing the coordination between Operation Herne, forces and 3rd parties.

5.1.7 Selection of Material by the UCPI to be disclosed to Core Participants and/or to be called as evidence in the Inquiry

Further redaction (stage 2) of any material that the UCPI deems relevant for onward dissemination or publication will need to be considered in line with the Disclosure and Redaction Protocols that have been agreed with the Inquiry. There may be a requirement to introduce a Protocol involving all forces to enable the efficient sanitisation of multiple-equity material with a clear understanding of the legal responsibility for disclosure, any application under Section 19 for Restriction Orders and an understanding of the risks involved.

Proposal: To be undertaken by the NPCC UCPI Co-Ordination Team after increase in resources, overseeing the coordination between Operation Herne, forces and 3rd parties to undertake further redactions based on risk assessment. Coordination and benchmarking of the approach taken at this stage will be essential to ensure identification and effective management of risk.

5.1.8 Application for Restriction Orders

The Chair of the UCPI has ruled that he intends to decide on any application for a Restriction Order on a case by case basis and that each application will need to be supported by detailed evidence. This work will have to be undertaken by the owner of the material in question and where it relates to an undercover officer, the 'host' force with responsibility for that individual.

Proposal: That the relevant force(s) undertake this work, overseen and assisted by the NPCC UCPI Co-Ordination and legal teams, to enable a consistent and cost effective risk informed approach to restriction order applications, including consideration of JR applications if deemed necessary.

- 5.2 As the UCPI progresses, and as there is a greater understanding of the NPOIU material, it is inevitable that there will be a greater requirement placed on the NPCC. Once the investigative strategy is completed and both forces and the UCPI better understand the work of the NPOIU, there will be further requests from the UCPI for disclosure in relation to specific forces and operations. This will include both the centrally held NPOIU material (within Herne) and any local associated material which could take many forms. This process will then require a carefully managed redaction and disclosure exercise which is not one for the MPS to manage alone.
- 5.3 To properly manage redaction and disclosure requires legal support and local operational knowledge and is not something that can be managed remotely. Chief Constables should be aware of this future requirement but this cannot be realistically assessed at this time. The existing NPCC Coordination Team must be in a position to swiftly expand as required, subject to the agreement of Chiefs Council and the provision of the necessary funding and/or resource. There will always remain a requirement for forces to carry out a range of responsibilities.

6. Technological Requirements

- 6.1 The management of documentation is critical in terms of the relationship between forces and the UCPI, particularly around matters such as security, redaction, disclosure, risk management and allowing counsel to manage the legal aspects over potentially many years. To date the UCPI have yet to procure a document management system but the MPS with the knowledge and agreement of the UCPI have been using 'Relativity', an E-discovery document management platform capable of storing, processing and disclosing potentially millions of documents. It is envisaged this will be the system taken by the UCPI and this can provide a public facing and a confidential capability.
- 6.2 The MPS has chosen to place all SDS material on Relativity which is capable of storing the forensic image of soft copy material and scanned hard copy with an enhanced search function able to recognise and retrieve terms within handwritten text (OCR – Optical Character Recognition). This is a significant task and as outlined above, after more than 8 months of work only 50% of the SDS material is redacted and placed onto the system.
- 6.3 Whilst the MPS is in receipt of a rule 9 request which required the disclosure of all SDS material, it is unknown at this stage what the parallel requirement will be for the NPOIU material. The UCPI are aware that the NPOIU material is substantially larger than the SDS.
- 6.4 The position in relation to the NPOIU and the requirement of the UCPI will become clearer once the initial investigative work is

completed. The UCPI will not be carrying out an in depth investigation into all the NPOIU operations and will instead concentrate on a smaller number, potentially framed around specific themes. It is these operations and associated documents (held centrally and locally) that will need to be loaded onto the document management system.

- 6.5 Relativity offers the NPCC the opportunity to work with the MPS and develop a consistency of approach and allows the quick and effective transfer of data. It is impractical and inefficient for individual forces to procure and utilise different systems.
- 6.6 It is proposed that Relativity will in time be the preferred NPCC platform to provide for the disclosure and redaction of the NPOIU material selected by the UCPI. This is not a cost that should be borne by the MPS and Chief Constables are asked to support the principle of sharing all future additional associated costs on a funding formula calculation. At present this cost cannot be estimated as this is totally dependent on the requirements of the UCPI in relation to the NPOIU

7. **Recommendations**

- 7.1 Council is asked to endorse this report and agree:
 - a. Operation Herne (via CC Creedon) to be tasked by Chief Constables to undertake the initial investigative strategy in relation to the NPOIU based on the centrally held material as well as the receipt and discovery action required by the UCPI in relation to NPOIU activities.
 - b. Chief Constables agree (through their designated Chief Officer SPOC) to support this work with any associated local investigation
 - c. Resources and costs for this work to be shared by the 43 Forces of England and Wales and the Ministry of Defence police, the Civil Nuclear constabulary and British Transport police in line with the standard formula.
 - d. Oversight of this work and resourcing requirements to be undertaken by the NPCC Gold Group with regular reporting to Chiefs Constables' Council
 - e. Chief Constables note the need for the NPCC Coordination team, its potential future responsibilities and increase in resourcing requirements. A further paper will be brought to a future meeting of Council.
 - f. Chief Constables agree the need for a consistent document management system through the use of Relativity in relation to the selected NPOIU material.
 - g. Chief Constables agree that any costs for Relativity arising from the NPOIU are shared by the 42 non-MPS forces and the Civil Nuclear Constabulary, British Transport police and Ministry of Defence police based on the

standard formula. A further paper will be brought to a future meeting of Chiefs Council.



Appendix A

Operation Herne – NPOIU 6 Month Costings (Aug 16 – Feb 17)

Position	Quantity	Vacancies	Total Cost
Senior Investigating Officer DCI	1 X £44,311	0	£44,311
Deputy Senior Investigation Officer DCI	1 X £44,311	0	£44,311
HOLMES MIR			
Office Manager DS	1 X £33,360	0	£33,360
Deputy Office Manager DS	1 X £33,360	0	£33,360
Action Manager DS	1 X £33,360	0	£33,360
Receiver DC	4 X £28,673	2	£114,692
Readers DC	5 X £28,673	2	£143,365
Indexers Band E	6 x £19,327	0	£115,962
Typists Band F	6 X £17,881	2	£107,286
Analysts Band D	4 X £21,293	1	£85,172
Intelligence Officer D	1 X £21,293	0	£21,293
Investigation Team			
Detective Inspector	2 X £41,168	1	£82,336
Detective Sergeants	4 X £ 33,360	0	£133,440
Detective Constables	11 X £28,673	0	£315,403
External Consultants	14 X £24,588	1	£344,232

Total	62	9	£1,651,883
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