

Fryer, Douglas

From: Fryer, Douglas
Sent: Monday, 22 October 2012 10:22 PM
To: Cheligoy, Liz
Cc: Sheridan, Paul; Pope, Jeff
Subject: SDU - request to re-assess material provided - as below

→ De Centralized
→ Modelling.

Importance: High
Sensitivity: Confidential

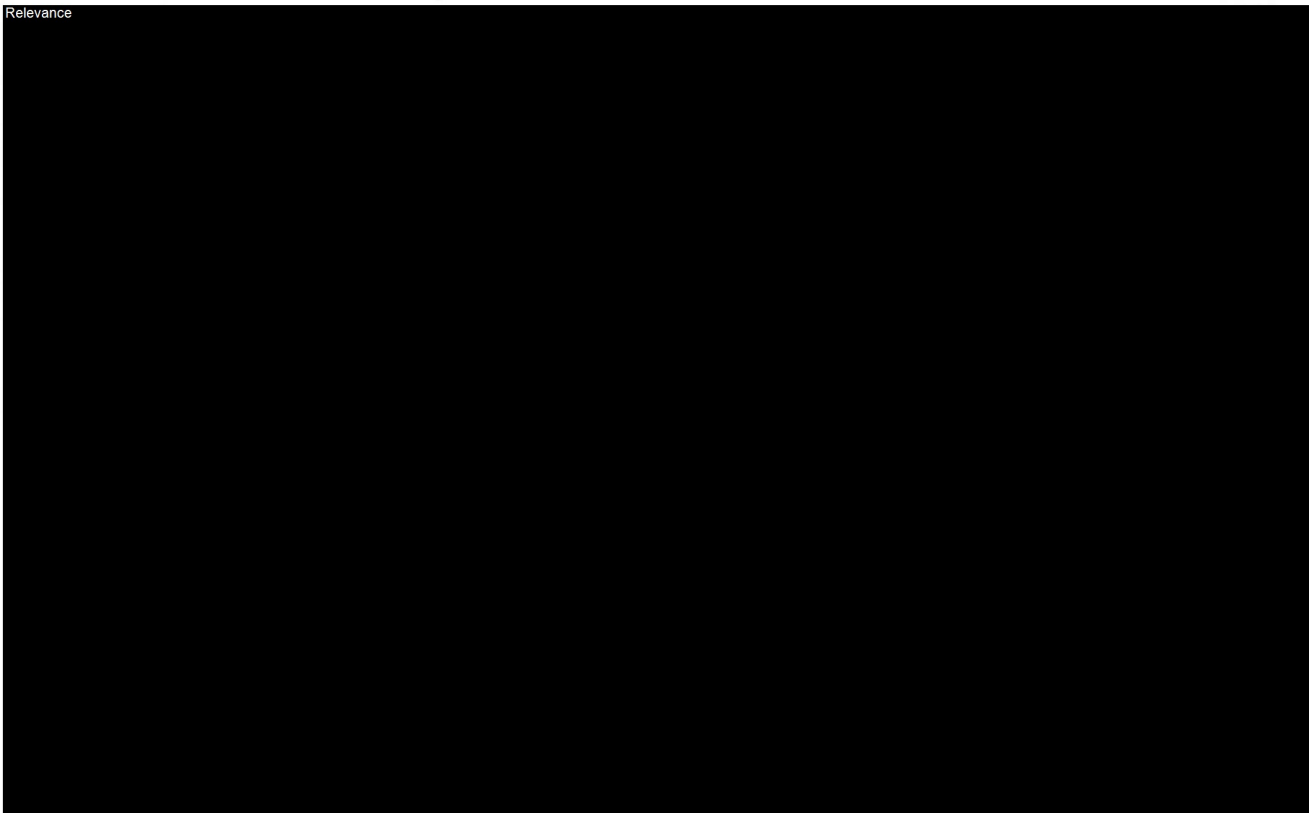
Attachments: ORGANISATIONAL REVIEW INITIATION FORM.doc; SDU management examples.doc

Hi Liz the below is a cut and paste with comments from your previous emails. **Your comments are in the blue.** We're keen to still progress the closure, but for us it is important for all to understand it is not at all linked to the CSD review, and to attempt to use the review to close the unit would not be a true reflection of the review, it's intent or it's outcome. We believe there is enough in the Comrie Review alone to close the unit, and that coupled with a number of examples post the management of the RHS of particular interest in the Comrie review in enough to demonstrate they continue to expose the organisation to an unacceptable risk.

Please find below our explanations to the issues you've previously raised. Once absorbed we'd be keen to again meet and further explore options for closure. As the CCP advised us in Aug/Sep we all need to be crystal clear on our rationale etc for closure with all I.R. addressed. I'm hoping the below response may clarify matters as I think we got it a bit muddled last time around.

Paul Sheridan has put together the vast majority of the below as he has an intimate knowledge of the unit, its continued behaviour, the CSD review, the comrie review and the current exposure to the organisation:

Relevance



Relevance

Source Development Unit (SDU) closure

Also early in June, Jeff Paul Brig Santucci and I met to discuss the review and potential for using OHS or MTIP as drivers for closing down the SDU. That was followed by further contact with TPA and a request that we meet with Luke Oliver as he had been approached by SDU members regarding the rumours that they were to be significantly affected by the review and seeking to clarify that MTIP was going to be applied to new but not current SDU staff.

The meeting of 4 June 2012 with Police Association representatives was a scheduled CSD Review meeting at which the terms of reference were discussed with particular reference to the maximum time in position application within respective position descriptions.

A short pre meeting with Pope, Cheligoy and Sheridan was held prior to the PA meeting however this was to brief Cheligoy. At that time the closure of the SDU was not a consideration, the Comrie investigation had not commenced.

During the PA meeting Luke Oliver challenged the proposal for maximum time in position and was advised that the Force proposed to proceed under Enterprise Agreement clause 20.7 (a) (b) and (c). Discussion centred upon the various instances which supported the Force case and concluded with the view that unless the Association was satisfied of the bona fide nature of the examples these would be matters tested at Fair Work Australia.

There was some discussion after the meeting about whether to cite OHS and provide a detailed rationale but it was subsequently decided not to proceed that way.

At a post meeting discussion between Pope, Cheligoy and Sheridan it was agreed that there was little point in providing the examples to the Association as they would inevitably be rejected by their membership. The most efficient course of action would be to have the matters tested 'in camera' at Fair Work Australia. But again the Comrie review hadn't started and this discussion was relevant to the MTIP / OHS discussions and the broader CSD review – which was simply interpreted by the SDU..

Options introduced by Liz Cheligoy

Q. Can we simply close it, if so how and with what comms, or do we in part need an org review etc etc? A. yes you can but.....

Arguments for immediate closure:

they represent a risk to VicPol because they won't follow management direction; a number of interventions have failed to improve the behaviours; they are making ill-informed suggestions about future sources to their managers and when thwarted, go around particular managers to garner support elsewhere; there is a bigger need to use skilled Source handler skills in the Regions rather than centrally but this is a trend that is already happening in other jurisdictions here and abroad (which might lock you in to using the SDU staff and that is something I understood you wanted to avoid) ;

If some of these staff become involved in human source management elsewhere it does not present a significant problem. The current duties of the SDU is "high risk" source management. Management of routine sources across the regions would be acceptable and monitored under existing force policies.

Part of the complexity and the unacceptable difficulty is the combination of all [REDACTED] source handlers together which collectively form a strong and persistent anti establishment group – this behaviour is evidenced and management interventions have occurred, and documented, e.g. shift from covert location to 412 St Kilda Road (same floor as the A/C) change of vehicle policy etc – further examples later on.

Some work has been done on a revised model but the work is not yet completed and will be some time before a report is ready to be released.

No work has been undertaken on a revised model. This will likely form part of Jeff Pope's proposed Human Source Management Review which is likely some months away from starting and would not be completed until sometime in 2013.

This could form part of your comms strategy. However, the lack of evidence i.e. proof of directions/discussions agreed between the manager and the managed, the interventions/timeframe/results is problematic.

There is no 'lack of evidence' if we wish to base the decision upon the Comrie enquiry. But in fairness one could argue the source management Comrie reviewed may have been isolated. However, this isn't the case and there is a continued course of conduct by the current staff that highlights continued unacceptable organisational risk that the workgroup should be closed asap.

Again these have not been issues that can be managed in a PDA, but systemic and negative cultural issues where significant and continual management intervention has occurred.

yes but Arguments against immediate closure:

the Review is about a month away from completion and a recommendation for immediate closure will have more validity once the Review is completed; The CSD Review is several months away from completion. The change of direction regarding the Intelligence Phase has as of last meeting (17.9) introduced significant resource challenges coupled with financial requirements to establish the new unit. It is unlikely this would be resolved prior to the end of 2012.

In my view attempting to use the CSD review manipulates the intent and outcome of the review because in itself it doesn't require the closure of the unit. Closing workgroups wasn't in the scope of the review.

While a recent Inquiry has identified a number of risks including that SDU staff resist or decline to follow management direction, a number of interventions have failed, and the risks posed by their ill-informed suggestions about future sources and then going around their own manager to other managers to influence Source decisions, unless we have PDA entries and/or Personnel File notes we have no real evidence; we cannot use the Inquiry recommendations in a public setting,

This paragraph is factually incorrect, the Comrie inquiry identified a systemic course of behaviour pertaining to risk management that have not been the subject of specific management interventions. It is historical

which may detract from using it to close the unit after the fact. Had current management known of the specifics of the deployment of 3838 etc and their lack of support to the Petra Task Force current management would have taken action. The issue now is their behaviour continues.

Although we would seek and likely be granted closed proceedings' status, the earliest available listing out of FairWork is likely to be 4 or more weeks away, and can then be delayed by either party with a good enough excuse. The Hearing process starts with a Conciliation which, as it is likely to fail, will proceed to Hearing on a separate date after the DP has issued a conciliation failed notice.

Really if this is the process so be it – this is simply the legal process available. The real question here is would the Victoria Police command structure be satisfied to argue that it closed the SDU on the basis of ongoing organisational risk, that continuing the duties would expose it to further and greater risk including in some cases potential criminality. In my view this answer should be Yes – unacceptable risk.

The Armed Offenders debacle had VicPol pretty much on the back foot from the moment the announcement was made because the EB wasn't followed. Some of the SDU are ex-Armed Offenders and will doubtless recall the disbanding of that Squad better than I do.

The current issue is centred upon the degree of risk the organisation is prepared to accept in the handling of high risk human sources, not the background of the members. That being said should a closure occur it is almost certain elements aligned to the workgroup will proactively release negative media

We could complete the Review, trust that there will be recommendations around immediate closure of that unit and then staff can be deployed into 'holding' positions in CIUs or other operational roles that they may like to nominate, for a defined period of time (bearing in mind the 12 month salary maintenance provision) to improve their competitiveness for CIU or other roles at rank.

The completed CSD Review will at this point make no recommendations for SDU closure. The only way this could occur is if the Review steering committee were asked to consider the Comrie investigation findings and the recent history of managerial intervention and resistance to intrusive supervision. Given the sensitive nature of the Comrie investigation this is not envisaged as a realistic option.

The CCP could forewarn Greg Davies of the review outcomes before TPA is formally notified. TPA would need to be given time (probably no more than 10 days) to respond to the Review.

The CCP has already “flagged” with the PA Secretary that he has concerns over some issues at the SDU.

After that time, a decision would have to be made to permanently unattach them from their position so that they can be part of the redeployment pool. But there are no guarantees that TPA will just quietly accept what we are doing and we can't stop them from testing us and our actions in FairWork.

The organisation would be obliged to argue that on the basis of ongoing organisational risk, that continuing the duties would expose it to further and greater risk including in some cases potential criminality.

The SDU members and the organisation deserve to be suitably placed in positions that make best use of their skills and training. This whole matter is about the risk taking attitude that has developed within a unit which places the organisation at risk.

Initial HR Advice (Tasominos)

Alex Tasominos advised on 17 August 2012 that the CCP could declare the personnel within the SDU as surplus in accordance with Enterprise Agreement (EA) clause 22.1

The members would then have their salaries and allowances maintained as per clause 22.3 of the EA.

The members would be re-deployed in accordance with the EA. Note a transitional plan has already been confidentially established re the hand over of existing sources and the closure of the unit managing impact to

regional investigations.

Formal advice via clause 10 of the EA would be provided to the members.

“...the employer is not required to disclose confidential or commercially sensitive information to the relevant employee or their representative.”

Options

- Close the SDU – Comrie investigation

The evidence basis for this is the internal Comrie investigation which has identified a code of practice which is in breach of policy and in some cases the law.

If Command *do not wish to rely upon the Comrie inquiry* then I recommend that the closure not be pursued through other means. To do so would compromise the integrity of the Covert Services Review. To elicit managerial examples of poor work practice is self defeating, as raised by Liz Chelogy it would open management to criticism of not documenting appropriately within the PDA process. However as earlier stated the behaviour was systemic of an entire workgroup. Significant management intervention has occurred, like moving them from covert location to the same floor as the A/C ICSD – significant change of vehicle policy. Neither of these example are included in anyone’s PDA as they were actioned as part of trying to shift negative culture- a whole workgroup

- Close the SDU - CSD Review recommends it – not achievable without rewriting the review. At no stage did the CSD Review focuses upon the relevant aspects of SDU function. I recommend we not employ this tactic.
- Realign the functions of the Source Development Unit

Retain the SDU but implement changes to their duties with regard to the supervision of all human sources being managed state wide.

Internally direct the SDU to work more closely with the Human Source Management Unit with a view to strict governance over the management of all human sources state wide.

Retain the staff from the SDU. There will be some natural attrition as it is likely some will seek to transfer out.

Have SDU personnel responsible for selected high risk human sources as agreed by a governance committee which assesses all circumstances of the source relationship.

Handling teams could be developed when vacancies arise allowing the introduction of senior constable ranks and more appropriate gender mix.

Liz, the above has predominately been compiled by Paul, value added and endorsed by me.

In the attachments are a number of examples of behaviour and the CSD org review invitation form – with a focus on MTIP

Thanks for your guidance on this – call me when you’ve absorbed it!

Thanks

Doug



ORGANISATIONAL SDU management
REVIEW INITIATI... examples.doc (3...

Doug Fryer | Acting Assistant Commissioner

**Intelligence & Covert Support Department
Victoria Police**

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SDU management

There have been several cases in which SDU personnel have strongly resisted managerial intervention or direction pertaining to the registration, de-registration of handling of CHIS over the past two and a half years. The predominate attitude by the controllers (D/S/Sgt) and long serving handlers (D/Sgt) is that as management are not trained to [REDACTED] Human Source standard and that they can not make decision pertaining to the risk presented.

SDU staff consistently fail to accept that management act as governance across the deployment of high risk human sources to ensure that the community, the organisation, the members and the human source are not placed at a unacceptable level of risk. A culture of risk taking has developed, based on ego rather than *risk versus reward*.

The following instances are examples where managerial intervention was required to ensure effective risk management. They are indicative of the culture discussed above. Management at unit and divisional level has made solid progress in 'reforming' this risk taking culture however it remains a work in progress to date.

PDA entries are not applicable in the vast majority of cases as they pertain to judgement issues and could have led to workplace conflict further impeding change management progress.

In **May 2010** a CMRD Audit of Human Sources was conducted across the organisation including the SDU. The Controllers at the unit resisted this believing that CMRD has no right to audit the handling of high risk human sources within the SDU. They were directed by the OIC to comply with the requests of CMRD Audit Team.

In **January 2011** CAMDOC removed the Controlled Operations Authority given to a long term CHIS due to the overwhelming risk posed by the continued deployment of the individual. Several staff at the unit, including both controllers were not accepting of this decision believing that they could manage the risk. They believed that the members of CAMDOC were risk adverse and had no knowledge in regards to managing CHIS and risk.

In **February 2011** Op Shelldrake as a result of the internal investigation undertaken by NSW Pol and VicPol, controllers were advised that deployments interstate may require the SDU OIC to travel with staff when deploying. The controllers were extremely resistant to having an officer travel with them as they were experts in human source management and the OIC was not [REDACTED] qualified.

In **April 2011** one of the controllers at an operations meeting sought feedback from staff as to notifying a long term human source that search warrants were about to be executed on associates addresses. The OIC stopped this immediately and spoke with the controller who thought that it was not an unreasonable suggestion.

In **October 2011** – involving the Echo TF - LSR assessed that the CHIS was not suited to be deployed into the OMCG environment and due to mental instability may self declare under pressure which would precipitate significant risk of harm. Attempts made by controller to circumvent decision by attempting to go through Crime Dept management re have decision reviewed.

Office meeting in late 2011 several staff expressed that in their role as human source handlers their first loyalty was to the high risk human source and not the Victoria Community and the Victoria Police Force. When the OIC explained to them that their loyalty should be to the Victorian Community, the people that they had sworn to protect, they still believed that “they should look after the source first.” This clearly demonstrates that they have lost connection with the organisations philosophies.

In February 2012 Op [REDACTED] a trial involving the [REDACTED] in Australia was underway. There were several defendants in the matter including some well known importers and traffickers of drugs. One of the controllers at the unit wanted to try and get two of the defendants to become human sources. The controller wanted to approach the potential human sources in the grounds of the court. When the OIC of the unit did not allow this, the controller struggled to understand that his actions if allowed to continue had the potential to have a lengthy Supreme Court trial being aborted and bring adverse publicity to Victoria Police. The controller failed to understand the ‘risk versus reward’ in source management and allowed his professional ego get in the way of making a sound judgement in this matter.

In February 2012 – [REDACTED] – CHIS had been identified through other intelligence sources to be actively involved in planning a reprisal attack following the murder of a criminal identity. SDU personnel did not accept the risk assessment of management and argued to continue deployment in face of strong evidence that deployment would/would be used by CHIS as a likely defence if apprehended committing serious criminal offences against the person.

In March 2012 – BB matter – D/Insp and LSR assessment that CHIS was not a fit and proper person to be deployed by SDU. Intense resistance and inappropriate comments to RFA and others from controller / handler in regards to this decision.

In April 2012 a shooting occurred in NW Metro. A CHIS had passed on information within hours of it occurring that was critical for the investigation. The location of the victim was not known and the victim’s car was located burnt out nearby. The SDU controller and handler were concerned that by passing on single source information it may expose the source to risk. The OIC had to direct then controller to pass on the information immediately as it was not known if the victim was still alive. The controller and handler were concerned that the sources welfare had to be look after, even though it was unknown if the victim was alive or dead. Fortunately the victim was located alive several days later by investigators. This example again highlights the cultural attitude within the unit that the priority is the source and not the Victorian Community.

In April 2012 – [REDACTED] – CHIS under investigation and being electronically surveilled. SDU personnel desirous of issuing CHIS with a [REDACTED] to enable deployment to be free from electronic surveillance. D/Insp / LSR did not allow this to occur. SDU personnel unable to see that this action it allowed to occur would alert the CHIS that he was under investigation and effectively have the unit working against the investigating unit.

In August 2012 a controller refused to make an approach to a potential human source / witness, who was [REDACTED] stating that the risk was extreme. After circumstances changed the controller was still was extremely reluctant to make an approach. A decision was made for the OIC to make the approach with an investigator.

The day before the OIC and investigator went [REDACTED] the controller forwarded an IR to the [REDACTED] Intelligence Unit that provided information that would have assisted in the approach. The controller failed to pass this onto the OIC, knowing this was of importance.

In **September 2012** – Op [REDACTED] – controller / handlers desirous of facilitating the commission of pill manufacturing utilising a CHIS to assist investigators. Terminated on the basis that police would cause the commission of the offence which without the involvement of the CHIS would not occur.

ORGANISATIONAL REVIEW INITIATION FORM


CR

This document should be prepared by the Project Sponsor/Manager at the commencement of any proposed organisational review and submitted, via the Department Head, to the Manager, Funded Profile Unit, People Strategy Division, People Department, (email: PEOPLE FUNDED PROFILE-MGR) with the following attachments:

- Current organisational structure;
- Proposed organisational structure;
- Current establishment and staffing profile; and
- Departmental Strategic Plan / Statement of strategic direction (brief)

NAME OF REVIEW:	Covert Services Division Review
DEPARTMENT:	Intelligence & Covert Support Department
REVIEW SPONSOR:	Assistant Commissioner Jeff Pope
PROJECT TEAM MEMBERS (including team leader):	Detective Superintendents Tony Biggin, Paul Sheridan & Neil Paterson.
ASSISTANCE SOUGHT FROM MOBILITY, CLASSIFICATIONS & REVIEWS:	Position Description – review.
STRATEGIC RATIONALE FOR REVIEW & LINKS TO STRATEGIES & OBJECTIVES OF UNIT/DEPT: Include the key strategies of the region/department and how the structural review will assist the region/department to meet its objectives	Consistency in position descriptions in like positions within the division. Focus upon health and wellbeing issues associated with extended deployment in covert policing. Assess efficiency of intelligence process within the Covert Services and Surveillance Divisions.
TERMS OF REFERENCE:	A review of the position description(s) within the Covert Services Division to provide consistency with regard to common features such as security clearance, contemporary police exposure etc and to

	<p>achieve relevance to service to customer groups and force objectives and priorities.</p> <p>To examine the health and safety issues associated with long term deployment in a covert policing environment and better plan for business continuity and succession planning.</p> <p>To examine the intelligence reporting mechanisms within the Covert Services Division with regard to enhancing customer needs and force objectives and priorities. Note this aspect is to include the State Surveillance Division intelligence unit.</p>
DESIRED OUTCOME:	<p>Accurate position descriptions.</p> <p>Safe and healthy workforce with business continuity and succession effectively planned for.</p> <p>Efficient intelligence flow aligned with Force objectives.</p>
POTENTIAL IMPACT ON CURRENT STAFF (INCLUDING POTENTIAL REDUNDANCIES):	
<p>DO YOU ANTICIPATE AMENDMENTS TO CURRENT STAFFING PROFILE:</p> <p>IF YES, WILL THIS REVIEW REQUIRE ADDITIONAL FUNDING;</p> <p>IF YES, HAS ADDITIONAL FUNDING BEEN SOURCED.</p>	
POLITICAL SENSITIVITIES/INDUSTRIAL ISSUES:	
OTHER COMMENTS:	

PREPARED BY: (Project Sponsor/Manager) _____

Dated: _____

I agree that this review will be conducted according to the principles outlined in relevant enterprise agreements and other relevant guidelines of significance.

ENDORSED BY: (Department Head) _____

Date: _____

ENDORSED BY: (Department Head) _____ Date: _____
(eg proposed realignment of one unit to a different department).

NOTED BY

Funded Profile Unit, People Department: _____

Approval to proceed: ___Yes___ / ___No___

Dated: _____

CSR -
Why