

IN THE UNDERCOVER POLICING INQUIRY

NON-POLICE, NON-STATE CORE PARTICIPANTS' SUPPLEMENTAL SUBMISSIONS IN RELATION TO THE ANONYMITY APPLICATIONS OF JAIPUR AND KARACHI

1. These supplemental submissions on behalf of the NPSCPs are made in light of the indication by the MPS that Jaipur and Karachi will no longer act as risk assessors for the purposes of the Inquiry. This decision is welcomed. However, it gives rise to real concern about the impact on the progress of the Inquiry. The NPSCPs question why these officers were ever put forward as objective risk assessors by the MPS, given the obvious problems arising from their personal connections and professional mandate to preserve former UCOs' anonymity. As a result of this flawed decision, there will now be further delay and, fifteen months in to the Inquiry, there is still no immediate prospect of even the first tranche of UCO restriction orders being determined. This has, for a number of NPSCPs, the appearance of filibustering on the part of the MPS.

2. As to the residual anonymity applications in respect of Jaipur and Karachi, the NPSCPs' position remains as set out in the original submissions. The starting point is openness and accessibility and any restriction order must be justified [RO legal principles ruling [82] and [89]]. The grounds on which the MPS seek to justify these restriction orders are not made out:
 - a. the MPS contention that disclosure of Jaipur and Karachi's identity would lead to the identification of the former undercover officers with whom they work; undermine the operational effectiveness of Operation Motion; and restrict where they could meet and socialize with friends who are former UCOs, is far-fetched and unrealistic for all of the reasons set out at [19]-[22] of the NPSCP's original submissions; and

- b. the MPS complaint of the risk of “profiling” of Jaipur and Karachi is misconceived for the reasons set out at [23]-[32] of the original submissions.
3. Further, it is far from clear that Operation Motion is unequivocally conducive to the Inquiry fulfilling its terms of reference. Operation Motion’s primary role is to build bridges between the MPS and its former undercover officers. Where such officers are already engaging, or would be prepared to engage, with the Inquiry directly, such direct engagement is likely to be more conducive to getting to the truth than information filtered through the MPS corporate position.
4. For all of these reasons, the bases on which the MPS seek to justify these applications are not made out. Since the statutory starting point is openness and accessibility, in the absence of any justification for departure, the default position must be to refuse the applications. Further, it is of note that the extent of the role that Jaipur and Karachi will now play in the evidential chain remains unclear. The Chairman’s direction of 29 September 2016 refers to Jaipur and Karachi as continuing to act as “conduits for information” between former undercover officers and the new risk assessors. The MPS response to questions on this issue indicates that the extent to which the new risk assessors will conduct their own independent investigations is still to be determined, depending on the view of the new risk assessors themselves and the willingness of former undercover officers to comply. The significance of Jaipur and Karachi’s residual role is therefore still to be determined. The greater their role in matters of evidential significance to the Inquiry, the greater the public interest is likely to be in disclosure of their identities. Were restriction orders to be granted at this stage, such orders would, at very least, need to be kept under strict review while the extent of these officers’ role becomes clear.

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