

UNDERCOVER POLICING INQUIRY

In the matter of section 19(3) of the Inquiries Act 2005

Applications for restriction orders in respect of the real and cover names of officers of the Special Operations Squad and the Special Demonstrations Squad

'Minded to' note

Applications

1. The Inquiry has, to date, considered the cases of 29 individual officers. I am minded to make restriction orders under section 19(3) of the Inquiries Act 2005 in the cases specified in the table below. Where no application has been made I have noted that fact against the Operation Herne number given. Where further steps need to be taken before a decision can be made I have identified those steps. In the case of HN7 I have decided to make a restriction order under section 19 of the Inquiries Act 2005.

| Nominal | Position |
|---------|---|
| HN2 | Pending HN2's instruction of a legal representative and receipt of further information no decision can yet be made. |
| HN15 | Awaiting further information. |
| HN16 | This application will be considered at a closed hearing for which directions will be given separately, after the submission, by 1 September 2017, of a further risk assessment. |
| HN26 | This application will be considered at a closed hearing for which directions will be given separately. Closed observations will accompany those directions. |
| HN58 | Neither the cover nor real name can be published. |
| HN68 | The real name cannot be published. |
| HN81 | The real name cannot be published. The application for a restriction order in respect of the cover name will be considered at a closed hearing for which directions will be given separately. |
| HN104 | The real name cannot be published. |
| HN108 | No application made. |
| HN120 | No application made. |
| HN123 | Neither the cover nor real name can be published. |
| HN146 | No application made. |
| HN204 | No application made. |

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| Nominal | Position |
|---------|---|
| HN294 | The real name cannot be published. |
| HN297 | The real name cannot be published. |
| HN321 | The real name cannot be published. |
| HN323 | No application made. |
| HN326 | The real name cannot be published. |
| HN327 | No application made. |
| HN328 | No application made. |
| HN329 | The real name cannot be published. |
| HN330 | The real name cannot be published. |
| HN333 | Neither the cover nor real name can be published. |
| HN325 | No application made. |
| HN335 | No application made. |
| HN343 | The real name cannot be published. Awaiting final position in relation to the cover name, the Metropolitan Police Service having originally made no application in respect of it. |
| HN345 | Application, if any, to be made by 1 September 2017. |
| HN1251 | No application made. |

Reasons

HN16 – Application for restriction over real and cover name. Closed hearing.

2. Detailed factors particular to this officer's circumstances require them to be considered at a closed hearing.

HN26 – Application for restriction over real and cover name. Closed hearing.

3. Detailed factors particular to this officer's circumstances require them to be considered at a closed hearing.

HN58 – Application for restriction over real and cover name. Neither the real nor cover name can be published.

4. HN58 is now aged over 60. From 1997 until 2001 HN58 had a managerial position in the Special Demonstration Squad, having earlier been deployed as an undercover officer. The publication of any details about the deployment would give rise to some risk to HN58's personal safety. Further, in a report dated 18 January 2017 Professor Fox states that the publication of the cover name creates a slight risk of causing a

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stress reaction recognised in the 10th revision of the International Statistical Classification of Diseases and Related Health Problems. It is not necessary to fulfil the Inquiry's terms of reference to run these risks. What matters is the evidence which HN58 can give about the discharge of HN58's managerial duties and evidence which can be given by others about it. The identity of HN58 is known to those who can do so. The cogency of HN58's evidence and theirs will not be diminished by the use of a cypher. It is likely that HN58 will have to give evidence from behind a screen. Closed reasons supplement this paragraph.

HN68 - Application for restriction over real and cover name. The real name cannot be published.

5. HN68 is now deceased. He was deployed against a number of groups between 1968 and 1974. Between 1982 and 1984 he had a managerial position in the Special Demonstration Squad. His cover name will be published. As in the case of the living officers cited it is unlikely that the publication of his real name would prompt the giving or production of evidence necessary to permit the Inquiry to fulfil its terms of reference. Evidence about the discharge of his managerial duties can be given by reference to his cypher. The identity of HN68 is known to those who can give such evidence. Publication of his real name would be likely to interfere with the right of his widow to respect for her private life under Article 8 of the European Convention on Human Rights ('the European Convention'). It is unlikely that such interference would be justified under Article 8(2). The possibility that disclosure of his cover name might interfere with her right is nil or negligible. Closed reasons accompany this note.

HN81 – Application for restriction over real and cover name. Closed hearing.

6. As is set out in paragraph 6.15 of the report of Mark Ellison QC of March 2014, HN81 was deployed against one of the groups supporting the Lawrence family campaign. HN81 can give evidence about the nature and purpose of that deployment, the intelligence gathered by it, and what was done with that intelligence. HN81's evidence is likely, in part, to be disputed by members of the group against which HN81 was deployed and by others. One of the reasons for setting up the Inquiry was to investigate these issues. I can at present see no means of resolving disputed questions of fact about them without the cover name of HN81 being published. One of the issues which I may have to determine is whether or not the group against which HN81 was deployed was steered towards the Lawrence family campaign by HN81. For others to be able to give evidence about that issue, they would have to know the cover name. HN81 is understandably concerned that revelation of the cover name may lead to identification of the real name. This has had, and continues to have, an impact on HN81's mental health. According to Dr Walter Busuttil, a

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consultant psychiatrist, in a report dated 15 February 2017, the impact has been significant and will be severe if the cover name is disclosed. HN81's situation has also had an impact on the health and well-being of HN81's partner. Their right to respect for their private and family life, including health and personal integrity, under Article 8 of the European Convention will be infringed unless the interference is justified under Article 8(2). The issue is both important and difficult. I propose, therefore, to take the exceptional course of conducting a closed hearing at which I can receive representations by or on behalf of HN81 and discuss possible means of reconciling HN81's legitimate interests with those of the Inquiry. If necessary, I will thereafter invite representations from non-state core participants, if necessary at an open hearing. Closed reasons supplement this paragraph.

HN104 – Application for restriction over real name. The real name cannot be published.

7. HN104 was deployed against two groups between March 2000 and summer 2006. His cover name is in the public domain and has been officially confirmed. Allegations of improper sexual conduct have been made against him. He has a partner. Both are concerned about the possibility of violence being used against him by members or former members of one or both of the groups. Both are concerned about media intrusion and the efforts of those with IT skills to ascertain his real name and whereabouts. Their concerns are not irrational and have some basis in fact. According to Prof Fox, in a report dated 8 March 2017, HN104 suffers from significant mental health conditions.
8. The right of HN104 and his partner to respect for private and family life would be infringed unless the interference which would be caused by publication of his real name is justified under Article 8(2). Publication is not necessary to fulfil the terms of reference of the Inquiry. Members of the infiltrated groups, including those who claim to have had a sexual relationship with him, do not need to know his real name to be able to give evidence about acts committed in his cover name. On the basis of what is now known, interference in Article 8(2) rights is not justified. It is possible that that judgement may require to be revisited in the light of evidence given by others under section 20(4) of the Inquiries Act 2005. For the present, I am satisfied that his real name should not be published and that it is likely that he will be permitted to give evidence from behind a screen.

HN123 – Application for restriction over real and cover name. Neither the cover nor real name can be published.

9. HN123 was deployed against a number of groups in the 1990s, at least one of which advocated and practised the use of violence. HN123 retired from the Metropolitan

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Police Service on health grounds: HN123 was diagnosed as suffering from significant mental health conditions resulting, at least in part, from the effects of the deployment. HN123 has made a slow, but incomplete, recovery. HN123 and HN123's partner are concerned about the possibility that HN123's identity will be revealed during the Inquiry, both for reasons of safety and because of the potential impact on HN123's health. I have read personal statements by both of them, which are and will remain closed, in which these concerns are expressed. I accept that they are genuine and not irrational. Overriding them would interfere with their right to respect for private and family life under Article 8 of the European Convention and would require to be justified under Article 8(2). Fulfilment of the terms of reference of the Inquiry does not require that the real or cover name of HN123 be published. The evidence of HN123 can be given under a cypher. HN123 was involved indirectly in deployments affecting the Lawrence family and can give evidence about that under the cypher. To the extent that it is contentious, it can be challenged just as effectively, as if given in the real or cover name. In those circumstances, the interference would not be justified. It is desirable, and may be essential, that HN123 gives evidence in public. In that event, protective measures are likely to be required.

HN294 – Application for restriction over real name. The real name cannot be published.

10. HN294 is now deceased. He was deployed as an undercover officer in 1968 and 1969 against one group which no longer exists and reported on others which also no longer exist. He then assumed a managerial role in the Special Demonstration Squad until 1974. There is no information about his cover name. He is survived by his elderly widow and other family members. There is no risk to their safety and minimal risk of intrusive interest in them even if his real name were to be published. They wish to avoid that risk. Although the risk is minimal, nothing would be gained by running it. Unless HN294's cover name were to become known, publication of his real name could not prompt evidence from one or more members of the affected groups. Evidence about his managerial role, if it is available, can be given by others who knew him, by reference to his cypher. In those circumstances interference with the right of his widow and family to respect for their private life under Article 8 of the European Convention would not be justifiable under Article 8(2).

HN297 - Application for restriction over real name. The real name cannot be published.

11. HN297 is deceased. He was operational between 1974 and 1976. As in the case of the living officers cited above it is unlikely that the publication of his real name would prompt the giving or production of evidence necessary to permit the Inquiry to fulfil its terms of reference. It would be likely to interfere with the right of his widow to respect

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for her private life under Article 8 of the European Convention. It is unlikely that such interference would be justified under Article 8(2).

HN321 – Application for restriction over real and cover name. The real name cannot be published.

12. HN321 is now in his 70s. He was deployed against two groups which no longer exist, for one year, between September 1968 and September 1969. There is not and has never been any known allegation of misconduct against him. He undertook the role of an undercover officer on the understanding that his identity would be kept secret. He is concerned about possible media interest if his real identity were to be revealed. He is, in particular, concerned about the impact on his wife, also in her 70s. His concerns are not irrational. In the unlikely event that disclosure of his cover name, which can be made, prompts evidence from one or more members of the target groups it will not be enhanced by disclosure of his real name. It is likely that disclosure of his real name would prompt intense and unwelcome media interest in him and so would give rise to serious interference with his and his family's right to respect for their private life under Article 8 of the European Convention which would not be justifiable under Article 8(2). Closed reasons accompany this note.

HN326 - Application for restriction over real name. The real name cannot be published.

13. HN326 is in his 70s. He was deployed against three groups, two of which no longer exist in any form, for 2 and a half years between 1968 and 1971. He has been careful to preserve his anonymity and is worried about disclosure of his real name. He is concerned that it may be discovered by organisations such as undercoverresearch.net and fears media intrusion. He suffers from conditions which may be exacerbated by worry. His cover name will be published. Similar considerations apply to him as to HN321.

HN329 - Application for restriction over real name. The real name cannot be published.

14. HN329 is now in his 70s. He was deployed against two groups, which no longer exist, for one year between 1968 and 1969. Save that he is less concerned about media intrusion than HN321, similar considerations apply to him. His cover name will be published.

HN330 - Application for restriction over real name. The real name cannot be published.

15. HN330 is now in his 80s. He was deployed against one group, which no longer exists, for no more than a few weeks in 1968. He would like to be left in peace. Save

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that the cover names which he used cannot be disclosed because he cannot remember them, similar considerations apply to him as to HN321.

HN333 – Application for restriction over real and cover name. Neither the cover nor the real name can be published.

16. HN333 is now in his 70s. He was deployed for nine months in 1968 and 1969 against a left wing group which no longer exists as such. There is not and never has been any known allegation of misconduct against him. If his cover name were to be disclosed, it is very unlikely that it would prompt evidence from one or more members of the target group which would assist the Inquiry to fulfil its terms of reference. It would also be unlikely to prompt a threat to his personal safety or to that of his family. There is, however, a small – in my judgement, very small – risk that if his cover name were to be associated with the valuable duties which he performed subsequent to his deployment, he would be of interest to those who might pose such a threat. The nature of that risk is set out more fully in the closed reasons which accompany this note.

HN343 - Application for restriction over real name at least. The real name cannot be published.

17. HN343 is now over 70 and was deployed into a variety of groups in the early 1970s. HN343's past as an undercover officer has been kept secret from everyone in the family and social circle of HN343. HN343 is still economically active and has a legitimate concern, the cause of which cannot be stated in this document, that if oral evidence were to be given without steps being taken to conceal identity, HN343 would be the subject of media interest which would impair personal and economic life. If HN343 is required to give oral evidence, it is likely that protective measures will have to be taken. Pending receipt of further information, no decision can yet be made about publication of the cover name.
18. Save in those cases in which further information is awaited, when I am minded to direct that the real name cannot be published, I do not intend to impose any restriction on the publication of a cover name. In due course, a table of cover names whose publication is not prohibited will be published by the Inquiry.
19. In reaching the provisional conclusions expressed above, I have read and considered the documents identified in the explanatory note which accompanies this document.
20. In indicating the directions which I am minded to give and in stating the reasons for them I have applied the principles set out in the Chairman's 85 page [ruling on the](#)

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[applicable legal principles](#), recognising, as they do, that the case of each officer, witness and core participant is fact-sensitive.

3 August 2017

Sir John Mitting
Chairman, Undercover Policing Inquiry