

Extracts from statement of Chief Constable Alan Pughsley dated 27 September 2017 relied on by the Metropolitan Police Service in support of anonymity applications [OPEN version]

- 28.** The tactic of undercover policing only works if the UCO is not known or suspected to be a UCO. Thus, the true identity of the UCO, and the methods used by UCOs, cannot be revealed to those under investigation. The moment the UCO is revealed to be a police officer the evidence or intelligence gathering process ends and the effectiveness of the undercover tactic is compromised. There may be a number of other immediate consequences:
- 28.1.** The particular criminal investigation may be so adversely compromised that it is abandoned or criminals take the enterprise to a third party and law enforcement lose any form of dynamic control of the criminality.
 - 28.2.** The criminal enterprise or act of terrorism being planned may succeed;
 - 28.3.** The UCO may be put at personal risk of harm;
 - 28.4.** Those connected to the UCO, or any Covert Human Intelligence Source (CHIS), may be at personal risk of harm;
 - 28.5.** The ability of the relevant LEA to continue to use equipment **((example redacted))** as covert assets during the course of the relevant operation may be curtailed;
 - 28.6.** Particular types of technology may be revealed into the public domain, rendering future use problematic; and
 - 28.7.** Methods of infiltration or other covert tactics may become compromised.
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iii. Premises

70. Premises used in covert policing require protection to ensure the safety of those who use them.
71. The location of the undercover unit itself must be kept confidential. [A particular tactic relating to premises is discussed]. The location of the undercover unit will not be widely known, even within the police service. Were the location of an undercover unit to become public knowledge there would be risks:
- 71.1. To individual UCOs working out of that unit;
 - 71.2. To non-UCO staff in the unit;
 - 71.3. To others working in the building unconnected to the unit; and
 - 71.4. To all operations being run by that unit.
72. [REDACTED] This too would need to be kept confidential to avoid the risks identified above.
73. An individual UCO living under a false identity is likely to require accommodation to live in that identity, where he can be seen living by targets and their associates. [REDACTED].
74. [REDACTED].
75. [REDACTED].
76. [REDACTED].
77. [REDACTED].

GIST: A particular type of legend support is discussed (73-77).

3. [SUB-HEADING REDACTED].

78. [REDACTED].

79. [REDACTED].

80. [REDACTED].

81. [REDACTED].

82. [REDACTED].

83. [REDACTED].

GIST: Examples of specific techniques, how undercover officers use those techniques, and the risks associated with their disclosure are discussed (78-83).

1. Harm to individuals:

a. Physical, psychological, emotional

138. The potential for harm to be caused to individuals following the disclosure of information about UCO's is obvious: the UCO concerned, colleagues, family and friends may all be at serious risk of harm, depending upon the facts in any particular case.

139. In serious cases serious injury or death could be the result of a UCO being identified. This could be the UCO or a person connected to that officer, or a person with knowledge about the undercover officer (such as a cover officer).

140. Injuries may be both physical and psychological. Where officers have been deployed on the understanding that their activities will be kept secret, the release of information connected to their activities could result in significant psychological pressure and disruption, if the UCO (and family) is required to alter their deployment or change location, or identity, in a sudden and unplanned manner.

141. The impact on UCOs and their families of the unintended disclosure of information about them should not be underestimated. The provision of fresh identities or relocating UCO's and their families is invasive, disruptive and expensive.
142. Paragraphs 5.1 to 5.3 of the open Mosaic report detail the physical risks posed to former UCOs of exposure or potential exposure of their identities to groups espousing violent ideologies, which may take retributive action against UCOs who are identified. The report states that the risk of exposure and possible physical attack has resulted in two UCOs deployed in such groups having to be relocated after associates from their respective groups were identified. The report includes examples of physical attacks on UCOs and their relatives, and psychological problems suffered in connection with the fear of accidental or deliberate compromise, which can last long after a particular deployment.

Evidenced Examples

143. I am aware of several examples where undercover officers have been caused harm when their true identity has been revealed. On one occasion two officers that had been deployed covertly were shot and on many others officers have been seriously assaulted. [REDACTED].
144. One example of a UCO being challenged and assaulted occurred in 2012 and involved an undercover drugs operation conducted in Essex. Two UCO's were deployed [REDACTED], purchasing small street deal quantities of class A controlled drugs. The evidence obtained by the first UCO was used to conduct an initial arrest and as a consequence his evidence [REDACTED] was disclosed to suspects during the ensuing prosecution. The second UCO, 'Deano', continued in his deployment, purporting to be a user of heroin and crack cocaine and forming a relationship with members of 'The Bush Boys' OCG. After the initial arrest drug dealers directed 'Deano' to a house and whilst there 'Deano' was questioned and challenged about his identity. He was asked whether he was 'old bill' [REDACTED]. 'Deano' was restrained and searched [REDACTED] 'Deano' was violently assaulted. One of the drug dealers left the property to retrieve a knife and 'Deano' took the opportunity to jump from a first floor window, suffering multiple injuries.
145. This one example demonstrates a number of points:

145.1. UCO's whose identity is revealed will face the immediate risk of serious harm;

145.2. How drug dealers are aware of covert tactics and [REDACTED];

145.3. The extent to which criminals will search for evidence of [GIST: covert tactics];

145.4. How the media take an interest in such stories, creating further compromise and exposure; and

145.5. In this case 'Deano' was never again deployed as a UCO due to the psychological impact of these events.

146. [REDACTED]:

146.1. [REDACTED]

146.2. [REDACTED]

146.3. [REDACTED]

146.4. [REDACTED]

146.5. [REDACTED]

146.6. [REDACTED]

GIST: A detailed example is given of the harm that was caused and the steps that were taken when an identity was feared to have been obtained by members of the criminal fraternity. One affected person was shot; a police investigation concluded that the shooting was connected to the disclosure of the identity. Evidence of interest in material that can help identify UCOs/CHISs.

147. Another example, this time in Merseyside, occurred during Operation [REDACTED]. In this instance a UCO was challenged by the subject of a previous covert operation in the same area some years before. The officer was confronted by the subject, who accused them of being an undercover officer

and then assaulted them. This example described in the second Rule 9 response provided by Merseyside Police.

- 148.** Paragraph 43 of the Cairo statement describes an example of threats being made to the life of a UCO and those threats continuing for years.
- 149.** The Mosaic report also provides another example of what can happen to someone involved in an undercover role: “An example of someone who has undertaken an undercover role being attacked for doing so is former undercover reporter Donal MacIntyre. In 1999 he infiltrated the Chelsea Head Hunters to expose football hooliganism and he filmed them planning an attack on rival fans which subsequently resulted in the conviction and imprisonment of five men. In June 2009, MacIntyre was enjoying a quiet evening out with his wife when he was recognised by associates of the group he had infiltrated ten years earlier and he was verbally abused and then he and his wife were assaulted; he was knocked unconscious and his wife received bruising to her arms.” (page 11)
- 150.** I am aware that numerous other examples of the potential for physical, psychological or emotional harm to individuals have been indicated to the Inquiry in the Rule 9 submissions made by Avon & Somerset, Bedfordshire, Cambridgeshire, Cheshire, Devon & Cornwall, Essex, Hampshire, Humberside, Kent, Leicestershire, Merseyside, Nottinghamshire and South Yorkshire although I have not researched these further.

1. Harm to individuals:

b. Legitimate expectation of privacy

- 151.** The risks associated with being a UCO impact on officers’ private lives, and those of their families, during and after their deployments. The risk of exposing those officers’ identities adds greatly to the already significant risks associated with performing the role and maintaining the confidentiality of deployments.
- 152.** Officers working a number of covert roles, for example CHIS handlers, witness protection and technical operations are all expected to be discrete with family, friends and acquaintances about their work. They have an equivalent expectation from their employer and the police service generally.

153. Disclosure in court proceedings, where necessary, is accepted as part of the job, but officers involved in covert law enforcement are not ‘public-facing’ figures. If their names are released as part of the Inquiry there are associated risks to their privacy and potentially to their safety and the safety of their families.

154. [REDACTED]. GIST: *Speculation, inaccurate or otherwise, that an individual is or has been a UCO is likely to lead to attempts to verify this through research or more intrusive tactics, which carry significant risks.*

1. Harm to individuals:

c. Legitimate expectation of confidentiality

155. When a UCO volunteers to take on their role they understand that every effort will be taken to ensure that their identity and personal information will be kept private and confidential. This expectation, rooted in an obvious need for undercover deployments to be kept confidential if they are to be successful, has gained legitimacy from a variety of sources in a number of different arenas:

155.1. Informants have a legitimate expectation of confidentiality and the identities of informants are routinely protected (cases of WV and CPS [2011] EWHC 2480 (Admin) and AG v Briant (1846) 15 M&W 168;

155.2. The CHIS Terms and Conditions (exhibited by Cairo, para 20), which confirm that identity will be protected;

155.3. The CHIS COP (exhibited by Cairo, para 21), which confirms that the identity of a CHIS should be kept confidential;

155.4. The APP (exhibited by Cairo, para 22), which confirms that UCO identities will be protected during their deployment and afterwards;

155.5. There are many examples of UCO’s being harmed when their role has been discovered or suspected during operations and I have already detailed some of these;

155.6. UCO’s are expected to maintain confidentiality and sign the Code of Conduct acknowledging that they will not disclose their role to others. The current Code is set out in the APP and includes the following:

“16. Undercover operatives must not reveal the fact of an undercover role or the detail of any undercover deployments without the express permission of their undercover covert operations manager.

...

20. Undercover operatives are bound by the Official Secrets Act and have a duty not to disclose for publication by any means whatsoever, details of any operation or investigation. This includes any information as to methodology or infrastructure of undercover units.”

155.7. Officers have been the subject of internal misconduct proceedings for disclosing their role as a UCO (see, for example, the second Rule 9 submission from South Yorkshire Police dated 26th February 2016);

155.8. Anonymity orders may be made, pursuant to section 88 of the Coroners and Justice Act 2009; and

155.9. Whilst UCO's are fully aware that they may be expected to give evidence at court, they have always been informed that during any court proceedings their true identity would be protected and special measures taken to protect them when giving evidence.

156. These considerations will undoubtedly have been taken into account by officers when weighing up the risks associated with undercover work. Any deviation from this principle will undoubtedly reduce the number of officers volunteering for such a role.

157. Paragraphs 13 to 15 of the open Cairo statement deal with the importance of the expectation of confidentiality to undercover officers and I agree with their contents. It has long been the expectation of UCOs that their identity will be protected, during and after their deployment.

Evidenced Examples

158. Following the terrorist bombings in London in July 2005 a UCO, 'Dawood', infiltrated the circle of the terrorist organiser Mohammed Hamid for six months. Fifteen suspects were arrested and nine convicted of offences including solicitation to murder and the provision of training for the purposes of terrorism. After the arrests it became apparent that one of the suspects had a residence

in close proximity to an address to which the UCO was connected. As an interim measure the UCO had to be placed in secure accommodation. Due to the high risk of compromise and potential of significant harm, no effective strategy could be implemented to reduce the risk to an acceptable level. The UCO was therefore placed on the Criminal Justice Protection Unit scheme to manage the rehousing and security issues associated with the UCO (This example is described within the statement of Commander Martin submitted by the Metropolitan Police Service in their second Rule 9 response).

159. This illustrates how the private life of a UCO and their family can be adversely affected. The connections and networks within criminal groups are wide, far reaching and sometimes unknown. The impact upon an undercover officer utilising a false identity for operational purposes can be significant and easily exposed when compromised in the vicinity of either their home or other addresses they associate with.

160. [REDACTED].

GIST: An example is provided concerning a 2010 undercover operation in South Yorkshire which concluded with the arrest of a large number of individuals due to the evidence of "Dave", a UCO. The UCO had undertaken a long-term infiltration, successfully infiltrating the criminal community, and purchased 27 stolen prestige motor vehicles, cocaine and Benzocaine cutting agent. The involvement of the UCO was subsequently disclosed and thereafter intelligence was received that members of the criminal community were trying to obtain information to identify and locate the UCO. There was an uncorroborated suggestion that the intention was to kill the UCO.

161. This example provides evidence of the methods used by determined criminals to attempt, trace and locate a UCO. Protection of the covert methodology and tactics prevented the officer from being located, but [REDACTED].

162. [REDACTED].

GIST: In another example, a UCO's identity was revealed during a chance encounter with the suspect many months after the conclusion of an operation. The UCO was subject to emergency relocation. The subsequent costs of managing the UCO's safety were borne by the home force's Police Authority.

163. Another example, from a Devon & Cornwall Police operation, is included in their second Rule 9 statement dated 26th February 2016. A UCO was working abroad on a covert operation. [REDACTED]. GIST: *It was deemed necessary to pull the officer in question from the operation for his own safety as a result of operation compromise.* Following this the officer advised he feared for his safety and was concerned his identity was also known [REDACTED]. As a result of this the force took action to protect the officer and his family which included the offer of full witness protection [REDACTED] GIST: *and compensation,* [CORRECTION: although the criteria for witness protection were not in fact met]. ~~The officer declined the offer of full witness protection.~~

164. A further example of the lengths taken to identify and locate undercover operatives was contained in the book 'Undercover'. The book references efforts made by Helen Steel to trace the man she knew as 'John Barker', when it states she contacted the British consulate in South Africa, telephoned hostels in Johannesburg and hired a private investigator. She is then said to have searched for and found the birth certificate for John Barker and to have visited Barker's family home. Eighteen months after she is said to have found John Barker's death certificate. In evidence to the Home Affairs Select Committee for the Undercover Policing: Interim Report (5th February 2013) a person giving evidence under the name 'Clare' stated she had found the death certificate for John Barker's identity and that she had visited the house of the child.

(iii) [SUB-HEADING REDACTED] GIST: *Further undercover policing tactic in current use.*

285. [REDACTED]

a. [REDACTED]

b. [REDACTED]

c. [REDACTED]

286. [REDACTED]

GIST: Discussion of further undercover policing tactic in current use. References an example. States that the use of the tactic is not widely known. There are many ways in which the tactic can be a productive tactic or a sensible precaution. Revealing the tactic would frustrate its use and put people at risk. Revealing it would undermine current tactics and reduce the range of tactics available to UCOs in the future.

(iv) [SUB-HEADING REDACTED] GIST: Further undercover policing tactic in current use.

287. [REDACTED]

288. [REDACTED]

289. [REDACTED]

290. [REDACTED]

291. [REDACTED]

292. [REDACTED]

293. [REDACTED]

294. [REDACTED]

295. [REDACTED]

GIST: Discussion of further undercover policing tactic in current use. References an example and explains the harm that would be caused by disclosure. States that the tactic should not be disclosed otherwise use of this tactic will be frustrated and reduce the effectiveness of undercover policing techniques.

(ii) Length of deployment

304. The dates of and length of UCO deployments should be protected from public disclosure because revealing the particular dates and lengths of deployment could lead to criminals discovering that they were subject to an undercover operation and could lead to particular UCO's being identified.

305. [REDACTED]

GIST: Further reasons are given. Dates of operations need to be protected to avoid identifying operations or operatives. Exposing details about the lengths of deployment will lead to increased scrutiny from criminals.

306. [REDACTED]

GIST: Paragraph gives usual length of secondment to an undercover unit. Paragraph gives details of records which may reveal that an officer was seconded to an undercover unit and which it is therefore said should not be publicly disclosed as they may reveal this.

(xiv) Addressing/preventing compromise

365. I did not particularly address the issue of compromise in my previous statement, but steps are taken to prevent compromise in the first instance (in addition to [REDACTED]) and contingency plans are put in place to deal with compromise should it occur. All tactics used to prevent or address compromise will be particularly sensitive and should not be publicly revealed.

366. Common steps taken to prevent compromise of a UCO will include:

366.1. [REDACTED]

366.2. [REDACTED]

366.3. [REDACTED]

366.4. [REDACTED]

366.5. [REDACTED]

366.6. [REDACTED]

367. [REDACTED] GIST: *A tactic is described relating to addressing/preventing compromise.*

368. Compromise is best avoided by [REDACTED] using the techniques I have already described. If a UCO is compromised and extracted they will be provided with emotional and psychological support and they and their families may well be relocated and protected. This may continue indefinitely and the significant fiscal and emotional costs should not be underestimated. Any such compromise will, in most cases, mean that the whole operation is compromised and the criminal activity targeted will continue and the costs of setting up the operation, including all the backroom staff forming part of the undercover operation, will have been wasted. Great care is accordingly taken to prevent compromise.

369. [REDACTED]. GIST: *Further consequence of compromise.*

370. All tactics used to prevent compromise or to address compromises that have occurred are sensitive and should be protected. Publicly revealing such details risks frustrating their future use and risks causing harm to UCO's.

371. [REDACTED] Disclosing details of the tactics that are used can only assist those engaged in criminality and harm the efforts of law enforcement agencies who seek to prevent and detect crime. [REDACTED] For these reasons this information should not be publicly disclosed.

425. I mentioned in my previous statement at paragraphs 177 and 178 that I was fearful of the potential impact on recruitment given a climate of nervousness about identities being revealed by the Inquiry:

"177. Paragraphs 65 and 66 of the open Cairo statement explain the impact on retention and recruitment of any actual or perceived increase in the risk of exposure of the identities of undercover officers and I agree with their contents. Increased risks of exposure are likely to impact negatively on

the ability of the police service to recruit and retain UCOs. The HMIC report “An inspection of undercover policing in England and Wales 2014” noted a decline in applicants, commenting at paragraph 8.27 “ here may be several explanations for this decline. Undoubtedly, the recent poor publicity and controversy have played a part.

178. I believe that fewer officers will volunteer to become a UCO if the risks of being exposed as a UCO increase. If fewer officers are available, the use of UCO’s as a tactic in the fight against crime will be restricted.”

426. It appears as though there has already been a negative impact on the recruitment of UCO’s and I understand that it is becoming increasingly difficult to recruit UCO’s. Prior to the involvement of the College of Policing in 2015 the Metropolitan Police and Greater Manchester Police would run two advanced UCO courses a year between them, known as the National Undercover Training and Assessment Courses (NUTAC). [REDACTED] GIST: *Details of the number of successful and unsuccessful candidates on the last two NUTAC courses. Percentage success rates for candidates were 42% and 9%.*

427. The current advanced course conducted by the College of Policing only runs once a year and there have been significantly less candidates attending the course than in comparison to the NUTAC course. [REDACTED] GIST: *Details of the number of candidates on courses run in 2015, 2016 and 2017. Expressed as a percentage of the average number of candidates on the last two NUTAC courses (described in paragraph 426), the number of candidates on those courses were 61%, 70% and 61% respectively. The pass rates on these three courses were 43%, 38% and 14% respectively.*

428. I understand that in the last selection process there was also a significant decrease in the number of potential applicants attending the initial open day, although I do not know the numbers involved.