

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 2

Applications

1. The Inquiry has now considered the cases of 24 further individual officers. I am minded to make or refuse to make restriction orders under section 19(3) of the Inquiries Act 2005 in the cases specified in the table below.

Nominal	Position
HN1	The real name cannot be published.
HN15	There will be a closed hearing to consider this application.
HN17	Neither the real nor cover name can be published.
HN23	Neither the real nor cover name can be published.
HN40	Neither the real nor cover name can be published.
HN45	The real name cannot be published. The application for a restriction order in respect of the cover name is refused.
HN64	Neither the real nor cover name can be published.
HN88	The real name cannot be published. The application for a restriction order in respect of the cover name is refused.
HN127	The application for a restriction order in respect of the real name is refused.
HN216	The application for a restriction order in respect of the real name is refused.
HN241	Neither the real nor cover name can be published.
HN298	The real name cannot be published.
HN301	The real name cannot be published.
HN322	The real name cannot be published.
HN331	The real name cannot be published.
HN332	The real name cannot be published.
HN334	The real name cannot be published.

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Nominal	Position
HN336	The real name cannot be published.
HN337	Neither the real nor cover name can be published.
HN338	The real name cannot be published.
HN341	Neither the real nor cover name can be published.
HN345	The real name cannot be published.
HN347	The real name cannot be published.
HN348	The real name cannot be published.

Reasons

HN1 Application for restriction over real name. The real name cannot be published.

- HN1 was deployed against animal rights groups between 1992 and 1997. His cover name is already in the public domain. There are allegations about his conduct which require to be publicly ventilated to permit the Inquiry to fulfil its terms of reference. Publication of his real name is not necessary to permit this to be achieved. It would carry significant risks to his physical safety and well-being and the well-being of his family. If these were to mature, the interference in his and their right to respect for private and family life under Article 8 of the European Convention on Human Rights ('the European Convention') which would inevitably result would be substantial. Even if they did not, the interference would still be significant. In neither case would it be justified under Article 8(2).
- Full reasons for the decision which I am minded to make cannot be set out openly. These reasons are expanded upon and supplemented in the closed note which accompanies this document.

HN15 Application for restriction over real and cover name.

- I am minded to refuse to make a restriction order in respect of either real or cover name. A closed hearing is required to permit HN15 to make submissions in support of either or both applications. If I were to state the reasons for the decisions which I am minded to make openly and/or if HN15 were to make submissions openly it would so undermine the applications as to deprive them of purpose.

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HN17 Application for restriction over real and cover names. Neither the real nor cover name can be published.

5. HN17 is no longer a serving police officer. HN17 was deployed against a number of groups in the last 15 years of the existence of the SDS. If the true identity were to be discovered by members of them HN17 would be at real risk of serious violence by them or their associates. Nothing in the nature of the deployment or of what is known of HN17's conduct of it could justify running that risk.
6. For reasons which can only be, and are, explained in the closed note accompanying these reasons, publication of the cover name would be likely eventually to lead to the discovery of the real name. That is not a risk which I am prepared to run. Even if Article 3 of the European Convention is not, on the facts, engaged, Article 8 is; and the interference with HN17's right to respect for private and family life which would be occasioned by both the risk and occurrence of violence would not be justified under Article 8(2).
7. Careful thought will, in the future, need to be given to the manner in which the evidence of HN17 will be received by the Inquiry.

HN23 Application for restriction over real and cover names. Neither the real nor cover name can be published.

8. HN23 was deployed against one group and reported on other groups in the 1990's. The nature of the deployment gave rise to risks to HN23's life and safety which, to an extent which cannot be precisely quantified, remain. They are more fully set out in the closed note which accompanies these reasons. Nothing short of anonymity in respect of real and cover name could obviate the risks. I would not be justified in running them. It is unavoidable that the evidence which HN23 can give will be given in a closed session.

HN40 Application for restriction over real and cover names. Neither the real nor cover name can be published.

9. HN40 was deployed against two groups in the last decade of the existence of the SDS. If the true identity were to be discovered by members of them HN40 would be at real risk of serious violence by them or their associates. Nothing in the nature of the deployment or in what is known of HN40's conduct of it could justify running that risk.
10. For reasons which can only be, and are, explained in the closed note accompanying these reasons, publication of the cover name would be likely eventually to lead to the

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discovery of the real name. That is not a risk which I am prepared to run. Even if Article 3 of the European Convention is not, on the facts, engaged, Article 8 is; and the interference with HN40's right to respect for private and family life which would be occasioned by both the risk and occurrence of violence would not be justified under Article 8(2).

11. Careful thought will, in the future, need to be given to the manner in which the evidence of HN40 will be received by the Inquiry.

HN45 Application for restriction over real and cover names. The real name cannot be published. The application for a restriction order in respect of the cover name is refused.

12. HN45 is a septuagenarian. HN45 was deployed against identified groups in the early 1970's. There is no known allegation of misconduct against HN45. HN45 performed an administrative role in the Special Demonstration Squad in 1982 and 1983. The work included the collation and internal distribution of intelligence reports, but not the tasking of undercover officers or target group selection. Only immediate family members are aware of HN45's deployment. They are concerned about the damage to HN45's reputation which might result from association in the real name with other now notorious undercover officers and from lies which might be told by others about HN45. HN45 undertook the role of an undercover officer in the expectation that identity would not be revealed. In respect of real identity, this expectation should be fulfilled unless it is in the public interest that it should be set aside – for example, if it were necessary to do so to permit an accusation of misconduct to be determined. It is not. Further, reputation is an aspect of HN45's private life to which respect must be shown. Interference with it is not necessary to fulfil the terms of reference of the Inquiry.
13. The same considerations do not apply to the cover name. I accept, as claimed, that HN45 understood that the cover name would not be revealed publicly. I also accept, as contended, that it is unlikely that any member of any of the groups encountered by this officer, will be able to give evidence about the deployment because of the elapse of time and the death of the principal target. I cannot, however, exclude the possibility that disclosure of the cover name may prompt such evidence and that it may be necessary to receive it to fulfil the terms of reference of the Inquiry. I am satisfied on the basis of the risk assessment dated 10 July 2017 that the risk that disclosure of the cover name would lead to identification of HN45 by real name is nil or negligible. In those circumstances, the balance of factors requires that the cover name is published.

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14. Closed reasons accompany this note.

HN64 Application for restriction over real and cover names. Neither the real nor cover name can be published.

15. HN64 was deployed against one group and reported on others in the 1990's. The deployment posed risks to HN64's life and safety which, to an extent which cannot be precisely quantified, remain. The risks are explained in the closed note which accompanies these reasons. Nothing short of anonymity in respect of both real and cover names could obviate those risks. I would not be justified in running them. It is unavoidable that the evidence of HN64 will be given in closed session.

HN88 Application for restriction over real and cover names. The real name cannot be published. The application for a restriction order in respect of the cover name is refused.

16. HN88 was deployed against community based support groups in the 1980's. One of the issues which the Inquiry must explore is whether or not the deployment was justified and what, if anything, of legitimate interest to the police occurred during the deployment. It is unlikely, due in part to the passage of time, that HN88 will be able to give detailed evidence about the deployment. In that event, and in any event, the Inquiry will wish to obtain, if possible, evidence from those against whom HN88 was deployed. This task will be at least impeded if the cover name is not published.
17. Publication of HN88's real name is not necessary to permit this to occur. It would give rise to an interference with private and family life, including HN88's economic activity which would not be justified under Article 8(2) of the European Convention or fair to the officer. HN88 is concerned that if the cover name is published the real name might be identified. I am satisfied that the risk is so small as not to amount to a real risk and have therefore discounted it.

18. These reasons are supplemented by a closed note.

HN127 Application for restriction over real name. The application for a restriction order in respect of the real name is refused.

19. Between 1997 and 2001 HN127 was a cover officer for deployed undercover officers, some of whose activities are likely to be the subject of detailed investigation by the Inquiry. With one significant proviso, addressed below, public investigation of HN127's performance of his duties in his real name can be undertaken without posing a risk to HN127's safety or interfering with the right to respect for private and family life of HN127.

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20. It is unavoidable, for reasons explained in the closed note which accompanies these reasons, that part of HN127's evidence will be given in closed session.

HN216 Application for restriction over real name. The application for a restriction order in respect of the real name is refused.

21. HN216 was responsible for the day-to-day running of the Special Demonstration Squad in the 1990s. The evidence which he can give about the management of the Special Demonstration Squad is potentially significant. There is no known allegation of misconduct against him. He has identified no plausible risk to the safety or welfare of himself or his family beyond the possibility of unwelcome media attention if his whereabouts were to be traced. This is a real risk, but it is outweighed by the legitimate interest which the public has in his performance of his duty in a senior and responsible public office. The starting presumption that evidence given by such a person about such duties should be given publicly and in his own name is not displaced.

22. Closed reasons accompany this note.

HN241 Application for restriction over real and cover names. Neither the real nor cover name can be published.

23. HN241 is a septuagenarian who was deployed against one group in the early 1970's. There is no known allegation of misconduct against this officer. Although the risk to physical safety, if real name were to be published, is low, it cannot be dismissed as fanciful. There is a real, but unquantifiable, risk that if the cover name were to be published, the real name could be identified. From what has so far been disclosed to the Inquiry about the deployment, it seems very unlikely that the publication of either real or cover name would prompt any evidence from a non—state source which would assist the Inquiry to fulfil its terms of reference. In those circumstances, the right to respect for an aspect of private life – physical integrity – is not outweighed by any factor which would justify interference with it.

24. Closed reasons accompany this note.

HN298 Application for restriction over real name. The real name cannot be published.

25. HN298 is in his 70s. He was deployed against two groups between 1971 and 1976, one of which was involved in the anti-apartheid campaign. In the course of his deployment he was arrested at a demonstration against the British Lions rugby tour to South Africa on 12 May 1972 for obstruction of the highway and of a police officer. He was prosecuted in summary proceedings in his cover name. He was convicted of

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both offences and fined and made the subject of a conditional discharge. His actions were approved by his line management. Not long after his deployment, he left the police service, since when he has had nothing to do with the police.

26. It is possible that, if his cover name is published, members of the groups against whom he was deployed will remember him and be able to give evidence about him. For that to happen, it is not necessary that his real name should be published. He has politely declined to cooperate with the Metropolitan Police risk assessor. In consequence, the Inquiry does not know whether he wishes to protect his real name. If he were to do so, and no new information adverse to him were to emerge, the interference with right to respect for his private life under Article 8(2) of the European Convention which would be occasioned by publication of his real name would not be justified. For the time being, on the application of the Metropolitan Police Service, his real name should not be published. This decision will be reviewed when he has made his own position clear.

HN301 Application for restriction over real name. The real name cannot be published.

27. HN301 is in his 70s. He was deployed between 1971 and 1976 against one group – the International Socialist – which became subsumed into another, and reported on others. There is no known allegation of misconduct against him. Publication of his cover name, which will occur, is all that is required to prompt evidence from those who encountered him in his undercover role, if they have any to give. Publication of his real name is unnecessary. It would also be a disproportionate and unjustified interference in his and his family's right to respect for their private and family life under Article 8 of the European Convention. It would not be difficult to trace him if his real name were published. His family circumstances, which are fully set out in his impact statement, require that there should be no avoidable interference in them, even of a kind produced only by publicity resulting from legitimate media interest.

HN322 Application for restriction over real name. The real name cannot be published.

28. HN322 is in his 70s. He had a varied 30-year police career, retiring in the mid-1990's. He belonged to the Special Operations Squad for two months in 1968. As far as he can remember it was intended that he would be deployed against a group which no longer exists, but was reallocated to other duties before deployment. He had no cover name. In the unlikely event that he is required to provide evidence to the Inquiry, publication of his real name will serve no useful purpose. The interference which it would occasion with his right to respect for his private life would not be justified.

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HN331 Application for restriction over real name. The real name cannot be published.

29. HN331 was killed in a road traffic accident in the 1970s, leaving a widow and young son. He was deployed against one group which is now defunct in 1968 and 1969. His cover name is not known. HN331's death caused his widow to suffer an acute mental illness, for which she received in-patient treatment. She did not remarry. She is now in her 70s and suffers from the early stages of dementia. According to her son, she has been deeply affected by the possibility that HN331's identity might be revealed in the course of the Inquiry. No useful purpose would be served by publication of HN331's real name. Given the nature of his deployment and the elapse of time since it occurred, it is inconceivable that it would prompt evidence from others about his deployment. His widow and surviving family are entitled to be left in peace.

HN332 Application for restriction over real name. The real name cannot be published.

30. HN332 is in his eighties and in poor health. The Inquiry has been provided with a short medical report itemising the serious medical conditions from which he suffers, including one which is life-threatening. His daughter has provided a witness statement in which she says that he suffers from a very poor memory and from confusion. It must, therefore, be unlikely that he could provide useful evidence to the Inquiry.
31. He served in the Special Operations Squad/Special Demonstration Squad in a managerial capacity in the 1970's. He was the signatory of a significant memorandum dated 17 December 1971. But for his age and health, I would have refused the application for a restriction order in respect of his real name, on the basis that a senior public servant should be willing and, if not, required, to account for his actions publicly. For the reasons explained, no useful purpose would be served by adopting that course; and to do so would risk impairing the peace of mind and even health of a man in his twilight years.
32. I am minded to make a restriction order which will be in place during his life.

HN334 Application for restriction over real name. The real name cannot be published.

33. HN334 is in her 70s. She had a short police career which ended in the 1970s. No known allegation of misconduct has ever been made against her. She belonged to the Special Operations Squad between 1968 and 1972. In 1968 she was deployed for several months against one group - the Vietnam Solidarity Campaign, which no longer exists - as the girlfriend of HN330. Thereafter, according to her own recollection, she performed back office duties only. She wishes to preserve her privacy and that of her family. In the unlikely event that any surviving member of the

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group against whom she was deployed who is still alive could be prompted to give evidence about her, publication of her cover name, which will occur, would provide the prompt. Publication of her real name would serve no useful purpose. The infringement of her right to respect for her private and family life would not be justified under Article 8(2) of the European Convention.

HN336 Application for restriction over real name. The real name cannot be published.

34. HN336 is in his 70s. He was deployed against two groups – the International Marxist Group and peripherally the British Communist Party – and provided intelligence on others between 1969 and 1972. None of them still exist. No known allegation of misconduct has ever been made against him. With the approval of former senior officers, he spoke about undercover policing and his own deployment on the BBC television programme “True Spies” under the pseudonym “Dan”. He believes that if his real name were to be published he would attract media attention which may be intrusive. His concern is not irrational. Publication of his cover name, which will occur, will permit any member still living of the groups with whom he was involved to give evidence about him. Publication of his real name would serve no useful purpose. The infringement of his right to respect for his private and family life and that of his family would not be justified under Article 8(2) of the European Convention.

HN337 Application for restriction over real and cover names. Neither the real nor cover name can be published.

35. HN337 is a septuagenarian who was deployed against four groups in the 1970's. Associates of those with whom HN337 came into contact during the deployment pose a real but unquantifiable risk to life and safety. It is possible that if the cover name were published other individuals who pose no risk to HN337 could give evidence about HN337 which might be of interest to the Inquiry. There is no known allegation of misconduct, arising out of the deployment against HN337; and none is likely to be made.
36. In the mid-1990s HN337 played a managerial role in and in relation to the Special Demonstration Squad. HN337 was in part responsible for the recruitment and initial deployment of HN81, but played no part in the deployment of HN81 into the group allegedly used to infiltrate the Lawrence family campaign.
37. HN337 does not live in the United Kingdom. There is, accordingly, no statutory means by which this officer can be compelled to provide evidence to the Inquiry. The evidence which can be given is likely to be of value to the Inquiry. It can only be obtained with HN337's cooperation. It is likely that all of the evidence about this

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deployment and some of it about the discharge of managerial duties will be given in closed session. The evidence about HN81 can be given in open session, with measures taken to protect identity. Its cogency should not thereby be substantially diminished and it will be open to challenge by those who know HN337's identity.

38. Even if it were unnecessary to make the restriction order sought for the reasons explained above, disclosure of real and/or cover names would interfere with the right to respect for private and family life of HN337 and partner, who suffers from a long-term physical health condition. It would only be necessary to re-examine the justification for this interference if, contrary to HN337's declared intention, HN337 declines to cooperate with the Inquiry.

HN338 Application for restriction over real name. The real name cannot be published.

39. This officer is deceased. He belonged to the Special Demonstration Squad for an unknown period in 1970 and/or 1971. If he was deployed as an undercover officer, the identity of the group or groups against which he was deployed is unknown, as is any cover name which he may have used. He is survived by his widow. The recent loss of an immediate family member has caused her great distress. I accept the Metropolitan Police Service submission that nothing should be done which risks causing her further distress. Publication of the real name of her late husband would interfere with her right to respect for private and family life under Article 8 of the European Convention. Nothing of benefit to the Inquiry could be gained by it. Publication would, accordingly, be unjustified under Article 8(2).

HN341 Application for restriction over real and cover names. Neither the real nor cover name can be published.

40. HN341 was deployed in the 1970's against two groups. The deployment was potentially dangerous. If the true identity were now to be disclosed there would be a real, but unquantifiable, risk to HN341's life and safety. There is a significant risk that publication of the cover name would permit individuals who might wish HN341 harm to discover the true identity. I am not prepared to run that risk. Nor is it necessary to do so to permit the Inquiry to fulfil its terms of reference. There is no known allegation of misconduct against HN341 and, given the nature of the deployment, it is unlikely that members of the groups against which HN341 was deployed would wish to provide evidence to the Inquiry. Further, worry about the possibility that HN341's identity might be disclosed has caused great concern to HN341's partner who is gravely ill. Even if the only right of HN341 and HN341's partner were their right to respect for private and family life under Article 8 of the European Convention,

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interference with that right would be neither justified nor proportionate under Article 8(2).

41. Careful thought will need to be given to the manner in which the evidence of HN341 will be received.
42. These reasons are supplemented and explained in greater detail in the accompanying closed note.

HN345 Application for restriction over real name. The real name cannot be published.

43. HN345 worked as an undercover officer for six months in 1971. He was not deployed against any specific group, but reported on a number of them, including those opposed to apartheid in South Africa. His deployment ceased, when his probationary period in Special Branch was terminated. There is a difference between his recollection of the reason for termination and that recorded in his personnel file. He left the Metropolitan Police Service soon after. There is no known allegation of misconduct against him. In the unlikely event that anyone with whom he came into contact whilst deployed can give evidence about him, they will be prompted to do so by publication of his cover name.
44. Since leaving the Metropolitan Police Service, he has worked in a variety of jobs and is still working. Publication of his real name would risk impairing his current source of income. It would also serve no useful purpose. It would involve some interference with his right to respect for private life under Article 8 of the European Convention the right to disclose his true identity for purposes of his choosing and to withhold disclosure for other purposes. Although the interference would not be great, it would be disproportionate to any end which it would serve, principally to permit the Inquiry to fulfil its terms of reference. Accordingly, it would not be justified under Article 8(2).

HN347 Application for restriction over real name. The real name cannot be published.

45. HN347 is in his 70s. He was deployed against one group – the Irish National Liberation Solidarity Front – which no longer exists, between 1971 and 1973. He is said to be concerned about the physical safety of himself and his family if his real name were to be published and is concerned about the risk of media intrusion and the impact which this might have on his family. The latter concern is not irrational. In the unlikely event that any member of the group targeted who is still living may be prompted into giving evidence about his deployment, publication of his cover name, which will occur, will provide that prompt. Publication of his real name would serve no

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useful purpose. The infringement of his right to respect for his private and family life and that of his family would not be justified under Article 8 (2) of the European Convention.

46. A closed note accompanies these reasons.

HN348 Application for restriction over real name. The real name cannot be published.

47. HN348 is in her 70s. She was deployed between 1972 and 1973 against one non-violent group which no longer exists. She cannot remember her full cover name and no official record of it exists. However, she believes she can remember one element of the name, which will be published. It may prompt evidence from former members of the group. Publication of her real name could not do so. She is concerned about the impact of media attention upon her private and family life and upon that of her family. Her concern is not irrational. Because publication of her real name would serve no useful purpose, the infringement of her right to respect for private and family life and that of her family would not be justified under Article 8(2) of the European Convention.

14 November 2017

Sir John Mitting
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