

From: Tamsin Allen
Sent: 20 December 2017 10:41
To: Undercover Policing Inquiry
Cc: Pitchford CP Lawyers

...

“Restriction Orders

We note that, where a restriction order has been granted in respect of a real name, the Orders include the following wording:

“There shall be no disclosure or publication made of any evidence or document given, produced or provided to the Inquiry which discloses HNxxx’s real identity (including any description or image capable of identifying HNxxx).”

This wording raises two issues in relation to images:

- 1 In our view, the restriction in relation to images lacks the clarity necessary in a peremptory order endorsed with a penal notice. On the face of it, the Restriction Order appears to restrict disclosure or publication of any image of the officer, notwithstanding the fact that his or her cover identity is not restricted. Is the restriction in fact intended to apply only to recent images of the officer which are capable of identifying the officer as he now looks (or looked prior to his death in the case of deceased officers), but not to images of the officer in their former cover identities? We note that the Chair appeared to indicate at the hearing that a restriction order in respect of a real name would not necessarily prohibit publication of images of the officer from the time of his or her deployment and we should be grateful for confirmation of this point and clarification of the Orders.
- 2 If the restriction is in fact intended to cover all images of the officer, then we consider it to be inappropriate and we ask that the Chair reconsiders. We note that we were not afforded the opportunity to make substantive representations about this issue at the hearing and the only references to photographs in the transcript are at day one pages 20-21, where the Chair simply said that the decision he was engaged on was whether or not to publish real names, he was not considering whether or not the Inquiry had the power to obtain photographic images of the officer; and day two pages 101-103, where the Chair acknowledged that contemporaneous photographs of an officer might afford a means by which a person spied upon might be enabled to come forward. We are instructed that in many cases, particularly in relation to early deployments, the release of photographs of officers as they looked at the time of their deployment is likely to be of significant importance in enabling those spied upon to realise that they have relevant evidence to give. Members of activist groups were frequently only known to each other by their first names, or by nicknames, and memories of names fade. In these circumstances, contemporaneous photographs are an important means by which the Inquiry will be able to access evidence that will otherwise be lost. If the release of cover names is to have the instrumental value recognised by the Inquiry, it is likely in many cases to require also the publication of images of the officer as they looked at the time of deployment. This is even more so where, as for example with HN294, the cover name is said not to be known. If the consequence of restriction of real names is that the publication of all images of the officer, even those in their cover identity, are prohibited, then that is an important instrumental factor which (i) should have been taken into account in assessing whether restriction of a real name is properly justified; (ii) should have been a matter on which the NPSCPs were afforded an opportunity to make submissions and (iii) in our submission would make restriction of the real names of, at very least, HN68, HN329, HN330 and HN294 unjustified on this ground alone.”

From: Undercover Policing Inquiry
Sent: 12 January 2018 12:34
To: 'Tamsin Allen'
Cc: Pitchford CP Lawyers
Subject: 180112_UCPI_NPNSRLR_Amendment to letter in response to rulings

Dear all,

Thank you for the email below, which the Chairman has now considered.

In respect of the matters which you raise about the restriction of publication of images, he has asked me to confirm that the orders made cover only material issued to a third party by the inquiry, and do not apply to the use of images already in the hands of the core participants (or any other individual or organisation).

As to images which come into the possession of the Inquiry, publication by the Inquiry of a photograph of an officer as he or she appeared during his or her deployment will be considered on a case by case basis.

Kind regards,

Piers

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