

**IN THE UNDERCOVER POLICING INQUIRY**

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**SUBMISSIONS ON BEHALF OF**

**PETER FRANCIS**

**RE**

**THE CHAIRMAN'S 'MINDED TO' NOTE DATED 14 NOVEMBER 2017**

**RE HN23, HN40, HN241, HN322, HN348**

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1. These submissions are made on behalf of Peter Francis ('PF') in response to the 'minded to' indications published by the Chairman in his note dated 14 December 2017 and the subsequent disclosure and directions dated 4 January 2018 in relation to HN23, HN40, HN241, HN322, HN348.

General points

2. The disclosure in all these applications has been minimal, and in particular the non-disclosure of any details of the group(s) infiltrated, even by way of broad categories, makes the risk assessments largely meaningless to those not in the know.
3. Additionally there is no explanation, 'gisted' or otherwise, in each case, as to how revealing cover names would result in the revelation of real names. There ought to be some justification provided as to why the "sterile corridor" that appears to exist between some cover and real names, does not in others? There are a number of cover names in the media, some confirmed by the Inquiry (for example, Simon Wellings (HN118), Rick Gibson (HN297), Bill Lewis (HN321), Douglas Edwards (HN326),

John Graham (HN329), Rod Richardson (HN596)) and none of these revelations, to the best of PF's knowledge, has led to the identification of their real names and / or any resultant harm.

4. Further, in PF's view, just because an SDS officer targeted a group that was demonstrably prone to violence, e.g. a group associated with the extreme left or extreme right or the ALF, cannot of itself be enough to prevent the revelation of a cover name. On that basis, officers such as Bob Lambert, Carlo Neri, Mark Cassidy/ Jenner, Mark Kennedy and even PF, would not have been disclosed by the Inquiry. Indeed, the more prone to violence a target group was, the greater the likelihood, for example, that a UCO may have committed a criminal offence themselves in order to maintain their cover.
5. In PF's submissions each of the cover names should be released. The nature of a particular target group may well increase the risk to personal safety if a real name was revealed, but it does not increase the likelihood of a cover name leading to the revelation of a real name.

#### Specific submissions

**HN23: a restriction order is sought for the real and cover name, the Chairman is not minded to publish the real or the cover name.**

6. HN23, as disclosed was an officer deployed in the 1990s. He is known to PF. Given the nature of the group he targeted, he is likely to have valuable evidence to give concerning the level of violence authorised by SDS Managers to be used by SDS Officers whilst maintaining their undercover role. That evidence can only be properly tested if his targets are aware of who he was. If his cover name was disclosed, he could give his evidence behind a screen with any other special measure necessary.
7. Even if it was not disclosed, as currently envisaged, he could give evidence in the same way. It is not clear why the Chairman suggests otherwise.
8. Further, in the gisted Risk Assessment (sections 1-3), it is indicated that he was the subject of a misconduct investigation that concluded with no case to answer. The date

and nature of his alleged misconduct should be disclosed, particularly if it relates to his undercover activities.

**HN 40 – a restriction order is sought for real and cover name, the Chairman is not minded to publish the real or the cover name.**

9. PF knows this officer and the nature of the groups he infiltrated. He is unaware as to why the revelation of his cover name would be more likely to lead to the discovery of his real name than in the case of other UCOs. Once more, it is PF's view that he has potentially valuable evidence to give concerning the violence permitted by SDS Managers to be used by SDS officers whilst maintaining their undercover role. Once more, it is his view that evidence can only be tested for accuracy if his targets are made aware of his cover name.
10. In his first impact statement, his primary concern appears to be about the release of his real name/ identity (see para 9 for example), not his cover name. HN40 also states that the risk of threats to his family is his primary concern (para 15(i)).
11. The gisted disclosure of Dr Fox's report does not explain why his PTSD would worsen in severity if his cover name was disclosed (as opposed to his real name). In his own statement HN40 says that his primary stressor was the undercover work itself and his treatment by the MPS (he feels severely let down and mismanaged post-deployment) (para 31), and the mere fact of the Inquiry makes his current condition worse (para 33). Thus it is not at all clear how Dr Fox can possibly assert that "if a restriction order is granted over both then there is a good chance of symptom recovery".
12. As far as the manner in which he gives his evidence is concerned, he obviously has vital evidence to give about the nature of his deployments and his (mis)management by the MPS, which must, in our submission, be given in open session.

**HN 241 – a restriction order is sought for real and cover name, the Chairman is not minded to publish the real or cover name.**

13. This minded to decision is particularly difficult to understand for the following reasons:
  - a) HN241 did not target violent group(s) (para 5);

- b) He is refreshingly honest about the impact of deployment upon him: he was unaware of any effect on him (para 10), and he did not take any security measures at home (para 11);
  - c) His identity was compromised (para 13) / blown (para 16);
  - d) He himself only asks for a restriction order in relation to his *real* name;
  - e) His risk assessment puts the risk of physical harm if his cover name is disclosed as “very low”.
14. Given the Chairman’s principled commitment to disclosing cover names “In every case in which it can be done without disproportionate damage to the public interest or harm to the individual concerned”, this decision is, in our view, irrational, and his cover name should be disclosed.

**HN 322 - a restriction order is sought for the real name (there is no known cover name), the Chairman is not minded to publish the real name.**

15. Unless fellow SDS officers deployed at the same time or SDS Managers can remember his cover name, then we accept the decision in relation to this officer.

**HN 348 – a restriction order is sought for the real name (part of the cover name is known), the Chairman is not minded to publish the real name.**

16. Similarly, unless someone else is able to assist with the whole of her cover name, we accept this decision. It may be that her fellow SDS Officers deployed in that period or the relevant SDS Managers might be able to help jog her memory.

MAYA SIKAND

GARDEN COURT CHAMBERS

19 January 2018