

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 5

Applications

- The Inquiry has considered applications received in respect of 14 further individual officers. I am minded to make or to refuse to make restriction orders under section 19 (3) of the Inquiries Act 2005 in the cases specified in the table below.

Nominal	Position
HN 20	<i>Further information sought before ‘Minded to’ decision can be made.</i>
HN21	The real name cannot be published. The application for a restriction order in respect of the cover name is refused.
HN25	The real name cannot be published. The application for a restriction order in respect of the cover name is refused.
HN35	The real name cannot be published.
HN 48	<i>Further information sought before ‘Minded to’ decision can be made.</i>
HN66	The real name cannot be published. The application for a restriction order in respect of the cover name is refused to the extent that it would prohibit disclosure of the names by which HN66 was known to members of the groups targeted.
HN82	The real name cannot be published. I will afford an opportunity to the widow of HN82 to make representations personally at a closed hearing about publication of his cover name.
HN83	Neither the real nor cover name can be published.
HN 95	<i>Application delayed.</i>
HN96	The real name cannot be published. I refuse to make a restriction order in respect of the cover name.
HN103	No application made.
HN106	The real name cannot be published.
HN122	The real name cannot be published. The application for a restriction order in respect of the cover name is refused.
HN155	I invite oral submissions at the hearing on 21 March 2018 on the application for a restriction order in respect of the real name.

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HN300	The real name cannot be published.
HN302	Neither the real nor cover name can be published.
HN344	I refuse to make a restriction order in respect of the real name
HN608	I refuse to make a restriction order in respect of the real name

Reasons

HN21 - Application for restriction over real and cover names. The real name cannot be published. The application for a restriction order in respect of cover name is refused.

- HN21 is a sexagenarian. HN21 was deployed in the late 1970s and early 1980s against one group principally and came into contact with others upon which reports were made. None of the groups or their members or former members pose any risk to the safety of HN21. The risk of harassment by them is nil or negligible. HN21 has, however, suffered recurrent episodes of severe depression since deployment. In the opinion of Dr Busutil publication of the real or cover name of HN21 would give rise to a high risk of recurrence. Fulfilment of the Inquiry's terms of reference does not require that risk to be run in relation to the real name of HN21, publication of which would amount to a disproportionate and unjustified interference in the right of HN21 to respect for private and family life under Article 8 of the European Convention on Human Rights ('the Convention'). The deployment of HN21 is, however, of some interest to the Inquiry. Publication of the cover name would permit a more thorough investigation of the deployment than if it were to be explored under a cypher. I am not, at present, convinced that measures cannot be taken to avoid harmful impact on the health of HN21. I will afford an opportunity to HN21 to consider such measures in a closed session and/or to submit that they would be ineffective. A closed note accompanies these reasons.

HN25 - Application for restriction over real and cover names. The real name cannot be published. The application for a restriction order in respect of cover name is refused.

- HN25 is a sexagenarian. HN25 was deployed against one group which no longer exists in the late 1980s and early 1990s. There is no real risk to the safety of HN25 from former members of the targeted group. There is a strong sterile corridor between the real and cover name. Investigation of the deployment is necessary to fulfil the Inquiry's terms of reference. To that end, former members of the group should have the opportunity to provide and/or give evidence about the deployment of HN25. They will need to know the cover name if they are to do so.

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4. HN25 has concerns, which I am satisfied are genuine, about safety and about the impact on private and family life, if the real name were to be disclosed. I do not believe that the first is objectively justified, but am satisfied that the second is rational and has some foundation. There is a particular feature, identified in the closed note which accompanies these reasons, why it would not be justified to override that concern. It is not necessary, to publish the real name of HN25 to permit the terms of reference of the Inquiry to be fulfilled. Accordingly, the interference in the right to respect for private and family life of HN25 and of the family of HN25 which would be occasioned by publication of the real name would not be justified or proportionate under Article 8 of the Convention.

HN35 - Application for restriction over real name. The real name cannot be published.

5. As a Detective Sergeant, HN35 was the cover officer for six deployed officers for between two and three years during the last period of existence of the Special Duties Squad. His evidence about at least three of them will have to be given entirely in closed session. The family background of, and the police duties performed outside the Special Duties Squad by, HN35 create risks to the safety and well-being of HN35 and of the wider family of HN35, described in the closed note which accompanies these reasons. On the basis of what I know now, it is not necessary to run those risks to permit the Inquiry to fulfil its terms of reference. Accordingly, the interference with the right to respect for the private and family life of HN35 and of the wider family of HN35 which would be occasioned by publication of the real name would not be justified or proportionate under Article 8 of the Convention.

HN66 - Application for restriction over real and cover names. The real name cannot be published. The application for a restriction order in respect of cover name is refused to the extent set out below.

6. HN66 is a sexagenarian. HN66 was deployed against a variety of groups in the early and mid-2000s. None of them committed acts of serious violence. There is no risk to the safety of HN66 from any of their members or former members. There is a real risk that, if the names by which HN66 was known to those belonging to targeted groups are not published, the ability of the Inquiry to fulfil its terms of reference will be impaired, by the absence of potentially relevant evidence from them. HN66 is concerned that the publication of those names will lead to the identification of the real name, in which event, HN66 fears both risks to safety and to private and family life. The first fear is misplaced; the second is overstated. There is some risk, which it is impossible to quantify, that publication of the names will lead to identification of the real name, but it is very far from a certainty. If it were to occur, the principal impact on the personal and family life of HN66 would be a degree of media intrusion, falling well

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short of harassment. The chance that that might happen does not require a restriction order to be made in respect of all names. However, publication of the real name of HN66 is not necessary to permit the Inquiry to fulfil its terms of reference. It would be neither proportionate nor justified to do so under Article 8 (2) of the Convention. A closed note accompanies these reasons.

HN82 - Application for restriction over real name. The real name cannot be published. Opportunity will be afforded to the widow to make representations about cover name at a closed hearing.

7. HN82 is deceased. He was deployed against two groups, one of them violent, in the 1980s. Public investigation of his deployments is required to permit the Inquiry to fulfil its terms of reference. His widow has expressed concern, which I accept is genuine, about the impact of publication of his real name on her safety and well-being. In this, she is supported by her adult children. The risk assessor has not identified any surviving member or associate of the violent group who might pose a current risk to her safety, but nonetheless “feels” that the risk is real. I am not prepared to act upon a wholly unspecific and unsubstantiated feeling. I do not believe the publication of the real name of HN82 would give rise to a real risk to the safety of his widow. It would, nevertheless, amount to a significant interference in her right to respect for her private life, for two reasons: it is likely to give rise to unwelcome media attention; and would cause her genuine, if misplaced, concern for her safety. It is not necessary for the real name of HN82 to be published to permit the Inquiry to fulfil its terms of reference. Disclosure of the cover name alone would suffice. In those circumstances, the interference in the right to respect for the private life of HN82’s widow which would be caused by its publication by the Inquiry would be neither proportionate nor justified under Article 8 (2) of the Convention.
8. There is a real risk the publication of the cover name of HN82 would lead to the identification of his real name, and so that of his widow. She is not legally represented. Although she has not made a formal application for a restriction order in respect of the cover name, I will offer her the opportunity to make representations at a closed hearing. A closed note, sent to her and to the Metropolitan Police Service accompanies these reasons.

HN83 - Application for restriction over real and cover names. Neither real nor cover name can be published.

9. HN83 is a sexagenarian. HN83 was deployed against one group in the mid-1980s. The nature of the deployment and what I know of the personal circumstances of HN83, then and now, are inconsistent with personal wrongdoing during the

deployment. The deployment created risks to the personal safety of HN83, which, to an extent which cannot be precisely estimated, remain. I am satisfied that the risks are real. Although it would be desirable for evidence about the deployment of HN83 to be given in public and under the cover name, to do so would run those risks to safety. The risks are contingent, and so do not engage Articles 2 or 3 of the Convention, but if they were to materialise, the harm would be significant. Article 8 is engaged. It is not necessary to fulfil the terms of reference of the Inquiry to run those risks. Accordingly, the interference in the right to respect for private life – physical integrity – would be neither proportionate nor justified under Article 8 (2).

10. A closed note accompanies these reasons.

HN96 - Application for restriction over real and cover names. The real name cannot be published. The application for a restriction order in respect of cover name is refused.

11. HN96 is a septuagenarian. HN96 was deployed principally against two groups and reported on others in the late 1970s and early 1980s. Explicit assurances were given by senior officers that the identity of HN96 would never be revealed. This is a factor of some weight in this case. HN96 is also concerned about the impact which publication of the real name, in the form of social media intrusion and publicity would have on HN96 and the wider family of HN96. This concern is not irrational. Publication of the real name of HN96 is not necessary to permit the terms of reference of the Inquiry to be fulfilled. Accordingly, the interference which it would occasion to private and family life is not proportionate or justified under article 8 (2) of the Convention. There is, however, a strong sterile corridor between the real and cover name. Publication of the cover name would permit members of the target groups and others to provide information and/or evidence about the deployments of HN96. In that event, the Inquiry would be likely to be better informed about them. It is not necessary to give effect to the assurances given to HN96 or to the right to respect for private and family life to restrict publication of the cover name.

12. A closed note accompanies these reasons.

HN106 - Application for real name only. The real name cannot be published.

13. HN106 is a sexagenarian. He was initially deployed against one group, but then on his own (authorised) initiative, infiltrated another between 1979 and 1983. The deployments are of interest to the Inquiry. Publication of his cover name should permit members of the target groups and others to provide and/or give evidence about them. He was promised lifetime anonymity by senior officers before deployment. This is a factor of some weight in his case. Members of the targeted

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groups pose no risk to his safety. He is concerned about the possible impact of media intrusion into his life and that of his wider family. Publication of his real name is not necessary to permit the terms of reference of the Inquiry to be fulfilled. His cover name will be published. In those circumstances, effect should be given to the promise made to him; and the interference which would be occasioned by publication of his real name in his right to respect for private and family life would be neither proportionate justified under Article 8 (2) of the Convention.

HN122 - Application for restriction over real and cover names. The real name cannot be published. The application for a restriction order in respect of cover name is refused.

14. HN122 was deployed against two groups between the late 1980s and the early 1990s. Fulfilment of the Inquiry's terms of reference require that the deployments are examined publicly, if that can be achieved without damage to the public interest or the risk of serious harm to HN122 and/or others. For the reasons explained in the closed note which accompanies these reasons, I believe that it can be. If the deployments are to be examined publicly, the cover name of HN122 must be published to permit members of the groups targeted to provide and give evidence about the deployments. Publication of the real name of HN122 is not necessary to achieve that end. It would entail some interference with the right to respect for private and family life of HN122, which would be neither proportionate nor justified under Article 8 (2) of the Convention.

HN155 - Application for restriction over real name only. Oral submissions required.

15. HN155 is in his 60s and married. He was deployed against one left-wing group between 1980 and 1983. Publication of his cover name, which will occur, may prompt members of the group or others to provide evidence about his activities during his deployment. The threat posed to his physical safety by former members of the group and/or sympathisers is nil or negligible. He will, however, inevitably be the subject of unwelcome media attention and is understandably concerned about the impact which that will have on his wife. But for the facts referred to below, I would have made a restriction order in respect of his real name, to avoid unnecessary infringement of the right of HN155 and his wife to respect for their private and family life.
16. The real name of HN155 is known to responsible journalists, who have written to him in that name. Publication of it by them from information already in their possession would not infringe any restriction order under section 19 (3) of the Inquiries Act 2005, if made. I am not minded to make futile orders. Hence the need for oral submissions from those with an interest in this issue.

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HN300 - Application for restriction over real name. The real name cannot be published.

17. HN300 is deceased. He is survived by his second wife and their two adult children. He was deployed into the Socialist Workers Party (branch unknown) between late 1974 and January 1977. His cover name is unknown, but may have included "Jim" or "Jimmy". During his deployment, he told another undercover officer that he had fallen in love with a female member of his target group. He was divorced from his second wife in 1979. She and his two children have provided a joint statement about their experiences during his deployment and about the impact which disclosure of his real name would have on them. I accept that what they say is true and believe it to be unexaggerated. Both adult children pursue worthwhile careers and express their concern about the impact of media attention upon them and upon their mother. Their concern is not irrational. Publication of the real name of HN300 would interfere with their right to respect for private and family life. It would not further the interest of the Inquiry in getting at the truth about his deployment. Accordingly, to do so would be neither proportionate nor justified under Article 8 (2) of the Convention. It is possible that further information about his cover name will become known to the Inquiry. If and when it does, it will be published.

HN302 - Application for restriction over real and cover name. Neither the real nor cover name can be published.

18. HN302 is a septuagenarian. In the 1970s, HN302 was deployed into one group, which no longer exists, via two other groups which also no longer exist. The nature of the deployment was such as to create a real risk to the safety of HN302. To an extent which cannot be precisely quantified, that risk remains. Because it is contingent, it does not engage Articles 2 or 3 of the Convention, but if it were to mature the harm to HN302 would be serious, possibly even lethal.
19. HN302 admits to a fleeting sexual encounter with a person of the opposite sex who was associated with one of the two groups referred to (not that into which HN302 was deployed). The right of that person to know the identity of HN302 is outweighed by the risk to the safety of HN302.
20. A closed note accompanies and expands upon these reasons.

HN344 - Application for restriction over real name. Application is refused.

21. HN344 is now in his 70s and lives abroad. It is believed that he was deployed by the Special Operations Squad/Special Demonstration Squad in 1971. He has told the risk assessor that he remembers his cover name, but refuses to disclose it. Nothing reliable is known about his deployment. He does not consider himself at risk of

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physical attack from members of his target group or groups. He advances no reason in support of the application for a restriction order in respect of his real name, beyond his understanding that his deployment would be kept confidential and his wish not to be the subject of publicity. He resigned from the Metropolitan Police Service in the early 1980s. Subsequently he was arrested for the unauthorised possession of official documents. He was not prosecuted on the advice of the Director of Public Prosecutions. Thereafter, he undertook work in the private security sector in Asia. Given his unwillingness to disclose his cover name to the risk assessor or to the Inquiry, and the lack of information about his deployment, the only (faint) chance of discovering anything about his deployment is to publish his real name.

HN608 - Application for restriction over real name. Application is refused.

22. HN608 played a managerial role only in respect of the Special Demonstration Squad as a Detective Superintendent for about a year in the late 1970s. He died in 2017, leaving a widow of 85. She is blind, immobile and in deteriorating health. She lives in a care home. She is unaware of the Inquiry. Her daughter is understandably concerned about the impact of media intrusion upon her. Any attempt to make contact with her, to obtain information from her about her late husband, would besmirch the reputation of the media. I have full confidence that no such attempt will be made. There is a small possibility that disclosure of his real name will prompt information or evidence from former colleagues about his approach to the management of the Special Demonstration Squad. I do not wish to lose that possibility.

7 March 2018

Sir John Mitting
Chairman, Undercover Policing Inquiry