

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 8

Applications

1. The Inquiry has considered applications received in respect of 16 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
HN8	Neither the real nor cover name can be published.
HN9	Neither the real nor cover name can be published.
HN20	The real name cannot be published.
HN24	I refuse to make a restriction order in respect of the real name.
HN27	Neither the real nor cover name can be published.
HN72	Neither the real nor cover name can be published.
HN95	I refuse to make a restriction order in respect of the real name.
HN113	<i>Further information is sought.</i>
HN135	There will be a closed hearing to permit representations to be made.
HN303	The real name cannot be published.
HN308	No application made.
HN311	No application made.
HN344	I defer deciding whether to restrict real name but cover name will be published.
HN351	The real name cannot be published.
HN355	Neither the real nor cover name can be published.
HN358	No application made.

Reasons

HN8 - Application for restriction over real and cover names. Neither real nor cover name can be published.

1. HN8 is a sexagenarian. HN8 was deployed into one group in the late 1980s and early 1990s. The deployment was unremarkable. If the real or cover name of HN8

were to be published, there would be a real risk of interference in two aspects of the private life of HN8 – physical integrity and the ability to perform socially useful and remunerative work. The risk to physical integrity, which is real, if contingent, may arise either from members or associates of the group infiltrated. The risk to the ability to perform that work would arise from publicity in the traditional and non-traditional media. In neither case need the risk be run to permit the Inquiry to fulfil its terms of reference. In those circumstances, the interference in the rights of HN8 under Article 8 of the European Convention on Human Rights ('the European Convention') would be neither proportionate nor justified. It would also not be in the public interest to run them.

2. A closed note accompanies these reasons.

HN9 - Application for restriction over real and cover names. Neither real nor cover name can be published.

3. HN9 is in his 50s. HN9 was deployed into one group in the 1980s and acted as a cover officer for a number of undercover officers whose deployments are of interest to the Inquiry in the 2000s. No risk to the safety of HN9 arises from any member of the target group. None of them poses any risk of interference with private or family life. But for the factor mentioned below, I would have refused to make a restriction order in respect of the cover name.
4. In a report dated 21 August 2017, Dr Busuttil, a very experienced consultant psychiatrist, expressed the opinion that HN9 was suffering from a chronic prolonged adjustment disorder and was at high risk of developing a formal depressive episode. He recommended immediate referral to a senior psychotherapist or psychologist with a view to undertaking cognitive behavioural therapy and, if that did not succeed, antidepressant medication. On the basis of what HN9 told him and of his psychiatric examination, he expressed the startling conclusion that should the real or cover name be disclosed, HN9 would be at high risk of developing a severe depressive episode and, in any event, "a very high risk of contemplated suicide whether or not he has had intervention on the lines I have highlighted." I questioned this conclusion and proposed steps which might be taken to minimise the risk for Dr Busuttil's consideration. His conclusion is that, notwithstanding that those steps might mitigate some of the impact, the suicide risk "will be extremely high". I must defer to his expert opinion. Nothing that I know about the nature of the deployment of HN9 or his personal circumstances could justify running that risk. To do so might infringe HN9's rights under Article 2 of the European Convention and would infringe those under Article 8.

HN20 - Application for restriction over real name. The real name cannot be published.

5. HN20 is in his 70s. He was deployed against a number of groups in the late 1970s and early 1980s. His deployment appears to have been unremarkable. His cover name will be published. In the unlikely event that any person encountered by him during his deployment wishes to provide or give evidence about it, that may serve to prompt such evidence. Publication of his real name is not necessary to permit the Inquiry to fulfil its terms of reference. The interference which it would cause with his right to respect for private and family life would be neither proportionate nor justified under Article 8(2) of the European Convention.

HN24 - Application for restriction over real name. Application is refused.

6. Prior to joining the Special Duties Squad in 2001, HN24 handled and distributed intelligence gathered by deployed undercover officers at the time of the Stephen Lawrence Inquiry. After joining, he served as a cover officer for deployed undercover officers, including HN104. He has valuable evidence to give about both issues. No risk to his safety would arise from giving such evidence in his own name and the impact on his right to respect for private and family life would be likely to be confined to unwelcome media attention. The public interest in him giving this evidence in his own name and in public substantially outweighs any interference in the right of HN24 to respect for his private and family life under Article 8 of the European Convention.
7. Part of the evidence of HN24, about his discharge of his duties as a cover officer for other deployed undercover officers will have to be given in closed session, for their protection.
8. A closed note accompanies these reasons.

HN27 - Application for restriction over real and cover names. Neither real nor cover name can be published.

9. HN27 is a sexagenarian who was deployed against a number of groups in the 1990s. The nature of the deployment and the activities undertaken by HN27 gave rise to a real risk to life and limb which, to an extent which cannot be precisely quantified, remains. It would not be justified to run that risk. Even if Articles 2 and 3 of the European Convention are not engaged, because the risks are contingent and not immediate, Article 8 is. The nature and source of the risks are more fully described in the closed note which accompanies these reasons. Interference in the right of HN27 to respect for an aspect of private life – physical integrity – would not be justified under Article 8(2).

UNDERCOVER POLICING INQUIRY

10. It has been suggested that HN27's deployment encroached upon the Stephen Lawrence campaign. The suggestion is erroneous.

HN72 - Application for restriction over real and cover names. Neither real nor cover name can be published.

11. HN72 is in his 60s and fully retired. He was deployed as an undercover officer for a short period in the 1980s into one group. He held a significant managerial position in the Special Duties Squad in the last period of its existence. He has important evidence to give, principally about his performance of his duties as a manager and the activities of deployed undercover officers when he was. He was also noted by Herne investigating officers to have stated that HN81 had been tasked to infiltrate the Stephen Lawrence campaign at the suggestion or instigation of the then Deputy Commissioner. It is important that, if possible, this evidence should be given publicly and in a manner which permits the public to judge for itself its truthfulness and reliability.
12. On 10 September 2009 he suffered a myocardial infarction. An emergency coronary angiography was performed, which revealed two coronary conditions: one of which was successfully treated; the other of which is congenital. He made a good recovery and was symptom-free until 2017, when he began to notice increased breathlessness and some chest tightness.
13. He was recently examined by Professor Knight, a consultant cardiologist, from whom I have a written report. In his opinion, his current symptoms may indicate a recurrence of coronary artery disease. Further tests are required to establish the precise condition. One likely condition would give rise to a very high risk to health from stress. In any event, the congenital condition creates a further, independent, risk from the effects of stress – that of provoking myocardial ischaemia and cardiac death. However valuable the evidence of HN72 may be to the Inquiry, I must do everything reasonable within my power to minimise these risks. HN72 is described as having a strong sense of duty. In his impact statement dated 26 February 2017, he has asserted his wish to give evidence to the Inquiry. From what he told Professor Knight the primary source of stress is the prospect of his identity being revealed, rather than giving evidence.
14. HN72's circumstances clearly engage Article 8 of the European Convention. For the reasons given, I am satisfied that it would be neither proportionate nor justified under Article 8(2) and would not serve the interests of the Inquiry for HN72's real or cover names to be published. The best, perhaps only, means of receiving his

UNDERCOVER POLICING INQUIRY

important evidence is for it to be given under a cypher. A restriction order in respect of both real and cover names is therefore required.

HN95 - Application for restriction over real name. Application is refused.

15. HN95 is believed to be in his 60s. He does not live in the United Kingdom. He belonged to the Special Demonstration Squad between 1985 and 1988. He was deployed into the Socialist Workers Party. His deployment was problematical and was terminated by his managers abruptly in 1988. He was medically retired soon after. Little or nothing is known about his current circumstances or concerns, save that it is believed that he is aware of the attempts which have been made to contact him in connection with the Inquiry. If he is, he has not responded to them.
16. The Commissioner of Metropolitan Police has made an application for a restriction order in respect of his real name. The grounds of the application are generic. They do not identify the respects, if any, in which his right to respect for his private and family life would be infringed by publication of his real name, beyond referring to a paragraph in the risk assessment created on 27 February 2018 which is, itself, generic. This is not the fault of the risk assessor or the Commissioner. It arises because HN95 has not, probably deliberately, engaged at all with the Inquiry process. I am not willing to make a restriction order on Article 8 grounds without some good reason for believing that the right to respect for private and family life would be infringed if real or cover name were published. In the case of HN95, I have no such reason. Further, the real name of HN95 and the circumstances in which he came to join and leave the Special Demonstration Squad are known to responsible journalists. The latter have been put into the public domain by them. I have no reason to believe that any attempt will be made to restrain publication of that which they know – the real name of HN95. In those circumstances, it would be futile to make a restriction order in respect of the real name.

HN303 - Application for restriction over real name. The real name cannot be published.

17. HN303 is a septuagenarian. He was deployed against one group (the Workers Revolutionary Party) and reported on another in the 1970s. He resigned from the Metropolitan Police, to pursue another career, at the end of his deployment. Former and current members of the Workers Revolutionary Party pose no threat to his safety, but former members and associates of, and sympathisers with, the other group may do so. He is concerned about the risk to his safety from that source and about possible media intrusion if his real name were to be published. His concerns are not irrational. His cover name will be published. If any person with whom he came into contact during his deployment can provide or give evidence about it,

UNDERCOVER POLICING INQUIRY

publication of his cover name is what is required to prompt them to do so. Publication of his real name is not necessary to permit the terms of reference of the Inquiry to be fulfilled. The interference which it would cause in his right to respect for private and family life would not be justified under Article 8(2) of the European Convention.

HN344 - Application for restriction over real name. Decision whether to restrict real name deferred but cover name can be published.

18. Since publication of the fifth 'Minded to' note on 27 February 2018, HN344 has disclosed the cover name or names under which he was deployed and the group targeted. No confirmatory evidence of these statements has yet come to light. It is possible the publication of this cover name(s) will prompt the provision of evidence from others about his deployment. It is also possible that he will now provide a witness statement about his deployment. The Inquiry is more likely to obtain worthwhile evidence about it by these means than by publication of his real name. Accordingly, I will defer ruling upon the Commissioner's application for a restriction order in respect of his real name, to await developments. Meanwhile, the provisional restriction order in respect of it will remain in place.

HN351 - Application for restriction over real name. The real name cannot be published.

19. HN351 is in his 70s. He was deployed in the 1970s for less than one year against one group (International Socialists) which was later absorbed into the Socialist Workers Party. He was withdrawn from his deployment because of health problems of unclear origin. None of the members of the target group or their associates pose any threat to his safety. In 2016, he was diagnosed as suffering from an aggressive form of cancer. The cancer has responded well to treatment and may not have metastasised. He is concerned about the impact on him and his family of the disclosure of his real name. In the opinion of his treating consultant oncologist, it is not possible to link the anxiety and stress likely to be caused by publication of his real name to the progress of his condition. In her opinion, he can be expected to provide a witness statement without adverse impact on his health.
20. Even though HN351's concerns may not be objectively justified, I accept that they are genuine. There is no need to override them. Publication of his cover name, which will occur, may serve to prompt those who encountered him during his deployment to provide or give evidence about it. Publication of his real name could not do so. It is not necessary to permit the terms of reference of the Inquiry to be fulfilled. The interference which it would cause in HN351's right to respect for private

and family life would be disproportionate and unjustified under Article 8(2) of the European Convention.

HN355 - Application for restriction over real and cover names. Neither real nor cover name can be published.

21. HN355 is a septuagenarian. HN355 was deployed for less than four years in the late 1970s and early 1980s against a number of Maoist groups, the identity of which is not currently known. The deployment appears to have been unremarkable and unlikely to have given rise to the opportunity for personal misconduct by HN355. Nevertheless, publication of the cover name of HN355 would provide an opportunity for those encountered during the deployment to provide and give evidence about it, as they may well be able to do, if the groups could be identified. That opportunity will be lost if the cover name is not published. But for the circumstances described below, I would have refused to make a restriction order in respect of the cover name.
22. HN355 has adult children. One of them (X) is mentally unstable. X is politically committed and active. X does not know the nature of the groups into which HN355 was deployed. HN355 believes that if X discovers their identity it will damage, gravely, or destroy the relationship between them, upon which X's ability to function as a normal adult depends. I do not have medical evidence to confirm these facts and cannot ask for it, because of X's entitlement to the confidentiality of medical records and opinions relating to X. I have to proceed on the basis of what I have been told by HN355. I accept that it is true and unexaggerated. On that basis, the public interest in maximising the chance of obtaining evidence from those against whom HN355 was deployed is outweighed by the need to protect the personal integrity of X. The interference which publication of either cover or real name would cause in the right to respect for private and family life of HN355 and X would be disproportionate and unjustified under Article 8(2) of the European Convention.
23. A closed note accompanies these reasons.

26 April 2018

Sir John Mitting
Chairman, Undercover Policing Inquiry