

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

Ruling 12

1. I make a restriction order in respect of the real name of HN104.

Reasons

2. HN104 was deployed against the Socialist Party and No Platform/ANTIFA between 2000 and 2006. He has admitted to intimate and sexual relationships with more than one woman during his deployment in his cover name. He was married to his first wife at the time, by whom he had two children, both now teenagers. They bear his real name.
3. HN104's real name is known to a number of activists, including those with whom he interacted during his deployment and to the traditional media. Extensive details about his conduct during his deployment have already been published by them, albeit in his cover name. As I have already acknowledged, there is nothing that I can do to prevent any of them from publishing his real name. Thus far, they have refrained from doing so out of proper concern for the impact which publication will have upon HN104's children.
4. On 15 December 2017, I conducted a closed hearing at which HN104 and his first wife were present and represented. On 18 December 2017, the Inquiry published my decision to adjourn determination of his application for a restriction order in respect of his real name until 31 March 2018, to permit discussions to take place between the legal representatives of HN104's first wife and the recognised legal representatives of the non-police, non-state core participants, to see whether or not a course of action could be agreed which would best protect the interests of the two children. The upshot was that no such agreement was reached. The Inquiry was notified of that fact. Two confidential submissions were made on behalf of HN104's first wife on 22 March and 22 May 2018. They contained principled submissions about the need to make a restriction order in respect of HN104's real name and a proposal. The proposal was that details of HN104's post-deployment career should be made available to the non-police, non-state core participants in an attempt to persuade them to agree that a restriction order should be made and that they should not publish HN104's real name. I acceded to the proposal and on 17 July 2018 published a direction allowing her that opportunity to attempt to protect the interests of her children.

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The statement prepared by HN104 about his post-deployment career was provided to the non-police, non-state core participants. HN104's wife's hope, based on paragraph 7 of their submissions dated 6 November 2017, was that if such details were provided, the non-police, non-state core participants might alter their stance.

5. They have not done so. By an email dated 23 July 2018, eight individual non-police, non-state core participants and one group notified the Inquiry that they do not support "his real surname being restricted from publication" and call on the Inquiry "to release his real name". The letter makes no mention of the interests or well-being of the children. The hope which HN104's first wife had has, therefore, apparently been dispelled.
6. No good can come of all of this. Publication of HN104's real name, whether by the Inquiry, non-police, non-state core participants or the traditional media, must have a damaging impact on the well-being and even health of his children. No order which I can make can, by itself, protect them. I have met most of the signatories of the email dated 23 July 2018. I understand and respect their view that HN104 should be required to account publicly and in his own name for his conduct during his deployment. If that were my only concern, I would not make a restriction order in respect of his real name. I will do so for two, and only two, reasons:
 - (i) As Chairman of a state-created public inquiry, I must not interfere in the right to respect for the private life of innocent third parties, unless other considerations justify my doing so under Article 8(2) of the European Convention on Human Rights. Other considerations do not do so: all who need to know the real identity of HN104 do so; publication of his cover name, which has occurred, will serve to prompt any other person with whom he interacted to provide information and evidence if they can; and he will be required to account, in public, for his conduct.
 - (ii) When it comes to dealing with the welfare of two children, I must defer to the wishes of the one person best able to judge what is in their interests; their mother.
7. The limits on what this order will achieve need to be understood. Any document referring to, or written by HN104, will refer to him in his cover name "Carlo Neri" only. His real name will be redacted from them. Evidence will be given by him, in public, in his cover name. The evidence which he gives must describe his deployment and his conduct during it in full. Finally, and most importantly, this

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ruling will not prevent any person from publishing his real name unless they have derived that knowledge from documents, information or evidence produced or given during the course of the Inquiry. In the final analysis, the decision whether or not to publish HN104's real name will depend upon the judgement and humanity of those who already know it.

7 August 2018

Sir John Mitting
Chairman, Undercover Policing Inquiry