

## **IN THE MATTER OF THE UNDERCOVER POLICING INQUIRY**

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### **[OPEN] APPLICATION FOR RESTRICTION ORDER (ANONYMITY) IN RESPECT OF HN33's COVER NAME SUBMITTED BY THE DESIGNATED LAWYERS**

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1. The following abbreviations are used herein:

“A/N”	application notice;
“DL”	the Designated Lawyers, i.e. Mark Spanton and Anna Peacock within the MPS Directorate of Legal Services acting in their capacities as such;
“CL”	the Metropolitan Police Service’s Commissioner’s Lawyers;
“I/S”	impact statement;
“R/A”	risk assessment;
“SDS”	Special Operations Squad / Special Demonstration Squad.

2. This A/N is submitted further to and should be read together with the following which constitute the CL application for a restriction order in respect of HN33's real name:
  - a) OPEN A/N dated 27 September 2017;
  - b) CLOSED R/A dated 18 December 2017;

- c) CLOSED draft I/S undated but submitted by the CL with the A/N of 27 September 2017.
- 3. A CLOSED Supplementary I/S on behalf of HN33 dated 26 February 2018 is enclosed in support of the further cover name application set out below. The supplementary I/S was not shared with the CL before the CL made its application.
- 4. The CL are not making an application for cover name anonymity but do seek to restrict HN33's real name as it would be a disproportionate interference in his/her right to a private and family life and is in the public interest.
- 5. This cover name application is also intended as an application to restrict disclosure of the dates of deployment and the group(s) targeted as releasing these details will have the same effect as releasing the cover name and is made pursuant to:
  - a) Inquiries Act 2005, s.17(3) (fairness);
  - b) Inquiries Act 2005, s.19(3)(a) read with the Human Rights Act 1998, s.6 and the ECHR, Article 8 (right to respect for private and family life);
  - c) Inquiries Act 2005, s.19(3)(b) read with s.19(4) (fulfilment of terms of reference and necessary in public interest having regard to risk of harm or damage and conditions of confidentiality).
- 6. Both with respect to the availability of photographs [R/A, pp. 4.10 and Supplementary I/S pp. 5) and with regard to the mosaic effect, there is a risk that the release of HN33's cover name could be used to deduce, derive or infer HN33's real name and true identity. There is a risk that third parties may hold

or have access to information which is unknown to or not foreseeable by the CL and/or not in the public domain or accessible using open sources [R/A, pp. 19.3].

7. R/A paragraph 16.1 highlights the factors that would result in media interest in HN33 should his/her real name or cover name be confirmed. This likely media interest increases both the risk of the wider publication of details leading to the uncovering of his/her real name and true identity and the impact on HN33 should his/her real name and identity be exposed. HN33 did not have any sexual relationships whilst deployed nor did s/he commit, to his/her understanding, any misconduct [Supplementary I/S pp.8]; the deployment was therefore somewhat unremarkable when considering the Terms of Reference and other deployments.
8. The R/A does not address the issue identified by HN33 at paragraph 5 of the Supplementary I/S. In addition to risks associated with that issue in its own right, HN33 highlights how that issue impacts on one of the key risks on which the 'sterile corridor may hinge' [R/A, pp. 2 and 19 and Supplementary I/S, pp. 5-7]. Therefore, it is likely that the release of HN33's cover name would lead to a breakdown of that sterile corridor and the uncovering of HN33's real identity.
9. The subjective concerns of HN33 with respect to the above paragraph should also be taken into account by the Inquiry as should the need to encourage HN33's effective cooperation with the Inquiry.
10. Per R/A pp.4.5, there are notable triggers that, should deployment periods and groups be disclosed, may lead to identification of HN33's cover name.
11. The impact on HN33's Article 8 rights and those of his/her partner and family (I/S, pp.16-20, 26-27 and Supplementary I/S pp. 9-10) should weigh heavily against publishing dates of deployment, the group(s) infiltrated and cover name.
12. Furthermore, the fact that the release of HN33's cover and real name would be contrary to HN33's reasonable expectations of confidentiality and privacy and

HN33's subjective concerns about the possible consequences of this are both relevant to an assessment of the reasonableness and fairness of release, its capacity to serve a recognisable public interest and its proportionality for the purposes of Article 8.

13. There is no known misconduct or allegation of sexual relationships whilst HN33 was deployed. In circumstances where on the one hand, the release of HN33's cover name may lead to the uncovering of HN33's real name which in turn would lead to the disruption of HN33's private and family life and carries with it a risk and fear of some physical harm [Supplementary I/S pp.10], and on the other there is no indication of HN33 committing misconduct the Inquiry should err on the side of protecting HN33 and grant a restriction order in relation to his/her cover name, as well as his/her real name.

**THE DESIGNATED LAWYERS (UCPI)**

28 February 2018