

THE PUBLIC INQUIRY INTO UNDERCOVER POLICING

LETTER TO THE INQUIRY CHAIR BY ACADEMIC RESEARCHERS WITH AN INTEREST IN THE INQUIRY'S EVIDENCE GATHERING PROCESS

SUMMARY

The matters with which the Undercover Policing Inquiry ('the Inquiry') is concerned are of vital interest to academic researchers in a number of disciplines. This submission asks the Chair of the Inquiry to consider that a successful Inquiry is inherently bound up with the ability of academic researchers to access data and contribute to practical and theoretical knowledge production. We believe that the Inquiry's intention regarding its evidence gathering process (as set out in the Privacy and Data Protection Note on 26 February 2019) stands in potential conflict with the interests of the research community.

ENABLING ACADEMIC INQUIRY

1. As academic researchers, we are not represented in the Inquiry, and we are not able to instruct counsel to make submissions on our behalf. However, we are aware that the Inquiry's Chair is about to make decisions relating to the publication and disclosure of information about undercover policing in England and Wales. This letter highlights the possible implications of those decisions for future academic research.
2. The Inquiry's terms of reference are broad and cover undercover police operations conducted in England and Wales since 1968, including (i) their contribution to crime prevention, (ii) their impact on individuals and the public, (iii) knowledge and oversight by Government, (iv) authorisation and management, and (v) regulation.
3. Having closely followed the Inquiry's work during its preliminary stages, we note the Chair's determination to fulfil the terms of reference. Specifically, as outside observers, we share the Chair's view, expressed in his statement of 20 November 2017, that it is 'only by discovering the truth that I can fulfil the terms of reference of the Inquiry. I am determined to do so. In making procedural decisions about the conduct of the Inquiry I will do nothing which I can legitimately avoid which makes fulfilment of that intention more difficult. I will also make no decision whose purpose is not to fulfil that aim' (Chairman's statement 20 November 2017, Paragraph 3).
4. The public concern that led to the establishment of the Inquiry is also of central concern to academic researchers, their employers in Higher Education and their funders. Research and scholarship are critical endeavours that have the potential to enrich public life. Excellence in research and access to quality data sources are inextricably linked.
5. There are good reasons, widely accepted within the research community, why the availability of research data may need to be restricted. These include the protection of privacy rights and the avoidance of security risks or other harms. But justifications for restrictions need to be balanced against the public interest in academic research.

THE EVIDENCE GATHERING PROCESS

6. We note the Chair's outline of the evidence gathering process which the Inquiry intends to conduct, published on 26 February 2019. We specifically seek to comment on Step 5: *Public disclosure of documents* (Preliminary Issue: Privacy and Data Protection - Note regarding the Inquiry's evidence gathering process, Paragraph 5(x)).
7. Step 5 states that 'it is the intention of the Inquiry to publish and include in the Open Hearing Bundle only a selection, sufficient to demonstrate the nature of the deployment and the activities carried on during it and the principal issues raised by it'. Our understanding is that the Open Hearing Bundles will contain redacted documents that will be disclosed to the public, on the Inquiry's website. The intention to publish only a selection, rather than the redacted documents in their entirety, is of concern to us.
8. Previously, the Chair has stated his position as following: 'What I have in mind, and it is only a thought at this stage, it is not firmly set, is that in relation to an individual officer and his or her deployment, documents are published which are typical of, in many cases, a large number of documents such as for example X, Y and Z are living in the same house. Y is proposing to leave London and go to Liverpool, X and Z will remain where they are. In other words, routine information about routine personal matters. There are large numbers of such reports. There are also reports on branch and sometimes district meetings of groups which are frankly uninteresting. They concern the internal organisation of the groups, sometimes the election or selection of officers which are of interest when it happens to be the undercover officer who is selected, but otherwise not of great interest' (Privacy hearing 31 January 2019, transcript, p. 210).
9. Academic research is distinct from journalistic investigation and formal public inquiry. Its primary aim is not simply to ascertain factual information and inform the public, but also to test the appropriateness or veracity of existing theories, construct new conceptualisations and to help build a coherent and comprehensive understanding of the society in which we live. To this end, academic research is not constrained by defined remits or terms of reference, and is able to explore and examine issues within a broader context.
10. We are concerned that process for the public disclosure of documents being considered by the Chair will render large amounts of information out of the reach of academic research. It can rarely be apparent whether a selection of documents is considered 'representative' of the types of information obtained and retained by policing bodies, unless the documentation is provided for public and academic scrutiny.
11. The stated intention by the Inquiry to only publish a small number of these 'routine' documents is of concern to many in the research community. Whether they contain relevant or important information may not be easily ascertained or immediately apparent. We consider that there is a risk, if only a selection of such documents are placed in the public domain, that important sources of information about the deployment of undercover police officers will be hidden from view.

12. Further, we consider that it is not only in the capture of sensitive or highly personal information that public and academic concerns about the deployment of undercover policing arise, but also in the monitoring of day-to-day and mundane activities.

CONCLUSION

13. The Inquiry presents an incredibly important opportunity for academic researchers to understand more about undercover policing and the effects on groups and individuals. We urge the Chair to recognise the interests of the research community when approaching the question of the public disclosure of documents.
14. The signatories to this letter do not intend to make oral submissions at future Inquiry hearings. Individual researchers may attend hearings open to the public, as they have done previously.
15. This letter may be made available on the Inquiry's website. We reserve the right to publish it in academic repositories and elsewhere in the public domain.

Monday, 25 March 2019

Raphael Schlembach (letter's initiator), senior lecturer in criminology, University of Brighton

Peter Squires, professor of criminology and public policy, University of Brighton

David Mead, professor of UK human rights law, University of East Anglia

Mark McGovern, professor of sociology, Edge Hill University

Brian Doherty, professor of political sociology, Keele University

Graeme Hayes, reader in political sociology, Aston University

Valerie Aston, PhD research, University of East Anglia

Roxana Pessoa Cavalcanti, lecturer in criminology, University of Brighton

Deanna Dadusc, senior lecturer in criminology, University of Brighton

Angela Daly, assistant professor, Chinese University of Hong Kong / Strathclyde Law School

Joanna Gilmore, lecturer, York Law School

Emily Hart, lecturer in criminology, University of Liverpool

Will Jackson, lecturer in criminology, Liverpool John Moores University

Kevin Biderman, PhD researcher, Royal College of Art

Elena Maria Egawhary, PhD researcher, Columbia University, NYC

Nathan Stephens-Griffin, lecturer in criminology, Northumbria University

Katerina Hadjimatheou, senior research officer, University of Essex

Tanzil Chowdhury, lecturer in public law, Queen Mary, University of London

Andy Williams, senior lecturer, School of Journalism, Media and Cultural Studies, Cardiff University

Jordan Brown, videographer