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JOCELYN COCKBURN
PARTNER



A NEW PUBLIC INQUIRY INTO UNDERCOVER POLICING FINALLY GETS THE GO-AHEAD

BLOG

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On 12 March, the Home Secretary, Theresa May, finally set in motion plans for establishing a public inquiry into undercover policing and related issues. This follows [allegations](#) of unlawful practices carried out by the Special Demonstrations Squad (SDS) of the Metropolitan Police regarding our long-standing client Neville Lawrence, including gathering intelligence to smear his family after the murder of his son Stephen in 1993.

The announcement of the upcoming inquiry came just over a year since Mrs May's declaration to Parliament on 6 March 2014 that there would be a public inquiry. However, due to the on-going investigations on related issues by Mark Ellison QC and Chief Constable Creedon (Operation Herne), the Home Secretary had, until now, delayed establishing a new inquiry.

The Ellison Report was published on 6 March 2014, following the allegations of former undercover officer turned whistle blower Peter Francis that he was tasked by senior members of the Metropolitan Police to obtain evidence to smear the Lawrence family. Mr Ellison QC was unable to prove or disprove Mr Francis' allegations and recommended that a public inquiry was needed to get to the bottom of it. Operation Herne is investigating alleged misconduct and criminality engaged in by the SDS, which includes the gathering of evidence on the grieving Lawrence family.

The recent announcement by Theresa May followed a year of inactivity by the Home Office. Last Summer, Theresa May told us that this inquiry would not be established until after [Operation Herne](#), and any prosecutions that follow, as well as [Mark Ellison's review](#) of whether there were miscarriages of justice, in addition to any references by the Criminal Cases Review Commission of convictions to the Court of Appeal which may result from it. Such a timetable could have meant that the inquiry might not have been established and completed until 2024, over 30 years after Stephen Lawrence's death.

After seeking justice for his son's murder since 1993, Mr Lawrence considered this further delay to be completely unreasonable and pushed for a full judicial inquiry to be established as soon as possible. Any further delay would not only prolong the disruption to the Lawrence family's lives, but would inevitably result in the loss of evidence, reduce the inquiry's ability to establish the facts and would minimise the chance for the Metropolitan Police to learn lessons, correct systemic problems, and improve race relations from the inquiry's findings. Mr Lawrence told the Home Office that if a full and independent public inquiry was not established urgently, we would consider issuing judicial review proceedings concerning the ongoing delay.

This pressure has resulted in the announcement of the inquiry to review undercover policing, to be chaired by Lord Justice Pitchford.

Amongst other things, the new inquiry will look at the allegations relating to Mr Lawrence, including that the SDS were under orders from senior members of the Metropolitan Police to gather intelligence on the family after their son Stephen was murdered and during subsequent investigations. The inquiry should also investigate the extent to which the Met Police failed to provide frank and open

Privacy - Terms

disclosure of the information to Lord Macpherson, surrounding the activities of the SDS and how this might have affected Lord Macpherson's conclusions.

The Macpherson Inquiry found that institutional racism infected the Metropolitan Police investigation into the murder of Stephen Lawrence. The Police failed to tell Lord Macpherson about the existence of the SDS. What he would have made of the SDS's presence at the inquiry is not known, but Mr Ellison QC stated that 'public disorder of a far more serious kind than anything envisaged by the original undercover deployment could well have resulted.'

In *Keyu v SS for Foreign Affairs* [2012] EWHC 2445 (Admin) at [157] to [174], the Divisional Court set out the purposes of a public inquiry, to include:

- (1) "establishing the facts"
- (2) "to learn from events and prevent a reoccurrence"
- (3) "catharsis and improving an understanding of what happened"
- (4) "providing reassurance and rebuilding public confidence"
- (5) "accountability" and
- (6) "promoting good race relations"

We understand that the inquiry terms of reference will be published before Parliament rises again for the summer recess, expected to be some time at the end of July, and Mr Lawrence will be consulted on these in due course, along with other interested parties.

One of the key early areas for the inquiry to consider will be ensuring the integrity of the evidence; many potentially relevant documents remain in the hands of the Metropolitan Police. Although sections 35 (2) and (3) of the Inquiries Act make it an offence to alter or destroy evidence, the length of time that has already passed increases the chances of evidence being mislaid or destroyed, either by mistake or otherwise. The inquiry will need to be alive to these crucial issues.

We hope the inquiry will specifically address the allegations regarding Mr Lawrence and his family. There are also other black families who appear to have been targeted by undercover officers, who are alleged to have infiltrated and targeted family campaigns. It has been reported that [18 justice campaigns](#) over the course of 35 years have been targeted by undercover officers.

It is in Mr Lawrence's and the public's interests that these issues regarding the use of undercover policing are now investigated. For Mr Lawrence it is another case of justice delayed, given that these matters should have been raised and dealt with over 15 years ago at the Macpherson Inquiry.

