

LEEDS CROWN COURT

1 REGINA -v- MARK HOPKINS, ANVER VALLI, PAUL CHRISTIE,
2 CHARLES DRURY, LESLIE WRAY AND PAUL FIRTH

3
4 20th July, 2004

RULING

7 JUDGE BARTFIELD: In the course of this investigation the
8 police carried out a number of PNC checks on all manner of
9 vehicles. These PNC checks have been retained. Two schedules were
10 prepared, as is the case with any investigation, one containing
11 sensitive material and the other containing non sensitive. The
12 Prosecution, or the officer concerned in the enquiry, allocated the
13 PNC checks to the category of sensitive material, and the
14 Prosecution argue that indeed the PNC checks are sensitive within
15 the meaning of the Codes of Practice.

16 Now, paragraph 6.12 provides, in so far as relevant, that the
17 disclosure officer must list on a sensitive schedule any material
18 which he believes it is not in the public interest to disclose, and
19 the reason for that belief. The schedule must include a statement
20 the disclosure officer believes the material is sensitive, and then
21 the Code goes on to give a number of examples, none of which is a
22 PNC check, although the list is not intended to be exhaustive.

23 The Prosecution began and, in a sense, ended by saying that, in
24 their view, whilst it might not be argued that a PNC check was a
25 document that it would not be in the public interest to disclose,
26 nonetheless it was in some other way sensitive. As far as I am
27 concerned, the expression "not in the public interest to disclose
28 and sensitive" in this part of the Code is entirely synonymous, as
29 Mr. Shepherd submits. If, and insofar as, it is pointed out to me
30 that that was the view of the officer who listed it there, then, in

1 my judgment, that view is wrong, and I conclude that a PNC check is
2 not a document in relation to which it is not in the public
3 interest to disclose, in spite of the fact that it does disclose
4 what can fairly be described as a well known police method, and
5 despite the fact that it could, at least in theory, lead to private
6 individuals as owners of vehicles being identified.

7 The Defence, in the shape of Mr. Shepherd, argue that it would
8 be right for them to know in a non-sensitive schedule what vehicles
9 were the subject of PNC checks and on what dates, because that is
10 the way a PNC check would be listed, otherwise it could not be
11 identified as a PNC check. From that the Defence can look at this
12 schedule, its timing, and, says Mr. Shepherd, focus any requests
13 for further information about the vehicle. He points to the fact
14 that the Crown have made reference within their own papers to PNC
15 checks in relation to particular vehicles. Mrs. Kershaw describes
16 this as a mistake, and the Prosecution say that they will not rely
17 on it to prove a particular attribution of a vehicle.

18 That may be so, but in the end I have come to the conclusion
19 that there should have been listed in the non sensitive material
20 these PNC checks on these vehicles, and the dates, but nothing more
21 than that.

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