

IN THE UNDERCOVER POLICING INQUIRY

MPS RESPONSE ON UNDERTAKINGS

DATED 26 FEBRUARY 2016

1. This response addresses a discrete submission made on behalf of the Non-Police Non-State Core Participants ['NPSCPs']. The MPS takes issue with the submission that '*the undertaking sought must differentiate between the position in respect of police/state witnesses on the one hand and non-police non-state witnesses on the other*': NPSCP submissions, 19th February, §3.
2. The differentiation sought by NPSCPs' draft undertaking (at §13):
 - a. relates to the use of evidence given to the Inquiry in respect of criminal proceedings against persons other than the giver of the evidence;
 - b. proposes that a distinction be drawn, as to the use that may be made of that evidence, between the position of past or present police or state employees generally (whether or not they are witnesses) and other individuals.
3. This is a public inquiry. It is a non-adversarial, fact and truth finding exercise. The starting point of the inquiry must be, and the MPS trusts will be, an expectation that all witnesses give evidence in order to assist the Inquiry to fulfil its terms of reference. There is no principled basis for any differentiation in the treatment of categories of witnesses or their evidence. None of the issues canvassed at §§9, 11 or 12 of the NPSCP's submission justify the differentiation sought.
4. The MPS has already submitted that it is averse in principle to any fettering of its ability to bring appropriate disciplinary proceedings. No CP has made contrary representations. The possibility of disciplinary proceedings draws the proper distinction between the implications of the UCPI for serving police officers, whose conduct in the course of their employment is subject to analysis by the Inquiry, and other witnesses.

5. Even without the proposed (and unprincipled) differentiation between categories of witnesses, there is no precedent for the expanded undertaking sought: MPS Submissions (13th January 2016), §16-17. No need for such a novel undertaking has been articulated. Moreover, the consequence of the NPSCPs' proposed undertaking (in their submissions at §13) needs to be fully spelt out. As the MPS understands it, if X discloses in the course of the Inquiry that an offence has been committed the police may not even *investigate* it with a view to obtaining evidence which they could rely on against any other NPSCP person, no matter how serious the crime.

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26 February 2016