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Undercover Policing Inquiry  
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Our ref: Legal/SA/KA  
Your ref: PD/NCA

10 February 2016

**BY EMAIL ONLY**

Dear Sir,

Re: **Inquiry into Undercover Policing**

We write further to the above matter and to your email of 8 January 2016, enclosing Counsel to the Inquiry's Note on Undertakings ("the Undertakings Note.")

**Undertaking(s) from the Attorney General**

The National Crime Agency agrees with the comments made at paragraph 86 of the Undertakings Note that the subject matter to be investigated in order to discharge the Inquiry's terms of reference, and the nature of the events which have thus far come to public attention, indicate that questioning of witnesses giving evidence before the Inquiry will need to touch on matters which seem certain to engage the privilege against self-incrimination in the absence of an undertaking.

In the event therefore, that the Chairman deems it appropriate to seek an undertaking from the Attorney General, the NCA would be supportive of the same. The NCA supports the submission made in paragraph 4 of the submissions filed by the Metropolitan Police Service that any undertaking should be clear as to its effect.

The NCA also agrees with the submission made at paragraph 89 of the Undertakings Note that any undertaking sought should not preclude a prosecution for any offence relating to the evidence given to the Inquiry itself, whether perjury or an offence contrary to s.35 of the Inquiries Act 2005.

### **Undertaking in relation to disciplinary proceedings**

The NCA does not propose at this stage to advance any substantive submissions regarding the need for undertakings to be sought from disciplinary authorities.

We note that it is extremely unusual for undertakings of this nature to be sought, especially since, as is recognised at paragraph 90 of the Undertakings Note, the seeking of any such undertaking has the potential to impact negatively upon the ability of the authorities in question to enforce discipline.

The NCA is aware of, and shares, certain practical and legal concerns that other police core participants have expressed concerning the appropriateness of seeking such undertakings. The NCA is aware that the NPCC has suggested that the matter of whether to seek an undertaking in relation to disciplinary proceedings should remain under review by the Inquiry counsel team. The NCA supports this submission. Further, even if the Chairman takes the view that such undertakings are desirable in principle, it is far from clear that an undertaking of this nature would be required from the NCA. It is therefore submitted that it would be premature to request an undertaking of this nature from the NCA at this stage.

The NCA reserves the right to make further submissions in response to any shared or separate position statements that are filed by other recognised legal representatives or unrepresented core participants by 4pm on Friday 26 February 2016, in accordance with the Chairman's direction in this regard.

Yours faithfully,

A handwritten signature in black ink that reads "NCA".

**NCA Legal Department**