

## Core Participants Ruling

### Introduction

1. The Inquiry was opened on 28 July 2015. I invited those who wished to be considered for core participant status to submit a written application for designation by 4 pm on 18 September 2015. The deadline was extended for some late applications and supplementary representations. The Inquiry received applications from over 380 individuals, groups and organisations. Many established the criteria for core participant status. In those cases the applicants were notified that designation would be made. All other applicants were informed that if they wished to make oral representations in support of their application they would be heard in Court 73 at the Royal Courts of Justice on Wednesday, 7 October 2015. Having heard oral submissions both from legal representatives and applicants personally I announced that I would publish my ruling as soon as possible. This is my ruling. I will commence with some observations about designation that may assist applicants who are unfamiliar with the Inquiry process.

### What is a core participant?

2. A core participant is a person or organisation so designated by the chairman of the Inquiry under rule 5 of The Inquiry Rules 2006 (SI 2006/1838). The principal effect of designation is to bestow on the core participant the right to make an opening and closing statement under rule 11, and if legally represented, to seek leave under rule 10 to ask questions of a witness. The purpose of designation is to provide those most intimately concerned with the work of the Inquiry with the means to participate effectively. It follows that the core participant undertakes a responsible and sometimes onerous role in the work of the Inquiry and it may be that a participant with a close interest will not wish to be designated a *core* participant. There are other means by which the interests of such a person can be properly safeguarded. There are several persons likely to be closely affected by the work of the Inquiry who have not applied for designation. I shall explain the approach that the Inquiry intends to take hereafter to those whose applications have not been successful at paragraph 12 below and, from time to time, in the course of my ruling.

## Rule 5 of The Inquiry Rules 2006

3. Under rule 5(1) of The Inquiry Rules 2006 the chairman has the discretion whether to designate a person, with their consent, a core participant but before doing so, by rule 5(2), the chairman “*must in particular consider whether-*
  - (a) *the person played, or may have played, a direct and significant role in relation to matters to which the inquiry relates;*
  - (b) *the person has a significant interest in an important aspect of the matters to which the inquiry relates; or*
  - (c) *the person may be subject to explicit or significant criticism during the inquiry proceedings or in the report, or in any interim report.”*

The effect of the rule is thus to provide the chairman with the power rather than the duty to designate a core participant but, before making a designation, he must consider the rule 5(2) criteria. My overall duty in the conduct of the Inquiry is to act fairly.

4. By rule 5(1) the designation may take place “*at any time during the course of the inquiry*”. A person is, by rule 5(3), a core participant until any date specified by the chairman in writing or until the end of the inquiry. It follows that the chairman may make the designation for a period that embraces the whole of the inquiry’s work or for a specified part of it, and may terminate a designation in writing. Therefore the chairman may make a late designation during the course of the Inquiry, a power that has relevance to some of the present applications.

## Matters to which the Inquiry relates

5. The subject matter of the Inquiry is defined by its terms of reference as the chairman interprets them. This Inquiry concerns the activities of undercover police officers. The terms of reference (that can be found on the Inquiry’s web site) require me, among other things, to examine the scope of undercover policing as it has been conducted in practice since 1968 and its effect on individuals and the public in general. I am required to identify and assess the adequacy of the justification given for undercover police operations, the authorisation provided for those operations and the governance and oversight from time to time in place. I am required to identify and assess the way that undercover police officers are selected, trained and managed during and after their service as such. The work of the inquiry will be handled in three modules: Module 1 will investigate and consider evidence about the past conduct of undercover police operations. The Inquiry will consider evidence from police officers and those affected by undercover police operations. The

history and development of undercover policing by the Special Demonstration Squad and its successors will receive specific attention. Module 2 relates to historical and current systemic issues going to the justification for and governance of undercover police operations. Included will be a consideration of the role of Her Majesty's Government in the management and use of undercover police work. In Module 3 the Inquiry will examine whether current statutory, policy and management controls are adequate in the interests of the public and the police.

### What is undercover policing?

6. Some applications for designation proceed under an incomplete understanding of the scope of the Inquiry. Paragraph 6 of the terms of reference defines what is meant by the expressions “undercover police operations”, “undercover police officer” and “undercover policing” for the purpose of the Inquiry. As paragraph 6 says, those expressions refer to *“the use by a police force of a police officer as a covert human intelligence source (CHIS) within the meaning of section 26(8) of the Regulation of Investigatory Powers Act 2000, whether before or after the commencement of the Act”*. Section 26(8) of the Act provides that *“a person is a covert human intelligence source if –*
- (a) he establishes or maintains a personal or other relationship with a person for the covert purpose of facilitating the doing of anything falling within paragraph (b) or (c);*
  - (b) he covertly uses such a relationship to obtain information or to provide access to any information to another person; or*
  - (c) he covertly discloses information obtained by the use of such a relationship, or as a consequence of the existence of such a relationship”*.

Furthermore, by paragraph 7 of the terms of reference the Inquiry *“will not examine undercover or covert operations conducted by any body other than an English or Welsh police force”* and, by paragraph 1, the Inquiry is concerned only with undercover operations conducted in England and Wales since 1968.

7. It follows that the scope of the Inquiry's work is limited to the use of a police officer by a police force in England and Wales to make a personal or other relationship for the covert purpose of obtaining or disclosing information so obtained. It is not concerned, for example, with the deployment of a participating informant who is not a current police officer, nor with the deployment of an undercover officer whose activity is managed and supervised by an organisation other than a police force in England and Wales, nor with the activities of an undercover officer engaged in activities in

Northern Ireland, Scotland or any other country. It is also not concerned with the use of a plain-clothed police officer as a spotter or observer engaged in surveillance and intelligence gathering unless he is, when working, using a human relationship to achieve that purpose.

8. The Inquiry's terms of reference have been formulated against a background of considerable investigation, evidence gathering and review. The background to the Inquiry will be found in my opening remarks of 28 July 2015, a transcript of which is to be found on the Inquiry's web site. In summary, I have had the advantage of reading the reports of Operation Herne, Mark Ellison QC and Alison Morgan, and Her Majesty's Inspectorate of Constabulary, published between July 2013 and July 2015. They have helped me to identify the areas into which I shall need to inquire in order to fulfil the terms of reference.

### **Categories of interested persons**

9. The reports referred to at paragraph 8 and the applications for designation received by the Inquiry have also enabled me to form a clear impression of the categories or groups into which fall those who are concerned with the work of the Inquiry. They are:
  - [A] Police institutions
  - [B] Government
  - [C] Police officers
  - [D] Political organisations and politicians
  - [E] Trades unions and trades union members
  - [F] Relatives of deceased children
  - [G] The family of Stephen Lawrence, Duwayne Brooks OBE and Michael Mansfield QC
  - [H] Individuals in relationships with undercover officers
  - [I] Victims of miscarriage of justice
  - [J] Justice campaigns
  - [K] Political activists
  - [L] Social and environmental activists
  - [M] Families of police officers
  - [N] Other applicants

In order to avoid unnecessary repetition, I shall not, at this stage, explain my reasons for identifying these categories of applicants but I hope that my reasons will emerge with sufficient clarity as I deal with each in turn. It will be observed that some applicants have been designated in different categories or in more than one capacity within a single category. The reason is that the applicant has established the rule 5 criteria by more than one route.

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10. My general approach to the exercise of my discretion has been to be as inclusive as I reasonably can be so as to ensure that as wide a range of interests as possible, within the terms of reference, is represented in the core participant cohort. In each case I have applied, as I am required, the rule 5 criteria. It will be seen that each of the criteria set out in paragraphs (a) - (c) of rule 5(2) is separate and alternative, but an assessment of the strength of an application will be reached by also looking at them cumulatively. I have had to make a judgment about the overall features of an application based upon my assessment of the information with which I have been provided and its ability to fulfil the criteria. Frequently the information provided has been very sparse indeed.
11. The Inquiry has received several applications from members and former members of campaigning groups who say only that they suspect their group may have been infiltrated by undercover officers, or that they believe they associated with a person who was an undercover police officer, and that they wish to know whether and to what extent they may have been affected by undercover policing. Campaigning applicants anticipate that, in the course of the Inquiry, a police service will identify a risk of public disorder as *sufficient* justification for an undercover operation, and to that extent only will be critical of them, and they wish to respond to the criticism. In my view, there are likely to be several instances of mutual criticism during the course of this Inquiry, much of which will be on the margins of or outside the main focus of the Inquiry's work, which will be the management and scope of undercover operations by the police. I have concluded that many of these applications do not meet the rule 5(2) criteria that the applicant "*played or may have played a direct and significant role*" in relation to the subject matter of the Inquiry or has a significant interest in "*an important aspect*" of the Inquiry or that the applicant may be subject to "*explicit or significant criticism*" during the Inquiry. I have given particular attention to the capacity of the application to demonstrate that the applicant played a direct and significant role in the matters to which the Inquiry relates because historical fact-finding is likely to form the weightiest part of the Inquiry's work.
12. However, paragraph 1 of the terms of reference requires the Inquiry to investigate all aspects of undercover policing and paragraph 4 specifically requires the Inquiry to investigate the extent to which undercover police operations targeted political and social justice groups. As I explained at the public hearing on 7 October 2015, it does not follow that because an applicant has not been designated a core participant the applicant has no stake in the work of the Inquiry. On the contrary, subject to the need to keep control of costs and to maintain an acceptable rate of progress by reaching sensible views about priorities, the Inquiry team will apply the test of *relevance* to the question whether a line of investigation suggested by an applicant should take

place. Almost all of the applications received raise questions relevant to the Inquiry's work that ought to be investigated. It may also be that, with the assistance of the applicant, the investigation will uncover material that demonstrates that an applicant not designated in this ruling does, after all, meet the criteria for designation. For this reason, the position of any person who has not been designated a core participant in this ruling will be kept under review and, if appropriate, designation will take place at a later stage.

### **Pre-judgement**

13. Many of the applications contain assertions of fact, belief and suspicion to the effect that the applicant has been harmed by the activities of undercover police operations, often by named police officers. I make reference to many of them in my ruling below and frequently, for convenience, I refer to them as though the assertions made are established facts. However, the only person officially named as an undercover officer and referred to as such in this ruling is Mark Kennedy (see paragraph 27 below). In a written note from Mr Neil Garnham QC on behalf of the Metropolitan Police Service tendered at my invitation, I have had drawn to my attention the risk that designation of a core participant may imply a judgement by me that assertions made in the application are accurate or that I am endorsing claims already aired in public. It is important that anyone reading this ruling should understand that no conclusion can be drawn from my designation of a core participant other than that the applicant has demonstrated to me, having considered the rule 5(2) criteria, that they qualify for core participant status and that in all the circumstances they ought to be a core participant in the Inquiry. The purpose of the Inquiry is to investigate the assertions made within the terms of reference. The Inquiry proceeds with an open mind. No conclusions either of fact or opinion will be reached until the public hearings are complete.
14. Secondly, as many of the applicants aver, having made unsuccessful applications to the Metropolitan Police Service for the release of data, it is the almost invariable practice of the police services neither to confirm nor deny that a person has been affected by an undercover police operation or that an individual was an undercover police officer. There is an obvious national interest in protecting from harm the ability of the police to prevent and detect crime and to protect from harm police officers who have undertaken a secret and sometimes dangerous role in pursuit of that objective. The policy of secrecy is not inviolable, however, where a competing public interest must take priority. In criminal and civil cases there are mechanisms in place to ensure that the balance is properly struck. There is equally a public interest in ensuring that the work of a public inquiry into the undercover activity under scrutiny should, so far as possible, be publicly accessible. If it was not so the confidence that the public would repose in any conclusions and

recommendations reached by the Inquiry would be reduced. I anticipate that I shall be required, as chairman of the Inquiry, to make many rulings as to the extent to which evidence received by the Inquiry can be placed in the public domain. That task will include decisions such as whether to place in the public domain that an undercover police operation took place, that a person was an undercover officer and the true identity of an undercover officer. I make it plain that no such decisions have to date been made, nor will they be made for some time. When making my designations I have not considered any information from any part of the police service about undercover operations or identities except that which is already in the public domain through the reports of Operation Herne, Mark Ellison QC and Alison Morgan, and Her Majesty's Inspectorate of Constabulary. Those reports have been carefully phrased so as to avoid making public sensitive material that should remain, at least for the time being, confidential. It follows that no inference should be drawn from my designation of a core participant in this ruling that any person was or was not acting as an undercover police officer.

### **Unincorporated associations**

15. Many of the campaigning groups affected by the terms of reference have disbanded or been replaced by a new group under a different name or, if still extant, have changed their membership. Typically they have no written constitution and no officers who can be identified as representatives of the group. The Inquiry has received several applications from individuals who claim to represent such a group but they have not obtained the authority of other members past or present to represent them. They seek designation as core participants as individuals, or they seek designation of the group by the name by which it was or is known, or both. Often it has been difficult to discern precisely who the applicant is or who they are.
16. A 'person' for the purposes of rule 5 of The Inquiries Rules 2006 includes "*a body of persons, incorporate or unincorporate*" (see section 41 and schedule 1, paragraph 1 of the Interpretation Act 1978). Almost without exception those groups with which I am concerned were or are unincorporated associations. Ms Helen Steel, speaking as a representative of the McLibel Support Campaign group, submitted to me orally on 7 October 2015 that such groups should be entitled to designation when otherwise meeting the rule 5(2) criteria. I accept this submission. I shall make designations of the group in the name by which I am satisfied it was or is known. I will also designate as core participants those individuals who made the application on behalf of the association and who share the same interest. I require only that there should be at least one human person representing the association who can give instructions to a legal representative or communicate with the Inquiry on the association's behalf. **If, having read this ruling, any human person wishes**

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**to be removed from the list of core participants they may apply to the Inquiry in writing. A person may be designated only with his or her consent.**

### **Anonymity**

17. The Inquiry has received many applications for designation from individuals who seek to remain anonymous. In these cases I have treated the identity of the individual as “potentially restricted evidence” within the meaning of rule 12 of The Inquiry Rules. They await a formal application for a restriction order and a decision under section 19(2)(b) of the Inquiries Act 2005. In the meantime, the application has been treated as anonymous and is treated as such in this ruling.

### **Designation**

18. I shall now turn to each of the categories listed in paragraph 9 above. I shall give my short reasons for designation but I will not, where satisfaction of the criteria is obvious, spell out my conclusions in any detail. In order that the reader can follow the distinction made between the ‘facts’ of successful and unsuccessful applications, for the most part I shall under each category explain my decisions, first, in favour of designation and, secondly, against designation. After the name of the applicant, I have added, for Inquiry tracking purposes, the identification number of the application assigned to it by the Inquiry team.

### **[A] Police institutions**

19. I shall **designate** the following as core participants under rule 5:
- Commissioner of Police for the Metropolis (Metropolitan Police Service)<sup>1</sup> **[3]**
  - College of Policing **[1(i)]**
  - National Police Chiefs’ Council **[1(ii)]**
  - National Crime Agency **[4]**
20. Paragraph 5 of the terms of reference requires investigation of undercover operations performed by the Special Demonstration Squad and the National Public Order Intelligence Unit (later the National Domestic Extremism Unit) for which the Metropolitan Police Service had significant managerial responsibilities. The Metropolitan Police Service has played an active role in the selection, management and deployment of undercover police officers since 1968. Having regard to the conclusions in the reviews already

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<sup>1</sup> The correct title of the applicant is the Commissioner of Police for the Metropolis but the service that he represents is generally known as the Metropolitan Police Service and I will refer to the applicant as the Metropolitan Police Service in my ruling.

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conducted by Operation Herne, Mark Ellison QC and Her Majesty's Inspectorate of Constabulary, criticism of the Metropolitan Police Service for the management of undercover police operations is likely. The Metropolitan Police Service will, in my view, be a central participant.

21. The College of Policing and the National Police Chiefs' Council have made a joint application for designation. One of the functions of the National Police Chiefs' Council is to implement appropriate standards and policy, including those relating to undercover policing. Since the enactment of Part 11 of the Anti-social Behaviour, Crime and Policing Act 2014, which provided the College with statutory powers, the College has been responsible for, among other things, setting standards of professional practice, accrediting training providers and promoting appropriate standards of professional ethics and integrity. The National Police Chiefs' Council, formerly the Association of Chief Police Officers, works with the College to develop and implement national strategies. Its Crime Co-ordination Committee is responsible for the National Undercover Working Group and is currently overseeing the delivery of the action plan delivered by Her Majesty's Inspectorate of Constabulary in its report on undercover policing in England and Wales. The Association of Chief Police Officers is now defunct but while in existence it was responsible for formulating policies and procedures for undercover policing. It is the National Council in which the institutional memory of the Association now resides. The College and the Council are closely concerned with the issues raised in each of the Inquiry's modules and particularly in modules 2 and 3.
22. The National Crime Agency is a non-ministerial department created under the Crime and Courts Act 2013 in succession to the Serious Organised Crime Agency. Although for that reason it is not strictly a police institution, it is responsible under section 1 of the Act for securing that efficient and effective steps are taken to combat organised and serious crime, and for gathering, storing, analysing, processing and disseminating intelligence relevant to that purpose. One of its powers is to direct other agencies including police forces to take action in pursuit of its statutory objectives. The Serious Organised Crime Agency was an amalgamation of the National Crime Squad, the National Criminal Intelligence Service and others. The National Crime Squad was itself an amalgamation of Regional Crime Squads formed in 1998, staffed by police officers on secondment. Staff employed by the Serious Organised Crime Agency, and now the National Crime Agency, have the powers of police constables. The National Crime Agency uses and the Serious Organised Crime Agency formerly used undercover police officers in the course of their work. The Agency is an accredited trainer of undercover officers and will be the host for a newly designed national undercover database. The Agency believes it is in possession of material relevant to all three modules of the Inquiry. The Inquiry will investigate a range of

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undercover police operations including some that I anticipate will intimately concern the work of the National Crime Agency and its predecessors.

### **[B] Government**

23. I shall **designate**:

The Secretary of State for the Home Department (The Home Office)<sup>2</sup>  
**[2]**

24. Paragraph 1(iii) of the terms of reference requires the Inquiry to “ascertain the state of awareness of undercover police operations of Her Majesty’s Government”. The Home Office is the lead department on policing matters for the Government. It was instrumental in the creation of the Special Demonstration Squad and has been, throughout the period under examination, closely concerned in policy matters affecting undercover policing. Home Office ministers are responsible for secondary legislation made under the Regulation of Investigatory Powers Act 2000. The Home Office acknowledges that it may be<sup>3</sup> the subject of criticism in the performance of its role as the guardian of political oversight.

### **[C] Police officers**

25. I shall **designate**:

Peter Francis **[6]**

Mark Kennedy **[5]**

N5, N10, N14, N15, N16, N26, N28, N58, N67, N81, N104, N123,  
N519, N596, N2154 and N3541 **[7]**

26. Peter Francis is a former police officer who has made several public claims about his alleged role as an undercover policeman during the years 2002 - 2010. Those claims were critically examined during the reviews of Operation Herne and Mark Ellison QC (see Herne 2, March 2014, Executive Summary at pages 3 – 12 and Ellison (HC 1094) The Stephen Lawrence Independent Review, Summary of Findings). The findings of those reviews were in part responsible for the Home Secretary’s decision to institute a public inquiry into the use and misuse of undercover policing.

27. Mark Kennedy was named as an undercover police officer by Lord Judge, Chief Justice, when delivering the judgment of the Court of Appeal, Criminal Division, in *Barkshire and Others* [2011] EWCA Crim 1885. The appeals were allowed because the prosecution had failed to make appropriate disclosure in

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<sup>2</sup> The applicant is the Secretary of State but the department of government that she represents is the Home Office. I shall refer to the applicant as the Home Office.

<sup>3</sup> Correction made to ruling on 22 October 2015

the Crown Court of Mr Kennedy's participation in the events in respect of which the defendants were convicted. Three years later, in *Theo Bard and Others* [2014] EWCA Crim 463, another constitution of the Court of Appeal, Criminal Division, over which Lord Thomas, Chief Justice, presided, again allowed appeals against conviction by reason of the prosecution's failure to make due disclosure of Mr Kennedy's role as an undercover officer. Paragraph 2 of the terms of reference requires a review of "*the extent of the duty to make, during a criminal prosecution, disclosure of an undercover police operation and the scope for miscarriage of justice in the absence of proper disclosure*". It is claimed by many of the applicants for designation that Mr Kennedy was an active participant in several environmental and political campaigns. His conduct as an undercover officer will come under close scrutiny during the Inquiry.

28. In the course of the Operation Herne and Ellison reviews the conduct of several other police officers was considered. They are referred to in the reports and in paragraph 25 above anonymously by the employment of 'N' numbers. The applications for designation advanced by Slater and Gordon Lawyers on behalf of the officers correctly identify the subject matter of the Inquiry in which the applicants were and are directly and significantly concerned. Each of the applicants faces criticism for alleged involvement in one or more of the following activities: making close personal relationships while working undercover; using the personal details of deceased children to create an undercover identity; participating in offences without authorisation; providing personal information to third party blacklisting agencies; reporting on the family of Stephen Lawrence and those close to them; managing welfare and supervision of undercover officers.

### **[D] Political organisations and politicians**

29. There are no applications in this category currently before me. We have received applications from political activists which I shall consider later in my ruling.

### **[E] Trades unions and trades union members**

30. I shall **designate**:

The Blacklist Support Group, Frank Smith, Lisa Teuscher, Dan Gilman, Steve Hedley, Brian Higgins, John Jones, Dave Smith; Steve Acheson and Michael Dooley **[9]**

Union of Construction, Allied Trades and Technicians **[14]**

Fire Brigades Union **[10]**

National Union of Mineworkers **[12]**

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31. I shall **not designate**:

The Trades Union Congress [13]

National Union of Journalists [11]

32. Peter Francis has alleged that while serving as an undercover officer he gathered intelligence on trade union activists and provided it for inclusion in an employment blacklist held by the Consulting Association. Operation Herne established that a blacklist was created and held by the Economic League and later by the Consulting Association. Herne examined Mr Francis' allegations and reported (at pages 50 - 52 of Herne 2: Allegations of Peter Francis) that, while Peter Francis had correctly identified two persons whose names appeared on a blacklist held by the Consulting Association, Mr Francis' account that he provided information while in an undercover role was inconsistent with other evidence. Herne concluded that there was no evidence to suggest that the Special Demonstration Squad exchanged any information with the Economic League or the Consulting Association.
33. These findings are challenged by the Blacklist Support Group, an unincorporated association formed to investigate claims made in 2009 that over 3,000 construction workers were named in a blacklist to which employers, particularly employers in the construction sector, had access. The history of the quest to discover the truth is set out in the application for designation submitted by Imran Khan and Partners on behalf of the group. In short the submission made is that some of the contents of the blacklist support the view that information was provided by the police. In my view, the accusation that undercover police officers supplied personal information about workers that was used for the private purposes of employers in the construction industry is one that requires investigation under the terms of reference. The applicants have demonstrated that they are likely to have been affected by such a blacklist. The Inquiry's task will be to re-examine the question whether undercover policing is implicated in its contents. Many of those said to have been affected were members of the Union of Construction, Allied Trades and Technicians. The union asserts that an undercover police officer infiltrated the union in 1996 – 1998, took part in campaigns and chaired some campaign meetings. I conclude that both the Blacklist Support Group and the Union of Construction, Allied Trades and Technicians have established the rule 5(2) criteria and should be designated.
34. The general secretary of the Fire Brigades Union in the 1980s was Ken Cameron. In an article in the Morning Star of 24 April 2015 its columnist, Solomon Hughes, wrote that he had in 2005 obtained from the Metropolitan Police Service, following a data request, documents that included heavily redacted pages of an intelligence file on Mr Cameron. At a meeting in the House of Commons in March 2015, John McDonnell MP read a statement in

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which Peter Francis admitted 'spying' on the Fire Brigades Union in the mid-1990s. Union officials consider it likely that sensitive information about pay negotiations during a pay dispute in 2002-2003 found its way into the public domain through the activities of undercover officers. In my view a direct and significant connection between the Fire Brigades Union and the subject matter of the Inquiry, and a significant interest in its work, is established.

35. The application made on behalf of the National Union of Mineworkers draws attention to what it contends are the overt misuse of police power and the activities of the security service in its affairs between 1970 and 1990. Neither of these claims falls within the terms of reference. In addition, however, it asserts the probability that it was infiltrated by undercover police officers during the miners' strike of 1984/85 working on picket lines and selecting individuals for attention or arrest. A claim was made by a former chief constable, publicised by Robert Reiner in his book, 'Chief Constables' (1991), that a former prime minister requested infiltration of the miners' union so as to improve intelligence gathering for the purpose of controlling public order. A former head of MI5, Stella Rimington, during an interview with the Guardian newspaper promoting her memoirs, implicated Special Branch in controversial operations during the strike. The National Union of Mineworkers does not know whether such operations by Special Branch included undercover policing. I emphasise that the accuracy of these claims is untested. However, the strife generated by the miners' strike which, it was claimed, sought to challenge an unacknowledged political purpose of closing large numbers of collieries is entrenched in the national memory. In my view, the claims made require investigation. The National Union of Mineworkers has established that it may have been directly and closely involved in the subject matter of the Inquiry and is significantly interested in an important aspect of the inquiry's work.
36. Mr Hugh Robertson prepared a written application on behalf of the Trades Union Congress and supported the application with oral submissions in person on 7 October 2015. There can be no dispute that the Trades Union Congress has an interest in the work of the Inquiry. It represents 52 trades unions with a combined membership of 5.8 million. It is aware of the claims of blacklisting and the infiltration of some unions and supports applications made by individual unions for designation as core participants. Mr Robertson submitted that there were many more trades unions that for one reason or another had not made their own applications. The Trades Union Congress wants to ensure that they are all represented should the extent of 'surveillance' turn out to be wider than anticipated. It would act as a 'conduit' for trades union members not already represented. The Trades Union Congress' protective purpose is entirely laudable but in my view the application does not meet the standard of direct and significant involvement or

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significant interest that core participation requires. The Trades Union Congress is not likely to be the subject of criticism from any quarter during the Inquiry. Should it become necessary the Inquiry will itself make contact with a trade union or a member affected by its investigation and ensure that their interests are properly considered. If appropriate the Inquiry will seek the assistance of the Trades Union Congress in this regard.

37. Mr Danny Friedman QC, instructed by Bhatt Murphy solicitors, submitted a written application dated 22 September 2015 on behalf of the National Union of Journalists, supported by his oral submissions on 7 October. The union is concerned that the legitimate activities of its members, when attending public demonstrations to report upon and photograph events, have been for a number of years monitored by the police. Civil action has been taken by six members against the police to challenge the lawfulness of the intelligence gathering exercise. Shortly before the oral hearing Mr Friedman QC supplied copies of extracts from records held by the Metropolitan Police Service, provided in consequence of a request by a journalist, Jason Parkinson, under the Data Protection Act 1998. They comprise a summary of intelligence recording Mr Parkinson's attendance at a variety of public events and at a day conference hosted by the Network for Police Monitoring in April 2011. Police officers were undoubtedly reporting on Mr Parkinson's presence at public events. However, surveillance alone does not imply the use of a covert human intelligence source within the meaning of section 26(8) of the Regulation of investigatory Powers Act 2000 (see paragraph 6 above) and for this reason I do not at this stage conclude that the National Union of Journalists had or may have had a direct and significant role in the subject matter of the Inquiry. Mr Friedman QC asserted in writing that only by being designated a core participant could the union expect to obtain disclosure of undercover policing. For reasons I have explained in paragraph 12 above I do not agree with the fear expressed. The application raises important questions that will be investigated and the Inquiry will consult the union in order to do so. I shall not designate the National Union of Journalists at this stage but the application will be kept under review.

### **[F] Relatives of deceased children**

38. I shall **designate**:
- Barbara Shaw **[15(c)]**
39. I shall **not designate**:
- RDCA **[15(a)]**
- Gordon Peters **[15(b)]**

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40. Barbara Shaw's son, Rod Richardson, was born on 5 January 1973 and died of natural causes two days later. On 4 January 2013 Mrs Shaw was informed by an investigative journalist that her son's identity had been appropriated by an undercover policeman who called himself Rod Richardson. At a press conference held on 16 July 2014 Mr Mick Creedon, who with his Operation Herne team had investigated allegations that undercover officers had used identities belonging to deceased children (Herne 1, pages 13 - 14), confirmed that the Metropolitan Police Service had apologised for the use of the identity of Rod Richardson.
41. Herne established that of 106 covert names employed by members of the Special Demonstration Squad, 42 had either been confirmed as, or were highly likely to have been, the genuine identities of deceased children. At paragraph 17.2 of Herne 2 it is reported that in 2013 the Commissioner for the Metropolis apologised publicly for the distress this practice may have caused and assured the public that it had been discontinued.
42. RDCA wrote to the Metropolitan Police Service seeking clarification whether her son's identity had been used by an undercover police officer. On 18 December 2014 she received a "neither confirm nor deny" response. In her written submission to the Inquiry RDCA did not make an application for designation as a core participant but she did ask the Inquiry to investigate in order to enable her to make a judgement whether to apply. However, on 7 October 2015 an oral application was made on her behalf. In my view RDCA's first instinct was correct. It is not possible for me to conclude that she has the necessary interest in the subject matter of the Inquiry until the preliminary investigation has taken place. This will be done.
43. Gordon Peters also made an inquiry of the Metropolitan Police Service and, like RDCA, received a non-committal reply. He was and is in the same position as RDCA. The investigation will be made.

### **[G]The family of Stephen Lawrence, Duwayne Brooks OBE and Michael Mansfield QC**

44. I shall **designate**:
  - Baroness Doreen Lawrence **[16]**
  - Neville Lawrence **[17]**
  - Duwayne Brooks OBE **[18]**
  - Michael Mansfield QC **[19]**
45. At paragraphs 3 – 6 of my opening remarks on 28 July 2015 I summarised the contribution made by the Ellison review of the Stephen Lawrence murder investigation and the subsequent Macpherson Inquiry into that investigation to the Home Secretary's decision to appoint the present Inquiry into undercover

policing. Mark Ellison QC examined (i) the role of the liaison officers appointed to the Lawrence family, (ii) the accusation made by Peter Francis that undercover officers provided information about members of the Lawrence family's justice campaign, (iii) continued intelligence gathering about the remaining victim and witness, Duwayne Brooks OBE, and (iv) the failure of the police to make full disclosure to the Macpherson Inquiry of the undercover police activity around the campaign. One of the police officers interviewed by Mr Ellison QC claimed that an undercover officer had been assigned to report back on the campaign team. In order to do so he had mixed with, amongst others, Michael Mansfield QC, who represented the Lawrence family in the Macpherson Inquiry. The Ellison reports demonstrate an unresolved conflict of evidence and, in my view, each of the applicants should be a core participant.

### **[H] Individuals in relationships with undercover officers**

46. I shall **designate**:

C [20]

AKJ, SUR, DIL, TEB, RAB, Kate Wilson, Helen Steel and Belinda Harvey [22]

AJA, ARB and Thomas Fowler [23]

Jacqui [24]

TBS [25]

HJM [26]

47. I shall **not designate**:

TRJ<sup>4</sup> [91(xii)]

48. Operation Herne investigated Peter Francis' allegation that undercover officers indulged in intimate relationships while undercover. It concluded (Herne 2, page 45 – 46) that although no official sanction for such relationships had been given there was evidence to suggest that there was "informal tacit authority" with regard to sexual relationships. Herne expressed the opinion that "there are and never have been any circumstances where it would be appropriate for such covertly deployed officers to engage in intimate sexual relationships with those they are employed to infiltrate and target".

49. The applicants assert that they were either in an intimate relationship with an undercover police officer or they were closely and personally affected by relationships made with an undercover officer. C claims that she was groomed for a sexual relationship with a man who was at that time an undercover officer. A sexual relationship took place only after he had left the

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<sup>4</sup> Revised 26 October 2015

police force and worked for a private security firm. She has instituted civil proceedings against the firm in which she has been granted anonymity. AKJ and others are bringing proceedings against the Metropolitan Police in respect of intimate relationships with men they claim were undercover officers. They too were awarded anonymity in the civil proceedings. The three claimants who are named with AKJ no longer seek anonymity in the Inquiry. AJA and others have commenced proceedings in a similar action. The first two named claimants, who have anonymity in the proceedings, rely on sexual relationships. The third, Mr Fowler, relies on the impact that one of those relationships had on his own personal life. In my view, these applicants have established that they had or may have had a direct and significant role in the subject matter of the Inquiry and a significant interest in its proceedings. The Inquiry received a further application, from WLB [21], that was subsequently withdrawn. The Inquiry team will make further contact with the applicant to ascertain their intention.

50. TRJ has submitted a written application for designation, supported by additional material received on 6 October 2015, in which she asserts that a man with whom she was in a consensual sexual relationship and who she accused of a serious sexual assault may not have been the person he claimed to be. However, he had a passport and driving licence in the name of the person he purported to be and was of Polish nationality. TRJ commenced civil proceedings against the police alleging a failure properly to investigate her complaint of assault. She was subsequently informed by the police at a public hearing in April 2014 that the man she had accused had diplomatic status. TRJ has a multitude of complaints about the way she was treated by investigating and other police officers but, in my view, none of the assertions she makes render this a suitable case for investigation by the Inquiry under its terms of reference. TRJ has not demonstrated that she falls within the rule 5(2) criteria.<sup>5</sup>

### [1] Miscarriage of justice

51. I shall **designate**:

Geoff Sheppard [27(a)] and Andrew Clarke [27(b)]

Paul Morrozzo [28(i)], Robbin Gillett (iv), Gráinne Gannon (v), Brian Farrelly (vii), Melanie Evans (viii), Ellen Potts (xii), Kristina Jones (xvi), Alison Stratford (xviii), Oliver Rodker (xix), and Malcolm Carroll (xxvii)

John Jordan [29(a)]

Shane Collins (aka William Shane Collins) [29(b)]

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<sup>5</sup> Revised 26 October 2015

## UNDERCOVER POLICING INQUIRY

Roger Geffen **[30(1)(i)]**, Hannah Lewis **(ii)**, Ben Leamy (aka Mark Morgan) **(iii)**, Shane Collins (aka William Shane Collins) **(iv)**, Tomas Remiarz **(v)**, Alice Cutler **(vi)**, Alice Jelinek **(vii)**, Merrick Cork **(viii)**, Claire Fauset **(ix)**, Leila Deen **(x)**, Kirsty Wright **(xi)**, William Frugal **(xii)**, Paddy Gillett **(xiii)**, Trevor Houghton **(xiv)** and Amelia Gregory **(xv)**

Simon Lewis **[30(2)(i)]**, Oliver Knowles **(ii)** and Danny Chivers **(iii)**  
Ben Stewart **[30(3)(i)]**, Olaf Bayer **(ii)**, AN **(iii)**, Spencer Cooke **(iv)**, Sarah Shoraka **(v)**, Dan Glass **(viii)**, Jacqueline Sheedy **(ix)** and AH **(x)**  
Gerrah Selby **[31(i)]**

Jason Mullan **[31(ii)]**, Thomas Harris **(iii)** and Nicola Tapping **(iv)**

Debbie Vincent **[31(v)]**

Simon Taylor, Brendan Delaney, Ben Leamy (aka Mark Morgan), GRD<sup>6</sup> and Brendan Mee **[63]**

RTD **[89]**

52. I shall **not designate**:

Andy Baker **[27(c)]**

SHA **[31(vi)]** and SHB **(vii)**

William Jonathon Rees **[78]**

Barry Beardall **[78(a)]**

Thomas Reynolds, Thomas Kingston and Terrence O'Connell **[78(b)]**

Gillian Grant **[91(v)]**

Ashley Wood **[92]**

53. Geoff Sheppard and Andrew Clarke were animal rights activists who were convicted in June 1988 at the Central Criminal Court of arson offences by the setting of incendiary devices at Debenhams stores. Attached to their application is a copy of their grounds of appeal against conviction out of time, dated 18 November 2014. They contend that the prosecution was tainted by non-disclosure to the Court of the fact that an undercover police officer participated in the offences. They claim that the man they knew as 'Bob Robinson' took a central role in the planning and execution of the offences.

54. On 27 September 1995 Mr Sheppard pleaded guilty at Blackfriars Crown Court to firearms offences. In grounds of appeal dated 18 November 2014 he seeks leave to appeal out of time against his convictions on the ground that the prosecution failed to disclose to the Crown Court the participation in the offences of an undercover officer he knew as 'Matt Rayner'. No official confirmation of the identity and role of Matt Rayner has yet been forthcoming.

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<sup>6</sup> Revised 21 September 2016

## UNDERCOVER POLICING INQUIRY

While I have designated Mr Sheppard and Mr Clarke core participants it should be understood that the Inquiry will do nothing that would interfere with the natural progression of their applications for leave to appeal and it will not adjudicate upon their guilt or innocence.

55. Paul Morrozzo and those other applicants listed with him at paragraph 51 above, in 2009 at Leeds Crown Court, pleaded guilty to or were convicted of an offence of obstructing an engine using a railway, contrary to section 36 of the Malicious Damage Act 1861. The offence alleged had been committed in the course of the defendants' occupation of the Drax power station in North Yorkshire. On 21 January 2014 the Court of Appeal Criminal Division allowed the defendants' appeals against conviction on the ground that the prosecution had failed to disclose at the time of trial the participating role played by an undercover police officer (see also paragraph 27 above).
56. In January 1997 John Jordan was convicted at Horseferry Road Magistrates Court of an offence of assaulting a police officer in the execution of his duty following a 'Reclaim the Streets Critical Mass' bicycle demonstration in London. The only evidence identifying Mr Jordan came from PC Fenot who claimed that he was cycling to work when he happened to come upon the bicycle demonstration and decided to join it. In 2011 Mr Jordan says he learned that a co-accused, whom he knew as 'Jim Sutton', was an undercover police officer. Mr Jordan's solicitors reported the matter to the Criminal Cases Review Commission which referred the matter to the Crown Court for consideration of an appeal against conviction. Without making disclosure the Crown Prosecution Service conceded the appeal and no evidence was called.
57. William Shane Collins was also arrested with Mr Jordan but the prosecution did not proceed against him. Mr Collins is named in the list of designated core participants on two occasions to indicate that he is a core participant in his capacity as an accused person with Mr Jordan and, separately, with Roger Geffen and others.
58. On 13 April 2009 over 100 climate change campaigners were arrested at a school in Nottingham where they were allegedly planning the occupation of the Ratcliffe-on-Soar power station. Many of them were released on bail and, eventually, not charged. Those listed in paragraph 51 with Roger Geffen, including Mr Collins, were in this group, called for convenience 'Arrested but not charged'. The remaining 26 were charged with conspiracy to commit aggravated trespass and were sent for trial at Nottingham Crown Court. Twenty of the defendants admitted the agreement to commit trespass. They raised a defence of necessity and justification. They were all convicted by the jury. Those listed in paragraph 51 with Ben Stewart and Olaf Bayer were in this group, described for convenience as 'Justifiers'. Following the convictions of the twenty defendants it emerged that an undercover police officer may

have participated in the commission of the offence. No disclosure of that fact had been made at the time of trial. There remained to be tried six defendants who denied that they had made any criminal agreement. The prosecution elected not to proceed against them and they were acquitted. Simon Lewis, Oliver Knowles and Danny Chivers were in this group, called for convenience 'Deniers'. Those who had been convicted appealed against their convictions and the appeals were allowed on 20 July 2011 because the prosecution had failed to disclose at the time of trial the role of the undercover officer (see also paragraph 27 above).

59. Gerrah Selby, Jason Mullan, Thomas Harris and Debbie Vincent were animal rights campaigners with Stop Huntingdon Animal Cruelty whose activities were directed against Huntingdon Life Sciences plc and its employees between 2001 and 2011. In December 2008 Gerrah Selby was convicted of conspiracy to blackmail. In September 2010 Mr Mullan and Mr Harris pleaded guilty to offences of conspiracy to interfere with contractual relations, contrary to section 145 of the Serious Organised Crime and Police Act 2005. In March 2014 Debbie Vincent was convicted by the jury of an offence of conspiracy to blackmail. Each of them contends that the group was targeted in consequence of political direction in 2004. They contend that their organisation was infiltrated by 'Rod Richardson', 'Ian Farmer' and Mark Kennedy and that 'James Adams' was an undercover police officer embedded with a firm call Novartis, appointed to act as liaison between Stop Huntingdon Animal Cruelty and Huntingdon Life Sciences plc. It is asserted that no disclosure was made at the time of trial of any participation by undercover officers in the events leading to charge. In 2014 the Crown Prosecution Service disclosed for the first time the role of James Adams. While I designate the applicants as core participants, I issue the same caution as expressed earlier as to the unwillingness of the Inquiry to trespass upon any appeal proceedings that arise from the convictions.
60. Simon Taylor and others were animal rights protesters en route to the Good (Friday) Easter Hunt protest in Essex on 10 February 1996 when they were intercepted in the car park of Danbury Leisure Centre and at the roadside nearby. Simon Taylor and Ben Leamy were tried for public order offences at Chelmsford Magistrates Court in June and July 1996. Brendan Mee was tried at Witham Magistrates Court in November 1996. All were found not guilty. The applicants subsequently brought civil proceedings against the Chief Constable of Essex. They were settled in 2000. One of the applicants' travelling companions at the time of the arrests was a person called 'Jim Sutton' who witnessed the incident in the car park. He made a witness statement supportive of the defendants to defence solicitors. It was not used in the trials. The applicants now believe that Mr Sutton was an undercover police officer whose participation was not disclosed to the defendants by the prosecution.

## UNDERCOVER POLICING INQUIRY

An ex parte application for public interest immunity was made by the prosecution but its grounds were undisclosed.

61. RTD took part in a protest at the Department of Transport in December 2007. She was one of about six protesters who were arrested and prosecuted at Westminster Magistrates Court on 1 February 2008 for an offence of aggravated trespass. One of her fellow protesters was, RTD maintains, unknown to her, a named undercover police officer who was arrested and charged with the others. What became of the prosecution of the undercover officer is unknown but no disclosure of that person's role was made at the time of trial.
62. Paragraph 2 of the terms of reference requires the Inquiry to review the duty to make disclosure in a criminal trial and to assess the risk of a miscarriage of justice in its absence. In my view, all of the foregoing applicants have demonstrated a direct and significant role in the subject matter of the Inquiry and a close interest in it. This applies not just to those who were charged with criminal offences but also to those who were arrested in consequence of activities in which it is contended an undercover officer participated.
63. Andy Baker was convicted after a trial at Blackfriars Crown Court of an offence of conspiracy to commit public order offences on 28 March 2009. He explains that he was part of a demonstration that took place in central London on that day. However, the events that formed the basis for the indictment took place in Welling after the demonstration, when members of a group called 'Antifa' approached and attacked two 'fascists' outside Welling railway station. It is asserted that Mark Kennedy took an active role in organisation and, although it is claimed that he took part in the organisation of later as well as earlier events, I have been provided with no evidence to support that claim. I do not consider that the applicant has established, on the information provided, that he had or may have had a direct and significant role in the subject matter of the Inquiry or that he has a significant interest in its work. Mr Schwarz of Bindmans was not instructed to make oral submissions in support of the application. If on investigation the position changes I will re-consider the application.
64. SHA and SHB are currently residing in the Netherlands. They are wanted in the UK for offences of conspiracy to blackmail. A European Arrest Warrant has been issued. From its terms it is clear that the prosecution will rely on the activities of members of Stop Huntingdon Animal Cruelty, including Gerrah Selby, Jason Mullan, Thomas Harris and Debbie Vincent (see paragraph 59 above), towards Huntingdon Life Sciences plc and its employees. The case against SHA and SHB is that they were members of the same group, shared the same objectives and made the unlawful agreements with others in the group. Mr Schwarz submitted orally that there was nothing of significance to

distinguish these two applications from those that I was minded to grant. He pointed out that in civil proceedings the absence of a party from the jurisdiction to avoid the risk of arrest in and extradition from the UK was not a bar to participation in the hearing by giving evidence orally over a video link (see *Polanski v Condé Nast Publications Limited* [2005] UKHL 10, [2005] 1 WLR 637).

65. SHA and SHB have not been arrested and, if they are, will resist their extradition to the United Kingdom for trial, as they are perfectly entitled to do. In *Polanski* the House of Lords held that where the claimant had properly brought proceedings in England his unwillingness to come to England because he was a fugitive from justice was a valid, and could be a sufficient, reason for making a video link order under CPR r 32.3. On the facts, the majority of their Lordships held that an order under the rule would not change the extradition position, while a refusal to make the order had the capacity to bring justice into disrepute.
66. I accept Mr Schwarz's submission that the applicants are in a similar position evidentially to others who have been convicted, save that in the cases of SHA and SHB the criminal prosecution is ongoing and that the applicants are out of the jurisdiction and intend to remain so. Unlike the position in *Polanski* these are not civil proceedings that the applicants have instituted as of right or are defending because they have been joined in a civil action by others. The essential distinction between these and the other applicants is that the others have been convicted following a criminal trial in which it is now contended inadequate disclosure was made. It is for the prosecution to decide upon its obligation to make disclosure in the course of the intended trial of SHA and SHB. This Inquiry will do nothing to interfere with the process of the ongoing criminal prosecution and it is unlikely in the circumstances to be assisted in its work by a personal contribution from the applicants as core participants. For these reasons I shall exercise my discretion not to designate SHA and SHB as core participants. This decision does not deny justice to the applicants. Justice will be served in the extradition proceedings or the criminal trial. The generic interest of the group in which the Inquiry is interested under its terms of reference will be served by the designation of others who have already been convicted.
67. I heard submissions on 7 October from both Mr Jonathon Rees who made the application and Ms Sylvia Jones who supported him. Their interest centres upon the alleged undercover activity of a retired police officer.
68. The Inquiry has also received late applications from Barry Beardall, Thomas Reynolds, Thomas Kingston and Terry O'Connell. Barry Beardall seeks designation as a core participant because, he asserts, the same person acting undercover as claimed in Jonathon Rees' application falsely subverted Mr

## UNDERCOVER POLICING INQUIRY

Beardall's appeal against conviction. The remaining three applicants are former police officers, convicted of corruption, who claim that the same person acting undercover reported back to his police handlers confidential and legally privileged information about the defendant's defence at trial and a possible appeal. I emphasise that these claims are untested.

69. All of these applications rely upon the undercover activity of a man who was not at the time a serving police officer but was a *retired* police officer. For that reason (and whether or not he was being handled by the police) the terms of reference do not permit the Inquiry to investigate the allegations (see paragraphs 6 and 7 above). The applicants do not, therefore, meet the requirements of rule 5(2) and I decline to make the designations sought.
70. Gillian Grant expresses a fear that, during the trial of her brother for an unspecified offence in 2012 in which she was a defence witness, she and other members of her family may have had intimate relationships with undercover police officers that undermined the conduct of the defence. The assertions made are devoid of particulars and I am unable to make a designation on this basis.
71. An application has been received from Charles Westlake-Wood, made on behalf of his son, Ashley Wood, who is serving a sentence of 19 years imprisonment for firearms and drugs offences, following his conviction at Birmingham Crown Court on 5 January 2015. The prosecution case depended on the evidence of undercover police officers who recorded their conversations with the defendant. The defendant largely admitted the conduct on which the prosecution relied. His defence of duress, allegedly exerted upon him by one of the undercover officers, 'Dicko', was rejected by the jury. It appears that the issue of authorisation of the undercover operation was raised before the trial judge and that the evidence of infiltration was fully ventilated before the jury. Mr Westlake-Wood expresses concern that the prosecution may not have made the disclosure that was legally required but, as he concedes, he was not directly concerned in the trial and has no personal knowledge. He is now in the process of instructing a legal team to investigate the trial material with a view to an appeal against conviction by his son. This is not a historical conviction but a very recent one. I do not consider that the possibility of a direct and significant role in the subject matter of the Inquiry has yet emerged and, in my view, it would not be appropriate for this Inquiry to engage in an investigation into the circumstances unless and until the appeal process is complete.

### [J] Justice campaigns

72. I shall **designate**:

## UNDERCOVER POLICING INQUIRY

Celia Stubbs (Blair Peach) [34(i)]  
Lee Lawrence (Cherry Groce) [34(ii)]  
Myrna Simpson (Joy Gardner) [34(v)]  
Bernard Renwick (Roger Sylvester) [34(vi)]  
Sharon Grant OBE (Bernie Grant) [34(viii)]  
Winston Silcott [34(vii)]  
Hackney Community Defence Association (Dr Graham Smith and Mark Metcalf) [34(xii)]  
Colin Roach Centre (Dr Graham Smith and Mark Metcalf) [34(xiii)]  
Broadwater Farm Defence Campaign (Stafford Scott) [34(xi)]  
Patricia Armani Da Silva (Jean Charles De Menezes) [40]  
MSS [41(i)] and MWS (ii) (Michael Tachie-Menson)  
Sukhdev Reel [34(i)], Balwant Reel (ii) and Tish Reel (iii) (Ricky Reel)  
The Monitoring Group and Suresh Grover [45]  
Newham Monitoring Project Limited [46]  
Marc Wadsworth [47]  
Youth Against Racism in Europe (Louis Austin and Hannah Sell) [48]

73. I shall **not designate**:

Alastair Morgan (Daniel Morgan) [34(iii)]  
Stephanie Lightfoot-Bennett (Leon Patterson) [34(iv)]  
INQUEST (Deborah Coles) [34(ix)]  
United Families and Friends Campaign (Ken Fero) [34(x)]  
Richard and Audrey Adams (Rolan Adams) [35]  
Tony and Pauline Ashley (James Ashley) [36]  
Patricia Coker (Paul Coker) [37]  
Glenys Goodenough (Robin Goodenough) [38]  
Sharon and Judy Powell and others (Mikey Powell) [39]  
Frances Orchover [49]  
Dermot MacWard [50]  
Judith Lancet [51]  
The Hillsborough Families [43]

74. Celia Stubbs (Blair Peach), Lee Lawrence (Cherry Groce), Myrna Simpson (Joy Gardner), Bernard Renwick (Roger Sylvester), Patricia Armani Da Silva (Jean Charles De Menezes), MSS and MWS (Michael Menson), Sukhdev, Balwant and Tish Reel (Ricky Reel) all represent family campaigns for justice

## UNDERCOVER POLICING INQUIRY

in respect of the deaths of those close to them. In several cases death occurred at the hands of the police or while the deceased was detained in police custody. In some cases no-one was held accountable, while in others there were unsuccessful prosecutions. All have been informed by Operation Herne that their campaigns were the subject of intelligence gathering. The extent to which the intelligence was gathered by undercover police activity is at present unclear. Winston Silcott was convicted of the murder of Police Constable Blakelock but on 25 November 1991, after a campaign for his release, his conviction was overturned on appeal. He has received copies of 16 heavily redacted intelligence reports relating to the campaign. Mrs Sharon Grant is the widow of Bernie Grant MP. Mr Grant supported campaigns for justice raised by his constituents. Peter Francis has claimed that Mr Grant was a target of undercover policing. To date no further disclosure has been made.

75. Hackney Community Defence Association, associated with the Colin Roach Centre, was formed to support alleged victims of police misconduct. Dr Graham Smith and Mark Metcalf were founders of the Colin Roach Centre and Dr Smith was secretary of Hackney Community Defence Association for a number of years. They believe that both organisations were infiltrated by an undercover police officer who is named in the application. In that capacity the officer is said to have gained access to confidential information about claims made against the Metropolitan Police Service.
76. Broadwater Farm Defence Campaign was formed by, amongst others, Stafford Scott to offer support, arrange legal representation and trace relevant witnesses for those arrested following the Broadwater Farm disturbances in October 1985. It supported Winston Silcott and the campaign for his release. It is believed that an undercover officer attended a demonstration outside Wormwood Scrubs prison in 1988.
77. Suresh Grover is a founder and current director of The Monitoring Group, formed in 1980 by a group of lawyers and community activists to challenge all forms of racism. They assisted over 100 family and community justice campaigns, including those of the families of Stephen Lawrence, Blair Peach, Victoria Climbié, Ricky Reel and Michael Menson. In March 1999 Mr Grover became the first chairman of the National Civil Rights Movement. It continued the support work of The Monitoring Group. Mr Grover has been notified that he has been the subject of intelligence reports and has seen a redacted 6 page summary.
78. Newham Monitoring Project was formed in 1980 in response to the racist murder of Akhtar Ali Baig in East Ham. Its purpose was to support victims of racism. The Project has since supported several family justice campaigns including those of the Lawrence and De Menezes families.

## UNDERCOVER POLICING INQUIRY

79. Marc Wadsworth formed the Anti-Racist Alliance in 1991. He assisted the Lawrence family to form their campaign for justice and introduced them to their solicitor.
80. Lois Austin and Hannah Sell formed Youth Against Racism in Europe in 1992 to campaign against racism and racist organisations. It was prominent in resisting the growth of the British National Party and was active in support of the cause of the Lawrence family. The applicants have good reason to believe that they were or may have been targets of an undercover police operation.
81. Paragraph 4 of the terms of reference requires the Inquiry to investigate whether and to what purpose, extent and effect undercover police operations have targeted social justice campaigns. In my view, all of the applicants listed in paragraph 72 have established that they played or may have played a direct and significant role in the subject matter of the Inquiry because they fall within a category of persons who have been active in support of family justice campaigns involving criticism of the police and several of the families themselves have been informed of the existence of relevant intelligence material.
82. Mr Alistair Morgan is the brother of Daniel Morgan who was murdered in the car park of a public house in Sydenham on 10 March 1987. No person was successfully prosecuted for the offence. For many years Alistair Morgan has campaigned for an effective investigation into his brother's murder. The Home Secretary has referred the case to an independent panel to investigate whether police officers were involved in the murder and whether police corruption infected the investigation and protected the guilty. The panel is not explicitly requested to investigate whether undercover policing played any role in the Morgan case and the applicant's interest is in ensuring that either this Inquiry or the review panel does so. While Mr Morgan considers it 'inconceivable' that his family campaign will not have been infiltrated by undercover police activity, I have no evidence on which to judge that bare assertion. I do not intend to designate Mr Morgan a core participant at this stage but I will cause contact to be made with the review panel so as to ascertain the breadth of its inquiries. Mr Morgan's suspicion of infiltration will be investigated and the application will be kept under review.
83. Stephanie Lightfoot-Bennett, Richard and Audrey Adams, Tony and Pauline Ashley, Patricia Coker, Glenys Goodenough and Sharon and Judy Powell and others are all campaigners for justice for family members who died in police custody or whose unlawful killing was, they complained, inadequately investigated. They suspect that their campaigns may have been the target of undercover police activity although they have not been informed by Operation Herne that relevant intelligence is held by the police. On 7 October I received oral submissions in support of these applications from Courtney Griffiths QC,

## UNDERCOVER POLICING INQUIRY

Danny Friedman QC and Ms Jane Deighton. The interest of the applicants is to discover whether or not they and other members of their families were targeted by undercover police operations. I do not consider that I am able, on the information provided to date, to conclude that the applicants played or may have played a direct and significant role in the subject matter of the Inquiry. However, as I explained at the oral hearing, I take the view that, on the test of relevance (see paragraph 12 above), the terms of reference require me to investigate the applicants' suspicions and this the Inquiry will do, if necessary with the applicants' assistance. These applications will be kept under review.

84. Deborah Coles is a co-director of INQUEST, formed in or about 1979 following the death of Blair Peach. It provides a specialist advice service to those bereaved by suspicious deaths and, in particular, deaths in custody. INQUEST holds relevant information about several family justice campaigns that might be of assistance to the Inquiry. In her written application Ms Coles does not express any grounds for suspecting that either she or INQUEST was affected by undercover policing and Mr Friedman QC did not advance any in his oral submissions.
85. Ken Fero is a founder member of United Families and Friends Campaign, formed in the 1990s to bring together families who are united in their loss of a loved one. United Families and Friends Campaign is in a position to assist the Inquiry with an understanding of family justice campaigns and the effects upon bereaved families and communities of death in controversial circumstances. However, no grounds for suspicion of undercover surveillance of any campaign or of the Campaign itself were advanced in writing or by Danny Friedman QC orally.
86. The Inquiry will seek the assistance of INQUEST and United Friends and Family Campaign in its investigation into the extent that undercover policing may have been directed at family justice campaigns but I do not consider that their applications currently meet the rule 5 criteria.
87. Frances Orchover, Dermot MacWard and Judith Lancet were all associated with the Colin Roach Centre in the 1990s. Each of them has reason to suspect that the organisation was infiltrated by an undercover police officer named in each of the applications. The Colin Roach Centre has been designated a core participant (paragraphs 72 and 75 above) and the issues raised by its campaigning role require investigation with the assistance of these applicants. I do not consider that it is appropriate to make further individual designations in support of a group interest that is already represented by core participation in the Inquiry.

## UNDERCOVER POLICING INQUIRY

88. The Inquiry has received written applications supported by oral submissions from two groups (77 and 26 respectively) unhappily recognisable as the Hillsborough Families. The Inquests into the deaths of their loved ones continue in Warrington. The thrust of the applications is twofold. It is submitted that it is notorious that the truth did not emerge from the police service at the time of the Hillsborough tragedy. The families became vocal in their protests at an injustice. Given the experience of other family justice campaigns, it is not unlikely that some of the activists were targeted for undercover police attention. Secondly, it is submitted that anecdotal events may reveal the activity of undercover officers. However, I have received no circumstantial particulars that would support the inference of undercover activity and those anecdotes on which the applicants rely, such as burglary at campaign premises, do not support the inference either. My conclusion is that the applicants have not at this stage established that they had or may have had a direct role in the subject matter of the Inquiry. However, the Inquiry is required to investigate the extent to which undercover policing may have affected social justice groups and an investigation will commence. If further material emerges to support the applications made they will be reconsidered.

### **[K] Political activists**

89. I shall **designate**:

Unite Against Fascism **[44]**, Anti-Nazi League **[44(i)]** and National Assembly Against Racism **[44(ii)]**

Cardiff Anarchist Network, South Wales Anarchists and Terence Evans **[56(i)]**, Chris Dutton **(ii)**, Sandor Dus **(iii)** and VSP **(iv)**

FCA **[80(i)]**, Jesse Schust **(ii)**, Jane Laporte **(iii)**, Simon Chapman **(iv)**, Kate Allen **(v)**, Gwynedd Somerville **(vi)**, Andrew Robertson **(vii)**, David Kaplowitz **(vii)**, Zoe Young **(ix)**, Alistair Alexander **(x)**

NRO and Paul Robinson (WOMBLES, Indymedia, Aktvix) **[74]**

Emily Apple **(90)**

Sian Jones **[82(i)]**, Ippy Gray **(ii)**, Juliet McBride **(iii)**, Kate Holcombe **(iv)**

Defend the Right to Protest **[88(a)]** and Hannah Dee **(b)**

Guy Taylor (Globalise Resistance) **[91(xix)]**

Kirk Jackson **[91(viii)]**

Jason Kirkpatrick **[79]**

Trapeze, Kim Bryan **[91(xx)(i)]**, Alice Cutler **(ii)** and Paul Chatterton **(iii)**

Rhythms of Resistance, Nicola Benghe, The Clown Army (Clandestine Insurgent Rebel Clown Army), Suzan Keen **[60]** and Jennifer Verson **[91(xxii)]**

90. I shall **not designate**:

Friends of Freedom Press Limited **[52(i)]**

Peace News Trustees Limited **[52(ii)]**

Peace News Limited **[53]**

No Borders South Wales **[54]**

Gwent Anarchists **[55]**

121 Bookshop, Anarchist Centre Brixton, Alex Hodson **[57(i)]**, Carolyn Wilson **(ii)** and Tom Benson **(iii)**

Ann Feltham, Campaign Against the Arms Trade **[76]**

Sarah Reader **[77]**

D **[81(i)]**, FCA **(ii)** and Y **(iii)**

Andrew Lewis **[91(ix)]**

Alistair Mitchell **[91(xiii)]**

Patrick Reynolds, Irish in Britain Representation Group **[91(xvi)]**

Eirlys Rhiannon **[91(xvii)]**

Michael Atkins **[91(ii)]**

Dissent Network and Dr Uri Gordon **[91(iv)]**

91. Unite Against Fascism is the successor of the Anti-Nazi League and the National Assembly Against Racism. The Anti-Nazi League was formed in the 1970s to 'combat' the rise of extreme right wing organisations such as the National Front. It was re-formed in 1992 to confront the growth of the British National Party. The National Assembly Against Racism, formed in 1994, was a coalition of interests devoted to challenging racism in all its forms. Unite Against Fascism was formed in 2003 to bring together many of those espousing the same cause. The founding statement of Unite Against Fascism was supported by trades unions and members of the United Kingdom and European Parliaments. In the investigative work 'Undercover: The True Story of Britain's Secret Police', the authors Paul Lewis and Rob Evans gave prominence to claims by a self-proclaimed undercover police officer that the Special Demonstration Squad had infiltrated the Anti-Nazi League. They also asserted that an SDS officer had participated in a demonstration against the Anti-Nazi League in Welling in 1993. At paragraph 18.2, page 47 of its report Herne 2: Allegations of Peter Francis, Operation Herne expressed the conclusion that "undercover officers were tasked into groups across the political spectrum. This included both extreme left and right wings, racist and anti-racist groups, and animal rights groups".

92. The Inquiry has received several applications for designation of Cardiff Anarchist Network, later re-named South Wales Anarchists. The thrust of the

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application is that the group that met in South Wales during the period 2005 – 2010 was infiltrated by a named undercover police officer.

93. Anonymous applications made by email also sought the designation of No Borders South Wales and Gwent Anarchists. Return emails from the Inquiry team have failed to induce a response. I do not have the information necessary to make a designation in either case. However, the subject matter of the application is similar to that of the Cardiff Anarchists Network and the interest is therefore represented in the designation of the organisation and its members listed in paragraph 89.
94. FCA was one of several anti-Iraq war campaigners who made a journey on 22 March 2003 in three coaches from London to Gloucestershire in order to protest in the village of Fairford. The coaches were intercepted and stopped in Lechlade. The occupants were told to alight, were searched and were questioned. They were then told that they could return to the coaches. Having done so, they were escorted by the police back to London. The officer who authorised these measures, Chief Superintendent Lambert of the Gloucestershire police, justified his decision by referring to intelligence gathered about the occupants of the coaches. He concluded that on arrival in Fairford a breach of the peace would occur. One of the protesters challenged the lawfulness of the police action and on 13 November 2006 the House of Lords upheld her appeal (see *R (on the application of Laporte) v Chief Constable of Gloucestershire* [2006] UKHL 55, [2007] 2 AC 105). The applicants contend that two named undercover police officers participated in the plan to demonstrate at Fairford: one had taken part in the organisation of transport; the other had infiltrated the WOMBLES network. The applicant Emily Apple was one of the passengers. She also took an active role with one of the undercover police officers in the organisation of the coach journey. The applicants raise an important issue as to disclosure. In the House of Lords the respondent asserted that there was a 'general' intelligence picture about the coach passengers that could not distinguish between them. The applicants contend that there is every reason to doubt the accuracy of this assertion if, as they understand, one or more undercover police officers were embedded in protest groups taking part in the journey and would have known very well who was and was not likely to be party to a breach of the peace.
95. NRO and Paul Robinson seek designation as active members of WOMBLES, the organisation referred to at paragraph 94 above. NRO was also active in the Indymedia and Aktvix web site services. He believes that Aktvix was used by undercover officers. A separate application has been received from D, FRA and Y as former members of Indymedia. They seek not only anonymity but also confidentiality for the grounds of their application. I cannot grant an application that is both anonymous and confidential. Confidentiality is

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incompatible with core participation. The interest represented by members of Indymedia is already represented by the designation of NRO and Paul Robinson.

96. Emily Apple has applied for designation not just because she was one of the Fairford coach passengers but also because, in her role as an anti-arms trade campaigner, she had been identified by police intelligence as a target, for example at the DSEi London Arms fair in 2005. Sarah Reader applies for designation on the basis that she suspects that at least one undercover police officer attended a day-long training workshop held by the Stop the Arms Fair coalition on 22 August 2015. However, I am given none of the underlying information upon which it is said the suspicion may be based. Ms Reader's application will be kept under review.
97. Sian Jones and others were members of the Women's Peace Camp, AWE Aldermaston. They contend on substantial grounds that in the years 2003 – 2004 their group was infiltrated by a named undercover police officer.
98. Hannah Dee is chair of Defend the Right to Protest. In consequence of a data request made by Susanna Mengesha Ms Dee has been informed that Defend the Right to Protest was an organisation of target interest to the National Domestic Extremism Unit. Defend the Right to Protest is a campaigning organisation interested in environmental matters and family justice causes.
99. Guy Taylor was the sole employee of Globalise Resistance, an anti-capitalist organisation, between 2000 and 2008 but his application is made personally and not on behalf of the organisation. Mr Taylor asserts that Globalise Resistance was infiltrated by a named undercover officer between 2001 and 2005.
100. In 2009 Kirk Jackson was organising an anti-war campaign in Nottinghamshire when, he says, he met a named undercover police officer who encouraged and cultivated him and his activities to the extent of inviting him to organise a meeting to be addressed by an activist colleague of the officer's travelling from Berlin. Jason Kirkpatrick was an activist resident in Berlin. He considered himself to be a close friend of the same undercover officer until his undercover role was exposed.
101. Kim Bryan and others were members of an educational group called Trapese formed at the time of the G8 summit in Scotland in 2005. Its purpose was to provide information and facilitate discussion about climate change, debt and campaigning. They assert that Mark Kennedy took an active role in their tours and provided logistical support to the group. They suspect Mr Kennedy's motivation for supporting Trapese.

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102. Nicola Benghe and Suzan Keen were members of the Rhythms of Resistance Samba Band that between 1999 and 2015 performed at meetings and protest events. Ms Keen was also a clown trainer and performer with the Clandestine Insurgent Rebel Clown Army that performed at the G8 protest in Scotland in 2005. Jennifer Verson was also a clown who asserts that she has video evidence that supports the assertion that the Clown Army was infiltrated. At these and other events Ms Keen says that she came into contact with at least two named undercover officers, one having a covert identity as a clown.
103. An important issue raised by the successful applications for designation is the extent to which, if any, the activities of alleged undercover operations against political protest movements had the effect of *encouraging* rather than detecting or preventing crime.
104. In their written applications Friends of Freedom Press Limited and Peace News Trustees Limited explained that Friends of Freedom Press Limited was freehold owner of premises at 84b Whitechapel High Street, London E1, while Peace News Trustees Limited was freehold owner of premises at 5 Caledonian Road, Finchley, London N1. 'Freedom' had been an anarchist newspaper since 1886. 'Peace News' was a pacifist newspaper first printed in about 1936. The ground for their applications was that although they did not rely on evidence of infiltration by undercover officers for the purpose of gathering intelligence upon the companies, they each permitted the respective properties to be used for meetings held by anarchist and other campaigning groups. It is suspected that one or more of those groups may have been infiltrated because an undercover police officer named in the applications was friendly and for a time lived with Mr Malcolm Hopkins (now retired)<sup>7</sup>. Mr Hopkins was employed by Housmans, an anarchist bookshop that occupied the ground floor of 5 Caledonian Road. The belief is that the undercover officer cultivated Mr Hopkins in order to establish his covert identity and credentials.
105. It seemed to me that it was unlikely that the applicants were relying on a direct and significant role in the subject matter of the Inquiry. Rather, they were relying on an indirect role through the activities and, possibly, the infiltration of their invitees. In his oral submissions to me on 7 October Mr Stanage emphasised what he submitted were the benefits to the Inquiry of a designation of the applicants. They can supply, and Mr Stanage did supply, the names of activists who were prominent in the early years of the Inquiry's investigation. I agree that the applicants will be an important source of information to the Inquiry. However, for the reasons I have given I am not satisfied that the rule 5(2) criteria are met.

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<sup>7</sup> Correction to the ruling made on 22 October 2015.

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106. Peace News Limited is a company constitutionally separate from but factually linked to Peace News Trustees Limited. A separate written application was made on behalf of Peace News Limited by Rebecca Dale, giving the address of the company as 5 Caledonia Road. Mr Stanage's instructions were that Peace News was a collective until Peace News Limited became a separate limited company in 1972 and, in 1974, moved to Nottingham, retaining a small office at Caledonian Road. Ms Dale has provided no information that might form the basis for a conclusion that Peace News Limited had a direct and significant role in the subject matter of the Inquiry.
107. The 121 Bookshop and Centre was based at 121 Railton Road in Brixton. It was used as a meeting place for a number of campaigning groups and organisations. The applicants, Alex Hodson, Carolyn Wilson and Tom Benson, say that they have been informed that the building was kept under observation by Special Branch in the 1980s. This does not imply undercover activity. They are 'aware' that two campaign groups that visited 121 were targets for two named undercover police officers. For reasons similar to those applied in paragraph 105 above to Friends of Freedom Press Limited and Peace News Trustees Limited I consider that the application does not reveal a real possibility of a direct and significant role in the subject matter of the Inquiry.
108. Ann Feltham is Parliamentary Co-ordinator for Campaign Against the Arms Trade that was formed in 1978. In her written application and in her courteous and persuasive oral submissions on 7 October, Ms Feltham advanced the argument that the campaign had been a target for two private security firms on behalf of a British company engaged in arms manufacture. Ms Feltham realistically conceded that there was no evidence of infiltration by an undercover officer. In September 2003 Ms Feltham was shown a dossier about Campaign Against the Arms Trade that emanated from an employee of the company. She concluded that the organisation had been infiltrated in London, Hull, Liverpool and Europe. A reporter for the Sunday Times suggested to her in 2013 that there were links between the intelligence and security services, Special Branch and the company. In January 2007 Ms Feltham learned that legal advice tendered to the campaign for the purposes of judicial review proceedings had found its way to the company. The source was an employee of a private security firm. I am unable to conclude upon present information that Campaign Against the Arms Trade had or may have had a direct and significant role in the subject matter of the Inquiry but the application will be kept under review.
109. Andrew Lewis was a national committee member of the Gulf Veterans Association in 1996 and 1997. In his written application Mr Lewis referred only to a suspicion that the Association's meetings and protests may have been

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attended by 'undercover' officers. When asked by the Inquiry team whether he could expand on his application Mr Lewis referred only to occasions when he believed he had been followed. Taking Mr Lewis' further information at face value I have seen nothing in the application that would support the suspicion that Mr Lewis may have been the subject of *undercover* police attention as opposed to police surveillance (see paragraph 6 above). If the situation changes Mr Lewis' application will be reconsidered.

110. Alistair Mitchell seeks designation on the basis that he was a member of the Trafalgar Square Defendants' Campaign from March 1990 to January 1994 when legal assistance was given to 500 people who had been arrested during the poll tax riots. Mr Mitchell expresses the concern that *if* the Campaign was infiltrated it would have enabled access to legally privileged material. Mr Mitchell does not, however, put forward any information that justifies a suspicion that the work of the Campaign was infiltrated. This is another application that should be kept under review.
111. Patrick Reynolds is chair of the Irish In Britain Representation Group. Mr Reynolds asserts that a named MI5 agent attended meetings and protests organised by the Group in the years 1981-1989. On the face of it this assertion is outside the terms of reference for the inquiry. It is the sole current basis for a concern that other, unknown undercover *police* officers may have attended meetings. I do not consider that the application currently satisfies the test that the applicant had or may have had a direct and significant role in the subject matter of the Inquiry, although it will be kept under review as the Inquiry makes its investigation.
112. Eirlys Rhiannon was a peace and environmental campaigner in the years 1988 – 2000. During that time she encountered two undercover police officers who are named in the application. However, no further particulars were given. When notified of her right to appear to make oral submissions on 7 October, Ms Rhiannon responded in writing that she was also concerned about "a possible unsafe conviction". I do not have sufficient information to support a designation and Ms Rhiannon will be treated as a possible witness.
113. Michael Atkins says that he was a member of the transport group for the G8 Dissent Network in July 2015. He claims that Mark Kennedy was a member of the same group. Since Mr Kennedy was publicly and officially identified as an undercover police officer as long ago as 2011 I am not able to conclude that he may have been participating as an undercover officer in 2015. If 2015 is a misprint for 2005 then designations have already been made that demonstrate a closer involvement with Mr Kennedy than is revealed by the application. The Inquiry will approach Mr Atkins in an attempt to resolve confusion.

114. Dr Uri Gordon was a member of the Dissent Network in July 2005. Like Mr Atkins he too implicates Mr Kennedy in the group's meetings and protest events but Dr Gordon has provided no details that establish that he had or may have had a direct and significant role in the subject matter of the Inquiry. The Inquiry will seek Dr Gordon's assistance as a possible witness.

### **[L] Social and environmental activists**

115. I shall **designate**:

Piers Corbyn **[58]**

Advisory Service for Squatters and Michael Zeitlin **[59]**

Hunt Saboteurs Association Limited **[61]**

Norman Blair **[64]**

London Greenpeace **[65]**, Albert Beale **[65(i)]**, Dave Morris **(ii)**, Martyn Lowe **(iii)**, Paul Gravett **(iv)**, Gabrielle Boseley **(v)**, Helen Steel **(vi)** and Jane Laporte **(vii)**

Reclaim the Streets **[66]**, Alex Hodson **[66(i)]**, Helen Steel **(ii)**, Carolyn Wilson **(iii)**, Jacqueline Sheedy **(iv)**, Robert Banbury **[67]** and Matt Salusbury **[68]**

Climate Camp Legal Team and Frances Wright **[69]**

Simon Lewis **[70]**

McLibel Support Campaign Group **[72]**, Helen Steel **[72(i)]**, Dave Morris **(ii)**, GRD <sup>8</sup> **(iii)** and Brian Healy **(iv)**

London Animal Action **[91(xi)]** Paul Gravett **[91(xi)(i) and 73]**, Marion Alcock **[91(xi)(ii)]**, Brendan McNally **(iii)**, Robin Lane **(iv)**, London Boots Action, Clare Hildreth **(v) and [91(vi)]**, Trudy Myddleton **[91(xi)(vi)]** and Dominic Iles **(vii)**

Genetic Engineering Network **[84]**, Jacqueline Sheedy **[84(i)]**, Martin Shaw **(ii)** and Brian Healy **(iv)**

Dr Harry Halpin **[86]**

Merrick Cork **[91(iii)]**

Indra Donfrancesco **[83]**, Morgana Donfrancesco Reddy **[83(a)]** and Megan Donfrancesco Reddy **(b)**

Dr Dónal O'Driscoll **[32]**

116. I shall **not designate**:

Oliver Knowles **[62]** (also **[30(2)(ii)]** above)

OPR **[71]**

Occupy London, Ronan McNern and Matthew Varnham **[75]**

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<sup>8</sup> Revised 21 September 2016

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Sharyn Lock **[91(x)]**

Carolyn Wilson **[85]**, 56a Infoshop **[85(a)]**, Freedom Network **(b)**, M11 Link Road Campaign **(c)**

Kate Evans **[91(i)]**

Ceinwen Jackson **[91(vii)]**

Graham Outbridge and Big Green Gathering Limited **[91(xiv)]**

Jo Wilding **[91(xxiv)]**

Sharon Worsey and Sumac Resource Centre **[91(xxv)]**

Undercover Research Group **[32]**

Anthony Martin (Legal Defence and Monitoring Group) **[33]**

117. Piers Corbyn was the main organiser for squatting groups in London between 1972 and 1982. He helped to organise the All London Squatters Federation, the Squatters Union and the Squatters Action Council. Mr Corbyn recalls that following his arrest and trial after eviction from a squat in Huntley Street in 1977 the under-sheriff admitted in cross-examination that undercover officers had been deployed. Mr Corbyn's campaigns were avowedly social and political.
118. Michael Zeitlin has applied for the designation of the Advisory Service for Squatters, formed in 1975 to give advice and support about squats to the homeless. For reasons similar to those identified in paragraph 117 above I consider that the application meets the rule 5(2) criteria.
119. The Hunt Saboteurs Association, now a limited company, has campaigned against blood sports since 1963. The application names six undercover police officers who it is claimed joined or may have joined hunt saboteur groups for the purpose of infiltration.
120. Oliver Knowles was a member of the Hunt Saboteurs Association between 1991 and 1998. Mr Knowles is already designated in the miscarriage of justice category. He is also concerned that his appearance in courts for other minor public order offences committed at hunt protests may have been tainted by the participation of undercover officers but he provides no grounds for his concern. I do not consider that in this category Mr Knowles has demonstrated that he had or may have had a direct and significant role in the subject matter of the Inquiry. For the time being he will be treated as a witness in this category.
121. Norman Blair was a member of London Greenpeace in the 1980s. Mr Blair asserts that two named undercover police officers infiltrated meetings of the group. Albert Beale and others apply for the designation of London Greenpeace as an unincorporated association on the same grounds.

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122. Reclaim the Streets was an environmental social justice campaigning group between 1992 and 2004. The applicants assert that two named undercover officers infiltrated and reported on the group.
123. Frances Wright was a member of the Climate Action Legal Team that provided legal support to protesters at Climate Camp events. She asserts that Mark Kennedy had infiltrated protest organisations and was a regular attendee at the Camps.
124. Simon Lewis is listed as a core participant in the miscarriage of justice category. His further application reveals a reasonable suspicion that he was a target of undercover operations on several other occasions.
125. The named applicants apply for designation of the McLibel Support Campaign formed to provide support for the defendants in a libel action brought by the McDonald Corporation. They contend that four named undercover police officers attended their meetings and that one of them was partly responsible for the production of the leaflet that McDonalds claimed was defamatory.
126. Paul Gravett and the other named applicants were members and seek designation of the London Animal Action Group, an amalgamation in 1994 of the former London Boots Action Group, London Animal Rights Coalition and London Anti-Fur Campaign. It is claimed that the organisation was infiltrated by up to four named undercover officers.
127. The Genetic Engineering Network was formed in 1996/97 to support local groups campaigning against the production of genetically modified crops and food. The applicants maintain that they worked closely with three named undercover officers who infiltrated their group.
128. Dr Harry Halpin participated in the Climate Camp held at Kingsnorth in August 2008 and the G29 summit protest held in London in 2009. Dr Halpin says that he was targeted by Mark Kennedy. He believes that in consequence of inaccurate reporting about him he has suffered serious limitations upon his ability to travel abroad.
129. Merrick Cork, already designated in the miscarriage of justice category, has been an environmental campaigner since the mid-1990s. He shared his activism with four named individuals who he later discovered were undercover police officers. His name was found on the Consulting Association blacklist.
130. Indra Donfrancesco was an environmental campaigner between 1994 and 2010. She was involved with the Earth First! Gatherings Collective between 2008 and 2010. In that role she says that she came across and was befriended by Mark Kennedy who participated in meetings and events, attended her wedding and took photographs of the wedding group. Ms

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Donfrancesco seeks designation of herself and her two daughters on the ground that her family life was intimately affected by Mr Kennedy's undercover activity.

131. Dr Dónal O'Driscoll has applied for designation both personally and for the Undercover Research Group in his capacity as a member of and key researcher for the group. Dr O'Driscoll has established, through his involvement with several environmental, animal and social campaign groups, and his working relationship with Mark Kennedy, that he had or may have had a direct and significant role in the subject matter of the Inquiry. However, the Undercover Research Group was formed after the exposure of Mark Kennedy as an undercover officer for the purpose of researching undercover police activity that it was suspected had already taken place, in order to give advice to those campaign groups that had or thought they had been infiltrated. I do not think that the application reveals that Undercover Research Group had or may have had a direct and significant role in the subject matter of the Inquiry; rather, it had an indirect role as a subsequent researcher about the subject matter of the Inquiry. Nonetheless, Dr O'Driscoll says that the Group is anxious to assist the Inquiry and the Inquiry team will make further contact to take advantage of that offer.
132. Several important issues are raised by the successful applications. The first is whether and to what extent the organisations and individuals named were targets of undercover police operations. If they were, the second issue is: what was the authorised purpose of the infiltration. The third issue is: to what extent, if any, did the activities of undercover officers promote conduct subsequently reported to their handlers. The fourth issue is: what information was gathered and to what use was it put. In my judgement, the successful applications meet the criteria provided by rule 5(2) and the issues raised by them are both difficult and substantial.
133. The applicant OPR, who attended Climate Camps in the years 2006 to 2010, supports the assertion that Mark Kennedy was actively involved in meetings, protest events and organisation. I do not consider, however, that the application demonstrates OPR's direct and personal role in the subject matter of the Inquiry. The tenor of her application is that she observed Mr Kennedy's participation. The Inquiry will invite OPR to consider tendering her evidence.
134. Ronan McNern and Matthew Varnham seek the designation of an unincorporated association called Occupy London. They express concern that between 2011 and 2015 their organisation may have been infiltrated by undercover officers. However, the only ground for suspicion on which they rely is that raised by Mr Varnham. He objects to the view of the City of London Police that Occupy London were 'domestic extremists'. Since Occupy London publicly demonstrated in the City of London it does not seem to me that there

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is any inference to be drawn that it has been the subject of *undercover* police activity. The application will be kept under review. Mr Varnham has, separately, submitted a witness statement about which he made oral submissions to me on 7 October. In his statement Mr Varnham describes many of the technological advances made in surveillance equipment in recent years. While this is an important subject in itself it does not fall within the Inquiry's terms of reference.

135. Sharyn Lock was also a member of the group Earth First! Gathering and she recalls that Mr Kennedy was in her 'social circle'. He house sat for her while she was away from home. While the grounds of Ms Lock's application are similar to those of the Donfrancesco family they do not, in my view, demonstrate the same direct and significant role. The Inquiry will approach Ms Lock as a possible witness.
136. Carolyn Wilson has made an application for designation on behalf of 56a Infoshop, Freedom Network and anti-roads protesters of whom she was one. However, hers is a general concern that campaigning groups who met at the Infoshop and Freedom Network in Coldharbour Lane and who attended road protests may have been targets of undercover policing. I have no information upon which to assess that Ms Wilson had or may have had a direct and significant role in the subject matter of the Inquiry.
137. Kate Evans was involved in A30 road protests from 1994 to 1998. She expresses concern that the activities of herself and her fellow protesters may have been infiltrated by undercover police operations. She refers to only one individual by his nickname but the grounds for suspecting him appear to me to be insubstantial. The Inquiry will invite Ms Evans to provide a witness statement.
138. Ceinwen Jackson was a member of the 'anti-coal' movement between 2007 and 2012. Ms Jackson says in her application that Mark Kennedy was 'involved' in the meetings and protests and to that extent personally with her. However, Ms Jackson provides no supporting information from which I can consider that she had or may have had a direct and significant role in the subject matter of the Inquiry. The Inquiry will ask her to consider making a witness statement.
139. Graham Oubridge has been an environmental and political campaigner since the 1970s. He has never attempted to conceal his activities and Mr Oubridge considers it likely that, unknowingly, he had come across undercover police activity directed at his campaigns. Mr Oubridge became the founder of Big Green Gathering Limited in 1994. It was a not for profit company that held outdoor events for supporters. Mr Oubridge recalls that in 2006 and 2007 Mark Kennedy attended as a member of Sumac which provided bar facilities

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at the event. In 2009 the event was cancelled because, as I understand it, the licence to hold the event was withdrawn after the intervention of the Avon and Somerset police. As a result the company lost revenue and was forced to discontinue its activities. Mr Oubridge wonders whether Mark Kennedy was implicated in the cancellation of the event. While Mr Oubridge has provided sufficient information to enable the Inquiry to investigate his concern his conclusion is speculative. I am not able to conclude on present information that he has established that he had or may have had a direct and significant role in the subject matter of the Inquiry, but his application will be kept under review.

140. Jo Wilding was an A130 road protester at Rettendon in Essex in 1999 and 2000. Ms Wilding recalls that a named undercover police officer attended the camp and, following the protesters' eviction, Ms Wilding stayed at a flat that she understood to be his. The Inquiry will approach Ms Wilding with a view to making a witness statement. At this stage I do not consider that the application reveals that she had or may have had a direct and significant role in the subject matter of the Inquiry.
141. Sharon Worsey was a member of Sumac, to which reference is made at paragraph 139 above, between 1995 and 2012. She says that she met Mark Kennedy who attended meetings and protest events but she has provided no particulars of Mr Kennedy's activities or the extent to which they have had a direct effect upon her. The Inquiry will ask Ms Worsey to consider making a witness statement.
142. Anthony Martin, a solicitor, has made an application on behalf of the Legal Defence and Monitoring Group. The Group was formed in 1994 to provide legal advice and support at campaigning demonstrations in London and the home counties. Its main objective was to monitor police behaviour and to assist in gathering relevant evidence in support of demonstrators charged with offences. Training was provided to campaigning groups on criminal law, police powers and the right to protest. Some of those groups who attended for training were, it is believed, infiltrated by undercover police officers. Mr Martin wishes to know whether his training programmes were also infiltrated. In my view, the application does not establish that the Legal Defence and Monitoring Group had or may have had a direct and significant role in the subject matter of the Inquiry, even if, as feared, an undercover officer attended the training days. Nothing in the application gives rise to a suspicion that legal professional privilege may have been breached because Mr Martin does not contend that advice was given to or instructions received from specific defendants, only that training in rights and powers was provided. However, Mr Martin has provided information that will be investigated and the application will be kept under review.

## **[M] Families of police officers**

143. I shall **designate**:

S [101]

144. In paragraph 14 above I made reference to the secret and sometimes dangerous work of undercover police officers. Those intimately affected by their work include not only those who are targeted and those among whom the officer moves in an undercover role, but also the families who are left behind when the officer leaves home to act undercover. They may be as likely as the officers themselves to be subjected to the strains of the work and the risk of exposure.
145. Paragraph 1(ii) and (iv)(b) of the terms of reference requires the Inquiry to examine the effect upon individuals of undercover police operations and to identify and assess the adequacy of selection, training and care of undercover police officers. In my view, the families of undercover officers may be directly and significantly concerned in the terms of reference, and they have a significant interest in the work of the Inquiry.
146. The Inquiry has received a late written application from a close family member of a person named in the application who, it is said, was employed as an undercover police officer. The applicant has important evidence to give about the effect upon the officer's family of the undercover role performed and the circumstances in which it was performed. Accordingly, the application satisfies the rule 5(2)(a) and (b) criteria. In common with others, the applicant will have provisional anonymity pending a ruling under section 19 of the Inquiries Act 2005.

## **[N] Other applicants**

147. I shall **not designate**:

Paul Paine and Neds Housing Co-operative [91(xv)]

Dhara Thompson and Sail Boat Project [91(xviii)]

Welsh Language Society [91(xxiii)]

CMR [87]

148. Paul Paine names an undercover police officer who became a member and director of the Neds Housing Co-operative in 2001. He is concerned that the officer should have been permitted to do so while acting in an undercover role. In my view the application does not demonstrate that the applicant had

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or may have had a direct and significant role in the subject matter of the Inquiry.

149. Dhara Thompson is a director of the Sail Boat Project, a workers' co-operative in the Brighton area that provides community sail training. In May 2010 the project was visited by a counter-terrorism unit acting on information that it did not disclose. It is claimed that a man subsequently identified as Mark Kennedy may have spoken to members of the Project about its business. This is insufficient information upon which to conclude that the Project had or may have had a direct and significant interest in the subject matter of the Inquiry but the investigation will be made and the application kept under review.
150. Heledd Williams is South Field Officer for the Welsh Language Society, Ms Williams expresses concern that 'secret police' may have attended meetings and protest events held by the Society but provides no underlying factual basis for the concern. The Inquiry will investigate and will approach the Society for further information but at present I do not consider that the rule 5(2) criteria are met.
151. CMR has made a witness statement that she has submitted to the Independent Police Complaints Commission. In it she maintains that in Ireland her half-brother admitted to her and her parents that he had paid a named senior police officer in the republic of Ireland to use his contacts in Special Branch in the UK to ensure that she was kept under surveillance. His purpose, she contends, was to gather information that CMR was an IRA sympathiser and by that means to discredit her in order to ensure that she did not serve on the board of her father's substantial UK limited company. CMR relies on four pages of typed surveillance notes for 3 June and 12 June 2006 that she says were provided to her and her parents by her half-brother. There is nothing in the application that leads to an inference that CMR may have been the subject of undercover policing. The surveillance notes, if accepted for what they are claimed to be, demonstrate only that CMR was being followed and observed. They do not bear any resemblance to the reporting process adopted by a covert human intelligence source. Mr Nicholls was unable to persuade me in his oral submissions that CMR's concerns fell within paragraph 6 of the terms of reference for the Inquiry.
152. I have completed my task of designation. I shall now make some preparatory remarks about the next procedural stage of the Inquiry which is to consider legal representation and costs.

### **Legal representation of a core participant**

153. Under rule 6 of The Inquiry Rules 2006 I am required, in the case of a single core participant who has appointed a qualified lawyer, to designate that

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lawyer as that person's "*recognised legal representative*" in respect of the Inquiry proceedings.

154. However, by rule 7(1), rule 7 applies "*where there are two or more core participants each of whom seeks to be legally represented, and the chairman considers that –*

*(a) their interests in the outcome of the inquiry are similar;*

*(b) the facts that they are likely to rely on in the course of the inquiry are similar; and*

*(c) it is fair and proper for them to be jointly represented".*

155. By rule 7(2), the chairman "*must*" direct that a group of core participants that qualify for joint representation under rule 7(1) "*be represented by a single legal representative*", and the chairman may designate a qualified lawyer to represent the group.

156. A rule 7(1) group of core participants must, under rule 7(4), agree upon the designation of a single legal representative but, by rule 7(5), if they fail within a reasonable time to agree on a designation, the chairman may designate an appropriate lawyer who, in his opinion, has sufficient knowledge and experience to act in the capacity of single legal representative in respect of the Inquiry.

157. These rules are designed to bring a measure of efficiency to the work and proceedings of the Inquiry. An Inquiry with terms of reference as wide-reaching as ours must keep a tight control of the use of the limited resources available to it. Duplication of work by core participants whose interests are essentially the same is to be avoided and I and the Inquiry team will manage the Inquiry with this objective in mind.

### **Costs and expenses**

158. By section 40(1) of the Inquiries Act 2005, and subject to subsection (3), the chairman of an inquiry is empowered to make an award of reasonable amounts by way of compensation for loss of time or expenses reasonably incurred or to be occurred in attending or otherwise in relation to the Inquiry. By section 40(2) the power to award 'expenses' includes a power to make an award in respect of legal representation. It is probable that a designated core participant will qualify for such an award under subsection (3) subject to the chairman's exercise of discretion under rule 21 of The Inquiries Rules 2006.

159. However, an award made by the chairman is subject to any conditions and qualifications that are determined by the Minister under section 40(4) of the

Act. The Secretary of State *has* made a determination that has been notified to the chairman and the determination has been posted on the Inquiry's web site. All core participants and their proposed legal representatives should read and be familiar with (i) the Minister's Determination and (ii) the accompanying Protocol Relating to Legal Representation at Public Expense before embarking upon the work of core participant or legal representative in respect of the Inquiry. An application for an award under section 40 of the Act may be made under rule 20 of The Inquiry Rules. If the application for an award meets the rule 20 requirements, the chairman, when making a determination, must set conditions as to the matters set out in rule 21 and they must comply with the conditions and qualifications set by the Minister's Determination.

160. It follows from this description of my powers and duties that in making an award that includes the costs of legal representation I will have at the forefront of my consideration the need to ensure that the Inquiry's resources are used economically in the public interest.

### **Next steps**

161. A public hearing is listed to take place in Court 73 at the Royal Courts of Justice on **4 November 2015** for the purpose of considering oral applications for designation of recognised legal representatives.
162. It is important that core participants engage immediately in discussions between themselves and their current legal representatives as to the appointment of a recognised legal representative to represent them and all other core participants with similar interests within the meaning of rule 7(1). If agreement can be reached I would much prefer to make the designation agreed. I would prefer not to have to impose my own designation if that can be avoided by agreement within a reasonable time. This ruling indicates, at paragraph 9, the categories in which it seems to me, at least provisionally, that a community of interests will appear.
163. I am aware that some core participants who appear to have the same or similar interests in the Inquiry have instructed different firms of solicitors for some time past. Although my power is limited to designation of a 'single' legal representative, the rules, the Minister's Determination and the Protocol all envisage that single representation may comprise a team that is likely to include at least one solicitor and one advocate. There is room in the present circumstances for a group of applicants with a similar interest to be represented by a designated single representative assisted by persons from a different firm of solicitors, provided that there is no conflict of interest within the group and that the total composition of the team is economically justified. I suggest that the scope for such an arrangement is considered before any core participant reverts to the chairman for a decision imposed under rule

## UNDERCOVER POLICING INQUIRY

7(4). The Minister's Determination requires me to approve the composition of a team of legal representatives as a condition of making a cost of legal representation determination under rule 21.

164. Written proposals for (i) designation of a legal representative under rules 6, 7 and 8, (ii) for the composition of the legal team and (iii) for a costs determination under rules 21 and 22 must be submitted to the Inquiry by **4 pm on Thursday, 29 October 2015**.

21 October 2015  
(Corrected 22 October 2015)<sup>9</sup>  
(Revised 26 October 2015)<sup>10</sup>  
(Revised 21 September 2016)<sup>11</sup>

Sir Christopher Pitchford  
Chairman, Undercover Policing Inquiry

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<sup>9</sup> Corrections made at paragraphs 24 and 104 above.

<sup>10</sup> Revised at paragraphs 47 and 50 above.

<sup>11</sup> Revised at paragraphs 51 and 115 above.