

Wednesday, 7 October 2015

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(10.30 am)

THE CHAIRMAN: Good morning, ladies and gentlemen. Counsel who was standing up a moment ago but very inconveniently has sat down again is Mr Barr QC, who is leading counsel to the Inquiry. In other words, he is leading the team in the Inquiry.

I will ask him what he wants to say.

Introductory remarks by MR BARR

MR BARR: Good morning, sir.

What I wanted to do was to introduce to you who is here. I will introduce them in the order in which I respectfully suggest they might address you.

First of all, we have counsel, Mr Nick Stanage, who appears on behalf of Friends of Freedom Press Limited and Peace News Trustees Limited.

We have Mr Jason Kirkpatrick, who appears in person. Mr Matthew Varnham, who also appears in person. Mr Jesse Nicholls of counsel, who appears on behalf of a person whom we are treating provisionally as anonymous and we will know as CMR.

Mr Patrick Roche of counsel appears for 77 Hillsborough families.

Mr Weatherby QC is leading Ms Hill QC, appears on behalf of a further 26 Hillsborough families.

1 Mr Hugh Robertson appears in person on behalf of the
2 Trades Union Congress. Ms Judith Lancet appears in
3 person.

4 Mr Schwarz, a solicitor advocate, is going to
5 address you in relation to two persons whom he is not
6 going to name, but whose identities are known to the
7 Inquiry and in relation to people concerned with the
8 Good Easter hunt saboteur case. Mr Carey, also
9 a solicitor advocate, is going to address you in
10 relation to two groups of parents, whose names we are
11 provisionally treating as anonymous, who are concerned
12 that their deceased child's identity might have been
13 used by undercover police officers.

14 Mr Friedman QC appears in respect of a number of
15 people, Stephanie Lightfoot-Bennett, Alastair Morgan,
16 Deborah Coles, Ken Fero, Stafford Scott, the National
17 Union of Journalists and the
18 Legal Defence & Monitoring Group.

19 Mr Griffiths QC appears on behalf of four families,
20 the Adams family, the Ashley family, the Coker family
21 and the Goodenough family.

22 Ms Deighton, a solicitor advocate, appears on behalf
23 of the Powell family.

24 Ann Feltham appears in person on behalf of the
25 Campaign Against Arms Trade. My learned friend Ms Gerry

1 appears on behalf of the Undercover Research Group.
2 Ms Helen Steel appears in person in relation to the
3 McLibel Group.

4 My learned friend Mr Richardson appears on behalf of
5 Unite Against Fascism, formerly the Anti-Nazi League.
6 There are other representatives in the hearing room
7 today, although I understand that they have not attended
8 with the intention of addressing you on the core
9 participant issue. They represent Mr Mark Kennedy,
10 solicitors Mr Roscoe and Mr Duxbury, and my learned
11 friend Mr Garnham QC on behalf of the Commissioner of
12 Police of the Metropolis.

13 I understand, sir, it is your intention to say
14 something first of all about the use of Twitter and
15 social media during hearings of the Inquiry.

16 Statement by THE CHAIRMAN re procedural matters

17 THE CHAIRMAN: Thank you very much.

18 Ladies and gentlemen, would you listen carefully to
19 what I now have to say before we commence the hearing.

20 As you know, this is a public hearing and I have
21 said already that as far as we possibly can, we will
22 ensure that what happens in these hearings can be made
23 public. But this particular Inquiry involves, as you
24 know, some evidence and information which because of its
25 nature is highly sensitive. During the course of the

1 Inquiry, I will be asked to make judgments about what
2 can and what cannot be placed in the public domain.

3 I need to ensure that nothing is put in the public
4 domain inadvertently which damages an important public
5 interest. Secondly and ordinarily, courts and this
6 hearing does not prohibit the simultaneous or
7 contemporaneous report through a Twitter account or
8 other social media of what is happening inside the room.
9 But in order to ensure that there is no inadvertent
10 disclosure of material to the public about which I have
11 not yet made a decision, I need to say this: I want to
12 make an announcement about contemporaneous tweeting or
13 other social media communication from the hearing room
14 of the proceedings as they take place.

15 This announcement applies to all public hearings of
16 the Inquiry. By reason of the sensitive nature of some
17 of the evidence to be considered by the Inquiry, I wish
18 to avoid the inadvertent disclosure of information that
19 should not be in the public domain. For that reason
20 I am going to direct that there must be not less than
21 a 60-second time delay between the words spoken in the
22 hearing room and any subsequent report of those words by
23 Twitter or other social media.

24 That will give time for any party to the hearing to
25 draw to my attention the sensitive nature of information

1 that must not be communicated or broadcast and for me to
2 make an order prohibiting it before it is too late.

3 Anyone attending the hearings must keep faithfully
4 to this direction. If they do not, steps will be taken
5 to enforce it.

6 I am going to make sure that those words, or
7 something like them to the same effect, will appear in
8 the Inquiry's website so that nobody can be under any
9 illusion about it from here on.

10 Can I then remind you why we are here. You may
11 recall that, at the end of July, I invited anyone who
12 wished to make an application to be designated under
13 rule 5 of the Inquiry Rules, what is known as a core
14 participant.

15 In consequence of that, I have received at least 380
16 applications.

17 Having read them, it seemed to me that several of
18 them plainly met the threshold created by rule 5 of the
19 Inquiry Rules and I have given an advance indication to
20 those applicants that, short of something extraordinary,
21 they will be designated core participants. There are
22 about 150 of them.

23 Those about whom I was not so sure, based upon the
24 written application I have invited to attend to make
25 further oral representations if they wish to do so.

1 In their cases, I have made no conclusion about the
2 terms of the application but simply wish to give anyone
3 who wanted to the opportunity to expand, if they wished
4 to.

5 Can I make it clear that the fact that someone has
6 been granted, or will very shortly be granted
7 designation as a core participant, means nothing other
8 than that they have met the threshold created by rule 5.
9 No one should draw any conclusions from the fact that
10 someone has been designated core participant about the
11 accuracy of any assertions made by that applicant. In
12 particular no one should conclude that any person was or
13 was not affected by undercover policing, or indeed
14 undercover policing by any particular individual. You
15 will see the sense of this because that is why we are
16 here, to investigate what happened, not to jump to
17 conclusions.

18 Thirdly I want to say, because it might help those
19 who are here to make further representations, that
20 judging by the terms of some of them, some applicants
21 may be under the impression that, unless they are
22 designated core participants, their complaint or their
23 suspicion or their assertion or their story will not be
24 investigated by the Inquiry and will not get an airing.
25 If that is a belief that anyone holds, I can assure you

1 that it is mistaken. What I am concerned about is
2 relevance. Even if a person does not meet in my view
3 the rule 5 criteria, they may nevertheless have
4 important evidence to give and their account may deserve
5 close investigation. If it meets the criteria of
6 relevance, then it will be investigated.

7 Finally, even if in the next few days, in a written
8 ruling which will be published, I do not designate you
9 a core participant at this stage, it doesn't follow that
10 you will never be, since if, in the course of the
11 investigation, it appears to me that you should be
12 a core participant, then we will approach you. This is
13 an Inquiry in which applications for core participation,
14 even if not granted from the outset, will be kept under
15 review.

16 That is the explanation I wanted to give before we
17 start. I think Mr Barr is going to help me now with the
18 order of submissions.

19 MR BARR: Sir, yes. The first submission is from Mr Stanage
20 on behalf of Friends of Freedom Press Limited and Peace
21 News Trustees.

22 THE CHAIRMAN: Thank you very much.

23 Mr Stanage.

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Submissions by MR STANAGE

MR STANAGE: Sir, in a recent letter which my instructing solicitor sent to your Inquiry, we indicated that we would also wish to be considered today as representing Peace News Limited.

THE CHAIRMAN: Yes, indeed.

Sorry is that a separate organisation from Peace News Trustees?

MR STANAGE: Sir, it is. Peace News Limited is the company that publishes and runs the newspaper, the pacifist newspaper which has been in publication in this country since 1936.

I don't wish to presume, sir, that you will enable me to speak on behalf of all three, but if I do so, that is the third to which I refer.

Sir, in any event you have helpfully emphasised that this morning's hearing is for representatives to expand upon their written submissions already made and that is what I briefly propose to do. I will aim for brevity. I have seven points that I wish you to consider on behalf of the clients that I represent and I shall set them out for you now.

I anticipate, sir, that I will be about 20 minutes, if that helps you with the management of the morning's list.

1 THE CHAIRMAN: Thank you.

2 MR STANAGE: The first point that I make is that, as I say,
3 I represent three incorporated associations but at least
4 in respect of the first two, Friends of Freedom Press
5 Limited and Peace News Trustees, we have also named in
6 our written submissions certain individuals who have
7 played a long-standing and prominent part in each of
8 those two organisations.

9 So my first submission, and this may be a submission
10 that will be echoed by others this morning, is that it
11 is clear from the Inquiry Rules that a person need not
12 be an individual but can in fact be a body corporate.

13 So strictly speaking, those whom I represent should
14 not need to put up an individual name within each
15 organisation.

16 THE CHAIRMAN: No difficulty with that.

17 MR STANAGE: Although, as you will see in a moment, we are
18 able to do so.

19 Moreover, as you are well aware, sir, the terms of
20 reference refer to political campaigners. That again
21 does not signify individuals necessarily. Both the
22 Friends of Freedom Press Limited and Peace News Trustees
23 are both campaigning associations of very long standing
24 in the country.

25 Moreover, as far as we are aware, and I accept, sir,

1 that individual representatives do not necessarily have
2 a full list of those to whom you have given core
3 participant status but, as far as we are aware, no other
4 organisations are explicitly pacifist or anarchist,
5 although of course there may be individual pacifists or
6 anarchists within some of the other groups.

7 The utility of that position in my submission, sir,
8 is that the organisations that I represent or seek to
9 represent at your Inquiry can serve as umbrellas for the
10 groups that met in their premises, or individuals who
11 were prominent within them.

12 That may help both in terms of representation, but
13 also by way of structure for the Inquiry. Because if,
14 as in other public inquiries, you were to decide that
15 a topic by topic approach might recommend itself, then
16 the topics of pacifism and anarchism could conveniently
17 be represented by those two organisations that
18 I represent.

19 There is another benefit in the organisational
20 approach, sir, that I suggest warrants consideration,
21 and that is that some prominent pacifists and anarchists
22 within my clients' organisations were very active during
23 the period under scrutiny but are now dead. One thinks
24 in respect of the Friends of Freedom Press, of
25 Colin Ward, a prominent anarchist author and activist,

1 and Philip Samson.

2 Now, there is likely to be institutional records
3 within Freedom Press, or at least an institutional
4 memory of infiltration of -- or undercover policing in
5 respect of the dead, and therefore the organisations
6 could speak where no one else might on the subject of
7 infiltration during the relevant period of the likes of
8 Colin Ward and Philip Samson.

9 Sir, the second point I make is an alternative one,
10 what if the reality is that you do prefer individuals
11 within organisations rather than organisations
12 themselves? Well, to my clients, that would not pose
13 a difficulty because we have individuals within each
14 organisation who could act as witnesses to speak to
15 broader organisational issues, and they should be
16 recognised accordingly.

17 So the question I pose is, is the threshold that you
18 have applied membership of an infiltrated group? If it
19 is, then we have the following individuals who can
20 assist. In respect of Peace News Trustees and indeed
21 Peace News Limited, the third of my clients, if you will
22 recognise that third client, Bill Hetherington.

23 THE CHAIRMAN: Did you say Harrington?

24 MR STANAGE: Hetherington, forgive me. He is

25 a long-standing trustee of Peace News, the newspaper,

1 and has been involved in that pacifist newspaper since
2 1968. A further individual, who we named in the further
3 written representations, is Malcolm Hopkins. He was
4 working in the Housmans bookshop which shares premises
5 on Caledonian Road with Peace News and the
6 Peace News Trustees. Bob Lambert, one of the known
7 undercover police officers, befriended Malcolm Hopkins
8 through Peace News and through Mr Hopkins' position as
9 a trustee. The friendship developed, or should I say
10 was developed by Bob Lambert, to the point where
11 Mr Lambert lived in Malcolm Hopkins' flat.

12 My instructions are that Bob Lambert is believed to
13 have set off a fire bomb in a Debenhams store, and my
14 instructions are that Special Branch raided
15 Malcolm Hopkins' flat on the pretext that they were
16 looking for Bob Lambert, and Special Branch during that
17 raid evinced a very detailed knowledge of the political
18 ideology and connections which Malcolm Hopkins had.

19 Sir, forgive me for delving to that extent into the
20 particular detail of a particular incident, but I am
21 mindful that you have mentioned that relevance is
22 an important consideration. And I am anxious to stress
23 that these are not organisations with an abstract
24 interest.

25 THE CHAIRMAN: Relevance to what will be investigated --

1 MR STANAGE: Yes.

2 THE CHAIRMAN: -- Mr Stanage.

3 MR STANAGE: Indeed.

4 THE CHAIRMAN: Core participation, I decide under rule 5.

5 MR STANAGE: Yes, and I will turn to the provisions of rule
6 5 in my conclusion, shortly.

7 THE CHAIRMAN: Before you do, can you help me about one
8 confusion I have. I don't know whether you are aware of
9 it, but there has been a separate application made on
10 behalf of Peace News Limited by somebody called
11 Rebecca Dale.

12 MR STANAGE: I was aware of that. My understanding is that
13 it has been withdrawn but that understanding may be
14 wrong.

15 THE CHAIRMAN: My puzzle about it is this. In the
16 application made on behalf of your other two clients, it
17 is said that Peace News split off from Caledonian Road
18 in 1972 and moved to Nottingham.

19 MR STANAGE: Yes.

20 THE CHAIRMAN: But the application that was made on behalf
21 of Peace News Limited by Ms Dale purports to use 5
22 Caledonian Road as the address of the company. That
23 puzzled me.

24 MR STANAGE: I don't believe I can assist you on that point.

25 THE CHAIRMAN: Where is Peace News Limited registered?

1 MR STANAGE: If you will excuse me just a moment.

2 Sir, forgive me. The reality appears to be that
3 even though since 1972 the operation was in Nottingham,
4 office premises were retained at 5 Caledonian Road in
5 London.

6 THE CHAIRMAN: A small office is what I am told in your
7 application.

8 MR STANAGE: Yes, I am not contending for a large one.

9 THE CHAIRMAN: All right.

10 MR STANAGE: Sir, on the point of individual or prominent
11 individual involvement, relevant involvement in
12 undercover policing, in respect of the Friends of
13 Freedom Press Limited, I can name two individuals. We
14 already have, in our written submissions, named
15 Mr Donald Roum who I see appears, or at least attends
16 court in the public gallery today. He has been active
17 within the Friends of Freedom Press since before 1968
18 and throughout the period under investigation.

19 I should also name, by way of further individuals,
20 Stephen Sorb. He was, at least since the 1980s, the
21 early 1980s, and still is, a printer at the
22 Freedom Press, which is immediately adjacent to the
23 Freedom building off Whitechapel High Street. He was
24 the secretary of the Freedom Press, has been secretary
25 of Freedom Press in charge of printing in that capacity.

1 So those are my alternative submissions. We have
2 individuals and those should be recognised if you are
3 against us on the incorporated association point.

4 So the third of my points deals with what I invite
5 you to regard as the benefit of recognising my clients
6 as having core participant status. There are five
7 points here to be made within this general heading of
8 benefits.

9 First of all, no other organisations or individuals
10 were active throughout the totality of the period under
11 examination. So Freedom and Peace News Trustees offer
12 not only longevity but continuity.

13 That, I submit, can only benefit the Inquiry
14 because, without any disrespect, many other core
15 participants can only point to somewhat more recent
16 involvement, say, since the 1990s.

17 Sir, the second point, and it perhaps follows, is
18 that Peace News Trustees and the Friends of Freedom
19 Press Limited fill what may appear to be a temporal and
20 evidential gap.

21 Why do I say that? Well, looking at the list of
22 undercover officers that we have so far, and that may
23 only be the tip of the iceberg but looking at that list,
24 it appears that the earliest deployment is of an officer
25 whose name I think is Mike Chitty, and that was in 1982.

1 If that is right, sir, the period from 1968 to 1982
2 is absent or constitutes a gap and it does need to be
3 covered.

4 Now I know and I have your point that the Inquiry
5 will of course cover it, but in my submission you can
6 only be assisted by prominent political campaigns who
7 can speak to their experiences from the late 1960s up
8 until and beyond 1982. It is also right to say, on the
9 point of temporal gaps, that our understanding is that
10 Leigh Day & Co represent one of the undercover officers,
11 Peter Francis, and that Slater and Gordon represent Bob
12 Lambert and Jim Boyling. So again, 1986, in respect of
13 those officers, appears to be the earliest period that
14 they deal with. Freedom and Peace News can fill the gap
15 before 1986.

16 Sir, the third point on the potential benefits of
17 granting status is that looking at the list that we
18 presently have of representation and lay involvement,
19 there do not appear to be many organisations that you
20 have recognised as such, and we suggest that
21 organisational representation could only be a benefit
22 because of the institutional memory and possibly records
23 that organisations will tend to have.

24 Fourth point, relevance. We suggest that the test
25 to be applied is one of realistic possibility. In other

1 words, is it more than merely fanciful to suggest that
2 any given applicants before you today were targeted?
3 That should be the test and that should be sufficient,
4 but in respect of my clients, we say we can go even
5 better than mere arguability or realistic possibility.
6 We say there is a high probability that our clients were
7 infiltrated and that derives from the very nature of
8 their stance in respect of their political campaigns and
9 their view of the state.

10 You have from our very first written submissions
11 a flavour of the history. Freedom Press and its most
12 prominent members have been prosecuted, raided, burgled
13 and the subject of state attention throughout the 20th
14 century and probably beyond. Prominent members of
15 Peace News were prosecuted for incitement to
16 disaffection in respect of British troops in the north
17 of Ireland in the 1970s, so it would be remarkable, we
18 say, if my clients had not been infiltrated.

19 Indeed, we know from the Guardian article that we
20 sent in to you of Tuesday, 17 September 2013 that
21 undercover officers have admitted to targeting both
22 Housmans bookshop and Freedom Press, in order to collate
23 information.

24 THE CHAIRMAN: Can you give me the date of the article
25 again.

1 MR STANAGE: Yes, 17 September 2013. I have a hard copy if
2 it would assist you to receive it, sir.

3 THE CHAIRMAN: If you have not already sent it in, it would.

4 MR STANAGE: Well, we have sent it in, but out of
5 an abundance of caution ... (Handed)

6 THE CHAIRMAN: Thank you.

7 MR STANAGE: Sir, could I invite your attention, for the
8 moment, only to the penultimate paragraph on the first
9 page, which indicates that Bob Lambert, the police
10 officer who spent four years undercover in animal rights
11 and environmental groups in the 1980s, regularly visited
12 Housmans as he built up his cover of a radical activist,
13 sir, you will note there, not as a mere purchaser of
14 magazines or news about forthcoming events or political
15 rallies and so on, but for the purpose of building up
16 his cover as a radical activist. I have already
17 referred to his close relationship with Mr Hetherington
18 of Peace News Trustees.

19 Then, sir, fifthly on this point of the benefit to
20 your Inquiry of my clients, there is a strong
21 likelihood, we suggest, that Peter Francis, one of the
22 undercover police officers, will confirm that both of my
23 clients' buildings and organisations were infiltrated by
24 the SDS and possibly by Mr Francis himself.

25 Three operatives have been exposed as having been

1 active at Peace News or Housmans on the Caledonian Road.
2 Bob Lambert you have just been reminded of,
3 Peter Francis, but also John Dines. I am not asking you
4 to accept speculation here. Three undercover officers
5 have infiltrated the second of my clients' premises and
6 organisations.

7 There is a risk, sir, in my respectful submission,
8 that if Freedom is not granted status as
9 an organisation, that many of the anarchist groups that
10 met there in the 1970s and 1980s but are now defunct,
11 will not have their situation considered by the Inquiry,
12 and therefore Freedom's involvement can only assist you.
13 As I perhaps already said, it has an overarching
14 interest, both in time and in relevance, and in the
15 first of our written submissions, you have quite a long
16 list of the names of the political campaign groups that
17 met on the premises of 84 Whitechapel High Street. The
18 Anarchist Bookfair was organised from there,
19 London Anarchist Forum, Direct Action Movement,
20 Anarchist Communist Federation, Solidarity Federation,
21 Class War, the London Coalition Against Poverty, and for
22 good measure, the Advisory Service for Squatters.

23 Sir, can I move on to the fourth point, and I am
24 coming to the end very quickly.

25 What is the correct test, we ask. No complaint is

1 made, but we are not entirely sure what test has been
2 applied to the present list of those who have or have
3 not been granted status, so I am submitting somewhat in
4 the dark, but I do submit that proof of damage should
5 not be the test. This is not a civil claim and no civil
6 claim is contemplated by any of my clients. The test
7 for status, in my submission, should be sufficiency of
8 relevance to the terms of reference and of course to the
9 Inquiry Rules. There is a sufficiency of relevance that
10 all of my clients offer, as I have said, in respect of
11 Freedom Press and its bookshop. It was burgled in the
12 1980s and that has been said to have been with the
13 inside help of an SDS infiltrator.

14 What, fifthly, should be the application of the
15 correct test? Well, the question in our submission
16 should be, was each group probably infiltrated? To
17 answer that question, we submit that there should be
18 more disclosure but, in any event, the following
19 questions appear to be relevant in applying the test of
20 relevance. Was the clandestine infiltration, if it
21 probably occurred into political groups, was it lawful?
22 The answer would appear to be no, it was illegal. Was
23 there a breach of the private lives of those involved?
24 What was the extent of the intrusion? Was intrusion
25 justified? All of these are, in my understanding,

1 central questions of relevance for your Inquiry and they
2 are questions to which my clients can give direct and
3 significant evidence.

4 Sixthly, by way of conclusion, sir, I would be the
5 first to concede that a focus on individuals is
6 necessary but I say it is not sufficient.

7 My clients are likely to show evidence of systematic
8 or certainly long-standing infiltration throughout the
9 relevant period; referring to rule 5, as I said I would,
10 they have a direct significant role in relation to
11 undercover policing. They have an obviously significant
12 interest and they may face explicit or significant
13 criticism. That being so, I say that their relevance to
14 your Inquiry and the merit of granting them status is
15 established.

16 My seventh point, sir, is perhaps a more general one
17 and it is on the subject of disclosure. As I say, we
18 have not had any. We are at an early stage and I accept
19 that that may be the case, but we should, I respectfully
20 submit, be in a position, or the Inquiry should be in
21 a position, where the 460 persons who were targeted or
22 infiltrated should be named, and we should proceed from
23 there, rather than having representatives, potential lay
24 applicants, guessing as to whether they were or were not
25 infiltrated.

1 I am not the only one at the bar before you this
2 morning who was, to an extent, involved in the Stephen
3 Lawrence Inquiry. You will be aware, sir, that there
4 was concern many years later that the
5 Metropolitan Police had withheld information from that
6 Inquiry, although it did its very best to be thorough
7 and painstaking in its examination of detail. The worry
8 must be that the same might occur here and that, in
9 order to ensure that the police are disclosing the
10 fullest possible detail, and that all potential
11 applicants can attempt to secure a place in this
12 Inquiry, the police should be pressed for further detail
13 and representatives should be informed of whether or not
14 their potential clients were indeed infiltrated.

15 That is a more general submission, I say. I make it
16 deliberately at the end. You have my primary
17 submissions that you know and we can know that Freedom,
18 Peace News and Peace News Trustees in fact were indeed
19 infiltrated, and on that basis I seek status.

20 THE CHAIRMAN: Thank you. Mr Kirkpatrick. You are quite
21 a long way away, Mr Kirkpatrick. Would you like to come
22 down to the front.

23 MR KIRKPATRICK: Is this okay, shall I stand?

24 THE CHAIRMAN: That is fine. You do whatever is
25 comfortable. If you would rather sit down; sit down.

1 MR KIRKPATRICK: I am okay to stand. So wait a minute, so,
2 sorry, I have to make a note.

3 THE CHAIRMAN: Right, I was just turning up your written
4 application.

5 Submissions by MR KIRKPATRICK

6 MR KIRKPATRICK: My name is Jason Fitzpatrick. I am from
7 Berlin, Germany, formerly a resident in the UK. I have
8 applied for core participation status but --

9 THE CHAIRMAN: When did you move to Germany?

10 MR KIRKPATRICK: When did I move there? Well, I had some
11 time between the UK, I was working here for three years
12 and then I moved there first in 2003, I had some time
13 coming back and forth. That is when I went and met
14 Mark Kennedy in 2005.

15 THE CHAIRMAN: Okay.

16 MR KIRKPATRICK: So I feel I was -- well, I was, targeted by
17 Mark Kennedy for five years from 2005 to 2010, but
18 I would like to echo the last speaker, that I have
19 applied for core participant status but I have been
20 invited here to speak, and I am not sure why I haven't
21 been approved, because I have spoken to other people who
22 have had their core participation status approved, and
23 they had similar cases. I know you have read my
24 two-page application. I am not sure what you want to
25 know from me exactly. I could write a book, I feel

1 like.

2 THE CHAIRMAN: Let me remind you of the requirements of the
3 rules. I need to consider whether the person, that is
4 you, played or may have played a direct and significant
5 role in relation to the matters to which the Inquiry
6 relates. That is the headline. Direct and significant
7 role. Now, there are all sorts of facets in this
8 Inquiry. I have to try and make a judgment about which
9 of the applicants has played or may have played a direct
10 and significant role. There are two other tests. One
11 is that you have a significant interest in an important
12 aspect of the subject matter of the Inquiry, and many
13 people who made the application do have a significant
14 interest; thirdly, whether you may be subjected to
15 criticism during the Inquiry.

16 I must take into account those three matters, plus
17 anything else that is raised.

18 MR KIRKPATRICK: Okay, I will try to answer these questions
19 as best I can.

20 THE CHAIRMAN: Just give me the headlines.

21 MR KIRKPATRICK: I feel that I was targeted by Mark Kennedy
22 specifically because of my communications work, for
23 campaign groups, and this is something that I really
24 find disturbing and I would like to look into. I have
25 mentioned in my application that I feel my privacy has

1 been violated. I will not go into that here because
2 I mentioned it there. But something that I have not
3 heard other people talk about is the fact that they have
4 been involved in journalistic work and this is why
5 I feel I was targeted by Mark Kennedy, and I feel that
6 my journalistic work as a campaigner was disturbed and
7 disrupted by Mark Kennedy or related police, which
8 I find very strange.

9 In brief, I was a former vice mayor in the city of
10 Arcata, California, and I did public relations work and
11 was communications officer. This is what led me to move
12 to the UK where I had a job delivering the Government's
13 sustainable development plans. I did press work and at
14 the time I met Mark Kennedy in 2005, I was doing public
15 lectures and writing press releases for campaign groups
16 concerned with issues like dropping Third World debt and
17 climate change. Very soon after I met Mark, he began
18 spending a lot of time with me. He invited me to his
19 home, I stayed at Mark Kennedy's home, he stayed at my
20 home repeatedly. He was seeing friends of mine. And
21 then, not long after I met him, I was writing a lot of
22 press releases for campaign groups. He visited the
23 office I was working in.

24 And then shortly after that, all the press releases
25 that I was sending out to press lists seemed to not work

1 any more and I don't really know, but I suspect that the
2 police had some work, somehow involved themselves with
3 disturbing the delivery of press releases that I was
4 sending, and I know that because I was speaking
5 personally by phone to reporters from the BBC and other
6 English media outlets and asked them: did you get the
7 press release that I have just sent, to the email you
8 have just given me; and they said: no.

9 This, I didn't mention in my application because
10 I wanted to keep it to two pages but I find that
11 extremely disturbing and I think the British public
12 probably feel this kind of thing is very disturbing and
13 I think that this Inquiry needs to get to the bottom of
14 that.

15 I have been really trying my best to find out what
16 happened with Mark Kennedy and why he spied on me for
17 five years. I have spoken to Members of Parliament
18 here, including the chair of the Home Affairs Select
19 Committee, Keith Vaz. I feel repeatedly that when I
20 have spoken to people like him or Jenny Jones on the
21 London city council, who is on the policing commission,
22 they have told me that they have not received all the
23 information they need to know. They haven't been able
24 to answer my questions. In the case of Jenny Jones, we
25 know -- they reported that she was spied upon and she

1 doesn't know why. The mayor Boris Johnson has also
2 spoken out against this. I am very upset and I would
3 like very much to have core participant status so I can
4 work with this Inquiry to try to find answers to these
5 questions.

6 THE CHAIRMAN: All right.

7 MR KIRKPATRICK: That is one aspect, like I said I could
8 write a book but I want to answer your questions.

9 THE CHAIRMAN: Thank you very much. Anything else?

10 MR KIRKPATRICK: Is there another aspect that I -- I am
11 wondering is there another aspect, a criteria, that
12 I have not met of yours or the committee's or the
13 guidelines?

14 THE CHAIRMAN: You have given me your headlines and that is
15 what I needed.

16 MR KIRKPATRICK: Okay.

17 THE CHAIRMAN: I am going to mull over all these submissions
18 that are made to me, as well as those made in writing
19 before I make a decision.

20 MR KIRKPATRICK: As I mentioned, my solicitor is
21 Mike Schwarz. I would like to be accepted either as
22 an individual or grouped together with a group
23 represented by Mike Schwarz.

24 THE CHAIRMAN: All right.

25 MR KIRKPATRICK: I would like to make one last thing, if

1 I may. The way that Mark Kennedy delved into my
2 personal life is something extremely upsetting that
3 causes me to have dreams and nightmares to this day, and
4 I really don't understand, for example, why, when my
5 boss here in the UK said -- she said: Jason, why don't
6 you come and give a talk to my church about global debt,
7 dropping Third World debt, you can come and speak to my
8 church; and I was travelling around talking on this
9 topic with Mark Kennedy driving, Mark Kennedy came into
10 the church of my boss with me to speak to her
11 congregation. And we played a game of
12 anti-globalisation bingo where Mark was the bingo
13 caller, and I am wondering what is going on with the
14 people controlling the operations of Mark Kennedy that
15 allowed him to not only come into my home many times,
16 have long-term intimate relations with my friends, but
17 delve into my work-related life. I find this extremely
18 disturbing and I would like these kinds of questions
19 answering. Thank you very much for your time.

20 THE CHAIRMAN: Mr Kirkpatrick, safe journey back. Thank you
21 for coming.

22 MR KIRKPATRICK: Thanks very much.

23 THE CHAIRMAN: Mr Varnham.

24 Just give me a moment, Mr Varnham, because I have
25 received a communication from you quite recently,

1 haven't I.

2 Okay, what would you like to say?

3 Submissions by MR VARNHAM

4 MR VARNHAM: First of all I would like to say, I was not
5 aware of rule 5 criteria and I make submissions today,
6 as I believe I have a variety of points to raise which
7 I would like the Inquiry to consider, which may or may
8 not exceed the scope of the Inquiry. I am here today to
9 explain these points. As you mentioned, I emailed my
10 submission to Mr Pretorius and he confirmed to me he
11 has received that. At this stage I do not have anything
12 to add to that, but I am happy to go through the
13 submission if it would assist you and respond to any
14 questions you have.

15 THE CHAIRMAN: That is a statement made by you for the
16 hearing of today.

17 MR VARNHAM: Yes.

18 THE CHAIRMAN: It is 13 pages long. It also has
19 an attachment of a letter of yours to the Commissioner
20 of the City of London police. There is also
21 correspondence at the back of the statement. I can
22 assure you I have read all that this morning.

23 MR VARNHAM: If you have any questions, I am happy to answer
24 that but, as I said, I understand there are a lot of
25 people who would like to speak to you today so I am

1 happy to leave you with this.

2 THE CHAIRMAN: What you need to know, Mr Varnham, in
3 relation to your latest communication to me, is that
4 that is very much about technical surveillance and not
5 human surveillance. Do you follow?

6 MR VARNHAM: Yes, I do, and the reasons why I have written
7 this is because I would like to make the point that
8 technical surveillance is now an issue that in many
9 ways, it is changing how surveillance is likely to be
10 conducted, and my concern is that this Inquiry should
11 look into the use of technical surveillance
12 technologies, so to fully understand the scope of covert
13 human intelligence sources in a modern context.

14 So, as you mentioned, I have listed a number of
15 technologies that are relatively new such as
16 Stingrays --

17 THE CHAIRMAN: It is up to you, Mr Varnham, but I don't
18 think you need to repeat the contents of your statement.
19 I have read it with interest. The question I have to
20 ask in the end is whether it has a sufficient
21 association with the subject matter of the Inquiry that
22 means that you should be a core participant and I will
23 consider that, of course.

24 MR VARNHAM: Yes. That is fine. I just wanted to make sure
25 that you were aware of these points, sir.

1 THE CHAIRMAN: Yes.

2 MR VARNHAM: That is all.

3 THE CHAIRMAN: Is that all you want to say to me.

4 MR VARNHAM: That was all. Unless you have any questions in
5 relation to this.

6 THE CHAIRMAN: Sorry?

7 MR VARNHAM: Sorry, unless you have any questions in
8 relation to this.

9 THE CHAIRMAN: No. You ought to know that I have read your
10 covering email as well.

11 MR VARNHAM: Okay.

12 THE CHAIRMAN: To which you have not referred but I know
13 what is in it. Thank you very much.

14 MR VARNHAM: Thank you.

15 THE CHAIRMAN: Mr Nicholls?

16 MR BARR: That's right, Mr Nicholls.

17 Submissions by MR NICHOLLS

18 MR NICHOLLS: Thank you, sir. As my learned friend has
19 said, I represent CMR. Can I first indicate our
20 gratitude that the Inquiry team has indicated their
21 willingness to give anonymisation for this hearing, and
22 I will proceed on that basis.

23 You will be aware, sir, of the facts of the
24 application. Can I summarise them very briefly before
25 making three short points that arise from them.

1 THE CHAIRMAN: Yes, I wonder whether it would help you if
2 you knew my anxiety.

3 MR NICHOLLS: That would help, sir.

4 THE CHAIRMAN: On the face of it, the story relates to
5 surveillance but not covert surveillance by
6 an undercover officer.

7 MR NICHOLLS: Can I address that, sir, in relation to the
8 first point I was going to make and it does fall under
9 that heading.

10 THE CHAIRMAN: Of course.

11 MR NICHOLLS: If I can summarise very briefly the facts so
12 that I can then make those submissions. In summary CMR
13 was invited on to the board of directors of a major
14 company. As a result of that, her half brother appears
15 to have procured surveillance by Special Branch through
16 a bribe to a member of the Irish police who used his
17 connection in that role to procure that surveillance,
18 and the reason for that surveillance was in order to
19 discredit CMR in relation to business matters.
20 Special Branch then provided reports to that officer
21 which were then relayed to the half brother, a private
22 individual, and in this case CMR has seen those reports
23 and has the evidence that that surveillance in fact took
24 place.

25 The three points, sir, that I was intending to

1 address were, first, that CMR falls within the scope of
2 the Inquiry which will, I hope, cover the first matter
3 that you have raised as a matter of concern. Second,
4 that CMR's case evidences a number of issues of public
5 interest that may be of relevance to the Inquiry more
6 widely. Thirdly, and very briefly, that as you will
7 have seen from the application, the issue of the effect
8 of undercover operations on individuals is very stark in
9 CMR's case. I don't intend to address the third point
10 in any detail. You will have seen the reasons for that
11 in the submissions and they are detailed and also
12 relatively private so I will keep that from open court.

13 In relation to the first point, I would submit that
14 CMR has a significant interest in an important aspect of
15 the matters to which the Inquiry relates, for the
16 purposes of rule 5 of the Inquiry Rules. As I have
17 already indicated, CMR was subject to surveillance, of
18 which we already know, although of course there may have
19 been more. We have only seen the reports that you
20 yourself have seen, sir, which were provided with the
21 application. For the reasons which I will come on to,
22 we submit that that surveillance clearly raises an issue
23 as to the motivation and purpose of such surveillance
24 and also the scope of it in relation to CMR, and I say
25 that for the following reasons.

1 Based on the report that CMR has seen and which you
2 have been provided with, sir, we know that human
3 surveillance of CMR and her associates took place. That
4 report indicates that that took place. Of course there
5 may be other such instances of which she is not aware,
6 and of course that is one of the reasons she applies for
7 core participant status. She is keen to try and unearth
8 whether or not there is in fact other information and
9 there may well be.

10 The second point is that that surveillance was
11 procured by, it appears, bribery of a police officer and
12 the use of connections with Special Branch to secure
13 surveillance effectively at the behest of a private
14 individual in order to survey another private individual
15 for private purposes.

16 Further, that surveillance was then provided to
17 a private individual, so not only did it take place at
18 the behest of that private individual, but it also fell
19 into the hands of another private individual as a result
20 of taking place.

21 In any event, and you will have seen this, I hope,
22 sir, from the more recent correspondence provided to
23 you, even if the issue of financial bribery being used
24 to procure the surveillance was not made aware to
25 Special Branch, then clearly there are issues that arise

1 as to the appropriateness and legality of the
2 surveillance which we know on the documents that CMR was
3 subjected to. Her involvement was with a justice and
4 political campaign which you are aware from the
5 applications, sir, and it appears that she was subject
6 to surveillance purely for that reason, if not also for
7 the financial reasons that I have indicated.

8 In terms of the point that you have made about
9 covert surveillance, clearly CMR was subject to such
10 surveillance as she went about her daily activities and
11 that includes on the street, leaving her home and also
12 attending meetings, and again, those are detailed in the
13 application that you have seen, sir.

14 I don't know whether that addresses the point that
15 you have raised --

16 THE CHAIRMAN: I am afraid it doesn't.

17 MR NICHOLLS: -- but those are the points I would make on
18 motivation and purpose.

19 THE CHAIRMAN: It doesn't because the terms of reference
20 require me to apply the test in section 26 --

21 MR NICHOLLS: Yes, sir.

22 THE CHAIRMAN: -- of the 2000 Act as the definition of
23 undercover policing for the purposes of this Inquiry.

24 MR NICHOLLS: Sir, in response to that, we would say that
25 the evidence that we have, and it is only the tip of the

1 iceberg, we would probably submit, given that we are not
2 aware of the other surveillance that may have taken
3 place, indicates that CMR was subject to covert human
4 surveillance on the streets and at meetings which she
5 was attending and as an organiser, and that is the sort
6 of surveillance which she was subject to which was
7 provided in reports that she has subsequently seen.

8 THE CHAIRMAN: Right.

9 MR NICHOLLS: In those circumstances, we would say that the
10 surveillance to which she was subject falls within that
11 definition that your terms of reference refer to.

12 The second point, if I can turn over to that
13 briefly, sir, is that in our submission, CMR's case
14 raises issues of wider public importance for the
15 following reasons. First, as I have indicated, it
16 indicates that financial motivation may be a key point
17 behind the use of significant and intrusive police
18 surveillance powers. Second, it raises the issue of the
19 connection between such covert policing powers and
20 private companies and individuals, and the ability of
21 such individuals and companies to use those powers for
22 their own ends, if they are able to, through the sorts
23 of means that I have indicated in relation to CMR's
24 case.

25 Third, and you will also have seen, sir, from the

1 application, that CMR's business interests and
2 involvement were connected to the construction industry
3 at relatively high levels. Given the connection between
4 undercover policing operations and the construction
5 industry, particularly with regard to the issue of
6 blacklisting and the time overlap between that issue and
7 CMR's surveillance, there is a concern that those two
8 matters overlap.

9 Third point, sir, is simply the point I have already
10 made about the effect such surveillance has on
11 individuals, and you will have seen from the application
12 of the dramatic effect it has had on CMR, both
13 professionally and personally. I don't intend, for the
14 reasons I have already indicated, to take that any
15 further, but you will have seen that from the documents
16 that we have provided, sir. Unless you I can assist you
17 further, those are the submissions I wish to make.

18 THE CHAIRMAN: Thank you. Mr Roche?

19 Submissions by MR ROCHE

20 MR ROCHE: Thank you, sir.

21 THE CHAIRMAN: Could you just give me a moment, please,
22 Mr Roche.

23 MR ROCHE: Of course.

24 THE CHAIRMAN: Mr Roche, there came, following the
25 application for designation as core participants,

1 an email from the solicitor to the inquest, pointing out
2 an order made by the assistant coroner,
3 Lord Justice Goldring, prohibiting reporting of matters
4 which were discussed at the inquest in the absence of
5 the jury; you are aware of that?

6 MR ROCHE: Yes, I am.

7 THE CHAIRMAN: I have no knowledge what you are going to say
8 to me, but I thought I had better remind you.

9 MR ROCHE: I am grateful for that indication, and I can
10 reassure you first of all that nothing I say will touch
11 upon such matters.

12 THE CHAIRMAN: All right, thank you.

13 MR ROCHE: Secondly, that bearing in mind these proceedings
14 are public, I will exercise caution in any event in what
15 I have to say about the evidence on which I rely.

16 THE CHAIRMAN: Thank you.

17 MR ROCHE: As you will be aware, I represent 77 families and
18 over 150 clients who lost relatives as a result of the
19 Hillsborough disaster. They are all members of the
20 Hillsborough Family Support Group who represent the
21 majority of the 96 bereaved families. They seek to be
22 designated as core participants because of their
23 concerns that some or all of them have been targeted
24 because of their involvement in that campaign for
25 justice.

1 That campaign, over 25 years, was one of the most
2 significant campaigns for political and social justice
3 during the period covered by the Inquiry, and, as I am
4 sure you are aware, it can be said to have posed one of
5 the most significant challenges to the reputation, not
6 only of South Yorkshire Police but of the police as
7 a whole in the country.

8 It is our submission in relation to rule 5 that it
9 would be sufficient for your purposes in determining
10 whether core participant status should be granted to our
11 clients to conclude that they may have been targeted by
12 covert operations, and we say, in all the circumstances,
13 that is a conclusion to which you should come and indeed
14 the probability is that they were subjected to such
15 operations. It is a matter of public record that after
16 the disaster, there was an attempt to smear the fans in
17 general, including those who died.

18 It is also the concern of the families that
19 following that, we know, again as a matter of public
20 record, that there were sufficient concerns among the
21 police to put their case, not only to the Government but
22 to Members of Parliament, and we submit that it is
23 probable that the police went further in terms of
24 activities which are squarely within the compass of this
25 Inquiry. We understand that a number of organisations

1 that have been granted core participant status have
2 provided evidence that they were targeted, both by way
3 of intercepts which would be outside of the scope of the
4 Inquiry, but also by covert activities which are very
5 much within scope, and we express a concern along the
6 lines that I have already indicated that similar
7 patterns not only may but probably did operate in this
8 case.

9 Of course, the very nature of undercover activity
10 means that there is an insufficiency of evidence at this
11 stage about the precise means which were deployed. We
12 submit that the families that we represent fall squarely
13 within the terms of reference, and that the Inquiry
14 should not only investigate whether, and if so for what
15 purpose, police operations took place targeting some or
16 all of our families, but also that it is necessary for
17 our families to be given core status, and we take on
18 board the point you made in the opening about your
19 continued intention to keep matters under review.

20 It is our submission that it is in the interests,
21 both of our families and indeed of the Inquiry, to
22 provide core participant status at this stage. First of
23 all, there may be legal issues arising, and you have
24 identified some of them in paragraph 17 of your opening
25 remarks in relation to immunity to witnesses. There

1 will no doubt be other issues which arise. It is our
2 submission that families should have the right to be
3 heard on those matters which potentially affect them.

4 In terms of the overall running of this Inquiry, we
5 submit that it is also helpful to the Inquiry
6 investigating these matters, and indeed in its
7 operations, for our clients to be legally represented as
8 that will ensure coordination in relation to their
9 participation in the process.

10 For all those reasons, it is our submission that it
11 would be right, on the current evidence, to provide all
12 of our clients with the requisite status.

13 THE CHAIRMAN: Thank you very much, Mr Roche.

14 Do you have any estimate of the remaining length of
15 the inquest?

16 MR ROCHE: The best estimate that I can give you is at the
17 moment it is quite likely that the jury will go out
18 around about February.

19 THE CHAIRMAN: Thank you. Mr Weatherby.

20 Submissions by MR WEATHERBY

21 MR WEATHERBY: Briefly, in addition to Mr Roche's
22 submissions which I echo, I lead the team that
23 represents 22 of the bereaved Hillsborough families and
24 in these proceedings, 26 bereaved family members.

25 THE CHAIRMAN: I am sorry, you dropped your voice at the end

1 of the sentence.

2 MR WEATHERBY: I am sorry, I represent 22 of the
3 Hillsborough families, for these proceedings, 26 of the
4 bereaved family members.

5 THE CHAIRMAN: I see.

6 MR WEATHERBY: Plus the Hillsborough Justice Campaign, plus
7 two of the campaigners involved with the
8 Hillsborough Justice Campaign. Can I pick up the matter
9 that you adverted to at the start of Mr Roche's
10 submissions, that in fact this is Day 244 of the
11 Hillsborough inquests. They are very long indeed,
12 proceedings, and it is most important, if I may say this
13 through the proceedings today, that any reporting that
14 is made of the matters pertaining to Hillsborough is
15 done in a responsible manner, so that not only the order
16 but the spirit of the order made by the learned coroner
17 and the guidance on such reporting does not risk doing
18 any damage to those proceedings.

19 THE CHAIRMAN: So far I have heard nothing so controversial
20 that it should not be in the public domain.

21 MR WEATHERBY: Indeed, and we would not submit that there
22 should be any further reporting restriction, but I will
23 be limited in respect of the matters to which I publicly
24 refer here.

25 The importance of the involvement of participants

1 such as the Hillsborough families is that they are of
2 course a cohort of citizens who are defined only by
3 their status as victims. I say only; in fact they are
4 victims and some of them are also social justice
5 campaigners, but we say that is an important issue for
6 the second of the reasons which we say it is important
7 that they get core participant status, and I will come
8 on to that in a moment.

9 We have provided in our written submissions some,
10 albeit limited, summaries of supporting evidence from
11 some of our applicants. It is, we accept, to
12 a significant degree anecdotal evidence, not wholly
13 anecdotal but to some significant degree; but it is not
14 simply the evidence that we advance, it is the context
15 of Hillsborough; it is the fact, as Mr Roche has
16 adverted to that following the disaster, the families
17 have always contended and maintain their contention,
18 there was a hiding of the truth of what happened at
19 Hillsborough and a concerted campaign to shift
20 responsibility away from the police in particular, but
21 also other state entities.

22 There then followed a historical list of inquiries,
23 the original inquests, the scrutiny and various other
24 stages, and therefore the context of what has happened
25 in Hillsborough since the tragedy itself, we would say

1 is precisely the context for which undercover policing
2 would have been or is likely to have been deployed in
3 order to deal with the assertions and the allegations
4 that were being made by the families within those
5 proceedings, and so it's that which we say is of
6 particular importance.

7 The two matters which we seek to advance in
8 particular through this Inquiry are, firstly, that the
9 families should have an answer to the question
10 definitively whether they were subjected to undercover
11 covert policing, because we say that, given their status
12 as victims, there could be no proper basis for that. Of
13 course, if there was undercover policing without any
14 proper basis, then they would have a significant
15 interest in the matters to which the Inquiry relates.
16 But even if it were to transpire that that was not the
17 case, then we say that there is a transparency issue
18 here, and that the fact that the Neither Confirm Nor Deny policy,
which has
19 been asserted against them in terms of the inquiries
20 about undercover covert policing and other matters, we
21 say that is an important issue that ought to be
22 addressed through this Inquiry, because it is not only
23 a matter of acute interest to the families themselves,
24 but of course a matter of acute public interest, and
25 therefore we say that the Hillsborough families have

1 such a significant part to play in the matters which are
2 within scope in these proceedings --

3 THE CHAIRMAN: Mr Weatherby, are you submitting that the
4 Inquiry should examine the propriety of the policy
5 itself or its application in individual cases?

6 MR WEATHERBY: I would submit both.

7 THE CHAIRMAN: All right.

8 MR WEATHERBY: In my submission, the scope of these
9 proceedings is such that it would cover the governance
10 of undercover policing, and beyond that, we would say
11 the transparency for groups which could not, we would
12 say, properly be subject to such measures, and therefore
13 that is an important matter that we say should be
14 addressed.

15 THE CHAIRMAN: Thank you. We have one shorthand writer in
16 court who is working very hard and I think he probably
17 needs a break. So we will say 10 minutes.

18 (11.50 am)

19 (A short adjournment)

20 (12.04 pm)

21 THE CHAIRMAN: Mr Robertson, is it, next?

22 MR BARR: Before Mr Robertson addresses you, I have been
23 asked by Mr Nicholls if he might very briefly supplement
24 the submission that he has already made.

25 THE CHAIRMAN: Do I find Mr Nicholls on the list?

1 MR BARR: Yes, he is representing CMR.

2 THE CHAIRMAN: Right, yes, of course.

3 MR NICHOLLS: Sir.

4 THE CHAIRMAN: Second thoughts, Mr Nicholls?

5 Further submissions by MR NICHOLLS

6 MR NICHOLLS: I will take no more than two minutes of your
7 time, sir, simply to address the point that you raised
8 with me in relation to the covert RIPA issue, the
9 definitional issue. Can I ask you briefly, sir, as to
10 an evidence point, to turn to the back of the witness
11 statement provided with the application. There is one
12 document that I think might address the point that you
13 have raised which I did not address specifically.

14 THE CHAIRMAN: Just give me a minute.

15 MR NICHOLLS: It was a witness statement dated 2 July 2014
16 and two exhibits behind it, sir.

17 THE CHAIRMAN: Yes, I have it. Which paragraph do you want
18 me to look at?

19 MR NICHOLLS: It is the second exhibit, sir, so at the back
20 of the witness statement, there is an exhibit CM1 and
21 then a CM2 and it is the CM2 exhibit.

22 THE CHAIRMAN: Yes.

23 MR BARR: Just to give the context, this a report dated
24 13 June 2006 that was sent to CMR's half brother who
25 I have already referred to, who procured the

1 surveillance, and it is one day after a meeting has
2 taken place of one of the campaign organisations, the
3 justice campaigns that CMR was involved with. So it is
4 sent the day afterwards. I just wanted to draw your
5 attention, sir, to a number of entries, 1900 hours,
6 1940 hours and 2120 hours, so bottom of the first page
7 and on to the top of the second.

8 That is a meeting at which an uniformed officer
9 clearly would not have been permitted to attend. Those
10 are the instructions that I have and you can see the
11 reasons for that and the type of meeting that it is.
12 An officer is clearly present at that meeting recording
13 the details of the topics discussed and the people who
14 are present, including CMR, and the matters that CMR is
15 raising at that meeting, as well as her arrival and
16 departure times from the location of that political
17 justice campaign meeting. I raise that in response to
18 the points you raised, sir. Thank you very much for the
19 time, sir.

20 THE CHAIRMAN: Thank you. Thank you, Mr Robertson.

21 Submissions by MR ROBERTSON

22 MR ROBERTSON: Thank you, sir. You have our submission, and
23 trade the Trades Union Congress is the umbrella body for all the major
24 unions within the UK and there is certainly significant
25 evidence that undercover police were involved in covert

1 surveillance of trade unions. We know from two of the
2 police undercover officers that they have claimed to
3 have infiltrated a number of unions, they have named
4 five of these, plus they have said unions within
5 construction, so there is likely to be considerably more
6 over the years.

7 What we don't know is the extent of that
8 surveillance or what they did with that information and
9 we hope that will come out in the Inquiry. We do,
10 however, know that in addition to that, the police met
11 with a body called The Consulting Association which was
12 an organisation that provided information to employers
13 within the construction industry and which led to the
14 blacklisting of a considerable number of people because
15 of their trade union activities, often in health and
16 safety, and we believe it is extremely likely that they
17 gained information which was then made available to
18 employers through The Consulting Association.

19 We certainly are hoping the Inquiry will look at
20 whether information obtained through covert information
21 was actually given directly to employers, to employers'
22 organisations or to government departments which related
23 to the lawful activities of trade unions, in particular
24 during pay disputes, and there have been a number of
25 allegations made on that and evidence has been submitted

1 by other bodies on that.

2 We would like to know obviously how widespread it
3 is.

4 Now, I would stress that there are limitations to
5 what information can be provided, simply because of the
6 very nature of covert surveillance, and we are more
7 concerned, I think, with trying to ensure, by seeking
8 core participant status, that we can seek to help the
9 Inquiry ask the right questions of the right people.

10 Now, in terms of the role and its relation to the
11 core participant status, what we don't want to do is
12 replicate the position of the trade unions who have been
13 granted core status, such as the Fire Brigades Union and
14 the constructions union, the Union of Construction, Allied Trades
and Technicians, or of the Blacklisting

15 Support Group who again have provided quite detailed
16 information and we welcome their status. In addition we
17 understand the National Union of Journalists have
18 an application for status and you will be hearing from
19 their representative later and we strongly support that.
20 But what we want to do is act as a conduit for the 50
21 trade unions who don't have that status, but they could
22 be named by undercover officers during the Inquiry, or
23 could wish to comment on the evidence as it appears.

24 So in summary, trade unions unwillingly did have
25 a direct significant role in covert police surveillance,

1 and, because of information that is likely to come to
2 the Inquiry of the nature of these operations, and
3 particularly in relation to their activities in relation
4 to disputes, pay et cetera, it could be they are named
5 and face criticism and we believe that the Trades Union Congress
will be
6 able to act as a conduit for them during the Inquiry.

7 THE CHAIRMAN: Thank you very much, Mr Robertson.

8 The application was made under the signature of
9 Ms O'Grady. Could you just tell me for the record what
10 your position within the Trades Union Congress is.

11 MR ROBERTSON: Yes, I am the senior policy officer.

12 THE CHAIRMAN: Thank you very much. Mr Schwarz.

13 MR BARR: I think first it is Ms Lancet.

14 THE CHAIRMAN: Quite right. Ms Lancet? Thank you. Let me
15 just turn up your application, if I may.

16 Yes.

17 Submissions by MS LANCET

18 MS LANCET: I am here to make further submissions to my
19 application for core participation. In respect of rule
20 5, the criteria of role and interest kind of merge and
21 overlap a bit, so if you can guide me, if you need ...
22 but in respect of role, I was a member of the
23 Colin Roach Centre, which was a community-based
24 political organisation and police monitoring
25 organisation in the 1990s --

1 THE CHAIRMAN: Monitoring what?

2 MS LANCET: Police.

3 THE CHAIRMAN: Do you mean in general or at specific events?

4 MS LANCETT: It was a police monitoring -- it was, it came
5 out of the Hackney Community Defence Association and
6 worked with the loved ones of people who had died in
7 police custody, and I was a member of the centre when
8 Mark Jenner became a member, infiltrated the
9 organisation and led to its break-up. Many people will
10 be aware of the court case successfully brought by eight
11 women against Mark Jenner and other police officers.
12 One of the women is known in the public domain as
13 Alison, and why I say the role and interest criteria
14 merge is that I have been very close friends with Alison
15 since I was 14 years old. So I was in and out of the
16 lives of Mark Jenner and Alison for the five years they
17 were living together, when he disappeared and during the
18 period that Alison was researching his disappearance,
19 and discovered that in fact he was an undercover police
20 officer and had his own family and deceiving her, us,
21 everybody he was involved with, about his true identity.

22 In the 1990s when I was a member of the
23 Colin Roach Centre, I was a political activist. I was
24 a member of the National Union of Teachers, I was involved in
25 Action and other community political activities. So my

Anti-Fascist

1 interest in the Inquiry is manifold. I obviously have
2 many, many questions about the justification of
3 Mark Jenner's deployment, but I also want to know
4 whether, when he was asking me how my week had gone or
5 if, how a meeting that I had been to had gone, whether
6 he was gathering information on me. In respect of the
7 criterion of criticism, I am not clear what I need to
8 say, really. And I will be guided.

9 THE CHAIRMAN: We can all be criticised about something in
10 our lives, can't we.

11 MS LANCET: Yes. If it is a matter of me being smeared in
12 any way --

13 THE CHAIRMAN: You would want to answer it.

14 MS LANCET: I would.

15 THE CHAIRMAN: Of course, yes. Anything else?

16 MS LANCET: Unless I can assist you.

17 THE CHAIRMAN: No, thank you. Thank you very much.

18 Mr Schwarz now.

19 Submissions by MR SCHWARZ

20 MR SCHWARZ: Thank you, sir. I am making representations on
21 behalf of two separate sets of applicants, and I will be
22 about five minutes, perhaps a little bit longer, sir.

23 The first one is the Stop Huntington Animal Cruelty case: that is
the campaign

24 against Huntingdon Life Sciences. There were two
25 applicants there and I am going to call them A, that is

1 the female and B, the male.

2 I think, sir, you have the original application on
3 behalf of seven applicants. That is supported by
4 an edited case summary in the case of Debbie Vincent,
5 and a couple of days ago I submitted, and I think you
6 have the European Arrest Warrants for A and B.

7 THE CHAIRMAN: I do.

8 MR SCHWARZ: I will not go over those, sir.

9 THE CHAIRMAN: Mr Schwarz, it may help you to know that my
10 concern is that being a core participant in this Inquiry
11 is inconsistent with presence abroad and no intention to
12 return.

13 MR SCHWARZ: The way I put it, sir, is that yes,
14 an extradition request has been made, and that has been
15 challenged and there is a right to challenge that.

16 THE CHAIRMAN: Of course.

17 MR SCHWARZ: If the Inquiry were minded to grant core
18 participant status, these applicants could engage
19 through legal representatives, so in my submission there
20 is no inconsistency with being abroad physically while
21 represented in relation to events in England and Wales.

22 THE CHAIRMAN: Secondly, there are ongoing criminal
23 proceedings, of which the extradition request was the
24 first step.

25 MR SCHWARZ: Yes, and as -- I was just trying to work out

1 which of the factors that distinguished these two
2 applicants and the others may have been on your mind.

3 With respect, I don't think there is an obstacle in
4 being a core participant by being abroad, you would be
5 subject to extradition proceedings; if one is worried,
6 for example, about a trial if there were to be one in
7 England and Wales, that could be dealt with by
8 anonymity, and put another way, in my submission, there
9 is nothing in the rules that can expressly or implicitly
10 prevent someone who is awaiting trial, albeit through
11 pending extradition case from being core participants.

12 THE CHAIRMAN: All right.

13 MR SCHWARZ: It has been very helpful, you have identified
14 the concern that you have. Shall I stick to the script
15 I had in mind, and if I am pushing at an open door,
16 perhaps you can speed me up.

17 THE CHAIRMAN: Don't assume that.

18 MR SCHWARZ: Sorry?

19 THE CHAIRMAN: Don't assume that.

20 MR SCHWARZ: The background as we know is that five of these
21 applicants have already been granted core participant
22 status, so as I said, I was trying to work out what
23 distinguishes these two applicants. Trials 1, 2 and 3,
24 if I can call them that, have been dealt with and these
25 two may be subject to trial 4. Their position is very

1 similar, if not identical for these purposes to those
2 three applicants -- the applicants in those three other
3 trials.

4 The first, as is set out in the application, is that
5 they were subject to multiple known activity by covert human
intelligence sources,

6 at least three undercover police officers and one
7 non-police officer perhaps working within business.

8 The second point is that the allegations and the
9 evidence seems to be very, very similar. It relates to
10 a conspiracy between 2001 and 2011. I hope you are
11 helped by seeing a case summary for Debbie Vincent on
12 the one hand and the contents of the arrest warrant on
13 the other.

14 The third point, which perhaps may be the most
15 important, is that clearly the police operation which
16 led to these arrests, prosecutions, trials, has been
17 overseen and initiated by the then Prime Minister,
18 Tony Blair. I think you have got at paragraph 9 of my
19 submissions the reference to that policy document
20 adopted by Tony Blair, the Attorney General, and the
21 then DTI, and some relevant extracts which shows how the
22 protection of the biotech industry was being
23 substantiated by the network of undercover police
24 through the National Extremism Tactical Co-ordination Unit and so
on. That in my submission is
25 perhaps the most important point in these applications.

1 So, what are the distinctions? The first one is the
2 pending possible trial and extradition and I think, sir,
3 I have addressed you on that. The second is potential
4 confidentiality and I think the anonymity can deal with
5 that. The third point is really that there is no
6 distinction between the allegations and evidence against
7 the core participants who were involved in trials 1, 2
8 and 3, on the one hand, and these two applicants -- and
9 I don't propose, unless you wish me to do so, to take
10 you through the case summary against Debbie Vincent or
11 the European Arrest Warrant, save to refer you to two
12 sections of the European Arrest Warrant which might
13 assist you to see the parallels in this case and the
14 others. It is from the arrest warrant for applicant A,
15 the woman and it is at pages 11 and 12.

16 There are just two lines I was proposing to read out
17 to you, sir.

18 THE CHAIRMAN: Did you say page 11?

19 MR SCHWARZ: Page 11, yes, and 12 of the arrest warrant for
20 applicant A, the woman.

21 THE CHAIRMAN: Right.

22 MR SCHWARZ: Halfway down the page, where the requesting
23 authorities set out the case against applicant A, they
24 say this:

25 "Part of the evidence is ... evidence of close

1 association by personal contact, telephone and email
2 with Debbie Anne Vincent who represents SHAC in the UK
3 and is a suspected co-conspirator. Her involvement is
4 described below~..."

5 As I have said, sir, she has been granted core
6 participant status and the evidence against her was and
7 the proposed evidence against these two applicants
8 appears to be very similar. That is the first reference
9 I refer you to, sir.

10 THE CHAIRMAN: Yes.

11 MR SCHWARZ: The second is on page 12 towards the bottom,
12 the paragraph beginning:

13 "Between 19 August 2009 and 30 January 2010~..."

14 The final sentence of that paragraph reads as
15 follows:

16 "Debbie Vincent subsequently had a series of
17 meetings with Novartis intended to persuade them to drop
18 HLS~..." and so on.

19 I mention that paragraph because it clearly shows
20 that the meetings between Debbie Vincent and
21 representatives or apparent representatives of Novartis
22 is central to the case against these defendants, and as
23 we know from the submissions, it is those meetings which
24 involved someone known as James Adams, if I can mention
25 that name, I think it is a matter of public record, who

1 it transpires was an undercover police officer.

2 THE CHAIRMAN: Yes.

3 MR SCHWARZ: So both in terms of the substance of the
4 allegations and the evidence, in my submission there is
5 no significant difference between these two applicants'
6 case and those of the five granted, particularly
7 Debbie Vincent and in terms of the centrality of the
8 role of an undercover police officer, we have it from
9 that page 12, that we have an undercover police officer
10 central to their case.

11 So, just turning to the terms of reference, and
12 forgive me for telling you what you have read many times
13 before, but the limbs of the terms of reference I rely
14 on are paragraph 1 (iii), and I referred to that earlier:
15 the state of awareness of undercover police operations
16 of Her Majesty's government. That is why I repeat, if
17 you let me, the point that this is a perhaps unique case
18 where the Prime Minister at the time authorised and
19 approved the police operation which led to these cases.

20 Second, there is paragraph 1 (iv) (a) to do with the
21 governance and oversight of undercover policing, and
22 I have named in the application the three, four
23 undercover police involved in this case.

24 Then there is paragraph 1 (v): the adequacy of the
25 statutory policy and judicial regulation of undercover

1 policing. That ties in with the point about
2 miscarriages of justice. While these two applicants
3 haven't stood trial and therefore thankfully are not
4 subject to miscarriage of justice, the others have been
5 convicted and there are issues, as I have set out in the
6 application, about whether there is proper disclosure.
7 So there are issues to do with the Criminal Procedure
8 and Investigations Act relevant in all seven
9 applications, and nothing in my submission to
10 distinguish these two applicants from those others.

11 That is what I have to say about that application,
12 unless I can help you further.

13 THE CHAIRMAN: Thank you.

14 MR SCHWARZ: The second, separate, application is the
15 application which I am calling the Good Easter Hunt Sab
16 case, and I think, sir, you have the application
17 originally submitted that attached the Crown Prosecution Service
letter of
18 11 June 1996, to do with non-disclosure of sensitive
19 material in that case.

20 A couple of minutes ago --

21 THE CHAIRMAN: Would you just give me a moment, please,
22 Mr Schwarz. Sorry to interrupt you.

23 MR SCHWARZ: Of course, sir, yes.

24 THE CHAIRMAN: What I have is a typed witness statement
25 unsigned.

1 MR SCHWARZ: Yes.

2 THE CHAIRMAN: And some photographs.

3 MR SCHWARZ: Yes, that was the material which supplements
4 what the original application consisted of and I was
5 going to refer you to those as well. So altogether you
6 should have four documents, the original application for
7 these five applicants, the Crown Prosecution Service letter of 11

June and

8 submitted I think a couple of days ago, yes, the
9 unsigned statement by the person known as Jim Sutton --

10 THE CHAIRMAN: Yes, I have them.

11 MR SCHWARZ: And the photographs.

12 THE CHAIRMAN: I have them.

13 MR SCHWARZ: I am sure you have read them and I will try not
14 to repeat what is there.

15 To remind myself as much as anyone, this application
16 is by Simon Taylor who was a defendant in the first
17 trial in 1997. He also brought civil proceedings, he
18 sued the police and he was awarded damages.

19 Then there is Ben Leamy who is known as Mark Morgan
20 during these proceedings, who I think has been granted
21 core participant status as a result of another case. He
22 was also the defendant in the first trial. He also sued
23 and received damages. Then there was Brendan Delaney
24 who was arrested during the same incident, I think I am
25 right in saying he was not prosecuted, also sued and was

1 awarded damages. All through a settlement as opposed to
2 trial.

3 The fourth applicant is Brendan Mee who was
4 a defendant in the second trial, having been stopped in
5 the same police operation but in a different van. There
6 was **GRD** who was a witness or a proposed witness to
7 the incident involving Brendan Mee. So those are the
8 applicants.

9 As I set out in the application, this relates to
10 an incident on 10 February 1996.

11 THE CHAIRMAN: Did any of the civil actions go to trial?

12 MR SCHWARZ: No, they were all settled and as I set out in
13 the application, one of the issues is --

14 THE CHAIRMAN: At what stage were they settled?

15 MR SCHWARZ: Forgive me both my lack of knowledge of civil
16 procedure and the detail of this case, but I think there
17 was an offer made by the police, and that was accepted
18 and I think I have set out the level of damages, between
19 £5,000 and £10,000. As I said in the application, one
20 of the issues I think this case raises is the speed with
21 which civil proceedings could have been settled had the
22 true identity of Jim Sutton been known, and also the
23 level of damages awarded as well as the costs --

24 THE CHAIRMAN: Did you handle the civil proceedings or not?

25 MR SCHWARZ: A colleague of mine did, and I have some of the

1 papers, and in the time and resources available, I have
2 done my best to put forward what I think is accurate
3 information about those civil proceedings.

4 THE CHAIRMAN: Do you have any way of knowing whether a Public
Interest Immunity

5 application was made in the course of those proceedings?

6 MR SCHWARZ: In the civil proceedings, no, I don't. All
7 I can say is on the lists of documents which accompany
8 the civil proceedings, Jim Sutton's identity as
9 an undercover police officer does not appear to have
10 been made known to anyone, and I am sure we would have
11 heard about it had that had been known, and I am not
12 even sure there is any reference to him in the list of
13 documents, even in the non-sensitive schedule.

14 THE CHAIRMAN: Do you know whether it was an averment in the
15 particulars of claim?

16 MR SCHWARZ: I don't know and I don't know if I can check
17 that, but I am as confident as I can be that
18 Jim Sutton's true identity as an undercover police
19 officer was not known to either these applicants or to
20 the legal team from Bindmans until his true identity was
21 disclosed a couple of years ago.

22 THE CHAIRMAN: It looks as though a Public Interest Immunity
application was made

23 in the criminal proceedings.

24 MS LANCET: That is my point, sir, in respect of the
25 criminal proceedings, that we don't know, and we don't

1 know what effect that had in the criminal case, and we
2 don't know whether that was carried over to the way the
3 civil proceedings were conducted or settled by the
4 police. The point is that both in the criminal
5 proceedings and in the civil proceedings, the applicant
6 and their lawyers were oblivious to his true identity.

7 If I can develop that point, sir --

8 THE CHAIRMAN: Could you just give me a moment.

9 I am looking at paragraph 19 of your written
10 application --

11 MR SCHWARZ: Yes.

12 THE CHAIRMAN: -- in which you draw attention to the
13 relevant part of the Crown Prosecution Service letter.

14 MR SCHWARZ: Yes.

15 THE CHAIRMAN: I understood you to say you were unaware of
16 the Public Interest Immunity application, but isn't this what they
are giving
17 you notice of?

18 MR SCHWARZ: I think what I meant to say is I was unaware of
19 the content of the application, what the Crown sought to
20 withhold from the defence, or therefore the fact, if it
21 is a fact, that Jim Sutton is an undercover police
22 officer and/or that he played a role in the events in
23 1996.

24 THE CHAIRMAN: All right, thank you.

25 MR SCHWARZ: Picking up on that point, I have mentioned

1 before the link between this case and that of
2 John Jordan, and I am sure you are aware or familiar
3 with that, having granted Mr Jordan core participant
4 status.

5 In a nutshell, and I will not repeat the detail, in
6 the Jordan case, through the appeal that has taken place
7 over the last two, three, four years, the police and
8 Crown Prosecution Service's position has been that the team
conducting the
9 criminal proceedings were unaware that Jim Sutton was
10 an undercover police officer or that -- or the role that
11 he played in that case, at the time of the litigation
12 which was in 1997.

13 That sits uncomfortably in my submission, with the
14 suggestion that the police and Crown Prosecution Service team in
the
15 Good Easter case may have been aware of his identity
16 through the sensitive material application which you
17 refer to. My understanding is that the Crown Prosecution Service
who have
18 looked at the Jordan case have not been able to verify
19 that the subject matter in the Good Easter case was
20 indeed about Jim Sutton's true identity. Indeed, there
21 is a suggestion that their position is that it had
22 nothing to do with it and this obviously raises concerns
23 for these applicants.

24 If the police and the legal team in the Good Easter
25 case were aware of his true identity, which the Public Interest
Immunity

1 application suggests they might have been, and that case
2 took place before the Jordan litigation, the Jordan
3 trial, why were the Jordan Crown Prosecution Service team not
aware of that?
4 Put another way, if the criminal Crown Prosecution Service police
team in the
5 Good Easter case were not aware of that, which seems to
6 be the police's position, then there seems to be
7 a blanket, because there are two cases, system, whereby
8 the Crown Prosecution Service in police prosecuting cases are not
made aware
9 of the true identity or activities of undercover police
10 in criminal litigation, so either way there is very real
11 concern in this very concrete example about the
12 disclosure, or otherwise, both in criminal proceedings
13 and in civil litigation of the identity, role and
14 activities of undercover police.

15 The reason I passed on a couple of days ago this
16 statement which a colleague of mine took in a criminal
17 case in 1996/1997 of Jim Sutton, and those photographs,
18 is to illustrate the point that Jim Sutton was
19 absolutely central to the events in 1996. I will not
20 repeat what is in the statement but he describes the
21 incident involving Simon Taylor, Ben Leamy and Brendan
22 Delaney, is extremely critical, if I can put it in those
23 anodyne terms, of the police, and this is obviously with
24 his identity of a cleaner in mind, that is his given
25 occupation and the photographs speak for themselves. He

1 is, let me put it this way, physically confronting
2 uniformed officers during these interviews.

3 THE CHAIRMAN: You said this was a statement made to your
4 predecessor, or your colleague at any rate?

5 MR SCHWARZ: My colleague -- I had (Inaudible) to the case
6 but a colleague of mine took the statement, sir, and it
7 dates from 1996, 97.

8 THE CHAIRMAN: Was that statement disclosed to or served on
9 the defendant in the civil proceedings?

10 MR SCHWARZ: I don't think it was, sir. I think there was,
11 from what I can piece together, there was discussion
12 about whether to rely on Jim Sutton as a potential
13 witness, as there was in the criminal case, but it never
14 came to that because the case was settled. That is my
15 understanding but you will appreciate 20-odd years later
16 it is difficult to be absolutely accurate.

17 THE CHAIRMAN: Right.

18 MR SCHWARZ: So those pictures and that statement show how
19 central, in my submission, Jim Sutton was to the
20 incident where there was a demonstration and the
21 Hunt Sab and therefore, in human rights language,
22 Articles 10 and 11 were engaged, to the arrest and
23 detention of those four people, Taylor, Leamy, Delaney
24 Taylor and Mee, who were detained at the police station
25 for several hours, for the prosecution of three of

1 them -- Taylor, Leamy and Mee, for the disclosure or
2 non-disclosure, however you want to see it -- and the
3 police cannot win in this respect -- of information
4 about the activities and identity of an undercover
5 police officer and the effect that that would have on
6 the fairness of a trial.

7 We are all aware of the Lord Chief Justice's
8 comments, both in the Barkshire case and the Bard case
9 about how the completely undermining of a fair trial
10 non-disclosure in criminal cases can be and then carry
11 forward the civil proceedings, the speed with which
12 those would be settled, the quantum of the settlement,
13 the legal costs incurred as well as the damage to the
14 fabric of the civil litigation system caused by the
15 undisclosed activities, or apparently undisclosed
16 activities, of an undercover police officer.

17 Turning to the terms of reference, they speak for
18 themselves but for my benefit as much as anyone's,
19 paragraph 1 (iv), the adequacy of the authorisation,
20 operation, governance and oversight of undercover
21 policing. In real terms, that means were Jim Sutton's
22 supervisors made known of his activities in August, was
23 that information relayed through any system, procedures
24 or even ad hoc to those prosecuting both these
25 applicants and indeed the Jordan prosecutors?

1 Then there is paragraph 1 (v), the adequacy of the
2 statutory policy and judicial regulation. That is, in
3 my way of describing it, a similar point, which is to do
4 with the then disclosure regime in the criminal and
5 civil proceedings.

6 So those are my points. This is a very concrete
7 case of an undercover police officer playing a central
8 role in several key stages of the demonstration and
9 prosecution and consequent legal proceedings and, in my
10 submission, there is an overwhelming case for them, like
11 Mr Jordan and others, to be granted core participant
12 status.

13 THE CHAIRMAN: All right. Thank you.

14 MR SCHWARZ: Thank you, sir.

15 THE CHAIRMAN: Mr Barr.

16 MR BARR: Mr Carey is next.

17 THE CHAIRMAN: Mr Carey.

18 Submissions by MR CAREY

19 MR SCHWARZ: Thank you, sir. I intend to be brief. I would
20 like to renew the applications for two families whose
21 children died in the 1970s --

22 THE CHAIRMAN: Can I put you right about something. It is
23 not a renewed application. There has been no grant,
24 that is all.

25 MR SCHWARZ: Okay. I would like to address you, sir, on

1 behalf of the two families who seek a grant of
2 core participant status. Their children died in the
3 1970s. Their concern is that their children's
4 identities were appropriated and used by undercover
5 police officers.

6 The father of one of the dead boys is in the public
7 gallery today and, if the Inquiry wishes to hear in any
8 way about the impact on him about the death of his child
9 and the frustration he has found in trying to ascertain
10 whether or not the dead child's identity was
11 appropriated by the police, he can address the court on
12 that point. His child, Benjamin, died in 1974, a week
13 after his birth.

14 The other family I represent, who are not in court
15 today, their son died in 1971. He was 16 months old and
16 was run over on a zebra crossing.

17 The issue of their identities has come up in the
18 Home Affairs Select Committee and in the first Herne
19 report. What the report establishes is that, using the
20 identities of dead children was a standard practice,
21 certainly for the Special Demonstrations Squad. It
22 establishes that, between 42 and 61 false identities
23 were created in this way. It also is very clear that
24 the practice was completely unnecessary and potentially
25 criminal.

1 There are six criminal offences that are referred to
2 in the first Herne report as potentially engaged by the
3 practice. This practice has caused a great deal of
4 a public disquiet. The chair for the Home Affairs
5 Select Committee described it as "ghoulish and
6 disrespectful" and the Herne report itself describes it
7 as "morally repugnant". Herne was contacted in 2013 by 14
8 families who were concerned that their dead children's
9 details were used in this way. Many of the contacts
10 were done by MPs. The police response to the inquiries
11 has been to apologise generally for the practice.

12 They have raised the principle of Neither Confirm Nor Deny and
they have
13 declined to let the families know whether or not any of
14 them were directly affected by this practice.

15 If the details of my client's families were used in
16 this way, then the submission is that they should
17 qualify or should be properly considered for core
18 participant status under rule 5.

19 One of my clients where there has been public
20 disclosure confirming inadvertently that a police
21 officer did use the details of her dead child has been
22 granted core participant status. The submission is that
23 these families should not be rejected from core
24 participant status as a result of a lack of knowledge
25 due to the application of Neither Confirm Nor Deny. The
submission is that

to any

1 the issue of Neither Confirm Nor Deny should be determined prior
2 decision about core participant status.

by the

3 Earlier you raised the issue as to whether or not
4 the broad policy of Neither Confirm Nor Deny should be considered
5 Inquiry or just as it specifically applies to
6 an individual's case, and I think Mr Weatherby addressed
7 you on that point and I would adopt his submissions
8 there.

9 Unless there is anything else, that is all I have to
10 say.

11 THE CHAIRMAN: No, thank you very much. Who is next?

12 MR BARR: Mr Friedman, sir.

13 Submissions by MR FRIEDMAN

14 MR FRIEDMAN: I have seven cases to raise with you that fall
15 into three categories.

16 THE CHAIRMAN: This is going to take us beyond 1.00, isn't
17 it.

18 MR FRIEDMAN: I would like to try and aim for 1.00. It may
19 or may not be. The first is the largest category which
20 is family and justice community campaigns. I will be
21 around 15 minutes.

22 THE CHAIRMAN: We will break at 1.00 or very shortly
23 afterwards. Anybody who would like to have a longer
24 lunchtime, because we will resume at 2.00, can leave
25 now. No? Good. Carry on, Mr Friedman, you have an

1 audience.

2 MR FRIEDMAN: There are three submissions which you should
3 have in your papers. The first that I will call the
4 Bhatt Murphy submissions, if I may, after the solicitors
5 that wrote them, is number 1, family justice and
6 community campaigns and you have an appendix with it
7 that deals with the individual applicants.

8 THE CHAIRMAN: Yes, I do.

9 MR FRIEDMAN: I want to then deal in that category with
10 Deborah Coles of INQUEST, Ken Fero of United Friends and
11 Family Campaign and Mr Stafford Scott for the Broadwater
12 Farm Defence Campaign and in his own right. Following
13 on from your opening remarks from this morning, I would
14 like to mention the cases of Alastair Morgan from the
15 Daniel Morgan Panel Inquiry, and Stephanie
16 Lightfoot-Bennett, as it relates to the death of Leon
17 Patterson, but it is in the spirit of what you said this
18 morning.

19 I will go on to deal with Bhatt Murphy submission 2,
20 which is National Union of Journalists, and the general
21 secretary's application, and then submission number 3 is
22 for the Legal Defence & Monitoring Group, Mr Anthony
23 Martin.

24 Just from the point of the applications I am now
25 making, we have some provisional positive indications,

1 especially from Bhatt Murphy's submission 1 and the
2 family and community justice campaigns. Several of
3 those cases in the appendix, we have had those positive
4 indications. That is of some importance in how we are
5 approaching our submissions on behalf of the ones where
6 we still need to persuade and elaborate, and that is
7 this. The ones that have been provisionally successful
8 have a common denominator sir, which is they were able
9 to point you to evidence, either from official
10 notification, by which I mean shorthand for Mr Herne's
11 investigations or the Metropolitan Police, or published,
12 and I emphasise that, allegations attributed to
13 Peter Francis, so that was the common denominator of the
14 successes so far.

15 On that, we just want to draw to your attention in
16 a generic way that applicants can be very closely
17 associated with those who have had that type of formal
18 or published notification, but have not themselves had
19 it. And that is a core submission I make for all of the
20 applications I raise with you today.

21 Secondly, there are instances of informal
22 notification, and you have before you from last night,
23 after a careful process, I apologise it came only last
24 night, but an instance of informal notification as it
25 relates to Mr Stafford Scott's application.

1 Thirdly, we have the observation of Mr Mark Ellison
2 QC from his investigations as published that not every
3 deployment of an undercover officer and/or his or her
4 intelligence product was written down. So if one takes
5 as an example the formal notifications arising out of
6 the Herne inquiries, they are of a later period in your
7 terms of reference studies, in the later 1990s
8 predominantly.

9 Fourth point, and it may be it applies to everyone
10 before you this morning, but certainly in relation to
11 our family justice community campaigns, applicants do
12 not know what they do not know. Even if they strongly
13 suspect, and you have had good examples already this
14 morning about why people are in such a strong position
15 to suspect, but human rights is not silent on that
16 particular situation, because there is a particular
17 chilling effect in having very reasonable grounds to
18 suspect and not knowing and there is bound to be, and
19 I have some today, who fall into that category and there
20 are bound to be others.

21 Then this, and this comes from your observation this
22 morning, everyone will welcome your observation this
23 morning because the door is not closed and things are
24 going to be kept under review. I am obviously grateful
25 for that, but there is a practicality with that, and

1 I am speaking on behalf of some core participants who
2 have had a positive indication to date, without
3 presuming, let us go forward, there will be legal
4 representatives of some kind attached to those core
5 participants. But there will be undertakings and there
6 will be no doubt and should be no doubt very careful
7 management about disclosure to those who have core
8 participant status, such that they and their
9 representatives, even if they were to see something
10 relevant to a provisionally failed or a not shut out
11 applicant, they would have to come back to the Inquiry
12 and sometimes it would not be easily appreciable and the
13 like, and I think as others have said today, one is also
14 looking for the capacity in core participant status to
15 impact on both the scope of your searches as an Inquiry
16 and also to guide you about what you don't know about as
17 a result of the product.

18 So whilst one welcomes the door not being closed,
19 there are some practicalities in people who don't have
20 the status being able to appreciate whether there are
21 new circumstances on which they can come back to you on.

22 Can I then just deal with, firstly under that Bhatt
23 Murphy submission number 1 that you have, there was
24 a core submission with appendices, and just in the core
25 submission, on the social and the family justice and

1 community campaigns, if I ask you to think about the two
2 organisations, INQUEST and United Friends and Family
3 Campaign, what we have from your provisional decisions
4 already is an interest to investigate how undercover
5 officers infiltrated those types of campaigns across the
6 generation you will be looking at. What we have in
7 INQUEST as an organisation, from the early 1980s
8 onwards, and then the United Friends and Family Campaign
9 from the 1990s onwards, and 1993 being George Gardner's
10 death, and Ms Simpson and her lover already being
11 recognised by you provisionally, are the organisations
12 that provide the network for all those campaigns.

13 I am sure, from having sat on inquest-related cases
14 on the bench, you will know about this area of
15 campaigning and litigation, indeed, but you also may
16 have come across the fact that these individual families
17 often have campaigns around them and there are key
18 national coordinating organisations and in INQUEST you
19 have, as it were, the legal casework campaigning
20 organisation group, and in the United Friends and Family
21 Campaign, which is why I mention it separately, you have
22 the group that coordinated demonstrations, and whatever
23 public order interest may have arisen. That is from
24 paragraph 4 of the submission you have.

25 Someone asked and you observed about criticism.

1 Obviously the slurring of personality is an example of
2 one way of looking at that but what you are bound to
3 have to deal with, if we may say so, is justifications
4 that will come from the police corporately, via units,
5 via officers about why they did what they did and
6 proportionality calculuses from their point of view.

7 So if the Inquiry is concerned to understand the
8 evolution of undercover police operations in this area
9 that I am making submissions on, it also needs to
10 understand the area itself as well as the policing
11 culture and organisation that exercised its power in
12 relation to it and for that, we say, the core
13 organisations for all these families who have been given
14 core participant status would say "They are the ones
15 that helped to coordinate us," and, for the reasons
16 explained in the appendix, that would be and could only
17 be on the national level INQUEST and United Friends and
18 Family campaigns.

19 I should also say, you may know there is a number
20 17, which is 17 cases which the Herne investigations
21 identified which have been the subject of some kind of
22 contact -- we keep our feet on the ground, we don't know
23 what the targeting was -- but some kind of conduct with
24 undercover officers. We can account for many in the
25 application that is before you, but INQUEST and the

1 United Friends and Family would almost certainly have
2 had contact with all of those families because of role
3 I have just described. So that is the submission for
4 those two core organisations.

5 Can I then briefly mention Daniel Morgan, which is
6 at your appendix. Daniel Morgan, the man who was
7 murdered and the applicant, his brother Alastair Morgan.
8 That is appendix-paragraph 3. Very early on we want to
9 draw your attention to, obviously, there is a panel
10 investigation of not only that killing but, in its terms
11 of reference, the role played by police corruption in
12 preventing those responsible for the death being brought
13 to justice. That is at paragraph 3.2.

14 So all we invite you to do is to consider
15 a mechanism for keeping this case under review without necessarily
16 making it the product of core participant designation now,
17 but there are special reasons to keep it under review in
18 the spirit of what you said first thing this morning,
19 and, secondly, we do invite you to consider some degree
20 of communication with the panel investigation that would
21 appear within its terms of reference to be able to look
22 at this matter but we would not like the issue to fall
23 between, as it were, the two inquiries. That is
24 appendix number 3 and Alastair Morgan's application.

25 Appendix number 4 is Stephanie Lightfoot-Bennett's

1 application in relation to the death of
2 Leon Patterson. Unlike all of the other inquests or
3 controversial death cases before you from our
4 application before you this morning, this is
5 a Manchester case. So we again draw the name to your
6 attention, ask you to keep the name and the campaign
7 under review and also ask you to bear in mind that the
8 sources of what we called formal or official
9 notification at the outset of the submissions have come
10 from Metropolitan Police related operations and
11 investigations and this, as I say, is a Greater
12 Manchester case.

13 THE CHAIRMAN: Give me the name again, please.

14 MR FRIEDMAN: Yes, the applicant is Stephanie Lightfoot-
15 Bennett. It is in relation to the death of Leon
16 Patterson and the details of the application are in the
17 appendix to the Bhatt Murphy submission 1, paragraph 4.

18 THE CHAIRMAN: Yes, I remember it.

19 MR FRIEDMAN: Next, please, in the same category, the
20 Broadwater Farm Defence Campaign and the applicant
21 Mr Stafford Scott. The core information is in the
22 appendix at paragraph 12.

23 Can we deal with two issues to add, please, on this.
24 One is contact with undercover officers, and two is the
25 overlap with this application and the applications that

1 you have already given provisional positive indications
2 on.

3 Firstly, on contact, if you look at 12.2 of that
4 appendix, you see that the applicant was already able to
5 refer to the attendance of John Dines, otherwise known
6 as John Barker, at a demonstration on behalf of the
7 Broadwater Defence Campaign outside Wormwood Scrubs
8 Prison in 1988. Mr Dines, in the period of 1991 to
9 1992, lived in a Tottenham address which backed on to
10 the Silcott family home, and George Silcott lived there
11 and George Silcott was a significant figure in the
12 Broadwater Farm Defence Campaign.

13 You will see in that section of the appendix
14 a reference to Mr Dines' partner at the time, who is
15 a woman who now has, as I understand it, core
16 participant status. I do have photographs that she
17 took. You don't have them physically yourself yet.
18 I have shown them to your counsel this morning. They
19 are photographs of Mr Dines at the 1998 demonstration
20 and there is another photograph of Mr Dines outside that
21 home this backed on to the Silcott family home. We can
22 of course make them available to you privately but that
23 is how we have done it so far.

24 Then you have the letter that came last night and
25 that I hope that you have had the opportunity to

1 consider. In our submission that gives quite a lot of
2 detail about what would have been contact between
3 undercover officers and that campaign.

4 THE CHAIRMAN: I am puzzled why the subject matter of the
5 letter doesn't appear in your original submissions.

6 MR FRIEDMAN: Yes. Yes, and I will help with the
7 puzzlement, but we have begun to try and deal with that
8 in the last paragraph of the letter.

9 Can I just elaborate on it, and if you need more
10 detail, it may be we might be asking in writing, but the
11 issue is whether it should have been clearer or not,
12 first of all what appears in the appendix was
13 a reference to formal notification or published
14 allegations and, I will say in open court, the letter
15 concerns an unpublished piece of information that you,
16 I hope, will appreciate was quite a sensitive matter in
17 its own right and one that I thought, and the solicitors
18 indeed thought, had to be dealt with quite carefully,
19 including corroborating and checking over the last few
20 deaths.

21 THE CHAIRMAN: So you are telling me that you were aware of
22 the confidential information when the original
23 application was made, but it was left out until very
24 recently?

25 MR FRIEDMAN: The issue was, it is that the solicitors were

1 aware of some but not all of the contents when the
2 written application was made. It was not put forward,
3 obviously, in that detail. I, and the solicitors,
4 wanted to take it very carefully and check it and also
5 make sure it was put before you in the way that it has
6 now been put before you, with respect, I ask for the
7 time being, for I hope obvious reasons, on
8 a confidential basis.

9 There it is. If we should have put it before you
10 earlier, we apologise. In its now checked form I submit
11 that it is obviously of considerable relevance and,
12 aside from being not public, is a piece of information
13 because, I would submit, of the way in which it has been
14 checked over the last couple of days, that you are now
15 in a position to take into account and rely on at this
16 preliminary stage.

17 I said I wanted to deal with evidence of contact.
18 There is the evidence of contact. I then wanted briefly
19 to deal with -- and perhaps then we could have the
20 luncheon adjournment -- I just wanted to mention briefly
21 the overlap with other campaigns if we are dealing with
22 Mr Stafford Scott, because what we can say at the moment
23 is that you have given indications, positive ones, about
24 a number of campaigns in the Tottenham area --

25 THE CHAIRMAN: I am aware of that.

1 MR FRIEDMAN: -- that Mr Scott connects to.

2 THE CHAIRMAN: I don't think you need to address me about
3 that.

4 MR FRIEDMAN: So all one would then say about
5 Mr Stafford Scott because the Broadwater Farm Defence
6 Campaign runs from the death of Cynthia Jarrett, the
7 investigations around the killing of PC Blakelock and
8 the unrest of 1985, through to Winston Silcott's, and
9 the other two men, succeeding in their appeal in 1991,
10 Mr Stafford Scott remains an important high profile
11 figure in Tottenham, particularly in relation to
12 campaigning particularly around police conduct. He
13 would be invariably turned to by members of the
14 community and trusted in that respect.

15 There is now, we think, significant indication to
16 suggest that he was indeed the subject of attention. We
17 have to keep an open mind about how far it went, and for
18 that reason we say he should be a core participant, not
19 only because of the connection between a very difficult
20 time in Tottenham between 1985 and 1992, when the
21 Defence Campaign existed, but thereafter.

22 The last thing I wanted to say about him is, if that
23 is a reason to believe there was, as it were, contact,
24 concerns with regard to undercover officers and
25 Mr Stafford Scott, it should also be said that policing

1 in Tottenham also now invariably turns to
2 Mr Stafford Scott. When there are issues around
3 policing, he is a key person that they would refer to.
4 So when one is looking to what would invariably be, in
5 relation to Tottenham, different and potentially
6 competing narratives about justification,
7 Mr Stafford Scott is quite an important person to be
8 available as a core participant.

9 That is finished, the submission one. My
10 submissions on the other two categories are much
11 quicker. Would it be convenient to do that after the
12 luncheon adjournment?

13 THE CHAIRMAN: Yes, certainly.

14 Do you mind if we keep to the 2.00 time. We will
15 start again at 2.00.

16 (1.10 pm)

17 (A short adjournment)

18 (2.00 pm)

19 MR FRIEDMAN: Sir, Bhatt Murphy, submission number 2, is on
20 behalf of the National Union of Journalists and the
21 general secretary, Michelle Stanistreet. In addition to
22 what you have, I want to make one general point about
23 the significant interest of the union and then
24 a particular point about the significant interest in the
25 union in the subject matter of the Inquiry.

1 The general point is, if you are set to examine the
2 functioning of undercover policing as it impacts on the
3 common law and ECHR rights of privacy, protest and
4 expression, then journalism as a category has
5 a particular interest in how the Inquiry will frame the
6 analysis, what factors you will take into account and
7 what recommendations you will make.

8 The union would function as the appropriate vehicle
9 for that interest, including coordinating
10 representations on scope, systems and recommendations,
11 acting as an intermediary to advise and communicate in
12 relation to confidential sources, sir, which in terms of
13 the effectiveness of your investigations will be of
14 benefit, we submit, because it will enable you to search
15 wider and have a different range of sources made visible
16 to you, including from off the record briefings and
17 information that would otherwise not easily get to you.
18 Similarly, if criticisms are to be made of the way that
19 journalism as a profession acted in relation to
20 sensitive sources, it is important that the union is
21 there to rebut and represent the interests of its
22 members in relation to criticisms.

23 The union of journalists has a role, a significant
24 role, in these events. It was journalists that covered
25 the protests that you are likely to look at that were,

1 in terms of the protesting movements, infiltrated. It
2 was journalists who broke the story, quite frankly, and
3 one thinks of the work of Mr Evans and Mr Lewis, but
4 more broadly than that, Mr Francis, as you know, has
5 named five unions. We heard about it this morning. He
6 has not named the National Union of Journalists but Mr Francis
only knows the
7 period that he knows about, and there is very good
8 reason to believe that the National Union of Journalists, amongst
other unions
9 that have not been named, was targeted and one only has
10 to think about the industrial action in relation to
11 things like Wapping, potentially conduct, and
12 investigations into the BBC and the like, to see why the
13 union has strong grounds to believe that its members
14 were a direct and significant part of the roll of the
15 issues you are going to look into.

16 Now, the particular interest would here be the
17 undercover policing of journalists covering political
18 protests. If it can be assumed from your terms of
19 reference at paragraphs 4 and 5 that the Inquiry will
20 consider the undercover policing of demonstrations and
21 various groups of people and campaigns organising those
22 demonstrations, then the applicant here is advocating
23 that that consideration should include whether
24 undercover policing had targeted journalists covering
25 the demonstrations and their organisation. Three

1 significant concerns apply: one, chilling effect on
2 journalists; two, the compromising of their sources;
3 and, three, third-party disclosure of the information
4 collected by undercover officers on to non-police
5 sources who are dealing with things like journalist
6 accreditation, access to events, conditions on access to
7 events, and the like.

8 From yesterday afternoon, we just gave you
9 an example in relation to a journalist called
10 Jason Parkinson who was referred to in paragraph 5 of
11 the submission, that what we have given you is the
12 product of the Data Protection Act inquiry made under
13 section 7 on his behalf. I hope you have it in a clip,
14 it has an index at the front.

15 THE CHAIRMAN: How many pages?

16 MR FRIEDMAN: I think it is 14 pages. And the little index
17 1 and 2 at the front, you will see what it is. Just on
18 page 1, you will see it was a section 7 Data Protection
19 Act enquiry. You will see that a range of holding
20 organisations were listed in the fourth paragraph down,
21 of which one was the national public order investigation
22 unit. We all know by now that that unit nationally,
23 after a certain period of time in the era you are
24 looking at, dealt with overt or ordinary surveillance of
25 public order issues and covert surveillance, including

1 covert human intelligence surveillance. Then one
2 doesn't know from this disclosure, and outside of this
3 Inquiry the answer would just be Neither Confirm Nor Deny, which
of the
4 information in this bundle of references came from
5 ordinary surveillance of public demonstrations or covert
6 surveillance.

7 Just to take you through core examples, what you see
8 is that running through it, it is from 2009 to 2013 at
9 page 4, at the bottom, aside from referring, this is the
10 event outside the Dorchester Hotel Park Lane, aside from
11 referring to the National Union of Journalists number, there is a
description that
12 one might infer comes from being in close proximity to
13 Mr Parkinson. We all know the distinctions about no
14 expectation of privacy in a public place generally, but
15 we also know about the distinctions that one can retain
16 privacy to the extent that one has private conversations
17 and the like in a public space. That is just
18 an example, quite a lot of personal detail being noted
19 down in there.

20 There are value judgments, coming from the people
21 keeping the records at least, for instance at page 7,
22 you see for 17 July 2008, a reference to Mr Parkinson
23 and then XLW - that, in the world of acronyms, would be
24 extreme left wing - and these documents are full of
25 left-wing journalists, extreme left wing, XLW, and the

1 like.

2 Again, there is personal data in relation to the
3 addresses, a previous girlfriend and telephone numbers,
4 you see that lower down the page on page 7. And then
5 the telephone numbers are at page 12 and references to
6 Parkinson's intended participation in public meetings
7 where there is not going to obviously be overt police
8 presence. So there is a recording that he will be
9 somewhere on a given date at a meeting. That is at
10 page 6 where you see there is a Facebook entry for
11 an intended conference down just towards the second half
12 on 17 April at 10.30, and Mr Parkinson is going to be
13 there. That is taken off the internet, but the point we
14 make is the police would not then necessarily have gone
15 to the public meeting in an overt way, leading to the
16 inference, as it were, that covert human intelligence
17 attended the meetings and there is a similar example of
18 that at page 14. I need not go to it.

19 Then throughout this disclosure, and this is
20 an overlap point, there is a number of references to
21 organisations that we know from information already
22 publicly available to you, had been infiltrated by
23 undercover officers. The Fire Brigades Union is
24 referred to at page 6. The Ratcliffe-on-Soar event that
25 led to the quashing of convictions, the cases mentioned

1 by Mr Schwarz this morning, is at page 30, Reclaim the
2 Streets and the G20.

3 So that is the situation there. We are mindful of
4 the distinctions you have well in your mind about the
5 surveillance and covert human intelligence sources,
6 targeting people, creating relationships with them. We
7 just don't know, but it seems highly unlikely that
8 journalists like Mr Parkinson and others who are very
9 involved in covering these demonstrations were not the
10 subject of undercover officers striking up
11 conversations, having relationships with them, whether
12 in public or in actual privacy or in meetings and the
13 like. There has not been official notification, there
14 is a very strong concern and a chilling effect.

15 Sir, that is all I want to say about the National Union of
Journalists, and

16 now on to a third category of submissions which is
17 Anthony Martin on behalf of the Legal Defence &
18 Monitoring Group. In the social history of England we
19 have gone through this morning, we are now more into the
20 1990s and again it is after the passing of the Criminal
21 Justice and Public Order Act, essentially legal
22 monitoring group arises to give legal advice to
23 protesters, effectively how to protest legally, but also
24 their rights of what they are allowed to do and
25 involved -- this group would be involved in a number of

1 organisations at the time, including Reclaim the Streets
2 and the so-called WOMBLES, both of which it is now
3 publicly documented that the National Public Order Intelligence
Unit and its successor
4 organisations targeted.

5 In terms of contacts, what you have from this
6 applicant is, aside from the fact that they know they
7 would have been monitoring demonstrations where they can
8 say from publicly available records that the undercover
9 officers were present at, they also provided effectively
10 legal advice clinics.

11 I am not submitting that those clinics were
12 essentially the subject of legal professional privilege,
13 but they do know from the appendices that you have to
14 their application, appendix 4 is a definite
15 identification of Jim Boyling, in other words
16 Jim Sutton, who you heard about from Mr Schwarz this
17 morning, and there is in effect a parallel with the very
18 obvious problem that arose in the civil proceedings you
19 discussed with Mr Schwarz and the criminal proceedings
20 of John Jordan, where Mr Boyling and others have
21 effectively got involved in essentially private
22 meetings, where legal advice has been given --

23 THE CHAIRMAN: Mr Friedman, I may have misunderstood
24 a submission you made a moment ago, but I thought

25 I heard you say that the Legal Defence and Monitoring Group,
amongst other things, were at

1 demonstrations to spot undercover police officers, is
2 that right?

3 MR FRIEDMAN: No.

4 THE CHAIRMAN: That is not what you said.

5 MR FRIEDMAN: No.

6 If you look at the appendices to their application,
7 it was not that. They were there to monitor those
8 demonstrations.

9 THE CHAIRMAN: That is what I understood. The application
10 would be at paragraph 5, which is why I asked the
11 question. I thought I may have misunderstood.

12 MR FRIEDMAN: Yes, and so effectively ex post facto they are
13 able to place known undercover officers at
14 demonstrations and having a relationship with
15 organisations that they were involved in acting as
16 observers for, and also providing these legal advice
17 clinics for and they can definitely --

18 THE CHAIRMAN: You mean they are able to make a connection
19 between somebody they saw at a demonstration and
20 subsequent publicity about the identity of such
21 a person?

22 MR FRIEDMAN: No, it is slightly short of that. What they
23 can say is: we were present at that demonstration; other
24 than the Boyling and Sutton example, we didn't
25 necessarily see that person there that day.

1 What we can say subsequently from what has come into
2 the public domain is: we know we were at that
3 demonstration, we know we were monitoring that
4 demonstration or we know we had a relationship with that
5 particular organisation.

6 THE CHAIRMAN: I see.

7 MR FRIEDMAN: They are not at present, from what they know
8 at present, able to give real-time evidence about the
9 conduct of an undercover officer at a particular
10 demonstration. But can I just caveat that. One of the
11 things they are concerned about is they can say they
12 were present at demonstrations where undercover officers
13 were present, and they are concerned to understand the
14 flow of information to you, in relation to both
15 particular demonstrations and particular organisations
16 because, on the rebuttal of criticism limb of rule 5,
17 and what I hope is a relevant additional or broader
18 aspect of this, which is counter a narrative that comes
19 from other witnesses about a particular protest or
20 a particular campaign, they are able to tell you about
21 those demonstrations more generally, or tell you about
22 those organisations more generally. Then, the one
23 definite identification they can make in real-time is
24 from appendix 4 to this application, which is
25 Mr Boyling/Sutton attending one of their legal advice

1 clinics, and their strong suspicion that other
2 undercover officers attended, and they are named there,
3 attended other clinics or other advice events that they
4 organised and carried out.

5 THE CHAIRMAN: Okay.

6 MR FRIEDMAN: Sir, those are our submissions on all
7 categories, thank you.

8 THE CHAIRMAN: Thank you very much.

9 MR BARR: Sir, might I invite you to hear next from
10 Ms Gerry, please.

11 MR SCHWARZ: Sir, Mr Griffiths has agreed to let me go
12 before him because I need to leave.

13 THE CHAIRMAN: I have no objection at all. I am not sure
14 I have you on my list.

15 MR SCHWARZ: It is the application on behalf of the
16 Undercover Research Group. I was to be after,
17 I believe, Ms Feltham. It was going to be Mr Griffiths,
18 Ms Deighton, Ms Feltham, then myself.

19 THE CHAIRMAN: Mr Barr, can you help me as to which number
20 of application this is in our file of document.

21 MR BARR: I am being told by Mr Pretorius, it is tab 32.

22 THE CHAIRMAN: Thank you. (Pause)

23 On your instructions, Ms Gerry, what is the
24 association between Mr O'Driscoll and the
25 Undercover Research Group?

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Submissions by MS GERRY

MS GERRY: Sir, one of the first things I was going to do was address you a little bit more about the Undercover Research Group, when and why it was formed, its make-up and its purpose, but in brief summary, Mr O'Driscoll is one of three core members, as it were, of the organisation which is essentially, as you will see, a research-based organisation.

There is Mr O'Driscoll and two others, Evelyn Lubers and Chris Mitchell, and these three together formed the Undercover Research Group, as a result of the revelations that came about in late 2012, early 2013, in relation to Mark Kennedy.

Sir, the purpose of the organisation was to facilitate the gathering of information that was coming forward in relation to suspected activities by undercover officers, and it was to provide and does provide support to people who either believe they may have been or are aware they were targeted by undercover police officers.

THE CHAIRMAN: Was its purpose to out undercover policemen?

MS GERRY: Sir, it is more, as I say, an assistance and support role. If I can say on my instructions, I have been told that in very many cases, what the organisation is able to do is actually reassure people there is no

1 evidence that they were in fact targeted by undercover
2 officers or to the degree they can, based on the
3 information they have.

4 For those that wish to be able to take matters
5 further or to understand more as to why they may have
6 been targeted and in what ways they were targeted, to
7 help them through the research that they have managed to
8 do, and the information they have managed to gather
9 together.

10 Sir, in essence it is to gather information about
11 undercover police officers and to support those who are
12 affected or believe they may be affected by helping them
13 to better understand what may have happened to them, and
14 to provide what advice and assistance they can about
15 whether or not there are any further actions that they
16 may be able to take.

17 Sir, what I have been told is they have been
18 consulted by hundreds of individuals, and they have
19 managed to gather a lot of information from a wide
20 variety and a number of campaigning organisations in the
21 intervening couple of years, and, sir, they are
22 an organisation that is very much trusted in this area
23 and they have managed to foster relations with some
24 individuals who are very reluctant in respect of coming
25 forward with information.

1 Sir, in terms of the organisation itself on a sort
2 of day-to-day basis, they have face to face meetings,
3 the three core researchers, four times a year. At those
4 meetings, they will decide issues to be focused on, what
5 research to conduct and they have weekly Skype meetings.
6 As you will have seen from the application, they publish
7 papers in respect of the research they undertake, they
8 have a blog and they also partake in public talks around
9 the research they have done.

10 Sir, can I just say, they very much want to be of
11 assistance and help to the Inquiry. That is the reason
12 why obviously they have made the application for
13 participatory status.

14 So in relation to fulfilling the rules, in my
15 submission, it is really 5(2) (b) that this group rely upon
16 in terms of there being a significant interest in
17 important aspects of the Inquiry. Sir, in particular,
18 in relation to module 1 that has been identified, and in
19 relation to the nature and scope of the undercover
20 police activities and also the effect of undercover
21 police activities upon individuals and the public.

22 Sir, in relation to how the organisation say that
23 they will be of benefit and assistance to the Inquiry,
24 it is submitted on their behalf that they do have a very
25 detailed overview and a wide appreciation and

1 understanding of the political and social justice
2 campaigns and movements, and also the information that
3 has come to them in regards to concerns about the use of
4 undercover police officers infiltrating those groups and
5 campaigns.

6 In my submission, what the group would be able to do
7 is assist the Inquiry on making representations in
8 regards to the areas or issues that the Inquiry
9 identify, that needs to be investigated as part of the
10 Inquiry, and to hopefully help ensure that all relevant
11 lines of inquiries and areas would be covered by the
12 lists identified.

13 They can also, it is submitted, provide assistance
14 by way of cross-examination, obviously with the
15 permission of you, sir, and the Inquiry, on the basis
16 that they will be able to draw upon their considerable
17 knowledge in order to make connections, to be able to
18 cross-refer evidence, and so to ensure that there is the
19 fullest and rigorous cross-examination of witnesses with
20 the considerable knowledge they have amassed to date.
21 Also, sir, it is submitted that they would be able to
22 help the Inquiry identify other possible witnesses or
23 evidence, given their access to the community and the
24 contacts that they do have.

25 So, in short, sir, if they were given core

1 participatory status, they submit they would be able to
2 provide helpful observations in terms of areas to be
3 covered, ensure the questions are across both time and
4 groups and hopefully help identify and also foster
5 relations with additional witnesses.

6 Sir, touching upon what my learned friend Mr Stanage
7 referred to as well this morning about the ability of
8 the Inquiry to delve into more historic matters, you
9 will see from the application from the
10 Undercover Research Group that they have gathered
11 information and have contact with those that are
12 involved in some of the now defunct campaigning groups
13 going back to the 1970s, and also obviously where people
14 have now sadly died.

15 Again, in my submission this is a group that would
16 be able to assist the Inquiry with ensuring that as much
17 information is provided to the Inquiry as possible in
18 relation to more historic matters where there may be
19 less currently available information.

20 That is what I intended to say about the
21 organisation and how I say it fulfills the criteria of
22 rule 5 and the benefits that core participatory status
23 would bring.

24 Sir, I am not sure to what extent there is a concern
25 about more generally unincorporated associations being

1 recognised as people in terms of the --

2 THE CHAIRMAN: There is no problem with that. Either

3 an individual can be a core participant because his or

4 her close connection is through an organisation.

5 MS GERRY: Sir, yes.

6 THE CHAIRMAN: Or if an individual is authorised to

7 represent an unincorporated association, then in the

8 same way, he or she can be a core participant. There is

9 no difficulty with that.

10 MS GERRY: I just wanted -- because I think there was some

11 message that was coming back, there was some specific

12 issue about an unincorporated --

13 THE CHAIRMAN: What your client is involved with is the ex

14 post facto investigation of previous operations.

15 MS GERRY: Sir, yes, and it is entirely a matter for you as

16 to what extent you consider that firstly, obviously,

17 fulfills the criteria and also to what extent it would

18 assist --

19 THE CHAIRMAN: You have explained what the group can

20 contribute, and I am grateful for that.

21 MS GERRY: Sir, thank you. You will also be aware that

22 Donal O'Driscoll, it has been indicated that he is

23 likely to be a core participant in his own right and so

24 one of the concerns, obviously await the decisions you

25 make, but it may be if the research group are not

1 granted participatory status, there may be some
2 discussions around the extent to which the information
3 that O'Driscoll has become aware of --

4 THE CHAIRMAN: If there is a request from the Inquiry to the
5 Undercover Research Group for assistance, are they going
6 to refuse it, whether they are core participants or not?

7 MS GERRY: Absolutely not, sir, no.

8 THE CHAIRMAN: There we are then. Thank you very much.

9 MS GERRY: Sorry, sir, while I am on my feet, you may be
10 aware that there is a further potential applicant that
11 Hickman and Rose are instructed by. Your Inquiry are
12 aware of them. She contacted you, I believe by email on
13 18 September, so within the timeframe, but at that point
14 she hadn't been able to put forward her own application
15 and was seeking legal advice, and as I understand it,
16 the Inquiry team has indicated that they will accept
17 an application from her, but we were to ask for
18 directions as to a timetable for that.

19 She is a potential applicant who has been granted
20 anonymity. I briefly raised it with Mr Barr before.

21 THE CHAIRMAN: Mr Barr, do you know which number this is in
22 my file?

23 MR BARR: It is not a number in the main applications file.
24 We received the communication which was not styled as
25 an application for core participant status. We are

1 aware of the person involved, and I understand from
2 Ms Gerry that a formal application for core participant
3 status can be submitted to the Inquiry within seven days
4 and that seems to me to be an entirely acceptable way
5 forward.

6 THE CHAIRMAN: Have you heard that, Ms Gerry?

7 MS GERRY: I did. Thank you very much.

8 THE CHAIRMAN: Thank you very much.

9 MS GERRY: Thank you.

10 MR BARR: Mr Griffiths next, sir.

11 THE CHAIRMAN: Thank you.

12 Submissions by MR GRIFFITHS

13 MR GRIFFITHS: Sir, we make four applications for core
14 participant status in the Inquiry in respect of the
15 following. Firstly the family of Rolan Adams, deceased
16 and the Rolan Adams Family Campaign; secondly, the
17 family of Paul Coker, deceased, and the Justice4Paul
18 campaign; thirdly, the family of James Ashley deceased,
19 and the James Ashley Justice Campaign; and finally, the
20 family of Robin Goodenough.

21 Now, we submitted some amended written applications
22 today, either last night or today. Have you received
23 them?

24 THE CHAIRMAN: Yes, I have.

25 Maybe I haven't.

1 MR GRIFFITHS: If you haven't, I can hand a set up to you.

2 THE CHAIRMAN: I have had these. Just give me a moment,
3 would you.

4 MR GRIFFITHS: Sir, the only change is the addition of the
5 particular names of those in respect of whom the
6 application is being made. Otherwise the document is in
7 the same form as that previously served.

8 THE CHAIRMAN: Mr Griffiths, you know from decisions I have
9 already made that I do think this is an area for
10 investigation, and some in a similar position have been
11 awarded or will be awarded core participant status.

12 MR GRIFFITHS: I appreciate that, sir.

13 THE CHAIRMAN: My reservation about these applications was
14 whether it would be right to designate core participant
15 status before any investigation had taken place. In
16 other words, these would be applications that would be
17 kept under review. I am quite happy to listen to your
18 submissions as to why they should be made core
19 participants now.

20 MR GRIFFITHS: Well, I think it might assist if I did embark
21 on that discussion now, sir.

22 THE CHAIRMAN: All right.

23 MR GRIFFITHS: For that purpose, we divide these
24 applications into three categories.

25 Category number 1 is the applications of Rolan

1 Adams, Paul Coker together, and also with the Stephen
2 Lawrence/Duwayne Brooks incident, if I might style it as
3 such, and for reasons which I will develop in due
4 course.

5 Secondly, there is the case of James Ashley, that is
6 the second category, and finally Robin Goodenough.

7 Dealing with category number 1 and bearing in mind
8 the observation made by you a moment ago, we would
9 submit the following, that Adams, Coker and Brooks are
10 a generic category of persons interested in this
11 Inquiry. We say that for the following five reasons.

12 One, in all cases, the issue of race arises. They
13 are all black.

14 Two, all three incidents occurred in neighbouring
15 areas of south-east London, Eltham, Welling and
16 Plumstead. There is therefore a spatial link between
17 the three.

18 Number 3, all three incidents are fairly close in
19 time covering a 14-year period. Rolan
20 Adams, October 1991, so a decade after the New Cross
21 fire in that same part of south-east London. We then
22 have the murder of Stephen Lawrence on 22 April 1993.
23 And the Paul Coker incident on 6 August 2005.

24 Point number 4, the same family liaison officer was
25 involved in all three incidents, DETECTIVE CONSTABLE Fisher. He

was at

1 the time Plumstead's racial incident officer, and he was
2 appointed, as this Inquiry knows, shortly after the
3 murder of Stephen Lawrence to be the liaison between
4 Special Branch and Operation Fishpool, the name given to
5 the police investigation into the murder of Stephen
6 Lawrence.

7 Finally, all three incidents led to community
8 campaigns which were interlinked, involving the same
9 organisations, for example GACARA.

10 We therefore submit that it would be of assistance
11 to this Inquiry to look at these events in the round,
12 covering as they do a critical period in the history of
13 a small part of south-east London. We say that there is
14 a clear community of interest here which can be jointly
15 represented. We submit that these applications meet the
16 criteria of rule 5(2) (b).

17 So that is what we say in relation to Rolan Adams
18 and to Paul Coker, sir.

19 Turning then to James Ashley, the first point we
20 make is this: this is a non Metropolitan Police Service
21 case. It would appear that there are in this Inquiry
22 a preponderance of cases involving the
23 Metropolitan Police Service. We would submit that it is
24 important to look at police practices, so far as the use
25 of undercover police officers are concerned, outside of

1 the Metropolitan Police Service area. Here we are
2 dealing with the fatal shooting of a man in Sussex.

3 Now, it is clear from the facts of Mr Ashley's case
4 that intelligence was probably obtained by undercover
5 police officers during the course of that investigation.
6 It is also clear from the facts of that case that many
7 mistakes were made during the course of that
8 investigation. That, we say, raises issues as to the
9 effectiveness of undercover policing in the prevention
10 and detection of crime, which is an important aspect of
11 the terms of reference of this Inquiry. So
12 consequently, shortly we would submit that this
13 application also satisfies the criteria set out in
14 5(2) (b).

15 Finally, Robin Goodenough. His case raises issues,
16 we submit, as to the role of family liaison officers and
17 their dual role of welfare and investigation, and the
18 necessary tension between the latter and a citizen's
19 article 8 right to respect for private and family life.

20 Finally, sir, we appreciate that not every applicant
21 can be granted core participant status just because they
22 suspect they may have been spied on by the police.
23 However, we do submit that the onus cannot be on
24 possible victims of undercover policing to prove that
25 they are victims in order to participate in the Inquiry.

1 The burden cannot, we submit, be placed on victims who
2 lack the means, the resources, the time or drive, much
3 less the memory, given how long ago these events
4 occurred, to investigate these matters themselves. It
5 seems to us therefore that in deciding who should be
6 granted core participant status, one relevant factor is
7 whether there is a reasonable suspicion that undercover
8 police personnel were deployed in a particular
9 situation.

10 Now, sir, we go further than that, in saying this:
11 that given the experience of the Macpherson Inquiry,
12 where it was quite clear that the Metropolitan Police
13 were somewhat economical in terms of their disclosure to
14 that Inquiry, we submit that this Inquiry must actively
15 investigate such claims. We submit it is not merely
16 a question of keeping certain situations under review.
17 We would submit that the obligation on this Inquiry goes
18 further than that and it requires active investigation
19 because, sadly, as experience has shown, one cannot
20 always depend on the police to come to an Inquiry such
21 as this with clean hands. So consequently, we say, the
22 obligation here goes much further than merely keeping
23 matters under review.

24 THE CHAIRMAN: I think you may have misunderstood me.

25 I said that the test for the Inquiry would be relevance.

1 That will require the Inquiry to carry out wide-ranging
2 and sometimes very focused investigations. It may be
3 that the result of those investigations will be that the
4 picture as to whether or not an individual or
5 an organisation should be a core participant has
6 changed. That is the review that I was talking about.

7 MR GRIFFITHS: Well, that certainly clarifies matters for
8 me, sir.

9 THE CHAIRMAN: Good.

10 MR GRIFFITHS: Unless I can assist you any further?

11 THE CHAIRMAN: No, I am grateful. Thank you.

12 MR BARR: Sir, it may now be convenient to hear from
13 Ms Deighton.

14 THE CHAIRMAN: Thank you very much.

15 Submissions by MS DEIGHTON

16 MS DEIGHTON: You should also have the amended application
17 from the family of Michael Powell. It was sent
18 yesterday and think it has just handed up to you --

19 THE CHAIRMAN: I do have it. Would you just give me
20 a moment, Ms Deighton, please.

21 MS DEIGHTON: Certainly.

22 THE CHAIRMAN: Yes.

23 MS DEIGHTON: It has been amended to clarify that the four
24 named individuals on that application, Sharon and Judy
25 Powell, Michael Powell deceased's sisters, Marcia

1 Williams, his former partner, and Esther Williams, her
2 mother, are intending to apply as applicants in their
3 own right, as well participants in the two groups.

4 The location of deaths at the hands of police, and
5 therefore of the campaigning organisations of the
6 families, seems to be becoming an issue. Mikey Powell,
7 deceased, died in the back of a police van in Birmingham
8 and the police officers who were restraining him when he
9 died were West Midlands Police. So this is a family of
10 individuals and a campaign located in Birmingham and
11 about the West Midlands Police and those other national
12 services they liaise with.

13 You have the application and you will know from that
14 application that the basis is very simply that the
15 applicants fear that they may have been subject to
16 undercover policing and, if they are right, and as such
17 the subject of undercover policing, they may have played
18 a direct role in relation to matters concerning this
19 Inquiry.

20 They do not have hard evidence. You will see they
21 have material from which they have drawn what we would
22 say are very reasonable deductions but of course the
23 essential point is that, by the very nature of
24 undercover policing, the applicants cannot be expected
25 to have hard evidence, but it follows that the reasons

1 for the suspicion of applicants, if accepted by you,
2 must be sufficient to meet the rule 5 threshold.
3 I would urge you to accept that these applicants do meet
4 it.

5 You have indicated, and just now explored with
6 Mr Griffiths, an alternative and I would urge you, if
7 you are not satisfied that these applicants meet the
8 threshold, to explore in some more detail that
9 alternative because it must be right in these
10 circumstances that it is the duty of the Inquiry to
11 investigate as to whether there is further hard
12 evidence.

13 I would say that, in terms of this application,
14 where there is a reasonable suspicion, it is not
15 a simple general inquiry made by your team of undercover
16 policing but that that inquiry should be directed
17 towards the very concerns of these applicants.

18 THE CHAIRMAN: Absolutely. I am not going to drop
19 an individual who has made an application simply because
20 I conclude that the rule 5 threshold has not yet been
21 crossed.

22 MS DEIGHTON: That is very reassuring but, if I could push
23 you just one stage further, they will find it very good
24 news that they won't be dropped but we would say that
25 the Inquiry should use the same powers and resources

1 that it may use for the core participants to investigate
2 the concerns of these applicants so that they benefit
3 from the powers and resources that you have and that
4 they don't. They have no powers, no resources, no time
5 and no duty to do this investigation.

6 We would say that, were you to do that, then there
7 will come a point where you may find that there has been
8 hard evidence and we would ask that our application is
9 kept pending, so that it could be renewed if the
10 applicants so wish at a time you find that.

11 Sir, if you find there is no hard evidence, then
12 that time is not wasted. It is not wasted because you
13 have established whether or not there was undercover
14 policing in these circumstances; you would have
15 demonstrated one of the very many invidious effects of
16 undercover policing is that it can cause extreme anxiety
17 and distress because of the fear of it, even if it can
18 be established that it actually hasn't happened; and
19 finally, of course, a rigorous investigation using your
20 full powers which establish that there was no undercover
21 policing would be an immense reassurance to these
22 applicants.

23 THE CHAIRMAN: Thank you very much.

24 MR BARR: Sir, I think it would be convenient next to deal
25 with the submissions of Ms Steel in relation to the

1 McLibel Group.

2 THE CHAIRMAN: Right.

3 Submissions by MS STEEL

4 MS STEEL: I am making a submission on behalf of the McLibel
5 Support Campaign which made an application for core
6 participant status for the group and gave the names of
7 four individuals who have been involved in the campaign.

8 On 5 October we received confirmation that the
9 Inquiry had determined that I and the four our
10 signatories had been granted, or would be granted, core
11 participant status but we wish to make a submission to
12 renew the application for core participant status for
13 the group itself, not just the individuals who were
14 named.

15 The basis of our application made on 18 September
16 was that the undercover police officers, John Dines,
17 Matt Rayner and Jim Boyling had all attended meetings,
18 and/or events, and/or activities of the McLibel Support
19 Campaign, and that we were also concerned that there may
20 have been other undercover officers spying on the group
21 as well. The questions that we raise that we seek to
22 ascertain are the extent of the spying on the McLibel
23 Support Campaign; what information was gathered on us,
24 both as a campaign and as individuals; whether that
25 information is still held by the police in some form; to

1 what purposes the information was put and, as I referred
2 to in the written submission, we know that some of the
3 information was passed by the police to private
4 companies.

5 THE CHAIRMAN: Ms Steel, do you mind if I interrupt you for
6 just one moment, because I want to make something clear
7 to you if you are not already clear about it.

8 MS STEEL: Yes.

9 THE CHAIRMAN: You personally have made an application in
10 more than one capacity, haven't you?

11 MS STEEL: Yes, I have.

12 THE CHAIRMAN: And they have been granted.

13 MS STEEL: Yes.

14 THE CHAIRMAN: The reason why the four of you were told you
15 would be made core participants was in relation to your
16 activities with regard to the McLibel Support Campaign.

17 MS STEEL: Yes, well, our concern -- can I just deal with
18 this final bit that I was about to read out which was
19 that we also asked for the cover names of any other
20 officers who attended our meetings or events to be
21 identified to us, which we feel is important for the
22 Inquiry to understand the true scale of the infiltration
23 of political campaigns, including ours. Unless those
24 cover names are released, those who were spied on are
25 not going to necessarily be aware that they have

1 relevant evidence to give and that touches upon the
2 whole point of this application now, which is that the
3 names that we have put forward do not necessarily cover
4 each and every event and day and meeting that took place
5 of this organisation, and so we want the status for the
6 group itself so that incorporates other people who may
7 have been affected.

8 So, essentially our submission is twofold because --

9 THE CHAIRMAN: But you are authorised to make the
10 application on behalf of you and, was it three or four
11 others?

12 MS STEEL: Yes, I am.

13 THE CHAIRMAN: You have not been authorised to make it on
14 behalf of everybody who may have come in and out of the
15 McLibel Support Campaign.

16 MS STEEL: No, but we wanted it on behalf of the
17 organisation and the submission is that legal precedent
18 does in fact hold that unincorporated associations can
19 have separate legal personalities, which I understand is
20 one of the concerns, and that there are good reasons why
21 the organisation itself should have core participant
22 status.

23 So I adopt existing arguments that have already been
24 made but the law allows unincorporated associations to
25 have a legal personality for the convenience of

1 administration of justice and to prevent a party to
2 litigation having to identify and involve each
3 individual member. For that we rely on the case of
4 Monsanto v Tilly in 2000 where an injunction was allowed
5 against members of an unincorporated association,
6 Genetic Snowball, on the basis that -- well, they set
7 out tests where this organisation met, that they had
8 meetings, a point of contact, bank accounts, and so on,
9 and we submit that the McLibel Support Campaign meets
10 that test, and should be, can be, considered as a legal
11 person.

12 If you want that developed further, I would probably
13 prefer to put it in writing.

14 In terms of the reasons why we want core participant
15 status for the organisation itself, whatever the legal
16 identity of the organisation, it has a separate public
17 identity and it may well be that the work of the group
18 itself is something that the police may want to
19 criticise, rather than just the individuals who are
20 named, or the group may be asked to answer for some
21 action.

22 We want to be able to defend the group as a whole.
23 We believe it was the group as a whole that was
24 infiltrated, rather than each specific named individual,
25 and that the names that were provided were never

1 intended as a comprehensive list of all of those who
2 were affected by the infiltration by those three, in
3 particular, officers.

4 Given the distance in time since the events that are
5 the subject of the Inquiry, those who are involved with
6 the campaign have moved on with their lives, they are
7 not all living in London and they are not all in contact
8 with each other. Many have very busy lives and,
9 although they are concerned about the events, did not
10 necessarily want to be consent to be involved. So that
11 was why we put forward a representative mixture of
12 individuals but asking for the status for the group
13 itself and, also, we may still make contact with other
14 former participants in the group as the Inquiry
15 progresses.

16 As I mentioned earlier, the named individuals put
17 forward may not cover all the dates and events that the
18 group was spied on and may not have the relevant
19 knowledge on an individual basis. To that end I adopt
20 the submissions made earlier about how the benefit of
21 organisational representation is that you have the
22 institutional memory and the institutional records,
23 rather than just the individual memories and the
24 individual records.

25 So that is essentially the submission. Thank you.

1 THE CHAIRMAN: Thank you very much.

2 MR BARR: Sir, Mr Richardson next, on behalf of Unite
3 Against Fascism and the Anti-Nazi League, but before
4 I go any further I should say that, very helpfully,
5 Mr Richardson has addressed one of the Inquiry's
6 concerns in relation to these groups, in that he has
7 provided to me the name Glyn Ford, who was a member of
8 the steering group of the Anti-Nazi League and is
9 a member of the steering group of Unite Against Fascism,
10 I am told, and who is willing to be the representative
11 person in relation to the groups.

12 That does address the concern that the Inquiry had
13 about this application and it may be, in the light of
14 that information, sir, that matters can be dealt with
15 either very shortly or indeed you may wish to consider
16 whether you need to hear from Mr Richardson at all.

17 THE CHAIRMAN: Mr Richardson?

18 Submissions by MR RICHARDSON

19 MR RICHARDSON: I am in your hands, sir. I am happy to
20 make submissions.

21 THE CHAIRMAN: We now have the information we want. You are
22 authorised to put forward Mr Ford's name.

23 MR RICHARDSON: I am.

24 THE CHAIRMAN: He, as the Anti-Nazi League, will be a core
25 participant.

1 MR RICHARDSON: May I just clarify with you, sir, Mr Ford,
2 who was a Member of European Parliament for
3 a considerable amount of time, and therefore was
4 a member of the steering committee of the Anti-Nazi
5 League during the period from the 1990s right the way
6 through to 2003, and is now a member of the steering
7 committee for its successor organisation Unite Against
8 Fascism, so are you satisfied for him to represent, in
9 a sense all, of those organisations?

10 THE CHAIRMAN: Yes.

11 MR RICHARDSON: He is satisfied himself that he is happy to
12 do that.

13 THE CHAIRMAN: Yes.

14 MR RICHARDSON: I am grateful, thank you.

15 THE CHAIRMAN: Thank you.

16 MR RICHARDSON: I need detain you no further.

17 MR BARR: Next is Ms Feltham for the Campaign Against Arms
18 Trade.

19 THE CHAIRMAN: Yes, Ms Feltham.

20 Submissions by MS FELTHAM

21 MS FELTHAM: The Campaign Against Arms Trade was set up in
22 1974 and I myself have been involved in it since 1978
23 and on the staff of it since 1985. We started off in
24 5 Caledonian Road, along with some of the other groups
25 that have been applicants here today -- Peace News,

1 I think London Greenpeace and others -- but I think
2 since 1986 we have been based in Finsbury Park.

3 We didn't realise this Inquiry was going on until
4 quite late, unfortunately, and I apologise for that.
5 Then several individuals, just about the last week
6 before applying for core participant status, got in
7 touch with us, an ex-staff member from New Zealand and
8 various others, urging us to do so. So we made a very
9 brief application, which I would like to flesh out a bit
10 now.

11 I think what may be particularly helpful to your
12 Inquiry is that we kind of probably between commercial
13 spying that we know about and undercover policing which
14 we very much suspect, but have no hard evidence of, the Campaign
Against Arms Trade

15 and individuals within it were spied upon by
16 an organisation called Threat Response International on
17 behalf of the arms company BAE Systems between at
18 least June 1995 and September 2003. I say at
19 least June 1995 because the earliest documents indicate
20 that probably something was going on earlier than that.

21 At the later date, that is September 2003,
22 The Sunday Times showed us a very thick dossier of
23 information about our organisation that had been passed
24 to it, we later found out, by an employee of BAE who was
25 working in their security team who had been party to

1 what was going on. That information included details of
2 our protests, obviously, but also our parliamentary
3 work, our supporter database, our bank accounts -- just
4 everything -- details about individuals and
5 relationships.

6 The information, because we were later given it and
7 analysed it, and also analysed various things like phone
8 records within our organisations, showed that at least
9 eight individuals had infiltrated on behalf of Threat
10 Response International.

11 Now, Threat Response International was run by
12 a woman called Evelyn le Chene, and also on her board
13 was a guy called Barrie Gane, and Barrie Gane was
14 a former deputy head of MI6, and he had left there in
15 1991 and then he had worked for privatised intelligence
16 companies.

17 Now, although we had no evidence that the police
18 were involved, as distinct from these individuals, the
19 individuals infiltrated not only in London, our London
20 office, but also activities in Hull, in Liverpool and
21 across the European Union -- we had no hard evidence
22 that the police were involved but people were very
23 concerned they might be, because it seemed such a major
24 kind of effort. So we wrote to the then Prime Minister,
25 Tony Blair, and we got a letter back from the

1 Home Office that would not confirm or deny, as they said
2 was their practice, whether or not there was any police
3 involvement in what was going on.

4 Subsequently, The Sunday Times has also said --
5 I think it was 2013, but I have unhelpfully chopped the
6 date of in the photocopying -- that the man from BAE
7 Systems who spilled the beans to them said that there
8 were close links between the intelligence and
9 Special Branch, and the security services and BAE on
10 this. He might helpfully be somebody I suspect that
11 your Inquiry could talk to about what has been going on.

12 That, as I say, came to light in 2003. Then in --
13 THE CHAIRMAN: I am so sorry to interrupt you. Did you say
14 The Sunday Times article was 2003 or 2013?

15 MS DEIGHTON: There were two different ones. The one in
16 2003 was when they got the original dossier. Later on,
17 in 2013, they did an actual interview type piece with
18 the guy who provided the information in the first place.

19 THE CHAIRMAN: Thank you.

20 MS FELTHAM: That kind of episode came to an end
21 in September 2003, except that it didn't, it produced
22 a lot of poor ramifications within our organisations,
23 not least when it was found one of the spies was now on
24 our staff. So there was a lot of ill will and problems.

25 Then in 2007 Campaign Against Arms Trade was

1 embarking on a Judicial Review of the Blair government's
2 decision to stop the Serious Fraud Office investigation
3 into BAE Systems' Saudi arms deals, and in January 2007
4 BAE's lawyers handed our lawyers from Leigh Day
5 information that showed that our legal advice had ended
6 up with BAE and our lawyers from Leigh day went to court
7 to force BAE to hand over how they were getting that
8 information. It turned out it was coming from a man
9 called Paul Mercer, who was from something he called
10 LigneDeux Associates.

11 Now, Paul Mercer had been around in our organisation
12 in the early to late 1990s/early 2000s, but he obviously
13 was getting much or up to date information and we were
14 slightly suspecting hacking but he claimed it wasn't, he
15 claimed it was personal information being passed on.
16 Over the course of 2007, more and more bits of
17 information he had passed to BAE came to light, until
18 in November of that year BAE swore an affidavit to
19 the High Court that they would not be spying on us
20 anymore.

21 Now, this Paul Mercer claimed when he was giving
22 evidence about all this that his company, LigneDeux, had
23 been contacted by BAE via a guy called Rod Leeming at
24 Global Open. Now Rod Leeming is a former police
25 officer, a former Special Branch officer, and I believe

1 we have not been the only organisation that have had
2 some connection with this Global Open, and I do know
3 Global Open -- in the short period between his leaving
4 the police and being exposed as a spy, Mark Kennedy is
5 supposed to have worked for Global Open.

6 So we feel there was quite a lot of overlap and it
7 would bear investigation in this looking between what is
8 going on with kind of private infiltrators of
9 organisations and campaigns employed by private
10 companies, such as BAE, and what the police have been
11 doing. Certainly people on both sides of that equation
12 seem to know about each other, and that is what we would
13 submit to you.

14 We have a lot of information in our office around
15 what happened, legally and otherwise, around both those
16 big investigations that we can obviously available to
17 yourselves.

18 THE CHAIRMAN: Very helpful. Thank you very much.

19 MR BARR: Sir, since I effected the introductions this
20 morning, two further persons have come forward and asked
21 to make submissions.

22 The first of those is Mr Gravett.

23 THE CHAIRMAN: Yes, Mr Gravett.

24

25

1 Submissions by MR GRAVETT

2 MR GRAVETT: The application I have come forward to talk
3 about is on behalf of London Animal Action. I received
4 core participant status for myself. I applied and
5 received that, but I also applied for two groups, with
6 two groups, London Greenpeace and London Animal Action,
7 both of which I was involved with.

8 I want to talk now about London Animal Action
9 because the circumstances are somewhat unique regarding
10 the application because it was sent before the deadline
11 but, due to a problem with the recipient server, the
12 Public Inquiry server, it actually got rejected, so you
13 didn't receive it.

14 THE CHAIRMAN: I see. Yes, I remember.

15 MR GRAVETT: Yes. I resent it on 30 September, so that
16 would have been a week ago and, after speaking to people
17 in the office who asked me to resend it, but as of
18 yesterday, when I last checked my email inbox, I had not
19 received a notification of whether the application had
20 been successful or not.

21 THE CHAIRMAN: Mr Barr will correct me if I am wrong but my
22 understanding is that not only you but one or two other
23 individuals have been given core participant status in
24 their capacity as campaigners through London Animal
25 Action.

1 Am I right about that?

2 MR BARR: I think it may be that they haven't yet been
3 informed.

4 THE CHAIRMAN: I see.

5 MR GRAVETT: I know, obviously -- yes. There are seven
6 names on the application. I am one of them. It was me
7 that sent it and, obviously, as I said earlier, I know
8 I have. I don't know whether any of the other people
9 have or not.

10 If you would just like me to address that issue, the
11 one of why I think the group should be granted --

12 THE CHAIRMAN: As I said to Ms Steel, there is no need to
13 get hung up about the legalities here. Provided
14 somebody is here representing a group who have
15 campaigned, that what I am interested in. Whether, as
16 it were, the representations are made as a group or as
17 a group of individuals doesn't matter.

18 We just have to be sure that the person who comes to
19 tell us "I am representing" or "I was a leading member
20 of London Animal Action" is in fact who they say they
21 are. We have no reason to doubt that you are, which is
22 why you are a core participant.

23 MR GRAVETT: Yes.

24 With regards to the other people's names who are put
25 to this, as I say, as Helen pointed out earlier on her

1 application, they would not all necessarily wish to
2 appear here as core participants on an individual basis.
3 The group folded 10 years ago. These people have
4 dispersed in London, live in different parts of the
5 country.

6 When I spoke to them about the application, when we
7 discussed it, you know, amongst ourselves, the
8 understanding was, when they gave their names to it,
9 that it would be a group application. That was the
10 understanding, you know, why they agreed to be part of
11 it, not as individuals.

12 Also, as was mentioned earlier, there is a sub point
13 about group identity which is not always covered by --

14 THE CHAIRMAN: Just pause. Sorry, to interrupt you but
15 I need to look at the document that you were referring
16 to. Mr Barr, what number of application is this?

17 MR BARR: I think it is in 91, but I will just check that.
18 Yes, it is in 91.

19 THE CHAIRMAN: Thank you. (Pause)

20 So looking at the original application of
21 17 September, in which your document is ends "yours
22 sincerely, Paul Gravett", and then six other names, are
23 you telling me that there are some of those names who
24 would not want to be made core participants?

25 MR GRAVETT: Quite possibly, yes. I have not consulted with

1 them all yet on this basis because I have still been
2 waiting to receive notification of whether the group has
3 been granted it.

4 THE CHAIRMAN: You see, the problem is that, if a group is
5 a collection of individuals, you are going to be core
6 participants because various steps have to be taken by
7 the core participants. That will usually be done by
8 a lawyer but you take on obligations as a core
9 participant. That is why you were granted core
10 participant status in one of your capacities as London
11 Animal Action, or on behalf of London Animal Action, do
12 you see? So we know we come to you if we need you to
13 respond to something.

14 So you are quite right to draw this to our
15 attention. If there are individuals here who do not
16 want to be core participants, then they ought not to be.

17 MR GRAVETT: Yes, because as I said when I made the
18 application, I was under the understanding that groups
19 would and could be granted it -- groups such as London Animal
Action that
20 are unincorporated associations.

21 THE CHAIRMAN: But who would we communicate with if we
22 wanted to get hold of somebody to deal with an enquiry
23 about that particular organisation? That is why you
24 have to have a representative.

25 MR GRAVETT: The first port of call would be me.

1 THE CHAIRMAN: Yes. Okay.

2 You are quite happy to be a core participant? You
3 applied to be a core participant?

4 MR GRAVETT: Yes. Yes, and I am a core participant.

5 THE CHAIRMAN: Mr Gravett --

6 MR GRAVETT: I feel the group should be as a whole as well
7 because there are reasons for that, some of which were
8 touched on or given by Helen earlier on with regards to
9 McLibel. The fact that there are, in all likelihood,
10 other undercover police officers involved that are not
11 named here that affected maybe other people who are not
12 named here.

13 THE CHAIRMAN: I do understand the anxiety. There will be
14 lots of people who either used to be known to you and
15 are not so now, or whose whereabouts you do not know,
16 who may have been affected by the investigations that
17 are carried out by the Inquiry, and of course we may
18 need get hold of those people in due time, but whether
19 they are made core participant or not is a separate
20 issue which I decide under the rules.

21 We are not going to exclude anybody. If you were to
22 say to the Inquiry that we need to go and talk to X, and
23 you explain why, that is what will happen.

24 MR GRAVETT: Right.

25 THE CHAIRMAN: All right?

1 MR GRAVETT: So could you explain to me then -- I still have
2 not received notification. Are you still to make
3 the decision on whether the group will be given core
4 participancy as a collective, as a whole, as London
5 Animal Action, or whether it will be given to the
6 individuals?

7 THE CHAIRMAN: I will of course discuss this with my team,
8 and I have had submissions from Ms Steel about how
9 I should proceed. At the moment I am not seeing the
10 problem.

11 The problem I do see is that somebody,
12 an individual, a real person, has to represent this
13 organisation. I cannot deal, as the chairman of the
14 Inquiry, with a name, London Animal Action. I have to
15 deal with a person.

16 MR GRAVETT: Yes.

17 THE CHAIRMAN: That is the problem.

18 MR GRAVETT: As I said earlier, I am happy to deal with any
19 questions you may raise about the organisation but
20 I am --

21 THE CHAIRMAN: You can put us in touch with anyone to whom
22 you want us to speak.

23 MR GRAVETT: I will have to think about that.

24 THE CHAIRMAN: You may not want to want to us get in touch
25 with people but, if you thought that it was in the

1 interests of your organisation that we make enquiries in
2 a particular direction, you would tell us.

3 MR GRAVETT: Yes.

4 THE CHAIRMAN: Okay. Anything else Mr Gravett?

5 MR GRAVETT: No. I could reel off the points that have been
6 made in earlier submissions about why an unincorporated
7 organisation has a legal personality or is a legal
8 entity, and why London Animal Action is an excellent example of
9 the importance of London Animal Action as a group to this Inquiry
10 terms of infiltration by undercover police of the animal
11 rights movement over this period, and it is a very, very
12 important example -- one being that it actually had two
13 officers operating at the same time for several years,
14 which I think is fairly unusual. A lot only had one
15 officer at a time. London Animal Action, most of its existence,
16 officers at a time.

17 Also, London Animal Action was closed down, met its demise, as
18 a result of corporate infiltration, which, more than
19 likely, was linked to undercover policing infiltration
20 as well, with Special Branch and the corporate spies
21 swapping information about the group and people in it.
22 As a result of that injunction, we had our bank account
23 seized and the group had to close down in 2005.

24 So there is a special significance concerning the
25 spies' infiltration and London Animal Action. There is

1 a special relevance there as a group entity.

2 So that is just the point I would make while you
3 consider your application.

4 THE CHAIRMAN: Thank you very much.

5 MR GRAVETT: Thank you.

6 MR BARR: Sir, the final person who wishes to address you
7 today is Mr Jonathan Rees.

8 THE CHAIRMAN: Just give me a moment Mr Rees, would you?

9 MR REES: Yes, sir.

10 MR BARR: It is 78, sir.

11 THE CHAIRMAN: Thank you.

12 Right, Mr Rees.

13 Submissions by MR REES

14 MR REES: Sir, I do have legal representation.

15 Unfortunately he is at another court today.

16 THE CHAIRMAN: Okay.

17 MR REES: He has written to the Inquiry, given a brief
18 synopsis of my application to be a core participant.

19 THE CHAIRMAN: I have the letter in front of me.

20 MR REES: Thank you.

21 Thank you for this opportunity just to hopefully
22 give you a bit more background information to help you
23 to make that decision, hopefully, because I have not
24 been informed yet as to whether I am a core participant
25 or not.

1 If I may just give you a brief history of myself.
2 For over 30 years I have been a private investigator and
3 a solicitor's agent. 60 per cent of my work was for
4 defence lawyers, barristers and helping their clients in
5 defending their cases. A small part of my work, 20 to
6 30 per cent of it, was investigation work for the media,
7 the mainstream media, News International, the BBC, The
8 Mirror, et cetera, but most of it was as a solicitor's
9 agent, dealing with defence cases.

10 The undercover officer that I came into contact
11 with, it is a bit unique in my case in that I did in
12 fact know him long before as a serving police officer
13 and we had worked together. He retired from the
14 Met Police in the late 80s and moved to another part of
15 the country. I continued to work in the London area
16 doing the same type of work. He got in contact with me
17 in 1998 and said that he was bored and wanted to come
18 back into the fold and join my company, doing the same
19 work as I did, albeit he specialised a bit more, because
20 of his police background training, in assisting
21 solicitors and barristers with their defence work.
22 Through that work, he would become involved in lots of
23 clients' cases and, obviously, in that position he would
24 be privy to their confidential legal privilege
25 information and any secret information that we may

1 obtain to assist those clients in their trial.

2 He occasionally got involved in the media work as
3 well.

4 We didn't realise, it wasn't till 2006 that we
5 received anonymously from a source a document in the
6 post which was a small window of information, a six-week
7 report, of his reports to his police handlers who were
8 very, very senior police officers, one ex-Commissioner
9 of the Metropolitan Police, one deputy assistant and
10 numerous other very senior police officers, and he was
11 reporting directly to them. We didn't know this until
12 2006.

13 In my own personal case, because I had been facing
14 a prosecution, this document revealed that he had been
15 operating as a covert human intelligence source, an undercover
police officer, since

16 1998 and he had involved himself in my own personal
17 defences, defence, clients' defences and he had in fact
18 been feeding all this information back to his police
19 anchors, a department known as CIB3, ironically
20 an anti-corruption department of the
21 Metropolitan Police. This small window is six to eight
22 weeks of his reports that were given to us, that were
23 revealed to us, that we were able to identify.

24 It was then that we realised and we started looking
25 at other cases, and we have been in contact and have now

1 located and investigated and spoken to clients that we
2 dealt with in the past who had lost their cases when we
3 felt, and their solicitors and barristers felt, that
4 they shouldn't have because we had obtained good
5 information.

6 I will just give you a small example. One
7 particular gentleman, a man of previous good character,
8 he and his daughter -- a publican -- he and his daughter
9 were arrested on suspicion of dealing in 60,000 ecstasy
10 tablets. We got compelling evidence that the man was
11 innocent and the counsel was going to keep it up his
12 sleeve until his day in court and then reveal it.
13 Unfortunately, the prosecution were aware of it and were
14 able to make changes to their case and basically the
15 trial was spoilt for him and this poor man ended up
16 spending 14 years in prison.

17 We have since also found out, we tracked this man
18 down when he was released from prison, and it turns out
19 that, prior to his trial starting, he had been
20 approached by a former member of my company, the
21 undercover policeman, who had persuaded him to move away
22 from us because we were not helping his case and that he
23 would help him -- this is the undercover policeman and
24 I suspect he is the one that spoilt this poor man's
25 defence resulting in 14 years' imprisonment.

1 During the years, from 1998 to 2006 when he was
2 working with me, he was involved in -- in fact he tried
3 to involve me and my newspaper contacts, some leading
4 editors, in stories, information that he didn't want to
5 give himself. He didn't want to divulge any of this
6 information. He would produce Special Branch reports,
7 one on a well known murder case, Maxine Carr. He
8 produced her file, no doubt to believe it was not
9 a genuine Ministry of Justice witness protection file
10 that had her address, her new name, her new job, her
11 wages, her contacts, her boyfriends, everything, in it.
12 He convinced me at that time that the Ministry of
13 Justice witness protection team had in fact, because
14 this lady had spoken to a newspaper, they had withdrawn
15 from the contempt of court order that the judge had put
16 on them at the time and, fortunately for me and the
17 editor, the in-house lawyer said that was not the case
18 and she was still very much subject to the witness
19 protection scheme and any disclosure of her details
20 would be a criminal offence, contempt of court. So we
21 never got involved in that.

22 He also provided information to me on
23 the royal family. He was in other Special Branch secret
24 information that he said he was privy to. He wanted me
25 also to involve my newspaper contacts in animal rights

1 activists in the Cambridge/Norfolk area. He wanted me
2 to encourage the leading newspaper to use the
3 information that he was providing, that he would be able
4 to arrange for -- the newspaper would be able to get
5 evidence that these people were involved in attacking
6 scientists' homes, their, vehicles, family life,
7 et cetera, and that they could be captured at the scene
8 and arrested and arrested and dealt with. Again,
9 fortunately, the newspaper were not interested. We had
10 put this story forward.

11 It makes sense now, why he was doing that, now that
12 we know he was an undercover policeman working for
13 the Metropolitan Police. I have my own and some of my
14 colleagues have our own troubles with the
15 Metropolitan Police, which we are dealing with weekly,
16 but they obviously wanted to play these games and use
17 this man to try and implicate me and many other people
18 in criminal activities.

19 THE CHAIRMAN: This is the man who retired in the mid-80s
20 and came to work for you in 1998?

21 MR REES: Yes, he came back, yes, not as a police officer,
22 as a retired police officer and he was working for us.
23 He was until 2006.

24 So for nine years this man was reporting to his very
25 senior police handlers on a daily basis very detailed

1 reports about everything that we were doing, all the
2 private, legally privileged, client information that we
3 were dealing with and he was passing it on to his
4 handlers and certainly, a lot of those cases, the good
5 work that we had done for the defence teams was spoilt
6 and that was particularly down to him.

7 He even says in his report, this small report that
8 we have got, he says in there that he was used on
9 numerous Public Interest Immunity applications on numerous cases,
and he was
10 mentioned, so God knows how many cases he was involved
11 in. There is nine years' worth of report there which
12 I feel sure will reveal many victims that have been the
13 subject of this man and his corrupt handlers, and many
14 poor people that have been wrongly convicted or
15 suffered from other problems because of --

16 THE CHAIRMAN: Is there any reason why this 2006 report,
17 which has formed the basis of your submissions to me, is
18 not referred to in your solicitor's letter?

19 MR REES: It is. Well, certainly I refer to it.

20 I mentioned that we have got evidence. This is not
21 a fishing exercise on my part. I am able to give direct
22 evidence and we have documentary evidence and that
23 report will form part of that documentary evidence which
24 will be made available to the Inquiry, of course.

25 THE CHAIRMAN: All right. Thank you.

1 Your solicitors do say that they would require
2 several hours' preparation to provide relevant
3 documentation to the Inquiry.

4 MR REES: There is a mass of documentation.

5 THE CHAIRMAN: All right.

6 Is there anything else?

7 MR REES: No, that is fine.

8 THE CHAIRMAN: Thank you very much, Mr Rees.

9 MR REES: Thank you.

10 MR BARR: Unless I have missed anybody, in which case no
11 doubt they will speak up, I think that is it, sir.

12 THE CHAIRMAN: Is there anyone here who has not so far been
13 identified but who does want to make submissions about
14 core participation?

15 Well, can I express my thanks, not just to the
16 lawyers but especially -- we do have one?

17 MR SMITH: I do apologise.

18 THE CHAIRMAN: Not at all.

19 Can you just tell me whether you represent yourself
20 or anybody else?

21 Submissions by MR SMITH

22 MR SMITH: My name is David Smith. Where do I go?

23 THE CHAIRMAN: You are the Blacklist Support Group, are you?

24 MR SMITH: Yes.

25 The only reason I mention it is because I have seen

1 the list that is going round, and we are represented by
2 Imran Khan, and the reason Imran is not here today is
3 because we were told that all of us, as the named
4 individuals, were given core participation status but on
5 the paper it only names one of us. That was all.

6 THE CHAIRMAN: It should have named you all.

7 MR SMITH: Okay.

8 Then, really just repeating the question that Helen
9 said and someone else said earlier, is the idea that,
10 which I think a lot of us have got in our mind, the idea
11 that when the undercover police were in there, they were
12 not spying on me as an individual, they were spying on
13 a campaign and if the individuals have been nominated
14 effectively to represent the campaign -- is that what
15 you are saying?

16 THE CHAIRMAN: Wait a minute. You say the undercover police
17 officers, you believe, were reporting on the campaign?

18 MR SMITH: On the campaign we were involved in, yes.

19 THE CHAIRMAN: Just give me a moment. Do sit down for
20 a moment.

21 MR SMITH: Thank you. (Pause)

22 THE CHAIRMAN: Mr Barr, I don't know whether you heard that
23 exchange between myself and Mr Smith?

24 MR BARR: I am afraid I was distracted, sir.

25 THE CHAIRMAN: Mr Smith has just suggested to me that

1 a basis of the application for core participant status
2 made on behalf of the individuals who comprise the
3 Blacklist Support Group was not just that undercover
4 officers used information obtained undercover in order
5 to feed an industrial blacklist, but that the Blacklist
6 Support Group itself was the subject of infiltration by
7 undercover police officers.

8 Now, I can't recall reading any such assertion in
9 the application made by Imran Khan -- it is tab 9 -- and
10 that remains my view, having scanned it again. Maybe
11 this arises out of a misunderstanding.

12 Paragraph 77, page 30, Mr Barr? Imran Khan says:

13 "The group has, through the individuals that form
14 it, been involved in campaigns primarily relating, but
15 not limited, to union activities in the construction
16 industry."

17 Is that the kind of campaign you are talking about?

18 MR SMITH: We were set up in 2009 after the blacklisting
19 scandal was uncovered.

20 THE CHAIRMAN: Yes.

21 MR SMITH: We know for a fact, because Peter Francis was one
22 of the people that was spying on the individuals we
23 talked about, and Mark Jenner also was spying on some of
24 the individuals. So there is a historical point of this
25 from the 1990s and we know that some of the information

1 from the police was passed on to the consultant
2 association, Blacklist, because we have got the
3 evidence --

4 THE CHAIRMAN: There is no need to repeat everything that
5 I have read before.

6 MR SMITH: Sorry.

7 THE CHAIRMAN: What I asked you was a specific question.

8 You referred to a campaign, and what has been said on
9 your behalf by Imran Khan, which I well understand, is
10 that each of you was involved in one way or another in
11 activity which was reported on and subsequently caused
12 you to be named in an industry blacklist.

13 MR SMITH: Yes.

14 THE CHAIRMAN: Is that right?

15 MR SMITH: Yes.

16 THE CHAIRMAN: Okay. They do not say in their submission
17 that the Blacklist Support Group, as a group, because of
18 its efforts to get this exposed, has also been
19 infiltrated.

20 MR SMITH: You have got the advantage on me there.

21 I haven't actually got the document in front of me but

22 I tend to remember there was something in there about

23 the fact that we have put in, very similar to the

24 Hillsborough families that were talked about earlier, we

25 have put in Freedom of Information requests and we have been
Neither Confirm Nor Deny'd.

1 THE CHAIRMAN: Mr Smith, can I make a suggestion?

2 MR SMITH: Yes.

3 THE CHAIRMAN: You are obviously here unprepared in the
4 absence of Imran Khan, who had not come here because you
5 already have notification. Discuss it with them, and if
6 they want to approach the Inquiry with any further
7 submissions within the next few days, I will consider
8 them.

9 MR SMITH: Okay.

10 THE CHAIRMAN: All right?

11 MR SMITH: Thank you very much.

12 THE CHAIRMAN: Thank you very much.

13 Anything else?

14 MR BARR: I have had one more person approach me,
15 Ms Sylvia Jones, who has made an application in writing
16 which is connected in fact, she says, to that of
17 Mr Rees', and she too I think would like to make
18 a submission to you.

19 THE CHAIRMAN: By all means.

20 Do come forward, Ms Jones. Yes.

21 Submissions by MS JONES

22 MS JONES: Thank you for hearing me.

23 I came along really as an observer. I had not
24 intended to speak so I have nothing prepared, but it was
25 only when Jonathan Rees was talking to you, explaining

1 things, that I thought I had a bit of information and
2 I am unable to repeat what I put in my letter to you my
3 submission to you, but I thought it might help explain
4 why Mr Rees' solicitor did not include the reports from
5 the undercover -- from the covert human intelligence source,
basically, in his
6 submission to you, and I think I might explain that.

7 In 2006, I too received anonymously a copy of these
8 reports. I had originally seen them about six months
9 earlier, I was allowed to read them but not make notes
10 or get a copy, but when I was given a copy I could
11 actually see the extent that he was reporting back, but
12 because they were photocopies and they looked like bits
13 of cut and paste, and so on, I was a little anxious
14 about the authenticity of these documents, these
15 reports.

16 So I went and knocked on this man's door and he knew
17 me because he had tried to become part of my
18 investigation into corruption at Customs and Excise,
19 a story that was well reported in the beginnings of
20 2001, 2002, 2003. When he obviously opened the door and
21 recognised me -- and during the course of the
22 investigation I started talking about a man whose case
23 he became involved in working directly for the defence
24 being paid from the legal aid budget, and in his reports
25 he had reported back on the man who was -- he was

1 applying for an appeal, he was building an appeal. He
2 had been released from prison and he was building
3 an appeal, and this covert human intelligence source was actually
being employed by
4 his solicitor and I met him during the course of my
5 investigation into customs, because it was a customs
6 prosecution.

7 When I approached this man's door and we spoke about
8 it, I think he had forgotten exactly what was in his
9 reports and when I mentioned this particular case, he
10 said "Ah, you mean the reports that were hacked off my
11 computer", and my conversation was witnessed by
12 a colleague and this is me, just as an investigative
13 journalist, I felt that was quite a reasonable admission
14 for me to think that the documents were in fact
15 authentic, and quite real.

16 If indeed, as it appears, this man was directly
17 reporting back on legally privileged information to his
18 police handlers, which were CIB3, the anti-corruption
19 squad, I took the view then, and still do, that if the
20 anti-corruption police do not obey the rules, there is
21 not a lot of chance for anybody else.

22 THE CHAIRMAN: You were going to explain why the solicitors
23 didn't refer to these reports.

24 MS JONES: Well, perhaps he had doubts about the
25 authenticity of the reports.

1 THE CHAIRMAN: Have you spoken to the solicitors about that
2 question?

3 MS JONES: I have now, yes.

4 THE CHAIRMAN: About that question?

5 MS JONES: Well, I don't know whether that is why they
6 didn't put it in but, for me, because I had always had
7 a question mark over the authenticity because they were
8 photocopies of emails, and which is why I went and
9 knocked on the man's door.

10 THE CHAIRMAN: All right, thank you very much indeed.

11 MR BARR: I think that is it.

12 THE CHAIRMAN: Good.

13 Well, I repeat my thanks. I am going to take some
14 time to mull over the submissions made to me and to
15 re-read all the applications. I will probably be able
16 to reach a decision and publish a ruling within the
17 course of the next week.

18 Thank you all. That concludes today's proceedings.

19 (3.40 pm)

20 (The hearing concluded)

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