IN THE MATTER OF THE UNDERCOVER POLICING INQUIRY

SUBMISSIONS IN RESPECT OF
THE HEARING ON 5 & 6 APRIL 2017
ON BEHALF OF
THE NON-POLICE, NON-STATE CORE PARTICIPANTS[1]

Introduction

1. The non-police, non-state core participants ["NPSCPs"] welcome the opportunity to make practical proposals for the progress of the Inquiry, which, it is submitted, requires urgent consideration. These submissions also address the application by the Metropolitan Police Service ["MPS"] for an extension of time for making anonymity applications and its "invitation" to the Inquiry to consider narrowing the scope of its investigations. The NPSCPs submit that both of these applications should be rejected for the reasons explained below.

2. Attached to these submissions are draft directions, including proposed dates, reflecting the NCSCPs' practical proposals for achieving meaningful progress.[2]

[1] For the reasons set out at [47]-[49] below, there is not unanimity of views amongst all NPSCPs on all the issues raised below. Although every effort has been made to reach an agreed position within the short time allowed, this has not been possible. Further and/or alternative submissions may be made on behalf of those NPSCPs who hold different views.

[2] These include suggestions for dates by which the Inquiry could consider making rulings. The latter are proposed only so that thought can be given for dates for consequential orders. The NPSCPs make clear that they not seeking to require the Inquiry to make rulings by particular dates.

The current position

3. The NPSCPs recognise the Inquiry's purpose and terms of reference and have demonstrated their support by volunteering to become CPs. They have devoted time to the Inquiry and many have found the process stressful. They feel profound frustration and increasing disillusionment with the progress of the Inquiry to date. Three years after the Inquiry was announced and two years after it was formally established, those who were spied upon still have no new information about what happened to them.

4. The Inquiry was triggered by the recognition that serious wrongs had been perpetrated on subjects of undercover policing. The Inquiry will, in time, determine the extent and scope of the wrongdoing. While the Inquiry is concerned with broader public interests and public accountability, the rights and interests of those who are the victims of wrongdoing should be central to the process. It is imperative that the Inquiry makes every effort to ensure that its own process does not in any way echo, replicate or aggravate those wrongs by continuing to leave NPSCPs feeling that what was done to them by the State will never see the light of day.

5. The difficulty facing the Inquiry is that the MPS has repeatedly sought to stifle the Inquiry's effectiveness and prevent any details of wrongdoing in undercover activities being made public. First, it argued for an almost entirely secret process. When that was rightly rejected, it repeatedly delayed anonymity applications. It is difficult not to conclude that that is seeking to achieve the same aim of avoiding disclosure by the back door. Meanwhile evidence has emerged of police destruction of documents, currently under investigation by the IPCC. The NPSCPs have previously urged the Inquiry to take greater steps to prevent this happening[3].

6. The NPSCPs have also previously made clear that they seek the release of all cover names as soon as possible. Many are angry and frustrated that the

[3] See letter from Bindmans on behalf of the RLRs to Inquiry Legal Team dated 16 January 2016 and NPSCP Response to Draft MPS Disclosure Protocol dated 5 February 2016.

wrongdoing committed by the SDS and NPOIU, and their predecessor and successor units, is still being hidden by the perpetrators from wider public knowledge and that the NPSCPs are being denied access to information about how they were spied upon and who was responsible. The NPSCPs find it impossible to understand how the process of even beginning to release information could take so long if it was conscientiously pursued by the MPS. That is so, in particular, where in many categories of case, there can be no realistic risk of harm sufficient to outweigh the very real public interest in the openness and effectiveness of this Inquiry. For example, where officers are deceased, where deployment was sufficiently long ago that no material risk remains, or where no realistic risk has been identified.

7. The NPSCPs would urge the MPS and the Inquiry to take a realistic approach to anonymity applications, particularly in light of the undeniable fact that not a single one of the undercover officers whose identity has been revealed to date has suffered any harm whatsoever (other than being the subject of entirely lawful protest in the case of Bob Lambert). There is also a need to be realistic about any purported threat posed by the political and social justice campaigns infiltrated by SDS and NPOIU officers. In recent months there has been a spate of media stories about undercover infiltration of groups supportive of Islamic State, together with the cover name of the officer involved[4]. Recently a former undercover officer, who reportedly spent 14 years infiltrating UK drug gangs, spoke openly about his experiences on national television[5]. That suggests that the undercover infiltration of groups associated with IS and serious organised crime can be revealed safely. It strains credulity to suggest that a more serious threat is posed by revealing infiltration of the NPSCPs' groups.

8. The ongoing delay in revealing cover-names or details of any undercover operation risks undermining confidence in the investigation process. It is well-established in the jurisprudence of the European Court of Human

[4] See, for example, http://www.telegraph.co.uk/news/2017/01/13/islamic-state-supporters-face-jail-infiltrated-undercover-police/; http://www.bbc.co.uk/news/uk-england-beds-bucks-herts-38933581.
[5] http://www.bbc.co.uk/news/uk-39207718.

Rights that where an investigation is required into allegations of wrongdoing by State actors "*A prompt response by the authorities in investigating allegations … may generally be regarded as essential in maintaining public confidence in their maintenance of the rule of law and in preventing any appearance of collusion in or tolerance of unlawful acts*."[6]

9. Delay also has practical consequences. Opportunities to secure relevant evidence can be lost simply through the passage of time; according to counsel to the Inquiry's note, 16 former SDS officers have died[7]. Since the Inquiry was announced, two former Home Secretaries[8] and at least one Metropolitan Police Commissioner[9] from the relevant period have also passed away. The MPS submissions refer to the age and frailty of a number of other officers[10]. This is to say nothing of those who were spied upon, particularly those during the late 1960s and early 1970s, who face the prospect of themselves becoming ill or passing away without ever knowing the truth about significant aspects of their lives and at least one NPSCP is known to have passed away recently. Self-evidently this is an intolerable situation for those affected. It risks depriving the Inquiry of important evidence, especially given the paucity of written records for the early period.

10. It is essential, therefore, that the Inquiry rejects the police's continued attempts to undermine the Inquiry by perpetuating secrecy and delaying disclosure. The NPSCPs urge the Inquiry to adopt a significantly more robust approach to progressing anonymity applications so that disclosure can finally start to be made to NPSCPs and to the public. As developed below, that can, and must, be achieved without curtailing the scope of the Inquiry.

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[6] See for example, *97 Members of the Gldani Congregation of Jehovah's Witnesses v Georgia* (2008) 46 EHRR 30 para 97.
[7] Counsel to the Inquiry's note [53.1].
[8] Lord Waddington in February 2017 (Home Secretary Oct 1989- Nov 1990) and Leon Brittan in January 2015 (Home Secretary June 1983 – Sept 1985).
[9] Sir Kenneth Newman commissioner 1982-1987.
[10] MPS note [16]; Second letter of Melanie Jones dated 21 December 2016 p.2.

11. As set out at paragraphs 15-38 below, the NPSCPs contend that there are a number of steps that the Inquiry should take immediately. It should provide further information to NPSCPs and the public more generally. It should identify cases in which anonymity applications are obviously unjustified, or unnecessary, are not in fact sought, or which can be dealt with relatively quickly due to the nature of the issues they raise. If those cases can be identified and addressed speedily, then the names/cover names of those officers can be released in short order. That will not only demonstrate that real progress is being made; it will also enable members of the public affected by those officers to come forward.

12. In this context, the NPSCPs set out below their submissions in relation to:
    a. the MPS application for an extension of time and the practical steps that can and should be taken to progress matters far more quickly;
    b. why the MPS "invitation" to narrow the scope of the Inquiry should be rejected; and
    c. other matters of immediate concern to the NPSCPs affecting the approach taken by the Inquiry.

Next steps and MPS' application for extension of time

13. For most, if not all, NPSCPs it is a key priority that the Inquiry should provide them, as soon as possible, with the cover names of the undercover officers, the names of the groups spied upon and information about the extent to which, and the circumstances in which, they were spied upon. This information will also enable others who were spied upon to come forward.

14. To this end, it is submitted that the Inquiry should take the following steps available to it to identify such information as can be immediately released and also that which can be fast-tracked for speedy determination. Given the wholesale failure by the MPS to meet the previous deadlines, it would be

obviously inappropriate for the Inquiry to agree to a further composite deadline, as sought by the MPS.

15. First, the Inquiry should itself write to all former members of SDS, NPOIU and/or their predecessor/successor units and whose contact details are available asking them to indicate:
    a. whether they wish to make an application for anonymity; and if so,
    b. whether this is in respect of their true identity only, or in respect of their cover name(s) also;
    c. if an application is to be made, a brief outline of the reasons why, including identification of the sources, type and degree of any alleged threat.

    A response should be required within 28 days.

16. If any officer indicates they do not intend to apply for restriction of their cover name(s), it should promptly be released.

17. Secondly, at the hearing of the first tranche or tranches of anonymity applications, the Chairman should give benchmark rulings indicating the type and degree of risk that must be established before an anonymity application will have any prospect of success. Such rulings should establish a high benchmark reflecting that anonymity of undercover officers must be the exception rather than the norm. Such rulings will enable an informed evaluation to take place such that a large number of unnecessary applications will not need to be prepared and determined where it is clear that they do not meet the benchmark. In those cases, the names should promptly be released,

18. Thirdly, and at the same time, the MPS should be required to identify to the Inquiry, within 14 days of the 5 April hearing, all former members of SDS, NPOIU and /or their predecessor/successor units who are now deceased. In respect of each, there should be a presumption that the deceased officer's cover name(s) will be released unless, at the same time as

responding to this request, the MPS provides compelling reasons why this should not occur. In any case for which such reasons are not provided, the cover names should promptly be released.

19. Fourthly, within 28 days of the 5 April 2017 hearing, a schedule should be produced and published, listing (i) by unit, the N numbers of all former SDS and NPOIU officers, and officers of their predecessor and successor units; (ii) each officer's years of deployment; (iii) the names or N numbers (where anonymity applications are being made) of supervising officers and the periods when they were supervising and (iv) wherever possible, the names of the groups and organisations that were infiltrated. Such a document would:

    a. provide NPSCPs and the wider public with an overview of the scope of the work of those units and of the Inquiry's investigation;
    b. enable NPSCPs and the wider public to track the progress of anonymity applications and to monitor the degree of openness that the Inquiry is achieving overall;
    c. enable members of the public who do not currently believe that they have a sufficient basis to approach the Inquiry to know whether groups with which they have been associated were spied upon.

20. No issue of redaction arises in respect of the N numbers and years of deployment and there is no good reason why that information should not be disclosed.

21. In relation to disclosure of the groups infiltrated, the Inquiry has previously advanced the following reasons for not publishing this information at this stage:
    a. the Inquiry does not wish to distract the police from the task of progressing the anonymity applications by asking them to consider

whether they wish to seek to restrict the detail of any of the groups infiltrated[11];

b. the Inquiry is not persuaded that it would result in any real benefit, "since it might serve only to unduly alarm members within those groups who had not been directly affected by undercover policing whereas those who had been directly affected are likely to have become aware of that fact by virtue of the publication of the identity of the officer…in any event."[12]

22. Given the lack of progress, and the critical importance of remedying it, the NPSCPs now respectfully question both of these reasons. The task of considering disclosure of the groups infiltrated need not distract from progressing anonymity applications. Even if there are a few groups in relation to which there are reasonable grounds to believe that disclosure of infiltration might lead to the identification of the infiltrator, and therefore a restriction order might be necessary, for the vast majority of the groups infiltrated this will not be the case. Even if, therefore, the police were to withhold the names of those groups in respect of which it might prove necessary to apply for a restriction order, there will be a significant number of groups in respect of which there is obviously no basis for a restriction order. There is no good reason why the names of those groups should not now be released and it is unlikely to be a particularly time consuming task. It is noted that Mark Ellison QC referred to the number of groups spied upon, so a list must already have been compiled.

23. The benefits of such a step would be significant. First, it is a matter of real public importance, and one with which the NPSCPs are particularly concerned. Publication would build confidence in the Inquiry process and its ability to progress. Second, it would give the NPSCPs and the public material insight into the scope of uncover infiltration of political and social justice campaigns in the relevant timeframe. Third, as set out above, it

[11] Letter from Piers Doggart to all RLRs dated 17 February 2017.
[12] *Ibid.*

would enable those who presently do not feel they have a sufficient basis on which to approach the Inquiry to come forward. If those individuals are only able to come forward at the point at which an officer's name is disclosed, given the length of time that anonymity applications are currently taking to be determined, this could cause both significant delay and the loss of opportunities for gathering relevant evidence and information.

24. In respect of the Inquiry's concern that release of this information might cause undue alarm, the impact is likely to be the opposite. Many, if not most, of those involved in political and social justice campaigns over the past 40+ years already suspect they were spied upon and are already alarmed at that possibility. What they desperately seek is information. If information is revealed, the likely consequence is to allay the fears of existing groups who may not have been spied upon, rather than to provoke concern amongst groups previously unconcerned about police infiltration.

25. For these reasons, the NPSCPs contend that a schedule as described at paragraph 19 above should be prepared and disclosed within 28 days.

26. Fifthly, it is submitted that, within 56 days, all files prepared in respect of identifiable individual NPSCPs should be disclosed forthwith to that individual, where necessary provisionally redacted to take account of any intended anonymity or other restriction order application. It is appreciated that a lesser degree of information may be disclosable at this stage than will be the case once anonymity applications and other restriction order applications have been determined. However, the delay to date is such that NPSCPs are losing patience with the Inquiry and have been waiting for years for release of this information. Many have made data subject access requests to the police for release of this information, but have been stalled on the basis that it is currently in the hands of the Inquiry. There is a Data Protection Act 1998 obligation to disclose information the police hold about individuals and no reason why it should

not be complied with. As a matter of fairness, they should now be given as much disclosure of the files pertaining to them as individuals as it is currently possible to disclose.

27. Sixthly, the MPS should notify the Inquiry within 7 days of the 5 April 2017 hearing of (i) any former officer of the SDS, NPOIU or predecessor or successor unit with whom it has not yet made contact; (ii) the steps taken to contact that officer; (iii) all contact details available for that officer; and (iv) details of any officer who is not represented by the MPS in relation to the Inquiry.

28. This is necessary in order that the Inquiry can itself ensure that all relevant officers have been contacted and, if not yet traced, can supervise further steps to locate the officer. And, where officers are not represented by the MPS, the Inquiry can ascertain who is to represent the officer in connection with the Inquiry.

29. Seventhly, the Inquiry should now begin the process of taking preliminary witness statements concerning knowledge of the activities of the SDS, NPOIU and their predecessor and successor units from former holders of the following positions:
    a. Home Secretary;
    b. Permanent Under Secretary of State for the Home Office with responsibility for policing (including at deputy and assistant level);
    c. MPS Commissioner;
    d. Assistant MPS Commissioner for specialist operations
    e. Deputy Assistant Commissioner for Security.

    This evidence goes to the heart of the accountability of undercover policing. Whilst further, more detailed statements are likely to be necessary in due course, taking preliminary statements now would at least preserve *some* evidence in the event of further individuals passing away or becoming ill during the on-going proceedings of the Inquiry.

30. In this regard the Inquiry should consider the need for special procedures in communicating with and obtaining evidence from CPs, whether state CPs or NPSCPs. For example, a number of older NPSCPs do not use digital media and some have hearing and/or visual impairments.

31. Provided that the above steps are taken, the NPSCPs accept that the initial two tranches identified in counsel to the Inquiry's note are sensible priorities, namely:
    a. the officers represented by Slater and Gordon;
    b. the small number of officers identified by the Inquiry as a priority because of their connection with the anonymity applications of the Slater and Gordon officers.

32. In respect of the third tranche (officers deployed between 1968 and 1972), it is submitted that this should be expanded to include all officers deployed more than thirty years ago – ie 1968-1987. Thirty years is more than sufficient time to have passed for any remaining threat to be wholly exceptional. Once the benchmarks have been established in respect of the first two tranches, it is to be anticipated that, even given this expanded timeframe, the number of tenable anonymity applications in this tranche will be vanishingly small.

33. In relation to the first tranche, given the history to date, where anonymity applications have already been lodged, the Inquiry should impose tight deadlines for the submission of all further evidence to be relied upon. Where applications have not already been lodged, the Inquiry should impose tight timetables for this to be done. Proposed deadlines are set out in the draft directions appended to these submissions.

34. In relation to risk assessments relevant to those applications, the NSPCPs fully endorse the observations of counsel to the Inquiry at paragraph 83 of their note. It is clear that the risk assessors now appointed by the MPS do not have relevant factual expertise in relation to the essential issue on

which they would be giving evidence: whether or not particular persons or groups encountered in the course of an undercover deployment pose any current risk to a former officer. Instead, the risk assessors are reliant on "*a current thematic threat assessment*" provided to them by another officer. In these circumstances, the proposed "risk assessors" really are in no materially better position to make an assessment of risk than the Inquiry. The underlying evidence should therefore be provided to the Inquiry, together with the thematic threat assessment, in order that the Inquiry can make its own assessment of risk. This assessment can be supported by submissions on behalf of the officers and be subject to submissions made on behalf of other CPs based on as much of the evidence, including that contained in the thematic risk assessment, as the Inquiry is properly able to disclose.

35. This should enable, at very least, the applications of the Slater and Gordon officers to proceed to the next stage of the determination process without further delay. The original deadline in respect of these applications was over a year ago. The underlying evidence in support must have been gathered by now. Given that there are only six officers in this category who are still seeking anonymity and two new risk assessors have been in post since December 2016/January 2017, it is far from clear why these risk assessments have not been completed. Likewise, no good reason has been advanced as to why the three outstanding medico-legal reports of the third instructed medico-legal expert are not yet completed. It has been known since at least 30 November 2016 (when the anonymity order in respect of the second instructed medico-legal expert was refused) that a third expert would be required.

36. Given the delays and repeated failures to comply with deadlines to date, the NSPCPs submit that a short deadline, two weeks following the 5 April hearing, i.e. 19 April 2017, should be imposed for provision of all outstanding evidence in support of the Slater and Gordon applications. The request for the evidence relating to risk should, as counsel to the Inquiry

raises, be supported by use of a section 21 notice directed at the Commissioner. The Commissioner has had ample opportunities to act expeditiously and ensure that progress is made of his own volition but has repeatedly failed to do so. It is clear that section 21 notices are now required. The reason for the delay in respect of the medico-legal evidence from the third instructed expert should be investigated and, if appropriate, a section 21 notice should be issued against the expert.

37. As set out above, it is anticipated that once the Chairman has given benchmark rulings, the number of applications that remain to be pursued will be significantly reduced. In respect of counsel to the Inquiry's second proposed tranche of officers, a number of these applications are likely to fall away given that the applicable principles and factual threshold will have been determined by the benchmark rulings given in the context of the Slater and Gordon applications. The position in respect of the third tranche (1968-1987) has already been addressed above at paragraph 32.

38. Thereafter, the Inquiry should set a rigorous timetable in respect of any remaining applications.

The MPS invitation to narrow the scope of the Inquiry

39. The MPS seeks to argue that the issue of restriction order applications is wasteful of resources and disproportionate because amongst the applications received there may be a number of officers in respect of which the Inquiry "ultimately will decide not to publish" information. The MPS therefore invites the Inquiry to consider whether it may still be fair to all participants for the Inquiry to consider the documents it holds and "invite restriction applications only for those cases it wishes to subject to more considered scrutiny."[13]

[13] MPS' second letter of 21 December 2016.

40. The NPSCPs submit that this suggestion will compromise the Inquiry's ability to discharge its terms of reference, is wholly inappropriate and should be rejected. The NPSCPs strongly endorse all of the points made by counsel to the Inquiry in this regard at paragraphs 66-71 of their note. The NPSCPs wish, in particular, to highlight:

a. the paucity of documents in relation to significant periods of the SDS (and its predecessor units) and the evidence of deliberate destruction of documents. There is simply no sound basis, at this stage of the process, on which the Inquiry could safely conclude that certain officers can be ignored;
b. as the Inquiry acknowledges, the picture in relation to any given officer may change significantly once evidence has been obtained from NPSCPs and members of the public. The findings of the numerous reviews into the SDS and NPOIU clearly demonstrate that the Inquiry cannot simply rely on the absence of incriminating documentation and officers' own self-reports and conclude that there is nothing to investigate. Information needs to be provided so that NPSCPs and members of the public with relevant evidence can come forward. They can only meaningfully do so once they have been provided with relevant disclosure - and that cannot take place until the question of anonymity has been determined.
c. the Inquiry is right to identify the SDS and NPOIU as priorities for its investigation, in light of both of its Terms of Reference, and of the reasons why it came to be established in the first place;
d. the Inquiry is further right to identify that it cannot fulfill its Terms of Reference without the requisite degree of breadth and depth to its investigations. This is especially true in respect of the thematic issues on which it is tasked to report. The Inquiry was set up precisely because the many reviews that have taken place to date have only been able to address partial aspects of the matters giving rise to concern. It would be a significant failing were the Inquiry not to take a root and branch approach to investigating the SDS and NPOIU.

41. For these reasons, as well as those additionally identified in counsel to the Inquiry's note, the scope of the Inquiry cannot, consistently with its Terms of Reference, be curtailed as the MPS suggest.

42. This is not to say that the Inquiry cannot or ought not ultimately to be selective in its investigation. Indeed, the NPSCPs are keen to assist the Inquiry in identifying priorities for its investigation. However, that can only take place once meaningful disclosure has been made, which in turn means that there can be no assumptions of anonymity. The presumption of openness, unless restriction is justified, must be maintained.

Other matters of immediate concern to the NPSCPs

Destruction of documents

43. As noted at paragraph 5 above, the NPSCPs have previously raised serious concerns about the need to ensure that further documents of potential relevance to the Inquiry are not destroyed. Those concerns have been further strengthened by the announcement of the IPCC investigation. In paragraph 66.3 of counsel to the Inquiry's note it is stated that "The Inquiry's work to date suggests that Special Demonstration Squad's documentary record is very thin in the period prior to computerization in the mid-1990s." However, this is in direct contrast to what Ms Steel and her solicitor, Harriet Wistrich, were told in 2012 at a meeting with officers from the MPS Department of Professional Standards, who subsequently went over to Operation Herne, namely that they had a "warehouse full of documents" pertaining to the SDS.

44. Further, the NPSCPs have concerns about the MPS' current contention that data which has been inappropriately "destroyed" might no longer be accessible. This appears inconsistent with submissions made by the MPS following the judgment of the Court of Appeal in the case of R (Catt) v

Association of Chief Police Officers [2013] 1 WLR 3305. The Court of Appeal in that case had ruled that retention of Mr Catt's data on the NPOIU/NDEDIU (domestic extremism database, which subsequently became known as the National Special Branch Intelligence System (NSBIS)) breached Mr Catt's Art 8 rights. However, the MPS argued that they could not delete Mr Catt's data from the database because "having regard to backup images, mirror drives and the capacity of experts to retrieve data that has been "deleted"… if it were possible at all to eradicate every trace of Mr Catt's data it would be extremely costly and time consuming." The submissions also stated that "Between 2006 and January 2013 the system was backed up using tapes and a backup server. From January 2013 a system of mirrored servers is in place with plans for a further disaster recovery server." In light of these submissions, the NPSCPs find it difficult to understand how data could have been irretrievably eradicated.

45. It is clearly of the first importance that the Inquiry should have the best possible understanding of MPS information management. Without that, absent apparent contradictions, such as that raised above, it has no real means of supervising or testing what it is told by the MPS. In these circumstances, the NPSCPs respectfully ask the Inquiry to revisit the suggestion, made in the NPSCP submissions dated 5 February 2016 in response to the draft disclosure protocol, that a member of the Inquiry team, with appropriate security clearance and IT expertise, should be permanently allocated to work alongside the MPS officers tasked with tracing, locating, preserving and sifting documents within the MPS.

Legal representation

46. The NPSCPs wish to highlight, once again, the real difficulties that are being caused by the Inquiry's insistence that they be represented in relation to vitally important issues such as those to be considered at this hearing by only one counsel team.

47. The NPSCPs are a group of nearly 200 individuals and organisations (themselves comprising numerous further individuals). Within such a group there are, understandably, radically different views and priorities in relation to almost every issue that is raised. Trying to reach consensus in respect of the submissions to be made is in itself a difficult task, but the short deadlines the Inquiry imposes make the task impossible. In the present case, there were only 13 working days between receipt of counsel to the Inquiry's note and the deadline for submission of the NPSCPs' response. It is simply impossible to agree instructions to counsel, for counsel to draft submissions and then to secure consensus within the group in that timeframe.

48. It must also be remembered that part of the remit of the undercover officers who infiltrated the NPSCP groups was to sow mistrust and ill-feeling amongst members. That has had a lasting legacy.

49. These circumstances combine to leave many within the NPSCP group feeling that they have had to compromise their views for the sake of timetable and consensus. This in turn exacerbates the increasing disillusionment with the progress of the Inquiry.

50. It is also significant that a similar requirement to present only one unified voice is not imposed on the police bodies, many of whom have separate counsel representation, as do a number of individual police officers. Indeed the NPSCPs note the concern on the part of the Inquiry to clarify the position in respect of the legal representation of individual officers and to ensure that they are separately represented from the MPS if they so wish. The NPSCPs agree that that is the right course. However, the same recognition that one size does not fit all should be applied equally to the NPSCPs.

51. The NPSCPs request, as a minimum, that the Inquiry consider funding a standing second junior who would be kept abreast of all relevant

developments in the Inquiry. That person would be in a position to step in where there is a difference of view within the NPSCP group in order that that difference can properly be represented; or where Ms Brander is unable to take on a particular piece of work for the group due to pre-existing commitments. It may be that further, additional proposals going beyond this will be made in due course.

52. Further, it is submitted that it is essential that longer deadlines should be afforded to the NPSCP group given the real practical difficulties in seeking to secure agreement from nearly 200 individuals and groups.

53. The NPSCPs also request that the Inquiry agree to fund their reasonable travel expenses in order to attend their lawyers and relevant hearings.

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MATRIX

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23 March 2017

IN THE MATTER OF THE UNDERCOVER POLICING INQUIRY

DRAFT DIRECTIONS

FOR THE HEARING ON 5 & 6 APRIL 2017

ON BEHALF OF

THE NON-POLICE, NON-STATE CORE PARTICIPANTS

Information to be sought from all former officers of SDS, NPOIU and predecessor/successor units and release of cover names where no restriction sought

1. The Inquiry shall by [**19 April 2017**] write to all former officers of SDS, NPOIU and /or their predecessor/successor units, whose contact details are available, asking them to indicate:
   a. whether they wish to make an application for anonymity; and if so,
   b. whether this is in respect of their true identity only, or in respect of their cover name(s) also;
   c. if an application is to be made, a brief outline of the reasons why, including identification of the sources, type and degree of any alleged threat.

2. All responses to the request for information set out in 1. above are to be sent to the Inquiry to arrive no later than [**17 May 2017**].

3. In respect of any officer with whom contact has been verified and who does not indicate in accordance with 1 and 2 above an intention to make an application for restriction in respect of a cover name or names, the said cover name or names will be released on [**31 May 2017**]

Slater and Gordon officers

4. The anonymity applications on behalf of officers represented by Slater and Gordon shall be determined in accordance with the following timetable:

5. All further evidence and submissions in support of the applications for anonymity made by officers represented by Slater and Gordon is to be served by [**19 April 2017**].

6. If any restriction is sought in relation to the evidence and/or submissions referred to at 5. above, a fully reasoned and evidenced application for such restriction is to be filed with the Inquiry at the same time as the evidence/submissions are filed.

7. In the event that a restriction order is sought as set out in 6 above, the same will be determined by the Chairman by [**10 May 2017**] with such input from the NPSCPs as is possible given the nature of the application.

8. In the event that the evidence and/or submissions referred to at 5. above refer to any identifiable individual, and are not otherwise subject to a restriction order, then the Inquiry will adopt the same procedure in respect of that material as is set out at paragraphs 25-34 of the 15 March 2017 draft of the Restrictions Protocol. Such procedure to be completed no later than [**7 June 2017**]

9. The Inquiry shall, no later than [**7 June 2017**] publish, subject to any restriction order granted, the evidence and submissions referred to at 13. above.

10. Any core participant who wishes to make submissions and/or produce evidence in response to the evidence and/or submissions referred to at 5. above shall file such submissions and/or evidence by [**28 June 2017**].

11. There shall be a hearing on [12 & 13 July 2017] to determine the Slater and Gordon anonymity applications and to address benchmark guidance on the type and level of harm required for an anonymity order to be granted.

12. The Chairman shall provide his rulings on the Slater and Gordon anonymity applications and the benchmark guidance by [**2 August 2017**].

13. The name of any officer whose application is to be heard at the hearing at 11. above and whose application is refused shall be published on [**16 August 2017**]

Deceased officers

14. The MPS shall provide to the Inquiry by [**19 April 2017**] details of all former officers of SDS, NPOIU or predecessor or successor units who are now deceased.

15. If the MPS seeks a restriction order in respect of the identity of any deceased officer, it shall by [**19 April 2017**] submit a fully reasoned application for such an order, together with any evidence and/or submissions on which it seeks to rely.

16. The identity of any deceased officer in respect of whom no application is made in accordance with 14. above shall be published on [**3 May 2017**].

17. Any application that is made in accordance with 14. above shall be determined at the same time as the hearing at 11. above. The Chairman shall specify the timetable to be followed in advance of the hearing.

18. The identity of any deceased officer in respect of whom no restriction order is made following the hearing at 11. above shall be published on [**16 August 2017**].

Review in light of benchmark guidance

19. The Inquiry shall by [**9 August 2017**] write to all former officers of SDS, NPOIU and /or their predecessor/successor units, whose contact details are available, providing them with the Chairman's benchmark guidance in

respect of the type and level of harm required for an anonymity order to be granted, and requesting them to indicate:

a. whether they intend to pursue an application for anonymity in light of the benchmark guidance; and if so,
b. the basis on which they contend that the benchmark is met in their case.

20. All responses to the above request are to be sent to the Inquiry to arrive no later than [**23 August 2017**].

21. In respect of any officer with whom contact has been verified and who does not indicate in accordance with 19. above that they continue to intend to make an application for restriction in respect of a cover name or names, the said cover name or names will be released on [**6 September 2017**]

<u>The second tranche of officers</u>

22. Any application for anonymity on behalf of an officer identified by the Inquiry as falling within the second tranche of officers is to be submitted to the Inquiry with all accompanying evidence and submissions by [**23 August 2017**].

23. If any restriction is sought in relation to the evidence and/or submissions referred to at 22. above, a fully reasoned and evidenced application for such restriction is to be filed with the Inquiry at the same time as the evidence is filed.

24. In the event that a restriction order is sought as set out in 23. above, the same will be determined by the Chair by [**6 September 2017**], with such input from the NPSCPs as is possible given the nature of the application.

25. In the event that the evidence and/or submissions referred to at 22. above refers to any identifiable individual, and is not otherwise subject to a restriction order, then the Inquiry will adopt the same procedure in respect

of that material as is set out at paragraphs 25-34 of the 15 March 2017 draft of the Restrictions Protocol. Such procedure to be completed no later than [**20 September 2017**]

26. The Inquiry shall, no later than [**20 September 2017**] publish, subject to any restriction order granted, the evidence and submissions referred to at 22. above.

27. Any core participant who wishes to make submissions and/or produce evidence in response to the evidence and/or submissions referred to at 22. above shall file such submissions and/or evidence by [**11 October 2017**].

28. There shall be a hearing to take place on [**25 & 26 October 2017**] to determine the applications referred to at 22. above.

29. The Chairman shall provide his rulings in respect of the applications referred to at 22. above by [**15 November 2017**].

30. In respect of any application referred to at 22. above that is refused, the relevant name or cover name will be published on [**29 November 2017**].

<u>The third tranche of officers</u>

31. Any application for anonymity on behalf of an officer who was deployed between 1968 and 1987 is to be submitted to the Inquiry with all accompanying evidence and submissions by [**20 September 2017**].

32. If any restriction is sought in relation to the evidence and/or submissions referred to at 31. above, a fully reasoned and evidenced application for such restriction is to be filed with the Inquiry at the same time as the evidence is filed.

33. In the event that a restriction order is sought as set out in 32. above, the same will be determined by the Chair by [**4 October 2017**], with such input from the NPSCPs as is possible given the nature of the application.

34. In the event that the evidence and/or submissions referred to at 31. above refers to any identifiable individual, and is not otherwise subject to a restriction order, then the Inquiry will adopt the same procedure in respect of that material as is set out at paragraphs 25-34 of the 15 March 2017 draft of the Restrictions Protocol. Such procedure to be completed no later than [**25 October 2017**]

35. The Inquiry shall, no later than [**25 October 2017**] publish, subject to any restriction order granted, the evidence and submissions referred to at 31. above.

36. Any core participant who wishes to make submissions and/or produce evidence in response to the evidence and/or submissions referred to at 31. above shall file such submissions and/or evidence by [**15 November 2017**].

37. There shall be a hearing to take place on [**27-28 November 2017**] to determine the applications referred to at 31. above.

38. The Chairman shall provide his rulings in respect of the applications referred to at 31. above by [**15 December 2017**].

39. In respect of any application referred to at 31. above that is refused, the relevant name or cover name will be published on [**29 December 2017**].

Residual applications for anonymity

40. In the event that there remain further applications for anonymity on behalf of officers who are not subject to 22. or 31. above, such applications are to be made in tranches as set out below:
    a. officers first deployed between 1988-1998 – applications with all evidence and submissions to be relied upon to be lodged with the Inquiry by [**18 October 2017**];
    b. officers first deployed between 1998-2009 - applications with all evidence and submissions to be relied upon to be lodged with the Inquiry by [**15 November 2017**];
    c. officers first deployed between 2009-present - applications with all evidence and submissions to be relied upon to be lodged with the Inquiry by [**13 December 2017].**

Schedule of information to be published

41. By [**3 May 2017**], the MPS is to publish a schedule containing the following information:
    a. by unit, the N numbers of all former officers of SDS, NPOIU and/or their predecessor and successor units;
    b. in respect of each officer identified by N number, their years of deployment;
    c. the names or N numbers (where anonymity applications are being made) of supervising officers and the periods when they were supervising; and
    d. in respect of each officer identified by N number and subject to any restriction order granted or sought, the name or names of the group or groups that officer infiltrated. Where a restriction order is sought in respect of the name or names of groups infiltrated, the name of the group to be replaced with a unique G number.

42. If the MPS seeks a restriction order in respect of any information referred to at 41c. and/or d. above, it shall by [**3 May 2017**] submit a fully reasoned application for such an order, together with any evidence and/or submissions on which it seeks to rely.

43. In the event that a restriction order is sought as referred to at 42. above, it shall be determined at the hearing at 11. above. The Chairman shall specify the timetable to be followed in advance of the hearing.

Disclosure of personal files

44. The MPS shall by [**17 May 2017**] disclose to each non-state, non-police core participant in respect of whom it holds an individual file, including but not limited to a special branch, registry, SDS or NPOIU file, the said file, subject to any restrictions as are lawful pursuant to the Data Protection Act 1998.

Provision of information about officers whom the MPS has been unable to contact or are not represented by the MPS

45. The MPS shall by [**12 April 2017**] inform the Inquiry of:
    a. any former officer of the SDS, NPOIU and/or their predecessor or successor units with whom the MPS has been unable to make contact;
    b. the steps taken by the MPS to make contact with such officer;
    c. all contact details known to the MPS for such officer;
    d. any officer whom the MPS does not represent in connection with the Inquiry and the details of any known legal representative for such officer.

Preliminary evidence to be obtained from former senior public office holders

46. The Inquiry shall by [**13 September 2017**] seek a preliminary witness statement concerning the matters relevant to the Inquiry's terms of

reference from all living individuals who held any of the following offices between 1968 to the present:

a. Home Secretary;
b. Permanent Under Secretary of State for the Home Office with responsibility for policing (including at deputy and assistant level);
c. MPS Commissioner;
d. Assistant MPS Commissioner for specialist operations
e. Deputy Assistant Commissioner for Security.