

<p>1 Friday, 18 May 2018 2 I N D E X 3 Opening remarks by THE CHAIRMAN1 4 Submissions by COUNSEL TO THE1 INQUIRY 5 6 Submissions on behalf of the8 Metropolitan Police Service by MR HALL 7 8 Submissions on behalf of the57 Metropolitan Police Service Designated Lawyers by MR SANDERS 9 10 Submissions on behalf of the90 National Police Chiefs' Council by SIR ROBERT FRANCIS 11 12 Submissions on behalf of the111 National Crime Agency by MR O'CONNOR 13 14 Submissions on behalf of the Home112 Office by MR GRIFFIN 15 16 Submissions on behalf of the113 non-state non-police core participants by MS KAUFMANN 17 18 Submissions on behalf of138 Peter Francis by MS SIKAND 19 20 Submissions on behalf of the148 Category M Core Participants by MR RUIS 21 22 Submissions by MS STEEL149 Further submissions on behalf of the162 National Police Chiefs' Council by SIR ROBERT FRANCIS 23 24 (10.30 am) 25</p> <p style="text-align: center;">Page 1</p>	<p>1 of the category M core participants. To his right, 2 Mr Griffin leads Ms Davidson on behalf of the 3 Home Office. To their right, the National Police 4 Chiefs' Council are represented by Sir Robert Francis. 5 That, I think, is everybody who has attended today 6 in the capacity of advocate. 7 Unless I can assist you further, those are the 8 introductions. 9 THE CHAIR: Thank you very much. 10 Before we get down to the business of the day, 11 I have a statement to make which was given in hard copy 12 form to counsel shortly before I came into this room. 13 The events of 8 and 9 March have caused me to seek 14 to clarify the wishes and intentions of non-state core 15 participants and their legal representatives about two 16 aspects of current procedures. 17 The private meetings between members of the 18 Inquiry's legal team and the legal representatives of 19 non-state core participants and the public hearings held 20 on applications for restriction orders in respect of the 21 real and cover names of deployed undercover officers and 22 their managers. I set out below what I believe to be 23 uncontroversial facts about those events. 24 On 8 March, the first of what I hope will be many 25 private meetings between legal representatives and the</p> <p style="text-align: center;">Page 3</p>
<p>1 Opening remarks by THE CHAIRMAN 2 THE CHAIR: Can I begin by reminding everybody of the 3 terms of the order which is always in place on these 4 occasions. 5 People are free to send out messages after a time 6 lapse of two minutes, but they must not send out any 7 message which contains something about which somebody 8 has objected. We have not had such a situation arise so 9 far, it might conceivably arise during the course of 10 this hearing. If it does, I insist on strict compliance 11 with the order. 12 Thank you. 13 Mr Barr? 14 Submissions by COUNSEL TO THE INQUIRY 15 MR BARR: Thank you, sir. 16 I appear this morning with Ms Ailes, who sits to my 17 right. To my left, Ms Kaufmann appears leading 18 Ms Brander. To my right, Mr Hall leads Ms Mannion and 19 Ms Lyons, appearing on behalf of the Metropolitan Police 20 Service. To their right, Mr Sanders appears on behalf 21 of the designated lawyers team leading Mr McAllister and 22 Mr Bottomley. Behind me to my left, Ms Sikand appears 23 on behalf of Peter Francis. Further to her left, 24 Ms Steel appears in person. 25 Two to Ms Sikand's right, Mr Ruis appears on behalf</p> <p style="text-align: center;">Page 2</p>	<p>1 Inquiry's legal team took place. I have read the 2 detailed uncorrected notes made by the Inquiry's legal 3 team of the meeting. They suggest to me that it was 4 constructive and worthwhile. 5 There was no mention of what was planned for the 6 following day. The making of a prepared statement by 7 Ms Kaufmann Queen's Counsel about the constitution of 8 the Inquiry panel, followed by her departure and the 9 departure of those for whom she appeared. 10 On 9 May, the legal representatives did not appear 11 at the open hearing. The Inquiry was advised in 12 advance, written submissions were provided on 13 8 May 2018. 14 Peter Francis also wrote to the Inquiry to state 15 that he would not anticipate in the determination of 16 applications for restriction orders in respect of real 17 and cover names. 18 Non-police non-state legal representatives have made 19 clear that they do not intend to make oral submissions 20 at open hearings about applications for restriction 21 orders in respect of real or cover names, but will 22 continue to make written submissions. 23 Given the position of the non-police non-state 24 representatives, I will continue to invite written 25 submissions from all core participants and will make</p> <p style="text-align: center;">Page 4</p>

<p>1 decisions after they have been received. That is 2 without an open oral hearing. 3 The open hearings scheduled for 5 and 12 July will 4 not take place. 5 In my view, meetings between the Inquiry's legal 6 team and its core participants' legal representatives 7 are a valuable means of permitting the Inquiry to 8 prepare for the hearings which will begin in June 2019, 9 in particular such meetings ensure that the views of 10 both state and non-police non-state core participants 11 about the process of preparing for evidence hearings are 12 taken into account. I hope that these meetings will 13 continue. I invite them, that is to say the legal 14 representatives of all participants, to confirm to the 15 Inquiry by 4 pm on 4 June that they wish these meetings 16 to continue, or, if not, what they would propose to put 17 in their place. 18 In the early days of the Inquiry, the legal 19 representatives of a number of state and non-police 20 non-state core participants asked 21 Sir Christopher Pitchford to meet them and those they 22 represented at a private meeting. He declined to do so, 23 because as the finder of fact he had to be and be seen 24 to be impartial. 25 Soon after I was appointed chairman a similar</p> <p style="text-align: center;">Page 5</p>	<p>1 Inquiry team will discuss with them the format of the 2 meeting or, if the numbers who wish to attend are so 3 large as to require more than one meeting. 4 This is not part of that statement, but a statement 5 of something that took place yesterday. 6 Yesterday, I met Sukhdev Reel and her family, her 7 legal representative, Mike Schwarz, her Member of 8 Parliament, John McDonnell and Suresh Grover who has 9 advised and assisted her over many years. Speaking for 10 myself, I found the meeting which lasted two hours 11 constructive and helpful. 12 In particular, it led to me undertaking to Ms Reel 13 that I would provide her, as soon as the Inquiry 14 reasonably could, with all of the documents that the 15 Inquiry has which relate to her. I explained to her 16 that they might have to be redacted to some extent, but 17 from what I had seen from those that I know to exist 18 I did not anticipate any significant redactions. 19 She in turn told me that in her view the documents 20 that she had seen heavily redacted copies of before were 21 unlikely to be complete, and that she could provide to 22 me information or names and similar information which 23 would enable the Inquiry to search its documents to see 24 if there were other documents that could and should be 25 disclosed to her.</p> <p style="text-align: center;">Page 7</p>
<p>1 request was made to me, I declined it for the same 2 reason. 3 The invitation was recently re-extended by 4 representatives of the non-police non-state core 5 participants. I will accept it. Subject to conditions 6 whose purpose is to ensure that my impartiality is not 7 compromised. 8 They are. 9 The meeting will be attended only by non-state core 10 participants and their legal representatives. I will 11 rely on them to ensure that no other person attends. 12 What is said at the meeting will be recorded by the 13 Inquiry and by no one else. This is not for the 14 purposes of publication but to enable an accurate record 15 of the meeting to be kept by the Inquiry. There will be 16 no still or video photography. 17 It is understood by those attending that I cannot 18 say anything which would compromise impartiality and may 19 therefore have to refuse to answer some questions. 20 I will offer a similar facility to former undercover 21 officers and their managers and if they are no longer 22 alive to their surviving immediate relatives if they 23 request it. 24 I invite a response from the legal representatives 25 by 4 pm on 4 June. If the response is positive the</p> <p style="text-align: center;">Page 6</p>	<p>1 I undertook to do those things. 2 This, although I didn't realise it when I prepared 3 the written statement I have just made, was a practical 4 example of a private meeting with a non-state non-police 5 core participant working. I have learnt something and 6 what I learnt is that meetings of that kind, whether 7 with a significant number or on a one-to-one basis or 8 any variant on that are likely to be helpful to enable 9 me to understand the views of those whom I meet and to 10 enable me to explain to them what I am doing and to 11 invite their assistance. 12 Now, down to the business for which we are here, 13 which is how the Metropolitan Police in particular, but 14 other state representatives can assist the Inquiry -- 15 MS STEEL: Can I just make a quick correction to the 16 statement that you read? Because you said that 17 non-state non-legal representatives have made it clear 18 that they do not intend to make oral submissions at open 19 hearings about applications for restriction orders in 20 respect of real or cover names. 21 And actually what the position is that we feel we 22 can't meaningfully participate in those open hearings. It is 23 not that we don't want to. It is that we feel we can't 24 meaningfully participate because we don't have enough 25 information disclosed to us. So I would just like that</p> <p style="text-align: center;">Page 8</p>

1 to be made clear.
 2 THE CHAIR: Thank you.
 3 Now down to the business of the day, which is to
 4 give the opportunity for police and state
 5 representatives to discuss with me on a forward looking
 6 rather than a recriminatory basis how we can get from A
 7 to B. I hold that I will be told what can be done on
 8 your side to help me to do that and I invite you to say
 9 what we can do on our side to help you to do it. We
 10 will, I hope, discuss a number of practical problems.
 11 I have invited this unusually for an open forum
 12 because I think that the public are entitled to know
 13 what is going on, at least in outline.
 14 MR HALL: Indeed.
 15 THE CHAIR: Even though, of course, there must be detailed
 16 discussions about matters in private.
 17 Submissions on behalf of the Metropolitan Police Service by
 18 MR HALL
 19 MR HALL: Indeed.
 20 Sir, how can Metropolitan Police Service resources
 21 best be deployed to assist the Inquiry to fulfil its
 22 timetable?
 23 The short answer, and I am going to develop if
 24 I may, I have about six pages of notes to speak to, but
 25 the short answer is by giving the Metropolitan Police

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1 Service clearly defined projects and as soon as
 2 possible.
 3 For example, the Metropolitan Police Service would
 4 ask for as many witness statements to be getting on with
 5 and as many relevant and necessary documents to apply
 6 for restriction orders over, again as soon as possible.
 7 It is an enormous job of work, so we need to make
 8 a start. Beyond that it is too soon to say, because
 9 more information is needed from the Inquiry -- as I will
 10 go on to explain. That does take me right to the second
 11 issue, which is how the Inquiry can assist the
 12 Metropolitan Police Service to assist you. Again, the
 13 short answer is by talking ceaselessly to the
 14 Metropolitan Police Service about what its plans are, as
 15 in what your plans are. Being prepared to adjust and
 16 refine the Inquiry's approach in the light of what
 17 works.
 18 The Metropolitan Police Service has a shared
 19 interest, as I suspect all the core participants do with
 20 the Inquiry, in helping you conclude modules 1 and 2 by
 21 September 2021, and providing the final report by
 22 December 2023. I'm going to be asking for maximum
 23 engagement from the Inquiry team and my submissions are
 24 going to be completely forward looking.
 25 We really appreciate -- double underlined -- the

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1 seriously increased level of engagement that has just
 2 started. There are intensely practical aspects to this
 3 Inquiry which need to be addressed. The machinery of
 4 getting evidence disclosed and witnesses heard is so
 5 complex that unless the Inquiry engages in an open
 6 fashion with the Metropolitan Police Service at every
 7 stage, crucial aspects of the process will just not be
 8 picked up by the Inquiry's planners or the Inquiry's
 9 lawyers. This is an urgent matter. The timescales are
 10 so tight that the Metropolitan Police Service should be
 11 liberated by the Inquiry to start work now and the
 12 timescales are also so tight that the Inquiry must try
 13 to look around every corner to see what practical
 14 difficulties could say have an impact on the timetable.
 15 I say any impact, because the timescales are so
 16 tight.
 17 If there is proper engagement and consideration
 18 between the Metropolitan Police Service and the Inquiry,
 19 then the Inquiry can meet its deadlines. That is what
 20 the Metropolitan Police Service fervently wishes and the
 21 points I am going to make in a moment are all of those
 22 in that spirit, looking forward to working with the
 23 Inquiry to meet its ambitious target as we all want.
 24 Sir, the Metropolitan Police Service has written
 25 a detailed letter to your secretariat on Tuesday. I am

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1 not going to go through that letter, but it may be
 2 interesting to those who are here to get a flavour of
 3 the sort of practical issues that we have raised with
 4 you in correspondence.
 5 Can I start with information technology. Precisely
 6 what information technology system or systems the
 7 Inquiry is going to use to communicate sensitive
 8 documents with the Metropolitan Police Service is
 9 a really, really crucial issue. The Metropolitan Police
 10 Service has reluctantly come to the view that something
 11 called the Res Tool which is a bespoke piece of software
 12 that was developed for use by the Metropolitan Police
 13 Service and the Inquiry to deal with the redactions
 14 process and which has been the subject of continued
 15 testing by the respective technical teams of the Inquiry
 16 and the Metropolitan Police Service simply lacks the
 17 required stability. Our view reluctantly is the nettle
 18 must be grasped and any assumptions based upon the use
 19 of the Res Tool must be reconsidered without delay.
 20 This of necessity means that the Inquiry cannot, we
 21 suggest, wait a moment longer to start making decisions
 22 on the restriction order applications that have already
 23 been made --
 24 THE CHAIR: I agree with that point. I think, so that
 25 everyone can understand it, the Res Tool was intended to

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1 permit the Metropolitan Police Service on one side and
 2 the Inquiry on the other to view the same document on
 3 a computer screen in their own offices and for
 4 a redaction or alteration to be made on one screen which
 5 would be replicated precisely on the other. It has not
 6 worked.
 7 MR HALL: Sir, I am grateful. Absolutely.
 8 The other key current information technology issue,
 9 and I make no apologise for descending to this level of
 10 detail, because these are the practical matters that
 11 will make the Inquiry flow --
 12 THE CHAIR: Of course.
 13 MR HALL: -- is the question of document splitting. The
 14 Metropolitan Police Service needs to properly discuss,
 15 understand, what the Inquiry's expectations are about
 16 electronic splitting of documents that have previously
 17 been provided to the Inquiry. We also need to
 18 understand expectations about metadata, what they are --
 19 THE CHAIR: Could we just take them one by one?
 20 MR HALL: Yes.
 21 THE CHAIR: This may be more helpful than you making
 22 a speech and then me responding to it, because we may
 23 omit things if we do it that way.
 24 MR HALL: Yes.
 25 THE CHAIR: Document splitting is, I think so everybody

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1 understands it, when a document is provided by the
 2 Metropolitan Police Service to the Inquiry which
 3 contains, let us say, 200 pages, and a whole raft of
 4 different types of document within it. It is in effect
 5 a file.
 6 To be usable by either side it has to be broken down
 7 into individual documents within the file. This is
 8 a problem that has been bedevilling both sides for
 9 a long time. Each side, I think, has its preferred
 10 solution which is essentially you do it and then you
 11 give us the result.
 12 MR HALL: In relation to previously uploaded documents.
 13 I think the Metropolitan Police Service for future
 14 documents will be splitting them. We are talking about
 15 that cohort of documents that were previously uploaded,
 16 but of course there are very many of them so the work to
 17 know to be done is enormous.
 18 THE CHAIR: Of course. I am very glad to hear the proposal
 19 for future file documents, that will simplify matters
 20 greatly. But there is, as you acknowledge, a historical
 21 problem which has to be resolved to permit us to make
 22 progress. You and I probably understand insufficient to
 23 be able to come up with a sensible solution. What
 24 I propose is that each of us appoints one person --
 25 I have identified someone on our side to do it -- to be

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1 responsible for solving this problem.
 2 We have had exchanges of correspondence, large-ish
 3 groups discussing it all and have reached nowhere.
 4 MR HALL: Yes.
 5 THE CHAIR: What I propose is that you nominate somebody,
 6 I nominate somebody, and between them we put them in
 7 a room with a cold towel and say, "Arrive at
 8 a solution".
 9 MR HALL: I think our view is that it has to be both
 10 a counsel type of person and a planner type of person.
 11 Because our view is that the information technology
 12 feeds so much into the legal process that someone who is
 13 engaged in the legal side, we would suggest at quite
 14 a senior level, needs to get the information technology
 15 issues. Of course they are not going to be experts --
 16 THE CHAIR: I have in mind our senior paralegal, who is
 17 thoroughly expert both in the information technology
 18 side of things and in the legal issues that arise. Not
 19 at the level of abstraction that counsel would be
 20 expected to involve themselves in, but in the practical
 21 side of things.
 22 MR HALL: I respectfully disagree. I suggest that counsel
 23 should be directly involved. I am going to nominate
 24 someone who is a reasonably senior member of my counsel
 25 team to get to grips with the information technology.

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1 We don't think it is something that you can split off
 2 and feed in.
 3 THE CHAIR: We must think about that and come back to you on
 4 that. I hope we can do that today.
 5 MR HALL: Of course.
 6 THE CHAIR: But I will need to discuss privately with my
 7 team before we can come back --
 8 MR HALL: Before someone gets saddled with it, yes.
 9 THE CHAIR: Exactly. Just let me make a note of that.
 10 What you are in effect proposing is a two-man team
 11 or two-person team on each side?
 12 MR HALL: Yes.
 13 Yes, as Ms Mannion says, also someone with
 14 sufficient seniority and leadership to make real
 15 decisions and to influence the course of the Inquiry as
 16 a whole. For example, if they detect that there is
 17 an insuperable problem, being able to ensure that the
 18 whole Inquiry sits up and says, "Okay, we cannot proceed
 19 on the basis that there will be this pool of split
 20 documents", or, for example, to persuade you, sir, that
 21 perhaps one might split -- this is the technical side of
 22 it -- documents 3 ways rather than 100 ways, which
 23 I gather is possible.
 24 THE CHAIR: That, I am afraid, is a level of technical
 25 detail which is well beyond me. But if I need to,

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1 I will get down to it and will grasp it, but I am hoping
2 that people who know more about this, in small numbers
3 rather than large groups, can in short order resolve it.
4 MR HALL: I entirely -- yes. But we deliberately in our
5 letter did invite everyone in the Inquiry, including
6 you, sir, and counsel to educate themselves in the
7 information technology systems because we regard it as
8 so fundamental. I have sought to educate myself in it.
9 It is not impossible, but it is fundamental.
10 THE CHAIR: I am fortunate in having people who know what
11 they are doing there, and I can rely on them. But
12 I hear what you say. I take your point and I may need
13 a crash programme.
14 MR HALL: Sir, I think the next thing I mentioned was
15 metadata.
16 THE CHAIR: Yes.
17 MR HALL: It is the same problem and I suggest it is dealt
18 with in the same way.
19 THE CHAIR: Yes. This is an historic problem rather than
20 a --
21 MR HALL: I'm not sure about that. On this one I'm on
22 shakier ground, I had a crash course in splitting but
23 not in metadata.
24 Sir, moving on now to the next aspect. Having dealt
25 with the information technology but really emphasising

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1 how important the information technology issue is, could
2 we ask the Inquiry, please, to consider in detail and
3 practically what is involved in the most difficult
4 cases. I take, for example, the case of a former
5 officer who is currently overseas who is not
6 represented.
7 In order for them to make a witness statement,
8 potentially large numbers of sensitive documents are
9 going to need to be communicated to that person. That
10 person is going to have to have sufficient but secure
11 access to those documents, and may need to have
12 assistance or even help from the Inquiry direct, if they
13 are not represented.
14 We would ask you to sit down not looking at the
15 early Vietnam Solidarity Campaign officers, who are to
16 some extent more straightforward, but immediately
17 looking at the problems caused by those really difficult
18 officers and factor that in. Because if there is
19 a solution to that, it is probably a complicated one and
20 it is something that we need to get on with as soon as
21 possible.
22 THE CHAIR: If we are going to do that, we will need names.
23 I mean I know some of them, but I don't claim to be able
24 to reel off the top of my head every single one of them
25 at the moment. But we will need names if that is to be

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1 done.
2 I don't, however, want particular problems of that
3 kind to prevent progress being made on the great bulk of
4 officers where those problems don't occur.
5 MR HALL: Absolutely.
6 THE CHAIR: Bluntly, if we cannot get evidence from officers
7 X and Y who may be in distant continents and who are not
8 represented, then tant pis, we just can't.
9 MR HALL: I agree, and to develop the point that you raised
10 entirely agree about not having a stage 1 -- we must
11 finish stage 1 before we get to the stage 2 process.
12 Our plea is for the Inquiry to work on strands in
13 parallel.
14 THE CHAIR: I entirely agree. We are absolutely ad idem
15 there. I know that a great deal of progress has been
16 made on module 2 in advance of some progress on
17 module 1. I wholly agree and I'm not suggesting we do
18 everything in strict chronological order, we should do
19 what we can, when we do it.
20 MR HALL: I am grateful.
21 Sir, the next topic is to think about the hard
22 questions. For example, what is the position if
23 allegations are made against former officers by members
24 of the public after those officers have completed their
25 witness statement? Will they have a chance,

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1 procedurally, to file a response before the oral hearing
2 and what happens -- forgive me for posing rhetorical
3 questions these are the sort of practical things we need
4 to think about -- if a conflict emerges so they can no
5 longer be represented by the designated lawyer, which
6 those in court may know is the Metropolitan Police
7 Service funded but independent legal team who represent
8 officers who could not be given proper legal
9 representation by the commissioner's team who
10 I represent.
11 It is possible that conflicts may emerge late in the
12 piece and we need to think about that, because they
13 would need to go to someone else. There is the same
14 issue about documentation, et cetera, et cetera.
15 Are they, developing the same theme, going to find
16 out about allegations against them only when they get
17 the hearing bundle? I assume not. I assume that the
18 Inquiry would say, well, if a serious allegation has
19 been made, they should have some advance notice of it as
20 a matter of fairness. Has that been planned into the
21 timescales and charts?
22 THE CHAIR: The answer is that it is not an issue which has
23 been specifically thought about or addressed. We do
24 need to think about it. I cannot give you an
25 instantaneous response to that. My strong suspicion is

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1 that we will have to wait and see what happens and deal
 2 with it then.
 3 MR HALL: Yes.
 4 THE CHAIR: I agree we need to think about how we will deal
 5 with it beforehand, but this problem can arise in
 6 a variety of guises and it will not be the only --
 7 MR HALL: No.
 8 THE CHAIR: -- lump in the road which sends us off course or
 9 has the capacity to do so.
 10 MR HALL: I agree. There is not necessarily a right or
 11 wrong answer, and certainly not in the abstract, but it
 12 is worth thinking about these things and trying to tease
 13 them out and identify them if we can.
 14 THE CHAIR: I wholeheartedly agree, but I am afraid I have
 15 become convinced that dealing with problems in the
 16 advance in the abstract is not the right way forward.
 17 We have to deal with things in the light of experience,
 18 in the light of the facts that exist.
 19 MR HALL: Absolutely. I absolutely agree with that. Which
 20 is why the idea of working in parallel and getting these
 21 problems in concrete form before one is better than
 22 waiting.
 23 So, for example, if one has a cadre of officers it
 24 may be against whom one can anticipate allegations being
 25 made, get those witness statements out. Find out what

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1 allegations are going to be made by members of the
 2 public, potentially put out a call for evidence from
 3 members of the public who are now aware of the cover
 4 identities. Get those matters as a matter of concrete
 5 reality on the table and then try to solve them.
 6 THE CHAIR: Yes. We do know in advance that there are
 7 a number of former undercover officers whose activities
 8 are of great interest to a large number of people.
 9 MR HALL: Indeed.
 10 THE CHAIR: They, fortunately, at least some of the more
 11 prominent of them, their files have already been
 12 searched and you are right, we may well be in a position
 13 to embark upon them not in strict chronological order
 14 but in advance.
 15 MR HALL: I'm grateful.
 16 Sir, the Metropolitan Police Service has a really
 17 practical issue planning for -- which we will -- those
 18 officers who are going to give live evidence. Plans
 19 will have to be made, protective arrangements dealing
 20 with transport, accommodation and hearing in the court.
 21 As, sir, you will know those sorts of behind-the-scenes
 22 arrangements require a lot of thought.
 23 We will ask the Inquiry -- I know it is difficult to
 24 give any sort of precise figures -- to provide a good
 25 estimate about the number of officers who are going to

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1 be giving evidence live. When you make decisions on
 2 those witnesses who will be giving evidence live, please
 3 take account of their age, their health, their location
 4 and of course their wellbeing.
 5 Are there, we wonder, any officers who even now the
 6 Inquiry can say it will not need to call? It seems
 7 sensible and fair if the Inquiry already -- I think it
 8 has been indicated with one or two officers that you are
 9 not going to call, to make those decisions now.
 10 Similarly, if there are in fact officers who are not
 11 able to make witness statements -- I think, sir, that is
 12 the phrase you have used, "Every witness who is able".
 13 If one can already identify those who are not able or
 14 people who have alleged that they are not able but the
 15 Inquiry says we need some medical evidence to establish
 16 that, let's get that in track now. It will help
 17 understand the numbers and again it will resolve certain
 18 issues.
 19 THE CHAIR: As far as those who are not able to give
 20 evidence, they, I think, self-identify and we have
 21 received medical evidence in, I think, in the case of
 22 the Metropolitan Police Service in all cases where that
 23 situation arises. It is not the case in all cases
 24 overall. I can think of one where it does not, but it
 25 doesn't concern you.

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1 MR HALL: Right.
 2 THE CHAIR: I don't think there is any utility in working
 3 out in advance and essentially in the abstract how many
 4 officers are likely to be called, who they might be, how
 5 many are not going to be called, who they might be,
 6 until I know whether or not there are significant issues
 7 of fact in relation to them which need to be explored,
 8 if they can be, in oral evidence.
 9 That, I think, depends upon going through the
 10 process of obtaining witness statements from them,
 11 submitting them to the non-state non-police legal
 12 representatives, and seeing what, if any, significant
 13 issues of fact there are.
 14 MR HALL: Yes, I mean of course, because one wants to know
 15 if there are issues of fact. But if there are witnesses
 16 who say they are unable to even make a statement -- and
 17 I think there are some --
 18 THE CHAIR: Then it is perfectly obvious they will not be
 19 called to give oral evidence, bluntly you don't need me
 20 to tell you.
 21 MR HALL: No, no, of course, but also relieve them of
 22 knowing that they may be called upon to make a witness
 23 statement.
 24 THE CHAIR: What you want the Inquiry to do is when all the
 25 anonymity processes have been finished, to look at those

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1 cases in which one or other degree of anonymity has been
 2 granted on health grounds --
 3 MR HALL: Yes.
 4 THE CHAIR: -- or infirmity grounds, and indicate to them
 5 that they will not be required to give oral evidence?
 6 MR HALL: Or a witness statement, as the case may be. Some
 7 will be able to do one and not the other. Yes.
 8 THE CHAIR: As regards those who are unable to provide
 9 a witness statement who are alive, I think they have
 10 been identified so far in the minded to notes and
 11 rulings.
 12 MR HALL: Right. I am just conscious there are some
 13 officers who have had very serious strokes who will not
 14 be making witness statements one imagines and they
 15 should be put out of the concern and the worry that they
 16 are going to have to go through some enormous process --
 17 THE CHAIR: That is not a difficult process. I can simply
 18 go back and look at the minded to notes and rulings and
 19 see in the handful of cases -- because it is only
 20 a handful --
 21 MR HALL: It is only a small number.
 22 THE CHAIR: -- where it simply is not going to be sensible
 23 to approach them to obtain a witness statement. I can
 24 do that.
 25 MR HALL: I am grateful.

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1 THE CHAIR: As regards those who will not be required to
 2 give evidence, I am afraid that is something that must
 3 await developments.
 4 MR HALL: Understood.
 5 The next topic concerns Inquiry counsel coming to
 6 Metropolitan Police Service buildings to work, or rather
 7 to have facilities made available to them to work. I am
 8 thinking in particular about the redaction/restriction
 9 order process. As you know, sir, the process of
 10 transporting large numbers of sensitive documents is
 11 incredibly time-consuming and resource -- and it delays
 12 the process. You have to wait for a disc to be taken by
 13 two security officers from the Metropolitan Police
 14 Service's building to your facility and look at it,
 15 et cetera, et cetera.
 16 It would not, we suggest, compromise anyone's
 17 independence for counsel to the Inquiry to come and work
 18 on restriction applications at the Metropolitan Police
 19 Service building and they could, for example -- I am
 20 sure this is exactly how it will happen -- go through
 21 the Metropolitan Police Service application, some of
 22 those they would accept, some of those they would query,
 23 some of those they would form a firm view were wrong.
 24 What normally happens is they speak to Metropolitan
 25 Police Service counsel and then a debate takes place.

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1 Quite often common ground is reached and then one
 2 isolates those matters which will need to be resolved by
 3 you.
 4 If that can happen at the Metropolitan Police
 5 Service building one cuts out a huge amount of delay and
 6 resource intensive transportation of documents.
 7 THE CHAIR: I will have to ask my counsel team about that.
 8 I can't give you answer off the top of my head.
 9 MR HALL: I would invite you to direct it.
 10 THE CHAIR: No. I need to ask them first whether there are
 11 any difficulties with it.
 12 MR HALL: We can see none.
 13 THE CHAIR: Fine. That is one of the issues I must discuss
 14 with them and we will resolve, I hope, later on today.
 15 MR HALL: I am grateful. I mean, I suppose I'm trying to
 16 indicate that we regard that as a really sensible
 17 straightforward step. In particular with the Res
 18 Tool --
 19 THE CHAIR: Of course, the inability to use the information
 20 technology to perform that function at two separate
 21 locations simultaneously means that the mountain will
 22 have to move to Mohammed.
 23 MR HALL: Thank you.
 24 THE CHAIR: But whether it is you to us or we to you,
 25 remains to be seen.

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1 MR HALL: Very good.
 2 I also ought to say that we would invite the
 3 Inquiry -- there will always be a huge amount of
 4 transportation of sensitive documents in any event -- to
 5 consider providing its own secure courier system. At
 6 the moment the Metropolitan Police Service I understand
 7 is doing an awful lot of it, and it takes people out of
 8 their work and it may be that the Inquiry can provide
 9 its own couriers.
 10 THE CHAIR: This is a problem for both sides.
 11 MR HALL: Yes.
 12 THE CHAIR: As with many of these problems, inviting the
 13 other side to do it is saving resources of the one side
 14 but imposing a burden on the other.
 15 MR HALL: Yes, a shared burden.
 16 Sir, the next topic is to ask the Inquiry to ask
 17 hard questions of itself about the process for
 18 restriction order applications on the basis of privacy.
 19 I assume -- I don't know -- that that model is going to
 20 be pursued. But that clearly has enormous resource and
 21 time implications.
 22 THE CHAIR: It does. If you read the protocol carefully,
 23 I think you can see that there are permissible ways
 24 around, provided that we comply with the general data
 25 protection regulation.

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1 MR HALL: Yes. Gosh. Is that a serious road block?
 2 THE CHAIR: I don't believe it is, but it would be, for
 3 example, if the data protection bill currently in the
 4 Lords, I think, for the second or third time, isn't in
 5 force on 25 May. Because we, as an Inquiry, will if my
 6 understanding of the regulation is right, need express
 7 domestic statutory permission to do certain things.
 8 MR HALL: Right. Right.
 9 THE CHAIR: It looks as though the bill is going to be
 10 enacted in time --
 11 MR HALL: Yes.
 12 THE CHAIR: -- and I think everybody is proceeding on the
 13 basis that it is.
 14 MR HALL: Right. I am grateful. But as the Rehabilitation
 15 of Offenders Act issue demonstrates, sometimes an
 16 inquiry is actually dependent upon legislation.
 17 THE CHAIR: This time the legislation is going through
 18 Parliament, the only query, and I sincerely hope it will
 19 be resolved, is whether or not its coming into force is
 20 delayed as a result of issues which are nothing
 21 whatsoever to do with data protection but are all to do
 22 with other matters --
 23 MR HALL: Other matters.
 24 THE CHAIR: -- about which I say nothing further.
 25 MR HALL: No.

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1 May I ask whether the Rehabilitation of Offenders
 2 Act matter will be dealt with in time for that part of
 3 the hearing, or certain --
 4 THE CHAIR: I don't know. But the more I have learnt about
 5 the facts, the smaller that problem appears to be. This
 6 is one of those questions which were deeply
 7 interestingly legally, no doubt, but I do doubt now will
 8 have a great deal of impact. It has not had on the
 9 anonymity process so far, for reasons that I have
 10 explained.
 11 MR HALL: Indeed. I completely understand why that may well
 12 be the case, but of course the provisional view that
 13 I share with you, sir, may not be shared by anyone.
 14 THE CHAIR: No, I know.
 15 MR HALL: And if an officer wanted to refer to a spent
 16 conviction of a person who was accusing him of doing
 17 unnecessary acts, then the issue is going to have to be
 18 resolved.
 19 THE CHAIR: It may have to be. But I don't control the
 20 parliamentary timetable or even the executive presenting
 21 secondary legislation to Parliament. That is entirely
 22 out of my hands. I can make recommendations, as I have
 23 done, and ask that things are done, but that is all
 24 I can do.
 25 MR HALL: I am grateful for that. That just seems

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1 another -- there does need to be contingency planning to
 2 deal with --
 3 THE CHAIR: I am not minded to engage in contingency
 4 planning for contingencies that, (a), I don't believe
 5 will occur, and (b) may not have quite the impact on the
 6 Inquiry process that in theory they could have.
 7 If push comes to shove, I may simply have to make
 8 a decision and hope it is legally sound.
 9 MR HALL: Yes. There was a bit of wriggle room.
 10 THE CHAIR: Yes.
 11 MR HALL: I am grateful. Forgive me, I am dealing with
 12 quite a lot of what for us are fairly crunchy issues.
 13 This is about IMOS.
 14 THE CHAIR: This is a crunchy issue and I invite you to say
 15 what you want to about it.
 16 MR HALL: IMOS, which is the Special Branch database which
 17 captures the intelligence generated by the officers --
 18 I know, sir, that you are interested in knowing what use
 19 was made of intelligence obtained or gathered by
 20 officers --
 21 THE CHAIR: Well, it is not just that which is distributed,
 22 it is that which is received.
 23 MR HALL: Indeed.
 24 THE CHAIR: It gives us the raw intelligence that they were
 25 reporting and what was done with that.

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1 MR HALL: And what was done with it.
 2 THE CHAIR: Yes.
 3 MR HALL: Sir, as you will also know, it is not as
 4 straightforward as typing a search term into Google.
 5 THE CHAIR: No.
 6 MR HALL: My request is that you dedicate counsel to the
 7 IMOS task. So people who can become genuinely
 8 knowledgeable about the IMOS process. I say that
 9 because IMOS Metropolitan Police Service staff have been
 10 very, very appreciative of your counsel when they have
 11 become experts and when they have been able to come for
 12 a number of days per week, it has gone much better than
 13 when one has had a change of counsel. So that is our
 14 first request.
 15 THE CHAIR: Can I say by explanation something that possibly
 16 you do know but you may not, that one of the two counsel
 17 who have been used to deploying to IMOS is a New
 18 Zealand -- sorry, not a New Zealander, she has married
 19 a New Zealander and has gone with him, I think, to New
 20 Zealand --
 21 MR HALL: I do know that.
 22 THE CHAIR: -- so we have lost invaluable help.
 23 We do have two counsel who are becoming expert in
 24 IMOS. I wholeheartedly agree with you. It works much
 25 better when we have people who know what they are doing

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1 on both sides.
 2 MR HALL: Of course. For our part, we are increasing the
 3 officer capacity at IMOS to deal with the Inquiry's
 4 expectations.
 5 THE CHAIR: Yes.
 6 MR HALL: That said, I do know that there is just a source
 7 of frustration about the speed. I think we are going to
 8 have to -- both sides are going to have to both sides is
 9 the wrong way of putting it --
 10 THE CHAIR: I know what you mean.
 11 MR HALL: -- but the Inquiry and the Metropolitan Police
 12 Service will continually need to speak and sort it out.
 13 THE CHAIR: I would like to be a little more concrete than
 14 that.
 15 According to some back-of-envelope figures, but they
 16 are well founded, that I have been shown, we have about
 17 70 officers whose records on IMOS and deployments we
 18 need to look at between now and December. The current
 19 throughput is 2.5 officers per month. That needs to be
 20 stepped up, accelerated, rapidly. It requires first
 21 more resources, which you helpfully tell me are in place
 22 and which I hope that we can put in place on our side,
 23 and, secondly, efficiencies. I would like to discuss
 24 those with you, if I may.
 25 MR HALL: Yes.

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1 THE CHAIR: Again, if you need time to take instructions
 2 about these and respond when you have done so, please
 3 say so.
 4 MR HALL: I probably will.
 5 THE CHAIR: The journey from making a request by us to
 6 having the documents provided by you to us is a lengthy
 7 one and it contains steps which I think could be
 8 productively removed.
 9 I have been given four examples. I don't for one
 10 moment think that you will have them at the top of your
 11 head, but they concern HN321, HN339, HN329 and HN68.
 12 They show that the journey from search request to
 13 your responses to that, the rule 9 request that is
 14 eventually generated by it, varies from 15 weeks, which
 15 is the shortest, to 43 weeks which is the longest.
 16 Within each of those periods there is a period of on
 17 average 7.5 weeks. On some instances it is 7, in some
 18 it is eight, between the search report being produced by
 19 IMOS and the report being made available to us.
 20 The understanding that I have is that is because on
 21 your side it is loaded on to HOLMES, and then after
 22 a gap which can be as long as a month because the
 23 further uploading only takes place once a month, is then
 24 loaded on to Relativity, and then becomes accessible to
 25 us. It may also be the subject of some internal reviews

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1 during that time.
 2 I, for my part, do not see why any of that needs to
 3 be done. I don't understand why it can't be loaded
 4 straight on to Relativity and if you need to load it on
 5 to HOLMES, do so later.
 6 MR HALL: It is a very respectable question and I will need
 7 to take instructions, but yes.
 8 THE CHAIR: Of course. It is that sort of thing which
 9 I think might speed matters up.
 10 We suspect that there may be some delay produced by
 11 reviews of the documents before they are shown to us.
 12 I can't see the need for that.
 13 MR HALL: I was not actually aware of that.
 14 THE CHAIR: No.
 15 MR HALL: We will deal with that quickly.
 16 THE CHAIR: Yes. In the crudest simplification, what could
 17 happen is that Counsel to the Inquiry could go to IMOS,
 18 identify the documents that they want there, photocopy
 19 them, provide the photocopies to the Metropolitan Police
 20 Service Commissioner's lawyer or designated lawyer teams
 21 as appropriate and bring them back. That would cut out
 22 a good deal of this.
 23 MR HALL: Yes. We have thought about that. There is
 24 a temptation on the Metropolitan Police Service side to
 25 say to counsel, "You have a go", because it is actually

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1 quite difficult. I am not sure that model is going to
 2 work, but we will look at it.
 3 The only reservation is it is a highly sensitive
 4 environment. I don't want to say too much about it --
 5 THE CHAIR: No.
 6 MR HALL: -- but any efficiencies -- what we have learnt is
 7 that you are very interested in what will come out of
 8 IMOS and it is clearly a pinch point we are going to
 9 have to work at. I don't think I can say any more about
 10 that, but I have noted -- or Ms Mannion has noted -- all
 11 your questions.
 12 THE CHAIR: Again, I am going to propose, once you respond
 13 to my suggestion that you take instructions on it, that
 14 we appoint on each side -- I was going to say one
 15 person, I think would probably suffice in this
 16 instance -- to get to the bottom of this and agree
 17 a solution.
 18 MR HALL: Agreed.
 19 THE CHAIR: I have counsel who doesn't yet know that I am
 20 proposing her to do it, but I am sure that she will
 21 accept the responsibility --
 22 MR HALL: Gratefully accept it. Yes.
 23 THE CHAIR: -- and discharge it effectively.
 24 MR HALL: Sir, I am not going to respond to your questions
 25 on my feet or even today.

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1 THE CHAIR: Of course. I hope you will be able to respond
 2 to some extent to me today. And in particular about
 3 that proposal, because I think that is probably --
 4 MR HALL: About the --
 5 THE CHAIR: Proposal to appoint one person on each side --
 6 MR HALL: I can say yes, now, on my feet absolutely.
 7 Agreed.
 8 THE CHAIR: Good.
 9 MR HALL: The next topic is the question of numbers. We
 10 would like to talk constantly about numbers. We have
 11 done a back-of-an-envelope estimate, as I am sure you
 12 are doing constantly, in relation to Robert Lambert.
 13 Theoretically there are 118,000 pages of documents which
 14 are relevant to Robert Lambert. Our estimate is that
 15 would, if a line-by-line redaction process was required,
 16 and I can see it might be, take 20 counsel 98 working
 17 days to redact.
 18 THE CHAIR: I have read your figures. I don't claim to have
 19 got completely to the bottom of the numbers of documents
 20 that we are actually going to have to deal with. But
 21 I know that you did start out with 700,000-odd and
 22 I believe, on the basis of the information that I have
 23 been given, that that is going to come down to about
 24 a seventh.
 25 MR HALL: Documents or pages? I am referring to pages, but

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1 of course documents will often have many pages.
 2 THE CHAIR: Some documents have many pages, some have one,
 3 some documents you can read in a minute, some take half
 4 an hour --
 5 MR HALL: Sir, I am referring to pages.
 6 THE CHAIR: Fine. Both the Metropolitan Police Service and
 7 the National Police Chiefs' Council have at an early
 8 stage in the Inquiry -- I'm not recriminating here but
 9 explaining the background -- said that there are an
 10 extraordinary number of documents which the Inquiry will
 11 have to consider. We have analysed those that we have
 12 received and found that actually an awful lot of them
 13 can simply be binned. They are not of any interest to
 14 the Inquiry even potentially.
 15 The best estimate that we have at the moment is that
 16 we might need about 100,000.
 17 MR HALL: Right.
 18 THE CHAIR: That figure will require refinement, I don't
 19 doubt.
 20 MR HALL: Is that 100,000 documents?
 21 THE CHAIR: Yes.
 22 MR HALL: That is about half a million pages.
 23 THE CHAIR: My suspicion is that will come down quite a lot.
 24 MR HALL: It is half a million pages, that is enormous.
 25 THE CHAIR: It is a lot. We are going to in this debate

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1 move on to the redaction process, about which you will
 2 have something to say and I will have something to say.
 3 MR HALL: I will. The question of scale takes me to this
 4 point, if I may, quickly. We assume that the Inquiry
 5 intends to go very deeply into particular deployments?
 6 THE CHAIR: Yes.
 7 MR HALL: That that will, inevitably, create a burden in
 8 what I will call preparing the documents, sending to the
 9 officer, any affected non-state core participants, to
 10 the public, bundles et cetera.
 11 We would invite the Inquiry to consider making
 12 serious adjustments in relation to less controversial
 13 deployments. The Inquiry must now know from the
 14 anonymity process which officers are not controversial
 15 and the Inquiry, it seems to us, if one is going to
 16 realistically achieve the timetable it is going to have
 17 to make quite quick hard decisions about how deeply it
 18 will go into other deployments.
 19 THE CHAIR: I don't agree with that.
 20 Sir Christopher Pitchford said he was going to go
 21 into every deployment. Not every bit of reporting but
 22 every deployment. Each officer was, where possible,
 23 going to be investigated on an officer-by-officer
 24 basis --
 25 MR HALL: I am not trying to refight that fight. I see very

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1 clearly from the foreword that there is one thing which
 2 is set in stone. You want to go chronologically through
 3 the history of the Special Demonstration Squad and take
 4 statements from every officer who is able to.
 5 I understand that.
 6 THE CHAIR: Yes.
 7 MR HALL: There is flexibility, we suggest, in relation to
 8 the number of documents that enter the process in
 9 relation to each witness. Some witnesses will clearly
 10 need a vast number of documents. What I am suggesting
 11 is some witnesses will not need anything like -- when
 12 I say "anything like", one could maybe have no documents
 13 to do with a large document. One takes a witness
 14 statement but not documents.
 15 Those are the sorts of decisions we would invite the
 16 Inquiry to make. Otherwise, if it is tens of thousands
 17 or 1,000, which I think we recently had in relation to
 18 the first Vietnam Solidarity Campaign witness, it is
 19 going to be --
 20 THE CHAIR: You have seen a copy of the request made,
 21 I hope.
 22 MR HALL: Yes.
 23 THE CHAIR: That was provided for your information so that
 24 we could debate matters so that you knew what we were
 25 intending to ask.

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<p>1 MR HALL: It was very helpful, thank you. 2 THE CHAIR: I, at first blush, was surprised by the detailed 3 extent of the questions that were asked of him, but 4 I was reassured that because he is one of the very few 5 people still alive able to give us detailed evidence 6 about the Vietnam Solidarity Campaign infiltration, that 7 we were going to ask him a lot of questions to ensure 8 that we understood the other documents the better. 9 That is not to be taken as a template for what every 10 officer will be asked, I agree it would impose an 11 intolerable burden on everybody if that were to be the 12 case. But there will be some officers who will be asked 13 more than he is. 14 MR HALL: Of course, of course. 15 THE CHAIR: I have suggestions to make about the documents 16 and the redaction process, if this is the right time to 17 do it, I will. 18 MR HALL: Yes, please. 19 THE CHAIR: It seems to me that the redaction process may be 20 less burdensome than has been assumed up to now. 21 Documents broadly will fall into three categories. 22 Those which relate to deployments where I can only 23 receive evidence in closed hearings, when there will 24 simply be no need for any redactions. Those documents 25 will be treated, like the live evidence, as entirely</p> <p style="text-align: center;">Page 41</p>	<p>1 one is reading a page to make sure one doesn't undermine 2 an anonymity application -- of which there are going to 3 be relatively few for the Vietnam Solidarity Campaign -- 4 one has to read the documents and if you see a file 5 number I would have thought it is perfectly easy to 6 redact the file number. 7 THE CHAIR: It is simply pointless. What damage is being 8 done to any legitimate police interest to leave in an 9 old file number? 10 MR HALL: Well -- 11 THE CHAIR: These are matters we can discuss in due course. 12 This is not a matter for now. But I am simply 13 indicating that a provisional view which I have formed, 14 it is becoming a better informed provisional view and 15 gradually getting firmer, but as always I'm open to 16 proper submissions about it. 17 It did seem to me that the ancient harmless 18 deployments, that the need for redaction other than to 19 protect anonymity was either nil or so small as not to 20 create a great problem. 21 MR HALL: Yes. 22 THE CHAIR: Forgive me, I'm explaining a position and you of 23 course can respond, but I'm not foreclosing later 24 argument in detail. 25 MR HALL: Of course.</p> <p style="text-align: center;">Page 43</p>
<p>1 closed. 2 At the other end of the spectrum -- here I think 3 I will not get a grateful nod but something else -- we 4 have the ancient deployments into groups who are of 5 historic interest rather than groups whose members might 6 even then or certainly don't now pose any threat to 7 anybody. I take as an example, because we are going to 8 deal with this quite soon, the Vietnam Solidarity 9 Campaign. There are a fair number, not an inordinate 10 number of documents about that, but a fair quantity of 11 intelligence reports about that. 12 Using the Res Tool, which we have been hoping to be 13 able to do, the sort of redaction that you seek on 14 those, file numbers, names of officers who aren't of 15 interest to the Inquiry -- 16 MR HALL: Yes. 17 THE CHAIR: -- possibly some handwritten notes on documents, 18 would have been possible, albeit it would have been 19 a burdensome task. I think we have to recognise it is 20 not now possible. We will discuss this no doubt but my 21 view about the historic documents is that there can only 22 be redactions to support anonymity orders and nothing 23 else. 24 MR HALL: I wonder if that is right. The function of 25 Relativity, which obviously allows you to black out, if</p> <p style="text-align: center;">Page 42</p>	<p>1 THE CHAIR: There are other deployments such as more recent 2 ones. I take this as an instance and not anything more 3 than that, but the deployment of HN81 Hagen into the 4 Movement for Justice, from what I have seen so far -- 5 and it is not completed by any means -- from what I have 6 seen so far does not create any requirement for large 7 scale redaction. Possibly even none. 8 MR HALL: Sir, there are two processes at work. There is 9 the process of considering and there is the process of 10 redacting. 11 You may well be right that there is very little that 12 needs to be redacted, but all the documents do need to 13 be considered. 14 THE CHAIR: I have to read them, apart from anything else, 15 and no doubt lots of other people want to. 16 MR HALL: Considered for restriction order processes. 17 Obviously we gratefully receive all suggestions but if 18 an officer has to -- as they must, otherwise it would be 19 negligent -- they must read the documents to consider is 20 there something which ought to be restricted in the 21 public interest, then it cannot add a huge amount of 22 time, having read it, if they redact a file name or not. 23 If so, you are suggesting that really one should say, 24 let's take a looser view of risk, we would respectfully 25 disagree.</p> <p style="text-align: center;">Page 44</p>

1 THE CHAIR: I am not taking a looser view of risk. I am
 2 proposing to, that in the case of certain deployments
 3 even relatively modern ones, there is no risk.
 4 MR HALL: That may be right, but we need to go through the
 5 process.
 6 THE CHAIR: Yes.
 7 MR HALL: At the moment my submission would be that the
 8 process of consideration is what takes times. The
 9 actual process of applying the black marker pen does
 10 not.
 11 THE CHAIR: I am not sure that that is right. Of course
 12 I don't want to put the public interest at risk and of
 13 course I don't want to put the safety of any former
 14 undercover officer at risk, and of course I must protect
 15 the legitimate interest in private and family life where
 16 I have indicated that it should be protected.
 17 Those three things are not going to arise in the
 18 case of every document of many ancient deployments and
 19 of some more recent ones.
 20 I know you say they have to be considered. I agree.
 21 I have indicated, not least, I have to read them. But
 22 I do think that the physical process of blanking bits of
 23 documents out is something that we can legitimately
 24 avoid if we can.
 25 MR HALL: It is always better to speak in the concrete than

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1 the abstract --
 2 THE CHAIR: Yes, of course.
 3 MR HALL: -- one of the things I was going to mention on the
 4 restriction order aspect is where we have put in
 5 applications, we would be very grateful to see your
 6 response.
 7 THE CHAIR: Of course. I am going to come to those and
 8 I will do so now if you would like me to.
 9 MR HALL: Please, yes.
 10 THE CHAIR: Right. I have a list of them here if I can find
 11 it, under which there are 15 categories of documents
 12 where we have asked you to produce them pursuant to
 13 rule 9 requests. You have produced them. You have made
 14 proposals for redactions of them to which we have not
 15 responded. The reason we didn't respond, I am told, is
 16 because the Res Tool was not working.
 17 Now we know it is not working, I entirely agree we
 18 must respond to you in short order. What I am proposing
 19 is that we do do that, and to the extent that things
 20 can't be agreed between us and require a decision by me,
 21 I will consider whether or not an oral hearing is
 22 required. I suspect it will be and I will proceed on
 23 the basis that it will be, and intend to fix one to take
 24 place in the fairly near term. I have in mind by the
 25 end of June at the latest --

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1 MR HALL: There are some free dates now.
 2 THE CHAIR: Quite. Those are in July, but I would hope to
 3 be able to do this before then.
 4 MR HALL: Yes.
 5 THE CHAIR: When we can discuss all of these things. For
 6 example the Vietnam Solidarity Campaign material, the
 7 Lambert paper.
 8 Really rather important, the Special Demonstration
 9 Squad annual and six monthly reports where now that we
 10 have done the bulk of the anonymity applications at
 11 least up to the minded to stage, and a clear direction
 12 of travel has been indicated in relation to some
 13 deployments which have to be treated in closed, I would
 14 hope that we can sort those matters out.
 15 MR HALL: Yes.
 16 THE CHAIR: That is important, not merely for the purpose of
 17 furthering the Inquiry but for the purpose of informing
 18 those who may wish to give evidence, provide evidence,
 19 to the Inquiry what they need to think about in advance.
 20 MR HALL: I am grateful, yes.
 21 THE CHAIR: I have taken those as examples. There are less
 22 significant documents, but I personally am very keen to
 23 get the batch of documents where you have provided us
 24 with your views sorted out early.
 25 MR HALL: Thank you.

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1 THE CHAIR: That, I hope, will provide an indication of what
 2 the likely outcome will be for those documents where you
 3 have not yet reached a view.
 4 MR HALL: Yes. Thank you. I mean like Tradecraft, that was
 5 useful in setting the template.
 6 THE CHAIR: Yes. Nothing is exactly the same, but that is
 7 the sort of exercise that I anticipate.
 8 MR HALL: I am grateful. You had, in fact, anticipated
 9 a request I was going to make which was about
 10 deployments which are going to be considered in closed.
 11 THE CHAIR: Yes.
 12 MR HALL: I am very grateful for the indication that you are
 13 not going to be asking us to do a line-by-line redaction
 14 exercise over documents --
 15 THE CHAIR: It is wholly pointless.
 16 I can say that there is one minor wrinkle in it,
 17 I think it is minor. Some closed deployments produced
 18 reports about activities where the reports may well be
 19 capable of being put into the public domain. They are
 20 not to deal with the heart of the deployment.
 21 MR HALL: They may well be capable --
 22 THE CHAIR: Yes, we need to consider those. All I'm saying
 23 is it is not quite as straightforward as I have
 24 indicated. There may be some intelligence reports which
 25 can be put into the public domain.

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<p>1 MR HALL: I understand that. What I am actually inviting 2 you to do is unless a closed deployment generates 3 reporting which is relevant to a particular issue which 4 you are concerned in investigating, is that one simply 5 doesn't require that exercise at all. What you are 6 suggesting almost sounds as if you ought to look at 7 every document just in case -- 8 THE CHAIR: Not at all. This is an issue which I think we 9 can discuss not at a public hearing -- 10 MR HALL: Right. 11 THE CHAIR: -- but I am merely flagging up that there is 12 an element of caution about that. Everyone is right in 13 assuming that closed deployments, that the documents 14 will be dealt with in closed. But there will be 15 occasional exceptions, which I anticipate we will 16 identify to you rather than the other way round. 17 MR HALL: Very well. 18 THE CHAIR: Then, forgive me, there is a third category 19 which is where the difficulties arise. 20 MR HALL: Yes. 21 THE CHAIR: There are deployments which give rise to risk 22 and on the basis of some of those risks anonymity orders 23 have been made, but which have to be explored in public 24 session, to the extent they can be, which will be 25 largely the case. Where a detailed redaction exercise</p> <p style="text-align: center;">Page 49</p>	<p>1 is a perfectly legitimate request, but I will have 2 I think to consult with my team before giving you 3 a considered response. 4 MR HALL: I am grateful. 5 I think there is a request for a break. 6 THE CHAIR: Of course. I do apologise. We will break for 7 ten minutes and the shorthand writers can take advantage 8 of it, as can anybody else who wishes. 9 (11.47 am) 10 (A short break) 11 (11.57 am) 12 THE CHAIR: Could everybody please be quiet, thank you. 13 Mr Hall, you made two requests of me which I can 14 answer now. 15 First, can we identify the officers from whom 16 witness statements will not be required. Yes. 17 MR HALL: I am grateful. 18 THE CHAIR: Second, can we identify the categories of 19 deployments of the three that we have been discussing. 20 The answer again is yes. 21 MR HALL: Thank you. 22 Sir, I may have an opportunity to reply and we will 23 take instructions on the points. 24 THE CHAIR: Yes. 25 MR HALL: I have to confess, we have not taken instructions</p> <p style="text-align: center;">Page 51</p>
<p>1 on documents is required. 2 Can I give off the top of my head an example. 3 Deployments into animal rights groups. There were on 4 one view quite serious criminal acts and risks to those 5 reports on these groups. 6 MR HALL: Yes. 7 THE CHAIR: And, yet, there is an entirely legitimate public 8 interest in things that went wrong with those 9 deployments and how to deal with those is going to cause 10 problems for us and will undoubtedly require 11 a line-by-line exercise on the documents. 12 MR HALL: It sounds then that the Inquiry has in mind 13 particular deployments within the third category. 14 THE CHAIR: Yes. 15 MR HALL: We would again invite you, accepting that those 16 are provisional, to share those with us as soon as 17 possible, so that we can all look around all the corners 18 that may arise. 19 THE CHAIR: I mean I have said what I have so we can all 20 think about it in advance. I don't think it is sensible 21 for us to exchange views off the top of our heads now 22 about it. 23 MR HALL: Yes. 24 THE CHAIR: Asking us to identify to you in advance those 25 deployments where this exercise is likely to be required</p> <p style="text-align: center;">Page 50</p>	<p>1 on those points in the short break, forgive me. 2 THE CHAIR: Yes. 3 MR HALL: I don't have a huge amount more to say. 4 Can I deal with really one further point and then 5 a couple of final points? 6 The further point is in relation to current -- that 7 is today -- undercover policing. Documents and officers 8 involved in current undercover policing are in the most 9 sensitive category, obviously. 10 THE CHAIR: Yes. 11 MR HALL: It would help the Metropolitan Police Service to 12 know whether any of those matters -- so that is current 13 policing -- are to be considered in module 1 or 2, or 14 whether the Metropolitan Police Service can understand 15 that those deployments and officers will only be 16 considered in module 3 where, as I understand it, there 17 will be no, as it were, public hearing but there will be 18 visits by you and a panel. 19 THE CHAIR: That is if the Home Secretary agrees to assist 20 me by appointing a panel to deal with module 3. 21 MR HALL: Indeed, or just you. 22 The question is whether the Metropolitan Police 23 Service needs to be prepared for a redaction exercise 24 over documents and statements dealing with current 25 undercover deployments. They are massively difficult</p> <p style="text-align: center;">Page 52</p>

<p>1 and time consuming. If that category of activity is not 2 going to be dealt with in modules 1 or 2, we would ask 3 you to stop serving rule 9 witness statement requests in 4 relation to current policing or to requiring restriction 5 order applications to be made over documents relating 6 current undercover policing and allow the Metropolitan 7 Police Service to focus its resources over the historic 8 documents with which modules 1 and 2 appear to be 9 concerned. 10 THE CHAIR: This is a problem which arises not just with the 11 Metropolitan Police Service but also with other forces 12 and regional units which have deployed undercover 13 officers. 14 There has been -- I have no doubt it has been 15 perceived -- a slight shift between modules 1, 2 and 3 16 in that the strategic review indicates my intention that 17 current deployments should be part of module 3 and not 18 part of modules 1 and 2, partly for the reasons that 19 I have explained that it does actually require us to 20 understand what is now going on by visiting places from 21 which these activities are being conducted and visiting 22 the training course. 23 In those circumstances -- here I am speaking off the 24 top of my head rather than by way of a considered view, 25 and I will need to discuss this ... my own view at the</p> <p style="text-align: center;">Page 53</p>	<p>1 THE CHAIR: Yes. 2 MR HALL: I think I can now just deal with two final points. 3 By way of summarising, we are asking the Inquiry to 4 be flexible enough to provide work early and even 5 tentative indications about where the Inquiry is going, 6 provide us with a flow of work. That is how the 7 Metropolitan Police Service operates best. A good chunk 8 of work which they can get on and do and provide 9 timelines, we would ask, which are flexible rather than 10 as it were artificial court style deadlines. 11 We found that towards the end of the anonymity 12 process -- we have now made our considerations over all 13 but one of the officers, which is an achievement -- 14 THE CHAIR: Yes. 15 MR HALL: -- and we found the level of engagement with the 16 Inquiry team worked really well and in fact we would 17 suggest that one scales up and has weekly meetings in 18 relation to all the strands, IMOS, et cetera. It 19 doesn't have to be of all those individuals but perhaps 20 at least one fixed-in-the-diary weekly meeting where 21 planning and logistics can be discussed, because we 22 think if we identify a problem and deal with it early, 23 that's much better than having to deal with it later on. 24 THE CHAIR: That strikes me as eminently sensible, but 25 before I can answer that, I need to consult with the</p> <p style="text-align: center;">Page 55</p>
<p>1 moment is that we will not require redaction exercise in 2 relation to current deployments because I anticipate 3 that we will have to deal with current deployments, 4 actual deployments, entirely in closed. 5 MR HALL: I am grateful, thank you. 6 One final point to mention by way of really 7 information so that the Inquiry has on its radar 8 a particular demand, of course you are completely aware 9 of the general demands on the police generally, but I do 10 want to mention the fact that there are other undercover 11 related but not Inquiry Act proceedings to do with 12 undercover policing with which the same team within the 13 Metropolitan Police Service legal and officers need to 14 deal. By way of example, there is one major overlapping 15 claim in the Investigatory Powers Tribunal concerning 16 undercover policing and individuals are entitled to 17 bring other claims or indeed to make Data Protection Act 18 requests. If that takes time away from responding to 19 the Inquiry, so be it, but it must be recognised that 20 these additional pressures do have an impact, because it 21 will be the same team. 22 THE CHAIR: I am afraid that is not something to which I can 23 respond. In the traditional phrase, I hear what you say 24 but there is nothing I can say about that. 25 MR HALL: Indeed. But I mention it and you hear it.</p> <p style="text-align: center;">Page 54</p>	<p>1 team who would, after all, be conducting the meetings. 2 MR HALL: Indeed. 3 I think finally to say lest it be suggested, we 4 obviously submit that maximum engagement in no way 5 amounts to a loss of independence. I mean, the Inquiry 6 can be critical of the Metropolitan Police Service. 7 Critical of things that have happened in the past and 8 rightly so, critical of the Metropolitan Police Service 9 going forward if that is justified, whilst at the same 10 time talking, meeting, planning, et cetera, with the 11 Metropolitan Police Service. 12 These submissions have been deliberately forward 13 looking. Other core participants will not know -- that 14 is no criticism of them at all because they have not 15 been in a position to know -- the volume of work that 16 has been done to date by the Metropolitan Police 17 Service. 18 Sir, those are my submissions. 19 THE CHAIR: Yes. 20 Can I mention one further thing? It is a topic we 21 have canvassed already. That is your suggestion that 22 counsel is nominated on our side to deal with document 23 splitting. We see that as a practical exercise which 24 does not require the input of counsel who, after all, 25 are not in infinite supply on our side and have other</p> <p style="text-align: center;">Page 56</p>

<p>1 things to do. 2 I intend -- unless you persuade me to the contrary 3 after you have taken instructions on what I am 4 suggesting -- to nominate one person from our side, 5 a very experienced paralegal who can wear both hats. 6 I don't mind if you have two on your side, but I don't 7 want a committee. 8 MR HALL: I entirely agree. The only reason for having 9 counsel -- it may be that it is unnecessary -- is that 10 ultimately someone is going to have to make a decision 11 about this and let's say there is a debate about whether 12 it is practicable, who should do the document splitting 13 of past documents, whether the workaround suggested by 14 the Metropolitan Police Service is consistent what the 15 Inquiry is trying to achieve. That is going to have to 16 be adjudicated upon. 17 THE CHAIR: I think you will find that the person that 18 I intend to nominate to this difficult task will be 19 fully cognisant of the issues. 20 MR HALL: Then I will say no more. 21 THE CHAIR: I, for my part, do not mind if you have two on 22 your side. The person I have in mind will be perfectly 23 capable of taking them on. 24 Mr Sanders, I think logically you were next in this 25 exercise.</p> <p style="text-align: center;">Page 57</p>	<p>1 of the Inquiry counsel team, with my instructing 2 solicitors and with Mr Hall's instructing solicitors and 3 some members of counsel. 4 THE CHAIR: Yes, it was quite a large meeting. 5 MR SANDERS: Yes. 6 There has been some discussion about the strategic 7 review. 8 I really want to focus on two areas in terms of the 9 strategic review. 10 Just before I do that, there were two miscellaneous 11 matters that just occurred to us which I just flag now. 12 (1) what the proposal might be in relation to 13 opening statements and the difficulty of opening 14 statements being made before all the evidence has been 15 proofed and collated and so on, what that might look 16 like. I don't have any proposals but that was one 17 question we had. 18 The second miscellaneous question was just as to the 19 point at which Maxwellisation would fit in as well with 20 the timetable. 21 THE CHAIR: We have considered that. On the programme 22 planners' tables there is provision for that. We are 23 a long way off, but my intention is that the 24 Maxwellisation as you and I call it, but the issuing of 25 warning letters to those who may be the subject of</p> <p style="text-align: center;">Page 59</p>
<p>1 MR SANDERS: Thank you, sir. 2 Submissions on behalf of the Metropolitan Police Service 3 Designated Lawyers by MR SANDERS 4 MR SANDERS: Sir, as you know I represent just over 100 5 former Metropolitan Police Service officers. More than 6 100, I think, with a Special Demonstration Squad 7 background and then a handful with an National Public 8 Order Intelligence Unit background. 9 In terms of the three segments of module 1 and 2 10 evidence in the strategic review, I have 30 plus clients 11 in each of the three segments. They are not only all 12 over the country, they are all over the world. Some 13 still in work, some retired but with numerous different 14 types of commitments. 15 We have not yet seen any rule 9 requests, not only 16 for our clients but we have not seen any rule 9 requests 17 full stop. That is where we are in terms of looking at 18 the strategic review. 19 Then in giving our response or in raising with you 20 the points we want to raise that have for us fallen out 21 of the strategic review, and the meeting that was held 22 yesterday, which for the benefit of others in the room 23 I don't know if you want to explain what that was, 24 I wasn't there, but as I understand it was a meeting 25 with a programme manager from the Inquiry team, a member</p> <p style="text-align: center;">Page 58</p>	<p>1 criticism in the report formally, will start before the 2 interim report is finished. I intend to do it in stages 3 and so that those who are the subject of criticism in 4 the first part will receive their Maxwellisation letters 5 before those who feature in the second part, before 6 those who feature in the third part and -- if there is 7 one -- before those who feature in the fourth part. 8 I don't think I can say any more about it at this 9 stage; there is a statutory procedure to be followed. 10 MR SANDERS: Sir, yes. Just thinking off the top of my 11 head, one thing to raise in relation to that, if 12 Maxwellisation becomes a parallel strand of the Inquiry 13 work, would from my perspective to be to bear in mind 14 that I, and my team, may then become privy to an 15 indication about a criticism in circumstances where we 16 have other clients to whom we owe duties of disclosure 17 and so on. So I just mention that that might be 18 potentially an issue. 19 THE CHAIR: Then you may have to create within yourself or 20 within your team an ethical wall. 21 MR SANDERS: Yes. Possibly the latter would be more 22 practicable. 23 THE CHAIR: Maybe. You made a comment about opening 24 statements. This we all need to think about. 25 MR SANDERS: Yes.</p> <p style="text-align: center;">Page 60</p>

<p>1 THE CHAIR: Whether there are opening statements at the 2 beginning of each phase of the public hearings or 3 whether there is one opening statement which, as you 4 rightly say, is likely to be made in advance of all of 5 the packages of evidence being prepared, it is 6 inevitable that that will be the case. Which of those 7 two we opt for, or possibly a hybrid, I will consult 8 about. But no decision has been made about that yet. 9 MR SANDERS: I understand, thank you, sir. 10 My two main areas on the strategic review and on the 11 next 12 months really, are first process and second 12 logistics. 13 In relation to process, and where we are from that 14 perspective, the wrapping up of modules 1 and 2 into 15 a single evidential phase obviously raised the questions 16 about what the module 2 issues are. Because at the 17 moment you have consulted on a module 1 issues list. 18 That has not been finalised as -- 19 THE CHAIR: No, I am afraid in the need to do a lot of other 20 things, that has not been at the forefront of my mind at 21 least -- 22 MR SANDERS: No. 23 THE CHAIR: -- and I have not applied my mind to it yet. 24 MR SANDERS: We quite understand that, and no criticism of 25 anyone in relation to that, sir.</p> <p style="text-align: center;">Page 61</p>	<p>1 officers? Because it is obviously one thing to go 2 through a proofing exercise twice as opposed to going 3 through it once, but maybe coming to deal with it live 4 on two occasions. 5 THE CHAIR: I need to consult my own team about that. Off 6 the top of my head, my answer is no that one statement 7 will be obtained. 8 MR SANDERS: I am grateful. 9 I just reiterate the point that knowing the module 2 10 issues in advance of anyone giving a dual statement is 11 going to be important. 12 That, in terms of process, is that issue. 13 Then in relation to documents, just understanding 14 what it is that will accompany or follow a rule 9 15 request, that the officer will be asked to look at or 16 comment on in their statement. 17 THE CHAIR: The intention is to provide a package of 18 documents relevant to that deployment, the deployment of 19 that officer, which will permit him to refresh his 20 memory about things and to deal with any criticisms that 21 may appear on the face of or necessarily implicit in the 22 documents. 23 MR HALL: Thank you, sir. Presumably that will not be 24 redacted in the case of an officer who would have been 25 privy to the information at the material time?</p> <p style="text-align: center;">Page 63</p>
<p>1 The sight of the module 2 issues in advance of 2 proofing any module 2 clients would, in my submission, 3 be important. 4 Allied to that there is another issue which it would 5 just be helpful to get a steer from you on, sir, which 6 is as to the approach to be taken to officers with 7 a dual role. Officers who were deployed undercover, so 8 have module 1 evidence to give, who then came back to 9 the Special Demonstration Squad as managers and so 10 therefore have module 2 evidence to give. 11 THE CHAIR: Some of them are going to have to give evidence 12 twice. I cannot now say how many of them, but my 13 expectation is that certainly if they are in different 14 tranches of evidence -- so someone deployed in the mid 15 1980s who comes back as a manager in the late 1990s, 16 that person will have to give evidence twice. But 17 someone deployed in the late 1970s, who came back as 18 a manager in the -- I am sorry, that is an bad example. 19 Someone deployed in the early 1980s who came back as 20 a manager before about 1992 may be able to give evidence 21 once. But I think that those who did perform both 22 functions can expect to have to give evidence twice. 23 MR SANDERS: Sir, I understand that in relation to live 24 evidence. A question would be will there be separate 25 rule 9 requests, and separate statements from those</p> <p style="text-align: center;">Page 62</p>	<p>1 THE CHAIR: One would hope not. But I am afraid that 2 discussions there have not reached absolute final 3 conclusion yet. The Metropolitan Police Service, 4 I think, do wish to exercise a degree of control over 5 the documents that are shown to officers. If we have 6 one or two practical examples under our belt then 7 I think that will inform future cases. It is something 8 which is, I think, not helpful to discuss in the 9 abstract. 10 MR SANDERS: I understand. 11 Two types of document that we wanted to ask about: 12 the strategic review and I think other documents that 13 the Inquiry has issued refer to overarching evidence, so 14 evidence that has been obtained from the Metropolitan 15 Police Service or from the National Police Chiefs' 16 Council about policies, procedures, systems generally. 17 We would ask is there going to be a list of what has 18 been collated, published or disclosed, and will it be 19 possible to see any of those materials? 20 From my clients' perspectives, if they are being 21 asked about something and the Inquiry has obtained other 22 evidence or information about that, or has other 23 documents about that, then it may be helpful to see 24 those. 25 THE CHAIR: It may or may not be. But I doubt it is</p> <p style="text-align: center;">Page 64</p>

<p>1 a sensible method of proceeding. What in modules 1 and 2 the operational part of module 2 the Inquiry is doing 3 its best to find out is what happened, not what the 4 policies were. I certainly can't promise that any 5 officer asked for a statement is going to -- that you 6 and your team will have a full package of high level 7 policy documents before any request is made. I think 8 that is unlikely. 9 MR SANDERS: No, and probably not particularly desirable 10 from our perspective. 11 But perhaps seeing a list of what you have collated 12 or the topics that you have covered in rule 9 requests 13 already, or in the higher level overarching evidence 14 obtained may assist. There may be something there that 15 we might be assisted by. 16 THE CHAIR: I need to ask about that. I don't know the 17 answer off the top of my head. All I'm attempting to do 18 is to lead you not to expect to have everything that the 19 Inquiry will have by the time it is finished at the 20 earlier stages. 21 MR SANDERS: No, no. 22 THE CHAIR: This is a constant theme I've been harping upon 23 I am afraid, and it applies to this phase of the Inquiry 24 as well. 25 MR SANDERS: Yes. Obviously in relation to the rule 9</p> <p style="text-align: center;">Page 65</p>	<p>1 have been taken to enquire about documents of that kind? 2 THE CHAIR: I am afraid I cannot answer that in a public 3 forum. 4 MR SANDERS: I understand. Well, I have flagged it. That 5 is something that is of concern to us and to a number of 6 our clients. 7 THE CHAIR: I readily understand it. But I can say no more 8 about it at the moment than I have. 9 MR SANDERS: Understood. I am grateful. 10 The final subheading really under this process 11 question is a topic Mr Hall has raised, which is the 12 handling of allegations of misconduct during deployments 13 from members of the public. 14 It is obviously an area where there are liable to be 15 disputes of fact arising for you to resolve. Our 16 reading of the strategic review and the restriction 17 order process is that the Inquiry is publishing cover 18 names with a view to calling for, inviting responses 19 from the public. 20 THE CHAIR: Indeed. The current stance is that members of 21 the public wish to see what the Inquiry can produce to 22 them before they provide anything to the Inquiry. 23 MR SANDERS: Yes. What we would say is that there is 24 obviously going to be a difficulty if officers are asked 25 to provide a statement on the basis of certain materials</p> <p style="text-align: center;">Page 67</p>
<p>1 package and the criteria that have been applied in 2 pulling that together, there, in our submissions, is 3 a need for transparency about that and clarity about it. 4 Is the package going to be a comprehensive set of 5 everything that could be said to be relevant to the 6 particular officer? Is it focused on particular issues 7 or areas? It would help to know that. 8 THE CHAIR: The intention will be to give to that officer 9 everything that we think he or she will need to see to 10 be able to provide an account of what they did. 11 MR SANDERS: Are those materials exclusively obtained from 12 the Metropolitan Police Service? Or largely -- 13 THE CHAIR: You mean in the case of Metropolitan Police 14 Service deployments? You are not talking about National 15 Public Order Intelligence Unit deployments? 16 MR SANDERS: Correct. 17 THE CHAIR: In the case of Metropolitan Police Service 18 deployments, the answer is in principle yes. 19 MR SANDERS: One question that has been raised with us by 20 a number of clients, and has come up a number of times, 21 is as to what documents either the Home Office or MI5 22 have disclosed. A number of my clients believe that 23 those bodies will have relevant documents and documents 24 pertaining to and deriving from their deployments. 25 A question for you, sir, really is what if any steps</p> <p style="text-align: center;">Page 66</p>	<p>1 and then their statements are released in whatever 2 form -- redacted form -- and then allegations are made. 3 Because those statements may allow a framework within 4 which allegations could be made. 5 One way of mitigating that difficulty, in our 6 submission, would be rather than simply invite in 7 a general relatively soft way allegations or claims 8 about particular cover names, would be to set a deadline 9 not for provision of evidence, but just for people to 10 make any allegations of serious wrongdoing that they may 11 wish to make by a particular point, so that there is 12 clarity about that. 13 There are two aspects to that. 14 One is the aspect of fairness and individuals giving 15 evidence and knowing what it is that is said against 16 them and what it is that they should be addressing and 17 dealing with and so on. 18 Then, secondly, from your perspective, it is just 19 the question of putting you in the best possible 20 position to resolve disputes of fact. 21 Because if one has a situation where an allegation 22 is made late in the day after sight of a witness 23 statement, the question may arise, "If that is true and 24 if the person in question remembers so and so doing 25 that, why wasn't that said sooner?"</p> <p style="text-align: center;">Page 68</p>

<p>1 On the current basis, the answer would be, "Well 2 I was not asked to say sooner". Whereas if you have 3 a staging point along the way where allegations of 4 serious wrongdoing in relation to particular cover names 5 are invited and then not made, then that would be 6 something that would potentially be weighed in the 7 balance in terms of reliability and credibility. 8 THE CHAIR: I am not willing to do that. 9 MR SANDERS: Could I ask why not? 10 THE CHAIR: Yes. I have already indicated that I am not 11 going to use coercive powers to require members of the 12 public to provide evidence to the Inquiry. It is 13 a matter for them if they choose to do so or not. 14 It is inevitable in an inquiry of this kind, over 15 many years and into many incidents, that late evidence 16 will emerge, or if you prefer it, late allegations will 17 emerge. 18 To impose an artificial deadline at this stage is 19 not, in those circumstances, sensible. This is an 20 inquiry into undercover policing, not into the members 21 of the public who may have been affected by it. Their 22 evidence is of course important, but it is an inquiry 23 into what happened by way of undercover policing. The 24 first requirement has to be that evidence is obtained 25 from those who were performing the task.</p> <p style="text-align: center;">Page 69</p>	<p>1 officers and their managers first. If there are 2 allegations which are not dealt with in the first 3 statements that they make, we will have to see how to 4 deal with those. 5 Of course, it may be a relevant factor that an 6 allegation is made very late in the day. These are the 7 sorts of things that happen in ordinary litigation. As 8 a judge one simply has to reach a view about them and 9 I am simply not willing at this stage to prescribe in 10 advance a deadline for making allegations because -- 11 MR SANDERS: Not a deadline, sir, but just a point by which, 12 if just on the strength of cover name there is an 13 allegation to be made, a point just to give notice of 14 that. 15 [Interjection from the public gallery] 16 THE CHAIR: Please, this is not a public meeting. It is 17 a serious discussion. Forgive me, I won't respond to 18 that. 19 One of the things that has occurred is that officers 20 faced with the knowledge that their actions are going to 21 be explored, where possible in the public setting, have 22 provided evidence which they have not hitherto provided. 23 This is, I think, a salutary part of the exercise. I am 24 content that it is, or it appears to be working. I'm 25 therefore going to leave in place the procedures that we</p> <p style="text-align: center;">Page 71</p>
<p>1 Precisely how we deal with allegations that are not 2 referred to in the witness statement made as a result of 3 the rule 9 request is something that we will have to 4 reflect upon and deal with when it arises. I will 5 invite views on whether officers should be shown in 6 advance witness statements critical of them. My current 7 view is that of course they should be so that they will 8 go into the hearing knowing what the allegations are. 9 There is a further question as to whether or not 10 they should then be given opportunity of responding in 11 writing. That may depend upon the timing. It may also 12 depend upon fairness, it may depend on a number of 13 factors. I don't think it is sensible to attempt to 14 give an abstract answer now. 15 MR SANDERS: Sir, yes. I mean to be clear I wasn't 16 suggesting any exercise of coercive powers, or even 17 a change in the sequence of obtaining evidence. It 18 would simply be to say that if anyone on the basis of 19 this information about these cover names wishes to 20 outline an allegation of serious wrongdoing, then to do 21 it by a particular date. Then that would enable you to 22 know that it wasn't something that was only raised once 23 it became clear from a witness statement that -- 24 THE CHAIR: There has to be a basic template. The basic 25 template is that evidence will be obtained from deployed</p> <p style="text-align: center;">Page 70</p>	<p>1 are adopting and have indicated we will adopt. 2 MR SANDERS: Sir, yes. Just to respond to the point you 3 made about this happening in ordinary litigation. Of 4 course in ordinary litigation one has pleadings or can 5 counts on an indictment or whatever and then one has the 6 exchange of witness statements or whatever. There is 7 not an analogue for this one party all the cards on the 8 table first, other party responds to that. 9 THE CHAIR: I accept that. It is an inquiry. 10 The way we have indicated we are going to deal with 11 these investigative issues is that which I have stated, 12 and I'm not prepared to depart from it as a matter of 13 generality. I never say never because I have learnt in 14 the last year about things that I would never have 15 contemplated could have occurred and circumstances which 16 I simply did not have in mind when I made my statement 17 on 20 November. 18 But we have to have an orderly procedure and I am 19 afraid that's it. 20 MR SANDERS: Sir, I will maybe come back to it at some point 21 in the future. But in relation to rule 9 requests, and 22 your formulation of the issues that you want addressed 23 in a witness statement. Is it the case that to the 24 extent that you have received allegations of wrongdoing, 25 they will be fed into the rule 9 process?</p> <p style="text-align: center;">Page 72</p>

<p>1 THE CHAIR: Certainly. Where the Inquiry is aware of them, 2 very much so. 3 MR SANDERS: I am grateful. 4 The point about conflicts that my learned friend 5 Mr Hall raised, and how it ties in with the question of 6 evidence in reply as it were, is a very important one. 7 I would just really echo what he has said about that, 8 particularly from a timing perspective. It may help 9 just to make clear in public what I am talking about and 10 why that is. 11 The designated lawyer team is funded by the 12 Metropolitan Police Service. We are independent of the 13 Metropolitan Police Service and we represent our clients 14 independently and advice we give them is privileged and 15 not disclosable to the Metropolitan Police Service. The 16 solicitors' code of conduct rules mean that because the 17 main designated lawyers and solicitors -- Mr Spanton and 18 Ms Peacock -- because they are Metropolitan Police 19 Service employees they are able to act for former and 20 current Metropolitan Police Service employees provided 21 there is no conflict between those individuals and the 22 employer of Mr Spanton and Ms Peacock, namely the 23 commissioner. 24 If there is a situation where there is a conflict 25 between the commissioner and an individual, then</p> <p style="text-align: center;">Page 73</p>	<p>1 clients' interests, then that would create -- 2 THE CHAIR: Let us suppose that there is evidence of some 3 impropriety or misconduct on the part of a particular 4 individual who the designated lawyers represent, and 5 Mr Hall says, well, if this occurred then it is entirely 6 unacceptable. That, surely, would not constitute 7 circumstances which meant that the designated lawyer 8 could no longer continue to act? 9 MR SANDERS: From my perspective, I would have thought it 10 would be perfectly capable of creating that conflict, 11 because we would be on opposite sides. 12 THE CHAIR: Only if you are advocating that the conduct 13 should be regarded by the standards of the time as 14 acceptable. 15 MR SANDERS: Yes. That may only become clear when an 16 allegation is received and then the response to the 17 allegation is provided. 18 THE CHAIR: I can understand where the commissioner takes 19 the view that an officer is not telling truth. Then for 20 an employee of commissioner acting as solicitor for that 21 individual might cause problems. 22 But merely where there is a difference of view about 23 whether conduct about which there is no factual dispute 24 was or was not acceptable, I find that difficult to 25 understand.</p> <p style="text-align: center;">Page 75</p>
<p>1 designated lawyer representation will have to be 2 withdrawn. That is obviously a difficulty. But it is 3 a difficulty that can very, very much arise on the 4 facts, because whether or not there is a conflict 5 between a designated lawyer officer and a commissioner 6 will ultimately come down to what is the approach the 7 commissioner is going to be taking in the hearing, in 8 the Inquiry, to that officer's conduct. Is the 9 commissioner going to be remaining neutral about it or 10 supportive of it, or is she going to be actively 11 critical. That can be the point at which the conflict 12 arises. 13 If an allegation is made late in the day and a reply 14 to that is made late in the day, then obviously 15 a conflict can emerge very late in the day and require 16 withdrawal of representation and termination of the 17 retainer. 18 THE CHAIR: I am surprised, and even alarmed, that the 19 taking of the standpoint by the commissioner might cause 20 a designated lawyer to conclude that there was such 21 a conflict of interest that he or she could not act for 22 the relevant undercover officer or manager. Is that 23 really the case? 24 MR SANDERS: If in the hearing Mr Hall was going to put 25 questions or make submissions that were contrary to my</p> <p style="text-align: center;">Page 74</p>	<p>1 MR SANDERS: I will just defer to Mr Hall in one moment, but 2 from my perspective it appears as a matter of principle 3 more problematic than you obviously see it. 4 THE CHAIR: I think possibly, before this topic is explored 5 further if it needs to be today, that you discuss it 6 with Mr Hall over the long adjournment. 7 MR SANDERS: I have discussed it with Mr Hall on a number of 8 occasions. 9 THE CHAIR: I see, so this is the result of discussions 10 which you have already had? 11 MR SANDERS: Yes, we are on speaking terms. 12 THE CHAIR: I am aware of that. In which case I can perhaps 13 ask Mr Hall if he has anything to say about it. 14 MR HALL: Just to say that we can't deal with it today, but 15 we have had a lot of letters, almost exam questions from 16 the designated lawyer team, very sensible: what do we do 17 in this situation? We have tried to sketch out the sort 18 of situations in which a conflict would not or would 19 arise. Advice has been sought from specialist counsel 20 in the field. We have been talking about this for 21 a long time. Mr Sanders is absolutely right to raise 22 this, even if on one's feet, sir, you don't agree with 23 a particular characterisation of something being 24 a conflict, that possibility does exist, as Mr Sanders 25 says, on the facts. It is something that needs to be</p> <p style="text-align: center;">Page 76</p>

<p>1 recognised because the conflict may emerge, you may 2 disagree it is a conflict but ultimately it is a matter 3 for the designated lawyer solicitors because is their 4 professional obligation, but it may arise quite late in 5 the day. I think that is the point. It is a practical 6 problem. 7 THE CHAIR: Then I think it is capable of being practically 8 resolved. Because where there are very strong 9 differences of view between the commissioner and former 10 officers, then the Police Federation is taking up the 11 cudgels for the former officers. Ought they not to be 12 alerted in advance to instances in which they may 13 possibly be asked to take over representation? 14 MR HALL: Those are exactly the sorts of considerations we 15 have in mind. But one of the difficulties is if a late 16 allegation is made, then the conflict may not arise 17 until very late in the day. Of course now one can see 18 there are certain officers where the Metropolitan Police 19 Service or the designated lawyers could not possibly 20 represent them. Take some of the officers who are 21 represented by Slater and Gordon, they were recognised 22 a long time ago. The practical issue is what happens if 23 a conflict only emerges, and no one could be criticised 24 for not seeing it earlier on, late in the day? 25 THE CHAIR: I can't at the moment think that it will often</p> <p style="text-align: center;">Page 77</p>	<p>1 another day, and I am sure you have reflected upon that 2 as a possibility, then it seems to me that that is the 3 practical way around this problem. 4 MR HALL: I hear what you say. The practical realities for 5 getting anyone to commit to funding representation in 6 advance of the need arising are significant. 7 THE CHAIR: Yes. But Slater and Gordon have been put in 8 funds by the Police Federation at fairly short notice in 9 the past, I think. 10 MR HALL: The issue is raised. 11 THE CHAIR: Yes. 12 Mr Sanders, I don't think it can be taken any 13 further today, but I hope what I have said is not wildly 14 off beam and that there are practical means by which 15 this problem can be resolved if everyone puts their mind 16 to it. 17 MR SANDERS: Sir, yes. I would emphasise the question of 18 timing and making sure that the process and the 19 timetable has a buffer that is going to allow for that 20 to happen. 21 At one point I picked up that we might get -- an 22 officer might see any statements containing allegations 23 about them a month before they are due to give evidence. 24 In my submission, that would be to take instructions on 25 allegations, potentially to produce some kind of</p> <p style="text-align: center;">Page 79</p>
<p>1 going to arise at the hearing. I think it is more 2 likely to arise at the stage at which witness evidence 3 is exchanged. 4 MR HALL: That's right. Once the allegations, if there are 5 allegations, are made by members of the public. 6 THE CHAIR: Quite. That will not be the day before the 7 hearing. That will be, I anticipate, at least a month 8 or two in advance. 9 MR HALL: That's precisely why we raise it. There has to be 10 sufficient time for those last-minute adjustments to be 11 made if a conflict does arise. 12 THE CHAIR: That is, with respect, a matter for the three 13 legal teams that are representing these officers and 14 former officers. What needs to be done is a discussion 15 with Police Federation representatives to ensure that 16 they are in a position to take over representation with, 17 obviously, the consent of the individual officer 18 concerned, at a relatively late stage in the Inquiry. 19 MR HALL: Sir, I have stood up, maybe not helpfully, but 20 just to let you know this is a point of real concern 21 which we have identified, probably over six months or so 22 we have been talking about it. 23 THE CHAIR: I am grateful to you for identifying it. Unless 24 you disagree with the suggestion that I have made, in 25 which case I think it is possibly a matter for debate on</p> <p style="text-align: center;">Page 78</p>	<p>1 evidence in reply -- and I appreciate there is 2 a question about what process he would adopt in that 3 regard -- and then if a conflict emerges to arrange 4 representation, four weeks is a very short space of 5 time. 6 THE CHAIR: Indeed it is. I now know it is never wise to 7 say never, but I would be surprised if that situation 8 were to arise in such a short time-frame. 9 MR SANDERS: I am grateful. We have flagged what the issue 10 is and I don't think there is anything more to say 11 about it. 12 THE CHAIR: Is what I envisage as the potential solution -- 13 I assume it has been thought about. Is it dismissed out 14 of hand or accepted as in principle reasonable or what? 15 MR SANDERS: In terms of the Police Federation? 16 THE CHAIR: Yes. 17 MR SANDERS: I simply don't know what the answer is in 18 relation to Police Federation funding. The discussions 19 I have had have led me to believe that it doesn't follow 20 that simply because someone falls out of the designated 21 lawyer team that they will necessarily be covered by 22 some kind of funding. 23 THE CHAIR: Given those who are represented by the Police 24 Federation lawyers, the sort of allegations that are 25 likely to be made which might cause difficulties for</p> <p style="text-align: center;">Page 80</p>

<p>1 your team are those which have been made in some cases 2 in the case of those represented by Police Federation 3 lawyers. Unless they take -- for reasons I can't 4 envisage -- a different attitude to particular 5 individuals, I don't see what the problem in principle 6 is. The Police Federation most effectively representing 7 their members, and I would have thought it was just part 8 of the service. 9 MR SANDERS: I have no basis for disagreeing with that, sir. 10 It is just outside my knowledge. 11 THE CHAIR: I strongly urge you and the commissioner to open 12 discussions on a contingency basis with the Police 13 Federation and Slater and Gordon to see what, if 14 anything, can be put in place in principle to deal with 15 this situation should it arise. 16 MR SANDERS: Sir, yes. Of course. We can just fold that 17 into our ongoing dialogue about conflicts and the 18 difficulties that there are. 19 THE CHAIR: Okay. 20 MR SANDERS: Those were the points I wanted to make about 21 process. 22 Logistics is the second main heading. This is 23 really an area where all I can do is really elaborate on 24 the potential difficulties that we have. In terms of 25 the three, the word used in the strategic review is</p> <p style="text-align: center;">Page 81</p>	<p>1 to do the proofing are obviously going to have to have 2 time to prepare, then to go and meet the individual, 3 take statements, draft, go back. It is a significant 4 exercise for people who are not just sitting at home 5 waiting to be given a witness statement to write. Who 6 have lives and commitments and other people to look 7 after and jobs and so on. 8 Logistically it is very difficult. The things we 9 would ask for to assist with that is as many advance 10 notice of who is going to get a rule 9 request and when, 11 so rather than simply receive the rule 9 requests and 12 then pick up the process from there, if we can know in 13 advance and have had discussions with the individual to 14 know what their holiday dates are or hospital 15 appointments are and so on and so forth, that would 16 assist. And also advance notice of what the deadline 17 attaching to any rule 9 request is going to be will 18 again assist. First, so we can plan. Second, so if 19 that is not going to be logistically achievable we can 20 report back to your team as early as possible. 21 THE CHAIR: I will have to ask about that, but I will come 22 back with an answer today for you. 23 I think I should say at this stage that I very much 24 appreciate the fact that the designated lawyers team 25 were brought into this partway through the process and</p> <p style="text-align: center;">Page 83</p>
<p>1 "segments" of evidence, I assume so as not to be 2 confused with "tranches" -- 3 THE CHAIR: No, forgive me, I had forgotten the word. 4 Segments, yes, fine. 5 MR SANDERS: If it is the case that the segment 1, 6 effectively late 1960s/1970s evidence, is to be witness 7 statements to be served in October, I think. Then that 8 is 30 plus statements to be taken at some point in the 9 future, because we don't have any rule 9 requests, we 10 don't have any rule 9 packs, we don't know the module 2 11 issues. All of those things, it would mean doing -- 12 just on a rough basis two statements a week, even if we 13 were up and running straightaway, with clients who, as 14 I say, are all over the country, in some cases all over 15 the world. In a situation where proofing and taking 16 a statement is unlikely -- except perhaps in the 17 earliest deployments -- to be a two-hour meeting or even 18 a day. I would say most of my clients are probably 19 going to take longer. 20 THE CHAIR: I would anticipate that at least a day is 21 required. 22 MR SANDERS: Yes, and more for many of them. 23 THE CHAIR: Certainly. 24 MR SANDERS: Depending on volume of documents as well. The 25 members of my team, junior counsel team, who are going</p> <p style="text-align: center;">Page 82</p>	<p>1 had to hit the ground running and have done so 2 effectively. I am grateful to them for their efforts. 3 MR SANDERS: I am grateful to you for saying, sir. 4 Just a couple of other logistical issues as well, 5 just to flag and to emphasise how difficult it is. 6 Obviously there is travel, but then there is document 7 security and information technology security and taking 8 of secret laptops and so on. All those things need to 9 be factored in. I think at this stage all I can really 10 ask for is as much advance notice as possible. 11 THE CHAIR: Yes, as regards ancient deployments. I expect 12 that the great majority of the those will not involve 13 documents with any degree of classification which makes 14 their transport around the country difficult. 15 By then they will have been through whatever 16 redaction process is going to occur and although what an 17 officer is shown may not be what is put in the public 18 domain, I doubt in the case of early deployments that 19 there will be any material difference. 20 Therefore, those who present the greatest problem 21 from the point of view of health and mobility and so 22 forth shouldn't create an opposite difficulty in 23 relation to security and the transport of documents. 24 When we get to more recent times and in particular 25 when we get to cases where there are documents which</p> <p style="text-align: center;">Page 84</p>

1 cannot be transported around the country, then they may
 2 have to come and visit your offices and provide
 3 statements there.
 4 MR SANDERS: Sir, yes.
 5 Either way, there are logistical problems in terms
 6 of accommodation and so on and so forth.
 7 Did I understand -- one of your exchanges with
 8 Mr Hall led us to think that the progress with the IMOS
 9 database may have produced a greater number of earlier
 10 documents than was previously thought the case. Is that
 11 a misreading or --
 12 THE CHAIR: No, there are, I think, six former undercover
 13 officers, some at least of whose names, real names, are
 14 in the public domain and whose activities are of
 15 significant public interest who will clearly take quite
 16 a time to deal with, both at the preparatory and the
 17 hearing stages.
 18 Their materials have already been obtained from
 19 IMOS. I was not saying any more than that. We also
 20 have obtained enough to start the Vietnam Solidarity
 21 Campaign deployments, the early days of the Special
 22 Operations Squad. You should not read into it any more
 23 than that.
 24 MR SANDERS: Understood. Thank you, sir.
 25 We, I think, raised at the meeting yesterday as to

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1 whether there would be scope for -- because, obviously
 2 achieving the logistical side of things, the more
 3 flexibility there is, the better. One suggestion we
 4 have made is whether or not there is scope for rather
 5 than specifying this officer's statement by this
 6 deadline, specify a certain number of statements by
 7 a deadline. I don't think it was received very well
 8 yesterday, but I mean that's a suggestion we would
 9 favour.
 10 THE CHAIR: If it wasn't, I don't claim to know exactly what
 11 was discussed yesterday in detail, but if it was not, it
 12 is likely to have been based on prior experience when,
 13 I am afraid, we did find in relation to the anonymity
 14 process that identifying people and setting a deadline
 15 worked better than saying, "Can you provide us with
 16 a dozen by 30th of the month" or thereabouts.
 17 MR SANDERS: Yes. I don't think the latter was ever tried,
 18 but I understand that internally there was thought given
 19 to that.
 20 THE CHAIR: In the end, what I want to do -- and what you
 21 say and I accept what you say you want to do -- is to
 22 provide the material which the Inquiry needs, the point
 23 of view of the Inquiry to obtain the material the
 24 Inquiry needs, in time for the timetable set out in the
 25 strategic review to be more or less fulfilled. We are

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1 ad idem on that. I'm not stuck to doing things in
 2 particular ways, I will do whatever can achieve that.
 3 MR SANDERS: Sir, yes. We will obviously endeavour to
 4 assist you and your team as much as we can.
 5 THE CHAIR: As you have been, and I acknowledge it.
 6 MR SANDERS: Thank you.
 7 I was just going to ask if I could turn around and
 8 check if there is anything else, but the shorthand
 9 writers have been going for just over an hour --
 10 THE CHAIR: It is probably sensible if we stop at 1.00 and
 11 then come back at 1.55 or something like that.
 12 MR SANDERS: I am grateful, so may I just take a quick
 13 moment?
 14 THE CHAIR: Of course.
 15 MR SANDERS: Thank you.
 16 Nothing further, thank you, sir.
 17 THE CHAIR: Thank you.
 18 Before you sit down, can I mention one thing which
 19 concerns you? If the numbers of your team prove
 20 insufficient to deal with the requirements of the
 21 Inquiry so as to create a risk to the fulfilment of the
 22 timetable in the strategic review, then I take it that
 23 (a) you would be willing to recruit more, and (b) the
 24 commissioner would be willing to assist you to do so?
 25 MR SANDERS: I can answer the first point, but the second is

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1 probably for Mr Hall.
 2 THE CHAIR: Yes.
 3 MR SANDERS: We have expanded in that we have three more
 4 junior juniors for the witness statements than we did
 5 for the restriction orders and we have a third solicitor
 6 joining end of this month. So we have expanded and,
 7 subject to the point about funding, we will expand
 8 further.
 9 THE CHAIR: I am glad to hear that, because it may be that
 10 the demands imposed upon the current team do require
 11 more than are there now.
 12 MR SANDERS: Yes, indeed, thank you.
 13 THE CHAIR: Mr Hall, you want to say something about that or
 14 not?
 15 MR HALL: I think because the question of funding has been
 16 raised I ought to say something.
 17 THE CHAIR: I know what you are going to say.
 18 MR HALL: You do.
 19 THE CHAIR: That police resources are limited, I acknowledge
 20 that, that they are better devoted to fighting crime,
 21 that is a matter for political judgment rather than me,
 22 but I can understand that point of view.
 23 MR HALL: That wasn't all.
 24 I was going to say that we obviously get the point
 25 about increasing legal resources. We have had some

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1 useful discussion about that. We get that that can be
 2 quite an effective way --
 3 THE CHAIR: Yes.
 4 MR HALL: We do understand that. I would not want to be
 5 drawn into specific discussions about funding, partly
 6 because we are still doing it too much in the abstract.
 7 THE CHAIR: Yes.
 8 MR HALL: Once we understand more about the Inquiry, the
 9 more decisions can be taken with, of course, the caveat
 10 that, sir, you have which is we can't raise false
 11 expectations that there is a limitless pot.
 12 THE CHAIR: Of course not. I readily understand that.
 13 However I have a task to perform and I am going to
 14 perform it. If it causes some creaking in the wheels of
 15 the Metropolitan Police Service and difficulties with
 16 funding, then that may be something that will simply
 17 have to be overcome.
 18 MR HALL: I think rather than respond to that, let's see.
 19 THE CHAIR: Quite. I hope we don't get to that point.
 20 I have no reason to think we will, and I acknowledge the
 21 cooperation that I have is received so far.
 22 Sir Robert, I do not know where you have a lot to
 23 say? If so, would you rather start at 1.55 or --
 24 SIR ROBERT FRANCIS: I can do either. Like Mr Hall I have
 25 about five pages, which could either be condensed

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1 because of your interventions to one page or go on to
 2 six. It might be better to start after the break.
 3 THE CHAIR: Very well. I will rise now and we will start
 4 again at 1.55.
 5 (12.58 pm)
 6 (The short adjournment)
 7 (1.58 pm)
 8 THE CHAIR: Sir Robert, could I just say something to
 9 Mr Sanders before you begin.
 10 You raised the question of whether you could be
 11 given advance warning of from which witnesses statements
 12 would be obtained. The answer to that is yes, and it
 13 was actually done last night.
 14 MR SANDERS: We may have all come directly here, so I quite
 15 possibly have not seen that. Thank you, sir.
 16 THE CHAIR: Yes.
 17 I should correct marginally one thing I said. The
 18 bulk of the documents you will get are Metropolitan
 19 Police Service originated documents, but there will
 20 occasionally be documents from other sources. There
 21 will be those the Inquiry considers relevant.
 22 MR SANDERS: Thank you, sir.
 23 THE CHAIR: Sir Robert.
 24 Submissions on behalf of the National Police Chiefs' Council
 25 by SIR ROBERT FRANCIS

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1 SIR ROBERT FRANCIS: Thank you, sir.
 2 As you know the National Police Chiefs' Council is
 3 concerned in the first instance with assisting the
 4 Inquiry In relation to the National Public Order
 5 Intelligence Unit activities. In that context we have
 6 oversight over the National Public Order Intelligence
 7 Unit archive, and I will return to some of the logical
 8 issues around that. We have been instrumental in
 9 producing risk assessments, assisting in liaison with
 10 forces other than the Metropolitan Police Service and
 11 have produced generic evidence in relation to anonymity
 12 and restriction orders and other matters.
 13 We have a team currently of myself, two juniors,
 14 three solicitors and nine practitioners, police
 15 practitioners.
 16 As you will know, the National Police Chiefs'
 17 Council is, as it were, an unincorporated association,
 18 a membership organisation, of all 43 polices fores in
 19 the country. And we are funded by them.
 20 I don't say that by way of complaint, but simply it
 21 is a matter to take into account. We currently have
 22 approval for a budget until March 2019. Clearly we will
 23 have to go in to seek a renewal of that, but also to
 24 review whether the resources we currently have are
 25 sufficient, and they may well not be.

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1 The purpose behind what I'm about to say is to ask
 2 you to give us as much information as possible to enable
 3 us to judge what resources we need to assist you meet
 4 the timetable you have set out in your strategic review.
 5 I should also say that listening, I think, to the
 6 conversation you have had with the Metropolitan Police,
 7 it should be clear to everyone that we are -- at least
 8 you may not be, but we are but in the foothills of the
 9 work in terms of the disclosure of documents to you.
 10 THE CHAIR: As I understand it, you have just commissioned
 11 the Relatively tool -- sorry, that is wrong, you have
 12 just put your documents on to the Relativity tool.
 13 SIR ROBERT FRANCIS: Yes.
 14 THE CHAIR: We will then able to begin the process of
 15 discovering what we need from you.
 16 SIR ROBERT FRANCIS: The hard copy documents are either now
 17 or very soon will be available. But they have not quite
 18 been uploaded, as I understand it, because there are
 19 still discussions going on about the metadata issue.
 20 The difficulty of course is that hard documents do not
 21 come with metadata, so it has to be created, and there
 22 are issues around details such as how you identify the
 23 author of a document which has multiple authorship and
 24 so on. But those we think are capable of easy
 25 resolution.

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<p>1 The real challenge in relation to documents relates 2 to the electronic documents. Just to give you a sense 3 of their scale, we have in our possession 400 electronic 4 exhibits, of which 84 have been processed. By which 5 I mean they have gone through a process which sounds 6 rather nasty called demisting, which removes the copy's 7 computer generated garbage if I can put it in 8 a non-technical way. Those 84 exhibits have produced 9 more than 1 million documents and I mean documents not 10 pages. Some of those, of course, may well be duplicates 11 of what is already in the hard copy files, but not 12 necessarily and one might be more complete than the 13 other. It should not be taken as granted that because 14 the document is in the hard copy file that there is not 15 a better or more complete version in the electronic 16 version. I just give that as an example. 17 THE CHAIR: The National Public Order Intelligence Unit 18 performed a number of functions, of which only one was 19 the deployment of undercover officers. 20 SIR ROBERT FRANCIS: Yes. 21 THE CHAIR: Do these 400 electronic exhibits include 22 material in which the Inquiry is not interested at all 23 because it concerns, for example, the dissemination of 24 intelligence gathered from non-undercover sources or are 25 we only focusing on undercover sources?</p> <p style="text-align: center;">Page 93</p>	<p>1 out of this collection the Inquiry might or might not be 2 interested in. 3 It has resulted, we understand, in some forces 4 keeping hold of information which in the normal course 5 of events -- data rather, that they might otherwise not 6 have kept. 7 That is not a legal issue, because there is 8 a legitimate purpose in keeping it because of the 9 request received from the Inquiry. 10 THE CHAIR: What is going to be done to find out from your 11 own records what documents are relevant to the 19 12 undercover officers that we believe were deployed. 13 SIR ROBERT FRANCIS: 19? 14 THE CHAIR: Yes, 19, that we believe were deployed by the 15 National Public Order Intelligence Unit undercover unit? 16 SIR ROBERT FRANCIS: The numbers I thought we were talking 17 about rather greater than that -- 18 THE CHAIR: There are numerous managers. The National 19 Public Order Intelligence Unit by comparison with the 20 Special Demonstration Squad was rather top heavy, it 21 seems. As far as I know at this stage, there were 19 22 undercover officers deployed by the National Public 23 Order Intelligence Unit undercover unit. 24 SIR ROBERT FRANCIS: I notice in your review you talk of 50 25 officers having received letters, 24 of whom --</p> <p style="text-align: center;">Page 95</p>
<p>1 SIR ROBERT FRANCIS: Can I just turn around? 2 It is not restricted to that. In other words it is 3 not restricted to National Public Order Intelligence 4 Unit -- 5 THE CHAIR: In other words it has to be sorted out? 6 SIR ROBERT FRANCIS: Yes. Obviously the first battle is 7 processing it in order to allow that to happen. We have 8 320-odd exhibits to go. 9 That is problem number 1. 10 Challenge number 2 is of course that unlike the 11 Special Demonstration Squad which was entirely run by 12 and from the Metropolitan Police, National Public Order 13 Intelligence Unit operations were run in multiple 14 locations by multiple police forces all of who will 15 have, or may well have, their own documentation. The 16 Inquiry has sent relevant notices to all forces to keep 17 documents that may be relevant and we understand that 18 they are all doing so. Most of them are, we understand, 19 taking a precautionary view of that, which is not to get 20 rid of anything that might conceivably be relevant and 21 in some cases that has meant keeping large databases 22 which are known to contain relevant material but it has 23 been felt by the relevant forces disproportionate at 24 this stage at least to undertake as it were some form of 25 sorting exercise, because it is not known precisely what</p> <p style="text-align: center;">Page 94</p>	<p>1 THE CHAIR: I am talking about those who were deployed into 2 groups of one kind or another. There are a larger 3 number of other individuals who may have had walk-on 4 parts. They may possibly be included in any larger 5 figure. 6 SIR ROBERT FRANCIS: Sir, there is still, I think, a sort of 7 chicken and egg about this, in that the process is being 8 undertaken to collect the documents and to load them on 9 to Relativity, at which point they can be sorted and 10 searched. They cannot be searched in their current 11 form. In order to undertake the process you have just 12 described, they need to be uploaded and we, as 13 I understood it, would then have been receiving requests 14 for particular search parameters to be undertaken. 15 THE CHAIR: There is going to be a meeting, I think, isn't 16 there -- 17 SIR ROBERT FRANCIS: Yes. 18 THE CHAIR: -- at which counsel who are engaged in this 19 exercise for the Inquiry are going to meet with your 20 people, not in London, and will, it is hoped, be given 21 some understanding of what is going on. 22 SIR ROBERT FRANCIS: Yes. Indeed, that would be very much 23 appreciated, and like the Metropolitan Police force we 24 have been having but would welcome continuing regular 25 meetings with the Inquiry team about just but such</p> <p style="text-align: center;">Page 96</p>

1 matters.
 2 THE CHAIR: Because we have the same tool now, Relativity --
 3 SIR ROBERT FRANCIS: Now.
 4 THE CHAIR: -- it may be possible to adopt, not short
 5 circuits but direct routes to documents we may be
 6 interested in, which would not have been possible
 7 before.
 8 SIR ROBERT FRANCIS: That is absolutely correct and that of
 9 course is not in any way dependent upon the
 10 complications of the Res Tool.
 11 THE CHAIR: No.
 12 SIR ROBERT FRANCIS: Which I have to say we only just heard
 13 about, in terms of --
 14 THE CHAIR: You can forget about that.
 15 SIR ROBERT FRANCIS: Except that it does lead to the need,
 16 we suggest, for reconsideration of how that process
 17 might be speeded up. That may be a matter for
 18 discussion on another day.
 19 THE CHAIR: It is inevitable that a number of National
 20 Public Order Intelligence Unit deployments are going to
 21 be dealt with entirely in closed.
 22 SIR ROBERT FRANCIS: Yes.
 23 THE CHAIR: In those circumstances there is no need for
 24 a redaction exercise --
 25 SIR ROBERT FRANCIS: No.

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1 THE CHAIR: -- in relation to the documents relevant to
 2 those deployments.
 3 SIR ROBERT FRANCIS: Yes.
 4 THE CHAIR: There are other deployments which are not going
 5 to be dealt with entirely in closed and there we will
 6 have the problem.
 7 SIR ROBERT FRANCIS: Yes. Apart from what we would suggest
 8 in relation to the sorting out of what are the relevant
 9 documents, and you may well -- the inference behind what
 10 you say may be right, I just don't know, that actually
 11 it turns out that only a relatively small proportion of
 12 this vast collection of documents turns out to be
 13 relevant, and we would hope that was the case, but we
 14 have been reluctant to start searching, dismissing and
 15 throwing stuff away -- if I can put it bluntly --
 16 because that is not being transparent. What we would be
 17 expecting is for the Inquiry to ask us what you are
 18 interested in having, which we can then find.
 19 The Inquiry team has had access already to the hard
 20 copy files, so therefore I am sure an impression has
 21 been gained as to what is there, what can be asked for.
 22 Obviously the process can be much speeded up once it
 23 is loaded on to Relativity.
 24 There are some logistical problem, some of which
 25 have already been alluded to but in our case are

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1 accentuated by the fact that our base of operations is
 2 not in London but is in the Midlands. Therefore the
 3 security applications of moving stuff to and from London
 4 produces a time lag which is even more difficult than
 5 getting from one side of London to the other. That
 6 perhaps also needs to be addressed and could be
 7 addressed in a number of different ways, which perhaps
 8 we also need to discuss.
 9 The issue you have just raised in relation to the
 10 number of officers is very much the first point I was
 11 going to make about how helpful it would be to both,
 12 I think, the Inquiry and ourselves to have a better idea
 13 of the scope of what is being investigated. Because if
 14 it is indeed -- we absolutely understand the approach
 15 that there needs to be a full investigation of, as it
 16 were, every operation for instance, but quite what that
 17 means in practice is -- it doesn't necessarily mean that
 18 every single document is going to be needed or even if
 19 it is potentially relevant. And there may be classes of
 20 document that we can not dismiss but not do the things
 21 that are needed in the first instance.
 22 THE CHAIR: We don't need the overtime records or the
 23 expenses forms or anything of that kind.
 24 SIR ROBERT FRANCIS: Exactly. But it would be wrong for us
 25 to assume that, because issues could easily arise as to

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1 where someone was at a particular time which could be
 2 sorted out by looking at an overtime record, for
 3 instance. I'm not suggesting for a moment that
 4 justifies their immediate production. We cannot assume
 5 what the Inquiry will find relevant or important, with
 6 respect.
 7 We need guidance, and I am sure we will get it.
 8 The scope also is a matter of -- you have already
 9 just now very helpfully given an indication you may not
 10 be as interested in officers who have walk-on parts as
 11 those who are the principal officers deployed, although
 12 I am sure you would want witness statements from them
 13 and they will need to have the support of access to
 14 documents relevant to their own deployment.
 15 THE CHAIR: I believe I'm right in saying that there are 19
 16 principal deployed officers with whom we are concerned.
 17 SIR ROBERT FRANCIS: Yes.
 18 THE CHAIR: The focus of attention should be on them.
 19 SIR ROBERT FRANCIS: That will be helpful. No doubt we can
 20 approach it on that basis.
 21 Obviously each officer of the 19 principal officers
 22 may -- and I don't know, because we -- have been
 23 involved in more than one deployment, or may not,
 24 I don't know. Which brings another issue.
 25 If so, the extent to which each of those deployments

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<p>1 is a matter of central interest to the Inquiry or not. 2 THE CHAIR: All I can say is from what I know so far, all of 3 the deployments of the 19 officers are of interest to 4 the Inquiry. 5 SIR ROBERT FRANCIS: Thank you. 6 The next area we would appreciate some perhaps 7 discussion about is on the processes to be adopted 8 and/or the order in which they should be obtained. 9 There has been quite properly some variation in that 10 over a period of time, as experience has shown. 11 Firstly, there has been the issue about the actual 12 uploading of the documents which is now, as I say, in 13 hand. 14 There is then how documents should be produced or 15 made available for consideration by your team. 16 Then there is the issue of how redaction is to be 17 done. We would like to seek to explore whether there is 18 a quicker way of undertaking that process rather than 19 discs being transported to and from London with 20 separate -- 21 THE CHAIR: If you can come up with a workable solution, 22 then we would leap on it. But -- the Metropolitan 23 Police have had this problem for longer. 24 SIR ROBERT FRANCIS: We wondered whether there was some 25 possibility of undertaking it more in the way that</p> <p style="text-align: center;">Page 101</p>	<p>1 either have the documents or indeed have an interest or 2 equity in the documents we have, which is principally 3 relevant perhaps to the issue of redaction but it may 4 have other -- there may be other ramifications as well. 5 For good reason, until now, the communications 6 between us and the police forces we have always been 7 required -- and I think rightly -- to do so with the 8 full knowledge of the inquiry team, because it is 9 necessary for there to be transparency about these 10 things and will to ensure that there is no potential 11 for a suggestion of collusion. 12 But the quicker that things are required to be done, 13 the more challenging, we suggest, that may become. So 14 we do wonder whether there is a faster way of enabling 15 us to communicate with other forces, some of whom will 16 not be nearly as engaged in what is going on here as 17 others. 18 THE CHAIR: You really cannot expect me to tell you, the 19 National Police Chiefs' Council, how to communicate with 20 the forces which subscribe to you? 21 SIR ROBERT FRANCIS: We know how to communicate. The issue 22 is whether we can and what about. Because there was 23 a time when we were told we could not talk to them in 24 order to ensure their evidence came in first, and 25 matters of that nature.</p> <p style="text-align: center;">Page 103</p>
<p>1 perhaps has already been suggested by meetings at which 2 these things are proposed. 3 Simply without the redaction tool it has become 4 a more challenging thing even than that to consider. We 5 are conscious of the fact that as it were the National 6 Public Order Intelligence Unit part of the evidence is 7 to be heard in 2020, but we are under no illusion that 8 that means there is a great deal of time in which to 9 undertake what is needed between now and then. 10 THE CHAIR: Quite. 11 SIR ROBERT FRANCIS: As I say, until we have a clear idea -- 12 and it is a matter of joint understanding -- of your 13 requirements and the order in which those requirements 14 sit, we really cannot begin to assess whether we have 15 the right size team, the right nature of team, and if 16 not what we need to add to it. I suspect we will need 17 to add to it and that means finding people and training 18 them and all the rest of it. 19 There are issues -- and before that getting 20 authority from 43 police forces to fund it. We do have, 21 as it were, a long line of command which I am afraid 22 there is nothing we as a legal team can do anything 23 about. 24 The other issue around documents and redactions and 25 so on is the issue of coordination with other forces who</p> <p style="text-align: center;">Page 102</p>	<p>1 THE CHAIR: As I understand it, the material that has been 2 requested from the regional forces, the 43 regional 3 forces, has been provided to us. 4 SIR ROBERT FRANCIS: Yes. 5 THE CHAIR: I don't -- I will have to check this with my 6 team, but my understanding is that any inhibition that 7 you might have felt about talking to other forces has 8 been removed. 9 SIR ROBERT FRANCIS: That would be gratefully received. 10 That is actually all I wanted to say about the 11 documents. There is a lot of complexity behind that, 12 but most of that we would suggest can probably be sorted 13 out by the regular meetings that we have and a common 14 understanding of the use to which Relativity is going to 15 be put, which has clearly just changed, so we appreciate 16 that. 17 THE CHAIR: Can you -- 18 SIR ROBERT FRANCIS: And the issues about the metadata, 19 which are far too technical for me. 20 THE CHAIR: Can you help me by which what date approximately 21 it is anticipated that the remaining 316 files, 22 electronic exhibits, will be processed? 23 SIR ROBERT FRANCIS: I am told that in fact there are 24 another 160 ready, as it were, to go. So that sounds as 25 though it is a question of pressing a button. I would</p> <p style="text-align: center;">Page 104</p>

1 need instructions on the balance.
 2 This is an automated process done that is by
 3 a contractor. They need to --
 4 THE CHAIR: Let me approach it the other end. How long has
 5 it taken to do the 84 that have been processed? (Pause)
 6 SIR ROBERT FRANCIS: Six months. To where we are now. This
 7 is a technical operation, I should explain.
 8 THE CHAIR: But if back-of-envelope arithmetic is reliable,
 9 that suggests that there is another two years to go.
 10 SIR ROBERT FRANCIS: No, I don't think so.
 11 THE CHAIR: Well, there are 320 left, you have taken 6
 12 months to do 80. (Pause)
 13 SIR ROBERT FRANCIS: I am sorry, I think I will ask if we
 14 could write a letter to explain that to you. I am being
 15 told terms which will mean different things to different
 16 people.
 17 THE CHAIR: If what you have done so far is an indicator of
 18 how long it is going to take to do the rest --
 19 SIR ROBERT FRANCIS: I think what I'm being told, and I will
 20 be corrected if I'm wrong, is that some of that was to
 21 do with preparation and the unfamiliarity of the
 22 process, and it will be quicker than it has been. But
 23 I need information from, I think, our technical people.
 24 THE CHAIR: I think it is rather important, this question.
 25 Because if the documents are not there to be searched

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1 until even a year hence, we are building in the recipe
 2 for a stoppage.
 3 SIR ROBERT FRANCIS: Yes. Could I continue and finish what
 4 I have to say, and maybe by then I will have some other
 5 information.
 6 THE CHAIR: Of course.
 7 SIR ROBERT FRANCIS: It would be helpful -- it is far too
 8 early obviously for this to happen -- in terms of the
 9 timetabling of the way in which evidence is going to be
 10 given in call it our segment, National Public Order
 11 Intelligence Unit and onwards, to have an idea of the
 12 order in which that is going to be dealt with.
 13 I understand you have already said on the whole you are
 14 seeking to do things in a chronological order --
 15 THE CHAIR: The segments are going to be done
 16 chronologically, roughly. Within that, there will have
 17 to be a degree of flexibility to accommodate
 18 availability of witnesses and so forth.
 19 SIR ROBERT FRANCIS: Yes.
 20 THE CHAIR: The National Public Order Intelligence Unit
 21 share of all this is not so large in terms of time as to
 22 create a problem of that kind.
 23 SIR ROBERT FRANCIS: No.
 24 THE CHAIR: I think you can anticipate that we will want to
 25 hear, for example, about animal rights deployments in

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1 one batch rather than the first, then something else
 2 entirely different, and then the second and so forth.
 3 SIR ROBERT FRANCIS: One thing which has not been mentioned
 4 at all, and I am afraid we don't have much sight on it
 5 at the moment, certainly as a legal team, is the stage
 6 after that. As it were, the segment after the National
 7 Public Order Intelligence Unit which may involve us or
 8 may not, and I am not entirely clear whether that is so.
 9 THE CHAIR: It remains to be explained clearly to us
 10 precisely what the current arrangements are. As far as
 11 I can tell, there have been a large number of at any
 12 rate headline organisational changes which have resulted
 13 in 1a bewildering number of acronyms but probably
 14 underlying it all some real changes which have resulted
 15 in a stable structure.
 16 If that appreciation is wrong, then there will have
 17 to be a great deal more enquiry before we find out what
 18 is going on.
 19 SIR ROBERT FRANCIS: The final matter I wanted to touch on,
 20 which I can happily deal with more shortly because some
 21 time was spent this morning on it, is the process you
 22 envisage for the preparation and disclosure of witness
 23 statements.
 24 Can I say straightaway that of concern to us is that
 25 those who would be most closely affected by that in the

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1 National Public Order Intelligence Unit are represented
 2 not by us but by our panel legal team --
 3 THE CHAIR: Yes.
 4 SIR ROBERT FRANCIS: They are not here today and
 5 I understand part of the reason for that is that counsel
 6 was not available at that notice. It does appear to us
 7 that they may well have something they would wish to say
 8 to you. It may be along the lines of the designed legal
 9 team, I don't know, but they are the people most closely
 10 affected by the proposition that they give their
 11 evidence in statements which are disclosed to other
 12 people who are then at liberty to make complaints about
 13 them.
 14 The only point I would make on behalf of the
 15 National Police Chiefs' Council is this. Without in any
 16 way wishing or intending to suggest coercion of
 17 witnesses, or to impose deadlines, it would, we suggest,
 18 be helpful to the Inquiry and the public interest if
 19 those who believed they had been impacted adversely by
 20 the conduct of officers or the performance of
 21 operations, were to indicate allegations that they
 22 intend to make to the Inquiry in advance of seeing
 23 a witness statement for two reasons.
 24 One is the one that my learned friend has already
 25 mentioned which goes to the proper weight that should be

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1 given to their evidence and their case, but perhaps most
 2 importantly they will want to know that the Inquiry has
 3 looked into as fully as possible the allegations that
 4 they make.
 5 If those only come forth, as it were, at what may be
 6 a relatively late stage in terms of the disclosure of
 7 a witness statement and the collection of evidence, to
 8 investigate something that perhaps has not been thought
 9 of before might actually take some time. It might
 10 require revisiting the documents in the database. It
 11 might require re-interviewing other witnesses. There
 12 could be a whole range of activity required to enable
 13 you, sir, to come to a fair conclusion about those
 14 allegations.
 15 Obviously you are an inquiry and you must go where
 16 the evidence takes you and that may lead to, as it does
 17 sometimes in inquiries, unheralded scheduling of new
 18 hearings or whatever, some of us have experience of
 19 that.
 20 If at all possible -- I emphasise where that does
 21 happen, of course, you can assess the evidence and the
 22 weight to give to it in accordance with the relevant
 23 circumstances. But your rule 9 requests and the
 24 questions that you ask of officers in advance cannot, as
 25 such, be informed by an allegation that you don't know

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1 about. Therefore neither you nor the officer will have
 2 had what many would think would be a fair opportunity to
 3 address in a timely fashion what might be quite serious
 4 matters, both in the public interest and in consequences
 5 for the officers.
 6 While not wishing to seek to persuade you to change
 7 the general rule about the order in which you wish to do
 8 things, to take the statements, all I would ask you to
 9 consider is whether some encouragement to those who have
 10 allegations to make them would not go amiss.
 11 THE CHAIR: As far as I'm concerned, you are pushing at
 12 an open door. But I do not control and do not intend to
 13 control how members of the public participate in the
 14 Inquiry in that way.
 15 SIR ROBERT FRANCIS: Sir, I fully appreciate that.
 16 THE CHAIR: I will have something to say about how the
 17 hearings are to be conducted in due course, but that is
 18 not for today.
 19 As far as obtaining allegations or evidence in
 20 support goes, the basic template is that which I have
 21 set out.
 22 SIR ROBERT FRANCIS: Yes.
 23 THE CHAIR: If non-state none police core participants are
 24 willing to provide me with material in advance, I would
 25 welcome that for the reasons that you have given, that

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1 it permits matters to be investigated with a little more
 2 time and perhaps in greater detail than they might
 3 otherwise be.
 4 SIR ROBERT FRANCIS: Yes. The other concern we have I think
 5 has been alluded to. Is that -- I think you have dealt
 6 with it, if I may say so, is that where, as it were,
 7 a fresh allegation if I can call it that is made. It
 8 may not be entirely satisfactory if the only way in
 9 which it is dealt with is by of course giving the
 10 officer notice of it. But then it being dealt with only
 11 by way of oral examination at a hearing.
 12 In other words, what I suggest is that if it is
 13 possible where such matters are raised, there should be
 14 an opportunity for a supplementary statement to be made
 15 about that in order that there is at least a framework
 16 within which the hearing will take place.
 17 THE CHAIR: I will have to learn from experience on that, it
 18 is too soon to address that as an abstract issue.
 19 SIR ROBERT FRANCIS: I just put that point.
 20 THE CHAIR: I note what you say.
 21 SIR ROBERT FRANCIS: That is all, I am afraid, I have to
 22 say. Perhaps if I could sit down and come back to
 23 you --
 24 THE CHAIR: Certainly. I am troubled about the document
 25 issue. I would like to have somewhat more precise

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1 estimates of how all that is going to take than I have
 2 yet been given.
 3 SIR ROBERT FRANCIS: Thank you.
 4 THE CHAIR: Mr Griffin, I think you are next, are you not?
 5 MR BARR: Sir, if I may steal Mr Griffin's fire.
 6 We have been joined this afternoon by Mr O'Connor
 7 for the National Crime Agency. He's one step above
 8 Mr Griffin in the speaking order.
 9 THE CHAIR: Welcome.
 10 MR O'CONNOR: First of all, may I apologise for my absence
 11 this morning.
 12 Submissions on behalf of the National Crime Agency by
 13 MR O'CONNOR
 14 MR O'CONNOR: Sir, I have very little to say, in fact. The
 15 National Crime Agency shares many of the practical
 16 challenges faced by the Metropolitan Police and the
 17 National Police Chiefs' Council, but of course on a far
 18 smaller scale. We have far fewer documents and only
 19 a handful of witnesses if that. So far at least we
 20 have, I think, managed to keep more or less in tune with
 21 the requirements that the Inquiry has placed on us and
 22 we have established a very good working relationship
 23 with your team.
 24 There are not any practical matters we wish to raise
 25 with you today. We simply wish to underline the fact

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<p>1 that the National Crime Agency is committed to assisting 2 the Inquiry as it can. 3 I am grateful, sir. 4 THE CHAIR: Mr Griffin? 5 Submissions on behalf of the Home Office by MR GRIFFIN 6 MR GRIFFIN: Thank you, sir. 7 I don't have much to say either. The strategic 8 group review is a helpful document. The discussions 9 today have also been very helpful. We are clearly 10 entering a new phase and that is very much to be 11 celebrated. 12 The key points, as far as the Home Office are 13 concerned, are that as much notice as possible should be 14 received from the Inquiry team so that we can plan ahead 15 and ensure we have appropriate resources in place to 16 ensure that things are done quickly as necessary. 17 The other point is very closely related to that. 18 That is for an ongoing close liaison with the Inquiry 19 team. That is what has been happening, sir. It will 20 continue to happen. In that way, the Home Office is 21 confident it can assist the Inquiry to reach the 22 milestones and can assist you, sir, ultimately to find 23 out what has happened and to make appropriate 24 recommendations in the future. 25 THE CHAIR: I am very glad to hear it. I am glad that on</p> <p style="text-align: center;">Page 113</p>	<p>1 that I should set out what our concerns are in relation 2 to those issues. 3 THE CHAIR: Certainly. 4 MS KAUFMANN: There are five. I would like just briefly to 5 go through each of us, because it seems to us that if we 6 just talk about timetabling as we have, and how we are 7 going to get documents, and we don't focus on these 8 issues, then we really are doing no more than 9 rearranging the deckchairs on the Titanic, because these 10 issues go right to the heart of this Inquiry. 11 As I say, there are five. 12 The first and the major issue which, as it were, 13 overarches, certainly the next two, is the conclusion 14 that you have reached, you have set it out in 15 paragraph 3 of the foreword to the strategic review, 16 which in summary is that you can carry out this Inquiry 17 and fulfil its purpose if we, the non-state non-police 18 core participants, withdraw. 19 That gives rise to two related further issues and 20 concerns. The first is your approach to the National 21 Public Order Intelligence Unit, which you have partly 22 set out in the strategic review and also partly set out 23 in your latest minded to. The second is disclosure and 24 some of the things that have been said today touch on 25 that as well.</p> <p style="text-align: center;">Page 115</p>
<p>1 your side the Home Office is not only willing and able 2 to help, but is doing so, and in return is receiving 3 help from the Inquiry. 4 MR GRIFFIN: Thank you. 5 THE CHAIR: Thank you. 6 Ms Kaufmann, the hearing has not been convened to 7 require you to make submissions and you don't need to 8 make any at all. If there is any short point you want 9 to make now, you have the floor. 10 Submissions on behalf of the non-state non-police core 11 participants by MS KAUFMANN 12 MS KAUFMANN: I am grateful. We do understand that the 13 reason why today's hearing has been convened in order to 14 try and look at the issues we have been looking at in 15 terms of finding a way forward. 16 I also want to say I am pleased to hear what you 17 said about the movement in terms of meeting non-state 18 core participants and state core participants in 19 private. But there are a couple of things that come out 20 of the strategic review that are not being addressed 21 today. I don't want to address you about them in 22 detail, but I do want to flag them up because they are 23 issues of real concern to us and they are ones which 24 I want to indicate to you now we are going to take up in 25 writing at some point. I think it is fair and right</p> <p style="text-align: center;">Page 114</p>	<p>1 The other issue, the fourth, is panel and 2 timetabling. The fifth is venue. 3 If I can just briefly go through those to help 4 explain to you what we will set out in more detail in 5 writing as being the basis and nature of our concerns 6 and the reason for those. 7 Can I start with what you have set out in 8 paragraph 3, your conclusion that you can deliver the 9 terms of reference of this Inquiry without the 10 participation of the non-state non-police core 11 participants. 12 The way you frame it -- I'm not going to take you 13 to it, but I will extract what I think are the critical 14 parts of that paragraph. Are that you recognise it will 15 be regrettable if we don't participate, but you conclude 16 it would not undermine the purpose of the Inquiry and 17 that what would be lost would be a full account of what 18 happened to my clients. 19 We have to look back to where this Inquiry came 20 from. The whole focus on undercover policing began back 21 in 2010 solely because of what activists had uncovered 22 about the activities of Mark Kennedy. In light of what 23 they brought to light there have since been 18 inquiries 24 that have been opened into undercover policing. Some of 25 them are still ongoing, and all of those were prompted</p> <p style="text-align: center;">Page 116</p>

<p>1 by the revelations of activists or journalists or, 2 exceptionally, one particular former undercover police 3 officer Peter Francis. 4 None of them have happened because of voluntary 5 disclosures on behalf of police or police bodies. This 6 inquiry is therefore the 19th. We had the Her Majesty's 7 Inspectorate of Constabulary review. That was 8 originally due to be published in October 2011. It had 9 to be postponed at the 11th hour because of further 10 revelations by activists and journalists. 11 We have had the Serious Organised Crime Agency 12 investigation into Mark Kennedy. 13 We have had the Rose report into the Crown 14 Prosecution Service involvement in non-disclosure. 15 The Independent Police Complaints Commission 16 investigation into the Ratcliffe-on-Soar case. 17 Two unpublished Crown Prosecution Service videos, 18 again following the collapse of Ratcliffe-on-Soar. 19 The Jack Russell review, that was commissioned by 20 the Nottinghamshire police also in relation to 21 Ratcliffe. 22 Then in January 2011 the former Director of Public 23 Prosecutions, Keir Starmer, commissioned a view by 24 Clare Montgomery Queen's Counsel. 25 Then we had the Streeter review(?), that was the</p> <p style="text-align: center;">Page 117</p>	<p>1 that issue, and that is what this issue is here to look 2 at, amongst many other things. 3 We have Operation Sparkler into Bob Lambert's 4 involving in the planting of incendiary advice in 5 Debenhams department store in Harrow. 6 The Taylor review, into links between the Special 7 Demonstration Squad and the Home Office. 8 Operation Herne. 9 Operation Elta(?). 10 Mark Ellison's review. 11 Then last, but not least, Operation Hibiscus, which 12 was an Independent Police Complaints 13 Commission/Independent Office for Police Conduct 14 investigation into the shredding of documents held by 15 the National Public Order Intelligence Unit after the 16 undercover policing investigation was announced. 17 I go through all those 18 because critically none of 18 them have been able to get to the bottom of what 19 happened. Some purported even to draw a line under past 20 failings, only for fresh allegations and revelations to 21 have emerged. And none have been able to restore public 22 confidence and the question is why. 23 The answer in all those cases is because they were 24 secretive and they have not enabled those who were the 25 victims of the undercover political policing to give</p> <p style="text-align: center;">Page 119</p>
<p>1 head of covert police in Scotland Yard carrying out an 2 audit into current covert undercover policing 3 operations. That was following allegations that police 4 chiefs had authorised undercover police officers to give 5 false evidence in court. 6 We have had a second Independent Police Complaints 7 Commission investigation into allegations of 8 authorisation of false evidence, that was in relation to 9 Jim Boyling. 10 The Simmonds review where the Metropolitan Police 11 Service deputy assistant commissioner looked into covert 12 policing deployments between 1968 and 2008. 13 There has been the internal disciplinary inquiry 14 into Jim Boyling, that concluded a matter of about 15 a week ago where he was found to have engaged in gross 16 misconduct, for specifically conduct which is part of 17 the very issues that this Inquiry is going to look into. 18 Interestingly, in relation to that, for example, my 19 understanding is from what Mr Boyling himself has posted 20 online, that his position is everything he did was fully 21 known about and fully understood by management within 22 the Metropolitan Police Service. The position of the 23 Metropolitan Police Service, as I understand it, was to 24 deny that management knew anything about what he had 25 been up to at all. We have not reached the bottom of</p> <p style="text-align: center;">Page 118</p>	<p>1 their account. And when Teresa May announced this 2 Inquiry she acknowledged only a public inquiry will be 3 able to get to the full truth behind the matters of huge 4 concern contained in the Ellison report. 5 When, in her written statement to the House of 6 Commons she announced the establishment of the Inquiry 7 on 12 March 2015, she stated that one of the purposes of 8 the Inquiry would be to establish justice for the 9 families and victims. 10 We submit that she rightly recognised that the 11 participation of the non-state non-police core 12 participants is vital. It is vital if this Inquiry is 13 to fulfil its terms of reference. It is not just an 14 added bonus that will give the Inquiry an account of 15 what happened to them, because she understood that 16 giving an account of what happened to them but an 17 informed account, is absolutely critical to the Inquiry 18 being able to get to the truth. 19 From what you said in paragraph 3 of the foreword, 20 you appear to believe that through a combination of the 21 documents that have been generated by the police, 22 coupled with the impact that the oath will have or this 23 process will have upon police officers themselves, 24 called to give evidence, you will be able to undercover 25 what has gone on within the secret and unaccountable</p> <p style="text-align: center;">Page 120</p>

<p>1 units that have been populated throughout by trained 2 liars. 3 It is a matter of public record that record keeping 4 within the units was very poor. Certainly within the 5 early days of the Special Demonstration Squad very poor. 6 We know there that has been mass shredding of documents. 7 It is clear from what you have already said that the 8 documents that actually have been generated is much less 9 than what was originally expected and indicated. Those 10 documents are not going to reveal everything. They have 11 not revealed everything about the wrongdoing that went 12 on. That is absolutely clear and plain. 13 Then, despite the fact that it is eight years now 14 since Mark Kennedy's case was revealed publicly, with 15 the notable exception of Peter Francis not one officer 16 has publicly and of his own motion -- that is without 17 first being outed -- admitted any wrongdoing or 18 knowledge of the same by others. 19 In our submission, your hope that you can get to the 20 truth without the informed participation of my clients 21 is, we submit, the hope of a miracle. 22 Without their account of what happened to them, that 23 informed account, one that is based upon them 24 understanding that somebody in their midst was actually 25 spying upon them, you might find some limited things in</p> <p style="text-align: center;">Page 121</p>	<p>1 existence of those issues, but then understand and 2 identify how extensive they were so that you can 3 actually make a proper and informed assessment about 4 whether management's denials -- which we anticipate 5 there will be -- that this was something that was known 6 and systemic and cultural can properly be tested against 7 what was actually going on on the ground and whether or 8 not that could have been something that was not known 9 about. 10 Without the cooperation, the informed cooperation, 11 you can't identify the nature and extent of the 12 wrongdoing. You can't identify whether it was systemic. 13 You can't identify whether it was endorsed by 14 management. You can't identify whether management 15 turned a blind eye. You can't identify whether even if 16 you think they didn't know, they should have known. You 17 can't get to the bottom of the proportionality of the 18 deployments, a major issue for you. 19 It may be, as you have suggested, in some cases you 20 can look at the documents and you can think, well, this 21 is obviously questionable in terms of proportionality. 22 If I look at the reasons that they have written down to 23 justify it, that just doesn't stand up to scrutiny. But 24 in respect of investigations where the purported 25 justification on paper appears to satisfy the</p> <p style="text-align: center;">Page 123</p>
<p>1 the records that exist, you might find isolated 2 instances of wrongdoing, but you can't possibly get to 3 the truth of the larger picture. You can't get to the 4 truth of the nature and extent of the wrongdoing. 5 Let's take Rick Gibson as an example, just one 6 instance where because we were told about him something 7 immediately came out. It had been thought, until we got 8 his cover name, generally thought that deceptive 9 relationships didn't start until way, way later in the 10 sequence of the existence of the undercover units that 11 eventually became the Special Demonstration Squad. It 12 was confined to a much smaller time-frame. 13 Since the revelation of his cover name, we know that 14 almost from the start these things were going on. 15 That is not what this Inquiry is only about. It is 16 about far, far more. You have to get to the truth about 17 other issues such as the manipulation of children, the 18 manipulation of family members, did officers have access 19 to legally privileged material in order to undermine 20 police accountability? Were they manipulating 21 relationships within community organisations to engineer 22 their collapse. Were they acting as agent provocateurs 23 in relation to direct actions? 24 There are a host of issues that you have to look at 25 and not only understand and identify and root out the</p> <p style="text-align: center;">Page 122</p>	<p>1 requirements of proportionality, not until you get into 2 the roots of what was actually going on on the ground, 3 what the officers, what the individuals within the 4 movements were actually engaged in, what those movements 5 were about, not until you actually have all that 6 information in relation to what particular undercover 7 officers were purportedly doing can you really make 8 those judgments. 9 If, as we submit is overwhelmingly obviously the 10 case, you cannot -- cannot -- hope to get to the truth 11 without us, without our informed cooperation and 12 involvement, then this is going to be an inquiry that 13 lacks credibility. If it is an inquiry that lacks 14 credibility, it is an inquiry that cannot command public 15 confidence, and it will, in short, be viewed as another 16 incredibly expensive, in relation to every arm of the 17 state that is involved, addition to a long list of 18 inquiries that have looked into undercover policing but 19 have completely failed to restore public confidence. 20 What is the significance of this? Why am I saying 21 this? We are obviously not yet at the stage where we 22 are going to walk out of the Inquiry completely. You 23 know that my clients want this Inquiry to happen. They 24 have been waiting for it. They desperately want to find 25 out what has been going on and they desperately want to</p> <p style="text-align: center;">Page 124</p>

1 help in making sure things like this don't happen again.
 2 We don't know yet whether things are going to work
 3 out, but we can and they do remain part of this Inquiry
 4 process, but the relevance of the observation at this
 5 point in time is not just in relation to what happens in
 6 the future, what happens down the line. It is also in
 7 relation to what has happened so far. Because your
 8 belief that you can root out the truth without their
 9 informed cooperation must inform, must have informed,
 10 your approach to the anonymity applications to date,
 11 because it must inform how you are balancing the
 12 interests which the police and the police officers
 13 appeal to against disclosure, against the interests in
 14 favour of disclosure. Because if you think you can do
 15 it without our help, then you think not revealing cover
 16 names has a much less significant impact upon this
 17 Inquiry than it in fact does.
 18 Therefore, it has led to your failing to weigh in
 19 the balance the critical importance of their informed
 20 participation going forward.
 21 I said that the second issue was related to the
 22 first, and it is. That is your approach to the National
 23 Public Order Intelligence Unit. In our submission it
 24 exemplifies -- it exemplifies -- exactly this conclusion
 25 on your part that you can get home, as it were, without

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1 our informed cooperation.
 2 The strategic reviews has made it clear that even
 3 fewer cover names are likely to be released in relation
 4 to the National Public Order Intelligence Unit than have
 5 been released in relation to the Special Demonstration
 6 Squad. It is borne out by your first minded to note,
 7 with one exception. Save for officers whose activities
 8 as undercover officers are already known, no cover names
 9 and no real names that are not already in the public
 10 domain are to be revealed.
 11 Even if we were to participate in relation to the
 12 process, there would be no hope of meeting the terms of
 13 reference, because if the cover names are not revealed,
 14 my clients, however much they want to participate in the
 15 National Public Order Intelligence Unit investigation,
 16 cannot give any meaningful evidence because they don't
 17 know who was spying on them, they don't know what target
 18 they have to hit.
 19 I should just touch on something which has been
 20 troubling me enormously, because I can't quite
 21 understand how you envisage this working. That relates
 22 to hearings where officers are protected in that their
 23 cover names will not be revealed and their real names
 24 will not be revealed, but you are anticipating some form
 25 of open hearing.

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1 Unless what those officers says in those open
 2 hearings is so anodyne and uninformative, the very
 3 giving of evidence by those officers about what they
 4 were doing undercover is something that is liable to
 5 identify them. I cannot see, therefore, how they can
 6 meaningfully give evidence in open whenever their cover
 7 names have been withheld.
 8 If that is right, then, as I submit, those hearings
 9 are going to be conducted in closed and you will learn
 10 nothing -- nothing -- however much my client want to
 11 participate, about what was really going on and you will
 12 be in no position to challenge anything the officer
 13 said.
 14 In relation to the National Public Order
 15 Intelligence Unit, this unit has been operating or this
 16 organisation, set of organisations, however one wants to
 17 look at it, has been operating since the Regulation of
 18 Investigatory Powers Act was introduced. Regulation of
 19 Investigatory Powers Act intending to structure its
 20 operations, created a large number of safeguards to
 21 ensure proportionate deployments, to ensure respect for
 22 the rights of those who were being spied upon, and yet
 23 we already know that there were three individuals who
 24 completely abused their office and the role and function
 25 that they were engaged in, or rather there were three

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1 instances of undercover policing.
 2 There was the Ratcliffe incident, that involved
 3 Mark Kennedy.
 4 There was Mark Kennedy's relationships undercover.
 5 There is Marco Jacobs as well.
 6 We know already, and you have indicated that you
 7 think there were 19 undercover police officers who were
 8 actually out there in the field. Of 19 that you have
 9 identified, three we know were already engaged in -- or
 10 there are incidents involving or three situations of
 11 misconduct, issues of concern, one of which is going in
 12 relation to a very broad issue. That is officers' roles
 13 in relation to criminal investigations, which plainly
 14 gives rise to systemic questions.
 15 So there is incredibly strong reason to be concerned
 16 about this group. Not just because this was a group
 17 that was operating at a time when Regulation of
 18 Investigatory Powers Act was supposed to safeguard what
 19 they were doing, but also because as we move closer in
 20 time and as you have already observed, some of these
 21 officers are still out there in the field. We need to
 22 get to bottom of what was going on with National Public
 23 Order Intelligence Unit. It is absolutely critical.
 24 Yet, from what you are suggesting as the way
 25 forward, it looks as though we are going to learn very,

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<p>1 very little indeed and we are we certainly not going to 2 get to the truth. 3 For example, in your minded note -- this is in 4 relation to the National Public Order Intelligence Unit, 5 the minded to note you have just recently released. In 6 relation to officer EN288, you have identified the risk 7 of his real name being revealed should his cover name be 8 revealed as not great. Even so, you are of the view 9 that even running a small risk would amount to 10 a disproportionate and unjustified interference with his 11 private life and thus you find the restriction of the 12 cover name in his case to be justified. 13 That, we submit, makes manifest the approach that 14 I have just outlined that it seems to us you were 15 taking. You are simply not attaching sufficient 16 importance to the vital, vital role that my clients' 17 informed participation plays. 18 If you are prepared where in short there really is 19 not a substantial risk that an officer's identity, real 20 name, is going to be revealed which is of course what is 21 necessary before they become physically at risk, but you 22 are still not prepared to reveal it, then quite clearly 23 you are operating on the basis you just don't need an 24 informed participation from my clients. 25 What if that officer has engaged in serious</p> <p style="text-align: center;">Page 129</p>	<p>1 things have been going wrong, in the National Public 2 Order Intelligence Unit before we look at how things are 3 now or how things will lie when you start looking at 4 current deployments. 5 Further, because of the flawed approach that we 6 submit you are taking, you don't appear to have 7 considered other ways in which risks to any of these 8 officers can be mitigated, other than through 9 withholding the cover names. 10 For example, Lynn Watson. Lynn Watson was outed. 11 As we understand it, the police were forewarned that she 12 was going to be outed. There was a real concern, 13 because she was still in active operations, but she was 14 withdrawn and she was protected and no harm has come to 15 her. 16 You work on the assumption that there is a problem 17 interest in former National Public Order Intelligence 18 Unit officers continuing with their current deployments. 19 But if they have engaged in wrongful behaviour in their 20 past roles, then the opposite is actually true. You 21 can't gainsay that at the moment. You don't know. It 22 is certainly in the public interest that such activities 23 are not repeated, but you have to get to the root of 24 them before you can ensure that they are not repeated. 25 Can I move to disclosure? Again, that comes under</p> <p style="text-align: center;">Page 131</p>
<p>1 wrongdoing? What of the public interest in 2 investigating the extent to which these units were 3 operating with impunity? You don't appear in this 4 balancing exercise to have considered whether or not the 5 public interest in getting to the truth outweighs, for 6 example, these officers' continued active duties in 7 undercover policing. That is something that needs to be 8 considered. 9 It has been known since 2015, at the very latest, 10 that the former National Public Order Intelligence Unit 11 officers would be investigated by this Inquiry. Plenty 12 of time has passed to phase them out of deployments. 13 The importance of that, the significance of that, is of 14 course if they are phased out then the risk to them 15 becomes much reduced. 16 Further, on the current timetable that you have just 17 set out in this strategic review, they are not due to 18 give evidence until October 2020. That is, again, ample 19 time for these officers to be phased out. 20 The current deployment is not a basis for avoiding 21 proper scrutiny. Particularly -- particularly -- as you 22 have just indicated that when it comes to looking at 23 current deployments, that is going to be done entirely 24 in closed. So we have to root out -- absolutely have to 25 root out -- what has been going wrong, because we know</p> <p style="text-align: center;">Page 130</p>	<p>1 this umbrella of what you have set out in that third 2 paragraph. It is related. Because as I have said the 3 only way this Inquiry can be effective is if the 4 participation of my clients is on an informed basis. 5 They have to understand what activities the officers who 6 have spied upon them have been involved in. They have 7 to understand what those officers have been saying about 8 them, and they need therefore disclosure. 9 Thus far -- it has been a matter of ongoing 10 complaint, as you well know -- almost no weight has been 11 placed or given by you to the need to hear from us in 12 assessing the balance of the public interest in relation 13 to the restriction order process and, even when cover 14 names are released, the smallest possible amount of 15 information has been realised. No attempt has been made 16 to facilitate potential witnesses coming forward. 17 Only a very limited number of groups spied upon has 18 been published. No photographs have been let out. Full 19 lists of the groups of people spied upon and photographs 20 should be published. This feeds into an issue that the 21 police have been talking about today. They want an 22 account from all of us for anybody who thinks they have 23 been spied upon as soon as possible. 24 Well they are not going to get any information from 25 anybody about whether they have been spied upon unless</p> <p style="text-align: center;">Page 132</p>

<p>1 and until those individuals know they have been spied 2 upon. So until the cover names are out. Until they can 3 be provided with enough information to understand who it 4 was in the movement that was spying upon them and what 5 it was that they were gathering by way of information, 6 they cannot say anything about the nature and that 7 extent of abuse that was going on.</p> <p>8 We are entirely in the hands of the Inquiry in terms 9 of how much we can provide in order to help the Inquiry, 10 and we cannot be expected to make our complaints at 11 an early stage of the process if we don't even know we 12 have anything to complain about. Until that information 13 comes to light and comes forward, we can't complain.</p> <p>14 I am absolutely clear that if the information comes 15 forward that enables people to know that they have been 16 spied upon, you will receive evidence. You will receive 17 detailed accounts. You will have seen already, or 18 perhaps you haven't, the incredibly detailed accounts 19 that the women who had relationships with undercover 20 officers have provided. Exceptionally detailed 21 accounts. You could expect to receive precisely that in 22 relation to anybody else who comes to understand and 23 learn that they, too, were the victim of spying.</p> <p>24 THE CHAIR: I am delighted to hear it. And I hope that what 25 you say indicates that there will be cooperation.</p> <p style="text-align: center;">Page 133</p>	<p>1 They need it where wrongdoing has occurred. For 2 example accessing legally professionally privileged 3 material. Because that is not going to be clear. It is 4 them that are going to be able to say:</p> <p>5 "Actually, that was totally legally professionally 6 privileged."</p> <p>7 Excessive intrusion on their personal lives. Again, 8 that will not be clear from the records so they need 9 those files to be able to complete the picture and your 10 understanding of what actually happened.</p> <p>11 This should happen as an absolute priority, because 12 of course it is important that you get the information 13 as soon as possible, but you can't get the information 14 until they have the information.</p> <p>15 Many of them, you can't forget, still don't know how 16 and when they are spied upon. That is step one.</p> <p>17 Then, in relation to those who do learn they were 18 spied upon and who are part of the group where the 19 investigation relates to 1968 to 1982, it is urgent that 20 they get that information. We submit that they should 21 get that disclosure within the next month. We just need 22 to push this forward.</p> <p>23 THE CHAIR: I am sorry. There are practical problems which 24 cannot be solved at the push of a button and anybody who 25 thinks they can be is simply mistaken.</p> <p style="text-align: center;">Page 135</p>
<p>1 MS KAUFMANN: I can't say now. I cannot say now, at this 2 juncture, whether there will be cooperation or whether 3 there won't be cooperation.</p> <p>4 You understand the degree of mistrust and concern 5 that has arisen thus far. As I have indicated to you, 6 what I am saying to you now is a precursor to what we 7 are going to put in writing. This is a process and we 8 are not at the end of the process, and we are not at 9 a position of there being a clear resolution about the 10 way forward. We have to see to things go.</p> <p>11 What I can say to you, and what I have said to you, 12 is that my clients desperately want this investigation 13 to succeed, this Inquiry to succeed. They want to know 14 the truth and they want to understand the truth. But 15 they want it to be an investigation that is capable of 16 getting to the truth. At the moment they have a deep, 17 deep seated concern that that is not going to happen 18 because too much is going to be done in secret without 19 the cover names being revealed.</p> <p>20 Those individuals who were spied upon, they need 21 their personal files at the very least. They need to 22 know exactly what the police have been putting together 23 about them. They need it to identify where false 24 information has been recorded about them, to justify 25 deployments. Critical.</p> <p style="text-align: center;">Page 134</p>	<p>1 MS KAUFMANN: What certainly has to happen -- then there can 2 be no expectation then, that they will be able to come 3 forward with their accounts unless and until that is 4 provided and that has to be factored into the entire 5 process.</p> <p>6 THE CHAIR: Again, I am very encouraged that they intend to 7 provide their accounts. This is what I have been hoping 8 for from the start.</p> <p>9 MS KAUFMANN: I am reiterating. I am not -- I am not -- 10 saying on behalf of my clients that they will be 11 providing their accounts. This is an "if" situation. 12 If they are to provide their accounts, they need the 13 information.</p> <p>14 THE CHAIR: This is absurd. You cannot say on the one hand 15 you must have my client's accounts -- I happen to agree 16 with you, I very much ought to. And then, "I'm not 17 telling you whether they are going to be provided".</p> <p>18 This is not a sensible method of proceeding.</p> <p>19 MS KAUFMANN: Whether it is sensible or not, it is 20 a situation that we find ourselves in because my clients 21 do not feel at this juncture that you can get to the 22 bottom and to the truth. There are a number of names 23 that are out there, most of them are out there because 24 my clients found out about them. Of course they can 25 give you evidence in relation to those. Not proper</p> <p style="text-align: center;">Page 136</p>

1 evidence until they get the information, but that is
 2 a part of this process.
 3 In relation to other undercover officers whose cover
 4 names are not disclosed currently, they can give you
 5 nothing. That affects the way this Inquiry can proceed
 6 and that affects whether or not they feel they can
 7 participate.
 8 It may not be a sensible way to go forward, but it
 9 is where we are at and that's why I'm saying to you it
 10 is a process, we need to see how we can move forward and
 11 we need to see whether we can resolve this and how we
 12 can resolve this. This is all part of an ongoing
 13 process and that's why I said to you at the beginning
 14 I am here to give you an indication of what we are going
 15 to right to you about, because there are issues that we
 16 submit -- I have just been addressing them -- that are
 17 of major concern, we want to put them in writing and we
 18 want --
 19 THE CHAIR: You have spoken now for very nearly
 20 three-quarters of an hour. I have listened to you
 21 patiently. If now all you are going to tell me, having
 22 listened to you patiently, is "We are going to tell you
 23 in writing", tell me in writing.
 24 MS KAUFMANN: We will do that. We will do that.
 25 I will just indicate to you that another issue we

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1 will raise in writing then is panel and timetable.
 2 The final issue we will raise with you in writing,
 3 is the issue of venue.
 4 We will raise all those issues in writing. We will
 5 write a detailed set of submissions and the frustration
 6 I am afraid is shared by all of us. It is not just
 7 frustration on the part of the Inquiry panel, it is
 8 a deep seated frustration that my clients also feel and
 9 we need to try to work together to find a resolution.
 10 But I am not going to say to you now at this point
 11 in time we will find that resolution, because that is
 12 not clear, it is not clear. We still need to try to
 13 work together towards that.
 14 What I will say to you, again, is that my clients
 15 desperately want this to happen.
 16 THE CHAIR: What I will say to you, again, is I am delighted
 17 to here it. But I think the time has come at which we
 18 must cease to communicate by megaphone.
 19 MS KAUFMANN: Sir, I do not consider I'm communicating by
 20 megaphone. I am making submissions which are
 21 substantive, they go to the heart of your approach,
 22 there is no question about that, but they are not simply
 23 me shouting. They are substantive submissions about
 24 a fundamental difference in view about your approach.
 25 That is a problem, because their participation is

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1 absolutely vital. That is the situation that we are in.
 2 Nobody is being bloody minded or deliberately
 3 obfuscatory here. It is a genuine, genuine difficulty
 4 and impasse and we need to try to work together to
 5 resolve it.
 6 But I am not speaking through a megaphone, I am not
 7 shouting, I am simply attempting to communicate, and
 8 I hope civilly, my clients' concerns about where we are
 9 and wanting to work and find a way forward.
 10 THE CHAIR: Good.
 11 Ms Sikand?
 12 Submissions on behalf of Peter Francis by MS SIKAND
 13 MS SIKAND: Sir, may I begin by saying we too are grateful
 14 for the offer of a meeting with you. I say that without
 15 instructions however and I very much hope --
 16 THE CHAIR: I see Mr Francis is not here.
 17 MS SIKAND: -- that Mr Francis agrees with me, because he's
 18 not here today.
 19 Sir, what I also wanted to do very briefly, I am
 20 mindful of the time, is to clarify why it is that
 21 Peter Francis didn't take part in the restriction order
 22 process on the last occasion.
 23 THE CHAIR: You have no need to explain. He explained
 24 extremely politely in the written statement that he put
 25 out. I readily understand one or two of the

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1 difficulties that he experienced when he was only given
 2 numbers. I make it clear, I make absolutely no
 3 criticism of him for getting things wrong occasionally.
 4 The process is not calculated to help him get it right.
 5 MS SIKAND: Sir, yes. That was not his sole reason for not
 6 continuing to take part in the process. The reason why
 7 I just wanted to say it publicly and very briefly is
 8 because it is not clear as to how communication is
 9 shared between the core participants in the sense that
 10 not every communication or correspondence between us and
 11 the Inquiry is shared between the other core
 12 participants. That particular correspondence won't
 13 appear on the website and you may be aware of it, but
 14 not everybody and the general public --
 15 THE CHAIR: That is a perfectly fair point.
 16 MS SIKAND: -- is.
 17 The point that I wanted to put on the record is that
 18 what Peter Francis had said to you in that letter was
 19 that he personally knew at least half of all the Special
 20 Demonstration Squad officers and because of that, he had
 21 hoped to assist the Inquiry, and I'm reading:
 22 "... to critically assess the applications being
 23 made by former undercover police officers to keep their
 24 cover names secret, but the level of redactions accepted
 25 by the Inquiry team is so high even I am often unable to

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<p>1 decipher from whom the applications are made." 2 Of course that is a reference to a mistake that he 3 did make in relation to the nominal given to 4 a particular officer, who he had thought was his 5 manager. 6 THE CHAIR: It is to that which I was referring. I readily 7 understand how the mistake -- 8 MS SIKAND: The point about that is that he took the view 9 that he could not continue guessing and that is not the 10 kind of detective work that he would like to carry out. 11 It is for that reason that he stopped participating in 12 that process. 13 Also, sir, in addition to that sort of guesswork 14 that he was being asked to do because of the 15 non-disclosure. In relation to those officers who he 16 knew a fair bit about, 15 of whom we listed in the 17 letter that he wrote to you and I won't repeat them now. 18 You, despite our submissions, gave them complete 19 anonymity and they included three crucial Special 20 Demonstration Squad officers, HN58, HN109 and HN337. 21 So the combination of those two factors that has led 22 him to desist from that particular procedure. Not 23 because we are holding you to ransom, not because we are 24 asking you to do anything in particular, other than bear 25 in mind that we cannot effectively participate in that</p> <p style="text-align: center;">Page 141</p>	<p>1 MS SIKAND: I see. 2 Then it is difficult to understand why he would 3 refer to it in a public hearing. 4 THE CHAIR: The topics in it are not confidential, not all 5 of them. For that reason he was acting perfectly 6 properly in the discussions that he initiated. 7 MS SIKAND: You understand, sir, that left us as usual 8 standing here in the dark. I am sure that is not 9 a state of affairs that you would want to continue, 10 particularly in a public hearing, if at all possible. 11 I just ask if some care could be taken to decide when it 12 is correspondence is shared and when it is not. 13 THE CHAIR: I hesitate to add yet another layer of 14 complexity which requires open and closed versions of 15 letters to be sent. 16 MS SIKAND: Well, you asked about dialogue, you talk about 17 transparency, you have called a public hearing, and here 18 we are not knowing what it is, in fact, you are talking 19 about. 20 What the perception ends up being is that you are 21 having a private conversation with the parties on that 22 side of the room, sir. That is it. It is important 23 that you understand the perception -- 24 THE CHAIR: The reason I asked for this to be done in public 25 rather than in private was simply so that the public</p> <p style="text-align: center;">Page 143</p>
<p>1 process given the level of disclosure you and your team 2 are prepared to make. 3 That is what I wanted to make clear and put on the 4 record, sir. 5 THE CHAIR: That which was made clear to me and I understand 6 your point about not being more widely circulated in the 7 polite statement that I received. 8 MS SIKAND: Thank you, sir. 9 A related point of course is about how it is that 10 your team decide when they do share correspondence 11 between the parties. At the outset we used to be given 12 relevant correspondence from one core participant to 13 you, and it was shared between us. These days we don't 14 get anything and it may be that there is some sort of 15 process by which you make these decisions but, sir, may 16 I just give you an example -- 17 THE CHAIR: Forgive me, this is news to me, can you raise it 18 with the Inquiry team? I simply don't know anything 19 about this. 20 MS SIKAND: I am sorry that you don't, sir. 21 May I give you an example? This morning Mr Hall 22 made a repeated reference to a letter that was written 23 by the Metropolitan Police Service -- 24 THE CHAIR: Forgive me, that was sent to us on confidential 25 terms and therefore it cannot be distributed.</p> <p style="text-align: center;">Page 142</p>	<p>1 could know what was going on. I can't do more than 2 that. 3 MS SIKAND: Sir, if we don't know how what is going, how on 4 earth is the public going to know what is going on, with 5 the greatest respect? All I am saying is there has to 6 be some level of disclosure of relevant correspondence 7 between the parties so we know where you are at. 8 Even with timetabling. I don't mean confidential 9 correspondence, of course not. 10 In relation to your terms of reference, if I may, 11 sir, please, in your foreword you say something and I do 12 want to take this opportunity to seek some clarity from 13 you about what you mean. Because as you know, sir, 14 every time you write something we look at it very 15 carefully and then spend a lot of time trying to work 16 out exactly what it is you mean. The only chance that 17 we have to actually ask you what you mean is at an oral 18 hearing. It is a passage that Ms Kaufmann has briefly, 19 I think, referred to, but you say, paragraph 3, sir, of 20 your foreword: 21 "I have every reason to believe that the need to 22 give evidence on oath to the Inquiry will lead to 23 further revelations." 24 Sir, may I press you just slightly as to what you 25 mean by that? By that do you mean just simply the act</p> <p style="text-align: center;">Page 144</p>

1 of swearing an oath will lead officers to tell the truth
 2 or do you mean that the witness statement process will
 3 cause them to tell more truths or tell you more? I just
 4 want to understand that, please.
 5 THE CHAIR: What I was trying to convey was that the process
 6 so far has produced disclosures which for the time being
 7 are to the Inquiry about matters that have not
 8 previously been the subject of admissions.
 9 This process will continue and will continue to
 10 a public stage at which evidence is given on oath. It
 11 has long been the tradition of our courts, and by
 12 analogy by an inquiry, that those who are required to
 13 give evidence on oath are under a solemn obligation to
 14 tell the truth and although it doesn't always produce
 15 the truth, sometimes it does.
 16 MS SIKAND: But, sir, some of these officers did give
 17 evidence on oath in the past in a criminal court, and
 18 lied, we know that. We were just concerned to highlight
 19 that to you, if you think --
 20 THE CHAIR: Of course. No one says the fact of taking the
 21 oath means that thereafter you will get the whole truth
 22 and nothing but the truth. But it does have an impact.
 23 MS SIKAND: So that is what you were telling us in that
 24 paragraph?
 25 THE CHAIR: Yes.

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1 MS SIKAND: That you do take the view that the oath itself
 2 will have some impact?
 3 THE CHAIR: Yes.
 4 MS SIKAND: Thank you. I am grateful for that. I didn't
 5 want to put a reductive interpretation on any of your
 6 words.
 7 Sir, next, I wanted to say that we do adopt some of
 8 the concerns that Ms Kaufmann has highlighted about your
 9 approach as you know to the non-revelation of cover
 10 names. I will not develop that here and it is likely
 11 that you will hear from us in writing in relation to the
 12 approach.
 13 THE CHAIR: Of course.
 14 MS SIKAND: Because, as you know, we have repeatedly
 15 expressed the importance of disclosing as many cover
 16 names as possible, and also we share the concern that
 17 Ms Kaufmann has that yet all the names of all the groups
 18 that we infiltrated have not been published. In fact we
 19 set some of those groups out, Mr Francis did, in
 20 a letter to Mrs May back in 2015.
 21 THE CHAIR: The process is a rolling one. The groups
 22 infiltrated are being published. What may well not --
 23 and what I see no reason to do -- is to publish the
 24 names of all groups upon which an individual officer may
 25 have reported. There is not the intention to put that

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1 on the website, the intention is to put on the website
 2 the cover name of the officer and the groups infiltrated
 3 by him or her.
 4 MS SIKAND: Right. That is a much smaller group.
 5 THE CHAIR: Of course it is. There may well have been 1,000
 6 groups upon whom some intelligence was reported. But
 7 I am interested, as I think the public are, in those who
 8 were infiltrated.
 9 MS SIKAND: Yes. Yes. Thank you, my Lord. It is helpful
 10 to understand your thinking, sir, as always.
 11 May I then ask you for some clarification about your
 12 key milestones, which are summarised at paragraph 4 of
 13 the strategic review --
 14 THE CHAIR: Is this is going to take any length of time, the
 15 shorthand writers probably need a break. If it going to
 16 be done very quickly, then we can do it quickly.
 17 MS SIKAND: I am going to be only a few minutes.
 18 THE CHAIR: Yes.
 19 MS SIKAND: Sir, you say:
 20 "Spring 2018 (May) commence collecting Special
 21 Demonstration Squad witness statements."
 22 I simply wanted to ask you this: does that include
 23 Peter Francis?
 24 THE CHAIR: No. We are intending to do it in approximately
 25 chronological order. He doesn't appear until a little

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1 later in the process.
 2 MS SIKAND: Right. I understand that overall that's when
 3 you say his evidence will be heard. But do you mean he
 4 won't be --
 5 THE CHAIR: Our intention is for the sake of reasonable
 6 order and to ensure that everybody knows what they are
 7 being asked to do and on our side what we are doing, is
 8 to do it in more or less chronological order. We may
 9 have to depart from that in the case of some officers
 10 whose deployments have attracted an enormous amount of
 11 interest and documentation. Then we may have to start
 12 those earlier for the reasons that Mr Hall explained.
 13 The essential aim is to do it in chronological order.
 14 If Mr Francis wants to volunteer to start early,
 15 then if he makes that suggestion, can we think about it
 16 and come back to you? I can't give you an answer off
 17 the top of my head.
 18 MS SIKAND: Sir, we have raised it. We have raised it. We
 19 raised it in a meeting with your team. We are happy to
 20 be taken out of order, but we have not had rule 9 and we
 21 have not had any disclosure --
 22 THE CHAIR: Right.
 23 MS SIKAND: -- so we have asked for that and we are keen to
 24 get on with that process as soon as is reasonably
 25 possible.

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<p>1 THE CHAIR: Yes.</p> <p>2 MS SIKAND: That's why I am pressing you now to understand</p> <p>3 when it is you would be doing that.</p> <p>4 THE CHAIR: My elements of team here, the leading elements</p> <p>5 of the team are here and they have heard what you said.</p> <p>6 We will discuss what you said and see to what extent we</p> <p>7 can, as it were, accelerate you down the path.</p> <p>8 MS SIKAND: I am grateful, sir. I would be grateful also if</p> <p>9 they would turn their minds to the kind of disclosure</p> <p>10 that would be appropriate in Mr Francis's context before</p> <p>11 we gave that witness statement, for example. It is not</p> <p>12 as straightforward, perhaps, as others.</p> <p>13 THE CHAIR: I appreciate that and the reason why you say it.</p> <p>14 I think it would be helpful if you would put in writing</p> <p>15 what it is in general terms that you would seek.</p> <p>16 MS SIKAND: I would be happy to do that.</p> <p>17 THE CHAIR: Thank you very much. That is most helpful.</p> <p>18 MS SIKAND: Thank you, sir.</p> <p>19 MR RUIS: Sir, I can be very brief.</p> <p>20 THE CHAIR: Yes.</p> <p>21 Submissions on behalf of the Category M Core Participants by</p> <p>22 MR RUIS</p> <p>23 MR RUIS: My clients have considered the strategic review.</p> <p>24 They do have some concerns.</p> <p>25 We have had the benefit of considering the five</p> <p style="text-align: center;">Page 149</p>	<p>1 submissions on my own.</p> <p>2 To me, reading the strategic review -- the foreword</p> <p>3 to the strategic review feels contemptuous towards the</p> <p>4 victims of spying, that you think our views about the</p> <p>5 approach of the Inquiry don't matter. That even our</p> <p>6 evidence is an optional extra and that you can manage</p> <p>7 perfectly well without us. There is no acknowledgement</p> <p>8 that without us this wrongdoing would never have come to</p> <p>9 light. Even after Peter Francis first reported</p> <p>10 wrongdoing in the national press there was no</p> <p>11 announcement of a police investigation or of a state</p> <p>12 investigation into the abuses that he revealed at that</p> <p>13 point. So why assume that without the investigations of</p> <p>14 the women who were deceived into the relationships with</p> <p>15 these undercover officers any of this would have come</p> <p>16 about or without the investigations of activists or</p> <p>17 journalists?</p> <p>18 Why assume that any wrongdoing that has not already</p> <p>19 been exposed will be volunteered by the officers and the</p> <p>20 units which are under investigation?</p> <p>21 The foreword talks about the collation and analysis</p> <p>22 of documents, but how can the Inquiry assume that it</p> <p>23 knows all the signs to look for without the input from</p> <p>24 those spied on? You may know some signs, but you cannot</p> <p>25 know all of them.</p> <p style="text-align: center;">Page 151</p>
<p>1 points made by Ms Kaufmann in outline in advance, and my</p> <p>2 clients endorse those submissions.</p> <p>3 We do note your offer of a meeting. I don't have</p> <p>4 instructions yet, but I think it is likely that we will</p> <p>5 wish to take your invitation up and to participate in</p> <p>6 that way and take things forward in the hope that we can</p> <p>7 contribute.</p> <p>8 THE CHAIR: I am delighted to hear it. Thank you.</p> <p>9 MR RUIS: Sir, thank you.</p> <p>10 THE CHAIR: Ms Steel, are you going to take -- I only asking</p> <p>11 ask this for the comfort of the shorthand writers not</p> <p>12 for any other purpose. If you are going to take any</p> <p>13 length of time, I will break for them to have a break.</p> <p>14 MS STEEL: That might be the best bet.</p> <p>15 THE CHAIR: Thank you.</p> <p>16 (3.25 pm)</p> <p>17 (A short break)</p> <p>18 (3.33 pm)</p> <p>19 THE CHAIR: Ms Steel.</p> <p>20 Submissions by MS STEEL</p> <p>21 MS STEEL: Thank you. Due to the short notice that was</p> <p>22 given for this hearing I was not actually able to attend</p> <p>23 the meeting that took place between the core</p> <p>24 participants and the lawyers a couple of days ago.</p> <p>25 I had other commitments already. So I am making these</p> <p style="text-align: center;">Page 150</p>	<p>1 In relation to both the appointment of a panel and</p> <p>2 to the release of the cover names allowing more victims</p> <p>3 to come forward, the more eyes and experiences that read</p> <p>4 those documents and bring matters to your attention, the</p> <p>5 more likely you are to get to the truth.</p> <p>6 As women fighting the civil legal action against the</p> <p>7 police, it was only when we all came together that we</p> <p>8 realised that individual acts which didn't really seem</p> <p>9 very significant to us on an individual basis were in</p> <p>10 fact part of a wider pattern. You need the help of</p> <p>11 those who were spied on in order to do that.</p> <p>12 We want to take part. We want to stop these abuses</p> <p>13 from happening again. But you have to realise that our</p> <p>14 taking part comes at a high cost to us. A cost to our</p> <p>15 privacy, which has already been trashed by the police,</p> <p>16 is now put under even greater scrutiny by others, and</p> <p>17 with police units which will seek to smear us to justify</p> <p>18 their wrongdoing.</p> <p>19 And the cost to our mental health as well, which has</p> <p>20 already been damaged by the spying and by the ongoing</p> <p>21 cover-up and by our inability to be able to find out the</p> <p>22 truth about what happened and how it was allowed to</p> <p>23 happen.</p> <p>24 So when you tell us that you won't disclose the</p> <p>25 cover names because those officers deserve privacy and</p> <p style="text-align: center;">Page 152</p>

<p>1 protection of their mental health, please be aware that 2 it feels like a slap in the face to those of us who have 3 already lost our privacy and who are only putting 4 ourselves through this Inquiry because we want to 5 prevent those human rights abuses being inflicted on 6 other members of the public. 7 The secrecy and the delays so far are harming those 8 spied on and they are harming the public interest too. 9 There have now been massive delays. I understand 10 that the hearings are going to take time, so that there 11 will be more delays still. But so much latitude has 12 been given to the police with the restriction order 13 applications dragging this on endlessly, it is not easy 14 to make up that time but the Inquiry needs to recognise 15 the impact on the spying victims of ever extending 16 delays in learning the truth about how and why we were 17 spied on. The Inquiry needs to recognise that the delay 18 is harming the mental health of those who were spied on, 19 who are still having to worry about the extent of the 20 spying on them. For those of us who actually lived with 21 undercover officers over a period of months and years, 22 or who had them as close personal friends with whom we 23 shared deeply significant life experiences, or for those 24 who trusted them enough to allow them to look after 25 their children, we have no idea about what is now on</p> <p style="text-align: center;">Page 153</p>	<p>1 harm being caused, your only route to challenge that is 2 to demonstrate and campaign to draw attention to those 3 issues and to seek to change views. 4 That is why people demonstrate and protest. That is 5 not your life experience, so you assume that the fact 6 that we protest and campaign mean that there probably is 7 justification for Special Branch holding files on us, 8 rather than acknowledging that actually freedom of 9 speech and association are both crucial parts of 10 a democratic society and which are actually protected by 11 international human rights law. 12 That can only be the answer as to why you view the 13 privacy and mental wellbeing of the police over the 14 privacy and mental wellbeing of the public spied on. 15 Why our every request for greater disclosure and 16 transparency is met by reasons why we can't have that. 17 So many cover names have not been released purely for 18 reasons of privacy, there is no real reason given for 19 not releasing the names of the groups spied on and there 20 is also a refusal to release the personal files and 21 I want to say more on that. 22 When the lawyers applied for our personal Special 23 Branch files to be released to us, you responded with 24 partial files on just four core participants out of the 25 over 150 people who are non-state core participants.</p> <p style="text-align: center;">Page 155</p>
<p>1 file about us and that represents an unhealed torment. 2 In the restriction order rulings you have repeatedly 3 referred to the need to protect the privacy and mental 4 health of officers in these units, but you don't seem to 5 acknowledge the impact that their actions have had on 6 our privacy and mental health or acknowledge that you 7 are in a position to do anything about it. 8 In contrast to the consideration shown to their 9 feelings and privacy, it feels like you assume our 10 guilt, that our privacy is not worthy of consideration. 11 That our mental health is not worthy of consideration. 12 That there is no smoke without fire, if the police were 13 spying on us there must be justification. Not that they 14 might have created that justification in order to keep 15 that spying going. 16 That you look at us with suspicion. Why were we out 17 on streets protesting, we must deserve spying? It feels 18 like you don't understand that when you are a woman or 19 when you are black or when you are working class or when 20 you are a combination of any of those, you don't have 21 the ready access to the corridors of power, the old 22 schoolmates who are now politicians or in other 23 influential positions. You don't move in social circles 24 with other people in positions of power. 25 So without those options if you see injustice or</p> <p style="text-align: center;">Page 154</p>	<p>1 The response said that: 2 "Collectively these contained a substantial quantity 3 of material which appeared unlikely to be relevant and 4 necessary and that the Inquiry recognises the importance 5 of the Data Protection Act and the underlying 6 fundamental rights to which it gives expression and has 7 conscientiously assessed based on the information 8 currently in its possession and on 9 a document-by-document and line-by-line basis what 10 material it held which constituted personal data of the 11 category requested and which fell to be disclosed under 12 the Act." 13 I was one of the four people who received a response 14 under that application. Despite having been involved in 15 campaign activity for over 35 years now, there was just 16 one leaflet disclosed, two press cuttings and a short 17 retyped list of some interactions with the police and 18 legal system which contained multiple inaccuracies and 19 no explanation of how those matters had been chosen as 20 being relevant and necessary. 21 There was zero information about the McLibel support 22 campaign. There was absolutely zero information about 23 my former partner, John Dines, about the home that 24 I shared with him or about my search for him after he 25 disappeared. The Inquiry cannot have it both ways.</p> <p style="text-align: center;">Page 156</p>

<p>1 Either there is no information on file about these 2 relationships, which means that if the Inquiry does not 3 release the cover names of the officers it will not 4 learn whether or not those officers had intimate 5 relationships while under cover, because the women who 6 were deceived will not be in a position to come forward. 7 Or, if there is information in those personal files 8 about the relationships, the Inquiry has a moral duty 9 and a responsibility to provide that information to 10 those who were spied on at the earliest opportunity so 11 that we could start to recover from the abuses we have 12 suffered at the hands of the state and so that we can 13 give a proper and fully informed response to matters in 14 those files in good time rather than in the Inquiry 15 being subject to more delays. 16 The Inquiry also said in its letter: 17 "Conducting this exercise has inevitably proved to 18 be a time-consuming task for the Inquiry, requiring both 19 legal expertise and the best understanding which we can 20 bring to bear of the documents in their proper context. 21 As a result, it has necessarily distracted considerable 22 resources at all levels within the Inquiry from the 23 substantive work of the Inquiry, including work 24 investigating deployments affecting non-police non-state 25 core participants. Preparation of the four responses</p> <p style="text-align: center;">Page 157</p>	<p>1 been prosecuted. If that prosecution has not taken 2 place, that was a choice taken by the police perhaps in 3 the knowledge that they had more of a hand in the events 4 than they would wish to make public, or perhaps because 5 it was based on faulty intelligence which could not be 6 relied on. 7 Either way, the accounts of those who were spied on 8 are a critical part of the picture which the Inquiry 9 needs in order to get to the truth of what these units 10 were up to. 11 I welcome the recognition this morning that historic 12 documents do not need to be redacted. I would also 13 remind you that the Federal Bureau of Investigation 14 actually released significant numbers of files without 15 destroying the function of the police, there is no 16 reason why the same can't happen here. 17 Realistically, what harm will come from releasing 18 personal files from 5 years ago, 10 years ago, 20 years 19 ago, 30, 40, 50 years ago? If that material formed the 20 basis of any serious or substantive charge, that would 21 have been -- that would have happened by now. If it 22 merely forms the basis for embarrassment for the police, 23 because it reveals they were collecting far more 24 information on individuals than was justified or allowed 25 in law, or that would be justified in a democracy, then</p> <p style="text-align: center;">Page 159</p>
<p>1 [that is the four people who received information under 2 this application] occupied over 130 hours of the time of 3 the Inquiry legal team (counsel and solicitors) and over 4 30 hours' paralegal time." 5 When the Inquiry refers to the best understanding 6 which we can bring to bear of the documents in their 7 proper context, the Inquiry needs to acknowledge it's 8 own shortcomings on this path. Those who were spied 9 upon will be the best placed to understand the events 10 that they relate to and to bring significant matters to 11 the attention of the Inquiry for further investigation. 12 The inquiry cannot hope to complete this task on its 13 own, since it knows so little about the events and the 14 people involved. 15 If the Inquiry relies solely on police guidance for 16 this task, it of course allows the very bodies under 17 investigation to be the ones controlling what 18 information is put forward as significant. 19 What are the concerns about releasing files about 20 individuals? That there is no smoke without fire? It 21 is highly dangerous for the Inquiry to adopt this 22 approach if it wishes to get to the truth about these 23 secret political policing units. If there had been 24 sufficient evidence of a person's involvement in 25 specific criminal acts, those individuals could have</p> <p style="text-align: center;">Page 158</p>	<p>1 that information ought to be disclosed. If the Inquiry 2 does not disclose it, the Inquiry is itself 3 participating in a cover-up of the abuses committed by 4 the state against its citizens. 5 These units were not subject to scrutiny in public 6 courts in the way that most undercover police officers 7 are. Normally, if it is a drug bust or something like 8 that, the officers know that at some point they may have 9 to give evidence and may have to adhere to certain 10 standards. 11 That is why so much went wrong with these units and 12 now that's exactly why we need to shine a light on what 13 they were up to. And the only way of doing that is to 14 release the files to the people who know, who can make 15 sense of those files, because it is not something that 16 an outsider such as yourself can reasonably do. You can 17 spot some things, you are not going to spot the kinds of 18 things that we will spot. 19 Releasing the files would actually go some way to 20 restoring faith in this Inquiry and our participation in 21 it. It would also allow us to get on with preparation 22 for the evidence that we need to give to the Inquiry as 23 would the release of the statements collected in the 24 Herne investigation so far. 25 I urge greater transparency as the way forward,</p> <p style="text-align: center;">Page 160</p>

<p>1 specifically that the time is now for the personal files 2 to be released and there is no reason why anything older 3 than five years old could not automatically be released. 4 Relating to cover names, I support what has been 5 said already. I would also like to remind you that all 6 police officers give evidence in their real names in 7 cases of people accused of very serious crimes in bog 8 standard court cases every day of the week around the 9 country. Officers give evidence in their real names, 10 even though you would assume that there might be 11 a threat to them. 12 So why it is that all those officers are expected to 13 take those risks, but these officers won't even 14 contemplate the absolutely minuscule risk that if their 15 cover name was released, you know, something might come 16 of it. In reality nothing has come of it, even the ones 17 that have been exposed to do very serious wrongdoing, 18 nothing has come of it. 19 In this context, I would like to remind you as well 20 of the submissions by the National Police Chiefs' 21 Council last year in March 2017 where they said that if 22 the Inquiry were content for the undercover officers to 23 give statements in their covert identities there would 24 be no need for corresponding anonymity applications. 25 That is exactly the position. They can give</p> <p style="text-align: center;">Page 161</p>	<p>1 we found our country on. 2 MS STEEL: I am glad to hear that. I would just like to 3 remind the context which is that these were secret 4 political policing units, which were undermining that 5 very freedom of expression and freedom of association. 6 THE CHAIR: That's one of the things, one of the most 7 important things, I want to get to the bottom of. 8 MS STEEL: Okay. So why their privacy and mental health is 9 protected, and ours is not, that is the big question. 10 THE CHAIR: Now is not, I think, the time to engage in 11 a debate about that. 12 If you choose to attend one of the meetings that 13 I hope we will have, I may be able to explain it to you 14 a little better then. 15 Does that conclude today's proceedings, Mr Barr? 16 Sir Robert? 17 SIR ROBERT FRANCIS: I undertook to find to try to find out 18 more information -- 19 THE CHAIR: Yes. You did indeed. Thank you for reminding 20 me. 21 Further submissions on behalf of the National Police Chiefs' 22 Council by SIR ROBERT FRANCIS 23 SIR ROBERT FRANCIS: Two things. 24 Firstly, the Inquiry already has a schedule which, 25 as I understand it, contains a list of all these</p> <p style="text-align: center;">Page 163</p>
<p>1 evidence in their cover names. That allows the victims 2 of spying to come forward and give the counter evidence 3 to you. That allows you to get to the truth. Without 4 that, this cannot happen. 5 The cover names, the names of the groups spied on 6 and the individual files should all be disclosed as soon 7 as possible if all of us are to see a worthwhile public 8 inquiry which rights some of the wrongs done to us as 9 citizens and ensures that the Inquiry is effective and 10 that these abuses are not allowed to happen again. 11 That is basically what I have to say on the subject, 12 thank you. 13 THE CHAIR: Thank you, Ms Steel. What you said was eloquent 14 and a good deal of it I accept. Not all of it. But 15 there are two things I would like to correct. 16 You said that I assume from the fact that you and 17 others protest that that fact justifies the deployment 18 of undercover police officers against you. 19 I very much don't do that. 20 You said that freedom of speech is a vital right and 21 I understood you to say that I did not recognise that. 22 If I have misunderstood, I apologise. I do very much 23 recognise it. It is one of the core values, along with 24 personal liberty, of people who have lived in this 25 country for centuries. That and the rule of law is what</p> <p style="text-align: center;">Page 162</p>	<p>1 exhibits and where exactly we are up to in relation to 2 the processing of them. The position today is known in 3 detail to the Inquiry team. 4 Needless to say I don't have it here and you 5 probably would not want it anyway. 6 The second point is that in relation to your 7 question, which is the outstanding exhibit, how long 8 will anything take, we have been in touch with Anexsys, 9 who are undertaking the process of converting the 10 various exhibits into something that is usable. While 11 I suspect they would not wish to be held to this, 12 because firstly it is a broad estimate. Secondly, the 13 person who is actually in charge of doing it is not 14 there today. They are thinking that the remainder of 15 the preparation work, that is the work required before 16 it is uploaded, might take two months. Which is 17 a rather lower estimate than perhaps we had previously 18 imagined. 19 Can I suggest this, sir. That is what we have just 20 been told. It would probably be more helpful to the 21 Inquiry if I undertook to get a letter to you putting 22 that out in more precision in the next week or so, but 23 even better, we hope to be having a meeting with the 24 Inquiry team, we think on 30th of this month, where 25 these very issues about the practical issues around the</p> <p style="text-align: center;">Page 164</p>

1 conversion of data into something usable are to be
2 discussed. They include riveting issues such as the
3 metadata issue, which I don't wish to trouble you with
4 today.
5 THE CHAIR: I would welcome such a letter, thank you.
6 Mr Barr, is that it?
7 MR BARR: Sir, yes, I believe that is it.
8 THE CHAIR: Good.
9 Thank you all.
10 (3.54 pm)
11 (The Inquiry adjourned to a date to be fixed)
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