

## IN THE UNDERCOVER POLICING INQUIRY

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### WRITTEN OPENING STATEMENT ON BEHALF OF DR NEVILLE LAWRENCE

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#### INTRODUCTION

1. We represent Dr Neville Lawrence OBE. This written statement is made on his behalf<sup>1</sup>.
2. As is well known, Dr Lawrence's son, Stephen was murdered on 22 April 1993 in Eltham, South East London whilst waiting for a bus. Stephen was aged 18. He was stabbed by a gang of white youths who used racist language. The initial murder investigation was completely inadequate; during it Dr Lawrence felt as if he was in a constant battle with police. Many years later, two of the youths, Gary Dobson and David Norris, were finally convicted of Stephen's murder on 3 January 2012. When passing sentence the next day, Mr Justice Treacy said: *"The murder of Stephen Lawrence...was a terrible and evil crime. Recently the Lord Chief Justice described it as 'a murder which scarred the conscience of the nation'. A totally innocent 18-year-old youth on the threshold of a promising life was brutally cut down in the street...by a racist thuggish gang...This crime was committed for no other reason that racial hatred"*.
3. In 1998 the Stephen Lawrence Public Inquiry, chaired by Sir William MacPherson, ("the MacPherson Inquiry") found that the earlier police investigation had been *"palpably flawed and deserves severe criticism."* The MacPherson Inquiry decided that institutional racism was apparent in the police investigation into Stephen's death and in his family's treatment by officers; and that there was a *"collective failure of the investigating team to treat Mr & Mrs Lawrence appropriately and professionally, because of their colour, culture and ethnic origin"*.
4. These failings meant that Stephen's killers largely escaped the justice they deserved. And these failings added very considerably to the trauma that his family suffered through their loss. They affected all aspects of Dr Lawrence's life. He has had to face irrational hatred,

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<sup>1</sup> This statement contains the gist of Dr Lawrence's proposed oral opening statement. It is not intended that every part of this document will be included in the oral delivery; duplication with earlier opening statements will be avoided and steps will be taken to ensure that the oral opening does not exceed the time allotted to it.

and come to terms with violence aimed at an innocent person for no other reason than the colour of his skin.

5. The Macpherson Inquiry demonstrated that the authorities were not on Dr Lawrence's side when it came to the investigation of his son's death. In fact it was Stephen and his family who were investigated in the early days and vital evidence was lost because of it. The mind-set of the police at the time was that Stephen was somehow to blame, and that Stephen was from a problem family.
6. Despite the recognition of institutional racism in the police and despite the MacPherson Inquiry making seventy recommendations that were primarily aimed at improving practices and the culture in the police service, Dr Lawrence believes that far too little tangible progress has been made.
7. For these reasons, he feels that the State failed him both in relation to his son's murder and again in terms of the limited impact that the MacPherson Inquiry has had.
8. Against this background, the allegations that have emerged about undercover police interference with Dr Lawrence and his family, have been truly shocking. They have only served to undermine still further his confidence in the Metropolitan Police Service ("MPS"). Allegations have been made that undercover Special Branch officers were tasked by the MPS to spy on the family and gather intelligence that could be used to discredit them, particularly after their campaign for justice became high-profile and damaging for the MPS' reputation. It is a matter of record that information involving Dr Lawrence was relayed by undercover officers to their superiors. It is also a matter of record that at least one undercover officer attended the MacPherson Inquiry, with access to the Lawrences, in his fake identity as a supportive activist, whilst also meeting secretly with a member of the MPS response team involved in preparing the police's submissions to the Inquiry and that the existence of the undercover officer was kept from Sir William.
9. None of this can have been for any legitimate policing purpose. If these matters are true, this is yet another indication that, at least where black families are concerned, the organisation that should be there to protect them, the MPS, is actually trying to undermine them. How can the public have confidence in the policing of black communities, if police power is misused to discredit the victims of crime? This all increases the perception for many people that, to the police, black lives do not matter.

10. It is more than 27 years since Stephen's death and Dr Lawrence's life has been put on hold by these issues. The earlier police misconduct prevented him from being able to grieve for a long time. The revelations in 2013 and subsequently have opened up old wounds. The progress of this Inquiry to date does not led him to feel confidence in its approach or in its outcome. In order for him to draw a line under these terrible events it is very important to Dr Lawrence that he is able to participate in a fully transparent inquiry, capable of establishing the truth of what happened and capable of learning the lessons necessary to prevent reoccurrence.
11. We go on to outline the allegations that have been made, the findings of the investigations conducted so far and the role they played, in turn, in the setting up of this Public Inquiry. What has gone before underscores just how much there is to probe, to understand and to determine. We then identify the questions that Dr Lawrence would particularly like to see answered by this Inquiry. The history that we are able to set out at this stage comes from publicly available documents; in common with other Core Participants to this Inquiry, Dr Lawrence has received very little disclosure so far. As such, he can only make preliminary observations at this stage on the issues and evidence that should be considered.

## **RELEVANT HISTORY**

### **Peter Francis' allegations**

12. On 24 June 2013 The Guardian published an article by Rob Evans and Paul Lewis which described how Peter Francis, a former officer with the MPS' Special Demonstration Squad ("SDS") had spent several years living undercover in protest groups, monitoring a number of 'black justice' campaigns. He said that shortly after Stephen's murder in April 1993 he had participated in an spying operation, in which he was told by his superiors to try and find 'dirt' on the Lawrence family. Mr Francis also said that family liaison officers who were recording the identities of everyone entering and leaving the Lawrence household were doing so in order to formulate intelligence. Mr Francis said that in 1997 he was told by senior officers that the undercover operation should not be disclosed to Sir William MacPherson, as there would be "battling on the streets" if the public ever found out about this.

### **The remit of the SDS**

13. We anticipate that the formation and structure of the SDS will be addressed in other opening statements. However, we emphasise the unit's own 'Statements of Purpose'. The first, from 26 November 1968, said that the SDS's: "*primary object is to provide information*

*in relation to public order problems; the secondary by-product is that our knowledge of extremist organisations and individuals active in them is considerably enhanced*'. Twenty years later the SDS' 1998 Statement of Purpose described its role as gathering and disseminating "*high grade intelligence concerning terrorism, public order events, the activities of groups involved in politically motivated crime and crime related to animal rights and environmental activity*".

14. Quite obviously, the Lawrence family were not terrorists, criminals or any threat to public order. They were a grieving family, devastated by Stephen's murder. There was no conceivable justification – even on the SDS' own self-selecting terms – for undercover officers snooping around them or relaying personal information about them.

### **The Ellison Review**

15. At the request of the then Home Secretary, Mark Ellison QC conducted a review into Peter Francis' allegations. The *Stephen Lawrence Independent Review* was published in March 2014. It led to the setting up of this public inquiry.

### *The aftermath of Stephen's death*

16. The Ellison Review concluded that in 1993 undercover officers were deployed into activist groups who were in contact with the family and that these officers reported back to their superiors "*anything that might have a public order or other 'Special Branch customer use*" and that this "*at times included personal information touching on the Lawrence family and tactical information as to where the family campaign was or was not likely to go*"<sup>2</sup>. We have already shown that there could be no operational justification for this. Of course, Dr Lawrence's concern is not limited to what was actually reported back (the 'dirt' was not found); he is horrified by the sheer fact that there were undercover officers circling him and his family at this intensely difficult and personal time, looking for material with which to smear them; especially when officers should have been doing all in their power to find his son's killers.
17. The Ellison Review was unable to determine whether Peter Francis had been specifically tasked by his superiors as he alleged, given that officers provided conflicting accounts to the Review. It was concluded that "*a Public Inquiry that can see and hear the evidence being tested, particularly an Inquiry considering the wider SDS issues, might be better placed to make definitive findings*"<sup>3</sup>. This Inquiry should afford that opportunity. The Review

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<sup>2</sup> Page 207.

<sup>3</sup> Page 271.

found that Mr Francis' intelligence reports, which might have confirmed the matter one way or the other, had apparently been destroyed and that "*little weight can be attached to an absence of surviving records confirming or undermining what Mr Francis' claims*"<sup>4</sup>.

18. Notably, the Review considered that the contemporaneous material showed evidence of some hostility towards the Lawrence family. There was a "*level of indignation and a 'thinning of patience' at the relevant time in senior elements of the MPS*"<sup>5</sup>. Mr Ellison recognised the "***potential*** for such indignation...*to have resulted in a desire to look for intelligence that might prove that the family or its advisers were not what they appeared to be*"<sup>6</sup>.

19. Peter Francis had also described how in 1993 he was asked by the Detective Chief Inspector of the SDS (N86) to research a list of names which he was told had been made by the family liaison officers ("FLOs") of people who had visited the Lawrence house. As the Review report confirms, those FLOs<sup>7</sup> accept that visitors were asked to identify themselves, that names were recorded and that information was reported back to their superiors, who were dealing with the investigation, albeit they deny knowledge that material was passed on to Special Branch. The MPS told Mr Ellison that their inquiries had revealed no records indicating Special Branch involvement. However, as we have already observed, little weight can be attached to a current absence of documentation. Dr Lawrence is concerned that the Inquiry should resolve this issue. He found the behaviour of the FLOs deeply insensitive and disrespectful in the aftermath of Stephen's murder, so much so that he stopped them coming to the house. He would like the Inquiry to establish what role they played in collecting and passing on information about him and his family, what instructions they were given and what use was made of this material.

### *The MacPherson Inquiry*

20. The MacPherson inquiry, held in 1998, was an independent review into the MPS's failed investigation into Stephen's murder. The report of the inquiry, published in February 1999, found that the MPS were 'institutionally racist', that the initial investigation into Stephen's murder was inadequate and the Lawrence family were treated less favourably due to their race.

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<sup>4</sup> Page 211.

<sup>5</sup> Page 206.

<sup>6</sup> Page 207 (emphasis in the original report).

<sup>7</sup> Detective Sergeant John Bevan and Detective Constable Linda Holden.

21. The Ellison Review found that a SDS undercover operative, known by the cover name “David Hagan” (HN81), was deployed into one of the groups seeking to influence the Lawrence family campaign while the Macpherson Inquiry was taking place and under his fake identity attended the Inquiry and meetings related to it. As the report vividly characterised it: *“the reality was that N81 was, at the time, an MPS spy in the Lawrence family camp during the course of judicial proceedings in which the family was the primary party in opposition to the MPS”*<sup>8</sup>.
22. Mr Hagan reported back personal information about the Lawrence family, as well as what was described as “tactical intelligence” around the Inquiry. The Ellison Report stated that: *“... Information reported back to the SDS as a result of that deployment included personal details about Mr and Mrs Lawrence. It included discussion of the progress, reasons and details of the decisions made by the Lawrence family connected to the Inquiry”*<sup>9</sup>.
23. Mr Ellison was in no doubt that this channel of communication was “*completely improper*”, “*wrong-headed and inappropriate*”. ...”<sup>10</sup>.
24. To make matters worse, SDS senior officer, Detective Inspector Bob Lambert arranged a meeting between Acting Detective Inspector Richard Walton and ‘David Hagan’. This took place on 14 August 1998. DI Walton (subsequently Commander Walton) was an ex-Special Branch officer who was seconded to the Stephen Lawrence Review Team. This was the MPS team who was preparing the closing written submissions that would be made on behalf of the Commissioner of the MPS to the Stephen Lawrence Inquiry. As such, the meeting was wholly inappropriate. As the Ellison Review found: *“There was no conceivable ‘public order’ justification for this meeting. Nor was there any other discernible public benefit and certainly none that could possibly outweigh the justifiable public outrage that would follow if the fact of the meeting had been made public when the Inquiry resumed...”*<sup>11</sup>
25. Whatever denials or convoluted explanations may be put forward by the officers involved, the meeting was plainly arranged for a purpose and the file note which DI Lambert made at the time (18 August 1998) is clear and damning, in recording that highly significant information had been passed on by the undercover officer: *“N81 talked about the Lawrence enquiry [sic] from [N81’s group’s] perspective and DI Walton from his. It was a*

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<sup>8</sup> Page 264.

<sup>9</sup> Page 263.

<sup>10</sup> Pages 264 and 267.

<sup>11</sup> Page 267.

*fascinating and valuable exchange concerning an issued which, according to DI Walton, continues to dominate the Commissioner's agenda on a daily basis". The same note acknowledged "N81's invaluable reporting on the subject in recent months. An in-depth discussion enabled him to increase his understanding of the Lawrences' relationship with the various campaign groups...this he said would be of great value as he continued to prepare a draft submission to the Inquiry on behalf of the Commissioner..."<sup>12</sup>.*

26. A similar acknowledgment was reflected in the intelligence update, written in September 1998 by the SDS's Detective Chief Inspector (N58). He praised: "*N81's unique insight into the behind the scenes machinations of the Lawrence campaign*"<sup>13</sup>.

27. The Ellison Report went on to find that information regarding the use of undercover SDS officers was withheld from the Macpherson Inquiry by the MPS, when it should have been disclosed. That if the Inquiry had been informed then it would have deplored such conduct and the Chairman would have directed that such deployments "*should be terminated*". Furthermore, the revelation of this conduct by the MPS would have caused "*public disorder of a far more serious kind than anything envisaged by the original undercover deployment*"<sup>14</sup>.

### **A primary purpose of this Public Inquiry**

28. We have spent a little time on the findings and conclusions of the Ellison Review, not only because of the litany of extremely concerning issues that it flags which are of direct concern to Dr Lawrence, but also because it was the publication of the Ellison Review, which lead to this Inquiry. This was evident from the statement made by the then Home Secretary, Theresa May, to Parliament on 6 March 2014, when she announced the establishment of the inquiry. She explained a public inquiry would take place: "*to get to the full truth behind the matters of huge concern contained in Mark Ellison's report.*"

29. Those matters, the Home Secretary said, were principally the inappropriate undercover activity directed at Dr Lawrence's family, and the withholding of information from the Macpherson Inquiry about interference by undercover officers with the Lawrence family during that inquiry. She rightly said they were "*profoundly shocking and will be of grave concern to everyone in the House and beyond*". She concluded: "*Mr Speaker, Stephen Lawrence was murdered over twenty years ago and it is deplorable that his family have*

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<sup>12</sup> Page 228 (emphasis added).

<sup>13</sup> Page 229.

<sup>14</sup> Pages 272 – 273.

*had to wait so many years for the truth to emerge. Indeed, it is still emerging. Understandably many of us thought that the Macpherson Inquiry had answered all the questions surrounding the investigation into Stephen's death. But the findings I have set out today are profoundly disturbing. For the sake of Doreen Lawrence, Neville Lawrence, their family and the British public, we must act now to redress these wrongs."*

30. The statutory purpose for which a public inquiry is established under section 1 of the Inquiries Act 2005 is to address matters of public concern. In this case, central matters of public concern are those identified by the Home Secretary regarding the Lawrence family.

### **Operation Herne Report 2**

31. Operation Herne was set up by the MPS in October 2011 to review the activities and deployments of undercover officers. Initially it was internally led; from February 2013 it was headed by Chief Constable Mick Creedon of Derbyshire Constabulary. *Operation Herne Report 2 Allegations of Peter Francis* was also issued in March 2014.

32. This report agreed with Mr Ellison that it was "*inexcusable that the senior management of the SDS and the MPS Special Branch chose not to disclose the presence of N81*" in the context of the MacPherson Inquiry<sup>15</sup>.

33. As regards Peter Francis' other allegations, this report said it had found no evidence that SDS undercover officers were tasked to smear Stephen Lawrence's family<sup>16</sup>. However, Herne 2 failed to address many of the points raised by Mr Ellison. Furthermore, the Ellison Review itself cogently explained why no significance can be attached to an absence of preserved supporting documentation. It might also be thought unlikely that such a wholly improper and repellent instruction would be recorded in a written form, in any event. The conclusions of Herne 2 were based on denials predictably given by other officers potentially implicated in the wrong doing and Dr Lawrence believes that they should be seen in that context.

### **Operation Herne Report 3**

34. The unconstrained way in which the SDS was allowed to operate created the climate in which the kind of abuses of power identified by the Ellison Review flourished. This is reinforced by the conclusions drawn by other investigations.

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<sup>15</sup> Page 12.

<sup>16</sup> Page 8.

35. *Operation Herne Report 3 Special Demonstration Squad Reporting: Mentions of Sensitive Campaigns*, published in July 2014, recognised the secretive and unchecked nature of the SDS unit, which was described as “*insulated from both internal scrutiny by the [MPS] Executive Leadership of the day and any realistic parallel external scrutiny. Over the forty years that the unit existed, senior MPS management of the day either knew nothing about the existence and activities of the unit, or when they did they appeared to have allowed the SDS to exist in secret isolation in a manner that was complacent and possibly negligent*”<sup>17</sup>.
36. The records examined by this review confirmed that SDS officers routinely hoovered up and passed on all the information and knowledge they became aware of to their line managers, who in turn retained material irrespective of whether it fell outside the unit’s Statement of Purpose<sup>18</sup>.
37. What account was taken of the privacy rights and sensitivities of those affected? It seems this was completely disregarded, even in what should have been acutely delicate circumstances such as those involving bereaved families. The Herne 3 report noted there was no account taken of how information relating to private and family life should be dealt with in the targeting strategies and other SDS documents of the time, adding that numerous SDS undercover officers had been spoken to “*and they have confirmed they received no training in respect of collateral intrusion and their collection of intelligence and information took no account of such considerations*”<sup>19</sup>.

#### **IPCC Investigation Report – Walton, Lambert and Black**

38. In 2016 the Independent Police Complaints Commission (“IPCC”) published *An investigation into the circumstances surrounding a meeting between A/Detective Richard Walton and an undercover officer on 14 August 1998*. We have already described this meeting where the discussion with N81 (the spy in the Lawrence camp) took place. The IPCC concluded there was a case to answer for both Bob Lambert and Richard Walton that they had behaved in a manner likely to bring discredit on the reputation of the police service in respect of the meeting. Despite these conclusions, Bob Lambert could not face misconduct proceedings as he had left the MPS many years earlier. It appears that Richard Walton retired after learning of the IPCC outcome and by doing so he also escaped a misconduct hearing.

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<sup>17</sup> At [1.14].

<sup>18</sup> At [1.20] – [1.22] and [13.3].

<sup>19</sup> At [5.3].

### **The Macpherson Inquiry's Manchester hearing**

39. Operation Kerry, which published its findings in June 2015, was a Greater Manchester Police (GMP) investigation into a message sent by Special Branch to the GMP force asking for "*information or intelligence regarding groups or individuals likely to attend the Enquiry [sic] be forwarded to Special Branch*" in preparation for the MacPherson Inquiry's hearing in Manchester in 1998. The Operation found that "*...discriminatory attitudes and behaviours existed within GMP at the time of the Stephen Lawrence Inquiry and though such practices seem to have diminished there remains concern that some forms of discrimination still exist in a more covert and subtle form.*"
40. Dr Lawrence was unable to provide his comments on this report prior to its publication, since a draft report was sent to him only a week prior to its final publication. This Public Inquiry ought to investigate the use of undercover officers, not only in respect of the SDS, but also within other forces such as the GMP, as regards the Macpherson Inquiry.

### **THE LEGAL CONTEXT IN OUTLINE**

41. Lest the contrary be suggested, it is plain that there was no legal authority or justification for the intrusions upon the lives of Dr Lawrence and his family.

#### **Regulation**

42. Prior to the Regulation of Investigatory Powers Act 2000 (RIPA), which came into force in October 2000, there was no legislation regulating undercover policing activities. (Home Office Circular 97/1969 issued on 6 March 1969 provided instruction as to the restrictions on members of the police service and police informants inciting or committing crime, but it did not cover any other aspect of undercover deployments.)
43. RIPA provided for a system of regulating activity by undercover officers – albeit, as others have explained, an inadequate one. In any event, no such statutory scheme existed at the time of the events that we have described.

#### **Article 8, European Convention on Human Rights**

44. Article 8 of the European Convention on Human Rights provides that: "*Everyone has the right to respect for...private and family life*". This right can only be interfered with when the strict requirements of Article 8(2) are met. This requires that the interference is "*in accordance with the law*", in pursuit of a legitimate aim (one of those specified in the Article) and is necessary in a democratic society (meaning it must reflect a "*pressing social need*")

and be proportionate). The courts have held that it is essential for there to be “*clear, detailed rules*” with a series of specific “*minimum safeguards that should be set out in statute law*”, for the first of the pre-requisites, the ‘in accordance with the law’ criterion to be met: *Weber v Germany*<sup>20</sup> and *Big Brother Watch v. United Kingdom*<sup>21</sup>. As we have explained, there were no such safeguards whatsoever, whether identified in statute or other legally binding instrument in this instance. For this reason – as well as because the intrusions were wholly disproportionate – the undercover policing of Dr Lawrence’s family amounted to a serious interference with Article 8 protected rights. This is relevant because an important issue for this Inquiry will be the lack of any, or any sufficient, legal regulation of undercover officers at the time and the consequential violation of rights enshrined by the Convention.

## QUESTIONS FOR THE INQUIRY

45. It is now more than 6 ½ years since the Home Secretary’s announcement of this Public Inquiry. To date, the Inquiry has revealed virtually nothing to the public about the ‘profoundly shocking’ issues she had identified. Dr Lawrence has received nothing substantive from the Inquiry about undercover policing in his case. There is no indication in public that the Inquiry has done anything significant towards achieving its primary purposes, including investigating the grave concerns relating to undercover policing of Dr Lawrence’s family. Dr Lawrence understands the Inquiry process is a difficult and time-consuming one. But the Home Secretary recognised that, in 2014, the delay in uncovering the truth was deplorable. This further 6 ½ years of delay has substantially increased the distress Dr Lawrence has suffered.

46. Dr Lawrence appreciates that the Chairman intends to disclose some information to him which is relevant to his case at a later stage. But at this point, it is not clear what that disclosure will be or when this will take place. This means Dr Lawrence cannot make focused submissions about the facts and evidence to be explored at this Inquiry for now. He must be given a proper opportunity to make further and fuller submissions in due course. At this stage he can only broadly identify the issues which he considers should be explored in order for the Inquiry to discharge its primary function and remit.

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<sup>20</sup> (2008) 46 EHRR SE5 at [93] and [95].

<sup>21</sup> (58170/13) 13 Sept 2018, §303-320.

## **Undercover surveillance**

47. Dr Lawrence wants to understand the full extent to which undercover officers accessed his home, his family, his personal information and any legally privileged material, both in the aftermath of Stephen's death and around the time of the MacPherson Inquiry. He also wants to know which groups and individuals relevant to the Stephen Lawrence campaign were targeted and/or reported on.
48. Of fundamental importance to Dr Lawrence is understanding *why* officers found it appropriate to spy on his family and relay so-called 'intelligence'. He wants to find out who authorised this and what officers thought they were looking for. He wants the Inquiry to ascertain what use was made of the material that was relayed; who was it passed on to and for what purpose? Was it retained and if so, for how long and who had access to it during that period? He also wants to discover how far up the chain of police command the encouragement or acceptance of these undercover activities went and why the evident impropriety was not recognised or acted upon.
49. Dr Lawrence wants to know whether any thought was given to the intrusion upon him and his family and whether any thought was given to the effect this could have on them. Were there any safeguards in place at the time? How could undercover officers be deployed against a grieving family where there was no evidence of any threat of violence, disturbance of the peace or crime? Was any thought given to the risk that officers would try and discredit an entirely lawful justice campaign for their own malign motives?
50. Furthermore, Dr Lawrence wants to know what part race played; he finds it hard to believe that a bereaved family who was white would have been treated in a similar way. He notes that the Ellison Review includes Peter Francis' description of his SDS Detective Chief Inspector of the time, HN86, holding racist views.
51. As the former Chairman of this Inquiry, Sir Christopher Pitchford, recognised in his 21 October 2015 ruling<sup>22</sup>, the Ellison Review highlighted an unresolved conflict of evidence on some of the issues considered by that report, in particular whether Peter Francis and /or other undercover officers were specifically tasked by their superior officers to find material that could be used to smear the Lawrence family. This issue can only be resolved with a full airing of the relevant evidence. As well as those who were willing to speak to Mr Ellison, this Inquiry with its wider powers, should take oral evidence from the individuals Mr Ellison was unable to interview, including officer HN86. Given the apparent lack of

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<sup>22</sup> At [45].

paper records held by the SDS, it is all the more important that officers give oral evidence wherever possible. Additionally, it will be important to consider these events in the context of other family justice campaigns. A propensity by the police, or systemic practice, of action which is similar to Mr Francis' allegations, is likely to support the veracity of these allegations.

52. We have already flagged some specific issues relating to the role played by the FLOs and the information they passed on which Dr Lawrence wants to see examined.
53. Dr Lawrence is not fully satisfied that the period between his son's death in 1993 and the Macpherson Inquiry in 1998 has been fully explored in terms of the any use of undercover officers against his family during these years. Given the nature of Peter Francis' allegations, the Ellison Review focused on 1993 and 1998, rather than the period in between. An example is during the inquest into his son's death in early 1997. He invites the Inquiry to obtain and disclose all potentially relevant information about this, so that he and the wider public can have as full a picture as possible.

### **The MacPherson Inquiry**

54. Then there are the issues relating to the MacPherson Inquiry. Why was N81, an undercover officer who was relaying 'intelligence' to his managers, permitted to operate in circles close to the family and attend the Inquiry under his fake identity? Who authorised this and who knew of it? Why was the MacPherson Inquiry not told? Was there a deliberate decision not to reveal the involvement of undercover officers to Sir William MacPherson, as Peter Francis has alleged? If so, who was responsible for this?
55. Furthermore, why did the 14 August 1998 meeting take place at all, when it was so obviously inappropriate? What did 'David Hagan' (N81) pass on to A/DI Walton and did this include legally privileged material? What use was made of what was said and who had access to it? Was any of this information used in the MPS's submissions to the MacPherson Inquiry? Who instigated and arranged the 14 August 1998 meeting and who knew about it? How many other times was information passed directly or indirectly from undercover officers spying on the Lawrence family to the team who was working to protect the MPS's reputation at that Inquiry; who did it go to, what did it contain and what use was made of it? Did Mr Hagan's group or others involving undercover officers, influence or obstruct the Lawrence family's involvement in the MacPherson Inquiry?
56. All of the officers involved, including all those we have explicitly referred to, should give oral evidence to this inquiry. It does not appear that ex-SDS officer Bob Lambert or Special

Branch Operations Commander Colin Black were interviewed by Mr Ellison. The former DI Lambert is particularly relevant since he was the handler of 'David Hagan' and, as such, was meant to speak to him twice a day.

57. Dr Lawrence would like to hear what these officers and others have to say in evidence in open court. He is keen to know what senior officers were aware of at the time and what role they played; did they actively encourage or simply (and irresponsibly) turn a blind eye? It appears from the Ellison Review that HN58 (the head of the SDS from 1997-2001) knew about the Walton meeting, and commended 'David Hagan's' work. He should also give evidence. It is important for the evidence of these officers to be tested orally and in public.
58. There are other witnesses who may give relevant evidence to these issues. Examples include those present at meetings of the Lawrence family team at which 'David Hagan' (and/or other undercover officers) were involved.

### **Lesson learning**

59. Dr Lawrence also wants this Inquiry to consider the lack of regulation that existed in the 1990s and the safeguards that are still needed today. He believes that this Inquiry should lead to a much more effective system of regulating the activities of undercover officers for the future. Dr Lawrence hopes to use the example of what happened in his case to protect other grieving families and to help restore public confidence in the criminal justice system. He invites the Inquiry to examine what were the regulations, systems and management of undercover officers relevant to his case. Do any problems remain today and if so what changes ought to be made to prevent other families suffering mistreatment in future?

### **Document preservation**

60. Issues arise, too, around document destruction. The Ellison Review found that incoming intelligence reports were routinely destroyed after SDS office analysis and intermittent 'document review'. As with other MPS records, Mr Ellison noted that no clear records were kept of what was being destroyed. The destruction of evidence relating to undercover officers, and the reasons for it, ought to be examined at this Public Inquiry. Allied to this, Dr Lawrence is very concerned about repeated failures by the police to provide full and frank disclosure in relation to his family and he is very anxious that no pre-sorting of evidence occurs whilst in the possession of the MPS.
61. In so far as it has not already done so, the Inquiry ought to take control of all relevant documentation, including the material which was withheld from the Ellison Review. This would include:

- a. Documents held by the Daniel Morgan Independent Panel.
- b. Boxes of documents which were in the possession of the Directorate of Professional Standards Anti-Corruption Command.
- c. Information obtained by other investigations, such as those by the IOPC, Mr Ellison and Mr Herne.
- d. Information obtained by the IOPC.

## **PROCEEDURAL ISSUES**

62. We have already referred to the additional distress caused by the slow pace of progress. We turn now to three specific areas of the Inquiry's processes, which particularly concern Dr Lawrence. (In doing so we do not intend to repeat general concerns already raised by others.)

### **Cover names**

63. Dr Lawrence is deeply troubled by the Chairman's decision to withhold many of the real names and the cover names of officers which are relevant to his case. These individuals are currently referred to only by ciphers. This includes:

- HN109, who was Peter Francis' manager for the first few months of his SDS deployment and according to Mr Francis was instrumental in decisions made on targeting;
- HN101, who was a contemporary of Peter Francis and according to the Ellison Review had some involvement in Stephen Lawrence campaign issues<sup>23</sup>
- HN86, the Detective Chief Inspector in charge of the SDS from 1993 – 1996, who allegedly instructed Peter Francis to obtain material which could be used to smear the Lawrence family and who allegedly held racist views; and
- HN58, the Head of the SDS from 1997 – 2001 who it appears (from the Ellison Review) knew of the wholly improper August 1998 Walton meeting.

64. A failure to reveal even cover names is likely to seriously undermine the ability of the inquiry to establish the truth about undercover policing. One example of why is as follows. The Lawrence family or others may, if given a cover name, be able to give evidence to the Inquiry about what the undercover officer did and said. They may be able to give evidence to support allegations that particular undercover officers obtained evidence about the family to smear them. But without the officers' cover names, this will normally be

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<sup>23</sup> Ellison Review at page 214.

impossible. Additionally, where supervising officers were previously deployed undercover (as in the case of HN109, HN86 and HN58), little information will be available about their practices undercover which may have influenced their decision making as supervisors.

65. Transparency, and revealing names, “*can result in evidence becoming available which would not be available if the proceedings are conducted with one or more of the parties’ or witnesses’ identity concealed*”: *R v Legal Aid Board, Ex p Kaim Todner*<sup>24</sup>. As Lord Bingham observed in *R v Shayler*<sup>25</sup>: “... *publicity is a powerful disinfectant. Where abuses are exposed, they can be remedied...*”

66. The justifications for not disclosing the names are, in at least some cases, very difficult to understand, particularly perhaps where the individuals undertook managerial or back room roles. The need to maintain the ongoing confidentiality of undercover officers, or the techniques used by undercover officers, does not apply to managers, since they do not act under cover.

67. Dr Lawrence invites the Chairman to keep the issue of disclosure of names under review.

### **Disclosure and participation in evidence hearings**

68. We have already referred to the very limited documentation received so far. Without repeating the concerns expressed by others on these topics, Dr Lawrence wishes to add his voice explicitly to the disquiet that has been expressed over the way that the Inquiry has dealt with and plans to deal with disclosure.

### **An inquiry panel**

69. We do want to refer briefly to the continuing absence of an inquiry panel, as this is a subject of particular importance for Dr Lawrence. He has raised this with the Chairman in person and on 24 April 2018 he handed in a letter to the then Home Secretary, Amber Rudd, calling for the appointment of a diverse panel.

70. Dr Lawrence had the opportunity of seeing first hand, the benefits of the breadth of experience brought to bear by the involvement of a panel in the MacPherson Inquiry. He is disturbed by the decision not to appoint a representative panel to sit alongside the current Chairman until the final “lessons to be learned” module. He invites the Home Secretary to reconsider doing so as soon as possible. There is an acute public concern

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<sup>24</sup> [1999] QB 966 per Lord Woolf MR at [4].

<sup>25</sup> [2003] 1 AC 247 at [21].

over the issues to be considered by this Inquiry. This is in the context of a wider lack of public confidence by black communities in the police and in the administration of justice. To assuage this concern, it is crucial for there to be a more representative panel, which can command confidence in the conclusions reached by this Inquiry.

## **CONCLUSION**

71. Whether this inquiry can meet one of its primary objectives, namely addressing public concern about undercover policing of Dr Lawrence's family, remains to be seen. That can only be achieved with the fullest and most transparent possible inquiry into these issues. The importance of officers being publicly held to account here is reflected in the findings in the "*Report of the Independent Review of Deaths and Serious Incidents in Police Custody*" by Dame Elish Angiolini DBE QC (Jan 2017). She explained that there are: "*wider community concerns about discriminatory policing. Where there is evidence of racist or discriminatory treatment or other criminality or misconduct, police officers must be held to account through the legal system. Failure to do so undermines community confidence in the police and is damaging to police and community relations. Community confidence and trust in the police has been undermined in the BAME community and can only be rebuilt with a real effort to learn from institutional mistakes.*"<sup>26</sup>

72. Dr Lawrence has been failed so badly by the State over so many years, as we have shown. He very much hopes that he will not have a similar experience with this Inquiry.

**Heather Williams QC  
Adam Straw**

**Hodge Jones & Allen, solicitors**

**22 October 2020**

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<sup>26</sup> At [5.42].