

IN THE UNDERCOVER POLICING INQUIRY

AMENDED OPENING STATEMENT ON BEHALF CATEGORY F CORE PARTICIPANTS

FRANCIS BENNETT and HONOR ROBSON
FAITH MASON
LIISA CROSSLAND and MARK CROSSLAND
BARBARA SHAW
GORDON PETERS
RDCA
MR LEWIS, MRS LEWIS and MS LEWIS

A. INTRODUCTION

1. One of the most difficult and personal events for anyone to bear is the death of a child. The grief involved is unimaginable for most of us. The families we represent not only underwent this terrible experience but many years later have been horrified to learn that their deceased son's or brother's identity was taken and manipulated to create a false identity for an undercover police officer; something they would never have consented to and which has tarnished the memories of their loved one.
2. A number of families who are in this profoundly upsetting situation have been granted Core Participant (CP) status at the Inquiry (as Category F). They are:
 - (a) Frank Bennett and Honor Robson, who are the bereaved brother and sister of Michael Hartley who died on 4 August 1968 at 18 years of age. The officer known in this Inquiry by the cypher "HN12", appropriated Michael's identity for the purposes of his undercover deployment by the Special Demonstration Squad (SDS) between 1982 and 1985, when he infiltrated the Socialist Workers Party and the Revolutionary Communist Group.
 - (b) Faith Mason, who is the bereaved mother of Neil Robin Martin who died on 15 October 1969 at 6 years of age. The officer known as "HN122", appropriated aspects of Neil's identity for his SDS undercover deployment in the name, Neil Robin Richardson. He was deployed between 1989 and 1993 to infiltrate Class War and the Revolutionary Communist Party.
 - (c) Mr, Mrs and Ms Lewis, who are the father, mother and sister of Anthony Lewis who died on 31 July 1968 at 7 years of age. The officer whose cypher is "HN78", took Anthony Lewis's identity for his undercover deployment by the SDS between 1991 and 1995.

During this period HN78, who was known as Anthony “Bobby” Lewis, infiltrated the Anti-Nazi League and the International Socialists/Socialist Workers Party.

- (d) Liisa Crossland and Mark Crossland, who are the stepmother and brother of Kevin John Crossland who died on 1 September 1966 at 5 years of age. The officer known as “HN16”, used Kevin’s identity for his SDS undercover deployment between 1997 and 2002 when he infiltrated the Animal Liberation Front and the Brixton and Croydon Hunt Saboteurs.
- (e) Barbara Shaw, who is the bereaved mother of Rod Richardson who died on 7 January 1973 when he was two days old. The officer known as “EN32¹”, appropriated Rod’s identity for his undercover deployment by the National Public Order Intelligence Unit (NPOIU) between 2000 and 2003. During this period he infiltrated Class War and the Movement Against the Monarchy.

3. This statement is made on their behalf².

4. The statement is also provided on behalf of Gordon Peters who is the father of Benjamin De Witt who died on 23 September 1979 when he was one week old; and “RDCA” who is the mother of Jed Lacey Morris who died in April 1971 when he was one year old. They want to know whether the identities of their deceased children were appropriated as part of the practice of the SDS and/or NPOIU. Although not carrying formal CP status, they have been accepted as having a “*close and personal interest*”³ in this aspect of the Inquiry’s investigation. Their situation shows that the police practice of relying upon the identities of dead children has impacted not only upon those who now know that their children’s identities were used, but also upon those who have suffered the traumatic bereavement of a young family member and who have been left in limbo wondering whether or not their loved one’s identity was taken in this way.

5. The police practice that we will describe concerned extensive personal details relating not only to the identity of the deceased children, but their dates and places of birth, the dates and causes

¹ At earlier stages this officer was referred to using the nominal reference N596; throughout this statement we rely on his current cypher, EN32.

² This statement contains the gist of the proposed oral opening statement on behalf of the Category F CPs. It is not intended that every part of this document will be included within the oral delivery; for example, any duplication with earlier opening statements will be avoided; and the footnotes in this document are included simply to assist the reader and will not form part of the oral presentation. Where we are already aware that a part of the text is unlikely to be used in the oral statement, we give this indication. In any event, further revisions will be made, as necessary, to ensure that the oral opening statement does not exceed the time allotted to it.

³ Recognised Legal Representative Ruling 6, 28 April 2016.

of their deaths, the names, occupations and addresses of their parents and other family members, together with other as yet undisclosed aspects of their lives, which were stored, used and communicated without knowledge or consent. Since the tactic has been exposed, families have suffered considerable anguish, shock and distress to learn that their own and their loved one's personal information has been abused in this way.

6. The practice of UCOs (UCOs) in the SDS and NPOIU using the identity of deceased children to create their undercover legends was publicly confirmed both by the Metropolitan Police Service (MPS) and in the July 2013 Operation Herne *Report 1: Use of covert identities*⁴. In the same report Operation Herne indicated that the tactic was no longer employed by any police force. Despite Operation Herne's suggestion that this methodology provided the only option, there is evidence that the alternative of creating entirely fictitious identities was also viable, meaning that this disgusting practice lacked operational necessity. Our clients believe that it is likely that the culture of secrecy and isolation fostered by the Home Office and the SDS explain why alternative methods were not encouraged or adopted. The absence of any meaningful internal or external governance in respect of the SDS involved a gross dereliction of duty on the part of the Home Office initially and thereafter the MPS executive leadership, who must bear the ultimate responsibility for this debacle.
7. This statement sets out the experience of our clients as they learned that their loved one's identities were appropriated by undercover police officers to support their false backgrounds and histories, and their experience of the State investigations into the practice to date. We reflect on the common themes emerging from their personal narratives.
8. We also identify the pressing unanswered questions that have preoccupied them for the last several years, including why this abhorrent practice was permitted to develop and continue, whether and at what level of seniority the practice was authorised and tolerated and the reasons why and at whose direction it came to be discontinued. Among those questions is whether a cadre of UCOs led new recruits to understand that unconscionable actions were expected or would be tolerated, and that by way of reciprocity, that cadre would ensure that the officers were never held personally accountable for their actions.
9. The overarching concern of the families we represent is that that the practice was permitted to develop and continue in the absence of *any* necessity; that the reliance upon it was borne of a

⁴ Operation Herne was set up by the MPS in October 2011 to review the activities and deployments of UCOs. From 11 February 2013 it was led by Chief Constable Mick Creedon of Derbyshire Police.

callous disregard for the appalling bereavements they have each suffered; and that this flagrant disregard for their human dignity permeated every level of the SDS and was later permitted to pollute the working practices of the NPOIU too. Responsibility ultimately lies with those whose role it was to ensure that the special accommodations afforded to undercover policing operations were not used as cloak for discreditable and unlawful conduct.

10. This Inquiry must not shirk from its responsibility to hold police officers properly to account for the improper discharge of their public functions and must not let its task become overwhelmed by engrained undercover policing practices in protecting their own against legitimate exposure and attendant accountability.
11. We also address the MPS, the Home Office, the National Crime Agency and the College of Policing. For the reasons we will go on to develop, those State institutions are invited to take *immediate* steps to answer - to the fullest extent of their current knowledge – the questions that our clients are seeking answers to (see further below at §57).

B. THE HISTORY IN SUMMARY

Development and reliance upon the practice

12. The SDS, known until 1973 as the Special Operations Squad (SOS), and from 1997 as the Special Duties Section, was an undercover unit formed by the Metropolitan Police's Special Branch; under its various guises it operated between 1968 and 2008⁵. The SOS was created with direct support and funding from the Home Office and was authorised by the Deputy Under Secretary of State; renewed annually until 1989 when governance was placed with the MPS Special Branch. At Home Office insistence it operated under conditions of maximum secrecy⁶. The NPOIU was formed within the MPS in 1999, in 2006 its governance transferred to the Association of Chief Police Officers and in 2011 it was subsumed within the National Domestic Extremism Units of the MPS. Both the SDS and NPOIU infiltrated and reported on activist, public protest and campaign groups.
13. The SDS operated from within the MPS Special Branch and separately from the MPS undercover unit, SO10. The remit of its deployed UCOs did not include gathering evidence for use in criminal proceedings. SO10 was formed in 1988 and introduced a series of safeguards in respect of UCOs

⁵ We do not intend to include the majority of this or the paragraph that follows in the oral opening, as the creation of the SDS will already have been addressed by others. We refer to this aspect in the written document in order to provide relevant context.

⁶ Operation Herne Report 2 at [4.1 – 4.6].

and their deployments including a set of instructions for deployments, accredited mandatory training and a formal authorisation process with regular reviews of authorised activity, usually with specific objectives and focused in instructions⁷. It is believed that the SDS relied upon internal training and undertook its own selection and chose not to adopt developing MPS and national practice for the deployment of UCOs.

14. It has been suggested that the methodology of using dead children's identities was developed from cultural and media references to such techniques including a film and book based on a 1943 Security Services sting: *The Man Who Never Was* and the 1971 Frederick Forsyth's novel: *The Day of the Jackal* in which an assassin built a credible "legend" around the details of a deceased child, but the actual circumstances in which it came to be introduced and relied upon within the SDS are not currently known⁸. The first reliance upon the identity of a deceased child in the field has been suggested to have been between 1976 and 1981⁹. This appears to show that undercover policing was able to function prior to that period without reliance on the practice. A memo from SDS supervisory officer, Detective Inspector HN294 dated 21 February 1973 stated: "*one of the main advantages of a field officer assuming a **fictitious name**¹⁰, using a cover address and employment and radically altering his appearance is that – unlike an informant – he can resume his proper identity and appearance at any time and immediately be "lost" to the extremists¹¹, "... the result has been that since the formation of the Squad **no officer** has been irretrievably exposed or identified, but all are aware that unfortunate coincidence or mischance could defeat even the most stringent precautions¹²". It was also noted that UCOs were able to register, tax and insure vehicles in their fictitious identities¹³.*
15. The Operation Herne Report 1 identified 42 SDS officers who had relied upon the identity details of a deceased child and 45 who had developed entirely fictitious covert identities. The provenance of the remaining 19 covert identities had not been established by the time of that report and investigation of NPOIU officers' reliance on the practice had barely commenced. Operation Herne also noted that the tactic may have been used by other police forces¹⁴.

⁷ Operation Herne Report 2 at [26.1.5].

⁸ Operation Herne Report 1 at [4.2].

⁹ Ibid at [5.1].

¹⁰ Emphasis in this paragraph added.

¹¹ MPS0728970/12.

¹² Ibid at /13.

¹³ MPS0728975/6.

¹⁴ Operation Herne Report 1 at [11.7].

16. There appear to have been efforts to phase out the practice on grounds of operational ineffectiveness from 1995¹⁵ although even prior to 1995, it was not the only mechanism available¹⁶; Operation Herne identified at least one earlier instance where an officer had used an aunt's surname in forming his cover name¹⁷. Strikingly, the practice continued long after it had been discredited and obvious viable alternatives developed: HN16 and EN32 were first deployed using the stolen identities of Kevin Crossland and Rod Richardson in as late as 1997 and 2002 respectively.

The methodology

17. Within the SDS the appropriation of the identities of deceased children was a taught and engrained methodology by which officers established not only a covert identity but a background story aimed at achieving plausibility with regard to that identity.
18. The Tradecraft manual - understood to have been drafted initially by Andy Coles [HN2]¹⁸ who was deployed for the SDS as Andy Davey between 1991 and 1995, infiltrating several groups associated with animal rights, and thereafter discharging senior roles in undercover policing - describes this practice as a "*former system*", that is, a system that operated prior to June 1995. However, the Operation Herne 1 Report referred¹⁹ to internal SDS documentation written in 1996 indicating that it remained the "*traditional method of finding a false identity (using a genuine birth certificate)*"²⁰. The SDS's Tradecraft manual stated that phasing out of the practice began in November 1994²¹ and suggested that HN26's cover name, Christine Green (deployed 1994 – 1999) was the first SDS officer to "*have obtained an entirely fictitious identity*"²².
19. The "*former system*" described by the Tradecraft manual involved (so far as can be discerned beyond the redactions):
- (a) In the first instance, selecting a surname or group of surnames and thereafter searching death registers until the deaths of males of the right age had been identified, that is, between the ages of 8 and 14 years [3.2.4].

¹⁵ Tradecraft manual at [3.1.5]; [3.2.1].

¹⁶ Ibid.

¹⁷ Operation Herne Report 1 at [7.6].

¹⁸ It is understood that Bob Lambert also contributed.

¹⁹ At [4.3].

²⁰ Emphasis added.

²¹ Ibid at [5.4].

²² Ibid.

- (b) Obtaining the details of a dead child from St Catherine’s House by searching the death records and noting folio references of *“potential candidates”* [3.2.1 – 3.2.2].
 - (c) Avoiding *“infant deaths or people aged over 16 since the first are easy to spot and the second will have records in DSS”* [3.2.2].
 - (d) Obtaining *“as many potential names as possible to allow you to choose the most relevant”* [3.2.2].
 - (e) Searching for a person who was the officer’s own age or a little younger so as to provide a more convincing profile for the infiltration of radical political groups [3.2.2].
 - (f) Appearing to those who worked at St Catherine’s House as someone tracing a family tree but uncertain as to the first names of family members [3.2.4].
 - (g) Having found a relevant death working out the approximate age or date of birth and checking back through birth records until a match was found [3.2.5].
 - (h) Sending both the death and birth details to be searched by staff [3.2.5].
 - (i) Once searches for the full details had been returned, choosing a suitable candidate [3.2.6].
 - (j) Ascertaining whether information given on the birth certificates provides an address for the deceased child’s parents and if so, ensuring that they have no remaining link with that address [3.2.7].
20. The Operation Herne Report 1²³ explained that efforts were made to research the existence of close family members and that names that were too unusual or too uncommon would be discounted and *“so too would cases where the deceased had died in unusual or memorable circumstances”*.
21. The demographic of the SDS was such that identities used might relate to children born as early as the 1940²⁴ but were unlikely to relate to children born after the mid-1970s.

²³ At [3.5].

²⁴ Ibid at [3.4].

22. HN43²⁵ (later revealed as UCO, Peter Francis) told Operation Herne that it was common practice to “weave one’s own memories into that of the child [the UCO] had based his cover identity upon”. He acknowledged that in doing so, he “felt that he was stamping on their memory”. He also told Operation Herne that he had “no choice, either he used the identity or he would have had to leave the unit.”
23. The flippant and demeaning language used in the SDS’ Tradecraft Manual reveal a striking lack of insight and sensitivity. The officer’s task was characterised as one of “finding a suitable ex person, usually a deceased child...”²⁶. Officers were advised to find a death that was “natural or otherwise unspectacular”. Checking whether the deceased child had living relatives was referred to as identifying their “respiratory status”. And the action of adopting a dead child’s identity was referred to as “assume squatters’ rights over the unfortunate’s identity”. The text reveals an absence of any consideration for the relatives’ traumatic loss of a child or any consideration of their rights or the potential consequences for them.
24. HN78 who appropriated the identity of Anthony Lewis was Black, as are the Lewis family. The cause of Anthony’s death was sickle cell anaemia; an illness that occurs predominantly in individuals of African and/or Caribbean descent. The Lewis family want to know how HN78 identified Anthony; whether he looked specifically for deaths attributable to sickle cell illness or relied on some other method to target Black children; whether he was trained to do so or acted of his own initiative; and what was the approach of any other Black SDS or NPOIU officer.
25. In June 2013 the Home Affairs Select Committee recognised in its “*Undercover Policing: Interim Report*”, that this practice did “not just involve borrowing the individual’s name, but their date of birth and parent’s identities and creating a plausible back-story in which the legend grows up and goes to school in the area where the child would have lived”²⁷.

²⁵ Operation Herne Report 1 at [3.5 – 3.6].

²⁶ Emphasis added in this and other quotations included in this paragraph.

²⁷ To similar effect, see the description given by Rob Evans and Paul Lewis in their book “*Undercover: The True Story of Britain’s Secret Police*” at page 114: “They were not just assuming the names of deceased people – they were assuming their entire identities, so they made sure they familiarised themselves with the lives of the people they were pretending to be. That usually meant a visit to the house where the child was born and spent the first few years of their life, to get to know the surroundings”. They go on to describe how officers memorised the names of the child’s parents and siblings, as well as other relatives and found ways to work small details into their false back-story. UCO, Peter Francis gave the example of using the actual occupation of the deceased child’s father to create a fake, violent persona in order to explain his estrangement from him.

The level of seniority at which the practice was known and/or authorised

26. Although the Home Office authorised the establishment of the SDS, it is not known whether any Home Office official or minister was aware of the practice. The Operation Herne 1 report concluded that the SDS management team were fully aware of the practice and actively promoted it to officers recruited to the unit²⁸. The extent to which officers beyond the SDS and NPOIU were aware has not been disclosed; DAC Gallan – who was until December 2012 responsible for setting standards for UCOs²⁹ - told the Home Affairs Select Committee that she first knew of it in September 2012.

How the practice came to be revealed

27. In or about October 2011 the Metropolitan Police Service Directorate of Professional Services (MPS DPS) initiated a review of the activities and deployments of the SDS from its origin in 1968 to its closure in 2008, following revelations in the *Guardian* newspaper in January 2011 relating to a former SDS officer having a relationship with a woman while undercover and more particularly revelations in the same newspaper in October 2011 that former SDS officers had provided evidence in court under their pseudonyms. The focus of that review was one of damage limitation. Its terms of reference included: “*to identify potential vulnerabilities for the MPS arising from the work undertaken by the SDS over four decades and to offer a historical context to the work undertaken by “field” officers*”³⁰. In August 2012 the review came under the direction of DAC Patricia Gallan and was renamed Operation Herne³¹. In the course of an initial consideration of material, Operation Herne identified the SDS practice of using all or part of the genuine details of deceased children to construct covert identities. However, it appears that the practice was not made known to any of the affected families or to the public until early 2013.

Investigations into the practice to date

Barbara Shaw’s complaint is initiated

28. On 31 January 2013 Barbara Shaw made a formal complaint to the MPS about the appropriation by an UCO of the identity of her deceased son after she had learnt of this from a journalist with

²⁸ Operation Herne Report 1 at [11.1].

²⁹ Patricia Gallan’s evidence to the HASC Committee in response to question 157.

³⁰ Emphasis added.

³¹ It is not anticipated that it will be necessary to refer to the majority of this paragraph orally.

the *Guardian* newspaper. Her complaint was passed to Operation Herne but made the subject of a separate local investigation by the MPS DPS³².

29. Contemporaneously with the communication of Barbara's complaint, on 3 February 2013, the *Guardian* published an article revealing to the public that police had commandeered the identities of dead children and young people to create false identities used by UCOs deployed by the SDS and NPOIU. A series of related articles followed in the *Guardian* throughout that week and the story was picked up by other news outlets.

The Home Affairs Select Committee (HASC)

30. On 26 February 2013 the Committee published the outcome of its inquiry into undercover policing that had been ongoing at the time of The *Guardian's* revelations. The Committee expressed their conclusions in the strongest terms:

*"The practice of "resurrecting" dead children as cover identities for undercover police officers was not only ghoulish and disrespectful, it could potentially have placed bereaved families in real danger of retaliation. The families who have been affected by this deserve an explanation and a full and unambiguous apology from the forces concerned. We would also welcome a clear statement from the Home Secretary that this practice will never be followed in future"*³³.

*"It cannot be sufficiently emphasised that using the identities of dead children was not only abhorrent, but reflects badly on the police. It must never occur again"*³⁴.

31. The Committee called for Operation Herne investigations to be expedited and for families of the dead children whose identities had been appropriated to be informed: *"we cannot understand why it is taking so long. Families need to know the truth and they must receive an apology."*³⁵

32. In the Government's response³⁶ to the Committee's interim Report, the Minister of State acknowledged:

"The particular distress these allegations will have caused to those individuals who have lost children".

³² The matter was initially referred to the Independent Police Complaints Commission (IPCC) who determined that the mode of investigation should be supervised, but on 29 May 2013 the IPCC withdrew its supervision and the matter proceeded to the conclusion of the first investigation as a local investigation without oversight by the IPCC.

³³ At [22] (emphasis added).

³⁴ Ibid at [30].

³⁵ At [27].

³⁶ Letter from Rt Hon Damain Green MP, Minister of State for Policing and Criminal Justice, to Rt Hon Keith Vaz MP, Chair of the Home Affairs Select Committee, 18 June 2013.

33. In the same document, the Home Secretary and Minister of State expressed themselves “*as astonished and disappointed as the Committee to learn of the allegations*” and provided an unequivocal assurance that the practice would never be followed in future, referring to the evidence given to the Committee on 5 February 2013 by DAC Gallan in which she stated that the practice had ceased and could no longer be authorised, as “*the degree of intrusion into the lives of innocent and vulnerable families of deceased children could not be justified*”.

Operation Herne Report 1 – Use of covert identities

34. On 16 July 2013 Operation Herne 1 Report was published. In relating to the SDS’s Tradecraft Manual the report stated: “*The methodology was justified in the Manual as the only viable means to provide a robust backstopped covert legend that would stand scrutiny. However, the document’s provenance is questionable, and it was written in such a way that suggested that the practice had fallen out of use by the mid-1990s.*”³⁷ The report described the Manual as indicating: “*the SDS was highly wary of staff [in the Department of Social Security and the General Records Office] with activist sympathies who might be able to make unauthorised hostile searches. This again led the UCOs to have to create false identities using the details of deceased children*”³⁸.
35. The Report concluded: “*after 1994 the practice was no longer required as it was deemed unnecessary and potentially too risky in respect of potential compromise*”³⁹.

Peter Francis

36. In June 2013 former UCO, Peter Francis appeared on the “*Dispatches*” television programme and alleged, among other things, that he had been ordered to use a dead child’s identity for his covert legend, and that this was accepted practice.

The Commissioner’s apology

37. On 16 July 2013 the then Commissioner of Police of the Metropolis, Sir Bernard Hogan-Howe, issued a general public apology for the “*the shock and offence*” caused by revelation of the practice. By that date 14 enquiries had been made of Operation Herne by family members concerned that the identity of their loved ones had been appropriated. They all received a

³⁷ At [2.3] (emphasis added).

³⁸ At [4.8].

³⁹ At [6.4].

similar letter of general apology. However, the names of the children whose identities were used were not disclosed, as the policy of neither confirming nor denying (NCND) the use of any particular name was applied at that stage.

The course of Barbara Shaw's complaint

38. On 16 July 2013 Barbara was informed that her complaint had not been upheld. The NCND policy was relied upon to explain the limited nature of the "apology" that had been extended (see above at §37). Subsequently a heavily redacted version of the complaint investigation report dated 25 July 2013 was provided to Barbara. She was astonished to see it contained the following offensive observation: "*the enquiry team ... had no official corroboration or account from the complainant about the accuracy of her claims in "The Guardian" that she was the mother of a deceased child named "Rod Richardson"*". In fact, the letter of complaint had confirmed that Barbara was Rod's mother; a matter about which there was no controversy.
39. On 29 October 2014 the IPCC upheld aspects of Barbara's appeal against that decision and it was remitted to the MPS DPS for further investigation. The re-investigation report dated 23 February 2016 was disclosed to Barbara on 23 November 2017 with certain redactions. It concluded that the use of Rod's identity was in accordance with the doctrine and practice of the NPOIU and with "*regulations*". Thus, the complaint was not upheld against EN32 as an individual
40. The report also provided a partial explanation for the continuance by the NPOIU from 1999 of the practice of using deceased children's identities that had begun to be phased out by the SDS in 1994:
 - (a) In 1999 the NPOIU was framed in the same secret and isolated model that had been adopted by the SDS. It was an organisation that did not share information, tactics or collaborate with other undercover units.
 - (b) In other areas of undercover policing, expectations of professionalism were maintained through nationally approved training courses accredited by the National Undercover Working Group (NUWG). Those courses did not teach the practice of relying upon deceased children's identities for the construction of covert identities.
 - (c) In contrast, NPOIU officers attended a separate course, the National Undercover Course in Public Disorder (NUCPD) that had been tailored to the undercover infiltration of animal

rights and other political organisations. This course was not accredited by the NUWG and relied upon a former SDS operative as a trainer. His service in the SDS had pre-dated the phasing out of the tactic of appropriating the identity of deceased children and there was no oversight preventing his passing on of the discredited tactic.

(d) Senior officers and managers with the NPOIU described the practice as “*inherited*” from the SDS and stated that it was “*an accepted method.*”

41. The report concluded that “*to formally confirm that the tactic was or was not used in a specific case would breach NCND and increase the risk of compromise, potentially creating a risk of threat to the officer involved and his family.*”⁴⁰ Further, the complaint against the MPS as an organisation could not be upheld as to do so would offend the NCND policy and for the same reason a personal apology would not be extended to Barbara Shaw.

42. Barbara appealed to the Independent Office for Police Conduct (IOPC) in respect of the re-investigation report’s conclusion that no criminal offences had been identified. On 2 August 2018 the IOPC indicated it would defer its view on the appeal until the Crown Prosecution Service had decided whether any criminality had taken place when EN32. Seven and a half years after she made her complaint; Barbara Shaw still awaits the outcome.

This Inquiry

43. In his ruling of 14 July 2016, the then Inquiry Chairman, Sir Christopher Pitchford, identified three categories of individuals affected by the practice of appropriating deceased children’s identities, for the purposes of deciding what information could be given by the Inquiry:

Category 1: parents or other close relatives of a child whose identity was used by a police officer for covert purposes, where the Inquiry had decided not to restrict publication of that officer’s covert identity. The Inquiry would approach and inform those families of the position.

Category 2: parents or other close relatives who expressed an interest in knowing whether their deceased child’s identity has been used by police, but where the Inquiry had imposed an order restricting publication of the relevant officer’s covert identity. These families would not be provided with any information.

⁴⁰ At [9.2].

Category 3: parents or other close relatives who expressed an interest in knowing whether their deceased child's identity was used by police and where the Inquiry found no evidence that it was. No information should be provided to these families in the "short term", because confirming to some families that their child's identity was not used might lead to others inferring that it had been, in circumstances where a decision had been made to restrict disclosure of this information.

44. The Inquiry has to date publicly confirmed the cover names of 70 officers deployed by the SDS and/or NPOIU between 1968 and 2007. The Inquiry has been asked to indicate how many of those cover names relied upon the identity or aspects of the identity of deceased children⁴¹. The Inquiry's response has been to state: "*The Inquiry will be calling and publishing evidence on this issue as we proceed through the hearings*"⁴². The scale of the practice therefore remains uncertain.
45. On 19 March 2018 the Inquiry published the SDS Tradecraft manual that we referred to earlier. Other than this the families we represent have so far not received any disclosure of documentation from the Inquiry save for some material recently disclosed but subject to restriction orders. The narrative set out in this statement is almost entirely reliant on reports and documents that were already in the public domain.

Reflections on this history

46. The available material indicates that for at least 8 years after the establishment of the SOS in 1968 and perhaps for as many as 13 years, the unit sent UCOs into the field without relying upon covert identities constructed from the personal biographies of deceased children. Although the circumstances in which the practice was introduced are not known, it seems that there was no meaningful assessment of the necessity for such gross interferences with the private data of the deceased and the private data and lives of the bereaved. Alternative tactics appear to have been available in the period between the introduction of the practice and the appreciation of its operational ineffectiveness in or about 1994. Despite the identification of those limitations the practice continued for several years. Furthermore, it seems that lax supervision and failures of governance and oversight permitted SDS practices to pollute the working practices of the NPOIU.

⁴¹ Bindmans LLP letters dated 31 January and 9 October 2020.

⁴² The Inquiry's letter to Bindmans LLP dated 14 October 2020.

C. THE LEGAL CONTEXT

47. We are mindful that section 2 of the Inquiries Act 2005 places a prohibition on determining any person's civil or criminal liability but the rights protected by Article 8 of the European Conventions on Human Rights are nevertheless relevant for two reasons: first, Article 8 offers a valuable framework for the Inquiry's investigations and conclusions and secondly, it is necessary for the Inquiry to consider whether there have been failures of the regulatory system to protect the fundamental human rights enshrined in Article 8.

Article 8

48. Section 6 of the Human Rights Act 1998 provides that it is unlawful for a public authority to act in a way that is incompatible with a Convention right. All police officers are public authorities for these purposes, as are their police forces and the oversight bodies.

49. Article 8 of the European Convention on Human Rights provides that: "*Everyone has the right to respect for his private and family life, his home and his correspondence.*"

50. In his 14 July 2016 ruling, former Inquiry Chairman, Sir Christopher Pitchford recognised that the rights protected by Article 8 included the use of the identities of deceased children in the construction of UCOS' legends, the collateral intrusion upon the relatives' personal data and any surveillance of them⁴³.

51. Any interference with rights protected by Article 8 must meet the requirements of Article 8(2), namely be in accordance with the law, in pursuit of a legitimate aim, and necessary in a democratic society.

52. For the "*in accordance with the law*" test to be met, citizens must be given an adequate indication of the conditions and circumstances in which the authorities are empowered to resort to measures of secret surveillance and collection of data (*Shimovolos v Russia*, 2011 Application no. 30194/09).

53. On the information available, the practice of using of deceased children's identities encouraged by SDS managers until the mid 1990s, was not subject to any or any sufficient legal authority that could satisfy the requirements of being "*in accordance with law*". Furthermore, it failed to

⁴³ Preliminary issue: *Disclosure of deceased children's identities* at [35].

serve any recognised legitimate aim, whether for the purposes of preventing public disorder or otherwise.

54. Moreover, the intrusion upon the private lives of our clients was not necessary in a democratic society. The assessment of this question entails balancing the interests of the State and the interests of those who have suffered intrusion upon their private lives. “Necessary” in this context requires the existence of a “*pressing social need*” for the interference, which must be proportionate (*Dudgeon v United Kingdom*, 1981 Application No 7525/75 at [51-53]). The extent to which decision-making leading to the interference was fair and afforded due respect to the interests safeguarded by Article 8 is especially material in determining whether the interference was in fact necessary (*A MV v Finland*, 2017 Application No 53251/13 at [82-84]).
55. The practice of reliance upon the identity of the deceased including the broader intrusions upon the private lives of our clients was undertaken – it would appear – without any meaningful authorisation, without consideration of their rights protected by Article 8 or the consequences of the interference, without providing for any checks or balances and with an absolute absence of any individual or institutional accountability. Moreover, there is no legal or practical justification for the intrusion, which was plainly disproportionate.
56. This practice therefore involved gross, repeated and long-standing interference with the rights protected by Article 8.
57. Similarly in domestic law, conduct amounts to a breach of privacy rights: (i) where the person in question had a reasonable expectation of privacy in relation to the material; and (ii) there is no competing consideration that outweighs this expectation⁴⁴. Put simply, in like manner to the position summarised in relation to Article 8 above, the absence of any operational necessity for the collation and use of the deceased children and their relatives’ biographical details and the related intrusions are unlawful.

The duty of candour

58. The duty of public bodies to act with candour and to cooperate with the courts is now a settled public law principle: Lord Donaldson MR in *R v Lancashire County Council, ex p Huddleston*

⁴⁴ *Campbell v MGN Ltd* [2004] 1 AC 457 HL.

[1986] 2 All ER 941 at p945; Singh LJ in *R (Citizens UK) v Secretary of State for the Home Department* [2018] EWCA Civ 1812 at [106] and in *R (Hoareau) v Secretary of State for Foreign and Commonwealth Affairs* [2018] EWHC 1508. It is a self-policing duty requiring public bodies to provide full and accurate explanations of all the facts; “*the good, the bad and the ugly*” without “*spin*”. The State CPs responsibility to volunteer the full truth is all the more acute in the context of a public inquiry, where their responsibility is to assist the investigation by drawing attention to all relevant matters and to do so without any ambiguity and without any economy with the truth in order to contribute to a thorough, effective and efficient investigation.

D. COMMON THEMES EMERGING FROM PERSONAL NARRATIVES

Failure to appreciate the nature of the bereavement suffered

59. The personal narratives of the families we represent reflect the devastating bereavements that they have each suffered. As we have observed, the bereavement of a child is among the most devastating life events that anyone can suffer. Yet there is no indication in the available material that any officer in any position of authority, whether in the SDS, the NPOIU or the MPS more generally, acknowledged this vitally important context.

Impact

60. The revelation of this practice has caused our clients’ memories of their loved ones to be forever tarnished and mixed up in the knowledge of the UCOS’ conduct, including entering into sexual relationships based upon fundamental deceit, the commission of criminal offences and the disruption of legitimate activist organisations.
61. The intensity of their original grief has been brought back with full force. They have suffered intense feelings of disgust, anger and paranoia and a complete loss of confidence in policing. They are incredulous that the identities of their loved ones have been stolen without any operational justification. Knowledge that the methodology included reconnoitring family addresses (see §19 (j) above) has caused significant distress and they remain intensely concerned by the intrusion upon their own lives and its potential extent.

Departures from the Tradecraft manual

62. Several of the appropriated identities fell outside the parameters described in the Tradecraft manual. They were to avoid relying upon the identities of individuals who had died in infancy,

who were over 16 years and who had suffered an unnatural death. Michael Hartley died at 18 years of age in the context of a death at sea that provoked media attention, Kevin John Crossland died in an aircraft disaster that provoked significant media attention and Rod Richardson was just two days old when he passed away. HN16 and EN32 were deployed in 1997 and 2000 respectively after the practice had been discouraged on grounds of operational ineffectiveness.

Delay in the investigations and lack of disclosure

63. The relatives' distress has been exacerbated by the lack of information they have so far received as to the circumstances surrounding the original appropriation of their loved one's identity, the potential additional intrusions upon them and the extent to which UCOs committed criminal offences and/or formed abusive sexual relationships – forever sully the reputation of the dead children.
64. Nine years have now elapsed since the MPS acquired institutional knowledge of the practice and in those years, there has been no tangible progress in answering the relatives' questions nor in providing them with disclosure of documents that relate to them and their lost loved ones.

Communications of regret

65. The 2013 apology issued by the Commissioner of the MPS expressed regret for the general practice of relying upon the identities of deceased children. Since then the families of Michael Hartley, Neil Robin Martin, Anthony Lewis, Kevin John Crossland and Rod Richardson have received official confirmation from the Inquiry that the identities of their loved ones were appropriated and used as officers' cover names. Those official letters of confirmation included an offer from the MPS to extend an in-person apology. The uptake from families wishing to meet MPS officers for this purpose has been low. They now feel that the appropriate time for the communication of formal apologies to them as individuals is after the MPS and/or the Inquiry have provided the answers set out at section F of this statement.

E. THOSE WAITING TO KNOW IF THEIR CHILD'S IDENTITY WAS USED

66. Those families who fall within the Inquiry's Category 3 (relatives who want to know whether their deceased child's identity was used to create an undercover 'legend', where the Inquiry knows that it was not) - are still looking for the answer to their concerns. The ruling of 14 July

2016, over four years ago, indicated that they would have to wait in the “*short term*”. They are still waiting. The Inquiry should not underestimate the anxiety involved. Bindmans LLP wrote to the Inquiry in January 2020 seeking an update. The relatively uninformative response dated 20 February 2020 said: “*As our investigations are ongoing, the Inquiry is not yet able to finally review the position of ‘category 3’ families. As and when the Chairman is able to provide an updated position, or to conduct a final review, he will do so.*” Those of our clients who are elderly are concerned they may not live long enough to receive answers.

67. Bindmans LLP wrote to the Inquiry again on 15 September 2020 asking when the Category 3 families could be given the reassurance they craved that their child’s identity was not appropriated by undercover police officers. They requested a clear timeline. The Inquiry’s recent reply⁴⁵ states that the review of cover names used by SDS officers is close to completion, but that the Inquiry then has to review cover names used by the NPOIU. No specific timeline is provided, but the letter continues that once that review is completed “*the [MPS] and National Police Chief’s Council will be invited to consider whether a meaningful answer can be given to families in Category 3*”. Our clients believe that this is a completely unsatisfactory response; their prolonged wait is to continue for a further unspecified period, with no certainty that they will ever receive a substantive answer from the Inquiry; and with the police playing a potentially decisive role in that determination.

F. THE QUESTIONS THE INQUIRY MUST ANSWER

68. Over 7 years have elapsed since the HASC stated in their June 2013 that “*It is shocking that the practice of using deceased infant’s names was apparently a surprise to senior officers and it is vital that [it is] establish[ed] quickly how high up the chain of command this practice was sanctioned*”⁴⁶. The questions below are posed to assist the Inquiry, but they are also posed to the Home Office and to the MPS who are or should be in a position to provide answers to some or all of these questions without further delay in furtherance of their public candour duty.

Supervision and governance

- (1) At what level and to what extent was there authorisation and/or knowledge of the practice?

⁴⁵ By letter dated 12 October 2020.

⁴⁶ At [26].

- (2) To what extent did the SDS depart from the governance arrangements introduced within SO10 from 1988? If this was the case, why did it occur and who was aware that the SDS had been permitted autonomy to choose not to adopt developing MPS and national practice for the deployment of UCOs?
- (3) To what extent did the NPOIU depart from governance arrangements applied to other areas of undercover policing? If this was the case, why did this occur and who was aware that the NPOIU had been permitted autonomy to choose not to adopt developing MPS and national practice for the deployment of UCOs?
- (4) Was the relatively lax oversight of the SDS and the NPOIU attributable to the deployment of their UCOs in intelligence gathering, rather than evidential roles, which were not be required to meet the standards of the criminal and/or civil justice system?
- (5) What were the drivers for the differences of training, tactics, review and integration between the SDS and the NPOIU on the one hand and other undercover units such as SO10 on the other?
- (6) Do there remain differences in the approach to governance across undercover units nationally?
- (7) Did UCOs receive reassurances, whether implied or explicit that their anonymity would be protected irrespective of their engagement in discreditable and/or unlawful conduct whilst undercover?

The practice and the reliance upon it

- (8) Who devised the practice and how long did it operate for? What did it entail?
- (9) What involvement did managers and other senior officers have in its implementation or oversight?
- (10) What training or advice was given to officers in relation to this practice?
- (11) What information and documents were collated and relied upon in relation to each deceased person and their relatives?

- (12) To what extent did UCOs intrude upon the private and family lives of relatives and specifically, did surveillance take place and were there any intrusions following the completion of any of the officers' deployments?
- (13) When did UCOs use false names for their undercover "*legends*"? To what extent was this practice available and used during the time that deceased children's identities were also appropriated? What, if any, constraints were there upon using false names and were such deployments completed without compromise?

The bereaved families

- (14) Was consideration given at any stage to the particular personal circumstances of the bereaved families and the likely consequences for them if the use of their loved one's identity became known to them or to others?
- (15) Was consideration given at any stage to the *risks* that were being brought upon bereaved families through the reliance on their loved one's identities?

The use to which the stolen identities were put

- (16) What were the details of each deployment and the extent of the wrongdoing for which each deployed officer, their handlers and supervisors were responsible?
- (17) What were the nature and circumstances surrounding the commission of criminal offences by UCOs in the name of deceased children and their progress through the criminal justice system (including specifically, any abuse of such proceedings)?

The end of the practice

- (18) What were the circumstances in which the practice came to be disavowed within the SDS and why was it nevertheless still relied upon?
- (19) In particular why did NPOIU officers use what was by then a discredited practice? To what extent were managers or other senior officers aware of this? What actions were taken in response and were accreditation and training requirements circumvented? How and in what circumstances did the use of the practice by the NPOIU come to an end?

The future

- (20) Has the College of Policing established clear and unequivocal standards for undercover policing and are the mechanisms for oversight and accountability robust?
- (21) Have clear lines of responsibility between the National Police Chiefs Council, different undercover units and police forces been established and what are those lines of responsibility?

G. THE PERSONAL NARRATIVES OF THE BEREAVED RELATIVES

Honor Robson and Frank Bennett

Michael Hartley

- 69. Michael Hartley died on 4 August 1968 when he went overboard a fishing trawler. Michael was 18 years of age; born on 9 June 1950. His brother, Frank Bennett was 11 years of age and his sister, Honor Robson was 13 years of age when they learned of the loss of their brother. The loss of Michael devastated the family which has experienced repeated tragedy: in 1955 Michael and Honor's father, Earnest, had died of tuberculosis at the age of 32 years, and following Michael's death, his heartbroken mother suffered a physical and mental collapse and in 1977 she took her own life. A particular feature of the intense bereavement suffered by Michael's mother arose from his body never having been found and there not having been a funeral.
- 70. On 27 April 2018 a representative of the Inquiry attended Honor Robson to provide a letter informing her that HN12 had appropriated Michael's identity. Honor's initial assumption – arising from the official visit – was that Michael's body had been found. Shortly after this, Frank received a message from a family member that the police had been in touch about something to do with Michael; it was also his initial reaction that his brother's body must have been found. It was an intensely difficult time. The Inquiry has acknowledged that the failure to identify Frank as Michael's brother and to inform him personally was an oversight.
- 71. The revelation of HN12's conduct has forever sullied the family's memories of Michael. From their perspective his identity was stolen, and their memories permanently tarnished. Particular affront has been caused by HN12's commission of criminal offence(s) in Michael Hartley's name and by HN12 engaging in a sexual relationship using that identity. This has been exacerbated by the lack of information about the circumstances of HN12's deployment, the relationships he entered into and the criminality that resulted in his conviction in Michael's name. The

knowledge of the intrusion has caused family members to relive painful memories and this has at times been unbearable. The trust formerly placed by the family in the police has been taken from them. There have been adverse effects upon family members' physical and mental health.

72. On 9 October 2018 the Inquiry made a restriction order in respect of HN12's real name. HN12 died in March 2018. The following information was provided in a minded to note dated 25 January 2018:

"He was deployed into 2 left wing groups, successively, between 1982 and 1985. He was withdrawn when compromised. He was arrested for a minor offence, in his cover name, prosecuted and fined. He had a fleeting sexual encounter with a female activist. Otherwise, his deployment appears to have been unremarkable and to have given rise to no known allegation of misconduct against him."

73. The risk assessment and statement provide by HN12 in support of his application for a restriction order have not been disclosed to Frank Bennett and Honor Robson, nor have they received a gist of the information contained in those documents⁴⁷. From the family's perspective HN12's illness and subsequent death are insufficient reason to protect his real identity from the accountability this inquiry is intended to achieve.

Faith Mason

Neil Robin Martin

74. Neil Martin died on 15 October 1969 at Bishop Auckland Hospital, County Durham following a period of ill health. He was 6 years old; born on 5 September 1963. Neil was always smiling and laughing. Faith was 16 years of age when she gave birth to Neil. He was her first child. At about 18 months Neil began to suffer health problems and became severely disabled. Faith struggled to have her concerns in relation to his health taken seriously. The circumstances leading to Neil's death were traumatic in the extreme; they arose against a backdrop of Faith having been subjected to domestic violence and ultimately, abandonment of herself and her four small children. While Faith struggled with those responsibilities and experiences, Neil became increasingly unwell and was admitted to hospital separating mother and son for many months in the period running up to his death. Faith was 22 years of age when Neil passed away. She was left to bring up her remaining three children alone; she provided for them by

⁴⁷ List of applications and evidence published on 3 July 2018.

undertaking heavy manual work at a local factory. She spent extended periods sitting by Neil's grave.

75. Faith was informed of HN122's appropriation of aspects of her son's identity by a letter from the Inquiry dated 8 January 2019. She found the information impossible to absorb and at a subsequent meeting with the Inquiry team she found the information she was given incapable of belief. Her experience has been one of losing Neil all over again. She has lost sleep and is pre-occupied by distressing thoughts about what has occurred.

HN122

76. On 7 March 2018 the Chairman indicated that the inquiry was minded not to permit the publication of HN122's real name but would refuse his application for restriction of his cover name. Only the following detail of his deployment was provided: "*HN122 was deployed against two groups between the late 1980s and the early 1990s.*"
77. On 23 May 2018 the Chairman issued "'Minded To' Note 9 and Ruling 8" reiterating that HN122's real name could not be published and refusing the application for restriction of his cover name.
78. The risk assessment and statement provide by HN122 and the additional grounds submitted by the Commissioner of the MPS in support of the applications for restriction orders have not been disclosed to Faith nor has she received a gist of the information contained in those documents save for some brief details. In so far as it has been suggested that HN122 relies on risks associated with "*interference with public life*", Faith observes that from her perspective the possibility that HN122 is now prominent in public life points in favour of openness and transparency rather than against it.

Mr, Mrs and Ms Lewis

Anthony Lewis

79. Anthony Lewis was born on 13 May 1961 and died on 31 July 1968 from sickle cell anaemia; he was 7 years old.
80. He was survived by his mother, father and his younger sister. Ms Lewis lives with her parents and is their primary carer. They are both elderly and experiencing health problems, Mr and Mrs are both octogenarians.

81. On 1 June 2019 Mr and Mrs Lewis received a letter from the Inquiry team notifying them that their son's identity and date of birth had been appropriated and used by an SDS UCO known by the cypher "HN78", who used the cover name "*Anthony 'Bobby' Lewis*". The revelation did trigger very painful memories for all the family members, as not only Anthony, but also their other daughter/sibling, Joan Lewis, died of sickle cell anaemia at the age of 34. Both Mr and Mrs Lewis are carriers of the disease and so they are particularly upset at the thought that the disease which killed two of their children may have been a factor in HN78 deciding to use Anthony's identity. The family are appalled by what they have learned of HN78's deployment to date, they are distressed by the sad memories of the loss of Anthony that this has brought up and are struggling to process their feelings.

HN78

82. The Chairman "*'Minded To' Note 6 and Ruling 4⁴⁸*" of 22 March 2018 revealed that HN78 had "*admit[ted] to a relationship with a member of the opposite sex during the deployment*" and that, "*HN78 provided evidence to Mark Ellison's Independent Review of the Stephen Lawrence case*".
83. On 22 January 2020 the Chairman ruled that there would be no restriction order in respect of the real name of HN78. The women with whom HN78 had sexual relationships, "*Bea*" and "*Jenny*", would be invited to say whether they would like to receive prior disclosure of his name. Given the profound intrusion upon their family life and grief, the Lewis family believe that they should be afforded the same accommodation.
84. On 16 July 2019 the Inquiry confirmed that HN78 used the cover name "*Anthony 'Bobby' Lewis*" and that he was deployed into the Socialist Workers Party and the Anti-Nazi League. From the limited information the family currently have, it appears that Anthony's identity was appropriated by an UCO who infiltrated and spied on political activists and organisations involved in the Stephen Lawrence justice campaign.

⁴⁸ See also '*Minded To' Note 6 and Ruling 4* of even date.

Liisa and Mark Crossland

Kevin John Crossland

85. Kevin died on 1 September 1966 on a family holiday with his father, Malcolm David Crossland (known as “David”), his mother and sister. The family had travelled from Luton on Britannia Airways Flight 105. The plane crashed at around midnight on its approach to an airport in northern Yugoslavia. Kevin was 5½ years old; born on 5 March 1961. 98 of the 117 passengers and crew died in the accident, including Kevin’s mother and sister. Kevin and his sister had been very happy children. Kevin had a love of football.
86. David survived the crash but with life changing injuries. Memories of the crash never left him. He suffered guilt at his own survival.
87. David was taken to hospital in Ljubljana where he remained for a month before being transferred to a London hospital. During his treatment he met Liisa who was involved in his nursing care. David’s injuries included severe burns and multiple fractures. Following his discharge from hospital, David and Liisa developed a friendship leading on 5 May 1968 to marriage. Mark is their son of that marriage. David was diagnosed with cancer in May 2000 and passed away on 1 November 2001. Liisa and David were married for 33 years and in that time, Liisa gained a deep understanding of the enormous impact that the loss of Kevin had had upon her husband. She carried the burden of this loss, the grief and the memories of Kevin long after David’s passing.
88. On 27 June 2018 the Inquiry team attended Mark’s home and provided him with a letter explaining the appropriation of Kevin’s identity. It was unsettling that the Inquiry was aware of the personal biography of his family including the crash that had killed Kevin and that David had passed away. It became Mark’s responsibility to inform Liisa. When he did so Liisa was upset that the Inquiry team had not contacted her directly; she has lived in the same house for 45 years. Liisa and Mark attended a meeting with the Inquiry team on 18 July 2018. The team were apologetic, but they were unable to provide the information they sought. The family did learn from the discussion that HN16 may have come to the area in which the Crossland family lived to observe. Liisa also learned that HN16’s deployment occurred during the time that David had been alive and battling cancer. The information has been the occasion of considerable distress.

89. Liisa bears a weight of responsibility to obtain the truth of what occurred for her husband. She has been preoccupied with concerns that she and her family have been spied upon and anxieties as to the extent of the intrusion. The family have experienced disbelief and paranoia. The revelation of HN16's conduct has brought back buried memories and have been at times overwhelming.

HN16

90. The gist of a further risk assessment in relation to HN16 dated 10 November 2017 has been disclosed. From this Liisa and Mark learned that HN16 was the subject of a misconduct investigation (the outcome was not revealed); that he was promoted to Detective Sergeant while in the SDS; that he had been arrested during his deployment; and that he had declined to indicate whether he entered into any relationships during his deployment.
91. On 5 December 2017 the Chairman ruled that there would be a restriction order in respect of HN16's real name but not in respect of his cover names. Subsequently in April 2018 HN16 admitted that he had sexual relationships as an UCO with "Ellie" and with "Sara". On 21 February 2019 the Inquiry revoked the order restricting publication of HN16's real name and both "Ellie" and "Sara" were informed of it on 31 October 2018. By letter dated 20 February 2020 the Inquiry declined Liisa and Mark's request to be informed of HN16's true identity⁴⁹ explaining that "generally" the Inquiry does not publish real identities at this stage and the disclosure sought would "not serve any investigative purpose". Further that the "moral right" of those who had "a relationship" with the UCO to know his true identity was the "only exception to the process whereby the real name first appears in documents within the Inquiry hearing bundle". Liisa and Mark are very upset by the Inquiry's continued denial of their "moral right" to know the true identity of the officer who appropriated Kevin's identity; while respecting the existence of that right in respect of other victims of his wrongdoing; they believe the Inquiry has failed to give any adequate explanation for the distinction it has drawn.

Barbara Shaw

Rod Richardson

92. Ms Barbara Shaw is now 80 years of age and was bereaved of her fifth child, Rod when she was 32 years of age and Rod was only two days old. Born on 5 January 1973, Rod died at St George's

⁴⁹ See Bindmans LLP's letter to the Inquiry dated 14 February 2020.

Hospital in Tooting two days later on 7 January 1973. The causes of death were pneumonia contributed to by prematurity and respiratory distress syndrome. In the immediate aftermath of her baby's death, Barbara suffered depression and found herself engulfed by sadness. Rod was buried at Streatham Cemetery, Garratt Lane, Tooting. Barbara was not well enough to attend the funeral. Two further children were born to Barbara and Mr Richardson following Rod's death and accordingly, Rod had a total of six siblings. Rod's father, Brian Richardson passed away in 1983. Barbara remarried but was widowed in 2010.

93. On 4 January 2013 Barbara was contacted by Paul Lewis of the *Guardian* newspaper and informed that the identity of her son was believed to have been used by a police officer in connection with his undercover role. Barbara learned that a "Rod Richardson" had first appeared as an apparent radical, anti-capitalist activist in 2000 based in Nottingham and had disappeared 3 years later telling "friends" that he was moving to Australia. This "Rod Richardson" used the date of birth of Barbara's son. She has since come to learn more about how the UCO established his false persona by "blending" aspects of her son's identity with the behaviours and purported opinions he created. This has caused her to feel profound emotional turmoil and anger.
94. Barbara bore the particular burden and responsibility of being the first person to be informed that her son's identity had been used as the covert identity and background history of an undercover police officer. There was extensive press coverage. We have already summarised the concerning circumstances surrounding her complaint. *EN32*
95. On 15 December 2016 the Inquiry published a press notice indicating that EN32 had not sought a restriction order in respect of his use of Rod Richardson's identity as his cover name during his deployment. A determination has not been made as to the application for a restriction order in respect of EN32's real name; a 'Minded to' Note dated 15 November 2018 3 stated the intention not to reveal his real name and that, "*EN32 is a serving police officer. He was deployed against two groups between 1998 and 2003 and reported on others. His deployments are of significant interest to the Inquiry.*"

Gordon Peters and RDCA

96. Gordon Peters is now a septuagenarian and was bereaved of his second child, Benjamin, when he was 35 years of age and Benjamin was just one week old. Benjamin's early death on 23 September 1979 followed a traumatic birth and an extremely anxious week in which Gordon

willed his baby's survival notwithstanding the knowledge that survival would entail profound brain damage. Gordon and his wife were obliged to formally indicate their agreement to withdraw Benjamin's life support. Gordon explains that the grief has stayed with him and will always remain with him. Gordon and Benjamin's mother had three further children each of whom also suffered premature and traumatic births, but survived. Gordon frequently experiences thoughts of Benjamin and the loss of his potential. He first became aware of the use of deceased children's identities by undercover police officers in about 2011. He was and remains appalled by the practice. On 18 September 2014 he wrote to the MPS seeking to allay his concerns, alternatively for the use of his son's identity to be confirmed. He has not to this day received a meaningful response.

97. RDCA is now 71 years of age and was bereaved of her child when he was 15 months old. In April 1971 she was pushing his pushchair across a zebra crossing when a vehicle careered across the road causing his death. RDCA suffered the emotional turmoil of attending an inquest touching upon her baby's death and the finding that he had been unlawfully killed. The publicity in 2013 surrounding the use of deceased children's identities caused RDCA to worry that her son's identity had been used. She is appalled by this practice. In July 2013 she wrote to the Commissioner of the MPS seeking confirmation as to whether or not her son's identity has been appropriated in this way and was surprised to learn that the MPS was unwilling to confirm the use of her son's identity or alternatively to assuage her concerns. The continuing uncertainty made RDCA feel "*quite sick*".
98. Following publication of the Operation Herne Report 1, Gordon and RDCA wrote to its author, Chief Constable Creedon, expressing concern that their children's identity may have been used by an undercover police officer without their consent. They each received replies dated 18 December 2014 stating that a response would not be provided because of the adoption of NCND. It was however confirmed that the identities of children less than 1 years old had been used. The refusal to provide more information caused further distress.

H. THE INQUIRY'S PROCEDURE

99. We have already addressed the Inquiry's ongoing failure to confirm how many of the publicly released cover names involved the appropriation of deceased children's identities; the protracted wait for reassurance experienced by the Category 3 families; and our clients'

concerns about the restrictive approach taken in relation to the release of officers' real names. We now turn to two other procedural issues.

Restriction on Cat F representation

100. In order to obtain answers to the questions we have posed on behalf of the families we represent; and given the Inquiry's indication that documentation in relation to the creation of "legends" is limited, we consider it essential for the issues to be explored with each of the UCOs in their oral evidence. If they used a deceased child's identity, the circumstances in which they did so and the degree of training and oversight they received will be highly material. Equally, if they were able to construct their "legend" by using a false name, they should be asked about the fact that they were able to do this without needing to rely upon the appropriation of a real person's identity and about the guidance they received in this regard. In a letter dated 14 October 2020 the Inquiry has confirmed that the issue of how SDS officers constructed their legends (before and after real individual's identities were used) and will examine why the SDS used real individuals' identities rather than available alternatives.
101. However, as also confirmed by the Inquiry's letter of 14 October 2020, our clients will only be able to participate in evidential phases of the Inquiry when the specific officers that used their children's identities are giving evidence. We believe that this is highly unsatisfactory and risks leading to a piecemeal investigation and an outcome with an unduly narrow focus, that fails to reveal or sufficiently explore the overall picture on this extremely important issue. As matters stand, our clients will not even have access to witness statements made by other officers that detail the way in which they created their "legends". We believe that this unsatisfactory state of affairs is unlikely to assist in achieving an effective investigation or credible conclusions.
102. We will return to this concern as the Inquiry progresses and specifically it is our intention to provide submissions as to the approach prior to the commencement of Tranche One Phase Two.

Disclosure

103. We have already referred to the very limited material provided so far. Similarly, we understand that our clients will only receive disclosure of the Inquiry's documents in advance of a hearing, where they are perceived as having a "direct" interest in doing so. This will largely be limited to events concerning the use of their own relative's identity. This restricted approach compounds the concern that we have just expressed; it will further limit the extent to which our clients can

play a meaningful part in this investigation and help the Inquiry get to the truth of what occurred and why it occurred.

I. CONCLUSIONS

104. Our clients seek a detailed public accounting for this abhorrent practice including a formal record of how the practice was permitted to develop and continue, the full extent of the intrusion they suffered and the culture that surrounded it, together with a detailed historical record of the wrong that has been done to them and its impact. They seek not only the learning of meaningful lessons but the implementation of tangible protections against future abuse, so that this can never again be permitted to become established policing practice.

HEATHER WILLIAMS QC

FIONA MURPHY

BINDMANS LLP

23 October 2020

6 November 2020