

IN THE MATTER OF THE UNDERCOVER POLICING INQUIRY

**AMENDED WRITTEN OPENING STATEMENT ON BEHALF OF
THE DESIGNATED LAWYER OFFICER CORE PARTICIPANT GROUP
TRANCHE 1, PHASES 1-2: SPECIAL DEMONSTRATION SQUAD
UNDERCOVER DEPLOYMENTS 1968-1982
FOR HEARING: 3-4 NOVEMBER 2020**

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1. INTRODUCTION

1.1 Abbreviations

1.1.1 The following abbreviations are used herein:

“Commissioner”	Commissioner of Police of the Metropolis;
“DL”	Designated Lawyer;
“HASC”	Home Affairs Select Committee of the House of Commons;
“MI5”	the Security Service;
“MPS”	Metropolitan Police [Force / Service];
“MPSB”	the Metropolitan Police Special Branch (1883-2006);
“NPOIU”	National Public Order Intelligence Unit;
“r.9”	rule 9 of the Inquiry Rules 2006;
“SDS”	Special [Operations / Demonstration / Duties] Squad (1968-2007);
“Tx”	Tranche <i>x</i> (1-6).

1.1.2 For convenience, and save where otherwise indicated, references to “the inquiry” refer compendiously to its Chairman, Panel, Secretariat and legal team.

1.1.3 The MPSB Detective ranks of Constable, Sergeant, Inspector, Chief Inspector, Superintendent and Chief Superintendent are respectively abbreviated to “DC”, “DS”, “DI”, “DCI”, “Superintendent” and “Chief”.

1.1.4 **Annex A** below sets out a list of abbreviations for the names of political / protest / terrorist groups referred to herein.

1.1.5 For the avoidance of doubt, the DL is a senior solicitor employed by the MPS Directorate of Legal Services who is providing independent inquiry-related representation to serving and (mostly) former MPS personnel who were members of

the SDS or NPOIU.¹

1.2 Overview

1.2.1 This opening statement is made on behalf of the DL officer core participant group which comprises 103 former members of the SDS and 11 former members of the NPOIU.²

1.2.2 The DL team's primary client engagement to date has related to the inquiry restriction order and r.9 processes and preparations for the November 2020 hearings. The team's knowledge and understanding of inquiry matters is therefore most in-depth in relation to T1 (esp. module1), variable in relation to T2-T3 and more limited in relation to the NPOIU and T4-T6.

1.2.3 Given the above, the stage reached by the inquiry and the scope of the upcoming hearings, this opening statement makes some more general points on behalf of the entire DL core participant group and focuses in more detail on points relevant to SDS undercover officer deployments 1968-1982 within T1, phases 1-2 (module 1).³

1.2.4 The following points should be borne in mind when reading this opening statement:

- (1) this statement seeks to distil and reflect a broad consensus of the views of a wide range of clients who served in different capacities across several generations and who inevitably have their own opinions;
- (2) this statement does not go into detail about particular officers or deployments or propose findings of fact, first, because the evidence has not been heard and,

¹ The offer of MPS-funded DL representation was made and remains open to all such personnel, subject to one caveat: Solicitors Regulatory Authority rules prohibit the DL from acting for any individual if she considers that there is a significant risk of: (1) an "own interest" conflict of interest existing or arising as between that individual and either the DL herself (personally) or the Commissioner (as the DL's employer); or (2) a client conflict of interest existing or arising as between that individual and another DL client, subject to Solicitors Regulatory Authority rules on common interest and consent.

² In fact, there are 113 DL officers in total as one - HN66/EN327 - was a member of both the SDS and NPOIU.

³ The inquiry has indicated that core participants will be given further opportunities to make supplementary opening statements on other inquiry tranches, phases and modules as and when dealt with in hearings.

secondly, in order to protect identities and other sensitive information and comply with related inquiry restriction orders;

- (3) the aim is to set out key points which, it is submitted, the inquiry should keep in mind when considering the evidence, making findings and drawing conclusions.

1.2.5 Part 1 of this statement addresses introductory matters and parts 2-9 below deal with the following:

- (1) institutional context - the respective functions of and relationship between the Home Office, MI5, the MPS and MPSB (parts 2-3);
- (2) public order policing - difficulties, importance of intelligence and lawfulness of collecting it by undercover means (part 4);
- (3) 1968-1982 - the international and national context, public disorder in London, the role of extremists generally and the particular groups reported on by the SDS (part 5);
- (4) the SDS operational model and processes and the incompleteness of the materials available to the inquiry (part 6);
- (5) the contribution of the SDS - public order and counter-subversion (part 7);
- (6) specific issues relevant to the SDS - the scope of reporting, the use of deceased children's identities and sexual relationships (part 8);
- (7) conclusion (part 9).

1.2.6 This re-dated version of this opening statement was amended and redacted at the direction of the inquiry and pursuant to submissions made by the Commissioner and MI5 on the original version dated 22 October 2020.

1.3 The DL officers

SDS

1.3.1 The DL's SDS clients worked in or for the unit as undercover officers (at DC or DS), back-office personnel (mostly at DS) and managers (at DI or DCI). Some progressed on to higher ranks later in their careers and some performed more than one SDS role at different times, e.g. former undercover officers who returned to the unit as managers.

1.3.2 The inquiry has stated that the SDS had 168 members during its 40 year history, including 117 undercover officers and 51 back-office or management staff and it is believed that 27 of the 168 have since died.⁴

1.3.3 So far as concerns DL undercover officers in the SDS:

(1) T1 (SDS) - 1968-1982 - 14 year period

40 deployed undercover (out of c.60 SDS undercover officers in total);⁵

(2) T2 (SDS) - 1983-1992 - 10 year period

23 deployed undercover (out of c.34 SDS undercover officers in total);

(3) T3 (SDS) - 1993-2007 - 15 year period

11 deployed undercover plus two who began pre-deployment preparations but did not deploy due to the closure of the unit (out of c.23 SDS undercover officers in total).

1.3.4 So far as concerns the DL officers within (1) above: 35 have made r.9 statements; three have been excused on health grounds; and one was not served with a r.9 request. Two of those who made r.9 statements - HN20 and HN65 - have since been moved into T2.

⁴ *Ruling on applications by the Metropolitan Police Service for an extension of time* dated 2 May 2017, para.25; *Counsel to the inquiry's note for the hearing on 5 April 2017* dated 2 March 2017, para.53; *Press Release* dated 30 October 2019; *Ninth Update Note* dated July 2020. The ratio of undercover officers to back-office and management personnel is slightly misleading because the former were generally posted into the unit for longer periods than the latter.

⁵ These figures include: HN19 (non-DL officer) and HN20 and HN65 (DL officers) who are T1 undercover officers, but are being dealt with in T2; and HN322 and HN328 (DL officers) and HN323 (deceased) whose limited early involvement was on the borderline of being "undercover".

1.3.5 Accordingly, the DL represents approximately 60-65% of the SDS undercover officers specifically and of its overall personnel, including back-office staff and managers, more generally.

NPOIU

1.3.6 The inquiry has stated that 22 undercover officers were deployed by the NPOIU in T4 from 1999-2010.⁶ Three DL officers fall into this group, i.e. EN32, EN42 and HN66/EN327 (who was also deployed undercover by the SDS in T3).

1.4 Inquiry documents

1.4.1 The inquiry has disclosed various documents to the DL team in connection with its restriction order and r.9 processes and these are referred to below using the relevant “MPS” or “UCPI” reference numbers.

1.4.2 Every effort has been made to keep references to documents not yet published by the inquiry in its November hearing bundles to a minimum and to keep quotations from such documents within the DL’s understanding of the “open/closed divide”. It is understood that all written opening statements will undergo security checking prior to wider circulation by the inquiry and the DL stands ready to assist with this process should any issues arise.

2. CENTRAL GOVERNMENT

2.1 The Home Office

2.1.1 The Home Office is the government department with national responsibility for policy and legislation relating to police, crime and public order and (with the Cabinet Office) domestic national security. In particular, the Home Office has and had the following responsibilities in connection with MI5 and the MPS:

⁶ *Ninth Update Note* dated July 2020.

(1) MI5

Under the Maxwell-Fyfe Directive dated 24 September 1952 (first published in *Lord Denning's Report* (Cmnd.2152, September 1963), para.238) and then the Security Service Act 1989, the Home Secretary was and is responsible and accountable to Parliament for the appointment of the Director General of MI5 and for oversight of its operation.

(2) The MPS

Under the Metropolitan Police Act 1829, Police Act 1964 and Police Act 1996 (as enacted), the Commissioner was appointed by the Crown on the recommendation of the Home Secretary and the latter acted as the Police Authority for, oversaw and was accountable to Parliament for the operation of the MPS. From 2000 onwards, under the Greater London Authority Act 1999, the Home Secretary was required to consult the Metropolitan Police Authority (“MPA”) and Mayor of London before recommending the appointment of a new Commissioner and oversight of the MPS was transferred to the MPA. From 2012, under the Police Reform and Social Responsibility Act 2011, the right of pre-appointment consultation and oversight were transferred to the Mayor’s Office for Policing and Crime. Throughout, the Commissioner has remained jointly accountable to the Home Secretary who has continued to direct the performance by the MPS of certain national functions and who has remained accountable to Parliament for its operation.

2.1.2 Furthermore, the Home Office issued guidance to police forces (e.g. HO Circular 97/1969 “Informants who take part in crime” dated 12 May 1969 and HO Circular 35/1986 “Consolidated circular to the police on crime and kindred matters” dated 30 December 1986), directed the existence and functions of MPSB and the other police Special Branches and their support for MI5 (see part 3.3 below) and specifically approved and funded the SDS until 1989. This funding - of accommodation and transport expenses - was renewed annually and its authorisation was routinely accompanied by warnings about the need for secrecy and the “acute embarrassment” that would result from publicity (Stephen Taylor QC, *Investigation into links between Special Demonstration Squad and Home Office* dated January 2005, paras 5.1-5.4 and

9.1-9.2; letters HO to MPS dated 6 June 1969 and 21 December 1970 [MPS0724109 and MPS0724130]; letters MPS to HO dated 22 March 1974 and 18 February 1975 [MPS0730906 and MPS0730906]).

- 2.1.3 The then Home Secretary doubtless had the above responsibilities and connections well in mind when she instituted this inquiry and would have been well aware that any public examination of the work of the SDS would necessarily require consideration of its close liaison and cooperation with MI5.

2.2 MI5

- 2.2.1 At all material times, MI5 performed domestic counter-espionage, counter-terrorism and counter-subversion functions, first, at the direction of the Home Secretary (under the Maxwell-Fyfe Directive) and, then, under the Security Service Act 1989. So far as concerns counter-subversion, the Maxwell-Fyfe Directive included the following (*Lord Denning's Report* (Cmnd.2152, September 1963), para.238):

The Security Service is part of the Defence Forces of the country. Its task is the Defence of the Realm as a whole, from external and internal dangers arising from attempts at espionage and sabotage, or from actions of persons and organisations whether directed from within or without this country, which may be judged to be subversive of the State.

- 2.2.2 The very close working relationship between, on the one hand, MI5 (often referred to in contemporaneous documents as “Box” or “Box 500”) and, on the other hand, MPSB and the SDS is addressed in further detail in part 7.2 below.

3. THE METROPOLITAN POLICE

3.1 Core functions

- 3.1.1 The primary legal duty of every police constable and every police force is and always has been the keeping and preservation of the Queen's peace (*Halsbury's Laws of England*, vol.84 “Police and Investigatory Powers” (5th ed., 2019), paras 1 and 40). The declaration made by every police officer on being attested as a constable puts the keeping and preservation of the peace before the prevention of offences (Police Act 1964, Sch.2; Police Act 1996, Sch.4). The primacy of this public order duty is further

reinforced by the Riot (Damages) Act 1886 which obliges police forces to pay compensation to those whose property is lost or damaged during riots.

3.1.2 The position was summarised by Lord Scarman in *The Brixton Disorders 10-12 April 1981* (Cmnd.8427, November 1981), para.4.57:

[T]he primary duty of the police is to maintain “the Queen’s peace”, which has been described as the “normal state of society”, for in a civilised society, normality is a state of public tranquillity. Crime and public disorder are aberrations from “normality” which it is the duty of the police to endeavour first to prevent and then, if need be, to correct. It follows that the police officer’s first duty is to co-operate with others in maintaining the “normal state of society”. Since it is inevitable that there will be aberrations from normality, his second duty arises, which is, without endangering normality, to enforce the law. His priorities are clear: the maintenance of public tranquillity comes first...

3.1.3 The logic of the above is that public order is a pre-requisite to a peaceful, functioning and civilised society in which individual rights and freedoms can be exercised and the rule of law enforced.

3.1.4 In the context of demonstrations and protests, Lord Scarman elaborated the principles as follows in *The Red Lion Square Disorders of 15 June 1974* (Cmnd.5919, February 1975), paras 5 and 116 respectively:

Amongst our fundamental human rights there are, without doubt, the rights of peaceful assembly and public protest and the right to public order and tranquillity. Civilised living collapses - it is obvious - if public protest becomes violent protest or public order degenerates into the quietism imposed by successful oppression. But the problem is more complex than a choice between two extremes - one, a right to protest whenever and wherever you will and the other, a right to continuous calm upon our streets unruffled by the noise and obstructive pressure of the protesting procession. A balance has to be struck, a compromise found that will accommodate the exercise of the right to protest within a framework of public order which enables ordinary citizens, who are not protesting, to go about their business and pleasure without obstruction or inconvenience. The fact that those who at any one time are concerned to secure the tranquillity of the streets are likely to be the majority must not lead us to deny the protestors their opportunity to march: the fact that the protesters are desperately sincere and are exercising a fundamental human right must not lead us to overlook the rights of the majority.

...

Moriarty’s Police Law (1972, 21st ed.), at p 220 summarises the common law succinctly:-

“The ‘Queen’s Peace’ or shortly ‘the peace’ is the normal state of society, and any interruption of that peace and good order which ought to prevail in a civilised country is a breach of the peace”.

A police constable is a public servant, holding office under the Crown, who has a specific responsibility for the maintenance of the Queen’s Peace. If he sees an affray, he must quell it and may arrest the offenders without warrant. It is his duty to disperse and put an end to an unlawful assembly. If there is a riot, it is his duty to suppress it, using such force as is necessary.

3.1.5 The reality of maintaining public order means that a great deal of police work does not necessarily involve the prevention or detection of offences, e.g. beat work, patrolling, community liaison and, more pertinently, intelligence collection and the policing of public events. This also explains why there was never any intention that the SDS should make arrests, gather evidence or investigate crime and why its non-involvement in such matters is not a ground for criticism. (Of course, the preservation of public order and the prevention of public order offences are two sides of the same coin and it follows that the SDS made an indirect contribution to the prevention of serious crime by assisting public order policing.)

3.2 Public Order Branch

3.2.1 This unit within ‘A’ Department (Administration and Operations) of the MPS Uniform Branch was - like the SDS - established following the Grosvenor Square disorders of 17 March 1968. See the Commissioner’s supplementary evidence to HASC (HASC 5th Report of 1979-80, *The Law Relating to Public Order* (HC 756-II, August 1980), p.75, para.30:

29. By 1968, however, the protests against the Vietnam War were reaching a crescendo and in March of that year police were given a taste of what was to come in ever-increasing quantities. A large march was planned from Trafalgar Square to Grosvenor Square, and you will all recall the scenes on our television screens which, in the context of those peaceful times, completely shocked the nation.

30. As a result of this demonstration a complete review of public order methods was ordered by the Commissioner. Its recommendations were two-fold: firstly, that the traditional methods of policing demonstrations - i.e. the principles just enumerated - should not be abandoned in favour of the paramilitary policies of most other countries; and secondly, that a specialist branch at New Scotland Yard should be set up to coordinate all public order matters. This branch is called A8 Branch and it is in fact officers of A8 who have prepared, under my direction, this presentation for you today.

3.2.2 A8 successively became Territorial Operations 20 (“TO20”), Central Operations 11 (“CO11”) and Met Operations 6 (“MO6”). By the early 1980s, a member of MPSB was posted to A8 as a permanent liaison officer in order to help facilitate the flow of information and intelligence between the two branches whilst ensuring the protection of MPSB sources.

3.3 Special Branch

3.3.1 As already mentioned, the existence and functions of MPSB were directed by the Home Office (*Home Office Guidelines on Special Branch Work* dated December 1984 (published by HASC in its 4th Report of 1984-85, *Special Branch* (HC 71, April 1985), pp.x-xiii)).

3.3.2 Public confirmation of MPSB’s role supporting MI5 and countering subversion was provided in *Lord Denning’s Report (on John Profumo and Christine Keeler)* (Cmnd.2152, September 1963), paras 76 and 77:

It is concerned with subversive or terrorist organisations. So one of its duties is to obtain information regarding them and pass it to the Security Service.

...

There is very close cooperation between the Special Branch and the Security Service. They work together in harmony and each has the fullest confidence in the other.

3.3.3 The 1984 *Home Office Guidelines on Special Branch Work* were preceded by Association of Chief Police Officers, *Terms of Reference for Special Branch* dated 8 April 1970 [UCPI0000004459]. These were “prepared in collaboration with [MI5]” (covering letter to Chief Constables dated 15 June 1970 [UCPI0000004459]) and provided that Special Branches were to acquire secret intelligence to assist the police in the preservation of public order and MI5 in countering espionage, sabotage and subversion (para.2). This included the task of, in consultation with MI5, collecting, processing and recording information about subversive or potentially subversive persons and groups (para.3(d)).

3.3.4 The 1984 *Home Office Guidelines on Special Branch Work* included the following:

4. The work of a Special Branch arises from the chief officer’s responsibility for the preservation of the Queen’s Peace. Its work is to assist the

chief officer in discharging this responsibility.

5. *A Special Branch gathers information about threats to public order. Such information will enable the Branch to provide assessments of whether marches, meetings, demonstrations and pickets pose any threat to public order and help the chief officer to determine an appropriate level of policing.*

6. *A Special Branch assists the Security Service in carrying out its tasks of defending the Realm against attempts at espionage and sabotage or from the actions of persons and organisations whether directed from within or without the country which may be judged to be subversive to the State. A large part of this effort is devoted to the study and investigations of terrorism, including the activities of international terrorists and terrorist organisations.*

7. *A Special Branch provides information about extremists and terrorist groups to the Security Service (or, in the case of Irish Republican extremists and terrorist groups, to the Metropolitan Police Special Branch).*

...

13. *The Metropolitan Police Special Branch is responsible for the assessment of intelligence about Irish Republican extremism and terrorism in Great Britain.*

3.3.5 The Intelligence and Security Committee, *Annual Report 2002-2003* (Cm 5837, June 2003), para.69 also made clear the following under the heading “Special Branch”:

69. *There is a very close relationship between the individual SBs and the Security Service; in fact the SBs were described to the Committee as an executive partner of the Security Service. For example, SBs recruit and run agents either alone or in support of and co-operation with the Security Service, supplying the intelligence to the Security Service if it is relevant to its work... The SBs have sight of the relevant intelligence and security Agencies’ requirements and work towards them in addition to their normal policing role, which is to safeguard the public. The Director General of the Security Service stated that the SBs continue to be a “major extension” to the Security Service in terms of intelligence collection capability.*

3.3.6 All Special Branch officers attended training provided by MPSB and MI5.

3.3.7 MPSB was organised into Squads managed by Squad Chiefs:⁷

(1) ‘A’ Squad - VIP Protection;

(2) ‘B’ Squad - Irish Republican and Other Northern Ireland Terrorism;

⁷ The names and functions of these Squads changed over time, e.g. responsibility for fascism, anti-fascism and Trotskyism moved between ‘B’ and ‘C’ Squad before resting with the latter.

- (3) 'C' Squad - Communists and Subversives / Public Order / Domestic Extremism;
- (4) 'D' Squad - Naturalisation Enquiries;
- (5) 'E' Squad - Foreign Terrorism and Extremism;
- (6) 'P' Squad - Ports;
- (7) 'S' Squad - Specialist Support (established July 1974).

3.3.8 In addition to the above, 'R' Squad (Research and Administration) was a small non-operational unit run by a Chief Superintendent which was responsible for, *inter alia*: compiling MPSB monthly reviews, quarterly surveys and annual reports; and research, long-term planning and (with MI5) national Special Branch training. 'R' Squad also held unregistered "588" files independently of the MPSB Registry. These did not have "RF" reference numbers and were only available to be viewed *in situ* and by or with the approval of a senior officer at or above the rank of Superintendent. It is likely that there were one or more "588" files for the SDS, including "588/UNREG/694" which is referred to in general correspondence and notes about the unit (e.g. MPS0728973 and MPS0730219). 'R' Squad was located in rooms 890/892/894 of the smaller tower of New Scotland Yard until the mid-'70s and, after MPSB's subsequent move to the top of the taller tower, rooms 1834/1835 of that tower and it will be seen that SDS intelligence reports were frequently circulated to these locations. No MPSB reviews, surveys or reports have yet been disclosed by the inquiry or included in DL officer r.9 witness packs and it is submitted that they would have been likely to shed light on MPSB's fulfilment of its public order and threat assessment functions.⁸

3.3.9 The SDS was a sub-squad within MPSB managed by a DI or DCI who in turn reported initially to the Commander or Deputy Assistant Commissioner in charge of MPSB and, once the unit became more established, a Squad Chief. After moving into the main

⁸ The *SDS annual report for 1973* dated 6 March 1974 [MPS0728975], suggests the MPSB annual report for that year contained a review of extremist groups and the public order scene (para.10).

Squad structure of MPSB and, depending on the era, the SDS sat within ‘C’ or ‘S’ Squad.⁹

3.3.10 Consistently with the *Home Office Guidelines on Special Branch Work*, para.5, one function of the MPSB Squads was to provide the MPS Uniform Branch with “Threat Assessments” relevant to public order matters. These were typically produced by ‘B’, ‘C’ and ‘E’ Squads and were in turn informed by intelligence derived from the SDS through intelligence reports and by way of direct enquiries. See *SDS annual report for 1971* dated 18 November 1971 [MPS0728971], para.10:

Another pleasing aspect of the Squad’s operations has been the liaison with the uniformed branch (A8), who have proved highly cognisant of the sensitive nature of material emanating from our officers.

4. PUBLIC ORDER POLICING

4.1 Difficulties

4.1.1 The Commissioner set out a helpful overview of the problems of maintaining public order in London in a memorandum submitted to HASC on 18 February 1980 (HASC 5th Report of 1979-80, *The Law Relating to Public Order* (HC 756-II, August 1980), p.41):

The problems of maintaining Public Order

1. *The duty of maintaining public order in the Capital is both more important and more difficult than any other responsibility with which I am charged. It is self-evident that the preservation of public tranquillity is fundamental to the smooth running of society; and constitutionally this is reflected in the fact that the police are under a positive duty to keep the Queen’s peace and although this term is all embracing that part of the responsibility related to public order in its narrow sense is crucial.*

2. *This duty poses two main difficulties. Firstly, the police have the dilemma of trying to reconcile the principle that individuals have a right to demonstrate with the notion that citizens also have a right to go about their ordinary business without let or hindrance. On some occasions this is virtually impossible: demonstrations through the streets must by their very nature obstruct motorists and pedestrians, and police are faced with the problem of attempting to strike a fair balance between the reasonable expectations of all the interested parties.*

⁹ Following the amalgamation of MPSB and SO13 in 2006, the SDS was briefly a part of the MPS Counter-Terrorism Command SO15 up until the closure of the unit in late 2007 / early 2008.

3. *Secondly, police have the duty of preventing disorder, and this can be formidable when people are gathered together in large numbers for meetings, demonstrations, etc. The psychological interaction between people in crowds causes the individuals comprising them to behave with much less self-restraint than when they are on their own. It is also extremely difficult—and often impossible—to communicate with individuals when gathered in large numbers; and thus the human contact between police and citizen which is so essential for public co-operation easily becomes diluted. Furthermore, it is self-evident that people acting in concert can physically achieve far more than they can whilst acting as individuals. These inherent obstacles to crowd control play right into the hands of unscrupulous activists, and under the present law public disorder is sometimes inevitable despite the most stringent police precautions.*

4.1.2 In a similar vein, Narr, Toliver, Murphy, McFarland and Ederheimer, *Police Management of Mass Demonstrations: Identifying Issues and Successful Approaches* (2006) provides a definition of “mass demonstration” and identifies “protests” as a species of demonstration more liable to be problematic (p.3):

The dictionary defines a demonstration as a public display of feeling toward a person or cause. This description applies to a wide array of occasions on which large numbers of people come together for a common purpose (e.g., a political convention; a labor dispute; or even a major sporting or social event). Even when demonstrations are peaceful, managing the large numbers of people attending creates a unique law enforcement challenge. Protest, on the other hand, is defined as an organized public demonstration objecting to a policy or course of action. Protests commonly occur when persons assemble to express opposition in response to local or world events, particularly political events or government actions. Sometimes, there is a perception that a protest is the antithesis of a demonstration of support. This may be because some groups, including extremist or anarchist groups, have instigated violence at organized protests in an attempt to gain publicity or to further their political aims. Such organized protests often create an inherent risk to public safety and civil liberties and pose particular challenges to law enforcement agencies tasked with protecting life and preserving the peace.

4.1.3 That some individuals will set out to cause, provoke and exploit disorder is well-known. Some more radical and extreme elements regard attacks upon and clashes with the police - the public face of the establishment and the *status quo* - as particularly desirable because they demonstrate strength of feeling, create public alarm, disquiet and disillusion, attract media and political attention and can be used to suggest police oppression and brutality and help fuel anti-police narratives and unrest generally. See:

(1) the Commissioner’s *Report for 1974* (Cmnd.6068, June 1975), Appendix 8, (speech of Sir Robert Mark at pp 107 and 109 respectively):

The courts, the press and the public probably do not appreciate the sophistication with which the extremist uses political demonstrations to undermine confidence in established institutions. The planned counter-demonstration, the use of deliberate violence, the routine complaints of police brutality, the ready spokesman without evidence or conscience, all these constitute a technique with which London police are all too familiar...

...

By contrast, a small number of demonstrations present severe problems. Occasionally the organizers refuse to disclose details of their plans, or reveal a plan to which police object on grounds of inconvenience to the public or possible disorder, without eventual agreement being possible. Minority extremist groups joining demonstrations organized by much larger groups sometimes fail to disclose an intention to depart from arrangements agreed by the organizers with the police. Sometimes demonstrations are mounted at very short notice leaving insufficient time to agree arrangements or to brief all those taking part.

- (2) *Austin v Commissioner of Police of the Metropolis* [2009] UKHL 5, [2009] 1 AC 564, at [1] (Lord Hope):

My Lords, one of the features of a vigorous and healthy democracy is that people are allowed to go out onto the streets and demonstrate. Thousands of demonstrations take place each year in London. Experience has shown that for the most part gatherings of this kind are peaceful. The police, on whom the responsibility of maintaining public order rests, seek to facilitate rather than impede their activities. Unfortunately, human nature being what it is, this is not always possible. Sometimes an event attracts people who do not share the peaceful intentions of the organisers. Sometimes it is the organisers themselves whose intentions are anything but peaceful.

- (3) *R (Catt) v Association of Chief Police Officers* [2015] UKSC 9, [2015] 1 AC 1065, at [19] (Lord Sumption):

Political protest is a basic right which the common law has always recognised, within broad limits directed to keeping the peace and protecting the rights and property of others. It is also a right protected by articles 10 and 11 of the Convention. It is an unfortunate but inescapable fact that some extremist groups deliberately adopt tactics which are likely to involve serious criminal damage to property, assaults against police officers and others, and serious acts of aggravated trespass, harassment and intimidation.

- (4) Joyce and Wain, *Palgrave Dictionary of Public Order Policing, Protest and Political Violence* (2014), p.99:

One objective by such protestors is to provoke robust responses by law-enforcement agencies in the hope that the public will view this as unnecessary violence and thus undermine confidence in the fairness of the state.

4.2 Intelligence

- 4.2.1 The importance and value of intelligence in the context of public order policing are well-recognised. See Joyce, *The Policing of Protest, Disorder and International Terrorism in the UK since 1945* (2016), p.25:

The state's response to the forms of protest that have been discussed in the previous chapters takes two main forms - a physical response delivered by police officers in the vicinity of a protest and a gathering of intelligence on individuals and groups who are likely to engage in activities associated with protest.

- 4.2.2 See also Narr, Toliver, Murphy, McFarland and Ederheimer, *Police Management of Mass Demonstrations: Identifying Issues and Successful Approaches* (2006), pp.31-32:

Information processing is another component of effective planning. Mass demonstration management demands careful attention to managing information before, during and after the event. Gathering and thoroughly analyzing information or intelligence about the activities of demonstrators can dramatically strengthen a police department's demonstration management plan. However, for a variety of reasons, accomplishing this is not always easy. Reasons include limited experience gathering intelligence, secretive preparations by demonstrators, or a lack of incorporation of gathered information into the planning process...

The process of intelligence gathering is a contentious one. To gain a strategic perspective of an upcoming event, credible sources with links to the information sought should be identified and tasked to provide information. On rare occasions, usually during the height of an event, raw information may be so compelling that it must be considered for deployment and other tactical decisions. However, it remains vitally important to analyze all information in the context of the event, the organizers and the environment as well as political, economic and social issues to permit planning personnel to develop the most appropriate response or modification to existing plans. The importance of committing to a complete and thorough intelligence process cannot be overstated...

- 4.2.3 The above was clearly reflected in the *Home Office Guidelines on Special Branch Work*, para.5 which expressly required MPSB to be maintained and to, "provide assessments of whether marches, meetings, demonstrations and pickets pose any threat to public order and help the chief officer to determine an appropriate level of policing".

4.2.4 So far as concerns the type of intelligence needed for these purposes, it is submitted that the police plainly need to understand the scene they are dealing with in some detail if they are to predict the likely numbers and mood of those attending events and assess the risks that may arise. This must include the identities of individuals and groups likely to be involved, their objectives, inclinations, disposition and plans, the relationships between them and the way in which they are likely to react to different eventualities.

4.2.5 For example, the police need to know if group A is a front for group B, if it is seeking to hijack or piggyback on group C and/or if it intends to disrupt or stage a counter-demonstration against group D. See *R (Catt) v Association of Chief Police Officers* [2015] UKSC 9, [2015] 1 AC 1065, at [29]-[30] (Lord Sumption):

29. *The purposes for which the evidence about participants in demonstrations is retained are described in Detective Chief Superintendent Tudways witness statement, with a fair amount of specific illustrative detail:*

(1) *It is retained in order to enable the police to make a more informed assessment of the risks and the threats to public order associated with demonstrations forming part of an identifiable campaign, and the scale and nature of the police response which may be necessary in future.*

(2) *It is retained in order to investigate criminal offences where there have been any, and to identify potential witnesses and victims.*

(3) *It is retained in order to study the leadership, organisation, tactics and methods of protest groups which have been persistently associated with violence, and other protest groups associated with them. Links between protest groups are potentially important. There is a significant correlation between participation in a group such as Smash EDO and other extremist groups such as animal rights activists. The evidence is that out of 242 Smash EDO activists recorded in the database at the time when these proceedings were begun, 42 also had links with animal rights protest groups. There is considerable cross-fertilisation of ideas between different extremist causes on tactics and methods.*

30. *These are all proper policing purposes. The evidence of the police is that a significant contribution is made to all of them by the retention of information of this kind. That evidence is supported by illustrative examples, and this court has no evidential basis or personal experience on which to challenge that assessment. And, to put it at its lowest, the evidence is credible. The proper performance of these functions is important not only in order to assist the prevention and detection of crime associated with public demonstrations, but to enable the great majority of public demonstrations which are peaceful and lawful to take place without incident and without an overbearing police*

presence.

- 4.2.6 Furthermore, it goes without saying that the requisite intelligence work is inevitably a hit-and-miss process which will necessarily involve the collection of intelligence on harmless individuals or groups. This is because intelligence has to be collected and its contents known before it can be assessed and an assessment that a demonstration is likely to be poorly attended or trouble-free must necessarily be based on intelligence to that effect. See *R (Catt) v Association of Chief Police Officers* [2015] UKSC 9, [2015] 1 AC 1065, at [31] (Lord Sumption):

31. These points need to be considered in the light of some basic, and perhaps obvious, facts about the nature of intelligence-gathering. Most intelligence is necessarily acquired in the first instance indiscriminately. Its value can only be judged in hindsight, as subsequent analysis for particular purposes discloses a relevant pattern. The picture which is thus formed is in the nature of things a developing one, and there is not always a particular point of time at which one can say that any one piece in the jigsaw is irrelevant. The most that can be done is to assess whether the value of the material is proportionate to the gravity of the threat to the public... The fact that some of the information recorded in the database relates to people like Mr Catt who have not committed and are not likely to commit offences does not make it irrelevant for legitimate policing purposes. The composition, organisation and leadership of protest groups who are persistently associated with violence and criminality at public demonstrations is a matter of proper interest to the police even if some of the individuals in question are not themselves involved in any criminality. The longer-term consequences of restricting the availability of this resource to the police would potentially be very serious. It would adversely affect police operations directed against far less benign spirits than Mr Catt. Organised crime, terrorism, drug distribution and football hooliganism are all obvious examples. One cannot look at an issue of this kind simply in relation to Mr Catt.

4.3 Lawfulness of undercover policing

- 4.3.1 The lawfulness of undercover policing as a method of collecting intelligence and evidence is not in doubt.
- 4.3.2 Indeed, it was confirmed within four years of the establishment of the MPS in 1829 in the report of the last undercover policing inquiry (*Report from the Select Committee on the Petition of Frederick Young and Others (Police)* (HC 627, 6 August 1833)). Mr Young and others of Walworth and Camberwell had petitioned Parliament “complaining that policemen are employed as spies, and praying that the people may

not be taxed to maintain those spies”. The Committee resolved to censure the relevant officer - Sergeant William Popay - for being over-zealous, but also resolved that:

... with respect to the occasional employment of policemen in plain clothes, the system, as laid down by the heads of the Police Department, affords no just matter of complaint, while strictly confined to detect breaches of the law and to prevent breaches of the peace, should these ends appear otherwise unattainable.

4.3.3 Agents and informants have lawfully been used as “covert human intelligence sources” throughout human history and their use remains an important and valuable police, intelligence service and armed forces tactic. The use of such sources was put onto an express statutory footing by the Regulation of Investigatory Powers 2000, Pt II which was enacted pursuant to art.8 of the European Convention on Human Rights and in conjunction with its incorporation into domestic law by the Human Rights Act 1998 (the relevant principles on covert surveillance and intelligence gathering and the “in accordance with the law” limb of art.8(1) are summarised in *Weber v Germany* (2008) 46 EHRR SE5 (ECtHR)). The provisions of the Regulation of Investigatory Powers 2000, Pt II and the statutory instruments and codes of practice made thereunder have subjected the use of covert human intelligence sources to additional regulation and oversight since 2000 (see also the Covert Human Intelligence Sources (Criminal Conduct) Bill currently before Parliament).

4.3.4 Undercover intelligence gathering inevitably involves deception and references to undercover police officers as “trained liars” are simply instances of anti-police name-calling. The real issue in relation to any deception is whether the ends justify the means and this is true not only of undercover police officers, but also of, e.g. paid and unpaid informants and investigative journalists.

4.3.5 Following on from this, it is interesting to note that a number of the groups reported on by the SDS were simultaneously seeking covertly to gather intelligence on and infiltrate their rivals and opponents and even (unwittingly) tasked SDS officers to do this on their behalf. The WRP unwittingly tasked a DL undercover officer to infiltrate and report back on the NF, another far left group unwittingly tasked another DL undercover officer to infiltrate and report back on Irish groups, the IS/SWP had sources in the NF and the covert penetration of far right groups by anti-fascists and Searchlight agents is well-

known.

5. CONTEXT: 1968-1982

5.1 International context

- 5.1.1 It goes without saying that the world and the UK were very different throughout the T1 period. The end of the First World War was closer to the people of 1968 than the Grosvenor Square demonstrations of that year are to us now. The end of the Second World War was as close to the people of 1968 as the New Labour landslide of 1997 is to us now.
- 5.1.2 So far as concerns the international situation in 1968: President Leonid Brezhnev and Chairman Mao Zedong were in power in the USSR and China respectively; the Cold War was at its height and the threat of nuclear war was very real; the USA was engaged in the Vietnam war and the space race; Martin Luther King Jr and Robert F Kennedy were assassinated; and the UK had yet to decimalise or join the European Common Market.
- 5.1.3 More pertinently, 1968 was marked by an upsurge in unrest and disorder: the Prague Spring and the subsequent Soviet invasion of Czechoslovakia; near-revolution in France; student protests across Europe; the first of a wave of Middle East related aircraft hijackings begun by the PFLP; and the start or reawakening of the Northern Ireland Troubles.
- 5.1.4 Although much of the above may *appear* to have posed little threat to the UK *when judged with the benefit of hindsight*, all of it had national security implications and was bound to be taken very seriously at the time. The impact of the twin threats presented by the Cold War and the Northern Ireland Troubles - which involved thousands of murders - should not be underestimated.

5.2 National context

- 5.2.1 The UK and, in particular, its capital were culturally and demographically very different between 1968 and 1982 in terms of their population levels, ethnic diversity, levels of

church and university attendance and attitudes and beliefs around LGBT and gender issues, religion, equality and diversity.

5.2.2 In England and Wales in 1968: a three bedroom house cost £5,200 and a pint of beer cost 1s 2d; half the population smoked - in their homes, cars, workplaces and socially; the school leaving age was 15; the voting age and age of majority for most purposes was 21 (homosexuality was decriminalised in 1967); Sunday trading, plays and dancing were all prohibited and Sunday cinemas and sports were restricted; there were three terrestrial television channels which did not broadcast round the clock; the M1 motorway was opened; British Rail ran its last steam train service; the first (black and white) episode of Dad's Army was shown; the Royal Navy still gave sailors a daily ration of grog; abortion was made legal; and the musical "Hair" could not be performed until the Lord Chamberlain's powers of theatre censorship were abolished by the Theatres Act 1968.

5.2.3 So far as concerns the MPS, constables attested in the 1960s were still being issued with police whistles and many early DL officers remember being given training on the capture of runaway horses and a requirement that they carry a "Form 29" with them at all times - for completion on discovery of a dead or dying horse. More pertinently, Uniform Branch officers were not given any special training or equipment for dealing with public disorder until 1969.

5.2.4 Furthermore, expectations around rights to freedom of expression and privacy and data protection and the related legal and regulatory landscape were profoundly different prior to the enactment of, *inter alia*, the Police and Criminal Evidence Act 1984, the Interception of Communications Act 1985, the Human Rights Act 1998, the Regulation of Investigatory Powers Act 2000, the Investigatory Powers Act 2016, the Data Protection Acts 1984, 1998 and 2018 and the GDPR.

5.3 Order and disorder in London

Different era

5.3.1 The relevance of the above for present purposes goes beyond mere trivia or nostalgia: the nature of public demonstrations and protests and their effective policing were also

very different.

5.3.2 In the absence of word processors, printers, photocopiers, the internet and social media, those wishing publicly to express and demonstrate their views were dependent on Speakers' Corner and other public events, usually in the capital. The production of leaflets, newspapers, posters and publicity materials generally required access to a printing press. Banners and placards had to be hand-made. The achievement of wider public attention and notice for less popular causes often depended on generating inconvenience or disruption for others and/or media coverage and, in practice, inconvenience, disruption and disorder were very often the best route to media coverage. Furthermore, in the early days of television in particular, a number of DL officers recall that the presence of television crews, cameras and arc lights was itself capable of having an extreme effect on the behaviour of crowds whose members were quite unused to being filmed or appearing on screen.

5.3.3 Similarly, the capacity of the police to deal with the above was also different. The MPS had personal radios and cameras by the 1960s, but it did not have access to present-day means of communication, surveillance or sources of intelligence such as CCTV, police helicopters, drones, the internet or social media. Furthermore, the limited availability and capabilities of IT made the collation and processing of intelligence slower and less effective.

Key concerns of the MPS

5.3.4 Indeed, a review of the Commissioner's annual reports for the period 1968-1982 and his contemporaneous evidence to HASC demonstrate a very high level of concern with public order as one of the biggest challenges faced by the MPS.

5.3.5 At the headline level, the Commissioner's principal concern was with discharging his duty to keep the peace within the capital while avoiding both over-policing and under-policing - which each has its own disadvantages and risks and which is each capable of leading to an escalation, injuries, loss and damage. At the most basic level: over-policing involves a diversion and waste of scarce police resources and can appear, or be portrayed as, heavy-handed and provoke or fuel controversy, escalation and wider

public alarm or disquiet; and under-policing inhibits the prevention and containment of disruption and disorder and therefore risks loss of control and rioting.

5.3.6 Beneath these headlines, the Commissioner's public annual reports and HASC evidence reveal a much more complicated set of considerations and an extremely challenging and worsening numerical and logistical picture. 1968-1982 was a tumultuous period and the Commissioner not only had a duty to maintain public order and protect the public, he also had duties to his officers, the public purse and the MPS as a whole.

Avoidance of special equipment, measures and units

5.3.7 First, successive Home Secretaries and Commissioners were - rightly - anxious to maintain traditional policing methods and reliance on public consent and support and to avoid recourse to special measures or equipment such as plastic baton rounds, tear gas and water cannon notwithstanding that this meant keeping police and demonstrators in closer proximity and increasing the risk of confrontation and injury (*Report for 1968* (Cmnd.4060, June 1969), p.9; *Report for 1971* (Cmnd.4986, June 1972), p.11; *Report for 1977* (Cmnd.7238, June 1978), p.6; *Report for 1981* (Cmnd.8569, June 1982), p.5; Commissioner's supplementary HASC evidence (HASC 5th Report of 1979-80, *The Law Relating to Public Order* (HC 756-II, August 1980), p.75, paras 22-26). Even riot shields were not used until 1977 and only then with "extreme reluctance" (*Report for 1977* (Cmnd.7238, June 1978), pp.5-6). Lord Scarman also endorsed the Commissioner's objectives in *The Red Lion Square Disorders of 15 June 1974* (Cmnd.5919, February 1975), para.135:

The principle that lies behind the Metropolitan Police method for the maintenance of public order is that it is the job of ordinary policemen operating without firearms, without special equipment, but enjoying the support and, if necessary, the cooperation of the general public.

5.3.8 Similarly, there was a determination to avoid the need for any kind of paramilitary public order unit akin to the US National Guard, German Bereitschaftspolizei, French CRS and Gendarmerie Mobile and the special units of the Italian Carabinieri (*Report for 1975* (Cmnd.6496, June 1976), Appendix 9, p.96). This thinking was underpinned by the principle that special measures, equipment and units are undesirable and counter-productive and, "Of the most immediate reasons for the avoidance of serious disorder

and casualties, perhaps the most obvious is an adequate police presence and a lack of weaponry” (*Report for 1974* (Cmnd.6068, June 1975), Appendix 8, p.106).

Maintenance of political neutrality

5.3.9 Secondly, the MPS was required to observe the “two principles of policing” identified by Lord Scarman in *The Brixton Disorders 10-12 April 1981* (Cmnd.8427, November 1981), paras 4.55-4.60, i.e. “consent and balance” and “independence and accountability”. So far as concerns the latter, see esp. para.4.59:

The independence of the police is the other principle of policing a free society to which I wish to refer. Neither politicians nor pressure-groups nor anyone else may tell the police what decisions to take or what methods to employ, whether to enforce the law or not in a particular case, or how to investigate a particular offence. The exercise of police judgement has to be as independent as the exercise of professional judgement by a doctor or a lawyer. If it is not, the way is open to manipulation and abuse of the law, whether for political or for private ends.

5.3.10 The Commissioner therefore had to be scrupulous to maintain operational independence and political neutrality and to avoid any more or less favourable treatment of particular groups. See the observations of Lord Scarman in *The Red Lion Square Disorders of 15 June 1974* (Cmnd.5919, February 1975), paras 7 and 69 respectively:

The police are not to be required in any circumstances to exercise political judgment. Their role is the maintenance of public order - no more, and no less... But it is vital, if the police are to be kept out of political controversy, that in a public order situation their sole immediate concern is, and is seen to be, with public order.

...

The police are not concerned with the politics of a demonstration: if they were, we should be a police state. Their duty is to maintain public order and to act, if need be, to prevent or suppress a breach of the peace.

Resource implications

5.3.11 Thirdly, the MPS was significantly under-complement and in the midst of a recruitment and retention crisis throughout the 1970s, save for a brief period of improvement in the middle of the decade, whilst simultaneously carrying out an extraordinarily wide range of responsibilities going far beyond public order, crime, crime prevention and emergencies. The Commissioner’s annual reports for the T1 period thus had chapters for: manpower / personnel and training; public order; crime; traffic; specialist and

support functions; and auxiliary formations. Under these headings, the Commissioner had responsibilities in relation to recruitment, discipline, welfare, demonstrations and marches, industrial disputes, public events, a mounted branch, a Thames Division, an underwater search unit, a dogs section, aliens, commonwealth citizens and immigration control, arrests and summonses, court custody and security, betting, gaming and lotteries, clubs, licensed premises, drunkenness, firearms, missing persons, lost property, abandoned vehicles, street accidents, house-to-house collections, street collections, lost dogs, pedlars, vagrancy, offences against the person, violent and sexual offences, burglary, robbery, theft, fraud, shoplifting, forgery, coining and uttering, drugs, obscene publications and vice, forensics, assisting coroners, traffic and parking, prosecutions, public appeals, information and research, traffic wardens, cadets, special constables and school crossing patrols.

5.3.12 The above meant that each of the following could have a significant adverse impact on available human and financial resources, recruitment and retention and the discharge of other functions:

- (1) officers being diverted from other duties to public order policing;
- (2) cancellation of leave and payment of overtime to cover public order events, particularly with most demonstrations taking place outside office hours and/or at weekends and at the same time as other mass-attendance gatherings and events such as football matches;
- (3) the stressful and challenging nature of public order duties;
- (4) the occurrence of personal injuries - in a profession requiring relatively high levels of physical fitness - and the consequences for fitness to work and the payment of sick pay or injury benefits and pensions.

5.3.13 A concern with the above runs through the Commissioner's annual reports, e.g.:

- (1) *Report for 1970* (Cmnd.4680, June 1971), pp.11-12: referring to the impact of

public order duties on officers including “gross insults and physical injury at times, the continual cancellation of leave and disturbance to home life at weekends” and stating:

However, it is in this field that the morale of the Force could be most sorely tested. We try to avoid making arrests if the occasion is peaceful but sometimes it is necessary to act firmly to anticipate disorder. At the courts the penalties are often trivial and in defended cases young constables are unreasonably attacked in an attempt to humiliate them. We can stand this and much more provided we can be assured that we have the backing of the courts to uphold law and order on the streets and that those who would abuse the right of peaceful demonstration and the free society this country offers are made to understand that violence does not pay.

- (2) *Report for 1972 (Cmnd.5331, June 1973):* citing a “severe shortage in operational manpower” and “public order” duties as the top two of five “main problems” facing the MPS (p.8) and including a detailed analysis of the manpower shortage, the efforts made and difficulties faced in relation to recruitment and retention and the adverse impact of public order duties (pp.9-11):

The demands on police in London are exceptional in two respects. In the first place, living and travelling conditions are less congenial and yet housing and transport are more expensive than elsewhere, and although these are drawbacks common to all workers in the capital the travelling difficulties of police officers are accentuated because of the requirement for shift duties. Secondly, service in the Metropolitan Police brings burdens that are different in kind and scale from those met in provincial forces. In 1972 there were 470 demonstrations and processions in central London, most of them at weekends and many making heavy demands on police and manpower...

All these and other tasks create a demand, often at short-notice, for stoppage of leave, for overtime and, more particularly, for weekend working. Many wives of police officers go out to work and the demands of weekend and overtime working intrude considerably into the time during which police officers and their wives can be together with their families. The uncertainty whether it will be possible to spend any weekend together can be particularly irksome. To this is added the anxiety of wives of policemen that their husbands may be injured while engaged at demonstrations or on protection duties. Finally, it must not be overlooked that the severe shortage of men at a time when commitments are increasing rather than diminishing itself places a very real strain on the members of the Force. Work in some other forms of employment may not be as interesting or rewarding as police work but it may offer much greater freedom from uncertainty and disturbance for

the officer and his wife in their family life, and this uncertainty and disturbance is greater in the Metropolitan Police than elsewhere.

...

Public order is a matter of constant concern. Not only is it difficult to maintain the nice balance between freedom and restriction - preserving the right of ordinary citizens as well as the right to demonstrate - but there is the continual interference with police duty rosters and entitlement to time off and the constant strain on the tolerance of police officers in dealing with those who seek to achieve political objectives by coercion and force...

- (3) *Report for 1974 (Cmnd.6068, June 1975), p.11:*

The control of demonstrations is but one of many duties falling to the Force which can and do result in police officers sustaining injuries as a result of being assaulted in the course of their work. I am concerned about the increase in recent years in the number and seriousness of injuries suffered by officers assaulted while on duty, not only from the welfare point of view but also in relation to the depletion of strength at a time when the Force is increasingly hard pressed to meet its commitments. The seriousness of the situation is clearly shown in the detailed figures for 1974 given in Appendix 4.

- (4) *Report for 1975 (Cmnd.6496, June 1976), p.10:*

Officers who are involved in such situations [as Red Lion Square] are all too frequently exposed to unjust censure as well as the risk of personal injury, and disheartened by the inexplicable leniency of the courts towards some of those who are brought before them and found guilty.

Massive increase in numbers and scale of public order events and levels of disorder

5.3.14 Fourthly, and importantly, the scale and nature of the public order situation in London worsened dramatically from 1968 onwards. This can no doubt be traced to a combination of factors, including:

- (1) the prevailing socio-economic conditions which saw high levels of industrial unrest, inflation and unemployment, including the three-day week and IMF loan of 1974;
- (2) changes in societal attitudes and expectations;

- (3) the ongoing ebbing of more radical far left support away from the trade union focused CPGB towards more activist Trotskyist groups - partly hastened by the links between the CPGB and USSR and disapproval of the way in which the latter crushed uprisings in Hungary and Czechoslovakia.

5.3.15 HASC summarised the position as follows in its 5th Report of 1979-80, *The Law Relating to Public Order* (HC 756-I, August 1980), para.16:

The Commissioner of Police for the Metropolis showed that there had been a steady and substantial increase in the number of large demonstrations (i.e. involving the employment of more than 100 police officers) in the Metropolitan Police Area. In 1972 there were 55 such events, in 1976 113 and in 1979 119. In 1974 (the earliest date for which reliable figures are available) there were two events at which more than thirty arrests were made; in 1979 there were four such occasions. In 1972 the total manpower employed in the policing of demonstrations was 19,367; by 1979 this was 108,014... In the course of a public statement in January last, for example, the Commissioner revealed that "special arrangements now have to be made to police an average of two major demonstrations a day" in the London area. The number of demonstrations in London, we were told, has quadrupled in the last two decades.

5.3.16 Similarly, the Commissioner's annual reports for 1977-1978 refer to him giving evidence to Lord Edmund-Davies' Committee of Inquiry on the Police (Cmnd.7238, June 1978), p.1; Cmnd.7580, June 1979, p.1) and that Committee's second report on police pay (Cmnd.7283, July 1978): emphasised the "arduous and increasingly dangerous" nature of police duties (introduction, para.15); and referred to the societal changes which had brought this about including "an increasing readiness to challenge authority at every level" and "a growing disrespect for law and order and the property and rights of others" (Report II, para.8). See in particular paras 12, 14 and 27 respectively on public order policing:

12. Demands are increasingly being made on the police to attend in some strength a wide range of activities, ranging from football matches to political meetings and many demonstrations. The reason is that there has been a growing tendency for some elements to use violence. At times this violence is organised and sustained and in the recent past this has resulted in episodes of serious disorder. Large numbers of police have been injured and the demands on police manpower are heavy, particularly in London. In 1977 there were 585 demonstrations, processions and similar events in London, mostly during the weekend. Not all of these proved troublesome, but all required the employment under a central control of officers from more than one Division. On over 60 such occasions more than 500 officers were called for duty, including 24 instances when over 1,000 officers were employed to deal with up to 20,000

demonstrators.

...

14. *It is inevitable that incidents of public disorder, wherever they occur, place enormous demands and stress on the resources of the police service. These demands are, in the main, met by the cancellation of leave and rest days. The effect of this on the policeman's domestic arrangements and the disruption of family life is in our opinion very serious indeed. We see no reason to doubt that threats to public order will continue in London and elsewhere, and accordingly in our view the only sensible course is to increase the number of police officers. This will spread the burden and ease the strain.*

...

27. *... In upholding law and order, be it at a football match, political meeting, industrial dispute or in the apprehension of criminals, the generally unprotected policeman is open, and frequently subjected, to deliberate abuse and physical aggression by various factions of society.*

5.3.17 The issue is also highlighted throughout the Commissioner's annual reports for 1968-1982:

- (1) *Report for 1968* (Cmnd.4060, June 1969), p.9: referring to public protest as "perhaps the most troublesome and persistent manifestation of 1968" involving officers being "pushed, kicked, abused and insulted":

Between Spring and Autumn, culminating on 27th October, few weeks passed without some public demonstration or procession which threatened, or regrettably in some cases resulted in, actual disorder... The great majority of people taking part were sincere and pacific but increasingly a militant element came to the fore whether Maoists, Trotskyists or anarchists, who felt that their aims could only be achieved by violence and who hoped that by the hysteria and excitement generated on these occasions they could carry with them many of the uncommitted.

- (2) *Report for 1969* (Cmnd.4355, May 1970), p.17: referring to a special training course on public order having been devised and delivered for the first time to the entire Uniform Branch comprising 16,000 officers;
- (3) *Report for 1970* (Cmnd.4680, June 1971), p.11: referring to "a continuous increase in the number of demonstrations, meetings and processions, although the intensity has not been so severe" and stating:

... a minority of determined militants were invariably there, making use

of the event to pursue their own aims and presenting a threat to public order. Whilst most organizers are genuine in their beliefs, it is unfortunate that some participants judge the success of their protests by the amount of disorder they create.

- (4) *Report for 1977 (Cmnd.7238, June 1978), p.1:*

The realities of 1977 were grim indeed. The run of net gains in police manpower recorded in recent years came to an end, and the year saw a reversion to the earlier pattern of wastage outstripping recruitment. This meant that a declining number of police officers were called upon to cope with a higher incidence of crime than ever before - the number of indictable offences reported was more than half a million - and with the problems of providing the massive presence that was required for the maintenance of public order at scenes of mass picketing and political marches. At some of the scenes, notably outside the Grunwick film processing laboratories at Willesden and in the streets of Lewisham on the occasion of a march by supporters of the National Front, the officers on duty were subjected to violence and abuse of an extreme nature.

- (5) *Report for 1978 (Cmnd.7580, June 1979), p.8 (and see also Appendix 11, Public order: cost of police operations):*

The cost to the community of policing public order events was high. It is not to be measured in money terms only, although the cost of police employed at the Notting Hill Carnival alone came to around £600,000, but the event also involved the diversion of thousands of police officers from the areas they normally serve. It is the citizens of London who suffer. They should know the burden that the policing of public order events imposes upon them and be aware of the serious reduction in the policing of other areas that is thereby involved.

That the year passed without a major breakdown of public order despite having to police an unprecedented number of events, is due in no small measure to the diligence and forbearance of Metropolitan Police officers throughout the year: weekend after weekend. Thanks are due not just to them and the members of the civil staff who are also involved, but to their wives and families who withstand disruption and uncertainty with equal fortitude.

- (6) *Report for 1979 (Cmnd.7932, June 1980), p.9:*

Southall apart, my officers were generally successful in keeping public order during 1979. Success in that important area of police work nevertheless continues to be hard earned, costly and at the expense of routine police operations in all parts of the Metropolitan Police District. The pressures of policing public events moreover saps the morale and energies of officers, who too frequently have to forgo their days off, often at short notice...

Common sense dictates that the extensive commitment of manpower to the policing of demonstrations, disputes and protests detrimentally affects crime levels throughout the London area...

(7) *Report for 1980* (Cmnd.8254, June 1981), p.5: referring to the maintenance of public order as “arguably the most difficult police task particularly where those involved are set on confrontation with opposing groups or the police”.

(8) *Report for 1982* (Cmnd.8928, June 1983), p.1:

Demonstrations have proliferated and there are many occasions each week when large numbers of police officers must be taken away from their stations throughout London for public order duties.

5.3.18 When it comes to statistics on the above, the Commissioner’s annual reports do not take a uniform approach over the period 1968-1982, but a key statistic can be found in the (then) incoming Commissioner’s report of problems and priorities dated 24 January 1983 (*Report for 1982* (Cmnd.8928, June 1983), Appendix 31, p.117):

In terms of public order, between 1972 and 1981, demonstrations requiring the employment of more than 100 police officers increased from 55 to 354, from an average of one per week to one per day.¹⁰

Statistics

5.3.19 The annual reports for 1968-1969 do not purport to give a detailed or comprehensive breakdown in relation to public order, but instead outline a number of significant protests (excluding 298 industrial disputes) involving at least 555 arrests, 349 injuries to police officers and 110 known / reported injuries to protestors / members of the public (Cmnd.4060, June 1969, pp.40-42; Cmnd.4355, May 1970, pp.37-38).

5.3.20 The most serious events in 1968-1969 with confirmed numbers for both arrests and injuries in double or triple figures were: Grosvenor Square x3 (17 March, 21 July and 27 October 1968); South Africa House (12 January 1969); and Berkeley Street (17 August 1969). On the last of these occasions, protesters threw a petrol bomb at the police (Cmnd.4355, May 1970, p.38). Furthermore, the US Embassy in Grosvenor Square housed a US Marine Corp detachment charged with protecting the premises and

¹⁰ In fact, the figure of 354 appears to exclude 25 events requiring the deployment of more than 1,000 officers (*Report for 1981* (Cmnd.8569, June 1982), p.27).

its personnel and the consequences of any breach of its perimeter could have been extreme for the government, the MPS and, most importantly, any protestors involved.

5.3.21 The annual reports for 1970-1974 give more precise figures for public order events requiring “special police arrangements” (“SPA”)¹¹ (see esp. the breakdown for 1972-1974 at *Report for 1974* (Cmnd.6068, June 1975), Appendix 8, Annex A):

Year	SPA events	Involving disorder	Arrests	Officer injuries	Civilian injuries
1970	c.500	not stated	>302	>169	not stated*
1971	>400	not stated	≥154	≥20	not stated
1972	470	15	239	161	39
1973	445	19	78	34	13
1974	406	20	306	102	24**

* *Excluding injuries at pop concerts on 18 July and 12 September.*

** *Including fatal injury to Kevin Gately at Red Lion Square.*

5.3.22 The above are expressed to exclude sporting events and industrial disputes, the latter being numbered at 202 (1970), 86 (1971), 141 (1972), 191 (1973) and 290 (1974).

5.3.23 The most serious events in 1970-1974 with confirmed numbers for both arrests and injuries in double or triple figures were: Twickenham (31 January 1970); Trafalgar Square to Grosvenor Square march (9 May 1970); Notting Hill (9 August 1970); Trafalgar Square (25 October 1970); Tower Hill to Parliament Square march (24 November 1971); Rhodesia House (5 February 1972); Trafalgar Square (13 February 1972); Red Lion Square (15 June 1974); and Turkish Embassy (14 August 1974). At the event on 25 October 1970, protestors attacked the police physically and with tennis balls filled with red paint and a model aircraft with a lighted firework attached (Cmnd.4680, June 1971, p.38). As noted in the *SDS annual report for 1970* dated 18 November 1970 [MPS0728972], para.11, the incidence of disorder would undoubtedly have been much greater that year if the MCC had not been prevailed upon to cancel the

¹¹ An exact definition of “special police arrangements” is not given, but the first reference to them in the Commissioner’s *Report for 1970* (Cmnd.4680, June 1971), p.11 suggests that they involved the deployment of between 50 and 2,000 police officers.

scheduled England v South Africa Test Series.

5.3.24 The Commissioner’s annual reports for 1975-1979 give the following figures for public order events requiring SPA (excluding sporting events) and for industrial disputes:

Year	SPA events	Industrial disputes
1975	356	225
1976	393	182
1977	585	not stated
1978	385	366
1979	420	323

5.3.25 The most serious events in 1975-1979 with confirmed numbers for both arrests and injuries in double or triple figures were: Notting Hill (30 August 1976); Staples Corner (19 March 1976); Duckett’s Common / Wood Green (23 April 1977); Grunwick (various dates, but esp. 11 July and 7 November 1977); Lewisham (13 August 1977); Notting Hill (29 August 1977); Southall, including fatal injury to Blair Peach (23 April 1979); and Notting Hill (26 August 1979). At the Duckett’s Common and Lewisham events in 1977, protestors used offensive weapons and not only threw eggs and bags of flour, but also smoke bombs, liquid ammonia, bricks and other missiles (Cmnd.7238, June 1978, pp.5 and 23). The SDS annual reports for 1974-1977 also set out more detailed reviews of key public order events in those years and these usefully supplement the summaries given in the Commissioner’s annual reports.

5.3.26 The Commissioner’s supplementary HASC evidence (HASC 5th Report of 1979-80, *The Law Relating to Public Order* (HC 756-II, August 1980), p.73) set out similar statistics for 1972-1979 in respect of “demonstrations for which the police arrangements were made centrally by A8 Branch and where more than 100 officers were involved” and the Notting Hill Carnival (excluding ceremonial, sporting and social events) (paras 32-38 and Appendices A-B):

Year	No. of >100 officer A8 managed events	Arrests at those events	Total officer deployments at those events
1972	55	not stated	19,367

Year	No. of >100 officer A8 managed events	Arrests at those events	Total officer deployments at those events
1973	60	not stated	19,015
1974	87	247	24,854
1975	55	65	32,772
1976	113	241	48,790
1977	130*	1,081	78,410*
1978	120	419	74,298
1979	119	536	108,014

**Including Grunwick.*

5.3.27 The annual reports for 1979-1982 give figures for public order events requiring the deployment of more than 1,000 officers (excluding sporting events), the annual reports for 1980-1982 do the same for events requiring the deployment of more than 100 officers (excluding sporting events) and the same reports also give figures for industrial disputes:

Year	>1,000 officer events	>100 officer events	Industrial disputes
1979	31	not stated	323
1980	25	282*	243
1981	25	379*	406
1982	29	230*	1,036

**Aggregate figures, including >1,000 officer events.*

5.3.28 The most serious events in 1980-1982 with confirmed numbers for both arrests and injuries in double or triple figures were: Lewisham (20 April 1980); Notting Hill (24 August 1980); Deptford to Hyde Park march (2 March 1981); Brixton (10-13 April 1981); and Brixton and elsewhere (10-11 July 1981).

Other indications

5.3.29 Further indications of the increasing volume and intensity of the public order issues faced by the MPS from 1968-1982 can also be seen in:

- (1) the fact the Commissioner made increasing use of his powers under the Public Order Act 1936, s.3(3) - prohibition of public processions - during this period for the first time since 1963 - once in 1978, seven times in 1981 and five times in 1982 (*Report for 1978* (Cmnd.7580, June 1979), pp.7 and 25; *Report for 1981* (Cmnd.8569, June 1982), pp.5 and 27; *Report for 1982* (Cmnd.8928, June 1983), pp.11 and 32);
- (2) the reform of public order law and enhancement of related police powers initiated by way of a statement made by the Home Secretary on 27 June 1979 following the Southall disturbances of 23 April 1979 (Home Office, *Review of the Public Order Act 1936 and related legislation* (Cmnd.7891, April 1980); HASC 5th Report of 1979-80, *The Law Relating to Public Order* (HC 756-I and II, August 1980); Law Commission, *Offences Relating to Public Order* (Law Com 123, October 1983); Home Office, *Review of public order law* (Cmnd.9510, May 1985); Public Order Act 1986).

5.4 Role of extremists

5.4.1 Not all of the public order events at which large numbers of officers had to be deployed resulted in disorder and not all of those which did began as demonstrations or protests. However, with the exception of the Notting Hill Carnival and Brixton disorders, it can clearly be seen that the public order events leading to the most serious disorder, arrests and injuries were political demonstrations and protests.

5.4.2 Furthermore, within this group, those involving demonstrations and counter-demonstrations by opposing factions of the far left and far right were the worst of all and the occasion for two fatalities. See the Commissioner's supplementary HASC evidence (HASC 5th Report of 1979-80, *The Law Relating to Public Order* (HC 756-II, August 1980), p.73, para.6):

6. *The most difficult demonstrations from a policing point of view are those which attract counter demonstrations. Over recent years we have had an increasing number of those events and at least during the last three years all have been connected with racial issues and have been generated by the activities of groups who represent the extremes of the political spectrum. Serious disorder has almost always occurred when demonstrations and counter*

demonstrations have taken place.

5.4.3 See also the *SDS annual report for 1976* undated [MPS0728980], paras 38-39:

38. The greatest continuing problem for police, however, is likely to come from the animosity between the extremes of left and right. The forthcoming Greater London Council elections, which will bring into the field candidates from both the Socialist Workers Party (IS) and the National Front, will require strenuous efforts in the area of preventive policing if widespread violence is to be precluded.

39. To sum up, there is little hope that 1977 can be other than an exceptionally busy year in the history of preservation of public order in the Capital. It is a tenet of revolutionary philosophy that the credibility of the Establishment and, especially, that part of it concerned with law and order, must be destroyed. To this end the ultra-left orchestrates a constant war of words accompanied, wherever the slightest opportunity presents itself, with physical violence which it sees as an important element of the struggle.

5.5 Groups reported on by the SDS

5.5.1 The focus of the SDS was on possible threats to public order and not the political or ideological persuasions or objectives of the groups it covered. Furthermore, groups could pose a threat to public order without necessarily being capable of mounting a revolution or presenting an existential threat to the state.

5.5.2 From the public order perspective, it is important to bear in mind that political and protest groups are not homogeneous entities and that their members and supporters can have different, even contradictory, views. Individual members or supporters may favour one aspect of a group's ideologies or activities, but not another, and many of those mentioned in SDS reports had perfectly lawful, well-meaning views and no desire to be involved in public disorder. However, what mattered was whether a group as a whole contained members who were together liable to cause or become involved in disrupting public order or in attracting others who might do so.

5.5.3 In this regard, the public order scene reported on by the SDS had a number of features which made it complicated and difficult to assess without reliable insider intelligence:

(1) Entryism

Far left groups frequently sought to take over, use and subvert each other, Irish

support groups, justice campaigns and groups such as CND, e.g.:

- (a) AAM was initially dominated by the CPGB and later targeted by CLAAG;
 - (b) CND was targeted by CPGB, IMG, IS/SWP, RCPB(M-L) and NVDA;
 - (c) IMG targeted ANL, CND, the Labour Party, PSF, Socialist Challenge, Socialist Unity, TOM and UTOM;
 - (d) IS/SWP targeted CND, Haringey Campaign Against the Cuts, TOM, the TUC's Fight the Cuts Campaign and justice campaigns such as the Friends of Richard Campbell, the Islington 18 Defence Committee, the Lewisham 21 Defence Campaign and the Stephen Lawrence Campaign and it was itself targeted by the League for Socialist Action;
 - (e) TOM was not only targeted by IMG, IS/SWP and WRP, but also by RCG, RCLB and Workers Fight;
 - (f) WRP (formerly the Socialist Labour League) targeted Equity, LPYS and TOM.
- (2) “Rent-a-crowd” activities
- Allied with the above, many anarchist and far left groups would also seek to hijack or piggyback on other disputes and events, well-known examples of this being the Grunwick industrial dispute of 1977 and the Air India workers strike of 1982.
- (3) Front organisations
- Far left groups also established and/or controlled a wide array of front organisations and event-specific *ad hoc* committees which they attempted to use in order to further their agendas and attract recruits, e.g.:

- (a) CPE(M-L) (latterly RCPB(M-L)) established / used numerous front organisations including the Indian Defence Committee, Outer East London Anti-Fascist Anti-Racist Committee, West Indian Defence Committee, Workers Committee - Fords Dagenham and East London's People's Front;
- (b) IMG and IS/SWP were involved with establishing / influencing the AIL, Irish Civil Rights Solidarity Committee / Irish Solidarity Campaign, TOM and Charter 80;
- (c) IMG was heavily involved with the VSC (together with the Bertrand Russell Peace Foundation and War Crimes Tribunal), established a youth movement - Spartacus League - and had over 30 front organisations by 1971 (Callaghan, *The Far Left in British Politics* (1987), p.123);
- (d) IS/SWP established / used numerous front organisations including ANL, Cypriot Defence Committee, Flame, National Union of School Students, Rebel, Rock Against Racism, Right to Work Campaign, School Kids Against Racism, Smash the H Blocks, Stop the War, the Reagan Reception Committee and Women's Voice;
- (e) RCG established / used the Irish Solidarity Movement and the North and South London Irish Solidarity Committees and was heavily involved with CLAAG;
- (f) RCP established / used East and South London Workers Against Racism and the Smash the Prevention of Terrorism Act Campaign / Irish Freedom Movement.

(4) Splinter groups

In addition to the above, far left groups frequently collapsed and resurrected in a different form or rebranded and their members frequently split with or broke

away from each other and formed rival groups. For example, Left Faction / Workers Power, Red Action, the Revolutionary Faction / RCG, Workers Fight / Alliance for Workers Liberty and Workers League all split from or were expelled by IS/SWP at different times. Furthermore, the RCT/RCP in turn split from the RCG.

(5) Counter-demonstrations

As already mentioned, the most dangerous feature of the public order scene reported on by the SDS, was the extent to which it revolved around far left and far right groups attempting to silence each other and deny each other's rights to freedom of expression and protest by picketing, disrupting, marching against and attacking each other.

5.5.4 Taken individually, none of the above was necessarily unlawful or grounds for undercover infiltration, but when taken cumulatively and in connection with groups which were liable to become involved in disorder, they complicated the tasks of collating and analysing intelligence and producing accurate threat assessments. See the memorandum summarising the findings of an MPSB review of the SDS dated 15 March 1976 [MPS0730745], para.2:

With respect to the degree of coverage considered necessary by the SDS, two aspects are of primary importance. Firstly the degree of involvement and manipulation exercised by the 'ultra-left' in all protest organisations, particularly in ad-hoc committees formed to arrange major demonstrations. Secondly, the number of splinter-groups continually being formed invariably consisting of militant elements. The latter do not recognise the need to liaise with police regarding proposed demonstrations and pickets, many of which are organised at short notice, and coverage within, or access to, these organisations is essential if adequate policing arrangements are to be made.

5.5.5 Some groups reported on by the SDS were security-conscious, well-organised and dangerous and the members of some used false "party names" and/or gave false addresses to obscure their identities, e.g. CPE(M-L), IMG, RCP, RCT and Spartacist League. Some were relatively disorganised but keen to create and exploit opportunities for disorder and unrest and capable of doing so. A small number proved to be relatively benign.

5.5.6 Various SDS annual reports from the 1970s refer to coverage of groups “to the left of the Communist Party” and “the ultra-left” and state that the CPGB and far right groups did not present a sufficient threat to public order to warrant coverage (e.g. *SDS annual report for 1969* dated 7 November 1969 [MPS0728973], para.5; *SDS annual report for 1972* dated 14 February 1973 [MPS0728970], para.7; *SDS annual report for 1973* dated 6 March 1974 [MPS0728975], paras 2 and 10).

5.5.7 In this regard, the CPGB tended to concentrate on trade union activity and, at least in the 1970s, the NF tended to cooperate with the MPS in connection with demonstrations and marches. It is clear from various documents that the SDS did not cover the CPGB because it did not present a threat of disorder or violence and was already well covered by MI5 (e.g. MI5 file note dated 22 September 1969 [UCPI0000030903], para.6). The first SDS undercover officer to infiltrate a far right group - the NF - did so at the behest of his primary target group - the WRP - and it was assessed that the intelligence he collected was all available from other sources (*SDS annual report for 1976* undated [MPS0728980], para.4). The position in relation to the far right changed following the electoral failures of the NF in the mid to late-1970s and the breakaway formation of the BNP in the early 1980s.

5.5.8 The Northern Ireland Troubles were a further complication:

- (1) Groups associated with Irish Republicanism posed particular risks throughout the Troubles for obvious reasons. In this regard, and simply to illustrate the point with public domain information, Noel Jenkinson had moved from Trotskyism into OIRA before murdering seven civilians at the Headquarters of the Parachute Regiment in Aldershot in 1972 and Kenneth Lennon was murdered in 1974 after being suspected of providing information to MPSB.
- (2) Many far left groups viewed PSF/PIRA and the INLA - which frequently engaged in Marxist rhetoric in the 1970s - as part of an anti-imperialist struggle and they were often ambivalent about whether to give them unconditional or conditional support. Intelligence about their internal discussions and decisions on this subject could obviously have a counter-terrorist and vetting value. In this

regard: AFA, CPE(M-L), IMG, RCP, Red Action, Spartacist League and UTOM demonstrated varying levels of support for PSF/PIRA and the INLA¹²; TOM had links to PSF/PIRA and varied its public stance on support depending on the public mood; and IS/SWP abandoned its public support for PSF/PIRA following the Birmingham pub bombings of 1974, but maintained some links thereafter.

- 5.5.9 In addition to this, the SDS reported on high-level links between the PLO and far left groups, the mysterious - apparently overseas and/or state-sponsored - funding of various groups (e.g. CPE(M-L)) and various groups which engaged in propaganda and misinformation (e.g. INLSF).

6. SDS PROCESSES

6.1 The SDS model

- 6.1.1 The SDS operational model is now well known: back-office in official MPS premises and two safe flats in changing locations; c.10-12 undercover officers deployed on a rolling basis infiltrating and reporting on far left, anarchist and Irish-related groups and, after a time, but not necessarily continuously, animal rights and far right groups; each undercover officer spending up to six months in the back-office preparing their legend and arranging cover accommodation, employment and vehicle; undercover officers meeting back-office staff and managers as a group twice a week in a safe flat and one-to-one as and when necessary; undercover officers also calling in to the back-office by telephone once a day, before and after demonstrations and with urgent information; undercover officers collecting non-evidential intelligence relevant to public order policing (primary purpose) and counter-subversion (collateral or secondary purpose); average deployment length 3-4 years.¹³

- 6.1.2 So far as concerns targeting, the aim was to provide a network of antennae across and covering the complicated and ever-changing London public order scene by reporting

¹² See, e.g. witness statement of Tariq Ali dated 2 March 2020 [UCPI0000034187], paras 161-166.

¹³ See *SDS Tradecraft Binder 2*.

on and following shifting groups, sub-groups and themes rather than specific individuals. This inevitably entailed some reporting on the softer outer circle of groups and some reporting during quieter periods:

- (1) the only route to a group's inner circle is via its outer circle (*SDS annual report for 1972* dated 14 February 1973 [MPS0728970], para.17, "It is therefore axiomatic that an oblique approach to a target is the most efficacious and secure - to join a relatively innocuous organisation and to be recruited into a more significant one");
- (2) infiltration necessarily had to be achieved before and not during or after times of high intensity and activity which could be quickly triggered by an event or the coalescence of disparate groups around a *cause célèbre* or topical issue with wider support, e.g. Vietnam, apartheid, internment, industrial action, ban the bomb, nuclear power, the transport of nuclear waste by train or the Falklands War (letter MPS to HO dated 27 May 1969 [MPS0728971], para.3);¹⁴
- (3) the collection of reliable intelligence is rarely a "question and answer" process because questions attract attention and suspicion - undercover officers need to pre-establish themselves in a "fly on the wall" position whereby information comes to or by them unprompted.

6.1.3 The aims of the SDS were clear from the outset - collection of public order intelligence, identification of participants and offenders at demonstrations and protests and collection of long-term intelligence (letter MPS to HO dated 20 May 1969, para.3). In this regard, the SDS was an intelligence collection unit - the analysis, assessment, collation, grading, use and destruction or retention of that intelligence was for others.

6.1.4 So far as concerns liaison between undercover officers and the back-office and managers, safe flat meetings involved: the preparation or submission of draft intelligence reports; group and individual deployment-related briefs, debriefs and

¹⁴ Conversely, the need for intelligence may suddenly dissipate, as when the England and Wales v South Africa Test Series was cancelled in 1970.

discussions; identifying people in photographs and referring to files; and administrative matters such as completing daily diaries or “232” sheets, expenses, overtime, annual performance reviews, promotion classes and official notices.

- 6.1.5 These meetings also served a welfare purpose by providing for an element of direct supervision and line-management and an opportunity for undercover officers to relax with “real life” work colleagues (e.g. *SDS annual report for 1970* dated 18 November 1970 [MPS0728972], para.16; *SDS annual report for 1972* dated 14 February 1973 [MPS0728970], para.21; *SDS annual report for 1974* dated 4 February 1975 [MPS0730906], para.10).

6.2 Intelligence reports

- 6.2.1 A proportion of the intelligence collected by SDS undercover officers was recorded in standard form MPSB reports (often headed “special report”) in accordance with standard Branch procedures. Although it is convenient to refer to these in the SDS context as “intelligence reports”, it is important to recognise that MPSB reports did not necessarily contain intelligence as such, e.g. they could contain information that was collected overtly at a public meeting or Speakers’ Corner or attach a publicly available flyer, leaflet or pamphlet.
- 6.2.2 Furthermore, MPSB written reports - whether or not originating from the SDS - could serve different purposes, e.g. information about the subjects of MPSB registered files (“comprehensive reports”), updating information on the subjects of pre-existing MPSB registered files (“up to date reports”), identification of people in photographs (“idents”) or responses to or comments on other correspondence.
- 6.2.3 It is also important to recognise that the production and circulation of MPSB written reports was a relatively slow process, particularly in the 1960s, 1970s and 1980s when: there were no emails or mobile telephones and written communications were not instantaneous; documents were circulated and filed in hard copy and additional copies might be produced using carbon paper; photocopiers, word processors, printers and fax machines were basic, expensive and in short supply; and the operation of such equipment and even typing were seen as specialist skills.

6.2.4 At least until 1982, the production and circulation of MPSB reports thus involved the following stages:

- (1) drafting in manuscript or dictation (general SDS practice - done by undercover officers in the safe flats, but back-office staff and managers could also “carve”, amalgamate or supplement reports in the back-office);
- (2) topping and tailing, typing and adding MPSB and MI5 file reference numbers¹⁵, checking and correction - not necessarily done in one sitting and possibly using multiple typewriters (general SDS practice - done by back-office staff plus typists);
- (3) post-completion (general SDS practice - one copy retained in back-office and further copies sent to Chief Superintendent with oversight of unit for sign-off and onward processing):¹⁶
 - (a) original sent to MPSB Registry for filing in destination registered file and insertion of relevant cross-references into other files;¹⁷
 - (b) copy circulated within MPSB by internal mail under covering minute sheet indicating recipients and recording their successive annotations;

¹⁵ MPSB registered files had the prefix “RF” and MI5 personal files had the prefix “PF”.

¹⁶ Each report was ultimately signed off by or on behalf of the Chief with oversight of the SDS and went out in his name. From *c.*1978 onwards, only the Chief’s name appeared. Prior to this, other names were also included. The practice varied, but generally speaking: from *c.*1974-1977, the Chief was a first counter-signatory to the DI or DCI managing the SDS; and, from *c.*1968-1974, the Chief was a second counter-signatory to the DI or DCI and the latter was a first counter-signatory to the original reporting officer. Where the original reporting officer was named in early SDS intelligence reports, they would not necessarily sign the report itself and rarely did so after *c.*1970.

¹⁷ MPSB operated a system whereby a registered file would be opened on an individual once they had been “mentioned” a certain number of times in other reports in a particular context and so a track was also kept of “mentions”. It goes without saying that there was no rule against reporting on “no trace” individuals without a registered file, otherwise few such files would have been opened and their contents would have been less useful. Note that, depending on the context, a file on most individuals would generally contain a “comprehensive report” setting out the results of “Special Branch enquiries” on the subject, but might otherwise largely comprise of cross-references to other files containing reports which mention them.

- (c) copy or copies sent to MI5 and potentially others without a covering minute sheet.

6.2.5 SDS personnel were only involved in stages (1)-(2) above. As draft intelligence reports and notes were submitted by undercover officers on a bi-weekly basis, it follows that the back-office would have to process batches of *c.* 10-20 reports on the same basis. The internal circulation within MPSB and the external dissemination of additional copies were decided and the covering minute sheets were added by the relevant Chief or his office and not by the SDS. Furthermore, original SDS intelligence reports were stored in and accessible via the filing systems of MPSB and MI5 - the unit did not need to maintain its own independent structured files because it was a staging-post for intelligence and not a reference resource.

6.2.6 It follows from the above that updating and referring to MPSB registered files could not take place instantaneously and depended on hard copy files being physically located, removed and inspected and that the written intelligence reporting process itself was comprehensive and efficient, but somewhat slow. The importance of this is that the written process was not well-suited to the rapid, dynamic or urgent dissemination of up-to-date intelligence about imminent or developing public order events and so was often supplemented by direct face-to-face or telephone communications. Indeed, it will be seen that some intelligence reports post-date their subject matter events by some days and even weeks.

6.3 Incompleteness of available materials

6.3.1 The inquiry does not have available to it anything like a complete or comprehensive set of the documents produced by or recording the work of the SDS in the period 1968-1982. This is due to the passage of time and the natural weeding of out-of-date materials and not any failing on the part of the MPS or the inquiry. However, it does have knock-on effects for the completeness of the available evidential picture and, therefore, the scope for jogging the memories of those involved and making reliable findings of fact.

6.3.2 For the avoidance of doubt, there is no truth to suggestions that MPS personnel engaged in a mass shredding of SDS files or materials as part of some kind of cover up

(Operation Herne, *Report 2: Allegations of Peter Francis* (March 2014), paras 26.1.10 and 26.1.14). The unit did not need to and so did not maintain or retain its own hard copy registry of intelligence reports on a long-term basis - this was a job for the MPSB Registry and the recipients of those reports.¹⁸ Furthermore, the unit computerised in the mid-1990s and its electronic records - which were not destroyed or deleted when it closed - have been made available to the inquiry (Operation Herne, *Report 3: Special Demonstration Squad Reporting: Mentions of Sensitive Campaigns* (July 2014), paras.9.2 and 13.10).

6.3.3 Some pre-computerisation hard copy SDS intelligence reports and covering minute sheets have been identified within and recovered from MPSB files. These generally have “MPS” reference numbers added to the bottom. However, they inevitably represent a relatively small set of materials because MPS rightly destroys old and unnecessary records (note the *Home Office Guidelines on Special Branch Work* dated December 1984, para.17 on the mandatory weeding out and destruction of information no longer being clearly related to the discharge of Special Branch functions). Furthermore, and in any event, there is no easy way of identifying and differentiating SDS intelligence reports because they were not marked as such or overtly attributed to the unit.¹⁹

6.3.4 A much larger set of SDS intelligence reports was retained and has been made available to the inquiry by MI5. These were generally marked or stamped “Box” or “Box 500” by MPSB and (from c.1974 onwards) “SDS” by MI5 and do not have covering minute sheets. They also generally have “UCPI” reference numbers added to the bottom. However, it is clear that MI5 did not receive and/or has not retained a full set of these reports. In this regard, the majority of DL officers believe that the sets of intelligence reports attributed to them and included in their r.9 witness packs are incomplete: there are significant chronological gaps in the reporting and cross-references to missing reports; some DL officers have highlighted reports they produced or events on which

¹⁸ A copy of each intelligence report was retained in the SDS back-office for at least a short period. Some DL officers recall intelligence reports being referred to in the back-office by undercover officers preparing to deploy and in connection with undercover officer annual performance reviews.

¹⁹ Copies annotated or stamped “SDS” have been recovered from MI5 which added those markings to its copies from c.1974 onwards, shortly after the Special Operations Squad was renamed the Special Demonstration Squad.

they would have reported which are not reflected in their witness packs; it is possible to identify some reports with “MPS” reference numbers where there is a covering minute sheet confirming that it would have been copied to MI5, but where the report itself does not appear to have been recovered from MI5; and the focus tends to be on the membership and meetings of target groups, rather than their planned involvement in public order events.

6.3.5 The above is understandable given the counter-subversion interests of MI5 and the following may explain it:

- (1) Intelligence about upcoming public order events would have been more ephemeral and evanescent and would have had a very short shelf-life. Accordingly, and given the pace at which intelligence reports were processed, such intelligence was not always committed to written reports and, when it was, it would have been of relatively little interest or use to MI5 (particularly after the event) and so may not have been copied to or retained by it.
- (2) Other reports may have been destroyed in accordance with MI5 policies on the review, retention and disposal of information - note that MI5 destroyed at least 110,000 subversion-related files in the mid-1990s following the end of the Cold War (Intelligence and Security Committee, *Annual Report 1997-98* (Cm.4073, October 1998), paras 41-51 and *Annual Report 1998-99* (Cm.4532, November 1999), paras 76-80).

6.3.6 Furthermore, and in any event, intelligence reports were not the only means by which SDS intelligence was captured and communicated. There were evidently face-to-face discussions, meetings and telephone calls between: SDS personnel; and SDS back-office staff and managers, MPSB Squads, MI5 and the Public Order Branch. Not all of these would have been recorded in writing and the type of written record that may have been produced (e.g. logs or notes of telephone messages or calls) rarely feature in witness packs. Again, this is no doubt because the subject would often have been the likely numbers, mood, plans and intentions of those attending upcoming public order events and such information was of little use once the event had taken place. In this

regard, retrospective demonstration or meeting reports produced by non-SDS personnel within MPSB and/or Public Order Branch would inevitably be of more use than a superseded prospective forecast from the SDS.

7. SDS CONTRIBUTION

7.1 Public order

7.1.1 Parts 5.3-5.4 above refer to the increasingly severe threats to public order in London which existed from 1968 onwards, particularly at the instigation of political and protest groups and, most particularly, in connection with demonstrations and counter-demonstrations mounted by opposed groups on the far left and far right. It was therefore inevitable that the SDS would infiltrate and report on such groups, their campaigns and their members (see part 5.5 above).

7.1.2 From the public order perspective, what matters most is that SDS reporting facilitated more effective management of public order incidents and events by Uniform Branch. See the letter from MPS to HO dated 22 March 1974 [MPS0730906], para.4 confirming that reports originating from SDS, “enabled uniformed Divisional Commanders to apply adequate strength in numbers to containing potentially violent situations without any show of over-reaction which can inflame militant passions at times”. See also the memorandum summarising the findings of an MPSB review of the SDS dated 15 March 1976 [MPS0730745], p.2:

At the conclusion of the working party’s deliberations, I spoke with DAC Gibson and Commander Fleming of ‘A’ Dept (Ops). I was assured that the information and assessments prepared by Special Branch regarding impending demonstrations is considered to be of extreme importance to the Uniform Branch, not only to assist in providing adequate police coverage but also to avoid over-reaction which could in itself lead to a provocative situation. In this respect, the Chief Superintendents of all operational Squads in the Branch speak most highly of the assistance rendered by the SDS.

7.1.3 As already mentioned, the passage of time, the unattributed and untraceable way in which SDS intelligence was processed and the unavailability of key documents mean it is extremely difficult to identify the uses to which specific pieces of SDS intelligence were put and impossible to assess what could or would have happened without its reporting. That said, some surviving documents and witness evidence do record at least

some specific incidents, e.g. the *SDS annual report for 1977* dated 13 March 1978 [MPS0728981], paras 18-26 referring to cases where SDS intelligence helped avoid or reduce violence at three major public order events in that year alone.

7.2 Subversion

7.2.1 MI5 publicised its historical interest in broadly the same targets as the SDS via Andrew, *The Defence of the Realm: The Authorized History of MI5* (2009) which disclosed the following about the Service's counter-subversion work in the 1970s and 1980s:

- (1) during the 1970s, almost a third - 28% - of MI5 resources were expended on counter-subversion operations conducted by F Branch (p.616, Appendix 3);
- (2) MI5 contributed to and produced papers for, and assigned an assessments officer to, the interdepartmental committee on Subversion in Public Life established in 1972 and reactivated in 1976 (pp.596-597, 658);
- (3) MI5 monitored industrial unrest and mounted interception, eavesdropping and informant operations against the CPGB, Transport and General Workers' Union, National Union of Mineworkers and CND (pp.588-599, 664-666, 672-677);
- (4) MI5 also monitored and mounted such operations against "Communists, Trotskyists and fellow-travellers", "domestic subversives" and "Trotskyist militants", including the IS/SWP, IMG, WRP and RSL/MT (pp.592, 647, 660-661, 666, 677);
- (5) by the early 1980s, MI5's long-standing responsibility for vetting made it necessary for it to maintain "comprehensive lists of members of, and people known to be sympathetic to, subversive organizations" and generated a considerable volume of work - 3,000 negative vetting enquiries a day and 68,000 government posts subject to positive vetting (p.681 and see also *Statement on the recommendations of the Security Commission* (Cmnd.8540, May 1982) and Hennessy, *The Secret State: Preparing for the Worst 1945-2010*

(2nd ed., 2010), p.102).

- 7.2.2 The National Archive has also released at least one MI5 assessment of “Subversive Organisations in the United Kingdom” prepared for the Joint Intelligence Committee and dated 22 March 1971 (Hennessy, *The Secret State: Preparing for the Worst 1945-2010* (2nd ed., 2010), pp.122-123, 127-152). This assessment dealt with 27 subversive organisations, a number of front organisations and a group of publications under five headings - communist; Trotskyist, anarchist and extreme left; fascist; nationalist; racist.²⁰
- 7.2.3 Similarly, the MI5 file note dated 22 September 1969 [UCPI0000030903] demonstrates its interest in “the new revolutionary movements to the left of the CPGB, such as the various Trotskyist, Anarchist and pro-Chinese groups responsible for demonstrations”.
- 7.2.4 Given the above and the role of the SDS, there was bound to be considerable overlap between the groups and individuals covered by the SDS and MI5 and it is obvious that this overlap went well beyond the communist and Trotskyist groups expressly avowed in the latter’s authorized history.
- 7.2.5 Indeed, it appears from the papers disclosed by the inquiry that MI5 not only supported the establishment and maintenance of the SDS, but also considered making a financial contribution to its operation, albeit that this was ultimately not necessary. See internal unregistered MPS minutes from MPSB Commander Fergie Smith to Assistant Commissioner Crime Peter Brodie dated 9 November 1968 and 28 November 1968 [MPS0730219]. The first of these reads:

At a meeting held on 6th November with [] and other members of the Security Service, I was asked whether we intended to carry on with our penetration squad. When I said we did, this was warmly welcomed by them, I mentioned that the financing of the operation might be difficult and [] promised to discuss this aspect with his Director General when the latter returns from sick list.

²⁰ CPGB; Young Communist League; Communist Front Organisations; Socialist Labour League; Socialist Labour League Young Socialists; IMG; Spartacus League; International Socialism Group; RSL; Anarchist Federation of Britain; Syndicalist Workers Federation; Solidarity; New Left Group; Underground Press; Communist Party of Britain Marxist Leninist; Communist Federation of Britain Marxist Leninist; Revolutionary Marxist Leninist League; English Communist Movement Marxist Leninist; NF; Union Movement; British Movement; National Patriotic Front; IRA (Provisional Army Council) Brady Faction; IRA Goulding Faction; Ulster Volunteer Force; Saor Eire; Communist Party of Ireland; Peoples Democracy; Black Panther Movement.

Clearly, however, they cannot be expected to make any major contribution...

7.2.6 Correspondingly, and consistently with the fact that MPSB was charged by the Home Office with assisting MI5, the support of MI5 for the SDS was a factor taken into account by the MPS and Home Office in maintaining the unit:

(1) letter from HO to MPSB dated 16 December 1968 [MPS0724116]:

I was glad to have the assurances you gave me about the close working between yourselves and the Security Service on this particular enterprise.

(2) letter from MPS to HO dated 27 May 1969 [MPS0728973]:

The Commissioner is firmly in favour of our continuing the Squad's operations, and Commander Smith tells me that the Security Service fully support our view that it be allowed to continue. The product of the Squad is shared with them, of course, and [regular] consultation takes place between that Service and our own officers.

(3) letter from MPS to HO dated 30 November 1970 [MPS0724132]:

There is an extremely frank and intimate day-to-day working liaison between the Squad and the Security Services and meetings are periodically held to discuss mutual problems, identify areas where cover can be improved and modify where necessary modify the plans of both organisations. I know the Security Service value greatly the work the Squad is doing.

(4) letter from MPS to HO dated 17 December 1971 [MPS0728971]:

...at the same time, the Security Service, which maintains a close and effective contact with those running the Squad, benefits greatly from the intelligence product it secures.

7.2.7 The close and regular liaison and cooperation between MI5 and the SDS is also emphasised in the SDS annual reports:

(1) *SDS annual report for 1972* dated 14 February 1973 [MPS0728970], “copies of most reports are passed to [MI5] and friendly liaison is maintained” and, “They say [this benefits their operations against subversive elements]” (para.9(iv));

- (2) *SDS annual report for 1973* dated 6 March 1974 [MPS0728975], referring to MI5/SDS cooperation on an SDS inspired operation relating to a dangerous group (para.8);
- (3) *SDS annual report for 1974* dated 4 February 1975 [MPS0730906], “The distribution of information obtained by the SDS to the Security Service has been further safeguarded by a recent decision to channel all such reports through a single unit, where a caveat is imposed forbidding further enquiry without reference to the SDS, thereby eliminating any possible disclosure of the source” (para.5);
- (4) *SDS annual report for 1977* dated 13 March 1978 [MPS-0728981], “Copies of all reports are of course passed to the Security Service and their gratitude for the value of such information this year is on record” (para.7).

7.2.8 The same appears in contemporaneous MI5 documents:

- (1) MI5 file note dated 2 August 1968 [UCPI-0000030045] confirming MI5’s F4 Branch and the SDS “working closely together... against Trotskyist and Anarchist targets” (para.4);
- (2) MI5 file note dated 22 September 1969 [UCPI0000030903] confirming deep coverage of the CPGB and “[some coverage] of” (para.4) Trotskyists, anarchists and pro-Chinese revolutionary protest groups, “an increasingly close rapport” with MPSB achieved “with the object of co-ordinating agent coverage and eliminating wasteful duplication of effort” (para.5) and the two cooperating “very closely” (para.7) in the sphere of revolutionary protest groups to the left of the CPGB;
- (3) MI5 file note dated 17 January 1969 [UCPI0000030766], confirming “joint coverage” of and “utmost cooperation” on Trotskyists and anarchists (paras 1 and 7).

7.2.9 The close relationship, cooperation and overlap between MI5 and the SDS is further apparent from the following:

- (1) almost all of the intelligence reports recovered by the inquiry and included in the r.9 witness packs thus far put to former SDS undercover officers were copied to, retained by and obtained from MI5;
- (2) the SDS pre-added MI5 “PF” file reference numbers into these reports to make them easier for it to use and process;
- (3) MI5 adopted an in-house alphanumeric source identification numbering system for internal references to individual SDS undercover officers;
- (4) around half of the substantive r.9 witness packs served on DL undercover officers and reviewed by the DL team thus far (22 out of 44)²¹ contain intelligence reports which expressly cross-refer and respond to MI5 correspondence;²²
- (5) those witness packs have also contained a small number of MI5 documents further demonstrating close liaison and cooperation with the SDS, e.g. file notes, briefs for and debriefs of undercover officers, minutes of meetings with managers, comments on intelligence reports and on next steps, requests for information from MPSB and the SDS, telexes and correspondence expressing thanks, praise and commendation.

²¹ Including HN20 and HN65, who have been moved into T2, the DL represents 40 former SDS undercover officers deployed between 1968 and 1982 and has reviewed 37 witness packs served on them (three were not served with substantive deployment-related r.9 requests or witness packs). The DL has also reviewed seven witness packs served on DL SDS undercover officers deployed between 1983 and 1992. The percentage of T1 and T2 undercover officer witness packs containing intelligence reports cross-referring or responding to MI5 correspondence is indicative only: issues of duplication and attribution arise as between different witness packs and the number of missing intelligence reports is unknown. Furthermore, such reports may have responded directly to an MI5 request addressed to MPSB or the SDS or they may simply have followed on from and been linked to MI5 correspondence.

²² For example, see the intelligence reports uploaded to the T1P1 open hearing bundle on Opus and attributed to the following DL officers: HN45 dated 10 March 1972 [MPS0739241/1] - MI5 asking about the employment particulars of a named individual; HN348 dated 2 February 1973 [UCPI0000014736/1] - MI5 asking about the addresses and telephone numbers of two individuals involved in (hosting) the London Alliance in Defence of Workers’ Rights and the Revolutionary Women’s Union.

7.2.10 Although MI5 has not sought designation as a core participant in this inquiry, it has applied for and been granted numerous redactions in connection with documents recovered from its own archives and from the MPS. The DL has not been party to the entirety of this process and, where possible, has sought to challenge the need for some redactions and press for the substitution of gists.

7.2.11 It is clear from the above that MI5 was very far from a passive or reluctant recipient of SDS intelligence reports and the volume and contents of other such materials in the hands of MI5 and/or the inquiry is unknown to the DL.

7.2.12 The above should not be read as a criticism of the inquiry or MI5 and the following should be noted:

- (1) While MI5 and the SDS cooperated, consulted and liaised with each other regularly (directly and via MPSB), they remained institutionally separate and stayed within their own respective remits. The SDS received briefings and intelligence requirements from MI5, but it was not obliged to and sometimes did not accept or act on them. Neither was it a servant or agent of MI5.
- (2) Partly in order to protect their identities and limit the damage that might flow from their compromise and partly through observance of “need to know” principles: SDS undercover officers had relatively little, if any, direct contact with MI5 and were rarely told when a request or task had come from MI5; and the real and/or cover names of SDS undercover officers were sometimes withheld from MI5 or disclosed only subject to need-to-know restrictions.
- (3) The close relationship and cooperation between MI5 and the SDS should not be a cause for surprise or concern: subversion and public disorder were inextricably linked and often pursued by the same groups and individuals. It was therefore inevitable that MI5 and the SDS should be collecting intelligence on the same people and essential that they cooperate closely. Had they not done this and deconflicted their operations, they would have risked, at best, a duplication of

effort and, at worst, interaction with, targeting of, reporting on or even compromise of each other's sources.

- (4) The DL also recognises that what matters most is that the inquiry should receive full evidence about the close relationship and cooperation between MI5 and the SDS and that there may well be grounds for doing some of this in closed session. Furthermore, the DL has no reason to think that MI5 is not cooperating with the inquiry when it comes to disclosure.

7.2.13 In the mid-1990s, following the end of the Cold War, the reduction in the power and influence of far left groups and the transfer of responsibility for countering Irish Republican terrorism on mainland Great Britain from MPSB to MI5, the far left became of less interest to MI5 and the SDS and the relationship between the two organisations changed and lessened accordingly (*Operation Herne, Report 2: Allegations of Peter Francis* (March 2014), para.15.1).

7.2.14 The DL recognises that this is not an inquiry into the activities of MI5 and it has no interest in publicising damaging information about specific MI5 operations or sources. However, it is submitted that MI5 should be content for the inquiry to reveal its co-targeting of groups also reported on by the SDS other than solely the IS/SWP, IMG and WRP. In this regard, 11 years have passed since the publication of Christopher Andrew's authorised history and it is understood that MI5 has not undertaken a fresh assessment of the scope for further avowals in the context of this inquiry.

7.2.15 Subject to the above, the DL's primary submission is that the inquiry should adequately acknowledge and signpost the nature and degree of the relationship and cooperation between MI5 and the SDS in both qualitative and quantitative terms and in as much detail as is possible without damaging the public interest.

7.2.16 It is submitted that this acknowledgment and signposting is essential for the following reasons:

- (1) The close relationship and cooperation between and shared interests of MI5 and

the SDS are wholly incompatible with the suggestion that the latter was some kind of rogue unit on a frolic of its own. It was an embedded part of the national intelligence machinery which undertook work which was not only funded by government, but which also complemented the government-funded work of MI5.

- (2) That MI5 actively received and consumed the majority of the SDS intelligence reporting output and was covering the same areas was consistent with, and could only have bolstered, the view of the MPS and Home Office that the SDS's targets warranted serious attention and its work was important and justified. Furthermore, MPSB was expressly charged by the Home Office with assisting MI5 and it could not realistically have challenged or gainsaid the latter's assessment of national security matters.
- (3) The degree of ongoing secrecy about MI5 operations in the same broad operational area demonstrates that the work of the SDS was more important and potentially more dangerous than many would like to acknowledge.
- (4) The answer to questions about the reasons for SDS action or inaction in connection with certain groups or individuals may lie in necessarily closed information about corresponding inaction or action on the part of MI5.
- (5) The inquiry's assessment of the justification for SDS operations must take account of the fact that the intelligence it obtained was also of interest to MI5 and may well have been obtained by it using alternative methods had the SDS not existed.
- (6) It is impossible for the inquiry to quantify the contribution of the SDS to MI5's counter-subversion and vetting work because this would require a counter-factual assessment of what would have happened without its intelligence. For example, one unsuitable individual able to pass the vetting required for appointment to a sensitive government post - absent SDS reporting - would have been capable of compromising secret information and putting lives at risk.

8. SDS: SPECIFIC ISSUES

8.1 Scope of reporting

8.1.1 SDS personnel did not infiltrate or target justice campaigns (including the Lawrences), Members of Parliament or trade unions and were not involved in trade union “blacklisting” (see the inquiry’s list of main infiltrated groups published to date at *Update note July 2018*, pp.7-9). Justice campaigns, Members of Parliament and trade unions were only referred to in SDS intelligence reports if and to the extent that they came into contact with those who were being reported on.

8.1.2 Even a list of groups actually infiltrated by the SDS would give a somewhat misleading impression of the scale of the operation because - as set out in part 5.5 above - the membership and organisation of different groups was relatively fluid, it was not uncommon for groups to merge, split, rebrand, reform and establish multiple front organisations and some secondary groups were reported on due to entryist infiltration and targeting by other groups. See, e.g. *SDS annual report for 1969* dated 7 November 1969 [MPS0728973], para.4:

The fact that it is possible to cover a larger number of organisations than when the Squad was last reviewed is partly due to the tendency of the extremists to belong to, and move amongst, several organisations enabling the undercover officers to do likewise.

8.1.3 Particularly bearing in mind the above, it is submitted that the inquiry’s list of 67 groups infiltrated by the SDS over the 40 year period from 1968-2007 does not represent an excessive number, even allowing for the fact that (1) there were multiple rolling deployments into (different branches of) a small number of key groups (esp. IS/SWP) and (2) some of the more dangerous target groups are not being made public (*Update note July 2018*, pp.7-9).

8.2 Cover identities

8.2.1 Roughly half of the DL officers deployed undercover by the SDS used information from the birth certificates of children who had died in childhood when creating their cover identities. This was adopted as standard practice by the SDS from c.1973 until computerisation of the registers made it unnecessary in the mid-1990s, i.e. undercover

officers deployed before and after this period did not use such information. The information used varied somewhat but generally included the names and dates and places of birth of the deceased children in question. As summarised in *Operation Herne, Report 1: Use of Covert Identities* (July 2013), undercover officers blended birth certificate and other information to create their legends and did not masquerade as revenants (paras 11.3-11.4).

8.2.2 The practice was developed and used by other parts of the security, intelligence and law enforcement community as a means of proving or “backstopping” false identities against third party scrutiny. Although the preparation of a fake birth certificate was always possible, the insertion of a corresponding entry in the publicly accessible register of births was not because the register was contained in large bound volumes with multiple entries on each completed page. Accordingly, the SDS had to choose between using (1) wholly fictitious cover identities which would be vulnerable to compromise if checked and so put undercover officers at risk or (2) information about deceased individuals. The former route was adopted to begin with (see DCI Dixon, *Penetration of Extremist Groups* dated 26 November 1968 [MPS-0724119], p.4) but reviewed and abandoned after a number of undercover officers were compromised or “outed”.²³

8.2.3 Furthermore, the risks SDS undercover officers faced more generally and of compromise in particular increased in the early 1970s. In this regard, it will be noted that the Angry Brigade bomb attacks took place in 1970-1971 and OIRA and PIRA carried out the first Northern Ireland Troubles-related bombings on the Great Britain mainland in 1972 and 1973 respectively. The Commissioner’s annual reports for 1971 and 1973 respectively reported (Cmnd.4986, June 1972, p.14; Cmnd.5638, June 1974, pp.12 and 14):

The past year [1972] has seen a disturbing increase in the use of explosive devices in promoting political ideologies. The homes of Cabinet Ministers and other prominent persons, and various other premises, have been attacked with bombs, often with reckless disregard for possible injury or loss of life.

...

²³ Prior to the formalisation of the practice in c.1973, a small number of SDS undercover officers drew on real identities in creating their cover identities, but this was done informally and without researching the register of deaths.

During 1973, and for the first time in the current campaign of political terrorism, London became the target for attack by letter, incendiary and high explosive bombs with attendant severe casualties among innocent members of the public... I have referred earlier to the terrorist attacks involving various types of bombs which occurred in London during the year. There is no doubt that these forms of violence have become an ever-present threat in the sphere of political protest, posing yet another hazard in the increasingly complex task of maintaining public order.

8.2.4 Although the practice of using birth certificate information was lawful and references to the “theft” or “stealing” of identities are inappropriate (Operation Herne, *Report 1: Use of Covert Identities* (July 2013), paras 9.1-9.3), the revelation of its use in relation to a particular family could easily cause a great deal of distress and upset. Some DL officers were uncomfortable with the practice, some regarded it as necessary tradecraft and all proceeded on the basis that there was no alternative and the families of the deceased children in question would never know. Beyond saying this, they would simply emphasise that they took no pleasure from the practice, meant no disrespect or offence by it and acted with the best intentions and for public interest reasons. The DL officers recognise and respect the fact that this will not satisfy some, but hope that it may at least be of some comfort to others.

8.3 Sexual relationships

8.3.1 Of the 74 DL officers deployed undercover by the SDS, it would appear that four had casual sexual encounters during their deployments and while in their cover identities, two entered into longer-term sexual relationships and 68 of them did not.

8.3.2 The casual sexual encounters were “one night stands” with women who were on the periphery of or unconnected with the relevant officer’s target groups, they had no deployment-related purpose or significance and they were of the kind that happens between adult men and women in social settings and in all walks of life.

8.3.3 So far as concerns the two longer-term relationships entered into by DL SDS undercover officers:

(1) HN1

relationship with a member of a target group which lasted about a year, was

inappropriate and should not have happened;

(2) HN91

met current partner - who was not connected with any target group - while deployed undercover and disclosed true role and identity after a short period.

8.3.4 Including the above, it would appear that a significant minority of SDS undercover officers - 16 out of 117 - entered into intimate relationships which went further than casual sexual encounters while deployed and in their cover identities. As made clear by the MPS, such relationships were operationally unnecessary, potentially and often actually harmful and, most importantly, wrong.

8.3.5 As well as hearing from those affected by such relationships, it is submitted that the inquiry's function of understanding how and why they happened and of making recommendations for the future requires it to investigate the key issue of suitability for undercover work.

8.3.6 The selection and vetting of suitable candidates is more complicated than simply the elimination of individuals with a history of affairs or promiscuity, particularly in the case of longer-term deep-cover deployments which involve evening or weekend socialising and the consumption of alcohol. Undercover officers need healthy but not excessive levels of confidence and ego, an ability to handle stress and compartmentalise and they need to find a way to relate to those they are reporting on. To counter-balance these traits, they also need to be grounded in their real lives and identities and their police roles and have good boundaries and an ability to avoid over-assimilation and over-identification. For some personality-types, secrecy, the unreality of a double-life, the sense of being a special, elite member of a special, elite group and the constant fear of compromise are not conducive to the maintenance of good grounding or boundaries or the avoidance of over-assimilation and over-identification. In order to better understand these factors and their management, it is submitted that the inquiry should obtain up-to-date independent expert input from, e.g. clinical psychologists and/or behavioural scientists with experience of undercover officers and their work - not to excuse or justify bad behaviour, but to help avoid its future recurrence.

9. CONCLUSION

9.1 Structural challenges facing the inquiry

9.1.1 The inquiry has previously referred to the difficulties inherent in conducting a public inquiry into a private subject matter and the DL would highlight four fundamental obstacles which it faces and their cumulative effects.

Terms of reference

9.1.2 The terms of reference set for the inquiry by the Home Secretary are both over-broad and unnecessarily restrictive:

- (1) The extraordinary breadth and historical reach of the terms of reference - “undercover police operations conducted by English and Welsh police forces in England and Wales since 1968” - mean the inquiry must inevitably proceed without crucial evidence. First-hand recollections of the relevant period have faded, a great many key witnesses are elderly or deceased and relatively few contemporaneous documentary records are available (see part 6.3 above). Since the DL team was established, two of its clients have very sadly passed away and a number have become very unwell with dementia, Parkinson’s, heart attacks and other serious conditions. Furthermore, the product of secret intelligence is and always has been sanitised to protect its source with the result that its origins tend to remain unknown and uncredited and its use tends to go unrecorded and leave little or no trace.
- (2) At the same time, the terms of reference exclude undercover police operations outside England and Wales and “undercover or covert operations conducted by any body other than an English or Welsh police force” notwithstanding that these are fundamentally important matters. The SDS operated in Scotland, Northern Ireland and across Europe and worked closely with MI5 and overseas police forces and intelligence services. A fair and balanced assessment of the justification for and contribution of its work cannot be undertaken without reference to these matters and yet they have been excluded from the scope of the inquiry.

Unquantifiable subject matter

9.1.3 The primary function of the SDS was to collect intelligence which would assist with public order policing. While it may be possible to determine the level of serious public disorder during the period of its operation, a meaningful counterfactual assessment of what would have happened absent the intelligence provided by the SDS is impossible.

9.1.4 As set out in part 5.3 above, the effective policing of public events and the avoidance of both under-policing and over-policing are essential in order to avoid escalation, injuries, loss and damage. Each of these possible consequences can have knock-on effects for:

- (1) the feasibility of policing public order events without recourse to special measures or equipment such as plastic baton rounds, tear gas and water cannon or special public order units;
- (2) the diversion of human and financial police resources preventing their deployment on other duties and other areas;
- (3) the recruitment and retention of police officers and overall police manpower levels.

9.1.5 As also set out in part 5.3 above, there were thousands and thousands of public order events in the Metropolitan Police District between 1968 and 1982 which required special police arrangements (excluding sporting events and thousands and thousands more industrial disputes). These resulted in thousands of arrests, thousands of injuries to police officers, hundreds and hundreds of injuries to members of the public and the deaths of Kevin Gateley and Blair Peach. Particularly at this remove in time, this inquiry could not possibly quantify the additional injuries that would have been caused, the additional lives that would have been lost or changed forever or the additional expenditure that would have been incurred without SDS intelligence.

Interception of communications

9.1.6 The Interception of Communications Act 1985, s.9, the Regulation of Investigatory Powers Act 2000, s.17 and now the Investigatory Powers Act 2016, s.56 and Sch.3 set out long-standing statutory bars to interception-related assertions, disclosures, evidence and questions in court, tribunal and inquiry proceedings (*Chairman's statement about the Investigatory Powers Act 2016 section 56 and Schedule 3* dated 14 October 2020). The Investigatory Powers Act 2016, s.56 and Sch.3: superseded their predecessor provisions and apply to all interception-related conduct and materials relating to or derived from interception operations under any of the three Acts; prohibit any public revelation of the existence or content of such conduct or materials; and severely restrict the scope for closed consideration by the inquiry of related matters.

9.1.7 That said, no such statutory bars apply in relation to conduct or materials relating to or derived from interception operations under the non-statutory arrangements which preceded the Interception of Communications Act 1985.²⁴ Accordingly, the following can be said:

(1) Non-statutory interception

The reasons for undertaking or terminating certain pre-1986 SDS deployments, tasks or steps, and the nature of the information that was available to those involved, can partly be found in interception-related conduct and materials falling within the recollection of those involved and/or available documentary records. There may be public interest reasons for restricting publication of further details, but the inquiry can at least consider such evidence in closed and acknowledge its existence.

²⁴ Under the pre-1986 non-statutory arrangements (which were recognised by the Post Office Act 1969 and then the British Telecommunications Act 1981) the Post Office and then BT intercepted postal and telecommunications services and transcribed intercepted telephone conversations under warrants issued by the Home Secretary at the request of the MPS, MI5 and HM Customs & Excise (*Report of the Committee of Privy Councillors appointed to inquire into the interception of communications* (October 1957, Cmnd.283) (“the Birkett Report”); *Malone v Metropolitan Police Commissioner (No.2)* [1979] Ch 344; HM Government, *The Interception of Communications in Great Britain* (Cmnd.7873, April 1980); Lord Diplock, *The Interception of Communications in Great Britain* (Cmnd.8191, March 1981); *Malone v UK* (1985) 7 EHRR 14 (ECtHR); *R v Preston* [1994] 2 AC 130 (HL), at pp.145H-148G (Lord Mustill)).

(2) Statutory interception

If the same were true in relation to any post-1986 SDS deployments, tasks or steps and/or the information available to those involved, then the Investigatory Powers Act 2016, s.56 and Sch.3 would apply and the inquiry's powers would be correspondingly restricted as would its ability publicly to acknowledge that this is the case.

The open/closed divide

9.1.8 In addition to the above, the inquiry's obligations to act compatibly with Convention rights and avoid harm or damage to individuals or the public interest mean that it must deal with certain matters in closed session and restrict the publication of related information and identities.

9.1.9 In this regard, the inquiry has made restriction orders in relation to the real and cover names of 34 out of 74 deployed and one undeployed DL SDS undercover officers on a variety of grounds: 16 were made to protect against a deployment-related risk of harm; six were made to protect against a risk of harm connected with post-deployment public service and/or on public interest grounds; and 12 were made on health / privacy grounds. The substantive evidence of almost all of these individuals and any related back-office and managerial evidence will be dealt with in closed session or (in the case of those with the most serious health conditions) not heard at all.

9.1.10 In the case of the relatively high number of DL officers left with significant long-term mental health problems linked to their SDS service and/or this inquiry - roughly one fifth of the DL SDS undercover officers - the full details of these conditions are unlikely to be heard in open session, if at all.

9.1.11 Furthermore, it is in the nature of things that:

- (1) the more dangerous and riskier deployments are those which will also be dealt with in closed session;
- (2) the case for publicity and open treatment will be stronger in connection with

officers who engaged in questionable behaviour or misconduct.

9.1.12 Accordingly, the open inquiry proceedings will inevitably focus on less dangerous and less risky deployments and instances of misbehaviour and misconduct and this is liable to give a skewed and false impression and provide a platform for uninformed and unfair claims.

9.1.13 Secret intelligence organisations are easy targets for attack because their necessary observance of “no comment” and “neither confirm nor deny” principles means they cannot defend themselves against false claims and allegations and, when failings or shortcomings are established, they cannot redress the balance with concrete evidence of the good they do. This inquiry has dispensed with the blanket application of such principles, but there is a real concern on the part of those involved with undercover policing that the (necessary and appropriate) drawing of the open/closed divide will leave them having to give a partially open account with one hand tied behind their backs.

9.2 Meeting the challenges

9.2.1 As a result of the above, the inquiry will not hear evidence in open about the following:

- (1) MI5 operations involving DL officers, including at least one conducted in conjunction with an overseas intelligence service;
- (2) the DL officer who was approached by a hostile foreign government agent who was in turn targeted by MI5;
- (3) the DL officers who infiltrated and reported on far right groups, including in conjunction with European police forces;
- (4) the DL officers who infiltrated [REDACTED] and provided intelligence [REDACTED];
- (5) the DL officer who was, on different occasions, threatened at gunpoint and

violently assaulted;

- (6) the DL officer who infiltrated and reported on [REDACTED];
- (7) the DL officers whose homes and families had to be uprooted and relocated in order to avoid compromise;
- (8) simultaneous MI5 interest in and operations against SDS targets and cases where DL officers believed or suspected that others around them were MI5 agents or informants;
- (9) cases where decisions, taskings, changes of plan or withdrawals were informed by information or material obtained from liaison with MI5 or other sensitive sources.

9.2.2 In order to mitigate and redress the above, it is submitted that the inquiry should:

- (1) acknowledge and maintain awareness of:
 - (a) the limitations imposed by the combination of its terms of reference, relevant legal restrictions and its subject matter;
 - (b) the importance of contextual factors and the dangers of:
 - (i) counterfactual speculation;
 - (ii) hindsight bias;
 - (iii) judging 20th century actors by 21st century standards;
- (2) clearly signpost, in as much detail as is safely possible, the nature of the matters considered in closed session;

- (3) expressly refute untrue allegations, exaggerated and generalised claims and conjecture and carefully differentiate and quantify the extent of individual and collective failings - the fact that one member of a unit did X, does not mean others or the unit itself did the same.

9.2.3 For understandable reasons, regulators, investigators and inquiries are often reluctant to admit their own limitations, partly because third party engagement can depend on trust, confidence and reputation and partly because organisations are naturally averse to public and media criticism. It is submitted that this inquiry should be astute to guard against this tendency and make it clear that the open/closed divide shields qualitatively different matters and not just a further quantity of that which is on open public view.

9.3 Key submissions

9.3.1 Like most serving and former police officers, the DL officers are pragmatists and know that there is no point raising criticisms in this forum with regard to the government's decision to institute this inquiry, the setting of its terms of reference or its cost.

9.3.2 Given that the inquiry has been instituted and must proceed, the primary concern of the DL officers is that it should avoid and mitigate the unfairness inherent in the structural matters addressed above.

9.3.3 The SDS was an undercover police unit which operated lawfully, effectively and in the public interest by collecting intelligence which was used by the MPS to help maintain public order and by MI5 to help counter-subversion and protect national security. It was a politically-neutral cog in a much larger apparatus and its operational colleagues and partners all collectively assessed the threats to public order and national security as real and serious. The use to which the MPS Public Order Branch and MI5 put SDS intelligence in respectively policing public order events and countering subversion is for them to address.

9.3.4 The political neutrality of the police and of public order policing is particularly important here (see paras 5.3.9-5.3.10 above). Much of the criticism directed at the SDS

refers to, or is couched in terms of, the well-meaning political objectives or motivations of those reported on. This misses the point. If there were a right to be heard or listened to or a right to disrupt or enforce one's own view on others in the pursuit of political objectives - without the police knowing in advance or maintaining public order at the time - that right would have to be enjoyed by all, regardless of their place on the political spectrum and the result would be Pandemonium. The reality is that a significant number of the groups reported on by the SDS had twin objectives which were essentially totalitarian - furtherance of their own views and the suppression of conflicting views. The job of the police in a liberal democracy is to maintain order and enforce the law as determined by Parliament and the courts. The SDS cannot fairly be criticised for assisting the MPS do its job or for the fact that this was incompatible with the totalitarian objectives of a small minority.

- 9.3.5 Most DL officers recognise that SDS selection, training, supervision and aftercare procedures did not meet 21st century standards and that these would have helped identify candidates who were unsuited to undercover duties or needed more guidance.
- 9.3.6 Some DL officers will go further and give evidence that: the significant demands and sacrifices of SDS service had a serious and disproportionate adverse impact on their health, well-being, families and careers; they were not properly informed of this impact in advance; they were exposed to disadvantage and risk following, and as a result of, their SDS service; there was a lack of after-care, the closure of the unit in 2007 was mismanaged and Operation Motion should have been established much sooner; and the MPS could and should have done more to defend their contributions and reputations and protect their welfare.
- 9.3.7 The SDS undercover officers undertook work which was stressful and sometimes dangerous and which had a profound and permanent impact on many of them and their families and they did so at the request of and on behalf of the state and in the interests of society as a whole. This work required the maintenance of a double-life and prolonged exposure to the fear of compromise and vocal anti-police views and conduct. Its impact was life-changing in the biographical sense and by reason of the unique psychological stresses and experiences involved (e.g. MPS, *Risk Assessment Briefing*

Note dated 8 December 2015, Annex E, A D Macleod, *Undercover Policing: A Psychiatrist's Perspective* (1995) 18 IJLP 239). A true understanding of the history of the SDS requires a thorough and informed investigation of the pressures placed on its members. It is submitted that the inquiry should obtain independent expert input from clinical psychologists and behavioural scientists on all these issues in order to investigate them fully and fairly.

9.3.8 That said, most DL officers are phlegmatic about the fact that the SDS was a creature of its times and, like every other human institution, neither infallible nor immune from making mistakes. Furthermore, they would emphasise that the failings of a few should not be allowed to overshadow the hard work, dedication and success of the many whose contribution left little trace on the public record, is difficult to quantify and, in many cases, cannot be revealed.

9.4 Recommendations for the future?

9.4.1 Historical developments - including the evolution of IT and social media and related and unrelated societal changes - have radically changed: (1) the nature of public discourse and protest and the public order scene in London and throughout the United Kingdom; (2) the means of communication, surveillance and sources of intelligence available to the police; and (3) the scope for creating and testing false undercover identities. At the same time, legislative and regulatory reforms and changes in police practices and procedures relating to the use of covert human intelligence sources have also had profound effects. In short, the SDS no longer represents a viable operational model, it is no longer needed and undercover policing has moved on.

OLIVER SANDERS QC
1 Crown Office Row, Temple

ROBERT McALLISTER
London

CLAIRE PALMER
5 Essex Court, Temple

28 October 2020

**ANNEX A: ABBREVIATIONS FOR NAMES OF POLITICAL / PROTEST /
TERRORIST GROUPS**

“AAM”	the Anti-Apartheid Movement;
“AFA”	Anti-Fascist Action;
“AIL”	the Anti-Internment League;
“ANL”	the Anti-Nazi League;
“BNP”	the British National Party;
“CLAAG”	the City of London Anti-Apartheid Group;
“CND”	the Campaign for Nuclear Disarmament;
“CPE(M-L)”	the Communist Party of England (Marxist-Leninist);
“CPGB”	the Communist Party of Great Britain;
“IMG”	the International Marxist Group;
“INLA”	the Irish National Liberation Army;
“IS/SWP”	the International Socialists / Socialist Workers Party;
“LPYS”	the Labour Party Young Socialists;
“NF”	the National Front;
“NVDA”	Non-Violent Direct Action;
“OIRA”	the Official Irish Republican Army;
“PIRA”	the Provisional Irish Republican Army;
“PLO”	the Palestine Liberation Organisation;
“PSF”	Provisional Sinn Fein;
“RCG”	the Revolutionary Communist Group;
“RCLB”	the Revolutionary Communist League of Britain;
“RCP”	the Revolutionary Communist Party;
“RCPB(M-L)”	the Revolutionary Communist Party of Britain (Marxist-Leninist);
“RCT”	the Revolutionary Communist Tendency;
“RSL/MT”	the Revolutionary Socialist League / Militant Tendency;
“TOM”	the Troops Out Movement;
“UTOM”	the United Troops Out Movement;
“WRP”	the Workers Revolutionary Party.

**IN THE MATTER OF THE UNDERCOVER
POLICING INQUIRY**

**AMENDED WRITTEN OPENING STATEMENT
ON BEHALF OF THE DESIGNATED LAWYER
OFFICER CORE PARTICIPANT GROUP**

**TRANCHE 1, PHASES 1-2:
SPECIAL DEMONSTRATION SQUAD
UNDERCOVER DEPLOYMENTS 1968-1982
FOR HEARING: 3-4 NOVEMBER 2020**

**THE DESIGNATED LAWYERS (UCPI)
PO Box 73779
London WC1A 9NL**

**Tel: 020 8733 6398
Email: anna.pyke@metops.cjsm.net**

Counsel's Ref. 207937.OS