

Tuesday, 3 November 2020

(10.00 am)

MS PURSER: Good morning, everyone, and welcome to the second day of opening statements in Tranche 1, Phase 1 of the Undercover Policing Inquiry. My name is Jacqueline Purser and I am the hearings manager.

Today we will be hearing opening statements from the Metropolitan Police Service, the National Police Chiefs' Council, the National Crime Agency, the Home Office and Designated Lawyer Officers.

For those of you in the virtual hearing room, please be aware and remember that if you are not the chairman or due to speak, please turn off your camera and your microphone, as Zoom will pick up on all noises and you will be on the screen.

I will now hand over to our Chairman, Sir John Mitting, to formally start proceedings.

Chairman.

THE CHAIRMAN: Thank you.

Mr Skelton, I invite you to make the opening statement on behalf of the Metropolitan Police Service. I know that your statement is timed to coincide approximately with the mid-morning break that we always take. I would ask you please to bear that in mind.

1 The floor is yours.

2 Opening statement by MR SKELTON

3 MR SKELTON: Sir, I make this opening statement on behalf of
4 the Commissioner of the Metropolitan Police Service,
5 the MPS.

6 The statement touches on matters that are relevant
7 to the whole scope of the Undercover Policing Inquiry as
8 it progresses over the next few years. However, this is
9 the first of many hearings, and most of the evidence
10 that the Inquiry requires to fulfil its terms of
11 reference has not yet been gathered and published.

12 Therefore, in this opening statement, the MPS will
13 not seek to pre-empt or predict what that evidence will
14 in due course show. Instead, the MPS will take an
15 active part in the Inquiry's hearings, as it has in
16 preparation for the Inquiry; and when the hearings have
17 concluded, it will make a more comprehensive closing
18 statement, addressing the principal themes that have
19 arisen during the Inquiry's work.

20 Sir, today I'm going to address you on the following
21 five topics. First, the MPS's approach to the Inquiry;
22 second, what went wrong; third, what has changed;
23 fourth, the continuing value of undercover policing;
24 and, fifthly, the Special Demonstration Squad 1968 to
25 1972, Tranche 1, Phase 1 of your inquiry. I will then

1 make some short concluding remarks.

2 First, then, I would like to say something about
3 the MPS's approach to the Inquiry.

4 The MPS welcomed the establishment of this Inquiry
5 and fully supports its ongoing investigation
6 of undercover policing in the period from 1968 to
7 the present day. In March 2014, former Deputy
8 Commissioner Craig Mackey stated that the Inquiry would
9 have the absolute commitment of the MPS. That assurance
10 is repeated now: the MPS will assist the Inquiry in
11 every way it can. And as I will explain in more detail
12 in a moment, the MPS recognises that there is real and
13 justifiable public concern about certain aspects of
14 undercover policing. It has acknowledged, and will
15 continue to acknowledge, where things went wrong in
16 the conduct of undercover officers, units and
17 operations, as will be explored in detail by this
18 Inquiry. The MPS intends to learn, not to justify; and
19 to improve, not to avoid change. It will continue,
20 where appropriate, to recognise errors of the past. It
21 knows that progress and learning demand this.

22 The MPS strongly believes that undercover policing
23 continues to be a vital and sometimes the only way of
24 combating crime and protecting the safety and security
25 of the general public in the United Kingdom, as it is in

1 other democratic countries. However, for undercover
2 policing to serve its legitimate function in society and
3 to abide by the principle of policing by consent, it
4 must be conducted within clear legal and ethical
5 boundaries.

6 The MPS will work with the Inquiry to identify where
7 conduct has fallen outside of those boundaries and to
8 ensure that appropriate action is taken to prevent such
9 conduct recurring in the future.

10 As I will explain today and as it set out in
11 the MPS's written statement, substantial changes to
12 the management and regulation of undercover policing
13 have already been implemented both in legislation and
14 within the MPS, with a view to ensuring that the events
15 of the past are not repeated.

16 From the outset, the Commissioner has been committed
17 from her, stated downwards, to openness and transparency
18 with the Inquiry. It will continue to provide whatever
19 documentation or information it can whenever requested
20 by the Inquiry. It will continue to volunteer relevant
21 material it discovers.

22 Sir, having read the submissions of some of
23 the non-State core participants, I wish to be absolutely
24 clear: the MPS has not and will not obstruct or
25 otherwise undermine your public inquiry into undercover

1 policing. The MPS has not and will not improperly delay
2 the work of the Inquiry. On the contrary, the MPS has
3 a strong interest in helping the Inquiry to complete its
4 valuable work as effectively and swiftly as possible.

5 But the MPS also has a duty to ensure that
6 the Inquiry does so safely. As you, sir, and your
7 predecessor have recognised, the Inquiry must not
8 endanger the lives of officers, former officers or
9 anyone else. Nor should it unnecessarily damage
10 the methods by which undercover policing is conducted.

11 In an inquiry of this size and scope, whose
12 investigations cover a 50-plus-year period, the task of
13 minimising those types of harm is important. It is also
14 formidable. That is the reason why -- the principal
15 reason why, regrettably, for everyone concerned, it has
16 taken so long for your hearings to begin; and that is
17 why it will take several more years for them to
18 conclude.

19 However, it is hoped that there will be some
20 recognition that with the publication of the Inquiry's
21 first tranche of evidence, the work of undercover police
22 officers has been opened up as never before
23 demonstrating the commitment the MPS has to facilitating
24 the Inquiry's investigations and being as transparent as
25 possible.

1 Sir, I'd like to turn now to what went wrong.

2 At the outset of this Inquiry, it is necessary to
3 acknowledge the real concern about the way in which
4 undercover policing has been conducted in the past.
5 The MPS fully appreciates that the Inquiry will be
6 properly and directly informed by testimony of
7 the experiences of those affected by undercover policing
8 operations. The MPS is acutely aware of their
9 continuing anger and distress. These are not idle
10 words: it will continue to listen and to learn from
11 their accounts.

12 For the purpose of this opening statement, I will
13 address you on the following six matters, as it is
14 important that the Inquiry, the core participants and
15 the public understand the MPS's position in respect of
16 them:

17 First, sexual relationships; second, the use of
18 identities of deceased children; third, participation in
19 criminal acts and the criminal justice system; fourth,
20 deployment and management; fifth, collateral intrusion;
21 and, sixth, support for undercover police officers.

22 Before doing so, I'd like to make the general point
23 that, as has been recognised, throughout the SDS's
24 existence, from 1968 to 2008, it operated separately
25 from mainstream undercover policing in the MPS. It was

1 a small unit with an intelligence-gathering, rather than
2 an evidence-gathering, remit. As a result of this, its
3 work was not scrutinised and tested externally, in
4 particular by the courts; and its practices did not
5 become professionalised in the same way as the MPS's
6 undercover work in crime and counter-terrorism.

7 Turning, then, to the first issue, sexual
8 relationships.

9 Some undercover officers, in their false identities,
10 engaged in sexual relationships with the subjects of the
11 operations or with other people with whom they had
12 contact during their work. Put plainly: these
13 relationships were wrong. They should not have
14 happened; and they caused, and have continued to cause,
15 immense hurt and suffering.

16 On 20 November 2015,
17 Assistant Commissioner Martin Hewitt made a public
18 apology to a number of women who had been in such
19 relationships with undercover officers. At
20 the beginning of that apology he stated:

21 "Thanks in large part to the courage and tenacity of
22 these women in bringing these matters to light it has
23 become apparent that some officers, acting undercover
24 while seeking to infiltrate protest groups, entered into
25 long-term intimate sexual relationships with women which

1 were abusive, deceitful, manipulative and wrong."

2 Assistant Commissioner Martin Hewitt went on to say:

3 "... the Metropolitan Police recognises that these
4 cases demonstrate that there have been failures of
5 supervision and management. The more we have learned
6 from what the claimants themselves have told us, from
7 the Operation Herne investigation and from the recent HM
8 Inspectorate of Constabulary report the more we accept
9 that appropriate oversight was lacking. Supervising
10 officers may also take responsibility. By any standards
11 the level of oversight did not offer protection to
12 the women concerned against abuse."

13 This statement, sir, a full version of which is set
14 out in the MPS's written opening, remains an accurate
15 expression of the MPS's position. The MPS will work
16 with the Inquiry to understand how those relationships
17 happened. It will listen to the accounts of those
18 affected. Some of them have already spoken publicly and
19 directly to the MPS during mediation. Others have not
20 yet had the opportunity to do so.

21 The MPS will seek to assure the Inquiry and
22 the public that the necessary steps have been taken to
23 ensure that such relationships do not happy again, some
24 of which I will outline today. If current practices and
25 procedures for undercover deployments need further

1 improvement, those improvements will be made.

2 The second issue is deceased child identities.

3 The Inquiry will explore the development and
4 duration of the use of deceased child identities.
5 Evidence will be given as to why the practice was
6 considered necessary at the time to support the work of
7 undercover officers. Mr Sanders, who represents many of
8 the SDS officers, may presage some of that evidence in
9 his opening statement later today.

10 Notwithstanding this, the MPS wishes to acknowledge
11 plainly that whilst this practice was in use,
12 insufficient consideration was given to the impact it
13 might have on the families of the children concerned.
14 The MPS appreciates that it was capable of causing
15 distress to those families, and the MPS apologies for
16 that.

17 The Inquiry will also hear first-hand from some
18 affected families, in their opening statements and in
19 their evidence.

20 As the Inquiry is aware, personal apologies have
21 been given, and will continue to be given, to those
22 family members who have been traced and who have
23 indicated that they wish to have contact from the MPS.

24 Third, participation in criminal acts and
25 the criminal justice system.

1 It has long been recognised by the criminal courts
2 that undercover officers may need to participate in
3 crimes during the course of their work. The MPS
4 acknowledges that undercover officers have engaged on
5 occasion in criminal acts, both in deployments designed
6 to gather evidence and those designed to gather
7 intelligence. In the SDS, officers may have done so to
8 maintain their cover by joining in with what the target
9 group was doing. The Inquiry will investigate in these
10 cases whether such criminal acts were properly
11 authorised, taking into account the variety of
12 situations in which this may have occurred, and,
13 importantly, the legal and regulatory requirements of
14 the time.

15 The MPS anticipates that there will be occasions
16 when the SDS management did not get it right, or where
17 some of the undercover officers themselves may have
18 believed they were acting within the bounds of an
19 implied or express authorisation.

20 But every case is different, and it will not assist
21 to take detailed examples for the purpose of this
22 opening. As I have said, the MPS welcomes the scrutiny
23 of this Inquiry, and will continue to cooperate with it.

24 The fourth issue is deployment and management.

25 As the Inquiry progresses, it will consider

1 the important questions of whether specific operations
2 were justified, whether they were properly authorised,
3 whether they were properly managed, and whether officers
4 were adequately trained and supported.

5 The MPS will say that the SDS did conduct valuable
6 work. But questions over whether specific deployments
7 and actions -- including the targeting of groups active
8 in pursuing social and political justice and
9 environmental causes, and issues of what have been
10 called "blacklisting" -- occurred or were justified will
11 depend on the facts in each case. Therefore, these
12 matters will be addressed in the appropriate tranche
13 hearing.

14 In the meantime, the MPS recognises the strength of
15 the feelings and concerns of those core participants in
16 the Inquiry who have put in powerful opening statements
17 explaining the effects that undercover policing has had
18 on their lives. It understands their wish to find out
19 what happened and, as importantly, why. An issue to
20 which I will return towards the end of this statement.

21 As I have said, the MPS will help the Inquiry to
22 facilitate the investigation of these issues; and it
23 will listen carefully to the accounts of those affected.

24 The MPS does accept that within the overall body of
25 the SDS's work, there may be some deployments, or

1 taskings within deployments, which the Inquiry will
2 conclude were not justifiable.

3 In Tranche 3, the Inquiry will examine important
4 questions surrounding whether the Stephen Lawrence
5 campaign for justice and Duwayne Brooks were the subject
6 of covert operations or targeting by the SDS. As
7 the MPS stated publicly in 2014, it has not seen any
8 evidence that this was the case. It acknowledges and
9 respects the huge importance and validity of campaigns
10 for justice and institutional change. The MPS
11 appreciates the length of time that the
12 family of Stephen Lawrence and Mr Brooks OBE have waited
13 to have these issues openly examined.

14 The MPS remains fully committed to a frank and full
15 investigation of these matters.

16 Their cases, like those of other family justice
17 campaigns, many of which have had profound and positive
18 effects on policing, will be considered during
19 the Inquiry, and the MPS will listen and learn.

20 The determined work of Baroness Lawrence OBE,
21 Dr Lawrence OBE and Mr Brooks OBE has led to essential,
22 widespread and lasting change, not merely in the MPS but
23 also in the wider police service in the United Kingdom.
24 The MPS remains sincerely grateful to them.

25 The fifth issue is collateral intrusion.

1 Collateral intrusion is the interference with the
2 private and family lives of people who are not
3 the intended subjects of an undercover operation.

4 In the years before the Regulation of Investigatory
5 Powers Act 2000, known as "RIPA", authorisation for
6 undercover operations was not required, and the MPS did
7 not approach the risk of collateral intrusion or its
8 avoidance and minimisation as it currently would. In
9 some cases after RIPA, these matters were still not
10 properly considered, avoided and minimised. There has
11 been a process of learning and improved appreciation of
12 these issues, including through guidance from the courts
13 in the years following RIPA, to which I will shortly
14 turn.

15 The gathering and retention of this type of
16 information may, on occasions, have amounted to
17 collateral intrusion, as it is now understood, when
18 viewed against the purpose and scope of a deployment.
19 However, in the early years of the SDS, this would not
20 have been appreciated by undercover officers or their
21 managers. The Inquiry will no doubt wish to explore
22 this with the relevant witnesses. The MPS urges that
23 consideration of this issue be carried out by reference
24 to the rules and standards of the day.

25 The sixth issue is support for undercover officers.

1 Whatever may be said of the justification for
2 individual operations, it's important to recognise that
3 the overwhelming majority of MPS undercover officers
4 undertook, and continue to undertake, their duties with
5 dedication, professionalism and bravery. They did so,
6 and do so, as volunteers, notwithstanding that their
7 efforts exposed them, and their wives, husbands,
8 partners and families, to risks and stresses far greater
9 than those faced by most other police officers and their
10 families.

11 Undercover officers are human beings who work in
12 highly pressured circumstances, often alone, where
13 a wrong move can endanger their deployment, their
14 safety, the safety of their colleagues, and sometimes
15 their lives. The stress can be constant and all
16 pervasive and may last and have consequences for them
17 and their families long after the deployment has come to
18 an end.

19 The MPS has not always understood or appreciated
20 the particular pressures on the officers who undertook
21 undercover work, or how best to support them. One
22 reason for this is that the type of support that's now
23 recognised as important was simply not part of policing
24 or wider societal culture in some of the periods that
25 the Inquiry is investigating.

1 The appreciation of the need for specialist
2 undercover policing, training, support, mentoring and
3 welfare has developed over the years. The MPS
4 acknowledges that although there were some positive
5 developments, the SDS's secrecy and isolation within
6 Special Branch kept it from learning apace with
7 the wider organisation.

8 As I will go on to explain, awareness of these
9 issues has grown immensely as policing practice in
10 the MPS and nationwide has modernised and
11 professionalised.

12 I will now turn to the question of what has changed.

13 Over the 50-year period that the Inquiry is
14 examining, policing culture has developed and changed
15 and would now be unrecognisable to officers working in
16 1968. Since 1987, the MPS's crime covert operations
17 unit has been a leader in the professionalisation of
18 undercover policing, both in its own work and in
19 interaction with national bodies.

20 As the Inquiry will in due course hear from
21 witnesses in later tranches, and as will be touched on
22 today in the opening statement of
23 the National Police Chiefs' Council, or NPCC, the ways
24 in which undercover policing is now conducted and
25 managed to national standards set by

1 the College of Policing and implemented by the NPCC is
2 vastly different from what it was.

3 So, too, are the laws and policies that govern and
4 regulate that work.

5 Sir, I am not going to set out all of those changes
6 now, but some of the most important ones you will hear
7 about include: the advent of RIPA in 2000; the first
8 Home Office Code of Practice in 2002 for covert human
9 intelligence sources, known as "CHIS", a term that
10 includes undercover police officers; the introduction of
11 the first Authorised Professional Practice on Undercover
12 Policing, or APP, in 2012; and the associated National
13 Code of Conduct for Undercover Officers.

14 You will also hear about the mandatory national
15 training provided by the College of Policing. And you
16 will hear about the independent oversight of
17 the authorisation and conduct of undercover deployments
18 that is now provided by three national bodies: Her
19 Majesty's Inspectorate of Constabulary, Fire and Rescue
20 Services, the Investigatory Powers Commissioner's
21 Office, known as "IPCO", and the Investigatory Powers
22 Tribunal.

23 I'm now going to explain, in outline, the changes
24 that have been made to some of the specific areas of
25 concern that I've just spoken about, recognising of

1 course that this is not a comprehensive review of all
2 the issues with which the Inquiry's concerned.

3 The first issue is sexual relationships.

4 The National Code of Conduct for Undercover Officers
5 and the CHIS Code of Practice require all
6 undercover officers deployed by the MPS and other law
7 enforcement agencies to comply with and uphold
8 the principles and standards of professional behaviour
9 set out in the Standards of Professional Behaviour and
10 the Code of Ethics. The recently revised APP issued by
11 the College of Policing last month states:

12 "It is never acceptable for an undercover officer to
13 have an intimate sexual relationship with those they are
14 deployed to infiltrate and target or encounter during
15 their deployment. Having an intimate sexual
16 relationship must not be used as a tactic by [an
17 undercover officer].

18 "If [an undercover officer] engages in an intimate
19 sexual relationship (for example, they perceive an
20 immediate threat to themselves and/or others if they
21 were not to do so) this activity will be restricted to
22 the minimum conduct necessary to mitigate the threat.
23 [Undercover officers] must record and report this to
24 the cover officer and ... [covert operations manager]
25 immediately."

1 Second, covert identities.

2 The use of fictitious identities continues to be
3 essential for preserving the true identity of an
4 undercover officer, maintaining that officer's back
5 story, and minimising the risk of compromise and harm to
6 that officer and his or her colleagues. As I have
7 stated, the practice of using identities of real
8 deceased people no longer occurs.

9 Third, participation in criminality.

10 This subject is still under active consideration by
11 Parliament during the passage of the Covert Human
12 Intelligence Sources (Criminal Conduct) Bill. If passed
13 as presently drafted, the Bill would amend Part II of
14 RIPA to provide a power for law enforcement agencies and
15 others to authorise CHIS to participate in criminal
16 conduct where the conduct is necessary and proportionate
17 to the intelligence dividend that it seeks to achieve
18 and is compliant with the Human Rights Act 1998.

19 Necessity, for these purposes, is determined by
20 reference to one of the statutory purposes: the activity
21 must be in the interests of national security; for
22 the purpose of preventing or detecting crime or
23 preventing disorder; or in the interests of the economic
24 wellbeing of the United Kingdom.

25 Fourth, deployment and management.

1 Undercover units are required to have appropriate
2 infrastructures in place to enable them to provide
3 robust management and support to undercover deployments.
4 This includes the following roles: an authorising
5 officer under RIPA; a covert operations manager
6 responsible for the day-to-day running of the undercover
7 unit; the operational lead to manage the investigation
8 or operation and define its objective; a cover officer
9 to look after the security and welfare of
10 the undercover officer; and a single point of contact
11 responsible for supporting the officer to maintain his
12 or her covert identity.

13 Since 2014, all authorisations for the use and
14 conduct of undercover operations by a police force are
15 granted at the level of commander within the MPS or
16 assistant chief constable in other police forces, and
17 must be notified to the Investigatory Powers
18 Commissioner's Office, IPCO, within seven days of their
19 grant. For authorisations that continue for a period of
20 12 months or more, renewals must be authorised at chief
21 constable level and subject to the prior approval of
22 a judicial commissioner within IPCO.

23 Fifth, collateral intrusion.

24 Authorising officers have been under an obligation
25 to avoid or minimise collateral intrusion since

1 the advent of RIPA in 2000. Where such intrusion is
2 unavoidable, the undercover policing activity may still
3 be authorised, provided that the collateral intrusion is
4 proportionate to the aims of the deployment and is kept
5 to the minimum necessary to achieve the objective of
6 the operations. This is reiterated in the most recent
7 revision of the APP on undercover policing and in
8 the CHIS Code of Practice.

9 In recent years, there have been further advances in
10 the understanding of what constitutes collateral
11 intrusion, what is acceptable by way of collateral
12 intrusion and how it should be managed.

13 Deliberate intrusion by undercover officers into
14 the private and family lives of people who are not
15 directly under investigation is very carefully
16 considered and must be specifically justified and
17 authorised. Additionally, safeguards are in place for
18 handling all private information obtained during an
19 undercover operation. Its dissemination, copying and
20 retention must be limited to the minimum necessary for
21 the authorised purposes of the investigation.

22 Sixth, and lastly, support for undercover police
23 officers.

24 The MPS now ensures that potential
25 undercover officers complete a rigorous selection

1 procedure. This includes psychological profiling, to
2 ensure that only those who are suitable for the demands
3 of an undercover role are selected for the work. There
4 is nationally accredited training for undercover
5 operatives -- about which the Inquiry has already
6 obtained evidence, in particular from
7 the College of Policing, which is responsible for its
8 provision.

9 Undercover officers are subject to ongoing training
10 and advice from experienced officers, to ensure proper
11 development of skills and experience. There is
12 comprehensive oversight of deployments, which are
13 developed in a structured way, including planning for
14 their safe conclusion.

15 Finally, there is ongoing care for officers,
16 including psychological support, throughout deployments
17 and afterwards, to help officers return to mainstream
18 policing.

19 These measures are the product of a developing
20 understanding of the psychology of police work in
21 general and undercover tasking in particular.

22 In 2013, prior to the announcement of this Inquiry,
23 the MPS introduced Operation Motion, to provide ongoing
24 support for undercover officers and former
25 undercover officers in the SDS and the NPOIU and others

1 associated with those units. This includes assistance
2 with their welfare needs, including their physical and
3 mental health, which may have been adversely affected by
4 their work and their involvement with this Inquiry.

5 Sir, I am now going to turn to the continuing value
6 of undercover policing.

7 The attention necessarily devoted to exposing past
8 errors and identifying changes must not detract from
9 a proper exploration of the importance of undercover
10 policing in keeping the public safe from harm. A full
11 appreciation of the unique value of undercover work will
12 be an essential component of ensuring the Inquiry makes
13 workable recommendations at its conclusion.

14 That value was clearly recognised by the then Home
15 Secretary in 2015, when she prefaced her announcement of
16 this Inquiry by stating that "undercover policing is an
17 essential tactic in the fight against crime". It has
18 also been publicly acknowledged by Parliament, the Court
19 of Appeal and by independent national bodies, such as
20 IPCO and Her Majesty's Inspectorate of Constabulary.

21 Undercover policing itself is not a self-contained
22 area. It is a tactic for gathering intelligence and
23 evidence with a view to preventing or prosecuting crime
24 that may be deployed in a very wide range of situations,
25 including terrorism and extremism, child sexual abuse,

1 serious public disorder, drugs dealing, firearms
2 dealing, contract killing, fraud, stolen and counterfeit
3 property, money-laundering, prostitution, modern slavery
4 and human trafficking, arts and antiques and corruption,
5 including the criminal investigation of police
6 misconduct.

7 Much of this criminality could not be adequately
8 tackled by the police without the use of undercover
9 policing. In general terms, deployment of
10 undercover officers allows access to information and to
11 evidence which may not otherwise be obtainable, and can
12 play a uniquely protective role in interposing police
13 officers between suspected offenders and members of
14 the public when crimes are carried out.

15 Undercover policing has continued to evolve as
16 criminality has evolved. The accessibility of
17 the internet and a growing awareness of the dark web has
18 provided those intent on perpetrating crimes with
19 a veneer of anonymity and the opportunity to seek out
20 and make connections with individuals capable of
21 providing the means to execute their plans. Undercover
22 policing increasingly operates online, with undercover
23 police officers posing as potential victims,
24 facilitators or criminals.

25 Sir, the MPS's written opening described several

1 undercover police operations that were successful in
2 recent years. As those examples show, the work of
3 undercover officers is uniquely significant in
4 preventing terrorist atrocities, saving lives, stopping
5 child sexual abuse and exposing criminality. Sometimes
6 that work is unique in the sense that undercover
7 deployment may be the only means of frustrating
8 the serious crime or terrorism being investigated.

9 The MPS therefore trusts that the Inquiry will
10 recognise, publicly where appropriate, the bravery,
11 dedication and professionalism of undercover officers,
12 including SDS and NPOIU officers, who volunteer to do
13 what is often very dangerous work, and the value and
14 importance of their contribution to policing and to
15 the public.

16 Sometimes, this will include recognition that
17 the work of undercover officers takes place in stressful
18 conditions where difficult judgments are made in
19 the moment. That dedication is no less evident in
20 the very different world of the late 1960s, when the SDS
21 was created; a period to which I will now briefly turn.

22 So, sir, the fifth and last topic on which I would
23 like to address you today is the Special Demonstration
24 Squad 1968 to 1972, which forms the focus of the first
25 hearing that is about to commence.

1 The operation of the SDS in that period is the focus
2 of Phase 1 of Tranche 1 of the Inquiry. As I stated at
3 the outset of this statement, the MPS doesn't wish to
4 pre-empt the evidence that the Inquiry is going to hear.
5 Instead, the following paragraphs make four general
6 points that the Inquiry may wish to bear in mind when
7 questioning witnesses, and ultimately formulating
8 conclusions based on the totality of the available
9 evidence.

10 First, as Counsel to the Inquiry has made clear in
11 his opening, an understanding of the historical context
12 is absolutely essential.

13 The 1960s were a period of immense social, cultural
14 and political change. Much of this change was positive.
15 In the UK, for example, the contraceptive pill was made
16 available on the NHS in 1961, the death penalty was
17 abolished in 1965, homosexuality was decriminalised in
18 1967, and in 1968 abortion was legalised.

19 But the late 1960s were also a time of political
20 instability and/or violence. In the UK, 1968 saw
21 the delivery of the rationally inflammatory "Rivers of
22 blood" speech by Enoch Powell and the start of
23 the Northern Ireland Troubles.

24 In the United States, Martin Luther King Jr and
25 Senator Robert Kennedy were assassinated. In France,

1 there was widespread civil unrest, with mass protests,
2 general and wildcat strikes, industrial action, rioting
3 and the occupation of universities and factories.

4 As you heard yesterday, the Special Operations
5 Squad -- the first official name for the SDS -- was
6 created at the end of July 1968, during a tumultuous
7 year and in direct response to the exceptionally violent
8 public disorder that had occurred in Grosvenor Square,
9 London, during the mass demonstration against
10 the Vietnam War on 17 March. And as the Inquiry will
11 hear, the work of the SDS subsequently evolved over
12 a period of many years in response to the concerns of
13 the time.

14 Equally important is the professional context.
15 Officers of the SDS were amongst the first police
16 officers to work undercover in a full-time way within
17 a dedicated unit. During the early years of the SDS,
18 there was no national undercover training, and no
19 recognised standards of what constituted best practice.
20 Undercover policing was not subject to the legal,
21 regulatory and professional structures or policies and
22 training that are now in place.

23 That is not to say that officers were not obliged to
24 act with professionalism and integrity and should not be
25 criticised for failing to do so. They were and they

1 should. But it's simply to counsel against judging
2 the actions of the past, and indeed the politics and the
3 values of the past, by the standards of the present.

4 Second, as the Inquiry will hear, there were two
5 distinct but interrelated strands to the work of
6 the SDS: (1) gathering intelligence for the purposes of
7 preventing public disorder; (2) gathering intelligence
8 to assist the Security Service in its task of defending
9 the UK from attempts at espionage and sabotage and from
10 actions of persons judged to be subversive of
11 the security of the state.

12 This dual role was made express in the terms of
13 reference for Special Branch issued by the Home Office
14 in April 1970, which sets out tasks, including:

15 "To provide the chief officer with intelligence
16 affecting public order, the Security Service with
17 intelligence affecting national security.

18 "In consultation with the Security Service to
19 collect, process and record information about subversive
20 or potentially subversive organisations and individuals.

21 "To investigate any subversive background to
22 demonstrations and breaches of public order, and, in
23 consultation with the Security Service, to certain
24 industrial disputes."

25 Sir, any assessment of the purpose, justification

1 and value of the SDS's work must recognise the dual
2 nature of its responsibilities. As
3 Counsel to the Inquiry has explained, the SDS was known
4 to, approved of and funded by the Home Office in this
5 period, and its reporting was provided to
6 the Security Service. The Inquiry's work should
7 therefore be formed by relevant documentary and witness
8 evidence from both of those bodies.

9 Third, when assessing the SDS's work, which the MPS
10 will say included much that was valuable, the Inquiry
11 will wish to bear in mind that in many cases it may be
12 difficult or impossible, decades after the event, to
13 determine the counter-factual scenario, for example what
14 public disorder would or might have occurred if
15 the intelligence had not been gathered; or what value
16 individual intelligence had to the Security Service, who
17 were provided with the vast majority of SDS reporting.

18 This is not least because records of what happened
19 to the intelligence, ie how it was reviewed and acted
20 upon by its recipients outside of the SDS, such as
21 the Security Service, have not been collated, or are
22 limited in this period.

23 The Inquiry should give weight, however, to
24 the intimations of value that were recorded
25 contemporaneously and which can be seen in

1 the paperwork.

2 As the Inquiry will hear, SDS undercover officers
3 had primarily an intelligence-gathering, as opposed to
4 evidence-gathering, remit. They increasingly worked on
5 long-term projects and produced large volumes of
6 intelligence. Some of that intelligence may have been
7 recorded and retained unnecessarily, particularly by
8 modern standards of data retention; or may be personal
9 information that constitutes collateral intrusion, again
10 by later standards. But it may not have been obvious at
11 the time, or be clear in retrospect, which intelligence
12 was valuable and which should not have been sought and
13 kept.

14 Intelligence is not the same as evidence; it serves
15 a different purpose: building up a limited and piecemeal
16 body of knowledge that may be of immediate value, for
17 example by allowing police to intervene to prevent
18 public disorder or crime, but can also have latent value
19 that doesn't manifest until some time after it has been
20 gathered.

21 Different groups have varying waves of activity and
22 may only present risks to public order or national
23 security at certain times in their history. Individuals
24 in such groups may not present any risks themselves, but
25 they may be connected directly or indirectly to people

1 that do. There is a real danger in seeking to assess
2 the justification for specific deployments in hindsight
3 simply by reference to the results that they may or may
4 not have produced. Intelligence may be reasonably
5 obtained and retained for a time but end up being of
6 little or no operational value if the individuals or
7 groups targeted prove to be harmless.

8 However, it is entirely understandable that this
9 fact will be unpalatable and offensive to those people,
10 a number of whom are participating in this Inquiry, who
11 fall into this category.

12 Having read their opening statements, the MPS
13 recognises the strength of the anger that they feel; and
14 notwithstanding what I have said about the need to
15 assess matters in their full context and to tread with
16 care when assessing the value of intelligence
17 retrospectively, there may be deployments, or taskings
18 within deployments, which the Inquiry will conclude were
19 not justifiable.

20 Fourth, it's a trite but critical point that many
21 years have now passed since the index events in this
22 period of the Inquiry's investigations.
23 The undercover officers who are giving evidence are in
24 their 70s and 80s, and their memories of events will
25 inevitably have faded. Many officers -- in particular

1 more senior officers -- are now dead. Many other
2 potential witnesses who could shed light, vital light,
3 on this era and the work of the SDS are also dead. That
4 includes all of the Home Secretaries from the 1960s and
5 1970s; and, in all likelihood, many of the civil
6 servants at the Home Office and intelligence officers in
7 the Security Service who were in post in the late 1960s
8 and the early 1970s.

9 In light of this and the points I made earlier about
10 the role of the Home Office and the Security Service,
11 the Inquiry may wish to prioritise obtaining statements
12 sooner rather than later from those civil servants and
13 intelligence officers who are still alive and who may
14 not otherwise be called until Tranche 6 of the hearings
15 in several years' time.

16 The passage of time has also compromised
17 the documentary evidence that is now available, as
18 several of the undercover officers from this period have
19 themselves recognised. The Inquiry has received a very
20 substantial volume of relevant contemporaneous
21 documents, but as was found in the 2015 report by
22 Stephen Taylor on the links between the SDS and
23 the Home Office, many documents which should have shed
24 vital light on the issues under consideration have now
25 been lost or destroyed. In some cases it may be clear

1 what is missing and it may be that reliable inferences
2 can be drawn from what remains, or what those lost
3 documents might have contained, but that may not always
4 be the case. The Inquiry and its participants may be
5 wholly unaware that significant relevant evidence once
6 existed, but given the passage of time is no longer
7 available, and erroneous conclusions might be
8 unwittingly and unfairly drawn as a result.

9 Sir, these issues are raised not in an attempt to
10 demonstrate that the Inquiry's task is impossible; that
11 is manifestly not the case. Instead they are made in
12 order to urge the Inquiry to exercise care, caution and
13 fairness when seeking to make adverse findings against
14 any individual or organisation in respect of particular
15 historical actions or events where it can reasonably be
16 said that the available evidence is incomplete and
17 therefore potentially misleading.

18 Sir, may I now turn to make some concluding remarks.
19 It's hoped that the evidence that the Inquiry hearings
20 during the course of its work will disabuse the public
21 of stereotypical views of undercover police officers,
22 the individuals who are the subjects of undercover
23 operations, directly or indirectly, and the interactions
24 between the two. A simplistic narrative of "us against
25 them", whether malign spy versus innocent civilian, or

1 benign public servant versus dangerous activist, doesn't
2 do justice to anyone. It is harmful. It misrepresents
3 the complexity of the actions, intentions and human
4 failings of the individual people involved. It impugns
5 the many with the failings of the few.

6 More importantly, sir, it obscures two necessary
7 truths. First, that in a large democratic society such
8 as the UK undercover policing remains a valuable and
9 necessary tool, an invaluable tool. And second, that
10 all undercover operations carry an intrinsic risk of
11 harm, and that every effort should therefore be made to
12 negate that risk by ensuring that proper laws, policies
13 practices and training are in place and are observed.

14 Undercover policing is intrusive, but it is not an
15 inherently malign activity, nor is political or social
16 activism. Acknowledging this doesn't diminish either
17 the real harm that improper or inadequate conduct by
18 undercover officers and their managers can cause, as has
19 been acknowledged in this opening statement, or the real
20 criminal dangers that some people present to the safety
21 and security of the state and its citizens.

22 Sir, thank you. That concludes the MPS's opening
23 statement.

24 MS PURSER: Sir John, you are still on mute.

25 THE CHAIRMAN: Forgive me, I forgot to switch off the mute

1 button.

2 Thank you for coming well within the time that you
3 estimated. It won't, I'm afraid, accelerate the rest of
4 the timetable; we're going to begin at the times we've
5 said. But it gives me the opportunity to ask you to
6 reflect, and if you can, before Mr Boyle addresses
7 the Inquiry on behalf of
8 the National Police Chiefs' Council, respond. If you
9 require more time to respond, or to reflect, then please
10 take it, but my inference from your opening remarks is
11 that the Metropolitan Police, and police generally, no
12 longer regard it as part of their task to assist
13 the Security Service with counter subversion.

14 Further, they no longer regard it as part of their
15 task to infiltrate groups which the majority of people
16 would regard as politically extreme.

17 And thirdly, they do not regard it as part of their
18 task to infiltrate, generally, nowadays, single issue
19 campaigns which do pose a risk of disruption but not of
20 serious disorder of the kind that we heard about in
21 1968.

22 If I have correctly summarised the current view of
23 the Metropolitan Police Service, I would quite like to
24 know when that view was formed, and by whom and for what
25 reason.

1 Finally, a minor point of detail. You referred to
2 the document issued by the Home Office in April 1970.
3 That, in the version that I have read, was the product
4 of an ACPO Association of Chief Police Officers'
5 Committee, which was sent to the Home Office. I have
6 not seen any response by the Home Office to that
7 document and I wondered what the basis for the assertion
8 that it had been issued by the Home Office was. This
9 is, as I say, a minor matter of history, but it may be
10 that you can cast light on it.

11 Would you be willing to consider those propositions
12 and to respond to them at 20 past?

13 MR SKELTON: Sir, I will do my best. We are all remote, as
14 you will appreciate. I'll need to take instructions,
15 probably from senior clients. Whether I can do so in
16 time I can't commit to now, but I will do my best.

17 THE CHAIRMAN: Thank you. If you need more time, of course
18 you must have it. But if you could answer any of my
19 queries by then, I would be grateful.

20 MR SKELTON: Thank you.

21 THE CHAIRMAN: We will resume again at 11.20 for Mr Skelton
22 to answer, if he can, the questions that I have raised;
23 and at 11.30 for Mr Boyle to make his statement on
24 behalf of the National Police Chiefs' Council.

25 Thank you.

1 MS PURSER: Thank you very much, everyone. We will now take
2 a break, as the Chairman has said, until 11.20.

3 Thank you very much.

4 (10.48 am)

5 (A short break)

6 (11.20 am)

7 MS PURSER: Welcome back, everyone. I will now hand over to
8 our Chairman, Sir John Mitting, to continue proceedings.

9 Thank you.

10 THE CHAIRMAN: Thank you.

11 Mr Skelton?

12 MR SKELTON: Sir, thank you.

13 May I simply say this. It was not my intention in
14 the written opening or the oral opening to imply
15 anything about the scope of the MPS's present undercover
16 work. And I hope that answers your first questions.

17 So far as the second issue is concerned, in respect
18 of the document, yes, sir, you are absolutely right,
19 that is an ACPO, or
20 Association of Chief Police Officers, document, provided
21 to the Home Office. And it's in the Inquiry bundle
22 under the Home Office's document section described
23 as "Home Office Terms of Reference of Special Branch
24 April 1970".

25 So, for present purposes, yes, sir, it's not

1 a Home Office document; it was produced by ACPO but
2 resides within the Home Office disclosure.

3 THE CHAIRMAN: Thank you.

4 You haven't actually answered my first questions,
5 and I can readily understand not wishing to do so on
6 the hoof now. But they are questions which in due
7 course I will want to be answered; and I would ask you
8 and those behind you to address them at the right time.

9 MR SKELTON: Thank you, sir.

10 THE CHAIRMAN: We'll resume again at 11.30 as forecast.

11 Thank you.

12 MS PURSER: Thank you, everyone. We will now take a break
13 until 11.30, when we will be hearing from
14 the National Police Chiefs' Council.

15 Thank you very much.

16 (11.23 am)

17 (A short break)

18 (11.30 am)

19 MS PURSER: Welcome back, everyone. I will now hand over to
20 the Chairman to continue proceedings.

21 THE CHAIRMAN: Mr Boyle.

22 Opening statement by MR BOYLE

23 MR BOYLE: Sir, I am here on behalf of
24 the National Police Chiefs' Council, together with
25 Mr Stephen Morley and Ms Cecily White of counsel.

1 For the sake of concision, I intend to refer to
2 the National Police Chiefs' Council as "the NPCC"
3 throughout.

4 The NPCC is a coordination body which, in April of
5 2015, assumed the role previously performed by
6 the Association of Chief Police Officers, more commonly
7 known as "ACPO". The NPCC's primary purpose is to
8 facilitate collaboration between the chief constables of
9 the 43 operationally independent police forces across
10 England and Wales.

11 The NPCC therefore does not act for any individual
12 officer or former officers in this Inquiry, whether they
13 be officers from the National Public Order Intelligence
14 Unit, the NPOIU, or the Special Demonstration Squad.
15 Rather, the NPCC has a generic interest in each module
16 and tranche of this Inquiry, which derives, at least in
17 large part, from the following factors:

18 First, the fact that the NPCC has an ongoing role
19 through the National Undercover Working Group, or
20 the NUWG, in formulating policy and practice relating to
21 undercover policing operations. As you know, sir,
22 the NPCC co-ordinates operational response across
23 the police service, to some of the country's most
24 serious threats, including terrorism, organised crime
25 and national emergencies.

1 Secondly, the fact that the NPCC, by virtue of being
2 the successor to ACPO, has custody of the extremely
3 voluminous documentation generated by the NPOIU and is,
4 therefore, heavily involved in the disclosure and
5 associated redaction exercise relating to former NPOIU
6 officers. This exercise continues, but to date has
7 involved over a million documents being collated and
8 uploaded to Relativity and liaison to make documents
9 available to your inquiry.

10 Thirdly, and finally, the NPCC has an interest
11 because it has facilitated the involvement of risk
12 assessors whose reports have informed anonymity
13 decisions taken by you, Chair, in respect of former
14 NPOIU officers.

15 The NPCC, like a number of other core participants,
16 is particularly concerned to preserve the utility of
17 undercover policing and its associated tactics and
18 techniques, as a vital tool in the fight against
19 criminality in all its forms.

20 The NPCC of course recognises that there have been
21 very significant and at times high profile failings in
22 undercover policing which have the capacity to damage
23 public confidence and trust in the police service
24 nationally, examples of which have so eloquently been
25 set out in the opening statements of the non-State

1 core participants.

2 The NPCC does hope that such failings will, in due
3 course, fall to be considered in the context of
4 significant learning and improvement, particularly in
5 recent decades since the introduction of legislation and
6 with the benefit of various reviews and inspections
7 leading to, and ultimately of course including, this
8 Inquiry.

9 Those failings we hope will also be put into a wider
10 context, which we submit should obviously include
11 recognition of the significant contribution that has
12 been made over very many years where the use of
13 undercover officers has led to the prevention or
14 detection of serious criminality.

15 This brief opening statement does not seek to
16 anticipate or assume evidence which will in due course
17 be heard by the Inquiry. Rather, it's intended to offer
18 some signposting to those areas in which the NPCC may
19 have a legitimate interest, and be in a position to
20 positively assist the Inquiry as the notional guardian
21 of the tactic of undercover policing and, as noted,
22 custodian of material pertaining to the NPOIU in
23 particular.

24 A little bit of background, then, in relation to
25 the NPCC and the NPOIU.

1 The predecessor to the NPCC, ACPO, was formed in
2 1948. ACPO ceased to perform its coordination role on
3 31 March of 2015. That was following the recommendation
4 of an independent review by General Sir Nick Parker; and
5 ACPO itself was officially disbanded in 2016.

6 ACPO was a limited company, and it received funding
7 from the Home Office as well as the 43 police forces in
8 England and Wales, and the RUC as was, the PSNI, its
9 successor.

10 ACPO had oversight of national policing operations
11 and cross-border policing initiatives. It could
12 designate appropriate qualified senior investigating
13 officers to undertake major investigations and,
14 accordingly, had responsibility for certain national
15 policing units, including the NPOIU from approximately
16 2006 until the NPOIU ceased to exist as an independent
17 unit in 2011.

18 The NPCC does not have this function but acts, as
19 I say, as custodian of the material relating to that
20 period of time.

21 The NPOIU, which was established in 1999 and
22 succeeded the Animal Rights National Index, collected
23 and managed intelligence relating to domestic extremism
24 and carried out undercover operations. Unlike the SDS,
25 which recruited directly from the Metropolitan Police

1 Service Special Branch, where those officers typically
2 returned after finishing their SDS deployments,
3 undercover officers were seconded to the NPOIU from
4 forces across the country, including but not limited to
5 the Metropolitan Police Service. Many had experience of
6 major criminal investigations and usually returned to
7 their home forces and indeed to further undercover
8 deployments, including against serious organised crime
9 and terrorism.

10 Accordingly, compared to former SDS officers,
11 the NPOIU officers are more likely to have been deployed
12 against serious organised criminals and/or terrorist
13 organisations, either before or since their deployments
14 with the NPOIU; are more likely to have completed their
15 service within the last 10 to 20 years, ie closer in
16 time to the present day; and, finally, some will still
17 be serving undercover officers, including against
18 serious organised crime and/or terrorist groups.

19 Those factors necessarily tend to increase the risks
20 attached to disclosure of information relating to those
21 officers and their deployments, both to the individuals
22 involved and to the preservation of the tactic
23 generally.

24 In terms of its involvement and engagement with this
25 Inquiry, to date, the NPCC has, we hope, certainly not

1 sought to obstruct or delay matters. Far from it.

2 The NPCC has made an enormous amount of disclosure
3 available to the Inquiry. It has acted as a liaison
4 between the Inquiry and 42 of the 43 national police
5 forces. As you appreciate, sir, the Metropolitan Police
6 Service are separately represented. And in doing so,
7 facilitated the provision of material pursuant to
8 multiple Rule 9 requests. The NPCC arranged independent
9 risk assessments for NPOIU officers who were seeking
10 anonymity.

11 In facilitating all of those features, the NPCC
12 created and funded a co-ordination team and procured, at
13 significant public cost, the technology required for
14 the substantial physical and electronic disclosure
15 exercise which has been underway for some time and
16 remains ongoing.

17 The NPCC stands ready to continue to assist
18 the Inquiry to fulfil its terms of reference, to
19 identify where mistakes have been made, hopefully to
20 identify areas of good practice, and to promulgate
21 learning to improve the police service in the future.

22 Upon the dissolution of ACPO, the NPCC assumed
23 the role of operational coordination. Responsibility
24 for standards, policy and guidance transferred to
25 the College of Policing where it remains.

1 Currently, the NPCC has the following functions,
2 which are underpinned by a collaboration agreement
3 between the 43 police forces.

4 Firstly, coordination of national operations,
5 including defining, monitoring and testing force
6 contributions to what is known as the government's
7 "strategic policing requirement", and working alongside
8 and with the National Crime Agency where appropriate.

9 Secondly, command of counter-terrorism operations
10 and delivery of counter-terrorist policing through its
11 national network.

12 Thirdly, coordination of the police response to
13 national emergencies, including the mobilisation of
14 resources across force borders, and indeed
15 internationally.

16 Fourthly, the implementation of national standards
17 and policy as set by the College of Policing and Her
18 Majesty's Government.

19 Fifthly, working with the College of Policing to
20 develop joint national approaches in areas such as
21 criminal justice, information management, performance
22 management and technology.

23 Each of the 43 forces in England and Wales is
24 represented in the NPCC through the Chief Constables'
25 Council, which is the primary decision-making body.

1 Funding is provided by the signatories to
2 the collaboration agreement. The NPCC, unlike its
3 predecessor ACPO, is not a legal entity, it is
4 a collective of independent chief officers.

5 The work of the NPCC itself is carried out within 12
6 committees, each led by a chief constable, which work
7 closely with the College of Policing to assist with
8 the development of professional practice.

9 The committees themselves focus on areas such as crime
10 operations, finance, criminal justice. Representatives
11 from non-police organisations are involved in
12 the committee's work to ensure a range of perspectives
13 are considered.

14 For present purposes, the most relevant committee is
15 the crime operations coordination committee, which has
16 a number of portfolios which are delivered through
17 working groups, including the National Undercover
18 Working Group.

19 The NUWG, as it's known, is one of a number of
20 groups that reports to the Serious and Organised Crime
21 Portfolio, which is a subgroup of the crime operation
22 coordination committee. The NUWG consists of
23 representatives of law enforcement agencies from across
24 the United Kingdom that operate undercover units.
25 The group meets regularly and has been the forum by

1 which the police service has managed the implementation
2 of the 2014 HMIC report into undercover policing, which
3 Counsel to the Inquiry mentioned yesterday and
4 Mr Skelton mentioned just a moment ago.

5 The NUWG devised an action plan which addresses
6 the 49 recommendations made by that HMIC report; and has
7 put in place systems to address those recommendations.
8 The NUWG itself has a number of subgroups that manage
9 core areas of business, each headed by a senior police
10 officer.

11 Sara Thornton was the original chair of the NPCC,
12 and as from 1 April of 2019 the current chair
13 Martin Hewitt has been in position.

14 A brief overview of undercover policing and
15 practice.

16 Undercover policing is a valuable tool in
17 the armoury of law enforcement. Although its governance
18 has changed over time, it is a tactic which is still
19 used with good effect to detect and prevent crime.
20 Notwithstanding the focus of this Inquiry on the SDS and
21 the NPOIU, undercover officers continue to be deployed
22 to counter threats from, for example, organised crime
23 groups, drug and human traffickers, firearms and
24 homicide incidents, paedophilia and terrorist
25 atrocities.

1 Mr Skelton addressed you on the areas of criminality
2 where undercover officers are and remain deployed. You
3 have written evidence of some notable examples of where
4 the deployment of undercover officers by
5 the Metropolitan Police Service has helped prevent or
6 detect criminality.

7 You also have written examples set out in
8 the written opening which accompanies this oral opening,
9 which will be uploaded to the Inquiry's website.

10 The following are just one or two examples where
11 press reports referring to the use of undercover are
12 widely available, where, through the use of the tactic,
13 there has been the prevention or detection of
14 significant criminality.

15 First, an example from the West Midlands: the arrest
16 of over 100 suspected paedophiles for targeting children
17 online, resulting in prosecutions, convictions and jail
18 terms exceeding 100 years. The operation itself
19 revealed, regrettably, a significant increase in
20 suspicious activity during the first phase of lockdown,
21 resulting in multiple arrests and the consequent
22 safeguarding of dozens of children.

23 Counter-terrorism, examples of which you will be
24 sadly familiar with. And in South Wales, through
25 Operation Blue Thames, a large scale drugs investigation

1 in the Swansea area against a serious organised crime
2 group, which resulted in 46 people being jailed for
3 a total of over 180 years.

4 All criminality, especially serious crime, causes
5 hardship and injustice across communities who rightly
6 expect to be protected by the police.

7 As the modern world has become increasingly
8 sophisticated, so have criminals. Much of the value of
9 the tactic lies in its secret or hidden nature, which is
10 why so often the successes against major criminal
11 activity go unnoticed and unreported. Although
12 relatively few in number -- approximately 1,200
13 undercover officers out of a policing body of over
14 120,000 officers -- they place themselves at risk of
15 exposure and retaliation when deployed. Their actions
16 may inevitably have an impact on the groups and
17 communities they infiltrate. Their service, too, may
18 also take a toll on their own personal and family lives;
19 and you'll be addressed on that by Mr McCullough
20 QC tomorrow.

21 In recognition of the tension between the value of
22 the tactic and its potential collateral effects,
23 guidance has been derived from case law, reviews and
24 inspections, and policies developed by policing and
25 non-policing bodies.

1 Again, in the written opening, details of some of
2 the more significant developments there have been in
3 terms of guidance or policy regarding the use of
4 undercover are set out. These will no doubt be given
5 much more detailed consideration during Module 3. You
6 have already had reference to some of them by Mr Skelton
7 on behalf of the Metropolitan Police Service.

8 For that reason, sir, I do not propose to repeat
9 what is set out in the NPCC's written submissions in
10 detail, I simply refer to one or two milestones.

11 Firstly, of course, the Regulation of Investigatory
12 Powers Act, RIPA, of 2000. The details and
13 the consequence of that Mr Skelton has already addressed
14 you on; I won't repeat it.

15 The CHIS Code of Practice, dating back to 2002.

16 The "ACPO & HMCE: National Standards in Covert
17 Investigations -- a Manual of Standards for
18 the Deployment of Undercover Officers."

19 The Regulation of Investigatory Powers (Covert Human
20 Intelligent Sources: Relevant Sources) Order of 2013.
21 That was the Statutory Instrument number 2788, which led
22 to significant further improvements in terms of
23 authorisation and governance, from 1 January of 2014.
24 Again, which Mr Skelton spoke to, and therefore
25 I shan't.

1 And then, finally, the HMIC inspection of undercover
2 policing in England and Wales, which was commissioned in
3 2013, which Mr Barr told us about yesterday afternoon,
4 and which reported in 2014. This concluded that, in
5 general, undercover officers, and I quote:

6 "... carry out their roles professionally and with
7 great courage. We find them to be dedicated to their
8 task. We were impressed by their keen awareness of
9 the vital role which they play in protecting our
10 communities, and the legal, practical and ethical
11 environment in which they operate. We applaud their
12 bravery, their professionalism and their skill.
13 The work of the vast majority of individual undercover
14 police officers, whilst unsung, should never go
15 unnoticed."

16 That review of course produced 49 recommendations,
17 which have been substantially implemented across all
18 undercover activity, including: ensuring consistency of
19 all units' activity; undertaking undercover activity to
20 an evidential standard; licensed training for
21 the officers, cover officers, operational managers and
22 authorising officers; and updating all procedural
23 documentation.

24 You have also been addressed already, sir, on
25 the Authorised Professional Practice On Undercover

1 Policing from 2016, which has been updated on
2 30 October 2020.

3 Can I just pause to observe that in the written
4 opening there is a footnote which provides the internet
5 link which is available, therefore, to the public for
6 them to view the Authorised Professional Practice most
7 recently dated, as I say, 13 October of 2020.

8 Historically, of course, there was an absence of
9 specific legislation governing authorisations and
10 deployments prior to RIPA 2000, with the consequence
11 that, in the past, intelligence-only deployments,
12 including those which will be the subject of this
13 particular tranche, lacked the legal and judicial
14 oversight which now prevails.

15 And, secondly, prior to the implementation of
16 the Human Rights Act of 1998, which brought into effect
17 the European Convention on Human Rights, there was
18 limited formal recognition of the effects of the tactic
19 on the rights of others, through what some term
20 "collateral intrusion", but more appropriately invasion
21 of privacy.

22 However, more recently, the timeline demonstrates
23 that there have been reforms and improvements to
24 the tactic, both as a consequence and independently of
25 external reviews.

1 The systems now in place mean that, firstly, with
2 the regionalisation of undercover officer units, there
3 are fewer units nationally, which encourages, of course,
4 greater accountability and consistency of size,
5 structure, capability and standards.

6 Secondly, most undercover operations are primarily
7 conducted to obtain evidence for prosecutions. This
8 involves necessarily closer working with the CPS and
9 independent oversight, through the CPS and counsel, in
10 the management of disclosure.

11 Thirdly, all undercover deployments are conducted to
12 an evidential standard, even if intended for
13 intelligence purposes.

14 Fourthly, following input from the OSC and now
15 the IPCO, there's a structured approval process for
16 legend building by undercover officers outside
17 authorised undercover activity.

18 Fifthly, since 2000, RIPA inspections by the OSC,
19 and later by the IPCO, and their recommendations, unit
20 by unit, have provided direct feedback about the quality
21 of compliance with legislation.

22 Sixth, there is licensed training for cover
23 officers, covert operational managers and authorising
24 officers. That has had the benefit of standardising and
25 improving the quality of supervision, accountability and

1 oversight.

2 Seventh, all undercover officers are required to
3 sign the Undercover Officer Code of Conduct annually.

4 Eighth, there is now formal oversight and approval
5 pursuant to Statutory Instrument 2788, which I touched
6 on earlier.

7 Ninth, the APP clarified that no authorisation would
8 be granted for sexual relationships, which has been
9 reinforced in the most recent APP published in October.

10 Moreover, under the auspices of its National
11 Undercover Working Group, NPCC have an action plan and
12 ensured that all of the recommendations of the 2014
13 report have been accepted and are being put into
14 practice.

15 Briefly, then, sir, by way of conclusion.

16 The police service strives to prevent crime and
17 disorder, to protect the vulnerable and to serve
18 the public. Undercover policing remains an important
19 and highly effective tool for combating crime. Although
20 its use as a tactic has not been without controversy,
21 the framework of governance and oversight has been
22 significantly strengthened in recent decades, resulting
23 in a more professional and accountable capability, which
24 is clearly in the public interest moving forwards.

25 It is for that reason, sir, that the NPCC's primary

1 interest in this Inquiry is to preserve the utility of
2 undercover policing, to continue learning and
3 development, which of course is welcomed; and the NPCC
4 therefore stands ready to assist you and your inquiry
5 team in the discharge of your terms of reference.

6 MS PURSER: Sir, you are on mute again.

7 THE CHAIRMAN: I will eventually learn to press the "unmute"
8 button. I apologise for not doing so first time round.

9 Thank you for keeping your submissions within
10 the time allotted.

11 MR BOYLE: Thank you, sir.

12 MS PURSER: Sir, Richard O'Brien from
13 the National Crime Agency is due to speak at midday.
14 Are you happy for him to start now?

15 THE CHAIRMAN: Yes, I am.

16 Opening statement by MR O'BRIEN

17 MR O'BRIEN: Thank you, sir.

18 The National Crime Agency, the NCA, is grateful for
19 the opportunity to make a short opening statement to
20 the Inquiry. We propose to make a few brief
21 submissions, focusing on two matters.

22 First, an outline of the status and work of
23 the NCA and the history of its predecessor
24 organisations.

25 Second, the scope of the NCA's interest in this

1 Inquiry -- its lack of any direct interest in
2 the Inquiry's historical investigations into the conduct
3 of the SDS and the NPOIU, and its significant interest
4 in the Inquiry's consideration of present and future
5 undercover policing in this country.

6 First, then, the status and work of the NCA and that
7 of its predecessor organisations.

8 The NCA was established under Part 1 of the Crime
9 and Courts Act 2013. It has the status of
10 a non-ministerial department headed by a director
11 general.

12 The NCA operates both across the United Kingdom and
13 internationally. It currently employs over 4,000 staff.

14 In the broadest of terms, the role of the NCA is to
15 lead the UK's fight to cut serious and organised crime.
16 In performing this function, the NCA works closely with
17 local police forces, other national bodies and also
18 international partners. Undercover operations are a key
19 part of the NCA's work.

20 The NCA is only the most recent of a series of
21 national organisations that have been created to fulfil
22 this type of strategic function.

23 The National Crime Squad, or NCS, came into being in
24 1998 by virtue of Part 2 of the Police Act 1997.

25 The NCS replaced what had previously been six regional

1 crime squads which had existed since the 1960s. As with
2 those regional crime squads, police officers were
3 seconded to work with the NCS from their parent police
4 forces, to whom the officers remained accountable in
5 terms of their conduct. The NCS contained dedicated
6 undercover units that were geographically spread across
7 the country.

8 Her Majesty's Revenue and Customs, or HMRC, prior to
9 2005 Her Majesty's Customs & Excise, also maintained
10 a substantial national and international investigative
11 compatibility. HMRC also had a dedicated undercover
12 unit whose officers possessed different skillsets to
13 those in the NCS undercover units.

14 In April 2006, the Serious Organised Crime Agency,
15 or SOCA, was established under the Serious Organised
16 Crime and Police Act 2005. The creation of SOCA was
17 a merger between the NCS, the National Criminal
18 Intelligence Service, parts of HMRC, including
19 the dedicated undercover unit, and parts of
20 the Immigration Service. Undercover operations were an
21 important part of the work of SOCA, as they had been in
22 the work of the NCS and HMRC. Undercover officers
23 working for SOCA were directly employed by SOCA itself
24 and there was an internal system of discipline.

25 As I've already said, the NCA was established in

1 2013 replacing SOCA. As with SOCA, NCA officers are
2 directly employed by the Agency and are subject to
3 internal discipline.

4 The scope of the work undertaken by the NCA is very
5 much wider than its early predecessors. In 1964,
6 the RCSs were formed to combat the growth of organised
7 crime in fields such as racketeering, kidnap, the supply
8 of drugs within the UK, armed robbery, firearms and
9 murder. At the same time, Her Majesty's
10 Customs & Excise were combating international drugs and
11 weapons trafficking, enforcing UK import and export
12 prohibitions and investigating complex fiscal frauds.

13 Over 50 years later, the NCA still combats organised
14 crime in those areas, but it also works in many other
15 fields -- for example, cyber-crime, human trafficking,
16 economic crime and child exploitation. Much of its work
17 involves liaison with foreign law enforcement agencies,
18 and it is in fact the UK point of contact for such
19 agencies, including Interpol and Europol.

20 Undercover operations are a key part of the NCA's
21 work across all its strategic objectives. In order to
22 preserve the security of the NCA's undercover officers,
23 I am unable to give any detail in public as to the exact
24 size and composition of the NCA's undercover unit. What
25 I can say is that the NCA's undercover unit is widely

1 accepted as one of the United Kingdom's most significant
2 undercover units, in terms of size, capabilities and
3 effectiveness. The NCA's undercover unit is
4 instrumental in the fight against serious and organised
5 crime.

6 The latest estimate available of the social and
7 economic cost of serious and organised crime to the UK
8 is approximately £37 billion, likely to be a significant
9 underestimate. The NCA's undercover unit is key in
10 combating the threat of serious and organised crime,
11 with NCA undercover officers being deployed and
12 achieving successful results across multiple serious
13 crime types and organised crime groups.

14 Furthermore, the NCA's undercover unit is recognised
15 internationally as an exemplar of undercover law
16 enforcement both from an operational activity and people
17 management perspective, and is regularly asked to
18 provide advice, training and mentoring to other
19 international law enforcement agencies. As such,
20 the NCA are key stakeholders within the international
21 undercover working groups which shape undercover policy,
22 practices and procedure.

23 The NCA has substantial written policies that govern
24 the conduct of all aspects of specialist undercover
25 deployments. These NCA policies cover both operational

1 activity, infiltrations and meetings with criminals, and
2 also any legend building undertaken by an undercover
3 officer where there is no intention to acquire
4 intelligence or evidence, or engage with the subject of
5 an investigation.

6 As with the equivalent SOCA policies, the purpose of
7 these policies is to establish national procedures to
8 enable the NCA to manage its undercover deployments in
9 accordance with the law, within prescribed national
10 standards and in compliance with statutory codes of
11 practice. These NCA policies make it clear that the NCA
12 conducts all undercover deployments in accordance with
13 the College of Policing's Authorised Professional
14 Practice for Undercover Policing, and with significant
15 intrusive management oversight at NCA Grade 2 --
16 (Superintendent) and NCA deputy director (assistant
17 chief constable) level.

18 In 2019, the Investigatory Powers Commissioners'
19 Office, or IPCO, carried out an inspection of the NCA's
20 compliance with the legislative provisions governing
21 the management of covert human intelligence sources,
22 which includes undercover officers. It found that
23 the NCA makes full use of this covert activity and seeks
24 to do so in a professional and compliant manner.

25 I turn now to the NCA's interest in this Inquiry.

1 The catalyst for the establishment of this Inquiry
2 was of course the widespread public concern prompted by
3 the revelation of grave misconduct on the part of
4 undercover officers attached to the Special
5 Demonstration Squad and the National Public Order
6 Intelligence Unit.

7 The NCA's application for core participant status in
8 the Inquiry was not based on any direct interest in
9 the investigation of that misconduct, or the activities
10 of those two units. As already stated, the NCA was not
11 itself established until 2013. The Agency therefore did
12 not exist at the time that the misconduct that this
13 Inquiry will investigate took place.

14 Moreover, the focus of the undercover work carried
15 out by the NCA is not, and has never been on,
16 the infiltration of political, social and environmental
17 activist groups. The NCA understands that the same is
18 true of the undercover work conducted by the RCS,
19 the NCS and SOCA.

20 The NCA has never had a policy that involved
21 encouraging undercover officers to use the identities of
22 deceased children when creating their legend identities.
23 Nor is the NCA aware of any such policy being in place
24 within the RCS, the NCS or SOCA. Rather, the NCA's
25 interest in this Inquiry relates to any broader

1 examination that the Inquiry may undertake of historic
2 undercover policing, and in particular to Module 3
3 of the Inquiry, in which the Inquiry will consider
4 current undercover policing practices and how undercover
5 policing in this country should be conducted in
6 the future.

7 The NCA is committed to assisting the Inquiry in its
8 work. In the time since the Inquiry was set up, the NCA
9 has responded to Rule 9 requests for witness statements,
10 it has provided voluminous disclosure, and it has
11 contributed to the procedural debates relating, amongst
12 other things, to the principles to be applied to
13 restriction orders, the Rehabilitation of Offenders Act,
14 data protection principles and so on.

15 The NCA does not propose to take an active role in
16 the first two modules of the Inquiry's work, since that
17 work will focus on historic conduct of officers of
18 the Special Demonstration Squad and the National Public
19 Order Intelligence Unit, although the NCA does have an
20 interest in evidence to be given during those modules by
21 a small number of officers who have been employed by
22 the NCA or its precursors and who deployed within NPOIU
23 operations.

24 However, we anticipate that we will have much more
25 to say in the later stages of the Inquiry's work and in

1 particular in Module 3 of the Inquiry.

2 The NCA is fully cognisant that things went wrong in
3 the past and that lessons can and must be learnt.

4 However, the use of undercover officers remains
5 a critical tactic in the UK's fight to cut serious and
6 organised crime.

7 Serious and organised crime affects more UK citizens
8 more often than any other national security threat, and
9 leads to more deaths in the UK each year than all other
10 national security threats combined. It is the belief of
11 the NCA that the need for undercover officers to combat
12 serious and organised crime has increased as law
13 enforcement faces new challenges from increasingly
14 sophisticated organised crime groups.

15 Serious and organised criminals are becoming more
16 innovative and elusive. We are seeing an increase in
17 factors that hamper the effectiveness of other, more
18 traditional, law enforcement techniques. Advancing
19 technology provides organised crime groups with new and
20 better ways to commit and conceal their crimes.

21 The NCA has observed a significant rise in
22 consensual offences, such as people smuggling, where
23 there is no victim to provide evidence to further
24 the investigation.

25 There has been an explosion in both online offending

1 and online facilitation of offending, and the NCA now
2 face organised crime groups who are more knowledge on
3 the tactics and techniques employed by law enforcement.

4 With these factors frustrating law enforcement
5 tactics, it is often the case that the sole evidence- or
6 intelligence-gathering technique available will be an
7 undercover officer in direct contact with the offenders.

8 I am constrained from detailing the many undercover
9 investigations undertaken by the NCA, but a recent
10 snapshot of these is as follows:

11 In April 2019, a deployment by an NCA
12 undercover officer to negotiate the purchase of
13 a firearm directly led to the seizure of 29 handguns and
14 the ammunition for these weapons. Due to
15 the overwhelming evidence garnered by
16 undercover officers, the suspect pleaded guilty and
17 received a life sentence, which was reduced due to
18 an early plea.

19 In September 2019, an NCA undercover officer bought
20 a cache of weapons and explosives, which included
21 a military grade assault rifle, a handgun, ammunition
22 and grenades, from a serving member of the UK military.
23 The suspect believed the weapons were being sold on to
24 the criminal market for use by a serious criminal group.
25 Further munitions, weapons and plastic explosives were

1 later recovered post-arrest by NCA search teams.

2 Again, the weight of evidence garnered by
3 the undercover officer led to the suspect pleading
4 guilty at first opportunity, and he was sentenced to 14
5 and a half years in prison.

6 In October 2017, three men were jailed for plotting
7 to move up to 20 Albanian migrants a month, some of whom
8 were likely to be victims of human trafficking, from
9 Europe to the UK. The conspiracy was infiltrated by an
10 NCA undercover officer via the means of a protracted
11 infiltration. This led to the safeguarding of
12 the potential victims and the crime group being
13 dismantled. The three offenders received a total of
14 19 years imprisonment.

15 Without the NCA undercover deployments, it is highly
16 unlikely that these criminals would have been brought to
17 justice and the serious harm they posed to the UK public
18 negated.

19 And today, as on any day, NCA undercover officers
20 are at work infiltrating UK and international organised
21 crime groups which traffic drugs and firearms, abuse
22 children, commit acts of appalling violence without
23 hesitation, and actively target and harm the vulnerable
24 in our society to pursue their criminal agendas.

25 In conclusion, may I repeat that the NCA is fully

1 committed to assisting the Inquiry in its work. That is
2 a sentiment that is endorsed by Lynne Owens,
3 the Director General of the NCA.

4 As I have said, sir, the NCA does not anticipate
5 playing an active part in the early stages of your oral
6 hearings. But we wish you, the Inquiry team and all
7 involved well in the important work that you are now
8 commencing.

9 Thank you.

10 THE CHAIRMAN: Thank you very much indeed. You have
11 finished well within your time, and therefore we will
12 break again until 12.30.

13 MR O'BRIEN: Thank you.

14 MS PURSER: Thank you very much. We will now take a break
15 until 12.30, where we will be hearing from
16 the Home Office.

17 Thank you.

18 (12.13 pm)

19 (A short break)

20 (12.30 pm)

21 MS PURSER: Welcome back, everyone. I will now hand over to
22 the Chairman to resume proceedings.

23 Thank you.

24 THE CHAIRMAN: Mr Griffin, you are now about to make your
25 statement on behalf of the Home Office.

1 Opening statement by MR GRIFFIN

2 MR GRIFFIN: Thank you very much, sir.

3 Sir, I appear on behalf of the Home Secretary, and
4 she represents the interests of the Home Office.

5 I appear with Rosemary Davidson and Catherine Brown and
6 we are instructed by Raveen Patel of the government
7 Legal Department.

8 Sir, we have provided a written opening statement.
9 You will have seen it. It has been circulated to
10 core participants; and I have just seen a tweet showing
11 that it is now available online for all to read.

12 Sir, I do not intend now to cover all of the matters
13 we have raised in it. I would like to take
14 the opportunity provided today to focus on two
15 areas: the concerns leading to the establishment of this
16 Inquiry first; and the major issues you are considering
17 that are of particular relevance to the Home Office
18 second.

19 Sir, the concerns leading to the establishment of
20 this Inquiry.

21 In his opening remarks in 2015,
22 Sir Christopher Pitchford, the former Chair of
23 the Inquiry, set out some of the events leading up to
24 its establishment, including the publication of
25 significant reports concerning the conduct of undercover

1 policing. The relevant part of Sir Christopher's
2 remarks are appended to our written statement; and, sir,
3 yesterday, Mr Barr, Counsel to the Inquiry, also set out
4 a short chronology of some of the salient events which
5 led to the then Home Secretary, The Right Honourable
6 Theresa May, announcing, on 12 March 2015, that there
7 would be a statutory public inquiry chaired by
8 Sir Christopher.

9 The actions of the former Home Secretary which
10 culminated in establishing this Inquiry were accompanied
11 by statements expressing her significant concern about
12 what had occurred. By way of example, in her statement
13 to the House of Commons on 6 March 2014, she said that
14 the findings of the Ellison review were deeply troubling
15 and profoundly shocking. She added:

16 "I do not say this lightly, but the greatest
17 possible scrutiny is now needed into what has taken
18 place. Given the gravity of what has now been
19 uncovered, I have decided that a public inquiry led by
20 a judge is necessary to investigate undercover policing
21 and the operation of the SDS. Only a public inquiry
22 will be able to get to the full truth behind the matters
23 of huge concern contained in Mark Ellison's report."

24 As we have heard, sir, the Inquiry was established
25 a little over a year later, and its full terms of

1 reference were published after that.

2 As a core participant, the Home Secretary has
3 co-operated fully with the Inquiry since it was set up.
4 That has included an extensive disclosure exercise at
5 the Home Office, both in response to specific requests
6 from the Inquiry and also on a wider voluntary basis.

7 Sir, the second area that I want to cover relates to
8 issues of relevance to the Home Office.

9 The Inquiry's terms of reference require it to
10 enquire into a wide range of matters. Yesterday,
11 Mr Barr read them out and they can be found on
12 the Inquiry's website.

13 Amongst the issues of particular relevance to
14 the Home Office that the Inquiry must specifically
15 address are the following.

16 The Inquiry must investigate the role and
17 the contribution made by undercover policing towards
18 the prevention and detection of crime. And, sir, you've
19 heard this morning already from Mr Skelton, Mr Boyle and
20 Mr O'Brien about aspects of this.

21 Sir, the Inquiry must ascertain the state of
22 awareness of undercover police operations of
23 Her Majesty's Government; and that is something I will
24 return to in a moment. And the Inquiry must identify
25 and assess the adequacy of the statutory policy and

1 judicial regulation of undercover policing.

2 Sir, we have provided an overview of the relevant
3 constitutional and regulatory framework from
4 the perspective of the Home Office in our written
5 opening statement, and you have also heard from
6 the police core participant representatives about
7 aspects of this.

8 Sir, as Counsel to the Inquiry explained yesterday,
9 the Inquiry has broken down its investigations into
10 three modules broadly covering: in Module 1, officer
11 conduct and impact; in Module 2, management and
12 oversight, and importantly for the purposes of
13 the Home Office, that will include consideration of
14 the legal and regulatory framework within which
15 undercover policing was carried out; and Module 3,
16 current and future undercover policing practice.

17 Sir, the Home Office has an interest in all three
18 modules and will seek to assist the Inquiry with its
19 consideration of them.

20 Sir, we are now at the start of Module 1, and for
21 the purposes of this opening statement, I would like to
22 address the issue of the relationship between
23 the Home Office and the SDS.

24 I have already referred to the former Home
25 Secretary's statement to the House of Commons on

1 6 March 2014. She also made clear in it that:

2 "Operation Herne has previously found that
3 the Home Office was instrumental in the establishment of
4 the SDS in 1968, in the aftermath of
5 the anti-Vietnam War demonstration in Grosvenor Square.
6 And it has also previously found that the Home Office
7 initially provided direct funding for the SDS.

8 "The Home Office was the police authority for
9 the Metropolitan Police at that time, so the interests
10 of transparency require that we all understand what role
11 the Department played. My Permanent Secretary has
12 therefore commissioned a forensic external review in
13 order to establish the full extent of the Home Office's
14 knowledge of the SDS."

15 Sir, that review was conducted by Stephen Taylor,
16 a former director of the Audit Commission. The Taylor
17 review, entitled "Investigation into Links Between
18 Special Demonstration Squad and Home Office", reported
19 in early 2015.

20 Mr Taylor concluded that the Home Office was
21 supportive of the SDS being created in 1968 and, between
22 1969 and 1989, the Home Office provided a separate and
23 secret budget to Special Branch, to meet the costs of
24 accommodation and transport for SDS officers.

25 Mr Taylor found that, during this period, a small

1 number of Home Office officials were aware of some of
2 the specific groups that were targeted by the SDS,
3 the type of intelligence being gathered, and
4 the detailed operational activity and all the groups
5 infiltrated during the years of 1983 and 1986.

6 Sir, this is how he put it in his report at
7 paragraph 5.2:

8 "An annual summary of SDS activity was prepared by
9 Special Branch and there is no evidence that this was
10 seen by Home Office officials, with the exception of
11 years 1983 and 1986. However, headlines from the annual
12 report were included in the annual budget request to
13 justify ongoing funding and broadly indicate the types
14 of groups and organisations being infiltrated and
15 the intelligence being gathered."

16 Mr Taylor found no evidence that anybody in
17 the Department was aware of the SDS practice of using
18 the identities of deceased children to form their
19 legends, or of the risk that SDS officers may form
20 sexual relationships with their targets. He also found
21 no evidence that the Home Office had any direct
22 knowledge of criminal activity and court appearances by
23 SDS operatives that could lead to allegations of
24 miscarriage of justice at a later date.

25 Sir, the Home Secretary accepts the conclusions

1 reached by Stephen Taylor as to the role that
2 the Home Office played in the creation of the SDS and
3 the funding arrangement that was in place.

4 The Home Secretary made the Taylor review public,
5 and it can be found online. And of course, sir,
6 the former Home Secretary also established this Inquiry.
7 And as we have seen, she required it in its terms of
8 reference to ascertain the state of awareness of
9 undercover police operations of the Home Office as part
10 of the government. So there will be further scrutiny of
11 this issue, with which the Home Office will continue to
12 cooperate.

13 Sir, in conclusion, undercover policing plays
14 a vital role in tackling serious crime and keeping
15 the public safe. However, the Home Secretary recognises
16 the significant concerns about the way in which it has
17 operated in the past. For that reason, her predecessor
18 established this Inquiry to get to the truth of those
19 events and ensure that lessons are learnt for
20 the future.

21 The Home Office will continue to engage and
22 cooperate with the Inquiry as it now embarks on its
23 evidential hearings as required and wherever it can be
24 of assistance.

25 Thank you, sir.

1 MS PURSER: Sir, you are on mute again.

2 THE CHAIRMAN: One out of four so far.

3 Thank you very much. We will resume at 2 o'clock
4 with Mr Sanders for the DL group of officers.

5 MS PURSER: Thank you very much, everyone. As the Chairman
6 has said, we will take a break and resume at 2 o'clock,
7 where we will hear from the Designated Lawyer Officers.

8 (12.41 pm)

9 (The short adjournment)

10 (2.00 pm)

11 MS PURSER: Good afternoon, everyone, and welcome to
12 the afternoon session of the Day 2 opening statements at
13 the Undercover Policing Inquiry.

14 As a reminder to those of you in the virtual hearing
15 room, please turn off both your camera and microphone,
16 unless you are speaking.

17 I will now hand over to our Chairman,
18 Sir John Mitting, to continue proceedings.
19 Chairman.

20 THE CHAIRMAN: Thank you.

21 Mr Sanders, now is your turn to make your opening
22 statement on behalf of the DL represented former
23 undercover officers.

24 As you know, we have a break mid-afternoon for
25 the shorthand writers' benefit, roughly 3.30, slightly

1 before for preference. Could you bear that in mind,
2 please.

3 Thank you.

4 MS PURSER: Could I please ask you to unmute your video?

5 THE CHAIRMAN: I was not muted. What I said was not muted.
6 Do I need to repeat it?

7 MS PURSER: No, we heard you, Chairman. Your camera is off.

8 THE CHAIRMAN: Ah, the camera, right. It says I am unable
9 to start the video.

10 MS PURSER: We will contact the technicians and deal with
11 that in the background.

12 THE CHAIRMAN: Thank you.

13 MS PURSER: Thank you, sir.

14 THE CHAIRMAN: Meanwhile, there's no reason why Mr Sanders
15 should delay in his opening.

16 MR SANDERS: Very well. Can you hear me?

17 THE CHAIRMAN: I can see and hear you.

18 Thank you.

19 Opening statement by MR SANDERS

20 MR SANDERS: I'm grateful, sir. I will press on and
21 hopefully you'll appear at some point.

22 Good afternoon, sir. I'm here with
23 Robert McAllister and Claire Palmer, to deliver
24 the opening statement on behalf of our clients, which is
25 the Designated Lawyer Officer core participant group.

1 I will turn to the make-up of the Designated Lawyer,
2 or DL, team, and also our clients shortly. You should
3 have, sir, our amended written opening statement, which
4 was filed 22 October and is now amended 28 October.

5 There is one mistake, one correction I just need to
6 let you know about, sir, in the statement, and it's at
7 paragraph 1.3.4, where we just give the number of Rule 9
8 statements made by our Tranche 1 undercover officers;
9 and the number should be 36 not 35, and then the total
10 comes up to 40. I think that's just a slip, because our
11 running total had HN321 added to it late. As you know,
12 sir, there were logistical issues with getting HN321's
13 statement.

14 Our clients -- as you know, sir, but I'll reiterate
15 now -- are mostly former and a handful of serving
16 Metropolitan Police officers who were members of mainly
17 the Special Demonstration Squad, which I'll refer to
18 as "the SDS", and, to a much lesser extent, members of
19 the National Public Order Intelligence Unit, the NPOIU.

20 Our clients include undercover officers and also
21 members of back-office staff and managers within
22 the units. The designated lawyer is Anna Pyke, she is
23 a Metropolitan Police solicitor, but she has been
24 separated from the main body of the Directorate of Legal
25 Services and set up independently to provide our clients

1 with independent representation in the context of
2 the Inquiry. So that is independent privileged
3 representation that's funded by MOPAC.

4 I've given -- in the written opening we give
5 a breakdown of our clients and who they are. It's at
6 paragraph 1.3.3. We have 103 former members of
7 the Special Demonstration Squad, including 76
8 undercover officers out of the total, which was 117. We
9 also have 11 former members of the NPOIU, including
10 three undercover officers out of 22. The total comes to
11 114, because one of our clients, HN66/EN327, was
12 a member of both units.

13 Within the three SDS tranches, Tranches 1, 2 and 3,
14 we represent 40 Tranche 1 undercover officers, 23
15 Tranche 2 undercover officers and 13 Tranche 3
16 undercover officers.

17 Some of the undercover officers that we represent
18 went on to become managers within the Special
19 Demonstration Squad, and so they will be giving evidence
20 in more than one tranche.

21 Standing back from those numbers, you will see that
22 we represent between 60% and 65% of the total membership
23 of the Special Demonstration Squad, both of
24 undercover officers and its personnel overall. And
25 given the significant number of deaths of members of

1 the squad, we in fact represent around 70% of the total
2 membership of the surviving membership.

3 As set out, sir, in our written opening, what we aim
4 to do is very much to focus on the Special Demonstration
5 Squad; to make a number of higher level, general points
6 which are of application to the entirety of its
7 existence from 1968 to 2007; and then to focus in a bit
8 more on Tranche 1, and to make some more specific points
9 relevant to the period 1968 to 1982.

10 We propose to say very little about specific
11 officers or deployments; and to say nothing about
12 findings or conclusions that you should make or draw.
13 That will be dealt with in our closing once the evidence
14 has been heard.

15 And so the main aims of this statement at this
16 point, sir, are to set matters in context and to give
17 you what we say are some key points which we invite you
18 to keep in mind when considering the evidence, when
19 making findings and when drawing conclusions.

20 In terms of the structure of this opening, I will be
21 addressing you this afternoon and tomorrow morning, sir,
22 and we propose to follow the structure of the written
23 opening fairly closely.

24 So this afternoon I'm going to address you on parts
25 2 to 5 of that opening. And so that is to deal with,

1 first, the institutional context within which the SDS
2 operated, so the institutions that surrounded the unit.
3 From the central government perspective, that's
4 the Home Office and MI5. And then from the police
5 perspective, it's to look at the role and functions of,
6 first, the Metropolitan Police and then, more
7 specifically, the Metropolitan Police Special Branch.

8 We will then look at the difficulties and issues
9 arising in connection with public order policing
10 generally, and address you on the particular operational
11 considerations that the police have to take into
12 account, the need that they have for intelligence in
13 order to meet the demands of public order policing, and
14 then the lawfulness of the undercover means of
15 collecting that intelligence.

16 Then, finally, for this afternoon, sir, is to look
17 at the context, 1968 to 1982. So, specifically:
18 the international and national context; the particular
19 issues arising in connection with public order and
20 disorder in London during that period; the role of
21 extremist groups in that disorder; and then the nature
22 of the public order scene more generally, the groups
23 involved and the ways in which there was a considerable
24 degree of complexity and difficulty facing the Met in
25 terms of the intelligence it would need in order to

1 manage the events that those groups participated in.

2 Then, just briefly, sir, tomorrow morning I will
3 turn from the context to the SDS in particular, and to
4 parts 6 to 9 of our written opening. So that's, then,
5 to address you on the SDS operational model and
6 processes, and the effects of those processes on
7 the available materials that the Inquiry has and
8 the Inquiry's able to look at.

9 Then to look at the contribution of the SDS --
10 the operational contribution of the SDS, first in
11 relation to public order, and secondly in relation to
12 counter subversion, and in particular the overlap with
13 the work of MI5.

14 Then to look at some of the specific issues
15 highlighted by the Inquiry in its list of issues. So
16 the scope of the SDS reporting, the use of deceased
17 children's identities from 1973 onwards, until around
18 the mid-90s, the engagement in sexual relationships by
19 some SDS undercover officers.

20 Then to move on from those to make some concluding
21 submissions.

22 So, picking up at part 2 of our written opening with
23 the central government, and standing back from that,
24 the point we make and emphasise at the outset is that
25 the SDS was one cog in a much larger machine, a much

1 larger security and intelligence apparatus. And it was
2 a cog that was put in place and overseen and funded by
3 central government. And it's important to view the unit
4 in that context to understand what was surrounding it,
5 and therefore what would have informed the members of
6 it.

7 At the top of the apparatus, at the top of
8 the pyramid, sat the Home Secretary and the Home Office.
9 And I just want, briefly, to address you on the role and
10 functions of the Home Secretary and the Home Office, and
11 how they related to the SDS.

12 So the Home Office is the department of state with
13 responsibility for national policy and legislation in
14 relation to police and public order, domestic national
15 security and the criminal law.

16 As such, it had a role in relation to -- an
17 important role in relation to MI5, the Security Service.
18 The Home Secretary sets the functions, and has always
19 set the functions, for MI5. First, in the -- well, not
20 first, but from 1952 onwards, the Maxwell-Fyfe Directive
21 was issued by the Home Secretary and prescribed
22 the functions of the Security Service. And then
23 effectively those functions were put on a statutory
24 footing in the Security Service Act of 1989, which was
25 of course a Home Office Bill. The Home Secretary

1 appoints the Director General, and is accountable for
2 and has oversight of MI5's operations.

3 The Home Office also had, and still has, an
4 important role in relation to the police, and in
5 relation to the Metropolitan Police in particular.

6 So, the functions of the Metropolitan Police have
7 been provided for from the outset in legislation
8 originating with the Home Office and
9 the Metropolitan Police Act of 1829, the Police Act of
10 1964 and the Police Act of 1996.

11 The Commissioner is appointed by the Crown on
12 the recommendation of the Home Secretary. That's
13 the Metropolitan Police Commissioner.

14 The Home Secretary has -- is accountable to Parliament
15 for the operational work of the Metropolitan Police, and
16 has oversight in relation to its operations.

17 Also, and particularly throughout this period,
18 the Home Office set matters of operational policy for
19 all police forces, including the Met, by way of
20 Home Office circulars; and some of those are relevant to
21 your inquiry, sir.

22 More importantly, the Home Office mandated
23 the establishment and set the functions of
24 the Metropolitan Police Special Branch within which
25 the SDS sat.

1 It also -- it mandated and set the functions of all
2 special branches. And it gave additional national
3 functions to the Metropolitan Police Special Branch.
4 And from 1968 to 1989, the Home Office specifically
5 authorised and funded the SDS, by which I mean it
6 provided additional funding to cover accommodation and
7 expenses.

8 The Commissioner's opening statement sets out some
9 of the legislative changes since 2000 in terms of
10 transfer of some responsibilities in relation to the Met
11 to, first, the Mayor of London and now MOPAC. And
12 there's more detail on that in the Commissioner's
13 written opening and in our written opening.

14 But the important point here, sir, is that the role
15 of the Home Secretary and the role of the Home Office in
16 relation to Special Branch and in relation to MI5, and
17 in relation to the SDS, was more than just a paper role.

18 When one thinks of the famous photograph of
19 Winston Churchill at the Sidney Street siege in 1911,
20 and when one reads the evidence about James Callaghan
21 going to Grosvenor Square to watch what was happening
22 there with his police bodyguards, the Home Secretary and
23 the Home Office are, and have been, intimately connected
24 with Special Branch and with MI5 and the work that they
25 do and have done.

1 Sir, turning to part 3 of our opening, and to
2 the Metropolitan Police more specifically.

3 We take as our starting point -- and we say this is
4 a very important starting point -- the fact that
5 the primary legal duty of every police constable and
6 every police force is, and always has been, the keeping
7 and preservation of the Queen's Peace. It comes first
8 in the declaration that every police officer makes on
9 being attested as a constable. And it has always been
10 the case that public order necessarily comes before
11 enforcement of the criminal law.

12 In our written opening at paragraph 3.1.1 we give
13 the references to Halsbury's Laws. We also make
14 reference to the Riot (Damages) Act, which reinforces
15 the position in relation to the police's role for
16 maintaining public order. One can add to that
17 the police's duty to prevent obstructions to
18 the highway, and so on.

19 The logic of this position, of this being
20 the primary duty of the police, is that public order is
21 a prerequisite to a peaceful, functioning civilised
22 society in which individual rights and freedoms can be
23 exercised and the rule of law enforced.

24 The point's emphasised in two quotes from
25 Lord Scarman. I'm not going to trouble you with reading

1 out every quotation in our written opening, but I will
2 go through what we say are a couple of the more
3 important ones; and these ones from Lord Scarman are
4 important.

5 So the first is at paragraph 3.1.2 of our opening,
6 and it's from The Brixton Disorders report, in relation
7 to the disorders in 1981, where it says:

8 "[T]he primary duty of the police is to maintain
9 'the Queen's Peace', which has been described as
10 the 'normal state of society', for in a civil society,
11 normality is a state of public tranquility. Crime and
12 public disorder are aberrations from 'normality' which
13 it is the duty of the police to endeavour first to
14 prevent and then, if need be, to correct. It follows
15 that the police officer's first duty is to cooperate
16 with others in maintaining the 'normal state of
17 society'. Since it is inevitable that there will be
18 aberrations from normality, his second duty arises,
19 which is, without endangering normality, to enforce
20 the law. His priorities are clear: the maintenance of
21 public tranquility comes first ..."

22 Now, pausing there, sir, before coming to the next
23 quotation from Lord Scarman, the short point that we
24 make is that maintaining public order within the Capital
25 wasn't optional for the Metropolitan Police or for

1 the Commissioner, it was compulsory. He -- and it was
2 always a he throughout the time in question -- was duty
3 bound to maintain and preserve the peace, and he would
4 be answerable for any failure to do so. That is and was
5 the law. If society, through Parliament, wishes to
6 change that and leave social co-existence to just good
7 common sense and reason, it could do so through
8 legislation at any time. But throughout this period,
9 the Commissioner was obliged to ensure that there was
10 public order, peace and tranquility in the Capital. And
11 he was bound to take that seriously.

12 I come next, sir, to the second quote from
13 Lord Scarman; and this is at paragraph 3.1.4, from his
14 earlier report into the Red Lion Square disorders of
15 15 June 1974, where he says:

16 "Amongst our fundamental human rights there are,
17 without doubt, the rights of peaceful assembly and
18 public protest and the right to public order and
19 tranquility. Civilised living collapses -- it is
20 obvious -- if public protest becomes violent protest or
21 public order degenerates into the quietism imposed by
22 successful oppression. But the problem is more complex
23 than a choice between two extremes -- one, a right to
24 protest whenever and wherever you will and the other, a
25 right to continuous calm upon our streets unruffled by

1 the noise and obstructive pressure of the protesting
2 procession. A balance has to be struck, a compromise
3 found that will accommodate the exercise of the right to
4 protest within a framework of public order which enables
5 ordinary citizens, who are not protesting, to go about
6 their business and pleasure without obstruction or
7 inconvenience. The fact that those who at any one time
8 are concerned to secure the tranquility of the streets
9 are likely to be the majority must not lead us to deny
10 the protestors their opportunity to march: the fact that
11 the protesters are desperately sincere and are
12 exercising a fundamental human right must not lead us to
13 overlook the rights of the majority."

14 This encapsulates, and we say reflects, an important
15 practical operational point for the Commissioner and for
16 the Met, which is this.

17 London is, and was, a huge capital city, with
18 millions of people, throughout the period that you're
19 looking at. And it remains that to this day.
20 The Metropolitan Police is and was a huge organisation.
21 We say it's unreal to think that major capital cities
22 like London or Berlin or Paris simply exist as
23 self-sufficient blank canvasses upon which people may
24 exercise their rights to protest, process and assemble.
25 Order has to be maintained and managed, and we say that

1 the reality of maintaining public order means that
2 a great deal of work -- of police work -- does not
3 necessarily involve the prevention or detection of
4 offences at all.

5 There are numerous examples of police work which are
6 not about arresting suspects or bringing them to
7 court -- beat work and patrolling, community liaison,
8 intelligence collection and the policing of public
9 events. Because of this, and because of this role that
10 the police have, it's part of the job of the police and
11 of any police force to understand what's happening and
12 what may happen in its area and amongst its people and
13 communities. And that obviously requires information.

14 This also explains why there never was, and never
15 could or should have been, any intention that the SDS
16 should be making arrests or gathering evidence or
17 investigating crime. It simply wasn't their job to do
18 so. By the same token, their non-involvement or
19 the fact that no arrests were made by SDS officers isn't
20 a ground for criticism, it's simply a reflection of
21 the fact that that wasn't their job.

22 Now, in terms of the Metropolitan Police's discharge
23 of this primary duty of maintaining public order, there
24 were two branches of the Met engaged primarily in this
25 works. The first was public order branch, known as "A8"

1 throughout most of certainly the Tranche 1 period. And
2 you'll see we get the reference for the fact that A8,
3 the public order branch, was established following
4 a review after the first Grosvenor Square disorder. A8
5 later becomes T020 and then C011 and then M06, but it's
6 essentially the same outfit.

7 An important point in relation to the work of
8 the public order branch was -- and one can see it in
9 the quote from the Commissioner's evidence to the Home
10 Affairs Select Committee at paragraph 3.2.1 of our
11 written opening -- was that it was set up pursuant to
12 recommendations made after the first Grosvenor Square
13 disorders, and pursuant to a recommendation and a policy
14 decision that the Met should maintain traditional
15 methods of policing public events.

16 And that becomes, we say, important in terms of
17 understanding what it needed to do to achieve that
18 objective that it was set.

19 Sir, the second branch of the Met engaged in
20 the maintenance of public disorder -- the maintenance of
21 public order and the prevention of public disorder,
22 apologies, was Special Branch, and in particular
23 the Metropolitan Police Special Branch.

24 As I've already touched on, sir, the existence and
25 functions of special branches were directed by

1 the Home Office. Again, they were not matters that
2 the Commissioner chose for himself, they were matters
3 that were given to him to discharge.

4 And we've included some references in our written
5 opening -- public statements about the functions of
6 Special Branch and the Metropolitan Police
7 Special Branch. So this is at paragraphs 3.3.1 to
8 3.3.5. There's Lord Denning's report on the Profumo
9 affair in 1963. The ACPO terms of reference of 1970
10 that were referred to this morning, which were prepared
11 in collaboration with MI5, as they say in the covering
12 letter. And then the Home Office Guidelines of 1984.

13 For the avoidance of doubt, the Home Office
14 Guidelines of 1984 were a qualification of the functions
15 of the special branches and of the Metropolitan Police
16 Special Branch in particular. They weren't
17 a reinvention: those were the functions that it had
18 throughout this period.

19 You'll see that Special Branch had two key functions
20 of relevance to your inquiry and of relevance to
21 the SDS.

22 The first was providing information about public
23 order, the uniformed branch; and the second was
24 providing information about subversives, terrorists and
25 spies, MI5.

1 The Metropolitan Police Special Branch also had
2 certain special national functions. So it was
3 responsible for assessing intelligence on Irish
4 Republican extremism and terrorism in Great Britain, and
5 for providing national Special Branch training with MI5
6 for all Special Branch officers across the country.

7 In terms of the Home Office Guidelines on
8 Special Branch Work, which encapsulated the position,
9 that's at 3.3.4 of our written opening, and it starts
10 with the point which we've endeavoured to start with,
11 paragraph 4:

12 "4. The work of a Special Branch arises from the
13 chief officer's responsibility for the preservation of
14 the Queen's Peace. Its work is to assist the chief
15 officer in discharging this responsibility.

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

22 "6. A Special Branch assists
23 the Security Service ..."

24 That's MI5:

25 "... in carrying out its tasks of defending the

1 Realm against attempts at espionage and sabotage or from
2 the actions of persons and organisations whether
3 directed from within or without the country which may be
4 judged to be subversive to the State. A large part of
5 this effort is devoted to the study and investigations
6 of terrorism, including the activities of international
7 terrorists and terrorist organisations.

8 "7. A Special Branch provides information about
9 extremists and terrorist groups to the Security Service
10 (or, in the case of Irish Republican extremists and
11 terrorist groups, to the Metropolitan Police Special
12 Branch)."

13 We say a number of key points emerge from this, and
14 the most important one is really just to reiterate what
15 we have said about the work of the SDS being nothing to
16 do with enforcing the criminal law or investigating,
17 arresting or bringing to justice criminals or those
18 suspected of crimes. And one can see that throughout
19 the Met Special Branch.

20 So the officers in A squad, who were protecting
21 VIPs, were not involved in arresting people or
22 investigating crimes. The same went for most of
23 the officers in B squad, who were gathering intelligence
24 on Irish Republican terrorism. The officers in D squad
25 who were conducting naturalisation and immigration

1 enquiries weren't arresting anyone or investigating
2 those suspected of offences. The officers in P squad
3 working at ports, the same went for them. And the same
4 for the officers in S squad involved in surveillance,
5 photography work.

6 The same is also true, sir, of the officers in B,
7 C and E squads, who were providing uniform public order
8 branch with threat assessments relevant to public order
9 events. Those threat assessments, as you will know,
10 sir, were informed by intelligence collected by
11 the Special Demonstration Squad.

12 So, the SDS, importantly, was doing ordinary
13 Special Branch work, assisted with remaining work of
14 Special Branch, albeit in a specialised way.

15 So the type of information it recorded in its
16 intelligence reports was very much the type of
17 information that other squads of Special Branch were
18 recording pursuant to Special Branch enquiries about
19 individuals and groups and events. It was simply
20 collected by an atypical or an unusual means. And then
21 that intelligence informed threat assessments, which
22 helped A8 manage major public order events.

23 Sir, turning now to public order policing -- and
24 this is looking at it from a general perspective, from
25 the perspective of not so much Special Branch or the SDS

1 but from the perspective of the force as a whole, and
2 from the uniformed branch and what it needed to do in
3 order to maintain public order and preserve
4 the Queen's Peace.

5 There were particular operational difficulties of
6 doing this in the context of demonstrations and protests
7 in busy urban areas, and particularly in major cities,
8 and most importantly in the Capital.

9 We've set out, sir, a quote from the then
10 commissioner -- the then Metropolitan Police
11 Commissioner's evidence to the Home Affairs Select
12 Committee in 1980. This is at paragraph 4.1.1 of our
13 written opening. I just want to take you through this
14 and do that in two -- two chunks.

15 So, first, it is under the heading of "The problems
16 of maintaining public order". The Commissioner says:

17 "1. The duty of maintaining public order in the
18 Capital is both more important and more difficult than
19 any other responsibility with which I am charged. It is
20 self-evident that the preservation of public tranquility
21 is fundamental to the smooth running of society; and
22 constitutionally this is reflected in the fact that the
23 police are under a positive duty to keep the Queen's
24 peace and although this term is all embracing that part
25 of the responsibility related to public order in its

1 narrow sense is crucial.

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

13 So if I just break off and pause there. It's
14 important, we say, to appreciate that it's not simply
15 a balance between, on the one hand, those wishing to
16 demonstrate and protest and, on the other hand, those
17 wishing to go about their lives without being hindered
18 by demonstrations and protests, there is a third
19 interest, which one sees that the Commissioner has to
20 take account of, and is heavily impacting his thinking
21 and his planning throughout this period, which should
22 not be ignored. And that's the interest which all chief
23 constables have: it's their duty of care to their
24 officers and the interests in the middle of the uniform
25 police officers.

1 In this regard, we say it's very important to
2 realise that police officers are simply ordinary members
3 of society, with families and home lives, who are
4 undertaking public service. They are not punch bags or
5 spitting image puppets of police officers. If they are
6 in the middle of a demonstration, if bricks are thrown
7 at them or if they are assaulted, they will suffer
8 injury. And the Commissioner had -- and obviously still
9 has -- a duty to ensure that they're safe, as far as
10 possible, at work.

11 And no matter the cause or the strength of feeling,
12 the citizen's right to protest and to demonstrate does
13 not include a right to abuse, attack or injure other
14 citizens simply because they are in uniform.

15 I'll come back to this when looking at what
16 The Commissioner is saying in his annual reports
17 throughout this period about the difficulties --
18 the logistical operational difficulties of managing
19 public order events, and the injuries that are being
20 suffered by police officers in attempting to do so.

21 But just picking up the remainder of the passage
22 from his evidence to the Home Affairs Select Committee,
23 where he says:

24 "Secondly, police have the duty of preventing
25 disorder, and this can be formidable when people are

1 gathered together in large numbers for meetings,
2 demonstrations, etc. The psychological interaction
3 between people in crowds causes the individuals
4 comprising them to behave with much less self-restraint
5 than when they are on their own. It is also extremely
6 difficult -- and often impossible -- to communicate with
7 individuals when gathered in large numbers; and thus the
8 human contact between police and citizen which is so
9 essential for public co-operation easily becomes
10 diluted. Furthermore, it is self-evident that people
11 acting in concert can physically achieve far more than
12 they can whilst acting as individuals. These inherent
13 obstacles to crowd control play right into the hands of
14 unscrupulous activists, and under the present law public
15 disorder is sometimes inevitable despite the most
16 stringent police precautions."

17 What we take from this, sir, and highlight arising
18 out of it are three particular points.

19 First, a crowd of people can behave in ways that no
20 single one of its members would behave. Secondly,
21 crowds are more volatile than individuals and more prone
22 to exploitation, escalation and disorder. And thirdly,
23 it is a fact that some people regard disorder in general
24 and clashes with police in particular as desirable.

25 The reasons for this are relatively straightforward.

1 If you are someone seeking to pursue a particular agenda
2 by way of protest or demonstration, disorder, should it
3 happen, can demonstrate strength of feeling; it can
4 create public alarm, disquiet, disillusion and unrest;
5 and attract media and political attention, and possibly
6 give your cause momentum and transaction; and it can be
7 used to suggest police brutality and to fuel anti-police
8 and anti-establishment narratives.

9 At a general level, the last factor, in terms of
10 anti-police and anti-establishment narratives -- I'll
11 come on to the evidence of this tranche in particular --
12 was something that was more of an issue in connection
13 with the far left and anarchist groups; and groups on
14 the far right were more cooperative when it came to
15 their demonstrations and processes -- protests, and
16 their liaison -- (temporary loss of audio) -- Tranche 1
17 period.

18 A point about demonstrations and protests presenting
19 possible threat to public order is supported by various
20 sources, which we've set out in our written opening at
21 paragraph 4.1.3.

22 I just want to pick up a couple of those, in order
23 to emphasise that it's not simply the view of the Met or
24 of the Commissioner that protests and demonstrations can
25 become disorderly. So, first, we have at

1 paragraph 4.1.3(2) the quote from Lord Hope from
2 the Austin case, where he says:

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

16 The same point is made more recently by
17 Lord Sumption in the Catt case, where he said,
18 paragraph 19:

19 "Political protest is a basic right which the common
20 law has always recognised, within broad limits directed
21 to keeping the peace and protecting the rights and
22 property of others. It is also a right protected by
23 articles 10 and 11 of the Convention. It is an
24 unfortunate but inescapable fact that some extremist
25 groups deliberately adopt tactics which are likely to

1 involve serious criminal damage to property, assaults
2 against police officers and others, and serious acts of
3 aggravated trespass, harassment and intimidation."

4 Then, finally, just a reference from the Joyce and
5 Wain, Palgrave Dictionary of Public Order Policing,
6 Protest and Political Violence, a quote which says:

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

12 I will come on to the realities of the position on
13 the ground between 1968 and 1982 and the levels of
14 violence and disorder in London. But the position is
15 clear that it's a very difficult picture for a police
16 force to deal with.

17 This brings us to part 4.2 of our written opening
18 and the fact that there is a self-evident need for
19 intelligence -- for the police to have intelligence
20 about what to expect, so that they can predict and
21 forecast, and so that they can apply police resources
22 accordingly.

23 So intelligence in relation to the policing of
24 public events has a huge importance and an important
25 role to play. And that's particularly if a police force

1 had, as was the case with the Met, as we've already
2 seen, resolved to try and deal with public order by
3 traditional policing methods; so without the use of
4 special units, special equipment and so on, which I'll
5 come on to shortly.

6 The importance and value of intelligence to public
7 order policing is reflected in the Home Office
8 guidelines to special branches; it's one of functions,
9 is to provide information for threat assessments. And,
10 again, it's also to give you a source independent of
11 the Met.

12 At paragraph 4.2.2 of our written opening we refer
13 to an American study which is Narr, Toliver, Murphy and
14 others, "Police Management of Mass
15 Demonstrations: Identifying Issues and Successful
16 Approaches", where they say, at pages 31 to 32:

17 "Information processing is another component of
18 effective planning. Mass demonstration management
19 demands careful attention to managing information
20 before, during and after the event. Gathering and
21 thoroughly analyzing information or intelligence about
22 the activities of demonstrators can dramatically
23 strengthen a police department's demonstration
24 management plan. However, for a variety of reasons,
25 accomplishing this is not always easy. Reasons include

1 limited experience gathering intelligence, secretive
2 preparations by demonstrators, or a lack of
3 incorporation of gathered information into the planning
4 process ...

5 [...]

6 "The importance of committing to a complete and
7 thorough intelligence process cannot be overstated ..."

8 And from that, and from the other matters set out in
9 the written opening, we say it's clear that intelligence
10 is important to public order policing; and that for it
11 to be of value, it needs to cover likely numbers
12 attending public events, likely mood, likely inclination
13 and intentions and plans of those due to attend; and
14 that this, in turn, requires an understanding of
15 the groups involved and of their individual members.

16 This is particularly the case when one has groups
17 who may seek to piggyback on or hijack other protests or
18 demonstrations, where there are groups who use front
19 organisations to pursue their agendas, where there are
20 complicated links between various groups, and where
21 there may be counter demonstrations, so opposing sets of
22 protestors and demonstrators seeking to silence each
23 other.

24 Going back to Lord Sumption's speech in the Catt
25 case -- this is 4.2.5 to 4.2.6 of our written opening --

1 I just want to read out one passage, which is at
2 paragraph 31, where he says this:

3 "These points need to be considered in the light of
4 some basic, and perhaps obvious, facts about the nature
5 of intelligence-gathering. Most intelligence is
6 necessarily acquired in the first instance
7 indiscriminately. Its value can only be judged in
8 hindsight, as subsequent analysis for particular
9 purposes discloses a relevant pattern. The picture which
10 is thus formed is in the nature of things a developing
11 one, and there is not always a particular point of time
12 at which one can say that any one piece in the jigsaw is
13 irrelevant. The most that can be done is to assess
14 whether the value of the material is proportionate to
15 the gravity of the threat to the public... The fact that
16 some of the information recorded in the database ..."

17 That's the database relative to the Catt case:

18 "... relates to people like Mr Catt who have not
19 committed and are not likely to commit offences does not
20 make it irrelevant for legitimate policing purposes. The
21 composition, organisation and leadership of protest
22 groups who are persistently associated with violence and
23 criminality at public demonstrations is a matter of
24 proper interest to the police even if some of the
25 individuals in question are not themselves involved in

1 any criminality. The longer-term consequences of
2 restricting the availability of this resource to the
3 police would potentially be very serious."

4 It follows from that, and it follows from common
5 sense, sir, that public order intelligence and its
6 collection will inevitably involve drawing on and
7 collecting intelligence on individuals who are harmless
8 and who do not have any intention to be involved in
9 violence or disorder, or even to participate or join in
10 with it should it occur.

11 It's inevitable, as Lord Sumption said, that, in
12 the first instance, intelligence collection is
13 indiscriminate. The assessment and analysis of
14 intelligence by others is the point at which what's
15 relevant and irrelevant can begin to be ascertained.

16 Moving on to part 4.3 of our written opening, sir,
17 and to the lawfulness of undercover policing and
18 the undercover method of collecting intelligence.

19 The Metropolitan Police was established in 1829 and
20 the lawfulness of undercover plain-clothed policing was
21 confirmed very shortly after that in 1833 by your
22 predecessor inquiry, which was the Select Committee of
23 Parliament on the petition of Frederick Young and
24 others. And we set out the reference for at that
25 paragraph 4.3.2.

1 That was a complaint that an officer was
2 infiltrating Chartists, and doing so by undercover
3 means. And it was confirmed by the Select Committee
4 that that's a lawful method of collecting intelligence.

5 There has of course, since then, been legislative
6 reform and regulation of this area, and in particular by
7 Part 2 of the Regulation of Investigatory Powers Act
8 2000. But there can be, we say, no doubt, sir, that
9 undercover policing has always been a lawful method of
10 collecting intelligence.

11 In that regard, we say it is simply part and parcel
12 of undercover policing that it involves deception and
13 that references to undercover police officers as
14 "trained liars" or "professional liars" are no more than
15 name-calling. Undercover intelligence-gathering
16 inevitably involves deception. Paid informants who may
17 not be police officers will be deceiving those that they
18 are collecting intelligence on or reporting on.
19 Investigative journalists likewise use deception in
20 order to obtain information. There are numerous other
21 examples: online paedophile hunters posing as children
22 in chat rooms to ensnare a paedophile. Calling any of
23 the people involved in any of these activities "liars",
24 in our submission, goes nowhere. The point is whether
25 the ends justify the means.

1 And in this regard, it's notable that a number of
2 the groups reported on by the SDS were themselves
3 covertly gathering intelligence on and infiltrating
4 their rivals and opponents.

5 So we have the Workers' Revolutionary Party, who
6 unwittingly tasked one of my clients to infiltrate and
7 report back on the National Front. There's another case
8 of a far-left group who unwittingly tasked another
9 designated lawyer undercover officer to infiltrate and
10 report back on Irish groups. And it is well known that
11 numerous far-left and anti-fascist groups have
12 cultivated sources in and infiltrated far-right groups,
13 and the operation of searchlight agencies is well known
14 in that regard.

15 As I say, the real question is whether the ends
16 justify the means.

17 So coming on to part 5 of our written opening and to
18 looking in particular at the context of 1968 to 1982.
19 And starting at the highest possible level before coming
20 down to look more particularly at London and the work of
21 the Metropolitan Police.

22 Context is, of course, everything. The points that
23 we set out here and the points we seek to emphasise is
24 not just simply a case of saying: "The past is a foreign
25 country; they do things differently there." And we of

1 course accept that there's nothing new under the sun,
2 and a great deal can be learned from history. But
3 nevertheless, we do say it is important to be mindful of
4 the fact that times have changed, that society was very
5 different in the 60s, 70s, 80s, even into the 90s, than
6 it is now, and there are real dangers of judging past
7 individuals with hindsight and of falling prey to
8 hindsight bias and not judging 20th century matters by
9 21st century standards.

10 If one goes back to 1968, the point at which your
11 inquiry starts, sir, the end of the First World War was
12 closer to the people of 1968 than the Grosvenor Square
13 demonstrations are to us now. The end of the Second
14 World War was as close to those people as the New Labour
15 landslide victory of 1997. The world in 1968 was a very
16 different place to the world now. Brezhnev
17 and Mao Zedong were in power in the Soviet Union and
18 China respectively. The Cold War was at its height, and
19 there was a very real threat of nuclear war. The USA
20 was engaged in the Vietnam War and the space race. And
21 Martin Luther King Jr and Robert F Kennedy were
22 assassinated.

23 At the same time, 1968, there was a significant
24 upsurge in unrest and disorder, not just in the UK but
25 across the world. So we saw the Prague Spring and

1 the subsequent invasion of Czechoslovakia, riots and
2 near revolution in France, student protests across
3 Europe, the first Middle East-related aircraft
4 hijackings, and the start or reawakening of the Northern
5 Ireland Troubles.

6 From that list, we would highlight, in particular,
7 the Cold War and the Northern Ireland Troubles as two
8 very important matters defining historical matters for
9 this era, which are happily no longer with us.

10 In addition to that, the UK was itself a very
11 different country in 1968 to the country it is now.
12 We'd yet to decimalise; we had yet to join the Common
13 Market.

14 As we have put in our written opening statement,
15 a three-bedroom house cost £5,200 and a pint of beer
16 cost 1s 2d. Half the population smoked. The school
17 leaving age was 15. The voting age and the age of
18 majority, for most purposes, was 21. And homosexuality
19 and abortion had only just been decriminalised. Sunday
20 trading, plays and dancing were all prohibited. There
21 were restrictions on Sunday cinemas and Sunday sports.
22 There were only three terrestrial television channels,
23 which did not operate on a 24-hour basis. In 1968
24 British Rail ran its last steam train service. And in
25 1968 the first motorway in the country was finished.

1 Finally, it was only in 1968, after the enactment
2 and entering into force of the Theatres Act 1968, that
3 the musical "Hair" could be shown in the London
4 West End, because prior to that, a member of the Queen's
5 household had a power of censorship over the theatres.

6 All of this, we say, points to a society which was
7 culturally, demographically and in terms of attitudes
8 very different to the society we live in today.

9 And policing, too, was very different. So my
10 clients who were attested as constables in the 1960s
11 were issued with whistles, given training on the capture
12 of runaway horses and required to carry a mandatory form
13 called a "Form 29" with them when out on the beat in
14 uniform at all times, in case they should come across
15 a dead or dying horse. And, also, as part of their
16 basic training, although they had training on
17 the Vagrancy Acts and so on, they had no training on
18 public order or in dealing with public disorder.

19 As we have sought to emphasise in the written
20 evidence, sir, the point of drawing this out isn't
21 simply as interesting trivia or nostalgia; it's really
22 to make the point that society was very different; and
23 that judging it by contemporary standards is really an
24 exercise in futility.

25 Equally, sir, the legal landscape within which

1 the Metropolitan Police operated was very different in
2 1968 to 1982. The nature of public authority powers and
3 the discretion they had and the subjection to judicial
4 review was very different to now. Expectations around
5 respect for privacy and data protection were very
6 different to now. This was before the days of
7 the Police and Criminal Evidence Act 1984, before
8 the Human Rights Act 1998, before any data protection
9 legislation. And so the legal environment within which
10 the police was operating was very different as well.

11 So if I could turn now to the topic of order and
12 disorder in London during the period 1968 to 1982. And
13 this is quite a lengthy section of our written opening,
14 and I don't want to hammer on about it to too great an
15 extent, but we do say it's important.

16 In our submission, as we set out in the written
17 opening, those were tumultuous times that are really
18 unrecognisable to the inhabitants of London today.

19 First, the different position of society in terms of
20 technology and so on made the nature of protest very
21 different. There were no personal computers or
22 wordprocessors, personal printers; no internet, no
23 social media; no photocopiers readily available. So
24 those seeking to protest or to demonstrate would be able
25 to do so at Speakers' Corner, or they would be able to

1 do so by public events: meetings, gatherings,
2 processions, and so on. The Capital was the central
3 forum for those to take place, naturally, as
4 the nation's capital.

5 Leaflets, newspapers, posters, publicity, all
6 required a degree of organisation and access to
7 a printing press, and banners and placards had to be
8 handmade.

9 And, crucially, public attention and notice for
10 a particular cause by a protest group required getting
11 public attention, getting media attention, either by
12 causing inconvenience and disruption to others, or
13 simply getting others to notice you. And those two
14 things -- so disrupting others and also getting media
15 attention -- often went hand in hand.

16 In terms of the behaviour of protesters and
17 demonstrators, we've also mentioned in our written
18 opening that -- again, another sign of how different
19 the times were -- the erection of television arc lights
20 and the presence of TV cameras itself had a large effect
21 on the behaviour of protestors and demonstrators.

22 And correspondingly, from the policing perspective,
23 the different state of technology also had an effect.
24 So, police communication and coordination was more
25 difficult. The gathering and processing of intelligence

1 was more difficult. Police didn't have available to
2 them a network of CCTV cameras for monitoring what was
3 happening. The Metropolitan Police didn't have its own
4 helicopter until later in the 1970s. There were no
5 drones. There was no internet, no social media.

6 I will come here, sir, to the concerns of
7 Metropolitan Police Commissioner, and the very high
8 level of concern that he evidently had in relation to
9 the maintenance of public order in London throughout
10 this period. And what we've done is set out in our
11 written opening a number of extracts from his annual
12 reports, and from evidence he gave to different
13 Parliamentary committees. These materials, in our
14 submission, demonstrate a very high level of concern,
15 with public order as one of the biggest operational
16 challenges facing the Met.

17 So at the headline level, there's a relatively
18 simply equation for the police, which is a need to
19 strike a right balance between avoidance of
20 over-policing -- if there are too many police at an
21 event, it's a waste of resources; it can be seen as
22 heavy-handed; it can be provocative; it can lead to
23 escalation. So having too many officers at any public
24 event was undesirable. And conversely, under-policing
25 was also undesirable, because if there were insufficient

1 police officers there to contain trouble should it
2 break out, there was a higher risk of things becoming
3 out of control and of the smaller number of police
4 officers who were there being injured in trying to deal
5 with the situation.

6 Both of those issues, both over-policing and
7 under-policing, were capable of leading to an
8 escalation. And so, operationally, the difficulty that
9 the police had was in striking a balance: not having too
10 many police there; not having too few. And that was
11 obviously where the need for intelligence came in.

12 But that, sir, is simply a question of
13 the headlines. And what one sees in the Commissioner's
14 publications throughout this period, beneath
15 the headlines, is a very complicated, challenging and
16 worsening numerical and logistical picture. And as we
17 say in our written opening, these were tumultuous times.

18 In seeking to summarise the issues here as best we
19 can, I do group them under three headings of sets of
20 constraints and challenges facing the police.

21 So the first heading is points of principle,
22 constraints of principle. The second is resources,
23 which are human and financial resources. And then
24 the third is the massive increase in disorder in London
25 which took place across this period.

1 So, starting, sir, with constraints of principle.

2 The Metropolitan Police Commissioner had to operate
3 within two particular constraints of principle.

4 The first was the need to avoid any kind of special or
5 paramilitary equipment tactics or units as the means for
6 dealing with public events and possible disorder. And
7 the second constraint of principle was the need to
8 maintain political neutrality as between different
9 protestors and demonstrators.

10 In relation to the first of those matters of
11 principle, there was a general consensus, shared not
12 only by the Met but also by the Home Office and across
13 government, that public order policing should be done
14 using traditional methods, traditional policing methods.

15 One sees this in the 1980 evidence to the Home
16 Affairs Select Committee, which shows that
17 the recommendation about the establishment of
18 the specialist public order branch, A8, was founded on
19 a recommendation that traditional methods should be
20 maintained.

21 What this meant was avoiding the use of plastic
22 baton rounds, tear gas, water cannon or specialist
23 public order units of the kind found in
24 the United States, the US National Guard, or on
25 the continent, where there's the German

1 Bereitschaftspolizei, the French CRS and
2 Gendarmerie Mobile, and special units of the Italian
3 Carabinieri.

4 There was an obvious concern within the Met and
5 within Parliament that the adoption of measures of that
6 kind as a means of dealing with public order situations
7 was liable to lead to escalation, and was contrary to
8 the values of our country and our society in terms of
9 how we view policing.

10 This, we say, is highly significant, sir, because it
11 meant that the need for intelligence was higher than it
12 might otherwise have been if the decision had been
13 instead, "Well, we will just have water cannon and
14 plastic baton rounds and tear gas, so if anything gets
15 too out of hand, we will steam in and bring it to an
16 end."

17 It's noticeable, sir, that it's not until 1977 that
18 even riot shields are used in the public order context
19 by the Met. And the Commissioner says that was done
20 with extreme reluctance. A number of my clients
21 remember grabbing dustbin lids to help deal with public
22 order situations.

23 We come back to an important point here, which is
24 that the intelligence gathered by the SDS helped the Met
25 maintain order, and helped the Met do so without

1 recourse to special units, special measures, special
2 equipment and so on.

3 And as we come back in our concluding section, come
4 back to this, there's a very real question, a very real
5 difficulty that you would face in trying to answer what
6 would have happened without SDS intelligence; whether
7 the Met would have been able to carry on using
8 traditional methods.

9 The second constraint of principle, which I've
10 touched on, sir, is in relation to the need to maintain
11 operational independence and political neutrality. And
12 the simple point here is simply that the police
13 inevitably had to allow and contain demonstrations and
14 counter demonstrations without favouritism or
15 discrimination.

16 As you will know, sir, it was the occasions when
17 the far left and the far right demonstrated against each
18 other that the worst disorders took place.

19 The requirement that the Met maintain political
20 neutrality meant that it couldn't simply decide to ban
21 one side or the other from demonstrating. And this,
22 again, presented logistical difficulties and heightened
23 the need for reliable intelligence, so that public order
24 policing could be deployed appropriately.

25 Sir, the next heading which I want to emphasise here

1 is one of the resource implications of public order
2 policing. And the issue here is one of both human and
3 financial resources. It's a point that's reiterated
4 throughout the Commissioner's annual reports for this
5 period.

6 The Commissioner of course had finite resources; he
7 had a budget that was given to him. He couldn't -- he
8 didn't have infinite resources. He wasn't able to
9 deploy as many officers as he wanted. And throughout
10 the 1970s, there was in fact a very serious manpower
11 shortage within the Met, which began to be remedied
12 towards the end of the period, following
13 the Edmund-Davies committee recommendations and
14 the increases in police pay. But from 1968 to 1982,
15 the Commissioner was generally in charge of a force
16 which was under-complement; and that in itself created
17 difficulties when it came to public order policing.

18 He also had a huge range of responsibilities, some
19 of which have since been transferred to other bodies.
20 And we've set these out in our written opening. I just
21 want to run through them. And there is a reason for
22 doing this and for emphasising this, sir.

23 So the Met Commissioner was responsible for police
24 recruitment, discipline and welfare, demonstrations,
25 marches, industrial disputes, public events, the mounted

1 branch, the Thames Division, an underwater search unit,
2 a dogs section, aliens, commonwealth citizens and
3 immigration control, arrests and summonses, court
4 custody and court security, betting, gaming and
5 lotteries, clubs and licensed premises, drunkenness,
6 pedlars and vagrancy, firearms, missing persons, lost
7 property, abandoned vehicles, lost dogs, street
8 accidents, traffic and parking, traffic wardens, school
9 crossing patrols, house to house collections, street
10 collections, offences against the person, violence and
11 sexual offences, burglary, robbery, theft, fraud,
12 shoplifting, forgery, coining and uttering, drug
13 offences, obscene publications and vice, forensic
14 evidence, prosecutions, assisting coroners, public
15 appeals, information and research, cadets and special
16 constables.

17 The relevance of that, sir, is that
18 the Commissioner, in seeking to deploy resources to deal
19 with public events and to maintain public order,
20 particularly when he had a force that was
21 under-complement, inevitably would be depriving other
22 areas of policing of officers. And this is emphasised
23 very clearly throughout his annual reports for this
24 period. The sporadic demands of public order policing
25 were liable to have a number of knock-on effects for

1 resources.

2 So one sees the Commissioner reporting on officers
3 being diverted from other duties to public order
4 policing, often at short notice. And that's something
5 that can have unquantifiable knock-on effects. So if
6 hundreds of officers are taken away from divisions, to
7 deal with public events and protests and demonstrations,
8 those divisions are going to be undermanned throughout
9 the time, and that will have an effect on dealing with
10 other police work; and as I just set out, there was
11 a huge array of that to deal with.

12 Deploying police onto public order events involved
13 the cancellation of leave, payment of overtime,
14 particularly with most demonstrations taking place
15 outside office hours, at weekends, and at the same time
16 as other mass attendance gatherings, such as football
17 matches.

18 The demands of public order policing required
19 the Met to have to commission, devise and deliver public
20 order training for an entire force of 16,000 officers
21 from 1969, and from then onwards.

22 Public order duties were stressful and challenging
23 for the officers concerned. They involved the frequent
24 occurrence of personal injuries; sometimes serious
25 personal injuries. This was in a profession requiring

1 relatively high levels of physical fitness. And
2 the consequences on fitness to work of injuries and for
3 the payment of sick pay and injury pensions are obvious.

4 And involvement in public order duties had an
5 adverse effect on morale, recruitment and retention of
6 police officers; and therefore on the force's ability to
7 remain at or close to the requisite staffing levels and
8 to discharge its duties.

9 Our written opening sets out numerous statements of
10 the Commissioner about this. I won't read them all out
11 but I will just refer to a couple.

12 The report for 1972 cites a severe shortage in
13 operational manpower and public order duties as the top
14 two of five main problems facing the Met.

15 This, sir, brings me to the massive increase in
16 the number and scale of public order events and
17 the levels of disorder.

18 I notice it's coming up to 3.15 now, sir. I don't
19 know if you want me to pause at this point, or to carry
20 on to half past.

21 Apologies, sir, I can't hear you. I think you're
22 muted.

23 THE CHAIRMAN: This is quite an easy topic and I think it
24 would be sensible to pause now.

25 Apologies for my fifth failure to de-mute.

1 MR SANDERS: So we are back at 3.30?

2 THE CHAIRMAN: Yes, please.

3 MR SANDERS: Thank you, sir.

4 MS PURSER: Thank you, everyone. We will take a short break
5 and we will be back at 3.30.

6 (3.13 pm)

7 (A short break)

8 (3.30 pm)

9 MS PURSER: Welcome back, everyone. I will now pass over to
10 the Chairman to continue proceedings.
11 Chairman.

12 THE CHAIRMAN: Thank you.
13 Mr Sanders.
14 Would you like to continue, Mr Sanders?

15 MR SANDERS: Yes. Apologies, sir. I couldn't get you on
16 the screen, but I think I've managed it now.

17 THE CHAIRMAN: We're all struggling with it. Never mind.

18 MR SANDERS: Yes, absolutely. Thank you, sir.
19 So, picking up where I was, which is looking at
20 the historical picture in relation to public order and
21 disorder in London in the period '68 to '82, and this is
22 moving on to -- moving on from the constraints of
23 principle faced by the Commissioner and also
24 the resource considerations that he was bound to take
25 into account, and turning to the massive increase in

1 the number and scale and nature -- deterioration in
2 the nature of public order events and the levels of
3 disorder during this period.

4 One obviously starts with the first riot in
5 Grosvenor Square in March 1968. There were other events
6 between then and the second October demonstration which
7 reached Grosvenor Square in that year. And obviously
8 the second, the October demonstration, didn't have
9 the same outcome as the March demonstration.

10 But it would be a mistake to think that the normal
11 service resumed at that point, or that the need for
12 the Special Demonstration Squad dissipated at that
13 point; because the reality was that the scale and
14 the nature of the public order situation in London
15 worsened dramatically from 1968 onwards, and kept
16 getting worse throughout the period 1968 to 1982.

17 And in our submission, this was plainly why the SDS
18 was maintained in existence. Yes, it was set up with
19 a view to gathering intelligence in advance of
20 the October 1968 demonstration. But after that point,
21 it still had -- there was still a need for it. And in
22 fact, the need for it only became more established.

23 There were a number of factors that were relevant to
24 the change in the nature of the public order situation
25 in London in this period. Obviously there were

1 socio-economic factors, industrial unrest, inflation,
2 unemployment during this period, including the three-day
3 week and the IMF loan of 1974.

4 There were also changes in societal attitudes and
5 expectations which came to fruition in this period.
6 This was the first generation to have become adults
7 without having served in the Second World War, without
8 having undertaken National Service, and the views of
9 society were changing.

10 And, similarly, there was a change in the position
11 of the far left in this country, in that
12 the Communist Party of Great Britain, which was very
13 focused on trade unions, suffered an ebbing of support
14 for it, because it was very closely aligned to
15 the Soviet Union, and because support for the Soviet
16 Union waned following its actions in Hungary and
17 Czechoslovakia, and so that far-left support moved to
18 more activist Trotskyist groups who were more active on
19 the public order scene.

20 In terms of the impact that this had on the police,
21 and in terms of the reality of what the public order
22 situation was, we referred at paragraph 5.3.16 of our
23 written opening to Lord Edmund-Davies' Committee of
24 Inquiry On the Police and his second report on police
25 pay. This refers to the "arduous and increasingly

1 dangerous" nature of police duties. It refers to "an
2 increasing readiness to challenge authority at every
3 level", and "a growing disrespect for law and order and
4 the property and rights of others".

5 He says, in particular -- I'm just going to read out
6 three passages. So at paragraph 12 of his report he
7 says:

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

25 He goes on at paragraph 14:

1 "It is inevitable that incidents of public disorder,
2 wherever they occur, place enormous demands and stress
3 on the resources of the police service. These demands
4 are, in the main, met by the cancellation of leave and
5 rest days. The effect of this on the policeman's
6 domestic arrangements and the disruption of family life
7 is in our opinion very serious indeed."

8 And at paragraph 27:

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

15 That was a report in 1978. And the issue is
16 highlighted throughout the Commissioner's annual reports
17 for 1968 to 1982. And we set out some examples at
18 paragraph 5.3.17 of our written opening.

19 I just want to take you, in particular, sir, to two
20 examples from the beginning and end of this period.

21 So starting in 1968 the Commissioner's report for
22 1968, which refers to public protestors, "perhaps
23 the most troublesome and persistent manifestation of
24 1968", and to it involving officers being "pushed,
25 kicked, abused and insulted". And then one quote from

1 that report, sir:

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

13 Then, sir, in terms of the end of this period,
14 the report from 1979, just one quote from that:

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

24 "Common sense dictates that the extensive commitment
25 of manpower to the policing of demonstrations, disputes

1 and protests detrimentally affects crime levels
2 throughout the London area ..."

3 I'm going to come on to some statistics about
4 disorder in this period, and I will try and deal with it
5 in a digestible way, because these are just, to a large
6 extent, numbers. But there's a key statistic which we
7 set out at paragraph 5.3.18 of our written opening, and
8 it comes from the then new, incoming commissioner's
9 report of the problems and priorities facing the Met in
10 1983.

11 The statistic is this, sir:

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

16 Of course, because most demonstrations and protests
17 were at weekends, they were obviously bunched together
18 on Saturdays and Sundays, rather than there being
19 a regular one-per-day such event.

20 In fact, in the other reports, as we set out in
21 the written opening, that figure of 354 appears to
22 exclude 25 events which required the deployment of more
23 than 1,000 officers. So in terms of more than 100
24 police officer events, it was an increase from 55 to
25 380, thereabouts.

1 Now, we accept, sir, the limitations of statistics
2 and the different ways in which statistics can be
3 presented. And the available statistics for the period
4 from 1968 to 1982 are not in a uniform format, so one
5 can't plot a graph from '68 to '82. All we can do is
6 give you a survey of the statistical information. And
7 we've tried to do that at paragraph 5.3.19 to 5.3.28.

8 In our submission, this shows a dramatic
9 deterioration in the public order picture in
10 the Capital. And during this period, just taken from
11 the Commissioner's reports, there were thousands and
12 thousands of significant public order events. There
13 were thousands of arrests. There were thousands of
14 injuries to police officers. There were hundreds and
15 hundreds of known injuries to members of the public.
16 And there were two deaths: the deaths of Kevin Gateley
17 and Blair Peach.

18 Rather than read out the statistics, I'm going to
19 try and give you sir, headlines broken down into four
20 periods. So from 1968 to '69, then looking at '70 to
21 '74 and '75 to '79, and then finally '80 to '82.

22 So, starting with 1968 to 1969, a two-year period --
23 and this is at 5.3.19 to 5.3.20 of our written opening.
24 A total isn't given, but there were a large number of
25 significant protests. And this excludes supporting

1 events, and it excludes 298 industrial disputes. There
2 were a large number of protests which involved at least
3 550 arrests, 349 injuries to police officers, and 110
4 known or reported injuries to protestors/members of
5 the public. And at one event, petrol bombs were thrown
6 at the police.

7 Turning to the five years from 1970 to 1974 -- and
8 this is at paragraphs 5.3.21 to 5.3.23 of our written
9 opening.

10 During this five-year period, there were more than
11 2,200 public order events in London which required what
12 are called "special police arrangements", which we
13 understand -- and we've given the reference in
14 the written opening -- to mean the deployment of more
15 than 50 police officers. So that's an average of 400 to
16 500 a year. And this excludes sporting events, and it
17 excludes 910 industrial disputes in that five-year
18 period. These 2,200 public order events involved at
19 least 1,079 arrests, 486 injuries to police officers, 76
20 known or reported injuries to protestors and members of
21 the public, and that includes the fatal injury to
22 Kevin Gateley.

23 Next, sir, the five-year period from 1975 to 1979.
24 And this is at paragraph 5.3.24 and 5.3.26 of our
25 written opening.

1 In this five-year period there were 2,139 public
2 order events requiring special police arrangements. So
3 that's between 356 and 585 a year. And again, that
4 excludes sporting events, and it excludes more than
5 1,000 industrial disputes.

6 During the same five-year period, there were 537
7 public order events, which were managed by A8, and which
8 required the deployment of more than 100 officers. So
9 over the period, there were between 55 to 130 in each of
10 these years of such events. And again, that excludes
11 sporting events. And those events involved 2,342
12 arrests and 342,284 officer deployments. These events,
13 demonstrators and protestors used smoke bombs on one
14 occasion, liquid ammonia and threw bricks and other
15 missiles.

16 So again, a very serious picture facing the Met in
17 terms of dealing with public order and maintaining and
18 preserving the Queen's Peace.

19 Finally, sir, the three-year period from 1980 to
20 1982. This is at 5.3.27 to 5.3.28 of our written
21 opening.

22 In this three-year period there were 891 public
23 order events, requiring the deployment of more than 100
24 officers. And that's between 230 and 379 in each of
25 those years. And again, it excludes sporting events,

1 and it excludes 1,685 industrial disputes. In the same
2 period, there were 79 public order events which required
3 the deployment of more than 1,000 officers, between 25
4 to 29 in each of those years. Again, excluding sporting
5 events and industrial disputes.

6 Other indications of how serious the public order
7 problem was in London in this period were the fact that
8 in the 10 years from 1968 to 1977,
9 the Commissioner didn't use his powers under the Public
10 Order Act 1936 to prohibit processions at all. So in
11 the first ten years of the period, no use of those
12 powers. In the five years between 1978 and 1982, those
13 powers are exercised on 13 occasions.

14 It's important, sir, to emphasise and to accept that
15 not all of the public order events at which a large
16 number of officers had to be deployed, or which resulted
17 in disorder, were political protests or demonstrations.
18 And not all of them resulted in disorder. There were
19 many events which didn't.

20 However, with the exception of the disorders at
21 the Notting Hill Carnival and the Brixton disorders,
22 the public order events leading to the most serious
23 disorder -- the most arrests and the most injuries --
24 were all political demonstrations and protests.

25 Within this group, those involving demonstrations

1 and counter-demonstrations by opposing factions of
2 the far left and far right were the worst of all.
3 Demonstrations and counter-demonstrations, according to
4 the Commissioner, almost always involved serious
5 disorder. And they were the occasion, as you will know,
6 sir, of two fatalities.

7 Moving on to part 5.3 of our written opening, sir,
8 and to the groups reported on by the SDS.

9 As you know, the focus of the SDS was on possible
10 threats to public order. We say it's clear, if you look
11 at the whole picture of its operation, that there was no
12 political or ideological bias or favouritism or
13 discrimination; and that what the unit was doing was
14 focusing on those groups most liable to present a risk
15 to public order.

16 As emphasised by Lord Sumption in his speech in
17 the Catt case, law-abiding, non-violent individuals can
18 and do belong to groups which may nevertheless pose
19 a threat to public order. The key, from the policing
20 perspective, is whether a sufficient number of the
21 members of any group are liable to cause, or become
22 involved in, or attract trouble. And that's regardless
23 of their political persuasions or objectives.

24 As also emphasised in our written opening, it's
25 important to bear in mind that crowds may do things,

1 particularly in heated, high-pressure situations, that
2 their individual members would never do by themselves.

3 And what we stress is that throughout the 1970s and
4 1980s, the public order scene in London was complicated,
5 very fluid and very dynamic; and it involved a number of
6 shifting groups and themes and subgroups and sub-themes.
7 And in terms of compiling a reliable intelligence
8 picture, it called for the gathering of and
9 the assessment of a good deal of information.

10 The groups that were involved, or the political
11 groups that were most likely to become involved in
12 disorder were characterised by, we say, five key
13 phenomena. I just want to take you through what these
14 were, in order to emphasise the point that the Met was
15 facing a difficult, complicated, challenging picture.

16 So, the first is the phenomena of entryism.
17 A number of far left groups frequently sought to take
18 over, to use and to subvert both each other, Irish
19 support groups, justice campaigns and other groups. And
20 they sought to use them as vehicles for the pursuit of
21 their own agendas.

22 So just to give some examples in this regard -- and
23 I won't read out everything in our written opening --
24 but CND, of course widely regarded as a peaceful
25 organisation, was itself targeted or used by

1 the Communist Party of Great Britain, International
2 Marxist Group, the International Socialists/Socialist
3 Workers' Party, The Revolutionary Communist Party of
4 Britain, Marxist-Leninist, and the non-violent Direct
5 Action group.

6 A further example of entryism is that
7 the International Marxist Group sought to target or
8 become involved with or use the Anti-Nazi League, CND,
9 as just mentioned, the Labour Party, Provisional
10 Sinn Fein, Socialist Challenge, Socialist Unity,
11 the Troops Out Movement and the United Troops Out
12 Movement.

13 Just one more example of a high profile group is
14 the International Socialists/Socialists Workers' Party,
15 who sought to target or use or exploit the Campaign for
16 Nuclear Disarmament, the Haringey Campaign Against
17 the Cuts, the Troops Out Movements, the TUC's Fight
18 the Cuts Campaign, and various justice campaigns, such
19 as the Friends of Richard Campbell, the Islington 18
20 Defence Committee, the Lewisham 21 Defence Committee,
21 the Stephen Lawrence Campaign. And the International
22 Socialists/Socialist Workers' Party was itself targeted
23 by the League for Socialist Action.

24 So those are just examples of the complexity of
25 the public order picture that was facing the Met in

1 terms of predicting/forecasting what might happen at any
2 particular demonstration or protest. And understanding
3 of not only the groups said to be involved but the
4 groups actually involved and what their agendas might be
5 was required.

6 The second phenomenon that characterised these
7 groups at the time was that of "rent a crowd"
8 activities. So, in particular, anarchist groups and
9 some far-left groups would seek to hijack or piggyback
10 on other disputes and events, either to try and recruit
11 others, to generate publicity, or simply to generate
12 disorder. And so obvious examples of that are
13 the Grunwick dispute in 1997 and the Air India workers'
14 strike in 1982.

15 A third complicating factor arising in this context,
16 sir, was that of front organisations. Particularly
17 far-left groups established or controlled a wide array
18 of front organisations, as well as event-specific ad hoc
19 committees. And then they would attempt to use those to
20 further their agendas and attract recruits, and so on.

21 Just to give some examples of front organisations
22 and the use of other groups, the International Marxist
23 Group and the International Socialists and Socialist
24 Workers' Party were involved in, or were establishing or
25 seeking to influence, the Anti-Internment League,

1 the Irish Civil Rights Solidarity Committee, which
2 became the Irish Solidarity Campaign, the Troops Out
3 Movement and Charter 80.

4 Another example is the International Marxist Group,
5 which is obviously involved with the Vietnam Solidarity
6 Committee. It had a youth movement, the
7 Spartacus League; and as of 1971, it had over 30 front
8 organisations.

9 And another major player was the International
10 Socialists or Socialist Workers' Party. And that
11 established and used numerous front organisations during
12 this time. Those included the Anti-Nazi League,
13 the Cypriot Defence Committee, Flame, the National Union
14 of School Students, Rebel, Rock Against Racism, the
15 Right to Work Campaign, School Kids Against Racism,
16 Smash the H Blocks, Stop the War, the Reagan Reception
17 Committee and Women's Voice.

18 The fourth complicating phenomenon that we draw
19 attention to, sir, is that of splinter groups: groups
20 splintering, collapsing, resurrecting, rebranding,
21 breaking away from each other. Which again required
22 the collection of reliable intelligence, in order to
23 success (a) what a particular group was really about,
24 and (b) what it was likely to do on a particular
25 demonstration or protest.

1 Just as an example, all of the following groups
2 split from or were expelled by the International
3 Socialists or Socialist Workers' Party at different
4 times.

5 Left Faction, which then became Workers Power,
6 Red Action, the Revolutionary Faction, which became
7 the Revolutionary Communist Group, Workers Fight, which
8 became the Alliance for Workers Liberty, and
9 Workers League. So they all split from
10 the International Socialists at different points.

11 Then, in turn, the Revolutionary Communist Group
12 split and formed Revolutionary Communist Tendency, which
13 then became the Revolutionary Communist Party.

14 Now, for the police to reliably produce threat
15 assessments to assist public order policing, they
16 obviously had to understand this scene and these groups
17 and what was really going on with them. And that, we
18 say, inevitably required the collection of reliable
19 intelligence.

20 Then, the fifth phenomenon, and perhaps the most
21 serious that arose in this era, as already touched on,
22 was that of counter-demonstrations. So this was
23 the most dangerous feature of the public order scene
24 reported on by the SDS. And it was the extent to which
25 that scene revolved around far-left and far-right groups

1 attempting to silence each other and deny each other's
2 rights to freedom of expression and protest by
3 picketing, disrupting, marching against and attacking
4 each other. And as already touched on, it's
5 counter-demonstrations which were the scenes of
6 the worst violence and disorder and of two deaths in
7 the 1970s.

8 Now, it's important to emphasise, sir, that none of
9 these phenomena was necessarily unlawful or even
10 objectionable. Those involved in these groups were
11 entitled to pursue their agendas by whatever means they
12 saw fit; that's their right. But the point, from
13 a policing perspective, is that there was a lot more
14 going on beneath the surface than a straightforward
15 pursuit of particular ideological objectives; and things
16 were often not what they seemed, and that there were
17 different and competing agendas often in the mix. And
18 the point, simply, is that in order to produce threat
19 assessments to allow for the maintenance of public
20 order, the police needed to understand this scene and
21 all its complexity.

22 A further -- and this isn't so much a phenomenon
23 affecting these groups. But a further complicating
24 factor was of course the Northern Ireland Troubles,
25 which were -- in terms of bombing on the mainland and so

1 on, which were at their height in the 1970s.

2 So groups associated with Irish Republicanism
3 obviously posed particular risks throughout The Troubles
4 for obvious reasons. And just two well known examples
5 of this are that Noel Jenkinson moved from Trotskyism to
6 the Official IRA before murdering seven civilians at
7 the Parachute Regiment Headquarters in Aldershot in
8 1972. And Kenneth Lennon was murdered in 1974 after
9 being suspected of providing information to the Met
10 Police Special Branch. So they're just examples of the
11 risks and the dangers that were closely associated with
12 the Northern Ireland Troubles.

13 And further in that regard, Provisional Sinn Fein
14 and The Provisional IRA and the INLA frequently
15 throughout this period engaged in Marxist rhetoric. And
16 many far-left groups saw them as part of an
17 anti-imperialist, anti-colonial, anti-capitalist
18 struggle that might lead to a revolution. And many
19 groups were therefore often ambivalent about whether to
20 give them support and whether to give them unconditional
21 or additional support.

22 Now, again, advocating for the end of internment,
23 the withdrawal of troops from Northern Ireland or
24 the creation of an independent unified Irish state were
25 perfectly lawful activities. The point from the police

1 perspective was that they were -- those activities were
2 associated with activities which were not lawful. And
3 therefore intelligence about discussions and decisions
4 within far-left groups and within Irish support groups
5 about support for terrorism or not could obviously have
6 a counter-terrorist or vetting value.

7 In addition to this, in terms of the -- what we're
8 calling "the public order scene" reported on by the SDS,
9 there were, during this period, high-level links between
10 the PLO and a number of far-left groups. There were
11 examples of groups which had mysterious funding, which
12 was apparently from overseas or state-sponsored. Other
13 groups engaged in blatant propaganda and misinformation.

14 And all of this cumulatively created a picture which
15 was difficult to understand and assess, and which
16 required considerable intelligence and assessment of
17 intelligence in order to be policed as safely as
18 possible. Accurate public order threat assessments
19 require a proper understanding of the subject matter,
20 and this requires reliable and comprehensive
21 intelligence.

22 Just in this regard, I just want to take you, sir,
23 to paragraph 5.5.4 of our written opening, and just take
24 you through one quote from a memorandum, which is an
25 Inquiry document. It's a memorandum that summarises

1 the findings of a Special Branch review of the SDS from
2 1976. And it says this:

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

16 Now, in this regard, sir, the SDS reported on a wide
17 range of groups, as you know. Some groups were security
18 conscious, well organised and dangerous, some groups
19 used false party names, or gave false addresses in order
20 to obscure their identities, and some groups were
21 relatively disorganised but would nevertheless seek to
22 create or exploit opportunities for disorder and unrest
23 where the opportunity arose, and other groups reported
24 on by the SDS were completely benign.

25 Going back to the quote from Lord Sumption, that's,

1 in terms of intelligence collection, it is inevitable
2 that the police will ask themselves the question: should
3 we try and collect intelligence on this group and might
4 it be involved in public order? Intelligence will be
5 collected, and sometimes the answer will come back: no,
6 this group doesn't present a threat. But that doesn't
7 mean that the collection or assessment of that
8 intelligence was in and of itself objectionable, and
9 particularly when one bears in mind the complicated
10 picture that the police were facing.

11 Sir, if I move on now to part 6 of our written
12 opening and then to look -- having, we would say, set
13 the scene and tried to put matters in context, to look
14 at the SDS in particular, and its processes and its
15 operational model. So this is part 6.1 of our written
16 opening.

17 There is a twofold reason for pausing to look at
18 these processes. The first is to emphasise that there
19 are gaps in the documents available to the Inquiry, and
20 secondly to explain why this is the case and to make
21 the point that it's nothing to do with any kind of
22 cover-up, it's just simply the nature of this
23 organisation and the lapse of time since it was
24 operational.

25 So the operational model of the SDS, sir, is well

1 known. Just outlining it very briefly. There was
2 a back office in official Met Police premises, first in
3 New Scotland Yard and then moving elsewhere. The back
4 office was manned by detective sergeants, and run by
5 a detective inspector and a detective chief inspector.
6 There were different periods when the arrangements
7 altered slightly, but that was the basic make up of
8 the management.

9 The unit itself then had two safe flats in changing
10 locations where the undercover officers and back-office
11 staff and management would meet. Throughout the period
12 of its existence, and particularly in the 1970s and 80s,
13 the unit had, roughly, on average, 10 to 12
14 undercover officers deployed at any one time. They were
15 reporting on far left, anarchist, Irish-related, animal
16 rights and far-right groups, who might become involved
17 in or present a threat to order.

18 Some deployments of the SDS, as you know, sir, were
19 too dangerous to reveal publicly and there are
20 restrictions on what I can say about them, and I'll come
21 to that later.

22 The career trajectory of an undercover officer in
23 the SDS was that they would spend a period in the back
24 office -- up to six months, but not necessarily that
25 long -- preparing their legend, preparing to deploy,

1 reading up on the area that they were being targeted on,
2 arranging cover accommodation, cover employment and
3 a cover vehicle. Then, post-deployment, they would be
4 out in the field. They wouldn't come back to the back
5 office. They would attend usually twice-weekly meetings
6 in the safe flat. They would also have one-to-one
7 meetings with back-office staff and managers as and when
8 necessary. There would be usually daily telephone calls
9 to the back office just to confirm that all was well,
10 and telephone calls after particular events and
11 sometimes during particular public order events. And
12 the average deployment length, once the unit became
13 established, was around the three to four year mark.
14 Some deployments were shorter and some were longer.

15 The model itself of the unit was to create a network
16 of antennae across the London public order scene. So it
17 was to spread out undercover officers in a way that
18 would give coverage of -- sufficient coverage of those
19 groups most likely to become involved in protests and
20 demonstrations which might result in disorder.

21 The SDS had a dual purpose, which was non-evidential
22 intelligence gathering, first, and primarily, in
23 relation to public order, and second, and collaterally,
24 intelligence relevant to counter subversion and the work
25 of MI5, which I'll come on to. It's important, in our

1 submission, to differentiate and to be realistic about
2 the difference between targeting and infiltration of
3 groups on the one hand and the subjects of intelligence
4 reports on the other. The number of groups that the SDS
5 was targeted against and that it in fact infiltrated was
6 much smaller than the number of groups that would happen
7 to be mentioned in its intelligence reports, which was
8 inevitably much wider.

9 In order to achieve its objectives and to establish
10 this network of antennae capable of producing
11 the intelligence that the uniform branch needed, it was
12 inevitable that the SDS would -- that the SDS
13 undercover officers would at times have to report on
14 the softer outer circles of groups and have to report at
15 times when there was not much happening, and that -- so
16 there are, as you know, sir, intelligence reports which
17 contain very little of interest. That is just
18 inevitable. If one is to be in position within a group
19 at the time things heat up, or events become more
20 violent or disorderly, one needs to be in place already.
21 The only route to a group's inner circle is obviously
22 via its outer circle. It's not possible for
23 undercover officers simply to turn up and say, "I would
24 now like to enter your inner circle and know all your
25 plans".

1 Similarly, infiltration needed to take place before
2 times of high intensity and high activity; it couldn't
3 be done during or after such times. And such times,
4 times of high intensity and high activity, could be
5 triggered very quickly and occur at very short notice
6 either because of a particular event, or the coalescence
7 of disparate groups around a particular cause célèbre.
8 There are various examples of this. Obviously Vietnam
9 is one, apartheid is another, internment in
10 Northern Ireland is another, particular industrial
11 action such as Grunwick, events such as Bloody Sunday,
12 particular campaigns with more widespread popular
13 support, such as Ban the Bomb, or opposition to nuclear
14 power, or the transport of nuclear waste by trains, or
15 the Falklands War. Things like that could occur without
16 any notice and it would be necessary to be in place
17 within the groups who would then try and exploit such
18 situations already. We refer in our written opening to
19 the fact that the SDS needed to be very much a fly on
20 the wall operation, so it was in position in advance,
21 and that as and when things started to happen,
22 the undercover officers would receive the information
23 without having to ask questions which would in turn
24 attract suspicion and attention. So the nature of their
25 infiltration meant that there were inevitably periods of

1 quiet and periods of not much happening.

2 Turning to the question of intelligence reports,
3 sir, which is at part 6.2 of our written opening. It's
4 important to understand and emphasise, sir, that
5 although intelligence reports represent the bulk of
6 the surviving documentary product or output of the SDS,
7 the unit itself did much more than produce written
8 intelligence reports. Those reports were simply one
9 part of its intelligence output. The reports themselves
10 fitted with the standard form of
11 Metropolitan Police Special Branch intelligence
12 reporting, and what one sees in the documents is that
13 intelligence was recorded in reports and then retained
14 in files. There were various cross-references between
15 the files, which are searchable, and so that, with
16 individual occasions, officers could go to the registry,
17 retrieve files and find out what was available on any
18 particular theme, or group, or event.

19 The contents of Metropolitan Police Special Branch
20 reports were not necessarily collected secretly or
21 covertly. It was perfectly possible for
22 a Special Branch report to simply say, "This is what was
23 said at Speakers' Corner", or, "Here is a leaflet or
24 a publicity for a particular event", or, "This is what
25 was said at a public meeting". There were different

1 types of report which were all geared around
2 the operation of the Special Branch registered filing
3 system.

4 Now, the production and circulation, particularly in
5 the 60s, 70s and 80s, of written intelligence reports
6 was a relatively slow process. There were of course no
7 emails or mobile phones. Photocopiers and IT were very
8 basic and not easy to operate. Intelligence reports
9 were circulated and filed in hard copy, and this meant
10 producing them on typewriters and producing copies using
11 carbon paper and so on.

12 So it's important to understand, when looking at any
13 Special Branch intelligence report, how it would have
14 come into being and the time frame that that would have
15 taken. So any intelligence report -- and this included
16 the SDS intelligence reports -- first had to be drafted
17 in manuscript, or dictated by the officer who'd
18 collected the intelligence. It was SDS practice for
19 undercover officers to do this either at home -- their
20 real homes -- or at the safe flats where they would meet
21 on a bi-weekly basis.

22 Once an intelligence report had been drafted and
23 the manuscript were dictated, it then had to be typed
24 up, topped and tailed, corrected, and have both
25 Special Branch and MI5 file reference numbers added. In

1 terms of SDS practice, this was done in the back office,
2 and inevitably, because the back office staff were only
3 meeting the undercover officers on a bi-weekly basis,
4 they would be processing two batches of intelligence
5 reports per week, so there would be peaks and troughs in
6 the work that they were doing.

7 Then, once an intelligence report had been
8 finalised, it would be signed off and circulated.
9 The original would be sent to the Special Branch
10 Registry for adding to the searchable filing system, and
11 then copies would be circulated internally under
12 a covering minute sheet. The Inquiry has obviously
13 retrieved a number of intelligence reports with covering
14 minute sheets, and what one sees is that they were taken
15 around New Scotland Yard to the various addressees, who
16 would be specified on the minute sheet, and each of
17 those individuals would have an intelligence report come
18 into his in-tray, annotate it, sign it, put it into
19 the out-tray and it would go to the next person and so
20 on. And also copies were sent to MI5 and others without
21 a covering minute sheet.

22 In terms of SDS practice, this part of the operation
23 was not done by the SDS. The SDS would produce
24 intelligence reports and submit them to the squad
25 chief -- so not the Special Demonstration Squad chief,

1 but the Chief Superintendent of the squad that was in
2 turn managing or overseeing the SDS -- and at that
3 level, the distribution and circulation of intelligence
4 reports was decided and the covering minute sheets were
5 added, and that wasn't something that was dictated by
6 the DIs or the DCIs within the Special Demonstration
7 Squad. Then, once an intelligence report had been
8 circulated and found its way into
9 the Special Branch Registry, it would follow that
10 reference to it would require an individual to get
11 the paper file, open it up, refer to it and so on.

12 The process was comprehensive and it was efficient,
13 and it mimicked very much what computers and computer
14 databases do now in terms of searchability, but it was
15 inevitably somewhat slower.

16 The intelligence reports originating with
17 the Special Demonstration Squad, like all other
18 Metropolitan Police Special Branch intelligence reports,
19 wouldn't identify the secret source. So, they would
20 start, "The following information has been received from
21 a secret and reliable source ...", words to that effect,
22 but the secret and reliable source wouldn't be
23 identified. And neither would they be attributed to
24 the SDS. There was no SDS report as such. They were
25 simply reports that had come from somewhere, and it was

1 not clear where, other than that there was an assessment
2 that this was secret and reliable information.

3 Now, there are two, we say, crucial points arising
4 out of this somewhat basic and uninteresting description
5 of how intelligence reports were circulated around.

6 First, the SDS itself did not need to and so did not
7 retain its own structured written filing system.

8 The SDS was a secret unit. If anyone within
9 Special Branch wanted to find what was held on
10 a particular individual, or group, or event, they would
11 go to the registry and make enquiries as to what was
12 available. They would not go to the SDS. The SDS only
13 held one part of the intelligence picture that was built
14 up within Special Branch, and for that reason the unit
15 itself did not keep structured files. Files would be
16 kept while an undercover officer was out in the field,
17 and they might be retained for a while, but they
18 wouldn't be referred to by anyone once they'd been sent
19 up the chain for onward dissemination.

20 The second important point to note here is that
21 the written reporting -- the written intelligence
22 reporting process was, by its nature, not suited very
23 well to public order intelligence and to public order
24 policing. Public order intelligence is inherently and
25 essentially ephemeral and evanescent, and once an event

1 has happened, it will be clear what actually occurred
2 and a focus can then be put on the facts of what
3 occurred. The forecast of what might occur immediately
4 becomes irrelevant. And the written reporting process
5 was therefore not suited to rapid, dynamic or urgent
6 dissemination of up-to-date intelligence about imminent
7 or developing public order events.

8 The point here is that there was a great deal that
9 the SDS did which was done by face-to-face and telephone
10 communications. So if the uniform public order branch
11 needed information in advance of a particular event, it
12 would very often be a question of them contacting
13 someone in Special Branch, who would then contact
14 someone within the SDS who would give them that
15 information over the phone; it wouldn't necessarily be
16 confined to the written intelligence reporting process.
17 So there was a great deal of intelligence that was
18 collected and disseminated by the SDS which was either
19 not documented or, if it was documented -- telephone
20 messages and so on -- was not retained.

21 And indeed one sees some intelligence reports which
22 speak to an upcoming event which in fact postdate that
23 event by days, or even weeks, and that simply
24 illustrates the fact that the hard copy reporting
25 process was relatively slower.

1 This brings me, sir, to part 6.3 of our written
2 opening and to what we say about the incompleteness of
3 the available materials, particularly from the period
4 1968 to 1982. The documentary materials that have
5 survived and that are available to the Inquiry and to
6 you, sir, are fragmentary and incomplete and, following
7 on from what I was saying about intelligence reports,
8 the reasons for this, sir, are obvious and prosaic.

9 Much was not recorded in the first place, and much
10 was not retained long term. So there were face-to-face
11 and telephone discussions; there would also be work that
12 was done by the undercover officers in the safe flats,
13 where they would be shown photographs and identify
14 individuals from photographs: that didn't produce
15 a documentary record. Another thing that they did in
16 the safe flats was complete their daily diaries and
17 expenses and overtime claims. That evidence of what
18 they were doing has inevitably not been retained. And
19 then there was simply the ordinary Special Branch
20 reading and destruction of out of date information,
21 which means that a great deal of material, such as there
22 was, recording the work of the SDS, particularly from
23 this period, is simply no longer available.

24 As I said at the outset, sir, or the outset of this
25 section, this unavailability of materials is nothing to

1 do with any kind of cover-up or shredding of SDS files
2 and suggestions to the contrary simply have no basis.
3 The unit did not need to, and so did not, maintain hard
4 copy files. This was the job of the Metropolitan Police
5 Special Branch Registry, and it was the job of
6 the recipients of its intelligence reports. And
7 furthermore, as you know, and as was reported by
8 Operation Herne, post-computerisation in the mid-1990s
9 all of these SDS records are available and have been
10 recovered, and that in and of itself is hardly
11 consistent any kind of cover-up or shredding of
12 materials.

13 So one then comes to what materials are available
14 the Inquiry from the 60s, 70s and 80s and from
15 the pre-computerisation period of the 1990s.
16 Essentially there are intelligence reports which have
17 come from two sources. So first we have intelligence
18 reports covered from Met Police records. These often
19 have the covering minute sheets with them which show to
20 whom they were sent to at the time, and there is
21 a relatively small number of these reports and they
22 generally have MPS reference numbers at the bottom.

23 Secondly, there's a much larger volume of reports
24 recovered from MI5. These do not have covering minute
25 sheets with them, because they weren't sent to MI5 with

1 covering minute sheets. They generally have UCPI
2 reference numbers at the bottom. And they also have
3 stamps, which will either say "Box" or "Box 500" -- that
4 was a Met Police stamp to designate that that was where
5 that copy was going, to MI5. And sometimes they have
6 SDS stamps. I think, particularly from around
7 the mid-seventies onwards, they're stamped "SDS". That
8 was a stamp that was added by MI5 on receipt, because it
9 knew, or believed it knew, the source of those reports
10 which came to it by a particular channel.

11 Now, it's important to note, we say, that the MI5
12 reports, or the set of SDS intelligence reports that's
13 been recovered from MI5 is itself incomplete. It's
14 the belief of most of my clients who have seen their
15 witness packs from this period that they produced more
16 reports than have been provided to them. It's also
17 the case that the reports in general tend to focus on
18 the membership of groups and attendance at meetings
19 rather than public order forecasts or predictions.
20 There are, in some cases, significant chronological gaps
21 in the reporting. There are cross-references in
22 individual reports to other reports which are not
23 provided, and some officers remember producing
24 particular reports on major events, or events they
25 attended which are not reflected in the witness pack.

1 And there were, as we know, some reports which we can
2 see from MPS minute sheets were copied to MI5 but have
3 not in turn been recovered from MI5. This is no
4 criticism of anyone that this is the case, it's simply
5 noting that it is the case, and there may be a number of
6 reasons for it.

7 First, some intelligence reports may not have been
8 copied to MI5 in the first place, possibly because they
9 were already out of date if they related to upcoming
10 events, or because they were of no interest to MI5,
11 because it wasn't responsible for public order.

12 Secondly, there may be reports that were simply not
13 retained by MI5, either in the short term at the time,
14 or due to subsequent reading thereafter.

15 And we've mentioned at paragraph 6.3.5 of our
16 written opening the Intelligence and Security Committee
17 of Parliament reports on MI5's post-Cold War destruction
18 of subversion-related records. So we know that in
19 the mid-to late 90s, MI5 destroyed a large number, more
20 than 100,000 files, containing subversion-related
21 material.

22 Now, just to emphasise again there is nothing, in
23 our submission, sinister or suspicious about this lack
24 of intelligence reports or the lack of other
25 contemporaneous documents, and the only reason for

1 mentioning it and emphasising it is this. It's that it
2 has knock-on effects for the completeness of
3 the available evidential picture, the scope for jogging
4 the memories of those who were involved at the time
5 about particular events and the scope for the Inquiry
6 making reliable findings of fact.

7 Sir, I've just been passed a note, and I notice
8 the time is 4.30. I'm already ahead of schedule in
9 terms of what I was hoping to do today. I'm happy to
10 continue now until 5, or to break and pick it up in
11 the morning.

12 Apologies, sir, I think you're on mute again.

13 THE CHAIRMAN: The sixth time.

14 By my estimation, you've done a little over
15 two-thirds of your task, merely page-counting by
16 reference to where you are in your written submission.

17 Is that roughly right?

18 MR SANDERS: I think it is, sir, yes. I'm one section into
19 what I thought I would be doing tomorrow morning.

20 THE CHAIRMAN: Yes. It seems to me that if you have an hour
21 and a half tomorrow morning in one go, you will finish
22 your submissions.

23 MR SANDERS: I think, with a fair wind, there's a good
24 chance of that, sir.

25 THE CHAIRMAN: Yes. Given that, and to give the shorthand

1 writers a rest, and your own voice a rest, I'm perfectly
2 happy to stop now, but I would like to say to those
3 listening that in consequence of your finishing
4 significantly sooner than you have estimated -- for
5 which there is no criticism; on the contrary there is
6 praise -- it is likely that we will try to reorganise
7 tomorrow's schedule so as to begin Mr Whittam when you
8 were going to begin the second part of your submissions
9 tomorrow morning -- that's to say at about 11.30 or
10 11.45 -- Mr Lock not at 2.30 but at, perhaps, 12.30, and
11 Mr McCullough not at 3.35 but more likely 2.45. And in
12 turn, or in consequence, Mr Menon, who I know is
13 listening to what you said, could start not on
14 Wednesday, first thing, but at the latest mid-afternoon
15 tomorrow.

16 That would mean that we would have not a very long
17 day on Wednesday ending at about 6.15, as is currently
18 forecast, but a day within a more normal compass. This
19 is of no concern directly to you, unless you're
20 listening to it all, but it may be to those who have to
21 participate in it, those who have to write it down and
22 to all of us who have to listen. This is something I'm
23 going to discuss with my team, but I mention it over
24 the open airwaves now so that those who are listening
25 can prepare to be shunted a little forward of their

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