

Tuesday, 10 November 2020

(10.00 am)

MS PURSER: Good morning, everyone, and welcome to the seventh day of opening statements in Tranche 1, Phase 1 of the Undercover Policing Inquiry.

My name is Jacqueline Purser and I'm the hearings manager.

For those of you in the virtual hearing room, please can I remind you that unless you are asked to speak by the Chairman, please turn off both your camera and 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 Khan, you have three statements to make today, I think. Would you begin with the first on behalf of Baroness Lawrence.

MR KHAN: Good morning, sir. I hope you can see me.

THE CHAIRMAN: I can.

Opening statement on behalf of Baroness Lawrence by MR KHAN

MR KHAN: Thank you very much.

Good morning. Together with Ms Gardner, I make this opening statement on behalf of Baroness Lawrence. Sir,

1 I start with Baroness Lawrence's concern in relation to
2 this Inquiry. She is losing confidence, if she has not
3 already lost it, in this Inquiry's ability to get to
4 the truth. The truth as to why she, her family and
5 supporters were spied upon by the police. This Inquiry
6 is not delivering on what she was promised, and is not
7 achieving what she expected. To say, sir, that
8 Baroness Lawrence is disappointed is to understate her
9 position.

10 Baroness Lawrence is also disappointed by
11 the approach of the Metropolitan Police in its opening
12 statement with its suggestion that there has
13 been "widespread and lasting change" in the police.

14 The reality, sir, is that there has been very little
15 change. And what change there has been has been forced
16 upon the MPS; it has never welcomed it or embraced it.

17 This year, Ben Bowling, a professor of criminology
18 at Kings College London said that British policing
19 "remains institutionally racist". He has accused the
20 police of failing to delivery on promises, to eradicate
21 racism, and instead allowing "prejudice, thoughtlessness
22 and racial stereotyping" to continue, driving unequal
23 treatment. Sir, the position is this, that black and
24 ethnic minority people in the UK are still over-policed
25 and underprotected.

1 By way of example only, sir,
2 the Home Affairs Select Committee reported in July of
3 this year that young black men were stopped and searched
4 by police more than 20,000 times in London in April and
5 May of this year. That is the equivalent to more than
6 a quarter of all black 15 to 24-year olds in
7 the Capital. And more than 80% of these searches
8 resulted in no further action.

9 Ms Yvette Cooper, the chair of the committee, said
10 that:

11 "This suggests that in one month alone, more than
12 one in 10 black men in London were stopped and searched
13 and found to be carrying nothing and found to be doing
14 anything that required further action."

15 Sir, Baroness Lawrence does not want mealy-mouthed
16 gratitude from the MPS. If the MPS is truly sincere in
17 what it says, it must stop churning out platitudes, as
18 it has done at this Inquiry, and take immediate action
19 to implement change.

20 The racism which continues to be rife in our police
21 and our society was the racism which led to the murder
22 of Stephen Lawrence, and which resulted in his killers
23 not being convicted for 18 years.

24 Stephen, born on 13 September 1974, would now be
25 46 years old. He was fatally stabbed aged just 18. His

1 racist murderers are still alive. Not a single police
2 officer was disciplined or sacked. Rather, they were
3 promoted in their careers and are now enjoying their
4 retirement. Many of those that spied upon
5 Baroness Lawrence and her family have to date evaded
6 proper scrutiny.

7 For any parent to have to outlive their child is
8 unimaginable. To lose their child in such circumstances
9 is inconceivable. To still be fighting for justice
10 27 years on is completely unacceptable. And for those
11 parents to be fighting for justice while being spied
12 upon by the police, whose very role was for it to
13 support and protect them, is simply unforgivable.

14 Sir, you will, as will most people, be familiar with
15 the circumstances of Stephen Lawrence's murder, which we
16 do not intend to rehearse here. Save to say this, that
17 Baroness Lawrence is disappointed that it was not her,
18 Stephen's mother, who was first in their opening
19 statements in this Inquiry to describe the events of
20 that tragic day.

21 Stephen was certified dead at 23.17 on
22 22 April 1993. Baroness Lawrence mourns the loss of her
23 son every single day. What she cannot have foreseen was
24 the sheer scale of the failures by the police in
25 relation to their treatment of Stephen and

1 the subsequent investigation.

2 It would be many years later that
3 Sir William Macpherson and his advisory panel would
4 conclude, amongst other things, that the senior
5 investigating officers made a fundamental mistake in
6 failing to arrest named suspects within 48 hours of
7 the murder, and that no police officer did anything by
8 way of first aid as Stephen was lying in a pool of his
9 own blood.

10 Baroness Lawrence has previously speculated that
11 perhaps the police officers did not want to get their
12 hands dirtied with a black man's blood.

13 Sir, the Lawrence report was published in
14 February 1999. On 6 March 2012, the Independent
15 newspaper ran an article in which it said that it had
16 "uncovered detailed evidence of a detective's
17 criminality that was held back from the public,
18 the Lawrence family's legal team" and
19 Sir William Macpherson's inquiry.

20 The article alleged that Metropolitan Police
21 officers were aware of a corrupt link during
22 the Macpherson Inquiry but held the information back for
23 fear that it would affect the family's civil claim
24 against the force.

25 As a result of these views, Baroness Lawrence wrote

1 to the then Home Secretary Theresa May, stating that:

2 "The fact appears to be that material which was
3 highly pertinent to the issues being investigated in
4 the Inquiry was suppressed by the Metropolitan Police
5 Service in order to protect its own reputation."

6 Accordingly, Baroness Lawrence asked
7 the Home Secretary for a public inquiry. That request
8 was supported by Boris Johnson, then Mayor of London,
9 and Yvette Cooper, amongst many others.

10 A meeting with the Home Secretary took place on
11 14 May 2012, which led not to a public inquiry at that
12 stage, but an independent review by Mark Ellison QC,
13 together with Ms Alison Morgan.

14 Mr Ellison started his review in October 2012.
15 Unbeknownst to him, the Lawrence family and the general
16 public, they were already being woefully misled by
17 the MPS.

18 The MPS review on 31 May 2012 weaved a web of deceit
19 by stating that they had disclosed all available
20 material related to officers of concern, that is in
21 the murder investigation, to the Macpherson Inquiry.
22 A barefaced lie. Yet the never-ending capacity of
23 the MPS to deceive those that they were entrusted to
24 serve was soon to be further evidenced.

25 Before Mr Ellison could complete his review, an

1 article appeared in The Guardian newspaper on
2 24 June 2013, which revealed that between '93 and '97,
3 the MPS sought to obtain information with a view to
4 investigating, and potentially undermining,
5 the credibility of the Lawrence family's campaign for
6 justice. A letter was written on behalf of
7 Baroness Lawrence to the then Commissioner of
8 the Metropolitan Police, Sir Bernard Hogan-Howe, about
9 this, and a response sought as to whether
10 the allegations were in fact true.

11 On 8 July 2013, the Commissioner, Sir Bernard,
12 wrote:

13 "There are records that indicate undercover officers
14 were deployed into supporters and campaigns surrounding
15 the murder of Stephen Lawrence. Specifically we are
16 aware of three officers including Francis."

17 "Francis" was, of course, Peter Francis. In
18 a Channel 4 Dispatches programme, an interview in 2013,
19 Peter Francis disclosed that his superiors in
20 the Special Demonstration Squad had wanted to prevent
21 the advancement of the campaign for a better
22 investigation into the murder of Stephen Lawrence. His
23 superiors had, in the period shortly after his murder,
24 wanted him to find "dirt" and disinformation that could
25 be used to discredit members of the Lawrence family and

1 their supporters.

2 He also said he was one of four undercover officers
3 who were required to feed back intelligence about
4 the campaigns for justice over the death of Stephen.

5 Francis revealed that as neither he nor the other
6 three undercover officers were able to find anything
7 concrete with which to discredit the Lawrence family,
8 intelligence, if one can call it that, would be passed
9 on to their superiors based on what he described
10 as "hearsay" and "tittle tattle".

11 It was, of course, a desperate and utterly baseless
12 attempt to smear the Lawrence name. Of course, there
13 was no such intelligence. The Lawrence family were, and
14 have always been, a law-abiding family.

15 A fellow undercover officer, HN78, now N78, was
16 interviewed for the Ellison Review. He said he was
17 deployed until May '95, and picked up intelligence about
18 the Lawrence family campaign through indirect means and
19 by knowing people who were close to the family.

20 The Ellison Review also noted that N78 referred to
21 possible racism exhibited by HN86. Such racist views
22 were confirmed by Mr Francis. In 1993 to 1995, HN86,
23 now N86, was Peter Francis' immediate superior.

24 Sir, in the absence of any "dirt" on the Lawrence
25 family, Peter Francis was ordered to collate evidence

1 against others, again with a view to discrediting
2 the Lawrence justice campaign. According to Francis,
3 N86 tasked him to find such evidence. He was asked to
4 gather intelligence against other visitors to
5 the household, from names passed on by the supposed
6 family liaison officers, DC John Bevan and
7 DC Linda Holden. Both of whom, sir, you'll recall, were
8 criticised by Sir William Macpherson for the failure to
9 treat Baroness Lawrence and Neville Lawrence as they
10 should have been. Sir William concluded that
11 the failure of family liaison was, in his words, "one of
12 the saddest and most deplorable aspects of the case".

13 In any event, as a result of the The Guardian
14 article and the Channel 4 Dispatches programme, a letter
15 was written on behalf of Baroness Lawrence to
16 the Home Secretary in these terms -- and it's worth
17 noting what it said at the time:

18 "We write further to the meeting that we had with
19 you at the Home Office and the meeting with the
20 Commissioner of the Metropolitan Police as well as the
21 meeting with Mr Mark Ellison QC ...

22 "As you will appreciate, when The Guardian reported
23 its allegations last Monday, Mrs Lawrence's reaction was
24 one of restraint. There was no immediate call for a
25 public inquiry. Instead ...[a letter was sent] to the

1 Commissioner seeking answers to thirteen questions.
2 Despite his best endeavours, the Commissioner was unable
3 properly to answer the majority of the questions raised
4 at our meeting with him. This is despite public
5 assurances that he would be able to and that there was
6 no need for a public inquiry."

7 The letter went on:

8 "It is self-evident that the new revelations of
9 police surveillance ... have caused them, and the wider
10 public, genuine shock and outrage. The Prime Minister,
11 yourself and former Home Secretaries, current and former
12 Commissioners of the Metropolitan Police have all
13 publicly condemned such activity if it occurred and
14 expressed their outrage.

15 "It is, therefore, in the interests of not only the
16 victims of such alleged police misconduct, but also the
17 police themselves and the public authorities involved,
18 that the scale of ... concern (shared by the public)
19 about this issue is addressed in the most authoritative,
20 public, transparent and legally robust framework
21 possible. Only a judge-led public inquiry can perform
22 that task."

23 Baroness Lawrence met with the Home Secretary on
24 16 July 2013. The Home Secretary said that she would
25 not order a public inquiry at that stage, but indicated

1 that if Mr Ellison considered that it was appropriate
2 for there to be a public inquiry after he had provided
3 his report, then the Home Secretary would indeed
4 undertake to order one at that point.

5 Baroness Lawrence was, even then, very much aware of
6 the limitations inherent in either a review or
7 a police-led investigation, such as Operation Herne. On
8 27 February 2014, Baroness Lawrence said this:

9 "In my view a public inquiry is the only effective
10 way to address mine, and the public's concerns over
11 these issues. The problem with the investigation by
12 Chief Constable Creedon in Operation Herne or the Review
13 by Mark Ellison QC is that, even if it is for the right
14 reason that sensitive material is withheld from the
15 public, the concern will remain that the police (or a
16 prosecuting barrister) are shielding the police from
17 public scrutiny."

18 Mark Ellison QC himself acknowledged
19 the limitations, stating:

20 "A public inquiry that can see and hear the evidence
21 being tested, and which also considers the wider
22 potential SDS issues raised ... might be better placed
23 to make definitive findings."

24 As we know, Mr Ellison's report did conclude that he
25 was "unable to reject" the claims Peter Francis made in

1 relation to the smearing of the Lawrence family, which
2 led to the words spoken and promises made by Theresa May
3 in the House of Commons on 6 March 2014.

4 She said this:

5 "Given the gravity of what has now been uncovered, I
6 have decided that a public inquiry, led by a judge, is
7 necessary to investigate undercover policing and the
8 operation of the SDS. Only a public inquiry will be able
9 to get to the full truth behind the matters of huge
10 concern contained in Mark Ellison's report.

11 "Stephen Lawrence was murdered more than 20 years
12 ago and it is deplorable that his family have had to
13 wait so many years for the truth to emerge. Indeed, it
14 is still emerging ... the findings I have set out today
15 are profoundly disturbing. For the sake of Doreen
16 Lawrence, Neville Lawrence, their family and the British
17 public, we must act now to redress these wrongs."

18 The speech was later repeated in the House of Lords
19 the same day by the Parliamentary Undersecretary of
20 State for the Home Office Lord Taylor of Holbeach, who
21 added that there could be no hiding place for people who
22 had done wrong. The irony of this statement is not lost
23 on the non-state core participants as
24 the undercover officers now hide from public view, hide
25 behind false names, and hide behind redacted evidence.

1 Speaking at the same session, Baroness Lawrence
2 addressed her fellow peers in this way:

3 "It has been 21 years of struggle and no family
4 should have to go through that. It is the job of the
5 justice system and the police service to give service to
6 the whole community, not just to one section. That is
7 what I have been campaigning on for the past 21 years.
8 We were not asking for anything special, just for
9 something that we should have had, just like any other
10 citizen of this country."

11 By a letter dated 27 March 2014, Sir Bernard
12 Hogan-Howe apologised for the conduct of the MPS, and
13 made what Baroness Lawrence thought to be a firm
14 commitment to her. He said this:

15 "I undertake to ensure that we release all material
16 requested by the Inquiry in our possession or control
17 and to be as transparent and honest in our duty of
18 disclosure ... I am committed to transparency."

19 That was promised in 2014. Baroness Lawrence is
20 still waiting to receive material which might throw more
21 light on the allegations made by Peter Francis and has
22 seen or heard nothing in relation to the involvement of
23 N81, N78 and N86. Baroness Lawrence considers it an
24 utter disgrace that over six years after
25 the Commissioner of Police made those commitments, she's

1 none the wiser as to why she and her family's supporters
2 were spied upon. What she cannot fathom is who is
3 ultimately at fault. If it is the Metropolitan Police,
4 then she calls on the Commissioner of the Metropolitan
5 Police today, Cressida Dick, to honour the commitment
6 made by her predecessor to act with honesty,
7 transparency and integrity, and immediately provide her
8 with the material she should have.

9 If it is the Inquiry, then, sir, she asks that you
10 do the same. Baroness Lawrence reminds you that you
11 made a similar commitment in November 2017. You said
12 this:

13 "How and why groups supporting the campaign of the
14 parents of Stephen Lawrence came to be infiltrated by
15 undercover officers and what was done with information
16 acquired by them is one of the central issues which the
17 Inquiry must investigate. The deployments occurred
18 nearly 20 years ago. They have already been the subject
19 of three separate investigations. Despite that, a
20 definitive judgement about them has not yet been made.
21 It is not difficult to understand that this has
22 compounded the anguish already caused to them by the
23 racist murder of their son and the manner in which it
24 was investigated by the police. Tools available to the
25 Inquiry, which were not available to previous

1 investigators, may permit me to make that judgement."

2 Sir, Baroness Lawrence is exhausted by the number of
3 times that she has been given reassurances and promises.
4 Each appears to have been as hollow as the next, and
5 some appear downright hypocritical.

6 Peter Francis, for example, revealed in
7 the Channel 4 documentary that he had reason to suspect
8 that the intelligence collected by undercover officers
9 regarding the Lawrence family was delivered to and
10 possibly compelled by senior officers at the very heart
11 of the Metropolitan Police Service. He recalled, in
12 particular, Sir Paul Condon had on one occasion paid him
13 and others a visit to thank them for their work with
14 a bottle of whisky.

15 This was, sir, you'll recall, the same
16 Sir Paul Condon who, amongst heckles from the public,
17 sought to apologise to the Lawrence family at
18 the Macpherson Inquiry on 1 October 1998.

19 The extent to which Sir Paul Condon knew and/or
20 authorised the spying must be examined by this Inquiry.
21 Indeed, that examination must not stop at commissioner
22 level, because, of course, policing was until recently
23 the responsibility of the Home Secretary. Which may
24 explain, perhaps unsurprisingly, why shortly after
25 the public inquiry was announced, a former

1 Home Secretary met with Baroness Lawrence and denied any
2 knowledge or involvement in the issue.

3 In this Inquiry, Baroness Lawrence was looking
4 forward to the opening statement of the Metropolitan
5 Police Service, and for a renewal of the apology that
6 Sir Bernard Hogan-Howe had given to her in 2014 that
7 I've just referred to. Not only was there no apology,
8 but, worst still, there was a wholesale denial that:

9 "SDS personnel did not infiltrate or target justice
10 campaigns (including the Lawrences)."

11 If that indeed is the case, what was Sir Bernard
12 apologising for in 2014? Was that apology yet another
13 lie, and simply a public relations exercise?
14 Baroness Lawrence seeks an urgent explanation from
15 commissioner Cressida Dick, the present head of the MPS.

16 In March 2014, Sir Bernard also stated that he was
17 implementing measures which were, as he put it, part of
18 a series of actions with which would also address
19 culture and leadership in the Metropolitan Police
20 Service.

21 Baroness Lawrence is very aware that culture and
22 leadership are key issues when it comes to institutions.
23 The so-called "canteen culture" of the police service
24 has been held responsible for miscarriages of justice
25 and cover-ups of misconduct. It certainly plays its

1 part in covering up racism and other sorts of
2 discrimination. So when, in 2014, Sir Bernard stated
3 that he would address this issue, it was a welcome move
4 forward.

5 Yet again, however, what is said by the MPS publicly
6 is mixed heavily with hypocrisy, because
7 Baroness Lawrence was disappointed to learn that the one
8 man that had the courage to come forward and expose
9 the wrongdoings of the police still faces the threat of
10 legal action and prison from doing so.

11 There's no doubt, sir, that Peter Francis' conduct
12 while spying on Baroness Lawrence and her family was
13 completely reprehensible. It would be difficult for
14 Baroness Lawrence to ever forgive him what he did.
15 However, he deserves credit for what he has now done.
16 What is, though, discreditable and even more
17 reprehensible is the conduct of the MPS, presumably at
18 its highest level, to prevent Peter Francis from giving
19 a true account of his actions.

20 The MPS's attempt at gagging Peter Francis is
21 precisely the sort of action which encourages and
22 supports the canteen culture, the attitude that we must
23 all stick together through thick and thin. This is
24 a regressive step and one that Baroness Lawrence finds
25 incomprehensible from a police service which seeks to

1 suggest it is progressive, forward-looking and
2 trustworthy.

3 Baroness Lawrence considers that it is imperative
4 that the Commissioner provides whatever undertaking or
5 commitment is needed by Peter Francis to give him
6 the opportunity to freely, and without risk of
7 prosecution, give his honest account to this Inquiry.
8 Not to do so would be yet another in a long line of
9 failures by the MPS of Baroness Lawrence's family.

10 Sir, empty promises and bland assurances are not
11 needed at this Inquiry. To serve any real purpose,
12 for it to effect long-awaited far-reaching change, and
13 for it to provide any semblance of justice for
14 Baroness Lawrence, full and frank disclosure must be
15 given now to her and her family. Baroness Lawrence
16 cannot wait any longer.

17 As you know, sir, and as I've indicated earlier, it
18 took 18 long years before two of those responsible for
19 the murder of her son were convicted for murder at
20 the Old Bailey. You may not know, but 27 years after
21 their involvement in the investigation of Stephen's
22 murder, Mr Bullock, Mr Crampton, Mr Weeden, Mr Ilsley,
23 all of whom were in senior roles at various times during
24 the first few weeks of the investigation, have only very
25 recently been referred to the Crown Prosecution Service

1 to ascertain whether their well documented failings may
2 give rise to criminal offences, including misconduct in
3 public office.

4 Sir, such delays as these must not be repeated by
5 this Inquiry.

6 Baroness Lawrence not only requires confidence in
7 the police service but also in the Inquiry and in you.
8 Her restraint in not immediately calling for a public
9 inquiry when the revelations first surfaced was not
10 because such an inquiry was not necessary, but because
11 she had confidence in Mr Ellison's integrity and
12 independence in coming to his own conclusions in his
13 review.

14 He had, after all, with the assistance of
15 Clive Driscoll, then the SIO, senior investigating
16 officer, of the murder investigation, secured the
17 convictions of David Norris and Gary Dobson in 2012.
18 And he had acted with complete transparency by updating
19 Baroness Lawrence during the course of the review.

20 Baroness Lawrence's experience with institutions and
21 authorities has not been a good one, and that is well
22 documented, and it takes a great deal to earn her
23 confidence and trust. Mr Ellison did so. Mr Driscoll
24 did so. So did Theresa May when she was then
25 Home Secretary. The steps that she took and

1 the assurances she was given by those that she trusted
2 meant that Baroness Lawrence had extremely high hopes
3 for this Inquiry.

4 When she stated that only a judge-led inquiry could
5 achieve the task, she had in mind a fully transparent
6 and accountable process, rigorous in its pursuit of
7 the truth. She remained confident that such a process
8 would serve to reassure her that the full facts would be
9 brought to light, that culpable and discreditable
10 conduct would be exposed and brought to the public's
11 notice, that there would be accountability from the very
12 top to the bottom, that finally lessons would be
13 learned.

14 That was her understanding. It is therefore
15 a source of great shame and concern that what she was
16 promised has not been delivered. What she expected has
17 not been achieved. What Baroness Lawrence believes is
18 actually happening is a "secret inquiry", in which
19 officer after officer is hiding behind a pseudonym and
20 screen. Not only does she not know who most of them are
21 but neither does the public. This is not what she asked
22 Theresa May for. This is certainly not what she
23 expected. Baroness Lawrence has been through a proper
24 inquiry. She knows what it is supposed to be like. She
25 firmly believes that she and the public should be able

1 to see every officer who was involved in spying on her.
2 It is they who were supposedly involved in discreditable
3 conduct, not her. They had a choice to spy and chose to
4 do it. They were given orders which they could have
5 ignored. Why should they, Baroness Lawrence asks, be
6 allowed to hide from the public gaze and public
7 scrutiny?

8 In the decades since their son's murder,
9 Baroness Lawrence wasn't allowed to do so. She didn't
10 choose to lose her son or to campaign for justice. And
11 when she made perfectly valid criticisms of the police
12 investigation, she did so in the full glare of
13 the public, when it was well known that police officers
14 and others were extremely hostile towards her. She
15 didn't have the luxury of changing her name, moving
16 house or hiding behind a screen. If she could not do
17 so, neither should any police officer.

18 The fact that the MPS and the individual officers
19 have made applications for anonymity and, perhaps more
20 importantly, that they have been granted is a travesty
21 and goes against everything that a public inquiry stands
22 for and what Baroness Lawrence expected.

23 It appears to her that this Inquiry is more
24 interested in protecting the alleged perpetrators than
25 the victims themselves. This cannot be right.

1 Baroness Lawrence urges you, sir, and the MPS to
2 reconsider the present approach, so that she might have
3 confidence in this process. Baroness Lawrence wants to
4 see every officer and ask questions through her lawyers
5 of him or her.

6 Baroness Lawrence recalls with clarity that when
7 the Lawrence inquiry commenced, the Metropolitan Police
8 had hoped that their narrative of a difficult black
9 family and a world-class police investigation would
10 prevail. It was only because of the public nature of
11 the Inquiry and the ability of her lawyers to directly
12 ask questions that this did not happen, and the reality
13 of an investigation marred by incompetence and racism
14 became widely known.

15 That experience specifically, and
16 Baroness Lawrence's knowledge since, has shown that
17 the Metropolitan Police will, unless forced to do so
18 otherwise, seek to avoid scrutiny, create false
19 narratives and deliberately conceal material which might
20 be critical of it. It is therefore risible to think
21 that the Inquiry can rely on the MPS itself to offer up
22 the truth and provide proper and relevant disclosure.

23 Sir, you will appreciate that Baroness Lawrence and
24 her family had grave reservations about the appointment
25 of Sir William Macpherson to chair an inquiry which had

1 to deal at its heart with the issue of racism of which
2 a privileged white male knew little about. It's
3 a matter of record that it was only as a result of
4 the assistance of his advisers, Bishop John Sentamu and
5 Dr Richard Stone, that Sir William came to
6 the conclusion that he did. Baroness Lawrence is
7 confident that had that assistance not been given,
8 the conclusions in the report would have been very
9 different and society would be poorer without them.

10 It is therefore, sir, absolutely vital that this
11 Inquiry has advisers who can assist you throughout
12 the proceedings starting from now. Anything less will
13 not do. The Macpherson report identified institutional
14 racism as underpinning the failures in the murder
15 investigation. But that was only just one part of
16 the story. Baroness Lawrence's treatment at the hands
17 the MPS and the use of undercover policing, as well as
18 the targeting of countless black justice campaigns, has
19 to be considered in the context of the racism that
20 Macpherson identified as existing at the time.

21 The simple fact is, sir, that discrimination on
22 the basis of a person's skin colour is not a single act
23 of prejudice, it is about power, it is deeply impactful,
24 and affects every aspect of the individual's life. It
25 is an existential issue which cannot be

1 compartmentalised and viewed in isolation. And, sir, it
2 is certainly not a case of being colour-blind but of
3 being colour conscious.

4 And, sir, with respect, if either this makes no
5 sense to you or you do not consider it relevant to this
6 Inquiry, the point that Baroness Lawrence makes is
7 proven. You need a panel of advisers and you need it
8 now. The conduct of the SDS, from the individual
9 officer who carried out the surveillance all the way up
10 to those who gave the orders to do so, must be subject
11 to scrutiny of racism by those who sufficiently
12 understand and have expertise in identifying it.
13 A panel of advisers who have such knowledge must be
14 immediately appointed.

15 Sir, the suggestion made by the Designated Lawyer
16 Officers group that the SDS was an undercover police
17 unit which operated lawfully, effectively and in
18 the public interest does not pass muster in any
19 circumstance, let alone in Baroness Lawrence's case.
20 There was no, and cannot be any, justified reason for
21 spying on Baroness Lawrence, nor any campaign she
22 chaired and in which she was involved.

23 The statement of purpose of the SDS was somewhat
24 generously described in the Operation Herne report as
25 aspiration and one that evolved over time and can best

1 be described as "organic". The 1998 statement of
2 purpose, according to the Herne report detailed their
3 objective as:

4 "... providing quality service in the gathering and
5 dissemination of high grade intelligence concerning
6 terrorism, public order events, the activities of groups
7 involved in politically motivated crime ... To achieve
8 this, they infiltrated groups assessed as being capable
9 of violent protest."

10 None of this was even remotely applicable to
11 Baroness Lawrence and her family.

12 Sir, Baroness Lawrence must have the truth in this
13 Inquiry. In order to do so, a number of searching
14 questions must be asked, and these are listed in our
15 written statement, which I don't deal with her.

16 I conclude, I hope, with Baroness Lawrence's own
17 words. She says this:

18 "I am Stephen's mother. I am not the person I was on
19 the day that Stephen was murdered. On the 22nd April
20 1993 I was a happily married woman with three gorgeous
21 children. Now I have lost a son and I am divorced from
22 my husband. But that is only a tiny part of what has
23 changed in the years since Stephen died. I now lead a
24 completely different life -- one that I never imagined I
25 would have or wanted. For years I have felt like an only

1 soul in a sea of millions. Whilst I understood why so
2 many around me wanted to help me and support me, their
3 presence only highlighted my own loneliness and sadness.
4 I don't blame them -- it is just that unless you have
5 lost a child in circumstances such as these no-one, but
6 no-one, can truly understand the sheer depth of the
7 heartache I have felt. Many have thought that I have
8 courted press attention and profited from it -- the
9 reality is that I long for anonymity and would give up
10 all that I have just to go back to the seconds before
11 Stephen's death and prevent it. I am just an ordinary
12 person. I have nothing special that deserves public
13 attention or acclaim. I simply ask for justice."

14 Sir, you have the opportunity to provide the justice
15 that Baroness Lawrence richly deserves by ensuring that
16 the Inquiry the Home Secretary ordered six years ago is
17 the one that takes place now. Anything less would be
18 yet another failure that Baroness Lawrence has had to
19 endure. Accordingly, sir, you now have the choice of
20 either being one of those in the long line of those that
21 failed Baroness Lawrence or those very few that did not.

22 Sir, that's the opening statement on behalf of
23 Baroness Lawrence. Thank you.

24 THE CHAIRMAN: Thank you, Mr Khan.

25 I think we now go back to Ms Williams to make an

1 opening statement on behalf of Dr Neville Lawrence.

2 Ms Williams.

3 Opening statement on behalf of Dr Neville Lawrence by MS

4 WILLIAMS

5 MS WILLIAMS: Yes, sir. I hope you can hear me clearly.

6 THE CHAIRMAN: I can.

7 MS WILLIAMS: Sir, along with Adam Straw and instructed by

8 Hodge Jones & Allen, solicitors, I represent

9 Dr Neville Lawrence OBE, the father of Stephen Lawrence.

10 As has been referred to by Mr Khan, and as is well
11 known, Stephen was murdered on 22 April 1993 in Eltham,
12 south-east London, while waiting for a bus. He was
13 stabbed by a gang of white youths who used racist
14 language.

15 The initial murder investigation was completely
16 inadequate. During it, Dr Lawrence felt as if he was in
17 a constant battle with the police. Many years later,
18 two of the youths, Gary Dobson and David Norris, were
19 finally convicted of Stephen's murder on 3 January 2012.

20 When passing sentence the next day,

21 Mr Justice Treacy said:

22 "The murder of Stephen Lawrence ... was a terrible
23 and evil crime. Recently the Lord Chief Justice
24 described it as 'a murder which scarred the conscience
25 of the nation'. A totally innocent 18-year-old youth on

1 the threshold of a promising life was brutally cut down
2 in the street ... by a racist thuggish gang ... This
3 crime was committed for no other reason that racial
4 hatred."

5 As you've heard, sir, in 1998, the Stephen Lawrence
6 Public Inquiry, chaired by Sir William Macpherson, which
7 I will refer to as "the Macpherson Inquiry", found that
8 the earlier police investigation had been "palpably
9 flawed and deserves severe criticism".

10 The Macpherson Inquiry decided that institutional
11 racism was apparent in the police investigation into
12 Stephen's death and in his family's treatment by
13 officers, and that there was:

14 "... a collective failure of the investigating team
15 to treat Mr and Mrs Lawrence appropriately and
16 professionally because of their colour, culture and
17 ethnic origin."

18 These failings meant that Stephen's killers largely
19 escaped the justice they deserved. And these failings
20 added very considerably to the trauma that the family
21 experienced. They affected all aspects of Dr Lawrence's
22 life. He had to face irrational hatred and come to
23 terms with violence aimed at an innocent person for no
24 other reason than the colour of their skin.

25 The Macpherson Inquiry demonstrated that

1 the authorities were not on Dr Lawrence's side when it
2 came to the investigation of his son's murder. In fact,
3 it was Stephen and his family who were investigated in
4 the early days, and vital evidence was lost in
5 consequence. The mindset of the police at the time was
6 that somehow Stephen was to blame, and that Stephen was
7 from a problem family.

8 Despite the recognition of institutional racism in
9 the police, and despite the Macpherson Inquiry making no
10 less than 70 recommendations that were primarily aimed
11 at improving practices and culture in the police
12 service, Dr Lawrence believes that far too little
13 tangible progress has in fact been made.

14 For these reasons, he feels the state failed him
15 both in relation to his son's murder, and again in terms
16 of the limited impact that the Macpherson Inquiry has in
17 fact had.

18 Against this background, then, the allegations that
19 have emerged about undercover police interference with
20 Dr Lawrence and his family have been truly shocking.
21 They have only served to undermine still further his
22 confidence in the Metropolitan Police Service.

23 As you have heard, allegations have been made that
24 undercover Special Branch officers were tasked by
25 the Metropolitan Police to spy on the family and gather

1 intelligence that could be used to discredit them,
2 particularly after their campaign for justice for their
3 son that became high profile and damaging for
4 the police's reputation.

5 It is a matter of record that information involving
6 Dr Lawrence was relayed by undercover officers to their
7 superiors. It is also a matter of record that at least
8 one undercover officer attended the Macpherson Inquiry
9 with access to the Lawrences in his fake persona as a
10 supportive activist, while also meeting secretly with
11 a member of the Metropolitan Police response team,
12 the very team involved in preparing the Metropolitan
13 Police's submissions to the Inquiry. And it is also
14 a matter of record that the existence of that
15 undercover officer's role was kept secret from
16 Sir William.

17 None of this can have been for any legitimate
18 purpose, sir. If these matters are true, this is yet
19 another indication that where black families are
20 concerned, the organisation that should be there to
21 protect them, the Metropolitan Police Service, is
22 actually trying to undermine them.

23 How can the public have confidence in the policing
24 of black communities if police power is misused to
25 discredit the victims of crime. This all increases

1 the perception for many people that, to the police,
2 black lives do not matter.

3 It is more than 27 years since Stephen's death, and
4 Dr Lawrence's life has been put on hold by these issues.
5 The earlier police misconduct prevented him from being
6 able to grieve for a long time. The revelations in 2013
7 and subsequently have opened up old wounds.
8 The progress of the Inquiry to date does not lead him to
9 feel confident in its approach or in its outcome.

10 In order for him to try and draw some kind of line
11 under these terrible events, it is very important to
12 Dr Lawrence that he is able to participate in a fully
13 transparent inquiry capable of establishing the truth of
14 what happened and capable of learning the lessons
15 necessary to prevent reoccurrence.

16 I will go on to refer to the allegations that have
17 been made, the findings of the investigations conducted
18 so far, and the role they played in the setting-up of
19 this public inquiry.

20 What has gone before, sir, underscores just how much
21 there is to probe, to understand and to determine. And
22 following that, I will go on to identify the questions
23 that Dr Lawrence would particularly like to see answered
24 by this Inquiry.

25 The history that I am able to set out at this stage

1 very largely comes from publicly-available documents.
2 In common with many other core participants to this
3 Inquiry, Dr Lawrence has received very little disclosure
4 so far. As such, he can only make preliminary
5 observations at this stage on the issues and evidence
6 that should be considered.

7 As has been referred to, on 24 June 2013 --

8 MS PURSER: Ms Williams, I'm extremely sorry to interrupt
9 you but there has been a technical issue and we will
10 need to pause for 10 minutes, if that's okay.

11 I'm very sorry, but we'll move into our break-out
12 rooms now and we will resume in 10 minutes.

13 Thank you.

14 MS WILLIAMS: Of course.

15 MS PURSER: Thank you.

16 (10.42 am)

17 (A short break)

18 (10.47 am)

19 MS PURSER: Welcome back, everyone, and thank you very much
20 for your patience. I will now hand over to the Chairman
21 to continue proceedings.

22 Chairman.

23 THE CHAIRMAN: Thank you.

24 Ms Williams, I'm afraid that the technology has
25 interrupted both of us. I could hear you and see you

1 but not see your face moving; my understanding is that
2 I was blanked-out all together. The important thing is
3 that I should hear you rather than that you should see
4 me. So if this happens again, if I'm blanked-out again,
5 would you mind continuing, unless and until I ask that
6 you stop because I can't hear you.

7 MS WILLIAMS: Yes, sir.

8 THE CHAIRMAN: Thank you.

9 MS WILLIAMS: Thank you very much, I'll carry on, then.

10 I was turning to the history of the investigations
11 and the reports.

12 As has already been referred to, on 24 June 2013,
13 The Guardian published an article by Rob Evans and
14 Paul Lewis describing how Peter Francis, former
15 undercover officer with the SDS, had spent years living
16 undercover in protest groups, monitoring a number of
17 black justice campaigns.

18 Mr Francis said that shortly after Stephen's murder,
19 he had participated in a spying operation in which he
20 was told by his superiors to try and find "dirt" on
21 the Lawrence family. Mr Francis also said that family
22 liaison officers who were recording the identities of
23 everyone entering and leaving the Lawrence household
24 were doing so in order to formulate intelligence.

25 Mr Francis also said that in 1997, he was told by

1 senior officers that the undercover operation should not
2 be disclosed to Sir William Macpherson, as there would
3 be "battling on the streets" if the public ever found
4 out about this.

5 The formation and structure of the SDS has been
6 addressed in other opening statements. I do, however,
7 emphasise the SDS's own statement of purpose, the first
8 such statement being from 26 November 1968 as follows:

9 "Primary object is to provide information in
10 relation to public order problems; the secondary
11 byproduct is that our knowledge of extremist
12 organisations and individuals active in them is
13 considerably enhanced."

14 Twenty years later, the SDS's 1988 statement of
15 purpose described its role as gathering and
16 disseminating:

17 "... high grade intelligence concerning terrorism,
18 public order events, the activities of groups involved
19 in politically motivated crime and crime related to
20 animal rights and environmental activity."

21 Quite obviously, sir, the Lawrence family were not
22 terrorists, criminals or any threat to public order.
23 They were a grieving family devastated by Stephen's
24 murder. There was no conceivable justification, even on
25 the SDS's own self-serving terms, for

1 undercover officers snooping around them or relaying
2 personal information about them, whether or not
3 the family was specifically targeted.

4 As you've heard, at the request of the then
5 Home Secretary, Mark Ellison QC conducted a review into
6 Peter Francis' allegations, and his report,
7 the Stephen Lawrence Independent Review, was published
8 in March 2014, and that led to the setting-up of this
9 Inquiry.

10 Mr Ellison's review concluded that in 1993,
11 undercover officers were deployed into activist groups
12 who were in contact with the family, and that these
13 officers reported back to their superiors -- I quote:

14 "... anything that might have a public order or
15 other Special Branch customer use."

16 And that this:

17 "... at times included personal information touching
18 on the Lawrence family and tactical information as to
19 where the family campaign was or was not likely to go."

20 Dr Lawrence does not believe that there could be any
21 operational justification for this. And of course, his
22 concern is not limited solely to what was reported back.
23 He is horrified by the sheer fact that there were
24 undercover officers circling the family at this highly
25 sensitive time, looking for material with which to smear

1 them, especially when officers should have been doing
2 everything in their power to catch his son's killers.

3 The Ellison Review was unable to determine whether
4 Peter Francis had been specifically tasked by his
5 superiors to gather material with which to smear
6 the Lawrences given the conflicting accounts that
7 Mr Ellison was presented with. And as you've heard,
8 Mr Ellison concluded that a public inquiry that can see
9 and hear the evidence being tested might be the better
10 place to make definitive findings on such matters.

11 This Inquiry should, then, take that opportunity.
12 The Ellison Review found that Mr Francis' intelligence
13 reports, which might have confirmed the matter one way
14 or the other, had apparently been destroyed and --
15 I quote:

16 "Little weight can be attached to an absence of
17 surviving records confirming or undermining what
18 Mr Francis claims."

19 Notably, the review considered that
20 the contemporaneous material did show evidence of some
21 hostility towards the Lawrence family. There was:

22 "... a level of indignation and a 'thinning of
23 patience' at the relevant time in senior elements of
24 the MPS."

25 And Mr Ellison recognised -- and I quote:

1 "[the] potential for such indignation ... to have
2 resulted in a desire to look for intelligence that might
3 prove that the family or its advisers were not what they
4 appeared to be."

5 As Mr Khan has identified, Peter Francis also
6 described how, in 1993, he was asked by the detective
7 chief inspector of the SDS, N86, to research a list of
8 names which he was told had been made by the family
9 liaison officers of people who visited the Lawrence
10 house.

11 As the Ellison Review report confirmed, those family
12 liaison officers accepted that visitors to the house
13 were asked to identify themselves, that names were
14 recorded, and that information was reported back to
15 superiors who were dealing with the investigation,
16 albeit they denied knowledge of the material being
17 passed on to Special Branch.

18 The Metropolitan Police told Mr Ellison that their
19 inquiries had revealed no records indicating
20 Special Branch involvement. However, as I have already
21 observed based on Mr Ellison's conclusions, little
22 weight can be attached to a current absence of
23 documentation.

24 Dr Lawrence is concerned that the Inquiry should
25 resolve this issue. He found the behaviour of

1 the family liaison officers deeply insensitive and
2 disrespectful in the aftermath of Stephen's murder, so
3 much so that he stopped them coming to the house.

4 He would like the Inquiry to establish what role
5 they did play in collecting and passing on information
6 about him and his family, what instructions they were
7 given and what use was made of that material.

8 The Macpherson Inquiry, held in 1998, that
9 independent review into the Metropolitan Police's
10 failures in relation to the investigation into Stephen's
11 murder, published its report in February 1999.

12 It found that the Metropolitan Police was
13 institutionally racist, that the initial investigation
14 into Stephen's murder was inadequate, and that
15 the Lawrence family were treated less favourably because
16 of their race.

17 The Ellison Review found that an SDS undercover
18 operative known by the cover name "David Hagan", also
19 referred to as "HN81", was deployed into one of
20 the groups seeking to influence the Lawrence family
21 campaign while the Macpherson Inquiry was taking place,
22 and under this fake identity had attended the Inquiry
23 and meetings relating to it.

24 As the report vividly characterised it:

25 "The reality was that N81 was, at the time, an MPS

1 spy in the Lawrence family camp during the course of
2 judicial proceedings in which the family was the primary
3 party in opposition to the MPS."

4 "David Hagan" reported back personal information
5 about the Lawrence family, as well as what was described
6 as "tactical intelligence" around the Inquiry.

7 The Ellison report stated:

8 "... Information reported back to the SDS as
9 a result of that deployment included personal details
10 about Mr and Mrs Lawrence. It included discussion of
11 the progress, reasons and details of the decisions made
12 by the Lawrence family connected to the Inquiry."

13 And Mr Ellison was in no doubt at all that this
14 channel of communication was completely improper,
15 wrong-headed and inappropriate.

16 But it doesn't end there, sir. To make matters
17 worse, SDS senior officer, Detective Inspector
18 Bob Lambert arranged a meeting between Acting Detective
19 Inspector Richard Walton and the officer known as "David
20 Hagan". This took place on 14 August 1998.

21 Detective Inspector Walton, who was subsequently to
22 become Commander Walton, was an ex-Special Branch
23 officer who was seconded to the Stephen Lawrence Review
24 Team, that's to say the very Metropolitan Police team
25 who was preparing the closing written submissions to be

1 made on behalf of the Commissioner at
2 the Macpherson Inquiry. As such, the meeting was wholly
3 inappropriate. As the Ellison Review found -- and
4 I quote:

5 "There was no conceivable 'public order'
6 justification for this meeting. Nor was there any other
7 discernible public benefit and certainly none that could
8 possibly outweigh the justifiable public outrage that
9 would follow if the fact of the meeting had been made
10 public when the Inquiry resumed ..."

11 Whatever denials or convoluted explanations may be
12 put forward by the officers involved, the meeting was
13 plainly arranged for a purpose and the file note which
14 Detective Inspector Lambert made at the time, dated
15 18 August 1998, is clear and it is damning so far as
16 that purpose is concerned. It recorded that highly
17 significant information had been passed on by
18 the undercover officer. I quote from this file note:

19 "N81 talked about the Lawrence Inquiry from ..."

20 And then a reference was made to the group N81 had
21 infiltrated:

22 "... perspective and DI Walton from his. It was a
23 fascinating and valuable exchange concerning an issue
24 which, according to DI Walton, continues to dominate the
25 Commissioner's agenda on a daily basis."

1 The same note acknowledged:

2 "N81's invaluable reporting on the subject in recent
3 months. An in-depth discussion enabled him to increase
4 his understanding of the Lawrences' relationship with
5 the various campaign groups ... this he said would be of
6 great value as he continued to prepare a draft
7 submission to the Inquiry on behalf of the
8 Commissioner."

9 A similar acknowledgement was reflected in
10 the intelligence update written in September of that
11 same year, 1998, by the SDS's Detective Chief Inspector,
12 also known as "N58". He praised -- I quote:

13 "N81's unique insight into the behind the scenes
14 machinations of the Lawrence campaign."

15 The Ellison report went on to find that information
16 regarding the use of undercover SDS officers was
17 withheld from the Macpherson Inquiry by the Metropolitan
18 Police when it should have been disclosed. One wonders
19 why the Metropolitan Police were so keen to keep this
20 involvement from Sir William, the Chairman of
21 the Inquiry, particularly if, as Mr Sanders and
22 Mr Whittam would have it in their openings last week,
23 nothing untoward was going on.

24 Mr Ellison concluded that if the Inquiry had been
25 informed, then the Chairman would have deplored such

1 conduct, and he would have directed that such
2 deployments be terminated. Furthermore, the revelation
3 of this conduct would have caused -- I quote.

4 "... public disorder of a far more serious kind than
5 anything envisaged by the original undercover
6 deployment."

7 So much, then, for the SDS's remit in preventing
8 public disorder.

9 Sir, I've spent a little time on the findings and
10 conclusions of the Ellison Review, not only because of
11 the litany of extremely concerning issues that it flags,
12 which are of direct concern to Dr Lawrence, but also
13 because it was the publication of the Ellison Review
14 which led to this Inquiry. This was evident from
15 the statement made by the then Home Secretary,
16 Theresa May, to Parliament on 6 March 2014. It's set
17 out in our written opening but I won't read it now
18 because Mr Khan has already referred to it this morning.

19 As you have heard in earlier statements, sir,
20 Operation Herne was set up by the Metropolitan Police in
21 October 2011 to review the activities and deployments of
22 undercover officers. Initially it was internally led
23 and, from February 2013, headed by Chief Constable
24 Mick Creedon of Derbyshire Constabulary. The Operation
25 Herne Report 2 allegations of peter Francis was also

1 published in March 2014. This report agreed with
2 Mr Ellison that it was "inexcusable that the senior
3 management of the SDS and the MPS Special Branch chose
4 not to disclose the presence of N81" in the context of
5 Macpherson Inquiry.

6 As regards Peter Francis' other allegations, this
7 report said it had found no evidence that SDS
8 undercover officers were tasked to smear
9 Stephen Lawrence's family. Sir, this also appears to be
10 the line that the Metropolitan Police will be taking at
11 this Inquiry.

12 There was an absence of any apology to the Lawrences
13 in Mr Skelton's opening on behalf of the Commissioner
14 last week; and instead he told you that the MPS "had not
15 seen any evidence that this was the case" -- that's to
16 say the tasking of undercover officers.

17 However, as I have already indicated, Mr Ellison's
18 review cogently explains why no significance can be
19 attached to an absence of preserved supporting
20 documentation. Apart from anything else, officers'
21 intelligence reports were destroyed. You will recall,
22 too, that in his opening last week on behalf of
23 the Designated Lawyer Officers, Mr Sanders was at pains
24 to emphasise that currently available SDS documentation
25 is substantially incomplete. He told you -- and

1 I quote:

2 "There was a great deal of intelligence that was
3 collected and disseminated by the SDS which was either
4 not documented or, if it was documented, telephone
5 messages and so on, it was not retained."

6 He described the documentary materials that have
7 survived as "fragmentary and incomplete".

8 This chimes, too, with Peter Francis' account that
9 much was conveyed to and forth verbally; and in keeping
10 with Ms Kaufmann's observation on behalf of her clients
11 yesterday afternoon. I note it might be thought quite
12 unlikely that if Mr Francis was asked to dig for "dirt"
13 on the Lawrence family, that such a wholly improper and
14 repellant request or instruction would be recorded in
15 a written form for posterity.

16 So, sir, an absence of documentation does not
17 undermine Peter Francis' allegations. What it does mean
18 is that the oral testimony of those involved assumes
19 a particular importance, and it will need to be probed
20 in detail and approached with appropriate scepticism.
21 It is entirely predictable that officers accused of
22 involvement in this scale of misconduct will protest
23 that it didn't occur.

24 The unconstrained way in which the SDS was allowed
25 to operate created the climate in which the kinds of

1 abuses of power identified by the Ellison Review
2 flourished. This is reinforced by the conclusions drawn
3 by other investigations. The "Operation Herne report 3
4 Special Demonstration Squad reporting: Mentions of
5 Sensitive Campaigns" published in July 2014 recognised
6 the sensitive and unchecked nature of the SDS unit,
7 which it described as:

8 "... insulated from both internal scrutiny by
9 the [MPS] Executive Leadership of the day and any
10 realistic parallel external scrutiny. Over
11 the forty years that the unit existed, senior MPS
12 management of the day either knew nothing about
13 the existence and activities of the unit, or when they
14 did they appear to have allowed SDS to exist in secret
15 isolation in a manner that was complacent and possibly
16 negligent."

17 The records examined for the purposes of that
18 Operation Herne report confirmed that SDS officers
19 routinely hoovered up and passed on all the information
20 and knowledge they became aware of to their line
21 managers, who in turn retained material irrespective of
22 whether it fell outside the unit's statement of purpose.

23 Dr Lawrence wants to know what account was taken of
24 the privacy rights and the sensitivities of those
25 affected. It seems that this was completely disregarded

1 even in what were obviously acutely delicate
2 circumstances, such as those involving bereaved
3 families. The Herne 3 report noted there was no account
4 taken of how information relating to private and family
5 life should be dealt with in the targeting strategies
6 and other SDS documents of the time, adding that
7 numerous SDS undercover officers had been spoken to:

8 "And they have confirmed they received no training
9 in respect of collateral intrusion and their collection
10 of intelligence and information took no account of such
11 considerations."

12 In 2016, the Independent Police Complaints
13 Commission, who I will refer to as "the IPCC", published
14 an investigation into the circumstances surrounding
15 a meeting between Acting Detective Richard Walton and an
16 undercover officer on 14 August 1998. I've already
17 described this meeting where the discussion with N81,
18 the spy in the Lawrence camp, took place. The IPCC
19 concluded there was a case to answer for both
20 Bob Lambert and Richard Walton, that they had behaved in
21 a manner likely to bring discredit on the reputation of
22 the police service in respect of this meeting.

23 Despite these conclusions, Bob Lambert could not
24 face misconduct proceedings as he had left
25 the Metropolitan Police many years earlier. And it

1 appears that Richard Walton retired after learning of
2 the IPCC report outcome; and by doing so he also escaped
3 a misconduct hearing.

4 Operation Kerry, which published its findings in
5 June 2015, was a Greater Manchester police investigation
6 into a message sent by Special Branch to that force
7 asking for:

8 "Information or intelligence regarding groups or
9 individuals likely to attend the Inquiry be forwarded to
10 Special Branch."

11 This was sent in preparation for
12 the Macpherson Inquiry's hearing in Manchester in 1998.
13 Operation Kerry found that:

14 "... discriminatory attitudes and behaviours existed
15 within [Greater Manchester police] at the time of
16 the Stephen Lawrence inquiry and though such practices
17 seem to have diminished there remains concern that some
18 forms of discrimination still exist in a more covert and
19 subtle form."

20 Dr Lawrence was unable to provide his comments on
21 this report prior to its publication, since a draft
22 report was sent to him only a week before its final
23 publication.

24 This public inquiry ought to investigate the use of
25 undercover officers not only in respect of the SDS but

1 also with other forces, such as the Greater Manchester
2 police, as regards the relationship to
3 the Macpherson Inquiry.

4 And, sir, lest the contrary be suggested, it is
5 plain that there was no legal authority or justification
6 for the intrusions upon the lives of Dr Lawrence and his
7 family. Article 8 of the European Convention on human
8 rights protects the right to respect for private and
9 family life. This right can only be interfered with
10 when the strict requirements of Article 8(2) are met.
11 This requires that the interference is in accordance
12 with the law, in pursuit of a legitimate aim and
13 necessary in a democratic society; the latter meaning
14 that it must reflect a pressing social need and be
15 proportionate.

16 The courts have ruled that it is essential for there
17 to be clear, detailed rules with a series of specific
18 minimum safeguards that should be set out in statute law
19 for the first of these three prerequisites to be
20 satisfied, that's to say the "in accordance with
21 the law" criterion.

22 However, at the relevant time, as the Inquiry has
23 already heard, there were no such safeguards, whether in
24 statute or other legally binding instruments, regulating
25 undercover policing or its intrusive effects. Both for

1 this reason and because the intrusions were not in
2 pursuit of a legitimate aim and were wholly
3 disproportionate, the undercover policing of
4 Dr Lawrence's family amounted to a very serious
5 interference with his Article 8 protected rights. And
6 this is relevant because it is an important issue for
7 this Inquiry as to the lack of any sufficient legal
8 regulation of undercover officers at the time and
9 the consequential violation of rights enshrined by
10 the Convention.

11 I turn to questions for the Inquiry.

12 It is now more than six and a half years since
13 the Home Secretary's announcement of this public
14 inquiry. To date, the Inquiry has revealed virtually
15 nothing to the public about the profoundly shocking
16 issues that the Home Secretary identified. Dr Lawrence
17 has received nothing substantive from the Inquiry about
18 undercover policing in his case. There is no indication
19 in public that the Inquiry has done anything significant
20 towards achieving its primary purposes, including
21 investigating the grave concerns relating to undercover
22 policing held by Dr Lawrence and his family.

23 Dr Lawrence understands the Inquiry process is
24 a difficult and time-consuming one, but the
25 Home Secretary recognised in 2014 that the delay in

1 uncovering the truth was deplorable. This further
2 six-and-a-half years of delay has substantially
3 increased the distress that Dr Lawrence has suffered.

4 Dr Lawrence appreciates the Chairman intends to
5 disclose some information to him which is relevant to
6 his case at a later stage, but at this point it is not
7 clear what that disclosure will be or when it will take
8 place. This means Dr Lawrence cannot make focused
9 submissions about the facts and evidence to be explored
10 at this Inquiry for now, and he must be given a proper
11 opportunity to make further and fuller submissions in
12 due course. But at this stage he can but broadly
13 identify the issues which he considers should be
14 explored in order for the Inquiry to discharge its
15 primary functions and remit, so I turn to those.

16 Dr Lawrence wants to understand the full extent to
17 which undercover officers accessed his home, his family,
18 his personal information and any legally privileged
19 material, both in the aftermath of Stephen's death and
20 around the time of the Macpherson Inquiry.

21 He also wants to know which groups and individuals
22 relevant to the Stephen Lawrence Campaign were targeted
23 and/or reported on.

24 Of fundamental importance to Dr Lawrence is
25 understanding why officers found it appropriate to spy

1 on his family and relay so-called "intelligence". He
2 wants to find out who authorised this and what officers
3 thought they were looking for. He wants the Inquiry to
4 ascertain what use was made of the material that was
5 relayed. Who was it passed to and for what purpose?
6 Was it retained? And if so, for how long and who had
7 access to it?

8 He also wants to discover how far up the chain of
9 police command the encouragement or acceptance of these
10 undercover activities went, and why the evident
11 impropriety was not recognised or acted upon.

12 Dr Lawrence wants to know whether any thought was
13 given to the intrusion upon him and his family, and
14 whether any thought was given to the effect this could
15 have on them.

16 Were there any safeguards in place at the time? How
17 could undercover officers be deployed against a grieving
18 family when there was no evidence of any threat of
19 violence, disturbance of the peace or crime?

20 Was any thought given to the risk that officers
21 would try and discredit an entirely lawful justice
22 campaign for their own malign motives?

23 Furthermore, Dr Lawrence wants to know what part
24 race played. Quite frankly, he finds it hard to believe
25 that a bereaved family who was white would have been

1 treated in the same way. In this regard, he notes that
2 the Ellison Review includes Peter Francis' description
3 of his SDS chief inspector of the time, HN86, as holding
4 racist views.

5 As the former chairman of this Inquiry
6 Sir Christopher Pitchford recognised in his
7 21 October 2015 ruling, the Ellison Review highlighted
8 an unresolved conflict of evidence on some of the issues
9 covered by that report, and in particular, as I've
10 already mentioned, as to whether Peter Francis or other
11 undercover officers were specifically tasked by superior
12 officers to find material that could be used to smear
13 the Lawrence family.

14 This issue can only be resolved with a full airing
15 of the relevant evidence. As well as those who are
16 willing to speak to Mr Ellison, this Inquiry with its
17 wider powers should take oral evidence from
18 the individuals Mr Ellison was unable to speak to,
19 including officer HN86.

20 Given the apparent lack of paper records held by
21 the SDS, it is all the more important that officers give
22 oral evidence where possible.

23 Additionally, it will be important to consider these
24 events in the context of other family justice campaigns.
25 A propensity by the police or systemic practice of

1 action which is similar to Mr Francis' allegations
2 is likely to support the veracity of the allegations.

3 I have already flagged up some specific issues
4 relating to the role played by the family liaison
5 officers and the information they passed on which
6 Dr Lawrence would like to see examined.

7 Dr Lawrence is not satisfied that the period between
8 his son's death in 1993 and the Macpherson Inquiry in
9 1998 has been fully explored in terms of the use of
10 undercover officers against his family during these
11 years. Given the nature of Peter Francis' allegations,
12 the Ellison Review understandably focused on 1993 and
13 1998, rather than the period in between. An example is
14 during the inquest into his son's death in early 1997.
15 He invites the Inquiry to obtain and disclose all the
16 potentially relevant information about this, so that he
17 and the wider public can have as full a picture as
18 possible.

19 Then there are the issues that I've already referred
20 to concerning the Macpherson Inquiry. Why was N81, an
21 undercover officer, who was relaying intelligence to his
22 managers, permitted to operate in circles close to
23 the family and attend the Inquiry under his fake
24 identity? Who authorised this? Who knew of it? Why
25 was the Macpherson Inquiry not told?

1 Was there a deliberate decision not to reveal
2 the involvement of undercover officers to
3 Sir William Macpherson, as Peter Francis has alleged?
4 And if so, who was responsible for that decision?

5 Furthermore, why did that 14 August 1998 meeting
6 take place at all when it was so obviously
7 inappropriate? What did "David Hagan", N81, pass on to
8 Acting Detective Inspector Walton, and did that include
9 legally privileged material?

10 What use was made of what was said at that meeting?
11 Who had access to it? Was any of that information used
12 in the Metropolitan Police's submissions to
13 the Macpherson Inquiry? Who instigated and arranged
14 that 14 August meeting? Who knew about it?

15 And how many other times was information passed
16 directly or indirectly from undercover officers spying
17 on the Lawrence family to the team who were working to
18 protect the reputation of the Metropolitan Police at
19 the inquiry?

20 Who did material go to? What did it contain? What
21 use was made of it? Did "David Hagan's" group or others
22 involving undercover officers influence or obstruct
23 the Lawrence family's involvement in
24 the Macpherson Inquiry?

25 All of the officers involved, including all those

1 I have explicitly referred to, should give oral evidence
2 to this Inquiry. It does not appear that ex-SDS officer
3 Bob Lambert or Special Branch Operations Commander
4 Colin Black were interviewed by Mr Ellison.

5 Mr Lambert is particularly relevant, since he was
6 the handler of "David Hagan", and as such was meant to
7 speak to him twice a day.

8 Dr Lawrence would like to hear what these officers
9 and others have to say in evidence in open court. He is
10 keen to know what senior officers were aware of at the
11 time and what role they played. Did they actively
12 encourage or simply, but irresponsibly, turn a blind
13 eye?

14 It appears from the Ellison Review that HN58,
15 the head of the SDS from 1997 to 2001, knew about
16 the Walton meeting and commended "David Hagan's" work.
17 He should also give evidence. It is important for
18 the evidence of these officers to be tested orally and
19 in public.

20 There are other witnesses who may give relevant
21 evidence to these issues. Examples include those
22 present at meetings of the Lawrence family team, at
23 which "David Hagan" and other undercover officers were
24 involved.

25 Dr Lawrence also wants this Inquiry to consider

1 the lack of regulation that existed in the 1990s and
2 the safeguards that are still needed today. He believes
3 this Inquiry should lead to a much more effective system
4 of regulating the activities of undercover officers for
5 the future.

6 Dr Lawrence hopes to use the example of what
7 happened in his case to protect other grieving families
8 and to restore public confidence in the criminal justice
9 system. He invites the Inquiry to examine what were
10 the regulations, systems and management of
11 undercover officers relevant to his case. Do any
12 problems remain today? And if so, what changes ought to
13 be made to prevent other families suffering mistreatment
14 in the future?

15 Issues, too, arise around document destruction.
16 The Ellison Review found that incoming intelligence
17 reports were routinely destroyed after SDS office
18 analysis and intermittent document reviews. Mr Ellison
19 also noted that no clear records were kept of what had
20 been destroyed. The destruction of evidence relating to
21 undercover officers and the reasons for it ought to be
22 examined at this public inquiry.

23 Allied to this, Dr Lawrence is very concerned about
24 repeated failures by the police to provide full and
25 frank disclosure in relation to his family, and he is

1 very anxious that no pre-sorting of evidence occurs
2 whilst in the possession of the Metropolitan Police.

3 Insofar as it has not already done so, the Inquiry
4 ought to take control of all relevant documentation,
5 including the material that was withheld from
6 the Ellison Review. And this would include, although
7 not limited to, documents held by the Daniel Morgan
8 Independent Panel, boxes of documents which were in
9 the possession of the Directorate of Professional
10 Standards Anti-corruption Command, and information
11 obtained by those other investigations, such as those
12 conducted by the IOPC, Operation Herne and Mr Ellison.

13 I come now to procedural issues. I have already
14 referred to the additional distress caused by the slow
15 pace of progress. I turn to three specific areas of
16 the Inquiry's process which particularly concern
17 Dr Lawrence. In doing so, I will not repeat general
18 concerns already raised by other non-state
19 core participants.

20 Firstly, Dr Lawrence is deeply troubled by
21 the Chairman's decision to withhold many of the real
22 names and cover names of officers which are relevant to
23 his case. These individuals are currently referred to
24 only by their nominals.

25 This includes HN109, who was Peter Francis' manager

1 for the first few months of his SDS deployment, and
2 according to Mr Francis was instrumental in decisions
3 made on targeting.

4 HN101, who was a contemporary of Peter Francis and
5 according to the Ellison Review had some involvement in
6 Stephen Lawrence Campaign issues.

7 HN86, the detective chief inspector in charge of
8 the SDS from 1993 to 1996, who allegedly instructed
9 Peter Francis to obtain material which could be used to
10 smear the Lawrence family and who allegedly held racist
11 views.

12 And HN58, the head of the SDS from 1997 to 2001, who
13 it appears from the Ellison Review knew of that wholly
14 improper August 1998 meeting with Acting Detective
15 Inspector Walton.

16 Dr Lawrence believes that a failure to reveal even
17 cover names is likely to seriously undermine the ability
18 of the Inquiry to establish the truth about undercover
19 policing.

20 One example of why is as follows. The Lawrence
21 family, or others, may, if given a cover name, be able
22 to give evidence to the Inquiry about what that
23 undercover officer did and said. They may be able to
24 give evidence to support allegations that particular
25 undercover officers obtained evidence about the family

1 to smear them. But without the officers' cover names,
2 that will normally be impossible.

3 Additionally, where supervising officers were
4 previously deployed undercover, as is the case for
5 example with HN109, HN86 and HN58, little information
6 will be available about their practices undercover which
7 may in turn have influenced their decision-making as
8 supervisors.

9 As Lord Bingham observed in the David Shayler case,
10 publicity is a powerful disinfectant. Where abuses are
11 exposed, they can be remedied.

12 The justifications for not disclosing the names are,
13 at least in some cases, difficult for Dr Lawrence to
14 understand, particularly where individuals undertook
15 managerial or backroom roles. The need to maintain
16 the ongoing confidentiality of undercover officers or
17 the techniques used by undercover officers does not
18 apply to managers who did not act undercover.

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

21 As for disclosure, I have already referred to
22 the very limited documentation received so far. Without
23 repeating the concerns expressed by others on these
24 topics, Dr Lawrence wishes to add his voice explicitly
25 to the disquiet that has been expressed over the way

1 the Inquiry has dealt with and plans to deal with
2 disclosure.

3 I do want to refer briefly to the continuing absence
4 of an inquiry panel endorsing remarks that others have
5 made on this subject, because it is a subject of
6 particular importance for Dr Lawrence.

7 He has raised this with the Chairman in person, and
8 also, on 24 April 2018, he handed in a letter to
9 the then Home Secretary Amber Rudd, calling for
10 the appointment of a diverse panel.

11 Dr Lawrence had the opportunity of seeing first-hand
12 in the Macpherson Inquiry the benefits of the breadth of
13 experience brought to bear by the involvement of
14 a panel. He is disturbed by the decision not to appoint
15 a representative panel to sit alongside the current
16 chairman until the final lessons to be learned module.
17 He invites the Home Secretary to reconsider this as soon
18 as possible.

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

1 In conclusion, sir, whether this Inquiry can meet
2 one of its primary objectives, namely addressing public
3 concern about undercover policing of Dr Lawrence's
4 family, remains to be seen. But it can only be achieved
5 with the fullest and the most transparent inquiry
6 possible. The importance of officers being publicly
7 held to account is reflected in the findings of
8 the "Report of the Independent Review of Deaths and
9 Serious Incidents in Police Custody" by
10 Dame Elish Angiolini DBE QC, published in January 2017.
11 She explained that there are:

12 "... wider community concerns about discriminatory
13 policing. Where there is evidence of racist or
14 discriminatory treatment or other criminality or
15 misconduct, police officers must be held to account
16 through the legal system. Failure to do so undermines
17 community confidence in the police and is damaging to
18 police and community relations. Community confidence and
19 trust in the police has been undermined in the BAME
20 community and can only be rebuilt with a real effort to
21 learn from institutional mistakes."

22 Sir, Dr Lawrence has been failed so badly by
23 the state over so many years, and he very much hopes
24 that he will not have a similar experience with this
25 Inquiry.

1 Thank you, sir. That concludes my opening
2 statement.

3 THE CHAIRMAN: Thank you, Ms Williams. Because,
4 commendably, you have taken a little less time than was
5 allowed for you, it follows that we ought to be able to
6 begin again a little earlier than the 12 o'clock which
7 was forecast. Could we be ready, please, to start again
8 at 11.50.

9 MS PURSER: Thank you very much, everyone. We will now take
10 a break and we'll resume proceedings at 11.50.

11 (11.31 am)

12 (A short break)

13 (11.50 am)

14 MS PURSER: Welcome back everyone. I will now hand over to
15 the Chairman to continue proceedings.

16 Chairman.

17 THE CHAIRMAN: Mr Khan, you're going to make your second
18 opening statement of the day on behalf of
19 Michael Mansfield QC.

20 Opening statement on behalf of Michael Mansfield QC by MR

21 KHAN

22 MR KHAN: Good morning, sir -- I think it is still morning.

23 Yes, with Ms Gardner, this is an opening statement
24 on behalf of Mr Michael Mansfield, Queen's Counsel.

25 Sir, the state is singularly able to and often does

1 set the tenor and tone of how a society operates and
2 regulates itself. And when the tenor and tone set by
3 the state represents a wholesale attack on lawyers and
4 those that they represent, there are consequences, grave
5 consequences.

6 Recently media reports suggest that the Home Office
7 appeared to have dismissed intelligence briefings from
8 counter-terrorism police in relation to an
9 alleged far-right terror attack. Officers from
10 counter-terrorism command notified the Home Office in
11 mid-September of this year that it was suspected that
12 a far-right extremist had attempted to carry out a
13 terror attack at a solicitors firm in London. Weeks
14 later, on 4 October, at the Tory Party conference,
15 Priti Patel intensified her criticism of so-called
16 "do-gooders" and "lefty lawyers", her words not mine.

17 On 23 October of this year, an alleged far-right
18 extremist was charged with attempting to launch a terror
19 attack at the law firm armed with a knife, handcuffs,
20 a Nazi flag and a US Confederate flag, with prosecutors
21 saying that he appeared to target the firm because of
22 its involvement with immigration cases.

23 After more than 800 former judges and legal figures
24 signed a letter calling on the Prime Minister and
25 the Home Secretary to apologise for their hostility

1 towards the profession, a spokesperson for
2 the Home Secretary urged those lawyers that had signed
3 the letter to, in her words, "get back to work". No
4 doubt the irony of that statement was lost on
5 the Home Secretary, given that the lawyers who signed
6 that letter were precisely the ones whose work she was
7 complaining about.

8 It is therefore, sir, incumbent on all of us to
9 condemn, in the strongest possible terms, the verbal
10 attacks by the Prime Minister and the Home Secretary,
11 and join in the call made by the 800 lawyers and former
12 judges that they apologise, that the Prime Minister and
13 the Home Secretary apologise for that they have said.
14 The comments by Boris Johnson and Priti Patel are
15 deplorable, unwarranted and undermine the Rule of Law.
16 So it may seem an obvious point to make:

17 "The law should apply equally to all and should
18 afford protection of the fundamental human rights of
19 every citizen."

20 Yet, ten years on from what Lord Bingham said in his
21 seminal work "Rule of Law", Mr Mansfield questions
22 whether we are in fact yet again embarking on an era
23 where an independent legal profession is imperilled,
24 where the independence of the judiciary is threatened,
25 and where citizens' rights and liberties are diminished

1 further.

2 It has been Mr Mansfield's experience that this is
3 nothing new. The state in its varying political hues
4 has nearly always sought to silence or undermine its
5 critics. The only difference over the years has been
6 the extent to which this has been done and whether it
7 has gone too far.

8 You will, I hope, sir, be aware that in his over
9 53 years of legal practice, Mr Mansfield has, whatever
10 the political party in office, and however keen it has
11 been on countering challenges to its powers, always
12 striven to provide independent legal representation,
13 giving people a voice in circumstances where their voice
14 would likely never be heard.

15 The very nature of the work that Mr Mansfield has
16 undertaken has had the common thread of grave injustice,
17 which has meant that he has always been alert to the
18 possibility that he would be susceptible to some sort of
19 surveillance. But why should that be? Why should
20 a lawyer -- any lawyer of any sort -- be wary of
21 surveillance by the state?

22 In Mr Mansfield's case, should he have been
23 suspicious because of the fact that he was a lawyer, or
24 because of the type of work that he was doing? And
25 should that make a difference? Should the issues facing

1 an individual render them or their lawyer a target in
2 the eyes of the state? A state that purports to abide
3 by the Rule of Law?

4 Despite these concerns, Mr Mansfield, like many
5 other lawyers, both within this Inquiry and outside of
6 it, has always refused to be cowed or intimidated. He
7 has never shied away from representing those that sought
8 to challenge the iniquities of the state and its
9 institutions, whether addressing flagrant violations of
10 civil liberties or breaches of fundamental human rights.
11 Indeed, far from hiding away and evading scrutiny,
12 Mr Mansfield has kept his head above the parapet and has
13 welcomed legitimate scrutiny, and indeed encouraged
14 public discourse.

15 What he did not welcome, does not welcome, did not
16 encourage and does not encourage, did not deserve and
17 does not deserve, is the unnecessary and unjustified
18 surveillance of him and others by state players and its
19 executive agent, the police.

20 Sir, you'll be aware, and much has been quoted of
21 Mr Ellison's review, but it's worth repeating:

22 "Our system of justice for obvious reasons
23 recognises and respects the rights of all parties to
24 judicial proceedings to prepare and consult over their
25 respective cases without intrusion or interference let

1 alone covert surveillance by another party to
2 the proceedings."

3 Regrettably, during his long career Mr Mansfield
4 found that this self-evident statement of how our system
5 of justice should operate is rarely the case. Indeed,
6 as early as 1971/'72, when representing Angela Weir
7 during the trial of the so-called Angry Brigade,
8 Mr Mansfield became aware of the state's capacity for
9 covert surveillance.

10 Further, as a result of disclosure served in these
11 proceedings on 16 October 2020, we now know the far
12 reaching extent to which those in the Home Office were
13 aware of, and indeed approved payment of, the SDS.
14 Mr Mansfield asks: should the general public not be
15 entitled to know the prohibitive cost to each of them of
16 funding the SDS? Should the general public not
17 the entitled to know the extent and true number of those
18 under surveillance? Late disclosure reveals that
19 the SDS were entrenched as early as the end of 1969 in a
20 number of groups:

21 " New entrants to the extreme left-wing political
22 scene are being identified and recorded within weeks of
23 their manifesting an interest in extremist affairs.
24 Personal descriptions, addresses and occupations are
25 obtained by officers working within groups, and this

1 material is submitted personally or passed to officers
2 engaged on normal enquiry work."

3 How many citizens who were peaceful and legitimate
4 member of society holding legitimate political views had
5 their personal details gleaned and indeed very possibly
6 shared with many others? Are the records of those
7 details still available?

8 In 1973, Mr Mansfield represented
9 Marian and Dolours Price, the "Price Sisters".
10 Mr Mansfield was "filled with trepidation about taking
11 on a case that had generated so much hatred". Such was
12 the climate that he was subjected to outright hostility,
13 even from those in his own profession.

14 It seems inevitable that without good reason,
15 without justification, Mr Mansfield again fell under
16 the watch of the SDS.

17 In 1977, he represented journalists of the state --
18 that the state had attempted to criminalise, during
19 the "ABC trial", as it was called. The case concerned
20 the supposed exposition of the means of government
21 surveillance. As a consequence of the trial, a light
22 was shone on the dim and murky state surveillance
23 tactics sanctioned by the government and executed by
24 the police -- this time against another sector perceived
25 by them as a threat.

1 Notwithstanding being maligned and pilloried by
2 those that viewed him as anti-establishment or
3 a dangerous radical, Mr Mansfield continued to represent
4 those that have suffered the worst kind of injustice,
5 often directly at the hands of the police.

6 Together with Gareth Peirce, he represented
7 the Birmingham Six, who were wrongly convicted in 1975
8 and released only after their third appeal in 1991, with
9 the West Midlands Serious Crime Squad's notorious
10 reputation finally in tatters, having been disbanded in
11 1988.

12 It is sobering and shocking to think that in 1980
13 following the men's application for a civil action
14 against the police and Home Office for injuries
15 sustained in custody that Lord Denning in his judgment
16 stated:

17 "If the six men win it will mean that the police
18 were guilty of perjury, that they were guilty of
19 violence and threats, that the confessions were
20 involuntary and were improperly admitted in evidence and
21 that the convictions were erroneous ... this is such an
22 appalling vista that every person in the land would
23 say: it cannot be right that these actions go any
24 further."

25 Yet this is the vista that was in place in the

1 1960s, 70s, 80s, 90s and the 21st century. What
2 miscarriages of justice such as the Birmingham Six, and
3 indeed the Guildford Four, demonstrate, and what has
4 been made clear through even the scant disclosure in
5 this Inquiry is that the police were and are capable of
6 anything and prepared to do anything, including going
7 outside legal parameters with little or no regard to
8 concepts of necessity or proportionality or respect for
9 another human being's civil liberties.

10 If state-sanctioned tactics of unlawful surveillance
11 were designed to intimidate lawyers such as
12 Mr Mansfield, they failed, and failed abysmally.

13 Mr Mansfield continued to challenge the legality of
14 state-sanctioned police and military actions in
15 the Bloody Sunday Inquiry, in Derry in 2000 and later in
16 London in 2002, he acted for the families of those
17 assassinated by British state agents.

18 In 2005, he represented the family of
19 Jean Charles de Menezes, shot dead by the Metropolitan
20 Police Service, who received nothing more than a fine as
21 a result of breaching health and safety laws. His
22 family are of course core participants in this Inquiry.

23 Mr Mansfield assisted the family of civil rights
24 activist and lawyer Patrick Finucane with the demand for
25 a public inquiry into his murder by agents of

1 the British state. In April 2004, an independent report
2 commissioned by the UK and Irish governments concluded
3 that "only a public inquiry will suffice".

4 Yet the Inquiries Act 2005 was railroaded through
5 Parliament. It was passed, as you may know, sir, as
6 legislation on 7 April 2005, which was the last
7 remaining date before Parliament was dissolved.

8 The Inquiries Act is yet another example of
9 litigation that serves to undermine the Rule of Law,
10 erode protection of human rights, shape public
11 confidence, and lessen further the independence of
12 the judicial and legal system.

13 There was no consultation prior to the publication
14 of the Bill. The Inquiries Act 2005 repealed
15 the Tribunals of Inquiry (Evidence) Act 1921. Under
16 the new Act, the Inquiry and its terms of reference are
17 decided by the executive/appointed minister. No
18 independent parliamentary scrutiny of these decisions is
19 allowed. The chair and any other members of the inquiry
20 panel are appointed by the executive minister, and
21 the executive/minister has the discretion to dismiss any
22 member of the inquiry.

23 Lord Saville of Newdigate, the Chair of
24 the Bloody Sunday Tribunal of Inquiry, stated that
25 the Inquiries Act 2005:

1 "... makes a very serious inroad into
2 the independence of any inquiry; and is likely to damage
3 or destroy public confidence in the Inquiry and its
4 findings."

5 It is to be noted that Lord Saville's prescient
6 comments have resonance with many of the non-state
7 core participants here in this Inquiry.

8 Mr Mansfield finds the current attempt at extending
9 the power of state surveillance all the more disturbing.
10 We have been confronted with the egregious Covert Human
11 Intelligence Sources (Criminal Conduct) Bill, which does
12 not define or limit what types of criminal offences
13 might be authorised by the relevant agency. It
14 therefore legitimises by way of statute any criminal
15 behaviour by undercover operatives, such as the now
16 defunct SDS, giving them full civil and criminal
17 immunity. It also allows for a far-reaching number of
18 state agencies to engage in such activity. The Bill
19 allows for authorisation of proportionate criminal
20 conduct in order to prevent crime or disorder.

21 One only has to look at the criminal and utterly
22 disproportionate behaviour of the MPS and SDS to realise
23 that such a low threshold is an open invitation to cause
24 damage, and indeed destroy lives, as it has
25 unquestionably done. Clearly, the state and its

1 executive agents have learnt nothing from the past in
2 which they were responsible for the suffering
3 of individuals and their families. Some of those
4 families are core participants.

5 Mr Mansfield represented the family of Ricky Reel at
6 the inquest in 1999. It is of course now known that
7 Mrs Sukhdev Reel was subject to undercover surveillance.
8 Ricky Reel's family members are core participants in
9 this Inquiry --

10 THE CHAIRMAN: Mr Khan, forgive me for interrupting you, but
11 you are going a little fast for the shorthand writers.
12 I know perfectly well that you are following the script
13 which you have provided to us closely, and with the aid
14 of that they ought to be able to transcribe what you are
15 saying, but could you bear them in mind, please.

16 MR KHAN: Of course, and my apologies.

17 THE CHAIRMAN: Thank you.

18 MR KHAN: In the wake of the Macpherson Inquiry,
19 Mr Mansfield, Suresh Grover of the Monitoring Group, and
20 others founded the National Civil Rights Movement, which
21 went on to assist the families of Michael Menson and
22 Roger Sylvester, to name but a few.

23 What these cases, and the many other cases involved
24 in these Inquiry, show is that these individuals and
25 families were not just having to deal with the conduct

1 of agents who were acting on behalf of, and at
2 the instigation of, a democratically elected state, but,
3 unbeknownst to them, there existed a secret state, whose
4 sole purpose appeared to be to disrupt, hamper and
5 destroy them and their endeavours.

6 When the deck was stacked so heavily against them,
7 what chance did any of them have of achieving any form
8 of success? But as we know, in some very limited
9 instances, success was possible.

10 Perhaps the miscarriage of justice most associated
11 with Mr Mansfield was that of Stephen Lawrence.
12 The truth as to the extent of surveillance of
13 Mr Mansfield and others may never be known. What is
14 known, however, is that Mr Mansfield was subject to
15 the surveillance tactics of, at the very least, one SDS
16 officer, HN81, or "N81", as he was previously known.

17 During the Macpherson Inquiry and the campaign for
18 justice for Stephen Lawrence, arising from that,
19 Mr Mansfield requires that the following questions must
20 be asked and answered by this Inquiry:

21 (a) Who authorised HN81's engagement?

22 (b) Were those in the highest management aware of
23 this engagement?

24 (c) What were the terms of engagement,
25 the parameters and protocols, if any, that governed

1 the surveillance of Mr Mansfield and others in the lead
2 up to final submissions at the end of 1998?

3 (d) Who made the decision to destroy files, logs,
4 etc?

5 (e) How was Mr Mansfield deemed to be relevant to
6 the issue of "community tension?"

7 (f) What was HN81, or anyone else, specifically
8 tasked to discovery?

9 (g) When and where did he meet with Mr Mansfield
10 and the Lawrence family?

11 (h) How often did he meet them.

12 (i) What role did HN81 play until 2011?

13 (j) Did that role include continued surveillance of
14 Mr Mansfield?

15 (k) What does HN81 or any other undercover officer
16 (such as HN15 and HN104) know regarding other
17 surveillance of Mr Mansfield including during
18 the campaigns for justice for Ricky Reel, Michael
19 Menson, Roger Sylvester and others?

20 Sir, Peter Francis has made clear that intelligence,
21 as well as hearsay and tittle tattle, gathered on both
22 the Stephen Lawrence Campaign and other campaigns for
23 justice that he infiltrated was used to smear those
24 campaigns.

25 In the Channel 4 Dispatches broadcast on

1 24 June 2013, which was referred to in the Ellison
2 Review, he said this -- and I know, sir, this has been
3 repeated a number of times, but it's worth repeating
4 again. He said this:

5 " I was also asked, the same as all other campaigns,
6 'could I find out anything else that could be used to
7 maybe get the public to not have as much sympathy for
8 the Stephen Lawrence campaign as what it truly had?'
9 'Is there anything that police could possibly use
10 through the media to start maybe tarring the campaign?'
11 It means the amount of sympathy that that campaign can
12 generate locally is going to be vastly diminished ...
13 They wanted any intelligence that could have smeared
14 the campaign, yes, there is this general remit, so had
15 I through my circles come up with something along
16 the lines of, they, the family were political activists,
17 someone in the family was involved in demonstrations,
18 drug dealers, anything. What they would have done with
19 the intelligence I can't call it, but that is our remit,
20 not just for them, that is always our remit when we are
21 out there, we find out intelligence and then, if it is
22 needed, then it will be used ... I wasn't successful, no
23 SDS officer was successful in finding anything really
24 concrete, it was just a bit of hearsay, tittle tattle."

25 Following evidence gathered during

1 the Ellison Review in 2013/14, it emerged that HN81 was
2 recruited into the SDS following three years in
3 Special Branch. From '96 to 2001, he remained
4 undercover penetrating left-wing "anti-establishment"
5 groups.

6 It was accepted during the review -- this is
7 Ellison's review -- that HN81 would not have joined SDS
8 had he been aware of the "adverse mental and personal
9 impact it would have had" on him. Yet that begs
10 the question as to why HN81 remained working for such
11 a reprehensible operation until 2001, particularly given
12 what he knew first-hand about surveillance that took
13 place in 1998. It makes his concerns for his own
14 welfare all the more questionable.

15 HN81 was ever anxious to maintain that he was not
16 tasked into the Lawrence family campaign, but rather was
17 tasked into groups allegedly attempting to influence
18 the Lawrence campaign. This is despite a briefing note
19 by SDS Detective Inspector Bob Lambert summarising
20 HN81's work thus.

21 "Over the last 6 months N81 has reported
22 comprehensively on the persistent and largely successful
23 attempts by [N81's group] to gain influence within
24 the Stephen Lawrence campaign ... [N81's group] have
25 managed to broaden the agenda within the campaign group

1 to include a platform for their own uncompromising view
2 that the [Stephen Lawrence] case is but one that shows
3 the police to be corrupt and racist from top to bottom.
4 While the Lawrence family have sought to prevent
5 extremist activists from taking over the campaign, N81's
6 reporting reveals the extent to which groups like [N81's
7 group and others] have gained a significant foothold
8 within the ad hoc organising group ..."

9 It was noted in the Ellison Review that:

10 "In order to protect N81's identity, it is not
11 possible to provide details of the groups N81
12 infiltrated, or any specifics that would enable those
13 who were part of those groups at the time to work out
14 who N81 must have been ... N81 was well placed in one of
15 the groups that associated itself with, and tried to
16 build relations with, both the Lawrence family and other
17 groups during the public inquiry."

18 However, we know from Baroness Lawrence's evidence
19 given at the review that the groups involved in
20 the Stephen Lawrence Campaign were the Anti-Racist
21 Alliance, the Anti-Nazi League, Youth against Racism in
22 Europe and The Monitoring Group, spearheaded by
23 Suresh Grover, an alliance and friend of Mr Mansfield
24 and a core participant in this Inquiry.

25 Richard Walton, an officer on the MPS Lawrence

1 Review Team in 1998 was asked to join that team:

2 "... because the Lawrence Public Inquiry had started
3 and it was clear it was absently going the wrong way in
4 terms of Met reputation and all the rest of it ... to
5 join a team to do a thorough review under Bob Quick ...
6 who was reporting directly to Paul Condon at the
7 time~..."

8 Richard Walton was told by Colin Black, Acting
9 Commander of Special Branch, in 1998:

10 "We need a conduit to ensure that anything we pick
11 up, particularly from SDS, can be fed in to support your
12 reinvestigations of Lawrence, Menson and Ricky Reel ..."

13 Those involved in undercover surveillance of
14 Mr Mansfield during the Lawrence inquiry 1998 had no
15 justifiable reason for such surveillance. There was
16 certainly no "public order" or "public interest"
17 justification, and there was certainly no criminality
18 whatsoever observed.

19 Mr Mansfield asks: at what point does
20 the proportionate means to covertly spy on someone come
21 to an end, let alone, even begin? When is the decision
22 taken that there no longer exists a proportionate and
23 lawful reason to use such tactics -- if ever there was
24 such a reason in the first place? Were the actions of
25 the SDS simply "invasive, deceitful and sometimes

1 criminal" as found in the Ellison Review?

2 We, Mr Mansfield, believe Mark Ellison QC was right
3 in this assertion, and that you, sir, are likely to
4 reach the same conclusion at the end of this Inquiry,
5 but only if you test the evidence and consider the wider
6 SDS issues, because, as Mr Ellison stated:

7 "A Public Inquiry that can see and hear the evidence
8 being tested, particularly an Inquiry considering the
9 wider SDS issues, might be better placed to make
10 definitive findings."

11 Unlike HN81 and other police officers, Mr Mansfield
12 did not destroy records, he did not hide papers, he
13 never used an alias. Mr Mansfield did not deceive and
14 deceive again those around him as a means to any end.

15 As we have stated, sir, in the current climate,
16 the state acts with increasing hostility towards certain
17 members of the legal profession, those deemed by
18 the Prime Minister as "lefty human rights lawyers" who
19 are hamstringing the criminal justice system.

20 Given that we have witnessed lawyers across
21 the world being attacked for fighting, particularly in
22 authoritarian regimes, against arbitrary state power and
23 for the basic legal rights of citizens and social
24 groups, does the Prime Minister's conduct not speak more
25 about the nature of this government and its attitude to

1 the Rule of Law than it does of the lawyers it seeks it
2 vilify?

3 According to the United Nations Basic Principles on
4 the Role of Lawyers (Basic Principles), it states that
5 states should ensure that all persons within their
6 jurisdiction have effective and equal access to lawyers
7 of their own choosing, and that lawyers are able to
8 perform their professional functions without
9 intimidation, hindrance, harassment or improper
10 interference. The basic principles require that lawyers
11 are adequately protected when their security is
12 threatened because of carrying out their legitimate
13 professional duties, and not be identified with their
14 clients or their clients' causes.

15 It's apparent from what has recently occurred in the
16 UK that these Basic Principles are still not being
17 adhered to, because this government has targeted those
18 lawyers it deems as challenging it and its policies and
19 practices, so-called "activist lawyers".

20 The United Nations High Commissioner for
21 Human Rights, Michelle Bachelet, recently noted that
22 senior officials of the Government of the Philippines
23 have threatened lawyers and others who have spoken out
24 against the administration's policies, and she added
25 that this:

1 "... creates a very real risk of violence against
2 them, and undermines rule of law, as well as the right
3 to freedom of expression."

4 Sir, whilst we might scoff at the idea that we are
5 nothing like the Philippines, it is worth noting
6 the consequence in that country of a government that
7 threatens lawyers who take on cases that challenge
8 the state:

9 "Since President Duterte took office on June 30,
10 2016, the number and intensity of attacks against
11 lawyers have increased significantly. At least 41
12 lawyers and prosecutors were killed between July 2016
13 and 5 September 2019, including 24 practising lawyers.
14 Lawyers are also harassed and intimidated. They are
15 subject to (death) threats, surveillance, labelling, and
16 other forms of attacks."

17 If you don't have lawyers or, more accurately,
18 lawyers who are willing and able to challenge the state,
19 you remove, or, at the very least, diminish, the right
20 to challenge at all. As Lord Neuberger, former
21 Supreme Court judge, said in a slightly different
22 context:

23 "Once you deprive individuals of the right to go to
24 court to challenge the government you're in
25 a dictatorship, you're in a tyranny."

1 Mr Mansfield's overwhelming concern is that only
2 those who dare speak out against the "broken system",
3 only those that assist in uncovering the wrongdoings of
4 the police are subject to such attacks, they are subject
5 to such unlawful surveillance tactics and unlawful
6 monitoring.

7 Whilst Mr Mansfield has sought to reclaim
8 the term "radical lawyer" from those that view it in
9 pejorative terms, he is, like all of his colleagues in
10 his profession, just a lawyer, a lawyer who represents
11 and advocates on his clients' behalf, without fear or
12 favour, and to the best of his ability. The fact that
13 he has taken on, and takes on, cases which are
14 uncomfortable or upsetting to the state and its
15 institutions should play no part in how he and his
16 colleagues in similar positions are defined or treated.

17 Civil liberties and human rights are now
18 the mainstay of this country's legal system. Those
19 lawyers that seek to ensure that they remain so and hold
20 the state to account when these rights are breached are
21 no different to any or lawyer who seeks to lawfully
22 protect their clients' rights. A lawyer is a lawyer.

23 Mr Mansfield is confident that he represents only
24 one of many, many lawyers who have been the subject of
25 surveillance. It is incumbent on this Inquiry to

1 establish the full extent of surveillance on the legal
2 profession, why it was done and who authorised it.

3 Whilst the specific issue of Mr Mansfield's
4 surveillance is of course important to him, only if
5 the wider issue of the intrusion into the legal
6 profession is considered will it be possible for this
7 Inquiry to properly make recommendations of how to
8 ensure that lawyers can do their job without fear of
9 surveillance and free from attack from the state and its
10 elected representatives.

11 If the Inquiry fails in this endeavour, it is
12 possible that fear and intimidation will replace
13 fearlessness and integrity within the legal profession.
14 If so, the pool of lawyers intent on upholding the Rule
15 of Law and willing to stand up on behalf of their
16 clients against the state and its institutions will be
17 diminished.

18 Indeed, the most important issue arising from
19 the surveillance of lawyers is not the impact, whether
20 real or perceived by them, on the individual lawyer, but
21 the individual whose cases have been, or are, affected
22 by the fact of the surveillance.

23 It is chilling, sir, to consider that lawyers might
24 have failed to take on cases or acted otherwise in
25 accordance with their duty in the knowledge that they

1 might attract the unwanted attention of the state and
2 its institutions. If there is little sympathy for
3 the legal profession, and on occasion there is
4 (inaudible) sympathy, then at least regard should be had
5 for the protection of the rights of those who deserve
6 representation and justice.

7 Mr Mansfield asks: what lessons do the police ever
8 learn? Does history teach them anything? It appears
9 not. Instead, the Metropolitan Police Service and SDS
10 act with arrogant impunity, resistant to learning from
11 inquiry recommendations and guidelines. They no doubt
12 are hopeful that this Inquiry, saddled with the lack of
13 disclosure and shackled by lack of transparency on
14 the part of the police, and shrouded in mystery as far
15 as the police is concerned, will make glib and
16 ineffective recommendations to which the police will not
17 have any regard. Give it time, they may say,
18 and the recommendations will be forgotten about.

19 Yet Mr Mansfield is not going to go away quietly.
20 Quite the opposite. He is clear that for the Inquiry to
21 have real purpose, there needs to be not only powerful
22 and far-reaching guidelines and recommendations put in
23 place, but, perhaps even more importantly, there needs
24 to then follow effective implementation of such
25 guidelines and recommendations.

1 Mr Mansfield described Baroness Doreen Lawrence and
2 Neville Lawrence, in his words, in 2009, as:

3 "... ordinary yet exceptional individuals who
4 displayed remarkable courage and tenacity, changing
5 perceptions and agendas for this and the next
6 generation."

7 Yet it should not have to be down to non-state
8 individuals and groups to fight tooth and nail to ensure
9 that hard-won successes in inquiries, such as
10 the Macpherson Inquiry where over 70 recommendations
11 were made, are:

12 "... left to gather dust on some obscure shelf
13 within the Home Office, the Ministry of Justice or
14 New Scotland Yard."

15 In 2009, Dr Richard Stone, a member of the advisory
16 panel to Sir William MacPherson, wrote a report
17 entitled "The Stephen Lawrence Inquiry 10 years on". In
18 that report he observed that institutional racism still
19 existed, and that the mentality of rank and file
20 officers remained unchanged. Take us ten years forward
21 and consider how many steps back we appear to be taking.

22 Mr Mansfield asks that you, sir, take the bold but
23 necessary step of lifting the veil on the practices of
24 undercover policing which have been hidden for far too
25 long. Mr Mansfield asks that you, sir, take the bold

1 but necessary step of setting down strong
2 recommendations which actively guard against and
3 criminalise unnecessary and unjustified surveillance of
4 those lawyers such as himself that have not engaged in
5 any criminal behaviour whatsoever.

6 Finally, sir, Mr Mansfield asks for a sincere
7 apology both to himself and to the other
8 Core Participants in this inquiry.

9 Sir, that is the end of our submissions on behalf of
10 Mr Mansfield QC.

11 THE CHAIRMAN: Thank you, Mr Khan.

12 Next Mr Trollope, Queen's Counsel, on behalf of
13 Azhar Khan.

14 Mr Trollope, at the moment you are scheduled to
15 split your opening statement into two, but it looks to
16 me as if you might be able to complete it if we took
17 a slightly later lunch. If that is so, I'd be grateful.

18 MR TROLLOPE: Yes, sir, good afternoon. I will make such
19 progress as I will before the luncheon adjournment, and
20 then perhaps we'll see where we've got to, if that's
21 acceptable to the Chairman.

22 THE CHAIRMAN: I was simply indicating that if you'd made
23 such good progress that we can finish with another 10 or
24 15 minutes at 1 o'clock, then I would invite you to take
25 that course, rather than to have an adjournment.

1 And in running City Law Solicitors, he ensured that
2 the firm not only gave opportunities to members of
3 his own community to find their way in the legal
4 profession, but also encouraged female members of that
5 community to join and make similar progress.

6 Despite that, sir, in 2007, the Metropolitan Police
7 conceived an entirely new type of undercover, covert
8 sting operation. Its target was Mr Khan. The name of
9 the operation was variously "Castration" or "Castrum".
10 It culminated in his arrest for the offence of
11 conspiracy to pervert the course of justice, in
12 December 2009.

13 This was a new and unique operation. Apparently
14 the first of its kind. It was not merely a covert
15 surveillance of, or eavesdropping on, a solicitor in
16 the course of his practice, but a detailed plan for
17 undercover officers to pose as criminals and potential
18 clients for Mr Khan and City Law Solicitors for certain
19 objectives. In its planning and execution, it consisted
20 of the following phases or features.

21 Firstly, there were staged arrests which were to
22 take place, with the undercover officers acting as
23 criminals, in fact drug dealers or money launderers.
24 They would be apparently arrested by other officers
25 pretending to carry out their regular deployment duties.

1 After the so-called "arrests", the suspect,
2 the undercover officer, was taken to a police station
3 and processed by the custody officers. This would
4 involve, apparently, booking the suspects in, reading
5 them their rights, carrying out body searches and
6 ordering their detention for interview. And, in due
7 course, they would apparently be interviewed.

8 And, on arrival at the police station, it was
9 planned that the suspect would directly or indirectly
10 request that Mr Khan from City Law Solicitors attend to
11 represent him. And in each case with which we are
12 concerned, Mr Khan did so, provided apparently with
13 pre-interview disclosure, a custody sheet. And he
14 attended the suspects in the course of their interviews.

15 Of course, every aspect, sir, of this part of
16 the operation was a charade, as was later admitted by
17 the officer in charge of the operation, to deceive
18 Mr Khan that he was being asked to represent suspects
19 accused of serious crime as part of his professional
20 obligations.

21 This elaborate and sophisticated operation, which
22 extended over a period of at least 18 months, involved
23 a number of individuals, agencies and methods. Firstly,
24 the undercover officers themselves, numbering four.
25 Other officers who were responsible for making

1 the staged arrests. Further meetings were initiated by
2 one of the undercover officers, codenamed "Raj", when
3 proposals to launder money were made to Mr Khan,
4 including one occasion when he was offered some £50,000
5 to get into a different business. Sir, Mr Khan refused
6 that proposal.

7 It involved the custody officers and custody
8 managers at the police stations who oversaw
9 the so-called detention and processing of these apparent
10 suspects.

11 DI Marion Ryan, the officer in charge of the case,
12 conducted briefings and debriefings. There were senior
13 officers who reviewed the operation from time to time.
14 Other officers were involved in the conduct of briefings
15 and the collection and storage of the various exhibits
16 as part of the operation, including covert tape
17 recordings and the video recordings made at the police
18 station.

19 Large bags of tablets were supplied, apparently to
20 masquerade as drugs. Large quantities of money was
21 provided to the undercover officers to offer to Mr Khan.
22 I've already indicated and described the fake procedures
23 that were followed at each of the police stations,
24 including such features as intimate body searches,
25 the delaying of telephone calls to a family friend or

1 contact, and the calling of Mr Khan as a solicitor.

2 Then, of course, there were even supposed searches
3 carried out of premises, with negative results.
4 The so-called suspects were then released on bail
5 pending further inquiries. Another pretence. And
6 further covert recordings were made of conversations
7 between Mr Khan and the undercover officers after their
8 release on bail.

9 And Section 9 statements were drafted by
10 the arresting officers, describing the arrests for
11 money-laundering and the possession and supplying of
12 controlled drugs. These apparent Section 9 documents
13 were of course themselves false. And then a completely
14 pointless forensic examination was carried out of
15 the tablets, and of course it was found that they were
16 not a controlled substance.

17 DI Ryan concedes that these staged arrests and
18 procedures at the police station were designed, sir, to
19 deceive Mr Khan and, we say, to exploit him in
20 the conduct of his professional practice, in order to
21 try and find evidence of criminal conduct by him.

22 And another important element, sir, of this
23 operation was that "Raj", one of the most active of
24 the undercover officers, sought in 2008/2009, posing as
25 a principal of an organised crime group, to build

1 a relationship with Mr Khan. And he did this, sir, by
2 making frequent, indeed persistent, telephone contact
3 with Mr Khan, and seeking meetings with him.

4 During those contacts, "Raj" again and again tried
5 to tempt or lure Mr Khan into agreeing to take part in
6 crime, including the incident to which I've already made
7 reference when £50,000 was unsuccessfully offered to
8 Mr Khan as a bribe.

9 The objective -- and I make this point later on more
10 than once, without apology, sir. The objective behind
11 Operation Castration or Castrum was not to investigate
12 a crime or crimes which Mr Khan was suspected of
13 committing or having committed. He was merely thought,
14 on the basis of intelligence, of which we have had no
15 details whatever, to be corrupt. So it was decided to
16 integrity-test his conduct as a criminal defence
17 solicitor by using undercover officers to suggest
18 the commission of crimes to Mr Khan and then, as DI Ryan
19 puts it, to see how he would react.

20 However, it did not end there, sir. If no evidence
21 on the part of Mr Khan was in fact gleaned, there was
22 a secondary and stated objective: to report any apparent
23 professional misconduct on his part. But to who? Not
24 to the appropriate disciplinary body or regulatory body,
25 namely the Solicitors' Regulatory Authority, but to

1 the Legal Services Commission, which, as you very well
2 know, sir, is the agency responsible for the granting
3 and funding of legal representation orders to those
4 charged with criminal offences. And of course
5 City Law Solicitors, as a thriving legal aid practice,
6 was highly dependent on the Legal Services Commission.
7 The clear aim, as we shall see, was to put him and his
8 practice, City Law Solicitors, out of business.

9 These objectives, sir, were contained in documents,
10 such as they were, that were disclosed in the course of
11 the criminal proceedings that followed this operation.

12 These included objectives drafted by the first
13 officer in charge of the case. One of them, remarkably
14 confirmed by DI Ryan in the course of her evidence, was
15 indeed, as I've just said, to put City Law Solicitors
16 out of business.

17 The known integrity testing, as we have seen,
18 involved undercover officers posing as potential actual
19 clients of the firm. Whether that is indeed the full
20 extent of it, we do not know. It is not known whether
21 this was indeed the extent of the operation, or whether
22 there is material, and if so what material, of further
23 surveillance which has not been disclosed and was not
24 disclosed in the criminal proceedings.

25 Mr Khan himself is firmly of the view, and has

1 evidence to substantiate it, that he and at least one of
2 his former employees at City Law Solicitors were
3 subjected to other undercover surveillance, including
4 telephone tapping, during the course of this operation.

5 We say it is plain, sir, from the way this operation
6 was conceived and executed, that this so-called
7 "testing" amounted to no more and no less than attempts
8 by the undercover officers to induce or trap Mr Khan
9 into saying or suggesting something which would amount
10 to a perversion or an attempt by him to pervert
11 the course of justice: in short, to trap Mr Khan into
12 committing a crime.

13 This much is clear, not least from the very many
14 transcripts of the conversations between Mr Khan and
15 the undercover officers, particularly the one codenamed
16 "Raj", in the context of the successive staged arrest
17 and contrived meetings and conversations.

18 And these attempts, sir, were persistent, extending,
19 as I've already said, for a period of at least
20 18 months.

21 And indeed, we would submit, with respect, that one
22 of the most legally and morally indefensible features of
23 the operation was that these attempts were so persistent
24 in the face of Mr Khan's repeated failures to agree to
25 the suggestions of crime, or, as the learned judge in

1 the course of Mr Khan's later prosecution put it, his
2 failure to bite on the offers made to him.

3 So, we say, sir, that this conduct was aimed at
4 the unlawful entrapment of the clearest kind. And it
5 was thus highly objectionable on this and other grounds.
6 And I enumerate just the principal of those grounds.

7 1. It was operationally unjustified, because there
8 was no proper grounds, indeed, no claimed grounds, for
9 a criminal investigation as ordinarily understood.

10 It was legally indefensible under United Kingdom and
11 ECHR law in view of the methods both contemplated and
12 actually deployed.

13 It was also unethical, as it was an egregious
14 invasion of Mr Khan's rights as a citizen and as a legal
15 professional. It raises important issues about the use
16 and abuse of the state's resources in carrying out such
17 operations.

18 There are grave concerns as well that Mr Khan, as an
19 Asian lawyer, was singled out in a way which would not
20 have occurred had he been a solicitor who was or is
21 white British.

22 Why were all the undercover officers of black or
23 Asian identity? Was it thought by those conceiving
24 the operation that Mr Khan might more readily agree to
25 commit a crime if it was proposed by a member of his own

1 community or another member of an ethnic minority? If
2 so, what does that indicate about the assumptions on
3 which this operation was based? These are Mr Khan's
4 very real concerns.

5 In addition to what I've already said and
6 the foregoing, we have no knowledge, because there has
7 been no relevant disclosure, of the reasons for and
8 the process of any applications for authorisation under
9 the Regulation of Investigatory Powers Act 2000, RIPA.

10 What took place, sir, plainly amounted to directed
11 and/or intrusive surveillance, requiring, as you're only
12 too well aware, not only applications for authorisation
13 but also compliance with the rules as to its grant, its
14 duration and any renewal. We have had only the most
15 minimal amount of disclosure in relation to
16 the authorisations that were applied for and granted.

17 Furthermore, that apart, the question arises: how
18 was this operation claimed to be necessary for any of
19 the statutory purposes set out in section 28 of that
20 Act? How and why was it claimed to be proportionate?
21 How long was it granted for? Was it renewed? Again,
22 for how long? And why? There are statutory codes of
23 practice in relation to the execution of powers granted
24 under the Act: were they complied with?

25 But apart from the legal and ethical objections to

1 the operation as conceived and authorised, there were,
2 one regrets to say, in practice, instances where
3 the instructions to an undercover officer were plainly
4 exceeded and the attempts to entrap Azhar Khan went even
5 further than those authorised.

6 Moreover, there was a deeply troubling instance when
7 it appears that the operation itself was corrupted and
8 misled by the provision of false information by
9 the police team handling the undercover officers to
10 the officer in charge of the case and to her superiors.
11 And, critically, this false information was fed to her
12 after she had decided to cancel the operation. Because,
13 sir -- and this is a point well worth noting -- by
14 September 2009, the operation had produced no evidence
15 of any wrongdoing by Mr Khan. So even the OIC decided
16 to conclude the operation and to institute a so-called
17 exit strategy, so as not to arouse the suspicions of
18 Mr Khan that he'd been under any kind of surveillance.

19 However, she was then provided with a report
20 containing information that claimed that Mr Khan had
21 insisted on meeting an undercover officer in order to
22 agree an illegal course of conduct. This, sir, was
23 completely untrue. But it had the consequence that
24 the information, this false information, was relayed not
25 only to DI Ryan but to her superiors, who then

1 authorised the continuance of the operation, with
2 further attempts then being authorised to be made to
3 engage with Mr Khan in a criminal conspiracy.

4 Worse still, the authority then granted to
5 the undercover officer "Raj" to continue his contact
6 with Azhar Khan by adopting a so-called "passive role"
7 was then plainly exceeded in practice. DI Ryan tasked
8 a further undercover officer, a fourth one, to actively
9 engage Mr Khan by yet again suggesting he take part in
10 an illicit money-laundering scheme.

11 However, and as the judge found, at no stage did
12 Mr Khan agree to commit any offence.

13 On 8 December 2009, there was an extensive search of
14 Mr Khan's family home and the offices of
15 City Law Solicitors. He was then arrested for
16 conspiracy to pervert the course of justice, and in due
17 course interviewed and charged with that offence.

18 A draft indictment was drawn up at
19 the Kingston Crown Court, alleging that Mr Khan had been
20 a party to a conspiracy to pervert the course of justice
21 by offering a false provenance in respect of a sum of
22 some £20,000, knowing or suspecting it to be
23 the proceeds of criminal conduct.

24 Applications were made to dismiss this charge, or,
25 in the alternative, to stay the proceedings.

1 The applications were of course, firstly, on the grounds
2 there was no case to answer; but, secondly, that having
3 regard to the facts and matters which I have outlined
4 and other matters, there had been an abuse of process in
5 bringing the charge in the first place. The application
6 to dismiss was granted by the learned judge.

7 The prosecution undertook not to appeal against what was
8 a terminatory ruling.

9 But we say it is inevitable, or the inevitable
10 conclusion, from the judge's conclusions in his ruling
11 that had he been asked to rule on the question of
12 whether there had been an abuse of process of the court,
13 he would have so ruled.

14 Extracts from the learned judge's ruling
15 graphically, we say, demonstrate the persistence and
16 determination with which the Metropolitan Police Service
17 and those responsible for conceiving, organising and
18 sanctioning this operation sought to persuade, incite,
19 encourage, indeed trick Mr Khan into committing criminal
20 offences. And I take only two passages, sir, from
21 the judge's ruling to illustrate the point. The judge,
22 for example, said this:

23 "... by the start of the conspiracy on 4th
24 September, Mr Khan's integrity had been tested on a
25 number of occasions, with no results, as far as the

1 police were concerned. However, on the 4th September a
2 scenario was constructed. By now the undercover officer,
3 Raj, had been known to Mr Khan for nearly a year. In
4 that year the invitation that I have spoken of had been
5 offered to him. Raj was far more active in pursuing the
6 relationship than Mr Khan ..."

7 The learned judge then cited two further passages
8 where "Raj" was again attempting to persuade Mr Khan to
9 agree to an illicit money-laundering scheme. He said
10 this:

11 "... The subject is first seen at page 289 of the
12 transcript, where Raj asks 'What about if I say I can
13 get the guy to come down, and if he can come down and
14 say, "Look, the money is mine." The response from the
15 defendant was, 'I don't want to get involved with that,
16 I'll be honest with you, I don't want to get involved in
17 that.'

18 "Undaunted [the judge's word] Raj returned to the
19 topic at page 292, when he said, 'I need to get hold of
20 that guy then so he can say, "This is my money".' The
21 response from Khan was, 'Do me a favour, sleep on it',
22 and that is how matters were left."

23 The judge continued:

24 "... Suffice it to say that by the 7th September,
25 2009 the police had decided that such was the paucity of

1 the evidence that had been accumulated that they were
2 minded to cease the operation. However, as a result of
3 misinformation ..."

4 Sir, I remind you that was the false information
5 provided to DI Ryan:

6 "... regarding Mr Khan's persistence, the operation
7 continued to run, and Raj persisted in trying to make
8 contact with Mr Khan, making phone calls on ..."

9 The dates that I've set out in my written statement:

10 "... and finally a meeting was arranged, which took
11 place on 25 September ..."

12 So, sir, the upshot of that is that Mr Khan had not
13 agreed to the suggestions of crime made to him. And, as
14 already mentioned, a decision was made to cancel
15 the operation.

16 Sir, there are a number of striking, and we say
17 deeply troubling, aspects of this operation as described
18 by the judge.

19 Firstly, the continued and persistent nature of
20 the attempts to incite Mr Khan to commit criminal
21 offences. The lack of any apparent legitimate basis or
22 justification for these attempts. There was no evidence
23 upon which these attempts could properly be said to be
24 founded.

25 The misinformation in the latter stages of

1 the operation provided to DI Ryan is of very great
2 concern. It's extremely difficult to see how it
3 happened in error. The reported wish of Mr Khan to make
4 contact with the undercover officer to take part in
5 the illicit agreement was contradicted by
6 the transcripts of the conversations that Mr Khan was
7 recorded as having with them.

8 If this was a deliberate ploy, then the integrity of
9 this operation, even on its own terms, is profoundly and
10 significantly affected.

11 We pose the question: given the care and the detail
12 with which this operation was carried out over an
13 extended period, how likely is it that it was an error
14 that this false information was provided?

15 And why did this operation persist for so long with
16 repeated acts by serving officers as agents provocateurs
17 in relation to a practising solicitor practising his
18 profession, not investigated, as I've already pointed
19 out, on the basis that he was suspected of committing
20 any criminal offence? This was not, as I've said
21 already, a criminal investigation.

22 Of course, agents provocateurs are deployed during
23 the course of criminal investigations, properly
24 so-called, as part of a form of evidence-gathering.
25 However, as you are only too well aware, it sometimes

1 has consequences as to the admissibility of the evidence
2 thereby gleaned. But this operation was wholly
3 different, both in concept and in execution.

4 We submit that Mr Khan was indeed a victim of
5 a miscarriage of justice, and he should never have been
6 prosecuted.

7 It must therefore be the key objective of this
8 Inquiry into Mr Khan's case to examine, sir, the full
9 extent of this undercover operation directed at Mr Khan,
10 as well as the reasons and justifications for it.

11 In particular, we note in passing a section of
12 the opening statement of the Metropolitan Police
13 solicitor under the heading "The Continuing Value of
14 Undercover Policing", paragraph 61 to 65, and it's
15 described as "an essential tactic in the fight against
16 crime". Nothing in those paragraphs justifies what
17 happened to Mr Khan.

18 The particular features which we say call for
19 scrutiny are these at least: how was this operation
20 conceived? Why was Mr Khan targeted? What was
21 the so-called intelligence? Was his ethnicity as
22 a member of the Asian community a factor? Which
23 departments, and who within those departments, was
24 responsible for the instigation of this operation?

25 We know that counsel, instructed counsel,

1 was engaged at an early stage of this operation. What
2 was her role? We say it appears, despite any legal
3 advice she may have given, that in fact an illicit and
4 disproportionate operation was in fact carried out.

5 We repeat our earlier questions as to how and why
6 this operation was authorised and for so long under
7 the provisions of RIPA.

8 Again, who and which departments were responsible
9 for the applications for authorisations under that
10 legislation?

11 And who, sir, had final responsibility and oversight
12 for this operation? Was there any involvement with
13 the National Public Order Intelligence Unit?

14 We know that reviews were carried out up to
15 the level of commander. Were these adequate?

16 What other and previous undercover operations were
17 looked at as a model for this operation targeted against
18 Mr Khan?

19 We ask you, sir, to examine the actual execution of
20 the operation and the methods used.

21 Was authority exceeded, as we say it undoubtedly
22 was?

23 Things we know went badly wrong towards the end of
24 the operation. Why did this operation continue for so
25 long when it was producing no evidence of crime?

1 Another vital area for examination by this Inquiry
2 is the extent and the manner in which the processes and
3 agencies in the criminal justice system were used or
4 involved in this extensive and continuing operation.

5 I've already referred to the artificial processing
6 of these so-called "suspects" through the police
7 stations.

8 The contact with Mr Khan, either directly by
9 the client -- the so-called "client" -- or using
10 the duty call centre system, whereby Mr Khan unwittingly
11 took part in the bogus process to which I have already
12 made reference.

13 And these fake processes were recorded in
14 the facilities at the police station where Mr Khan,
15 apparently in the course of carrying out his duties, was
16 filmed both attending the police station and conferring
17 with his clients.

18 Was this involvement of other serving officers,
19 police stations and other parts of the criminal justice
20 system in this long-running pretence justified on any
21 grounds? Was it a proper use of public money and
22 resources?

23 Moreover, as we've already pointed out, sir,
24 the declared intention of this operation, if it failed
25 to lure Mr Khan into committing a crime, was to gather

1 any evidence of professional misconduct and to refer
2 such evidence to the Legal Services Commission. We
3 emphasise not the appropriate regulatory body but to
4 the agency which administers the administration of Legal
5 Aid payments. Plainly, as we've already pointed out,
6 a damaging report to the LSC would have been extremely
7 prejudicial to the continuation of City Law Solicitors
8 as a criminal legal aid practice.

9 The questions that arise, sir, in relation to this
10 particular matter is this: what were the Metropolitan
11 Police Service doing seeking to investigate or find
12 evidence of professional misconduct?

13 Is it a legitimate function of the police to engage
14 in such activity? It's not a case, as I've said more
15 than once now, where they were investigating criminal
16 conduct but were integrity-testing. Was this proper or
17 proportionate?

18 Is it remotely justifiable, sir, we pose
19 the question, for the police to seek to commercially
20 undermine a professional legal practice?

21 Was this operation, as we've already stated, in any
22 circumstances proper? In any circumstances
23 proportionate? It was long-running and extensive and we
24 ask the same questions.

25 Lastly, sir, I say this, and by no means least.

1 DI Ryan acknowledged in the course of her evidence that
2 this operation as conceived could have, and in fact did
3 have, very significant consequences for Mr Khan as
4 a legal professional. What consideration was given to
5 the ethical justification for disrupting and
6 infiltrating a solicitor's practice with the
7 consequences for him, his firm and his clients? Or, it
8 should be added, for him, his family and his career?

9 It has had a profound effect on him and his family,
10 who have waited eleven long years for answers to
11 the burning questions as to why he was targeted and
12 prosecuted for a crime he did not commit, despite
13 the state's determination to lure him into so doing.

14 Thank you. That concludes my opening statement.

15 THE CHAIRMAN: Thank you, Mr Trollope. Thank you for
16 concluding it, as I had hoped you would, before
17 the slightly late only midday adjournment.

18 MR TROLLOPE: Very well, sir.

19 THE CHAIRMAN: We will resume at 2.10.

20 MS PURSER: Thank you, everyone. That concludes the morning
21 session. We will be back at 2.10.

22 (1.06 pm)

23 (The short adjournment)

24 (2.10 pm)

25 MS PURSER: Good afternoon, everyone, and welcome to

1 the afternoon session of the seventh day of opening
2 statements at the Undercover Policing Inquiry. As
3 a reminder to those of you in the virtual hearing room,
4 please turn off both your camera and microphone unless
5 you are invited to speak by the Chairman.

6 I will now hand over to our Chairman,
7 Sir John Mitting, to continue proceedings.

8 Chairman.

9 THE CHAIRMAN: Thank you.

10 Mr Morris, we are now going to hear your opening
11 statement.

12 Opening statement by MR MORRIS

13 MR MORRIS: Hi, thank you very much. Let me know if I go
14 too fast for the stenographers.

15 Okay. I've been involved since 1974 in a range of
16 groups and campaigns trying to encourage people to
17 support one another and to make the world a better
18 place. Such groups include ones promoting libertarian
19 socialist politics, otherwise known as "anarchism",
20 workplace solidarity, in which at one time I was a
21 branch secretary of the Union of Post Office Workers,
22 and later, incidentally, found to have been illegally
23 added to The Consulting Association blacklist, the green
24 section. So I support the Blacklist Support Group,
25 whose statement I believe is to follow soon.

1 So, I've been involved with groups promoting
2 claimants' rights, environmental campaigning, including
3 London Greenpeace, opposition to corporate power and
4 exploitation, including being one of the two defendants
5 in the McLibel case, which I'll come on to,
6 the anti-poll tax movement, groups promoting community
7 mutual aid and self-organisation to encourage people to
8 speak up for their needs as local residents and
9 the needs of their own neighbourhoods.

10 I am currently secretary of the Haringey Federation
11 of Residents' Associations and chair of the National
12 Federation of Parks and Green Spaces.

13 So, coming on to the most relevant groups for the
14 inquiry: London Greenpeace and the McLibel campaign and
15 the subversion of civil rights by the undercover
16 policing units.

17 First, London Greenpeace. I can refer to
18 the opening statement of Matthew Ryder briefly, where he
19 set out about London Greenpeace. So I won't repeat all
20 of that. London Greenpeace was established in 1971, and
21 it was the first Greenpeace group in Europe and one of
22 the first three Greenpeace groups in the world. And it
23 still exists today.

24 Just while I'm looking at Matthew Ryder's statement,
25 can I just quote Bob Lambert, who's coming up in

1 a minute in my statement. Bob Lambert explained his
2 actions in the following way:

3 "As part of my cover story, so as to gain
4 the necessary credibility to become involved in serious
5 crime, I first built a reputation as a committed member
6 of London Greenpeace, a peaceful campaigning group."

7 So both London Greenpeace and the McLibel Support
8 Campaign were infiltrated by undercover police officers.
9 And, actually, we are concerned that there was an
10 undercover police officer before Bob Lambert joined
11 the group in the early/mid-1980s. And as Mr Ryder
12 explained, that undercover officer, if existing, has not
13 been made known. He goes on to say:

14 "It appears very likely that the group was
15 infiltrated ... since a report produced for the Cabinet
16 Joint Intelligence Committee in 1980 ... [called] 'The
17 Current Threat to the United Kingdom From Terrorism' ...
18 states:

19 "'Anti-Nuclear Power groups have been active since
20 1977 in arranging demonstrations in various parts of the
21 country. In the past two years there has been a marked
22 increase in the number of small anarchist dominated or
23 influenced groups in the United Kingdom, the most
24 prominent being London Greenpeace; the latter plays a
25 major co-ordinating role in anti-nuclear affairs and is

1 responsible for many of the international links.'" "

2 Mr Ryder carries on with the quote from that report:

3 "The bulk of the anti-nuclear power lobby (including
4 most of the anarchist groups) in the United Kingdom is
5 opposed to the use of violence and there is no evidence
6 of any current terrorist threat from that quarter."

7 So, that was certainly one of the major activities
8 of London Greenpeace in the 1970s, was opposing nuclear
9 weapons and nuclear power.

10 To go back to my own statement, Bob Lambert, who
11 infiltrated London Greenpeace, contributed significantly
12 to the creation of the anti-McDonald's leaflet and
13 campaign, which McDonald's sued over. This is a copy of
14 the leaflet which was produced by the group, and so on.

15 He was later followed by John Dines,
16 undercover officer, and later Matt Rayner,
17 undercover officer, also was associated with the McLibel
18 Support Campaign specifically, rather than
19 London Greenpeace generally.

20 In addition, between 1989 and 1991, there was
21 infiltration by at least seven spies hired by
22 the McDonald's Corporation, one of whom had a six-month
23 relationship with someone in the group. Please see
24 the detailed opening statement of my McLibel
25 co-defendant, Helen Steel, which will follow soon, which

1 I support and do not need to repeat here.

2 In summary, the McLibel case ran from 1990 to 2005,
3 encompassing the longest trial in English legal history.
4 We were denied legal aid in the jury trial, and
5 therefore had to defend ourselves.

6 My note 3 in my statement refers to the McLibel
7 documentary, which was broadcast by the BBC and can be
8 seen on You Tube. And we recommend that people look at
9 a particular ten-minute extract from the fourth minute
10 to the 14th or 15th minute, which includes reference to
11 the fact sheets, McDonald's' own infiltrators, some
12 photographs, a video of a protest in 1989 outside
13 McDonald's headquarters, in which a McDonald's spy with
14 leaflets was standing next to John Dines,
15 the undercover officer, John Dines.

16 And at that same protest, as evidence given in
17 the McLibel case showed, McDonald's UK vice president
18 testified that a Special Branch officer was given
19 a "perch", as he called it, next to himself at
20 the headquarters, to jointly observe that very protest
21 in that film that you can see.

22 And then there follows some further, within that
23 time slot in the film -- some footage of myself and my
24 son on my bikes outside my home in Tottenham. And I've
25 recently found out that undercover officer Matt Rayner

1 had an abusive sexual relationship with a women living
2 next door to me, and so on.

3 Finally, within that time frame within the film, it
4 shows how we were denied a jury trial, denied legal aid.
5 But we were offered pro bono legal advice by barrister,
6 Kier Starmer, who's now of course leader of
7 the Labour Party.

8 How much of that privileged advice was used --
9 undercover officer John Dines privy to whilst living
10 with Ms Steel, my co-defendant throughout the case?

11 However, as a result of our efforts as litigants in
12 person, the High Court and then Court of Appeal ruled
13 that McDonald's exploited children with their
14 advertising, produced misleading advertising to
15 the public, that McDonald's regular customers face an
16 increased risk of heart disease, that McDonald's were
17 culpably responsible for cruelty to animals, were
18 anti-pathetic to unionisation, and it was fair comment
19 to say McDonald's workers suffered poor pay and
20 conditions.

21 It emerged during the McLibel trial that police
22 officers, including Special Branch, had passed private,
23 and in some cases false, information about us and other
24 protesters, including home addresses, to McDonald's.

25 Sid Nicholson, McDonald's head of security and vice

1 president, was a former Met chief superintendent, and he
2 was in charge of the spying operation of the McDonald's
3 hired spies that infiltrated the group.

4 He stated from the witness box that McDonald's
5 security department were "all ex-policemen". And he
6 also say that if he ever wanted to know information
7 about protesters, he would go to his contacts in
8 the police. No doubt the Inquiry will want to get to
9 the bottom of the full level of this collusion.

10 Helen and I sued the Metropolitan Police for passing
11 on personal information about us to McDonald's. In
12 July 2000 we received £10,000 compensation and a consent
13 order in which the police committed:

14 "... to bring this settlement to the attention of
15 the 3 Area Commanders of the Metropolitan Police Force
16 and ask them to remind their officers of their
17 responsibility not to disclose information on the Police
18 National Computer to a third party."

19 In 2005, the European Court of Human Rights ruled in
20 our favour that there had been violations of
21 the Convention's Article 6, right to a fair hearing, and
22 Article 10, freedom of expression. Despite the damning
23 rulings against McDonald's, it seems no police
24 investigation, undercover or otherwise, or legal action
25 was ever taken against them as a result. It is shocking

1 that the police were instead targeting those exposing
2 the truth about powerful, greedy and unethical
3 corporations.

4 Now, my note 4 -- sorry, just if I can find it --
5 yes.

6 The 1977 [sic] McLibel trial judgment of Justice
7 Bell set out in detail the continuous industrial scale
8 of criminality by the McDonald's Corporation throughout
9 the UK in the 1990s, especially in relation to
10 employment laws and its suppliers' animal welfare laws,
11 yet the SDS targeted the campaigners who exposed these
12 truths not the organisation responsible for that
13 criminality.

14 The McDonald's Corporation could accurately be
15 described as being subversive of the societal norms
16 regarding employment, advertising, nutrition and animal
17 welfare.

18 Now, the background context to all this that I've
19 set out in my statement has been explicitly supported by
20 90 of the core participants in this case. So I'll try
21 to distinguish between those paragraphs and my notes
22 which are entirely my own.

23 In 1968, following huge demonstrations in London's
24 Grosvenor Square against the widely condemned
25 Vietnam War, British police set up a Special

1 Demonstration Squad to monitor and undermine such street
2 protests.

3 Since that time, over a thousand groups campaigning
4 in the UK for a better society, a better world have been
5 systematically spied upon, infiltrated or otherwise
6 targeted by secret and unaccountable police -- political
7 police units.

8 This targeting has included over 140 highly paid
9 police spies living long-term as so-called "activists",
10 engaging in the everyday activities of groups and
11 campaigns for equality and justice, for environmental
12 protection, for community and trade union empowerment
13 and for international solidarity, for rights for women,
14 rights for black and ethnic minorities, workers, LGBTQ
15 people and for animals. And also targeting those
16 campaigning against war, racism, sexism, corporate
17 power, legal repression and police oppression and
18 brutality.

19 Such groups and movements have comprised many
20 millions of people throughout the UK who want to make
21 the world better, fairer and more sustainable for
22 everyone. Thanks to their efforts, many of the ideas
23 spread by such groups have now become mainstream
24 opinion, and some campaigns and rights sought eventually
25 resulted in legal and other formal recognition by

1 society. Yet it appears that almost any group that
2 stood up to make a positive difference in questioning or
3 challenging the establishment has been, or could have
4 potentially been, considered a legitimate target by
5 the UK's secret political policing units.

6 Any claims that the UK police are a non-political
7 institution are therefore clearly incorrect.

8 My own note in addition to that. In paragraphs 24
9 of the opening statement by the Counsel to the Inquiry,
10 he himself describes how, at the very beginning of
11 the formation of the SDS, SDS UCO HN330 fulfilled
12 the needs of Special Branch and MI5 for details about
13 certain Labour Party members, protesters against
14 Apartheid South Africa and racist Rhodesia, and full
15 details of the signatories to petitions on these issues.
16 This is blatant subversion of everyone's civil rights
17 and pretty much sets the scene for the next 50 years of
18 these units.

19 Back to my own text, collectively agreed text.

20 These secret policing activities went far beyond
21 investigating what was said in meetings. Individuals
22 within or associated with those campaign groups, most of
23 which had an open membership and active involvement
24 based on trust and cooperation, were subjected to
25 intrusions into their personal lives. Thousands of fake

1 so-called "friendships" were developed, exploited and
2 abused by secret police, who continuously lied for their
3 own political ends.

4 Many people, especially women, were deceived into
5 intimate and abusive relationships, children have been
6 fathered then abandoned, and the identities of deceased
7 children stolen to provide cover names.

8 The police spies took part in and actively
9 influenced groups and activities, and there have been
10 very many arrests and victims of miscarriages of justice
11 as a result. Family campaigns, people seeking justice
12 for loved ones killed by police, were deliberately
13 undermined by these units.

14 To bug a phone is recognised as a controversial
15 breach of someone's human rights, and so police have to
16 apply for a warrant to a judge. We're generally opposed
17 to bugging of people's phones, and we note the public
18 outrage over the phone hacking scandal a few years ago.
19 However, to hack people's lives is infinitely worse and
20 should be totally unacceptable to everyone by any
21 standards.

22 Much of the state response to public anger over
23 these tactics has to present the spying and abuses that
24 came with it as an aberration, a mistake or the fault of
25 rogue officers. We disagree. Based on the evidence,

1 this spying was established and conducted from the very
2 beginning with the full sanction of the state and
3 supported by its apparatus and taxpayer funding.

4 As stated by the women deceived into a relationship
5 with a police spy, it was not just a single
6 undercover officer, policeman in her bed, but also all
7 those who put the officer in the field and supported
8 them there.

9 No decision about all this was taken in isolation.
10 The government, senior managers and the handlers may
11 have tried to turn a blind eye to the abuses -- or some
12 of them -- or deemed them politically necessary. But
13 the reality is they were complicit in all of it. They
14 readily accepted the intelligence provided, they funded,
15 tasked and oversaw the spycops units, and they set
16 the agenda and ethos according to which these units
17 operated. And we know that MI5 was dominant in this
18 whole process.

19 Sorry, that was my aside. Going back to my official
20 text.

21 This had nothing to do with responding to genuine
22 public concern over any real and imminent serious
23 violent threats to public safety and lives. The groups
24 represented in this Inquiry were not terrorist
25 organisations but were groups pushing for positive

1 social change in an overwhelmingly public and open way.
2 By targeting these groups, the police were demonstrating
3 unacceptable and ongoing institutional discrimination,
4 institutional racism, institutional sexism,
5 institutional anti-democratic action, including
6 industrial scale breaches of laws and charters that
7 protect basic human rights and the right to protest.

8 I want to add a note, my note 8.

9 Both society and the law both recognise that
10 political activity, often along with religious activity,
11 is entitled to extra protection. For example, in my own
12 case, the European Court of Human Rights stated in their
13 judgment:

14 "The central issue which fell to be determined was
15 whether the interference with the applicants' freedom of
16 expression had been 'necessary in a democratic society'.
17 The Government had contended that, as the applicants
18 were not journalists, they should not attract the high
19 level of protection afforded to the press under Article
20 10. However, in a democratic society even small and
21 informal campaign groups, such as London Greenpeace had
22 to be able to carry on their activities effectively.
23 There existed a strong public interest in enabling such
24 groups and individuals outside the mainstream to
25 contribute to the public debate by disseminating

1 information and ideas on matters of general public
2 interest such as health and the environment."

3 And the implication I draw from that is not only --
4 well, that campaigning groups should have additional
5 protection in the right to continue their activities
6 without harassment, or indeed infiltration or targeting,
7 by undercover policing.

8 Back to my statement.

9 Over 100 of the Inquiry's core participants summed
10 up the problem here in a previous collective statement,
11 on 17 October 2017:

12 "For us, this Inquiry is about political policing to
13 undermine groups and organisations campaigning for
14 a better society and world."

15 This police bias was clearly sanctioned at
16 the highest level. We know of no effort to show balance
17 by police infiltration or secret targeting of powerful
18 establishment bodies to investigate their crimes and
19 their threats to social peace and society. Such
20 organisations not targeted include greedy and unethical
21 financial corporations, tax-avoiding hedge funds,
22 military elites and their development of weapons of mass
23 destruction and power-mad establishment political
24 parties. This is despite their continuous and
25 widespread promotion of systematic institutional

1 violence, such as wars, poverty, exploitation of
2 workers, colonialism and environmental destruction; and
3 discrimination on the grounds of race, sex and class,
4 reinforced by public relations and manipulation of
5 society for these institutions' own power and profit.

6 I go to my note number 9.

7 A lot of random words have been retrospectively
8 conjured up by some state CP lawyers to try to justify
9 the controversial secret political policing operations.
10 Almost none of the target groups can be said to actively
11 promote violence, with the exception of fascist groups,
12 who seem to hardly feature in the targeting.

13 However, it has been said that some people
14 associated with some targeted groups may have been
15 sometimes not opposed to occasional violence or
16 criminality or disorder, or have been "extremist" or
17 "subversive", or even "totalitarian".

18 In my view, most religions and governments are, or
19 potentially are, extremist and totalitarian, unless
20 restrained by a strong and assertive civil society. All
21 governments support mass state violence, for example
22 wars and weapons of mass destruction, and police
23 violence to impose their laws and ensure the maintenance
24 of the capitalist status quo and its attendant
25 injustices and oppressions.

1 MI5 seems to have dominated the SDS and NPOIU
2 objectives by seeking information about and
3 the undermining of groups and movements which are deemed
4 to support subversion of the state, but instead they
5 should look elsewhere. For the last 30 years, mass
6 subversion of the state, supported by successive
7 governments, has been systematically and continuously
8 carried out by unaccountable multinational corporations
9 seeking deregulation of laws protecting society from
10 unrestrained profiteering, and taking over formerly
11 nationalised industries and sectors, so that a tiny few
12 can profit from what were once state-run public
13 services.

14 Adding insult to injury is the deliberate widespread
15 use of tax havens and other so-called "loopholes" to
16 annually avoid billions of pounds of taxes due to
17 the state which could have been used for our struggling
18 public services. Millions of people have suffered as
19 a result. But has there been any undercover targeting
20 of this serious industrial-scale, daily subversion of
21 the state? I guess never.

22 Those opposing this decades-long public scandal and
23 subversion of the state, as many if not most of
24 the target groups have done, cannot themselves credibly
25 be characterised as subversive of the state. In any

1 case, I would suggest that the consensus in society is
2 in large part that the state and police should be
3 protecting society not themselves -- that they should be
4 protecting society and not employing undercover
5 political units with the aim of subverting civil society
6 and the many progressive political and social movements
7 who seek to protect and improve our society for all.

8 My note continues.

9 What is extremism? The most extreme challenge we
10 all face, and probably have ever faced, is the climate
11 catastrophe being caused by governments and corporations
12 promoting unbridled resource extraction and consumerism
13 based on fossil fuel extraction.

14 In 1968, the American Petroleum Institute published
15 a report on the consequences of burning fossil fuels,
16 which found could lead to the melting of ice caps,
17 rising seas and potentially serious environmental damage
18 worldwide. They said:

19 "There seems to be no doubt that the potential
20 damage to our environment could be severe."

21 That was 50 years ago at the very time the SDS was
22 being set up. Was the oil industry every targeted by
23 the SDS? If not, why not?

24 Finally in this note, earlier this year,
25 the government recognised that concerted mass direct

1 action protests about this issue weren't to be labelled
2 "extremist". There had been uproar over police
3 counter-terrorism documents, including details about
4 a range of left-wing and progressive campaigning groups.
5 The groups targeted included Extinction Rebellion
6 following their civil disobedience efforts to blockade
7 a number of London's streets and sights for days at
8 a time to bring attention to the climate crisis.

9 The official response of the government, Security
10 Minister Brandon Lewis MP, to questions about these
11 controversial police documents raised in Parliament, as
12 reported on 22 January 2020, stated:

13 "I want to reiterate that Extinction Rebellion is in
14 no way considered an extremist group under the 2015
15 definition of extremism and the Home Secretary has been
16 clear this point."

17 Following the exposure of this undercover policing
18 scandal -- sorry, this is back to my main narrative.

19 Following the exposure of this undercover policing
20 scandal in 2010, it took five years of investigation,
21 publicity and campaigning by victims and survivors of
22 the police infiltration, reinforced by police
23 whistleblowers, and a couple of journalists indeed, for
24 the government to decide to act. Even then, it took
25 the shocking revelations that the family and surviving

1 victim and close friend of murdered black teenager
2 Stephen Lawrence had themselves been targeted by
3 undercover policing.

4 In July 2005, following widespread public outrage,
5 the then Home Secretary, Theresa May, tasked the current
6 undercover policing public inquiry with getting to
7 the truth about this scandal and who authorised it, and
8 recommending action to prevent future police wrongdoing.

9 Since then, we have had to suffer five more years of
10 police delays and obstruction. These tactics have
11 resulted in a refusal to release most of the names of
12 the thousand organisations spied and reported on,
13 refusal to release the names and photos of most of
14 the police spies, and refusal to release most of
15 the relevant documentation generated by political
16 policing units.

17 Throughout these five years, we and other
18 core participants, despite an imbalance in resources and
19 almost zero access to the documentation held by
20 the police for decades, have worked hard to get
21 the information and justice that we and the wider public
22 are entitled to. We have worked hard and remain
23 determined to bring the whole murky secret policing --
24 political policing operation and its unethical,
25 unacceptable practices into the public spotlight where

1 it belongs.

2 This is supposed to be a public inquiry, but it
3 seems often more like a police damage limitation
4 exercise or cover-up. The hearings are not yet publicly
5 accessible, apart from these opening statements, and nor
6 will they be live-streamed, unlike these opening
7 statements. Which is the only way to ensure that
8 the millions of members and supporters of the targeted
9 groups and movements have the opportunity to follow
10 the proceedings as they happen. Like other non-state
11 core participants, I urge you to reconsider the live
12 streaming of all the evidence in these proceedings.
13 There's still time to review that.

14 We call for the Inquiry to recommend that police
15 units targeting campaigners seeking a better society
16 should never have been set up and should be disbanded in
17 their entirety.

18 Note 10 of my notes adds. It's revealing to note
19 that the women who have been married to
20 undercover officers say in their opening statement that
21 they were "horrified" that the Metropolitan Police
22 Service, possibly through undercover officer
23 Bob Lambert, who was then head of the -- of that unit --
24 of the undercover unit, had given the wrong impression
25 to them that their husbands' targets were "violent

1 criminals, and not the protesters, campaigners or
2 political groups who were in fact being infiltrated" and
3 who "posed no threats to the UCOs or their families".

4 Former undercover officer, Peter Francis, also
5 states:

6 "I now think that no undercover police officers
7 should be targeting political campaigners."

8 It being "wholly unjustified".

9 We call for full transparency and release of all
10 the names of the groups targeted, all the names of
11 the police spies -- well, at least their cover names,
12 and the full political files police have amassed on such
13 campaign groups.

14 Only in a spirit of openness and transparency can
15 the grievous police crimes of the past be acknowledged,
16 those responsible at all levels be held accountable, and
17 the many victims start to move forward with the answers
18 they have consistently called for and are entitled to.

19 When the SDS was formed, they aimed to undermine
20 the movements they were spying on. But despite
21 the disgusting police tactics employed, movements for
22 positive change to benefit the public good are still
23 here growing and have had many successes on the way.
24 Such movements are needed more than ever, in order to
25 address the cumulative and deepening crises into which

1 humanity is being plunged by the current system and its
2 policies. A better world is possible, and it's up to
3 all of us, whoever we are, to ensure support for and not
4 the undermining of such movements for positive change.

5 In conclusion, I support the recommendations taken
6 from the People's Inquiry organised by the non-state
7 core participants in July 2018 in Conway Hall, London.
8 These include, in summary:

9 Full disclosure of the names of the spies,
10 the organisations they targeted and the files compiled
11 by political policing units, including Special Branch.

12 A finding of institutional sexism, racism and an
13 anti-working class, anti-democratic agenda in
14 the police, and a requirement to address it effectively.

15 A recommendation that undercover political policing
16 of protests and campaigning groups ceases and all such
17 existing units are disbanded.

18 Finally, as raised by the statement by
19 Michael Mansfield QC, regarding the human
20 intelligence -- sorry, this is my own personal note --
21 additional note.

22 Regarding the Covert Human Intelligence Sources Bill
23 currently being rushed through Parliament, the British
24 Government must clearly be very concerned, as indeed are
25 the public, about the revelations coming out of this

1 Inquiry, and is therefore moving at spectacular pace to
2 try to sideline, undermine and, I'm sorry to say,
3 sabotage it. Instead of, as they clearly should be,
4 respecting and considering the Inquiry's content,
5 progress and recommendations, the government is showing
6 its contempt of due process and the contributions being
7 made in good faith by those contributing. Even by those
8 whose contributions we may not agree with.

9 In the light of that, the matters we are discussing
10 can clearly no longer be dismissed as merely historical.
11 This gives even more reason for any independent public
12 inquiry to not be intimidated or discouraged from making
13 the necessary recommendations to address the concerns
14 which have been raised, which clearly will be more
15 important than ever in future.

16 Thank you very much.

17 THE CHAIRMAN: Thank you, Mr Morris.

18 Now it is Mr Khan again, to make his third opening
19 statement of the day.

20 MR KHAN: Good afternoon, sir. Can you hear me and see me
21 in?

22 THE CHAIRMAN: I can hear you well.

23 I know that you are basing yourself upon written
24 notes and that you have a certain pace of reading, or of
25 speaking, that is difficult for the shorthand writers to

1 keep up. May I suggest as a halfway house that if you
2 want to depart from your notes, that you indicate that
3 and slow down at that point?

4 MR KHAN: Sir, it is a very much edited version of
5 the longer written one, so the content is pretty much
6 the same as it is, you will be pleased to hear. And,
7 sir, as you know, this is my last contribution --
8 the last time that you'll see me today, certainly, you
9 will be pleased to hear.

10 Opening statement on behalf of Suresh Grover and
11 The Monitoring Group by MR KHAN

12 MR KHAN: Yes, as again, with Ms Gardner, these are
13 submissions and the opening statement made by
14 Suresh Grover and The Monitoring Group.

15 And, sir, I have been told again to slow down, and
16 I will try to do that, but more than happy for you to
17 interrupt me and remind me. Thank you.

18 Sir, The Monitoring Group, formerly known as
19 the "Southall Monitoring Group", SMG, was established in
20 Southall, West London, in the early 1980s by young local
21 community activists and lawyers, to challenge state
22 misconduct and neglect, as well as all forms of racism.
23 Suresh Grover is currently the co-director of
24 The Monitoring Group, and is also one of its founders.

25 SMG changed its name to The Monitoring Group -- and

1 I will refer throughout to "the Group" as reference to
2 The Monitoring Group -- soon after the publication of
3 the Stephen Lawrence Inquiry recommendations in
4 February 1999. And at that time, it was contacted by
5 over 1,000 victims of racism from across the UK, and
6 attempted to meet their needs by developing a national
7 presence.

8 The group is still active and is recognised as one
9 of the oldest anti-racist organisations in the UK.
10 Through its daily advocacy work, community-led activism
11 and public interest campaigns, it has become a permanent
12 feature for black, Asian and migrant communities in
13 their struggles for civil rights and state
14 accountability, and therefore occupies a unique space in
15 this country's social justice landscape.

16 Over the course of its formative years, the group
17 crystallised its key founding principles that included
18 defining its aims, vision, mission, ethos and terrain of
19 activity. And, sir, you'll know that those are set out
20 in the written statement.

21 In that period, it used the term "black" to include
22 all communities with a shared history of colonial rule
23 and racism in the United Kingdom; and "race" to include
24 caste and religious-based discrimination and violence.
25 And throughout our opening statement today, "black" will

1 be used in that context.

2 The young founders of the Southall Monitoring Group,
3 including Mr Grover, not only participated in local
4 struggles against racism that included responding to
5 the racist murder of a young Asian student
6 Gurdip Singh Chaggar in '76 and the killing of school
7 teacher Blair Peach in 1979 by the Met Police's Special
8 Patrol Group, the SPG, during an anti-racist
9 demonstration, they were also inspired by national and
10 global struggles against racism and apartheid.

11 Both the history and the work
12 of The Monitoring Group is so wide-ranging that this
13 opening statement does not allow us to cover all
14 the significant moments, which are, sir, as you'll know,
15 set out in the opening statement.

16 Its longevity can be explained by its independence
17 from the state and its unique hybrid character, which
18 was moulded by lessons learned from the civil rights
19 movement in the US and North of Ireland, and
20 the struggles waged by working class black communities
21 in the UK.

22 The group advocates for root and branch change in
23 society, to dismantle discriminatory and oppressive
24 structures in society. And we have set out in
25 the opening statement -- the written opening statement

1 what the group has achieved over the last 40 years,
2 which includes, just by way of example, providing trauma
3 support to over 1,500 victims of racism over the last
4 decade.

5 Both Suresh Grover and the group have either
6 initiated or participated in a multitude of public
7 interest and justice campaigns. The fuller list is
8 referred to in the written statement. And we draw your
9 attention, because we refer to them a bit later, to just
10 four of those.

11 Blair Peach, a schoolteacher, was killed during an
12 anti-racism demonstration in Southall in 1979, as we've
13 said. Police actions on the day also led to over 800
14 arrests and 345 people being charged with a variety of
15 criminal offences.

16 Mr Grover was one of the key activists who
17 established the legal defence for those charged,
18 documented the social impact of the event and galvanised
19 local, national and international support for over
20 a decade to name those responsible for the killing of
21 Blair Peach.

22 The group has been in regular conduct with
23 Blair Peach's partner, Celia Stubbs, and the campaign
24 group, Friends of Blair Peach.

25 In 1999/2000, the group organised a meeting with

1 the then Home Secretary, and argued for a public inquiry
2 to examine the circumstances leading to Blair Peach's
3 killing. Although this demand was refused in 2010,
4 the Met Commissioner released Commander Cass' internal
5 support, that strongly suggested that an officer from
6 the SPG was responsible for Blair Peach's murder.

7 And last year in April 2019, to mark the 40th
8 anniversary of Blair Peach's murder, the group --
9 The Monitoring Group organised a series of events under
10 the banner "Southall Resists", that included a large
11 scale demonstration and the installation of a number of
12 plaques outside Southall Town Hall, including one in
13 Blair Peach's memory.

14 The event was attended by Celia Stubbs, as well as
15 the leader of Ealing Council and Members of Parliament.
16 And as the Inquiry, sir, you're aware, Celia Stubbs is
17 a core participant in this Inquiry.

18 Second is involvement in and supporting the Lawrence
19 family campaign from autumn 1993 onwards. And the group
20 played a critical role in developing the campaign from
21 1994, which in particular during the private prosecution
22 in '94, the public inquiry 1998 and '99.

23 The group also provided office space secretarial
24 support and full time personal support to the family
25 campaign during the intervening years. They organised

1 local and national meetings and events to gather support
2 for the well known quest for justice for the Lawrence
3 family.

4 The group has also played a central role in
5 supporting the Reel family, who are core participants in
6 the Inquiry.

7 As you probably know, sir, in 1997, Ricky Reel was
8 found dead in the River Thames at Kingston, following
9 a racist attack on him and a group of friends. Police
10 maintain that Ricky died whilst trying to urinate in
11 the river and refused to acknowledge any racial
12 motivation in the original attack.

13 The group played a central role in the family of
14 Michael Menson and established the Michael Menson family
15 campaign. The family of Michael Menson are of course,
16 again, core participants in this inquiry.

17 Michael Menson died in February 1997 after being set
18 alight in a racist attack in Edmonton, North London.
19 Despite police insistence that this was an act of
20 suicide, an inquest jury found that Michael had been
21 unlawfully killed, and the group helped to galvanise
22 support for a new investigation by organising a meeting
23 with the then Home Secretary, Jack Straw, and the newly
24 established Scotland Yard Racial and Violent Crime
25 Taskforce, headed by DAC John Grieve. And

1 the reinvestigation led to the conviction of three men
2 in the UK and the trial of a fourth in Cyprus.

3 Mr Grover and The Monitoring Group believe that its
4 members were probable subjects of covert operations for
5 April 1979 onwards, when, as we have already indicated,
6 Blair Peach was killed and over 800 people arrested in
7 one day. This is -- this was one of the pivotal events
8 in the group's history, that lasted decades and
9 remains "unfinished business", as, of course, no one has
10 ever been brought to justice for Blair Peach's killing.

11 Given the material exists which shows that many of
12 the subsequent families and campaigns, some of which we
13 have referred to here, that the group was involved in
14 were subject to surveillance, it is inconceivable,
15 Mr Grover says, that there is not material which calls
16 to be disclosed to the group.

17 Ricky Reel and Michael Menson, for instance, are
18 mentioned in Operation Trinity. And others, such as
19 Celia Stubbs, the widow of Blair Peach, and Janet Alder
20 the sister of Christopher Alder, have in fact been
21 visited by senior Operation Herne officers, to confirm
22 undercover deployment in those campaigns.

23 And currently the group is also actively supporting
24 the Burke-Monerville family, who have been granted
25 core participant status in the Inquiry.

1 Further, there was, of course, undercover
2 surveillance during the course of campaigning by
3 the Stephen Lawrence family.

4 And finally, just in relation to the involvement of
5 the group in various campaigns, the National Civil
6 Rights Movement, the NCRM, which was founded and chaired
7 by Mr Grover, was launched in March 1999, a month after
8 the publication of the Macpherson report.

9 The aim of the National Civil Rights Movement was
10 twofold. Firstly, to provide support for family justice
11 campaigns. And, secondly, to ensure that the Macpherson
12 Lawrence recommendations were implemented through
13 community pressure. It provided campaigning advice and
14 support to over 80 family justice campaigns. And it's
15 now been confirmed that there was undercover deployment
16 at its founding conference.

17 Despite this, sir, to date, neither Mr Grover nor
18 the group have had any disclosure from the Inquiry.
19 It's not even clear when, if any, disclosure will be
20 made and the periods that it may relate to.

21 Given the group's long history, which we set out in
22 our written opening statement, and the very number of
23 campaigns, some of which we refer to here, and
24 the events it's associated with, this is deeply
25 disappointing. The Inquiry was provided with

1 the group's history at the very beginning when it made
2 the application for core participant status. And it
3 would seem, sir, that the Inquiry is only relying on
4 the disclosure made to the group by Operation Herne,
5 which is, in Mr Grover's words, pitifully low on
6 information and mostly redacted.

7 The couple of sentences that are not redacted relate
8 to incidents at the Stephen Lawrence Inquiry 1998,
9 almost two decades after the group was actually formed.
10 The Inquiry's lack of disclosure, repeated throughout
11 the opening statements, is unprecedented, and has led to
12 the erosion of The Monitoring Group's and Mr Grover's
13 trust in the Inquiry's ability to be transparent and
14 robust in its ability to examine evidence thoroughly.

15 In fact, going back in history, the first revelation
16 of any police surveillance by Special Branch of
17 the group was made in The Guardian newspaper of
18 13 October 1989, in an article by the investigative
19 journalist David Rose, who stated in the article that,
20 in 1987, the SMG, the Southall Monitoring Group, as it
21 then was, was the subject of a report written by Ealing
22 police intelligence officer, PC JE Black, which, quoting
23 a disaffected Labour councillor on the controlling
24 Labour group at the time, described SMG as a "political
25 cell" set up by the Greater London Council to follow an

1 agenda while purporting to be a community organisation.

2 It further described SMG's efforts to make links
3 with militant left-wing trade unions as an active
4 attempt to expand its influence over the whole of West
5 London.

6 It concludes -- that is the article concludes --
7 that while the group:

8 "... can be expected to continue its attempts to
9 undermine the police, they are unlikely to be successful
10 except in conditions of widespread disorder, general
11 strike, etc, when they might have a potential for more
12 widespread destabilisation."

13 This report has never been made public, nor its
14 assertions ever verified. The article details
15 a protracted battle between a local superintendent and
16 the SMG over a family suffering racial violence in
17 the London Borough of Hounslow.

18 The group's work, sir, was continually undermined by
19 local police for nearly a decade. And as a consequence,
20 its funding from the local council ceased in 1997.
21 Although the reasons were not put in writing, both
22 council officers and members of the council made it
23 clear that the group's persistence in challenging racism
24 in the locality, coupled with its close relationship
25 with the Lawrence family and the campaign, was viewed

1 negatively, as it continued to undermine confidence in
2 the police by the black communities.

3 And it's worth reminding ourselves at this point,
4 sir, of the obstacles, hardship and difficulties endured
5 by the parents of Stephen Lawrence and their supporters,
6 including other families in similar situations, before
7 eventually, in fact, their concerns being acknowledged
8 and vindicated, including by Sir William Macpherson in
9 his findings and recommendations.

10 And also at the time, as it should be noted, and
11 still, both human rights lawyers and anti-racist
12 campaigners were viewed as anti-police and carrying
13 a somewhat insidious political agenda.

14 Unsurprisingly, PC Black's report, which I referred
15 to earlier, has never been disclosed to the group nor
16 made public. But if its contents have been reported
17 accurately, it bears little resemblance to the origins
18 and influence of the group.

19 It was true that SMG was then supportive of
20 the anti-racist initiatives developed by the Greater
21 London Council under the leadership of Ken Livingstone
22 and his deputy at the time, John McDonnell MP. Their
23 approach, that is Ken Livingstone and John McDonnell's,
24 represented a positive sea change in its engagement with
25 and policies on black and minority ethnic communities.

1 For the first time in the UK, a local authority was
2 willing to engage with ordinary people as partners, and
3 it opened access for a generation of working people that
4 had been locked out from decision-making processes.

5 It was also the first time that a government body
6 was prepared to acknowledge the prevalence of racism, as
7 well as other forms of prejudice and bigotry, and its
8 damaging impact on this diverse capital, London.

9 They created specialist departments to achieve
10 positive outcomes. In this context, the group submits
11 that the real intentions of the Special Branch report
12 becomes clearer.

13 It was not only collating information on the group
14 unlawfully, but attempting to discredit it by presenting
15 a wholly false picture. The group's genuine support for
16 anti-racist policies advocated by a progressive and
17 left-wing politician were being deliberately
18 misconstrued in order to generate opposition to SMG from
19 within the local community.

20 Indeed, there is no doubt that the report compiled
21 by Special Branch does exist because its collation was
22 relayed to SMG by local politicians at the beginning of
23 1989. What prompted the discussion was the group's
24 ability to galvanise local support for a half-day
25 closure of the town. Shops, businesses, including banks

1 and bookmakers, all closed to mark the funeral of
2 Kuldip Singh Sekhon, a taxi driver who was deliberately
3 lured and targeted because of his race and then stabbed
4 an astonishing 58 times.

5 The group was told that the police feared SMG's
6 growing influence locally. And as a consequence, they
7 had been asked to provide intelligence.

8 For the group, for The Monitoring Group, for
9 the Southall Monitoring Group at the time, the cold
10 reality and consequence of the potential surveillance
11 only became clear years later. Suresh Grover, SMG,
12 The Monitoring Group as it became known, became aware of
13 a number of trends that affected its work.

14 These were, just by way of example, a reluctance on
15 the part of local politicians to revert cases, because
16 they themselves were worried about the prospect of being
17 under surveillance; a greater presence of non-uniform
18 police officers at community meetings, hindering
19 the ability of victims to speak openly; a lack of access
20 to resources as many funders sought recommendations or
21 supporting statements from police officers; a number of
22 unexplained burglaries in the group's office premises;
23 and Mr Grover in particular being targeted for arrest at
24 protests.

25 It is the group's submission that Operation Herne in

1 its report on black justice campaigns wrongly concludes
2 that all these campaigns were simply and only victims of
3 what is termed "collateral intrusion". It stressed that
4 there was no evidence of covert operations targeting
5 families of justice campaigns:

6 "The SDS and the covert operatives did not directly
7 target such campaigns but became directly exposed to
8 them as a result of the activities of the groups that
9 they had infiltrated."

10 Both the narrative of collateral intrusion and its
11 justification is a serious cause for concern for black
12 and anti-racist groups, and the issue requires
13 a thorough examination by this Inquiry.

14 At a meeting in April last year with another
15 core participant, Mr Burke-Monerville, who was
16 accompanied by Mr Grover, you, sir, according to
17 Mr Grover at least, worryingly voiced your uncritical
18 acceptance of the police explanation on collateral
19 intrusion of family justice campaigns.

20 The group reserves -- The Monitoring Group reserves
21 the right to make additional submissions once further
22 and enhanced disclosure is provided to all non-state
23 non-police core participants. For the moment, sir,
24 the group wishes, through me and Ms Gardner, for
25 the Inquiry to consider these additional points.

1 Firstly, Operation Herne's conclusions are based on
2 the apparent absence of records indicating direct
3 targeting of these campaigns. This is, in Mr Grover's
4 words, a flimsy argument. Herne is not only aware of
5 ad hoc processes of how records were kept, but how
6 limited they were. And their absence, therefore, does
7 not of itself prove that the campaigns were not directly
8 targeted.

9 Herne's conclusions are an attempt to hide
10 the extensive nature of covert operations against black
11 political and social groups, including justice
12 campaigns, that challenged the status quo and were, and
13 are, often viewed as "subversives". The group submits,
14 in reality and at operational level, Herne was aware of
15 the close and interchanging of relationships and
16 information between SDS and its parent
17 partners: Special Branch and MI5. But it chose to limit
18 its search, thereby presenting an incomplete picture.

19 That picture is one which is represented by an
20 extensive body of evidence, showing that the British
21 state took the politics of Black Power and activism
22 seriously, and took seriously the potential likelihood
23 of civil unrest. The state was worried about
24 the international impact of the explosion of race riots
25 in the US in the 60s, and believed the UK was also prone

1 to similar protests. And rather than deal with
2 the underlying causes of discrimination, the British
3 state began to carry out covert operations against black
4 organisations and activists.

5 For instance, during the summer of 1967,
6 Special Branch officers carried out covert operations at
7 Hyde Park in London against members of the Universal
8 Coloured People's Association, UCPA.

9 In 1968, Special Branch gathered evidence to support
10 the prosecution of UCPA and Black Panther movement
11 founder, Obi Egbuna, and fellow activists Peter Martin
12 and Gideon Dolo.

13 Special Branch also carried out covert operations on
14 a meeting organised by the Indian Workers' Association
15 (GB) who invited Malcolm X to the UK in '65.

16 None of these groups used violence but they were
17 clearly not collateral damage.

18 As predicted, civil unrest did explode in the UK,
19 but not as anticipated by the British state in
20 the 1960s. Although there were frequent race-related
21 public disturbances in the 70s, British inner cities and
22 towns finally exploded in 1981, and unfortunately for
23 the very reason that British intelligence had feared.
24 In fact, "racial disadvantage" is the very term that
25 Lord Scarman used in his inquiry into the Brixton

1 disorders to describe the key driver for the disorders.

2 He said this:

3 "The evidence which I have received, the effect of
4 which I have outlined ... leaves no doubt in my mind
5 that racial disadvantage is a fact of current British
6 life ... urgent action is needed if it is not to become
7 an endemic, ineradicable disease threatening the very
8 survival of our society ... racial disadvantage and its
9 nasty associate racial discrimination, have not yet been
10 eliminated. They poison minds and attitudes; they are,
11 as long as they remain, and will continue to be a potent
12 factor of unrest."

13 In reality, sir, the history of race relations in
14 the UK is littered with significant moments of public
15 disorders, going back at least a century, with the first
16 race riots as far back as 1919.

17 Unfortunately, Lord Scarman's warnings in 1981 were
18 not heeded by the British state. The reaction was
19 dramatic. It passed draconian legislation limiting
20 people's rights and implementing major changes in
21 the policing of citizens, targeting working class
22 communities, both black and white, and, according to
23 the Institute of Race Relations:

24 "Sir Kenneth Newman, the head of the Royal Ulster
25 Constabulary, had been drafted in to lead the

1 Metropolitan Police in 1982, with the specific purpose
2 of bringing the lessons of public order policing from
3 Belfast to the capital. He immediately introduced
4 'targeting', drawn directly from anti-terrorist
5 operations in Northern Ireland, under which police
6 resources were concentrated in black areas with
7 particular estates, clubs and meeting places regarded as
8 'symbolic locations', subjected to intense surveillance
9 and military-style operations."

10 One of these symbolic locations was Broadwater Farm
11 in Haringey. The other was Southall. And these were
12 amongst many at the time.

13 Given the context above, it is, at best, sir, naive
14 to suggest that there was never any discussion by
15 the leadership of the SDS to examine the threat posed by
16 public order disturbances and the emergence of black
17 activism in the UK.

18 Indeed, the basis of its very existence was
19 precisely to stem this form of apparent threat and
20 violence. There were dramatic changes to policing in
21 London after the 1981 events, fusing a more strategic
22 and political approach to contain public order in
23 mainland Britain. It not only led to changes in
24 legislation but also, for instance, very directly, to
25 the lives of black youth workers in Haringey and

1 Southall, who suddenly became the frontline in
2 a politically drawn boundary, with devastating
3 consequences for themselves and for policing in these
4 and other areas for decades.

5 In fact, sir, there are core participants in this
6 Inquiry directly because of Sir Kenneth Newman's legacy,
7 and certainly not and only because they are seen as
8 collateral intrusion.

9 It is critical for the Inquiry, sir, to understand
10 The Monitoring Group and some other core participants in
11 their category do not only work with families on their
12 campaigns. It was established with a very distinct aim
13 to hold state bodies to account, and its sustained
14 advocacy on policing made it, given the remit of the
15 SDS, vulnerable to covert operations beyond collateral
16 intrusion.

17 The Monitoring Group and Mr Grover illustrate
18 the point with a very clear example.

19 After the London bombings in 2005, Mr Grover and the
20 group began to work in Beeston, West Yorkshire. This
21 was the area where three of the four London bombers
22 lived, or had lived. In the first week Suresh Grover
23 was contacted by MI5 operatives on at least two
24 occasions, to dissuade him from working with what they
25 considered to be the suspect community, and discussing

1 legal representation for arbitrary arrests that were
2 taking place. The Monitoring Group and Mr Grover,
3 therefore, do not believe that its work was not
4 monitored and remained unshared with undercover police
5 officers. The group is therefore very concerned at
6 the Inquiry's failing to obtain and identify material
7 which is essential to Mr Grover's and the group's
8 involvement in these proceedings.

9 Mr Grover and the group also wish to express their
10 frustration at the manner in which the issues of racism
11 and sexism have been dismissed or made invisible by
12 the Inquiry.

13 Whenever the topic of racism has arisen, Mr Grover
14 and the group consider that you, sir, have demonstrated
15 extreme discomfort and stubbornness. This Inquiry needs
16 to acknowledge that the Stephen Lawrence Inquiry
17 definition of "institutional racism" was the culmination
18 of a lengthy and exhaustive judicial process, possibly
19 stretching over two decades as the subject was also
20 explored by Lord Scarman, as we've said, in his Inquiry.

21 Mr Grover believes it is simply not possible for
22 you, sir, to example the prevalence of any racial
23 prejudice or bias within the SDS and its adverse impact
24 on core participants and black communities if you're
25 unwilling at the very least to accept the definition and

1 start from that basis.

2 Sir William Macpherson was acutely aware of
3 the likely resistance to explore the problem of racism
4 and he gave this bit of advice:

5 "There must be an unequivocal acceptance of the
6 problem of institutional racism and its nature before it
7 can be addressed, as it needs to be, in full partnership
8 with members of minority ethnic communities."

9 A key question posed for this Inquiry is whether any
10 bias can be detected in any decisions, actions or
11 process involving covert operatives and their operations
12 that affected back core participants and communities
13 adversely.

14 The position is this, sir, currently, the Inquiry
15 possess little knowledge and few tools to examine this
16 issue in forensic detail or to learn lessons. At
17 the moment it's not clear whether the Inquiry will seek
18 to appoint internal advisers and there's a vague
19 indication that this may be done at the final stage of
20 the hearing schedules. That appointment of internal
21 advisers should have taken place before the hearing
22 stage, so that the forensic analysis that we talk of and
23 the scrutiny of the evidence can be examined
24 concurrently with a race lens. The decision not to
25 appoint special advisers was a fundamental mistake in

1 the group's view, and the group do not believe its
2 negative consequences can now be fully remedied.

3 Well, what are in fact the indicators to detect
4 racism in an organisation such as the SDS? As
5 a starting point, this Inquiry cannot dismiss
6 Sir William's conclusions or the framework he provided
7 to answer this fundamental question.

8 This Inquiry's capacity is, however, more
9 broad-ranging, and will examine 40 years of covert
10 operations of the secretive unit dictated by
11 a militarised structure. It was supposedly established
12 for a specific purpose of averting an internal violent
13 threat. Whether the threat was real, exaggeration or
14 false, this Inquiry cannot discount the fact that the
15 assessment and ongoing decisions are prone to bias and
16 subjective thinking.

17 Indeed, the Stephen Lawrence report accepted
18 the idea that widespread, unwitting prejudice can lead
19 to racially discriminating -- discriminatory practice.

20 Sir, recent findings of empirical psychology, which,
21 sir, I believe were referred to by Ms Kaufmann QC, about
22 implicit racial bias, provide a framework to better
23 understand the unwitting part of institutional racism.
24 And I deal with just one quote, if I may:

25 "Over the past decades, empirical psychology has

1 consistently shown that the workings of our minds are
2 not transparent to us, and that many of us harbour and
3 are influenced by implicit biases. Some kinds of bias,
4 such as implicit race biases, are particularly
5 troubling. Studies conducted by the psychologist
6 Patricia Devine show that people tend to have more
7 positive associations with white rather than black
8 people; other studies show that black male are more
9 readily associated with weapons; others that black males
10 are more strongly associated with danger and hostility
11 than are white males. These associations influence
12 behaviour, as the work of psychologists Jack Glaser and
13 Jennifer Eberhardt has shown. For instance, the findings
14 about implicit race bias indicate that individuals will
15 perceive as more hostile black individuals, and that
16 whites will behave with greater hostility in interracial
17 interactions. Individuals are more ready to identify an
18 ambiguous object as a dangerous weapon when in the hands
19 of a black male than a white male. More worrying yet, in
20 shooter simulations where participants in the study are
21 told to shoot only at individuals who are armed, it has
22 been found that individuals are more likely to make the
23 error of shooting an unarmed black male, and also to
24 shoot more quickly black, rather than white males."

25 And, sir, we've seen this in the killing of George

1 Floyd and many other predominantly unarmed black males
2 in the US by law enforcement. And this shows that these
3 findings have a great deal of substance and must be
4 heeded. They are in fact not surprising. We, all of
5 us, live in a society structured by racial injustice.
6 And it's no surprise if our minds bear the traces of
7 those social structures. One of the important
8 implications of this research is that it vindicates
9 the lived experience of individuals who are subject on
10 a daily basis to sometimes overt but at other times
11 subtle forms of discrimination.

12 Another important implication is that knowing more
13 about such discrimination, knowing about such
14 discrimination, how it operates, we and you, sir, are
15 better equipped to combat it.

16 And in order to understand it, sir, you should know,
17 if you do not already, that black people have been
18 subjected to centuries of slavery, decades of
19 second-class citizenship, widespread legalised
20 discrimination, economic persecution, educational
21 deprivation and cultural stigmatisation. In short,
22 black people have been bought, sold, killed, beaten,
23 raped, excluded, exploited, shamed and scorned for
24 a very long time. The word "racism" is hardly an
25 adequate description of the experience.

1 You should also note, sir, that racism does not
2 stand still, it changes shape, size, purpose and
3 function. It changes with the economy, social
4 structure, the system and, above all, the challenges and
5 the resistance to that system. And when discrimination
6 becomes institutionalised in the power structures of
7 society, then we're not dealing with -- we are dealing
8 not with prejudice but with power. And that power that
9 we talk about is derived from discriminatory laws,
10 constitutional conventions, judicial precedents,
11 institutional practices. All of which have the sanction
12 of the state and the blessing of society.

13 And if this Inquiry, sir, fails to consider racism
14 in this way, the recommendations it makes will
15 regrettably continue to facilitate and perpetuate
16 the very problem Mr Grover and the group are asking you
17 to eradicate.

18 In conclusion, sir, this Inquiry is confronted with
19 the difficult task of ensuring its findings and
20 recommendations are both relevant and implemented when
21 it concludes its work.

22 Firstly, it is examining the actions of a state
23 agency over a time span that will seem less relevant
24 when it finally publishes its work. Nearly two decades
25 will have passed, sir, since the apparent disbanding of

1 the SDS.

2 Secondly, the state parties, as usual, will attempt
3 to convince the Inquiry that its structures and outlook
4 have qualitatively changed, and that they have already
5 learned their lessons.

6 Regardless, the Inquiry has a legal duty to
7 scrutinise every claim they make, and act on the basis
8 that it believes unlawful acts have been committed.

9 And, thirdly, it will have to negotiate
10 the landmines dug by the government's Covert Human
11 Intelligence Bill, which has been referred to by others,
12 which will give -- which will have given vast powers to
13 the Security Services. The Bill in its current form
14 allows them to commit crimes. Not only in the interests
15 of national security, but also on the disconcertingly
16 vague grounds that they are "in the interests of
17 the economic wellbeing of the United Kingdom".

18 Sir, The Monitoring Group has participated as family
19 campaigners in three previous public inquiries. When
20 this Inquiry was announced in 2015, they encouraged
21 other individuals and groups to apply for
22 core participant status. Once they were granted
23 core participant status, they organised meetings and
24 conferences to galvanise interest in the Inquiry. They
25 even, sir, invited members of the Inquiry's legal team

1 to participate in the Q&A session at one of their
2 conferences, and they were grateful for their
3 attendance.

4 Once the preliminary hearing started, they,
5 the group, expected to be playing their part in a fair,
6 open and robust process. However, the Inquiry process
7 has been for them disappointing and damaging; and it's
8 damaging the credibility of the Inquiry.

9 Although five years have passed by, Mr Grover and
10 the group remain in complete darkness over disclosure of
11 the identity of the covert officers who spied on them.
12 Not a single shred of material has been provided to
13 them. They do not even know at which stage their
14 evidence will be heard, although they possess
15 accumulated knowledge and information spanning over
16 40 years, as we have already indicated.

17 Regrettably, sir, the Inquiry's difficulties are of
18 its own making. It acceded to state applications for
19 restriction orders when there was no reasonable reason
20 to do so. It allowed state parties to frustrate and
21 delay the process. And it has shown remarkable
22 reluctance to address the critical areas of racism and
23 sexism because, in reality, it sees them as marginal,
24 issues that are not worthy of its time. As
25 a consequence, it has discarded the group's positive

1 suggestions of recruiting specialist advisers to assist
2 the Inquiry.

3 In short, sir, the process has led to the creation
4 of an unequal playing field, in favour of those who
5 spied on the group.

6 However, the Inquiry exists because of the bravery
7 and tenacity of the core participants, especially
8 the Lawrence family and the targeted women. It has
9 substance because of the whistleblower who exposed
10 the skeletons in the first place, and journalists who
11 uncovered the horrors to the public. Its conviction
12 derives from the unshakeable spirit of protesters --
13 black and white, women and men -- who dared to dream for
14 a better world. That dream will live on regardless of
15 the conclusions of this Inquiry.

16 Those are our submissions and opening statement on
17 behalf of Mr Grover and The Monitoring Group.

18 Thank you very much.

19 THE CHAIRMAN: Thank you very much, Mr Khan. You've
20 finished, as it happens, five minutes early, for which
21 I am grateful.

22 MR KHAN: Thank you very much.

23 THE CHAIRMAN: We'll resume in a quarter of an hour's time,
24 please, at 3.40.

25 Thank you.

1 MS PURSER: Thank you, everyone. We will now take a break
2 and be back at 3.40.

3 (3.25 pm)

4 (A short break)

5 (3.40 pm)

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

8 Chairman.

9 THE CHAIRMAN: Thank you.

10 Mr Weatherby, now is your turn to make an opening
11 statement.

12 Opening statement by MR WEATHERBY

13 MR WEATHERBY: Many thanks.

14 I represent 18 individual and organisational
15 core participants, including community, social justice
16 and campaigning groups. I'm assisted by Blinne
17 Knee-Grawl-ee of counsel, instructed by Lydia Dagostino
18 of Kelly's solicitors, Helen Stone of Hickman & Rose
19 solicitors, Harriet Wistrich and Kate Thomas of
20 Birnberg solicitors, Guy Mitchell and Cormack McDonough
21 of Hodge Jones Allen solicitors and Matt Foot of
22 Birnberg Peirce solicitors.

23 Sir, I've provided what I hope to be a verbatim note
24 of what I'm going to say this afternoon. I have a lot
25 of clients and therefore a lot of content. So I hope

1 that will allow me to go slightly swifter than I might
2 otherwise, and I will try my utmost to keep within my
3 allotted time.

4 I'm going to start by playing part of a YouTube
5 video of EN34, otherwise known by the pseudonym
6 "Lynn Watson". In the video, she is in costume waving
7 a feather duster, mock military marching, and generally
8 clowning around, including at an army recruitment centre
9 in Leeds. The full video is on the internet. She had
10 infiltrated the Clandestine Insurgent Rebel Clown Army,
11 which I will refer to as CIRCA, which trained her as
12 a clown.

13 She also infiltrated a series of other peace and
14 environmental campaigns over a period of around five
15 years.

16 She befriended and tricked countless individuals
17 during that time. She participated in countless
18 demonstrations of the type you're going to watch. She
19 even got herself named as one of the founding trustees
20 of the social centre, The Common Place, in Leeds.

21 Can we now play please {DOC025}, and I've provided
22 the two short passages to the technicians that I want
23 played

24 (Video evidence played to the court)

25 I think we're now going to play 3 minutes 25,

1 please.

2 (Video evidence played to the court)

3 Thank you. Can we cut it there?

4 How on earth was that considered legitimate
5 policing?

6 I'm now going to show you a photo of HN118,
7 otherwise known by the pseudonym "Simon Wellings", in an
8 orange cardboard copy of an army tank which he had made
9 whilst infiltrating Globalise Resistance, an anti-war,
10 anti-capitalist network. The photograph shows Mr HN118
11 Wellings in his tank, deployed at an anti-arms trade
12 protest. How is that legitimate policing? You can see
13 Mr Wellings on the left. {DOC024/1}.

14 Thank you, can we take that down.

15 The absurdity of investing massive resources into
16 infiltrating a clown army and groups which oppose wars
17 and the arms trade is well illustrated by these images.
18 This is what the debacle of the last 50 years of
19 undercover political policing looks like. It goes from
20 the farcical yet deeply damaging involvement of
21 the state in activist organisations and campaigning to
22 the outrage of the deceitful relationships of trust
23 formed with our CPs, their children their families and
24 friends, and to the abusive intimate liaisons which have
25 been the subject of submissions by others, and which

1 have been profoundly devastating for those involved.

2 This is what millions of pounds of money, diverted
3 from budgets that could have been allocated to
4 the police to protect our communities, or that could
5 have been allocated to other public budgets, to the NHS,
6 to schools, to libraries, or to the arts, was misspent
7 on. And it was misspent over the course of decades and
8 decades of state-sanctioned clandestine activities by
9 the police, monitoring justice campaigns, anti-racism,
10 anti-police violence groups, environmental campaigns,
11 community and solidarity networks, animal rights groups,
12 and the political activism of rebel clowns, musicians,
13 artists, campaigners and others, the vast majority of
14 them, all but three, it currently seems, on
15 the political left.

16 If you think by showing these images I'm making
17 a lighthearted point, you couldn't be further from
18 the truth. There is nothing funny to see here.
19 A policing operation of the nature, type and extent here
20 under inquiry is anything but funny. It's profoundly
21 sinister and an affront not just to the basic
22 fundamental rights of those I represent, but to
23 democracy itself.

24 More than five years since this Inquiry was
25 established, none of the 18 groups and individuals

1 I represent have had any meaningful disclosure. And as
2 I understand it, none of the sections of this Inquiry
3 which deal with them are due to start until 2022 at
4 the earliest.

5 Whilst the rights of Ms EN34 Watson and Mr HN118
6 Wellings are protected by restriction orders, the rights
7 of those I represent, of Jennifer Verson, the CIRCA
8 instructor who trained Ms EN34 to be a clown, and the
9 rights of Guy Taylor, the organiser of
10 Globalise Resistance, which Mr HN118 infiltrated, are
11 treated as secondary, and they're being made by
12 the Inquiry to wait and to wait.

13 So, too, the Newham Monitoring Project is being
14 made to wait. They were a group which was apparently
15 subject to undercover policing for some or all of its
16 30-year history, commencing in 1980. They have not been
17 told when the undercover policing activity aimed at them
18 began or ended and what it consisting of.

19 And the other CPs I represent are also being made to
20 wait. They are an array of anti-war, anti-arms trade,
21 environmental, anti-hunt, social justice and Palestinian
22 rights activists. Some of them know some of the detail
23 of their surveillance and infiltrations because they
24 exposed the undercover activities themselves.

25 But, generally, they remain in the dark, without

1 even a summary from the Inquiry of the activities
2 targeted at them. The lack of transparency in this
3 Inquiry process and the enormous delay has undermined
4 its workings and sapped the trust of non-state
5 core participants, and ultimately risks undermining
6 the entirety of the Inquiry if not revisited and
7 addressed. To maintain its credibility, this Inquiry
8 needs to do better.

9 As the Inquiry embarks on its first evidence
10 hearings, the feed that anyone with a computer can see
11 me through is to be switched off. And you've ruled that
12 in-person access to the Inquiry will be limited to CPs
13 who are able to attend in the current circumstances.
14 Provision for the majority, who plainly cannot attend,
15 and the general public is limited to a delayed
16 transcript.

17 Other inquiries have broadcast their public
18 hearings. A fact not lost on many of our clients, who
19 are further excluded and alienated from this process as
20 a result. It is astonishing that five years in, we
21 should need to raise the fact that our CPs have not even
22 been informed of the basic facts about the undercover
23 operations targeted at them.

24 At the stage at which Rule 11 of the Inquiry rules
25 requires CPs to make opening statements, their ability

1 to do so here has been substantially diminished by
2 the failure to provide them with even basic facts or
3 disclosure.

4 In endorsing provisions for opening statements in
5 public inquiries, did Parliament ever envisage that CPs
6 would have had to make them blind, with little or no
7 disclosure to make them meaningful? Of course not.

8 In this case, the imbalance between state and
9 non-state CPs is palpable. The state CPs of course have
10 the material and the information, but largely they have
11 chosen not to address you on it. The non-state CPs have
12 little disclosure, and very much want to take advantage
13 of this, their main opportunity to influence
14 the direction of the Inquiry.

15 Again, was this how Parliament envisaged Rule 11
16 would work? Of course not. This is the very reverse of
17 how a healthy public inquiry should be. The axiomatic
18 mission of public authorities must be to act in
19 the public interest. That should compel the state CPs
20 to provide a clear narrative, a roadmap if you will,
21 a chronology of the undercover operations which are
22 the subject of this process through their opening
23 statements, but in large part they chose not to.

24 That an inquiry established to shed light on
25 the secretive undercover activities of the police

1 against ordinary citizens should itself perpetuate
2 secrecy and obfuscation is beyond irony. Secrecy and
3 obfuscation not only fundamentally undermine trust and
4 confidence, they also promote failure.

5 As many of those before me have said, rather than
6 seeking to sideline non-state CPs or to keep them
7 uninformed, this Inquiry should embrace their knowledge
8 and actively seek out their assistance. Without them,
9 how can there be any real scrutiny of the material
10 produced by the state? Without the full and effective
11 participation of non-state CPs, how can the Inquiry hope
12 to ensure a thorough investigation of the matters in
13 question? Without their input, the Inquiry is
14 necessarily starting from the premise that reports,
15 notes, contact sheets, assessments and other information
16 produced by UCOs and their managers are truthful,
17 correct and reliable.

18 If that is the approach taken, there can be little
19 possibility of the Inquiry getting to the truth of
20 the matters in question.

21 There can also be no possibility of ensuring
22 the confidence of those directly affected or of
23 the general public. The DNA of a public inquiry
24 includes independence and rigorous scrutiny, not
25 deference to a state narrative, particularly one that

1 has shown itself so hellbent on secrecy, on distortion
2 and on covering up its wrongdoing, as those who have
3 spoken before me have clearly illustrated.

4 In 2019, non-state CPs made substantial joint
5 procedural submissions to you. They were rejected
6 without oral argument almost in their entirety. Some of
7 those points have been raised by others who have gone
8 before me, and I want to concentrate on one
9 aspect, position statements.

10 We asked you in 2019, and we have continued to ask
11 you, to require the state CPs to provide position
12 statements to set out their stall at the outset of
13 the evidence hearings of this Inquiry, to say what they
14 consider to have been justified or not, to hold their
15 hands up to what went wrong, perhaps even to apologise
16 to those unjustifiably targeted. And you rejected that
17 application.

18 As you're well aware, the Inquiry process empowers
19 the chair to require production of documents to
20 the Inquiry, and requires the chair to maximise openness
21 and disclosure consequent to section 18 of
22 the Inquiries Act. The inquiry process is also flexible
23 and allows for wide-ranging case management measures.
24 Moreover, the law requires public authorities to act in
25 the public interest and with candour.

1 In recent years there's been a clamour from victims
2 of injustice for these requirements to be codified into
3 law, supported by a recent report published by the law
4 reform group Justice, whose working group on inquiries
5 included three former High Court judges with substantial
6 experience in this area. Indeed, some of the advocates
7 involved in this case.

8 The recommendations of the Justice Report includes
9 support for provisions which would require position
10 statements.

11 Moreover, even without such codification, very much
12 in line with those recommendations, the chairs of other
13 current inquiries, including Grenfell and
14 Manchester Arena, have called on public authority and
15 corporate CPs to produce position statements for those
16 inquiries. Not only that, the chairs have been
17 prescriptive in doing so, providing schedules of issues
18 to be addressed. In particular, the state and corporate
19 CPs have been required to set out three things:
20 a narrative of the facts involving them,
21 a self-assessment of their own performance, and what
22 lessons have been learned.

23 In his opening statement last Tuesday, counsel for
24 the Metropolitan Police asserted -- and I quote:

25 "The MPS will assist the Inquiry in every way it

1 can."

2 However, he also said that he would only address
3 the facts in his closing statement, several years hence.

4 What part of acting in the public interest
5 or "assisting the Inquiry in every way it can" is
6 the Met honouring by saying that they will comment on
7 the evidence only at the very end?

8 Acting in the public interest is not putting
9 the Inquiry to proof. A failure to address the facts
10 and issues until the end is not assisting the Inquiry in
11 every way it can. It only serves one purpose:
12 the defence of the Met.

13 In the five years we've been awaiting the start of
14 evidence, the Met has obviously examined its own
15 behaviour, and it should obviously provide a roadmap for
16 the Inquiry, including admitting what it accepts was
17 wrongdoing.

18 In the case of Hoareau, in other public law
19 proceedings, Lord Justice Singh likened public
20 authorities failing to help the court understand
21 the materials and issues before it as leaving it to look
22 for a needle a haystack. You, like other Inquiries,
23 have the tools to require the assistance of the Met and
24 other public authorities.

25 As a starter, imagine how useful to the Inquiry and

1 all CPs a schedule from the Met and other relevant
2 authorities would be, setting out a chronology of all of
3 the undercover operations which fall within the terms of
4 reference of this Inquiry, with a summary of why they
5 were undertaken, who was targeted and which
6 undercover officers and managers were involved, and
7 whether the Met now says they were justified or not,
8 what focus that would provide, what potential savings in
9 time and resources.

10 Last Tuesday, in particular, we saw the effect of
11 there being no position statements in this case. At the
12 end of the MPS opening, you directly asked for answers
13 to a number of straightforward and fundamental
14 questions. You will need no reminding but others might.
15 Your questions were as follows:

16 "My inference from your opening remarks is that the
17 Metropolitan Police, and police generally, no longer
18 regard it as part of their task to assist the Security
19 Service with counter subversion.

20 "Further, they no longer regard it as part of their
21 task to infiltrate groups which the majority of people
22 would regard as politically extreme.

23 "And thirdly, they do not regard it as part of their
24 task to infiltrate, generally, nowadays, single issue
25 campaigns which do pose a risk of disruption but not of

1 serious disorder of the kind that we heard about in
2 1968."

3 You asked the Met to confirm if your inferences were
4 correct; and if so, to confirm when that view was
5 formed, by whom and for what reason. These were matters
6 which you underscored you would quite like to know, with
7 a degree of understatement.

8 Counsel for the police responded by saying -- I
9 quote:

10 "It was not [his] intention in the written opening
11 or the oral opening to imply anything about the scope of
12 the MPS's present undercover work. And I hope that
13 answers your first questions."

14 Of course, that did not answer your questions at
15 all. Neither you, nor the CPs, nor the general public
16 are any the wiser. Indeed, you commented as such asking
17 the Met to provide answers. When are we to see them?

18 That exchange lays bear the MPS's commitment to
19 assisting the Inquiry -- and I requote -- "in every way
20 it can". How is it helping the Inquiry in every way it
21 can by not setting out its stall now? How is it helping
22 the Inquiry in every way it can to only comment on
23 evidence once it has all come out, at the very end of
24 the process, whichever year that might be, when it is
25 constrained to do so? The irony of the MPS putting

1 the Inquiry to proof, as I say, should not be lost on
2 you. The contradiction of these two statements, made
3 without drawing breath between them, shows
4 the swaggering arrogance of an institution which cannot
5 see beyond its own interests. It is the cynical reply
6 of a public body that is hopelessly, institutionally
7 defensive. It's the reply of a state body that is
8 putting the protection of its own reputation over its
9 duty to act in the public interest. Why should any
10 public authority consider it a problem at the outset of
11 a public inquiry to set out its version of what
12 happened, what it did right, what it did wrong, and what
13 lessons have been learned? Candour is the oxygen of
14 justice, secrecy promotes failure and undermines
15 the Rule of Law itself.

16 Faced with the Metropolitan Police's response
17 the Inquiry has two choices: to back off and continue to
18 allow the Metropolitan Police to sit on its hands and to
19 see what it can get away with, or do what it
20 was ostensibly established to do: independently and
21 robustly scrutinise state wrongdoing.

22 Given the drawing of a line in the sand by
23 the MPS -- to assert that its committed to the Inquiry
24 and then failing to answer its most basic questions --
25 now is the time for you to revisit the approach. We

1 urge you once again to look at how valuable position
2 statements have proved in other processes and to require
3 them here. It's not just you who would quite like
4 a response to those questions and many others. Our CPs
5 want them. The general public wants them. They're
6 entitled to them. The continuing delay is
7 unconscionable.

8 Swathes of time, huge distress to those involved,
9 and large amounts of public money can be saved if you
10 require the public authorities, the state CPs, to tell
11 you -- and us -- what exactly is in issue in this
12 Inquiry. Which operations are they going to defend, and
13 which are they going to accept were illegitimate and
14 unacceptable? What has changed now and why? And
15 following this common sense approach, the Inquiry will
16 not only significantly assist its own processes and
17 progress, it will also have a chance of gaining
18 a valuable commodity: the confidence of non-state CPs.

19 The MPS has been forced to acknowledge the deceitful
20 sexual relationships and encounters which have now been
21 brought to light, due to the bravery and tenacity of
22 the women involved, should not have happened. You've
23 heard eloquently from others about the shameful
24 suggestions made by officer CPs in opening that those
25 relationships are somehow not to be "pre-judged". In

1 the five years since this Inquiry was established,
2 the MPS has undoubtedly investigated for themselves
3 the extent of those deceitful relationships and
4 liaisons. Why is it so difficult for the MPS to come
5 clean about this and its extent? Why will the state CPs
6 not shine a full and clear light on these practices?
7 Why will the Inquiry not require them to do so?

8 The MPS has indicated that they accept that
9 the inquiry will conclude some undercover deployments
10 were not "justifiable". It's difficult to imagine
11 a concession of that type if the MPS had not already
12 reached the same conclusion itself. If so, it should
13 say as much, with respect to each relevant deployment.
14 If not, let to make its case. Let it explain to
15 the public why the mass infiltration of campaigning
16 political groups over 50 years was justified. Let it
17 explain why it was necessary to infiltrate a clown
18 movement. Let it provide its justification for
19 the infiltration of a samba band. You may not agree
20 with their analysis, you may add substantially to their
21 list, but it must surely be the correct starting point
22 for the police to state what its position is concerning
23 the detail of what has come to light to date, to state
24 what lessons it has learned, what it has undertaken
25 never to do again, lest our CPs and the general public

1 be led to the conclusion that it has in fact learned
2 nothing.

3 The extent to which the SDS was really formed was
4 a consequence of what happened at the March '68
5 demonstration, as seems to be claimed, is for those more
6 closely connected to those events to deconstruct.
7 However, any pretence that political policing started
8 with, and in reaction to an event in 1968 would be
9 completely wrong. Even the term "political policing" is
10 controversial because in this jurisdiction it is often
11 asserted that the police are neutral and stand aside
12 from politics and influence. Political policing happens
13 elsewhere, or so is the pretence, laid bare here.

14 This Inquiry must not elide the ordinary policing of
15 criminality with the policing of community or social
16 justice groups. There is a stark difference because
17 the mass infiltration of the groups and the widespread
18 interference with private lives and personal autonomy
19 that has come light in this Inquiry involves
20 a substantial interference with the democratic
21 discourse. The substantial violations of civil and
22 political rights and the individual human rights of
23 those involved are the same as we see in authoritarian
24 regimes around the world, in principle at least. It
25 seems the State core participants want to pretend

1 otherwise and want to suggest that, with a few
2 exceptions, the undercover policing operations were
3 somehow justified, or somehow proportionate to
4 a legitimate aim. The Inquiry should remind itself of
5 the rhetoric of repressive regimes around the world
6 which seek to silence political voices which challenge
7 the official narrative while pretending to respect
8 international human rights norms, including freedom of
9 expression and assembly and respect for personal
10 autonomy.

11 The SDS was not a novel phenomenon. As you've
12 heard, political policing in this jurisdiction has
13 a long and ignominious history. In Peter Francis'
14 written opening, his counsel comments -- and I quote:

15 "It beggars belief that the Women's Liberation
16 Movement or Croydon Libertarians would ever have been
17 thought to pose a serious threat to society."

18 This is of course a reference to the recently
19 disclosed revelation in Annual Reports that these and
20 many more were spied upon by the SDS in the early 70s.
21 I would like to agree, but in fact it does not beggar
22 belief. It is well documented that the police
23 infiltrated suffragette groups in the early 1990s and
24 other civil society groups, including even a campaign to
25 legitimise children of unmarried parents, amongst many

1 others.

2 Would those who attempt to justify infiltration of
3 organisations involved in this Inquiry also seek to
4 justify state infiltration of the suffragettes? Was
5 the destruction and attempted suppression of
6 the campaign for women's right to vote, a legitimate aim
7 justifying infiltration?

8 Would the police now seek to justify
9 the infiltration of anti-slavery campaigns in the 19th
10 century? Or other suffrage campaigns from Peterloo to
11 the Chartists? Why then are contemporary anti-war,
12 anti-racist, anti-globalisation, anti-hunting and
13 environmental, community and justice campaigns any
14 different? Why are those who demonstrate for nuclear
15 disarmament, against fracking, road building and
16 hospital closures fair game?

17 A cursory glance at history demonstrates that it's
18 the dissenters, campaigners and activists who are
19 frequently the drivers of progressive social change.
20 Slavery was abolished as a consequence of mass
21 campaigns, building upon and amplifying slave revolts;
22 democratic rights to vote were established by successive
23 social movements for Peterloo to the Chartists; women's
24 rights have been hard won by successive women's
25 movements, including the suffragettes.

1 The problem with any justification of infiltration
2 of campaign and community groups is that the state is
3 using policing as a means to undermine dissent.
4 The example of the suffragettes is a good one because
5 no one would now argue that the struggle for the rights
6 of women to vote was not justified and on the right side
7 of history. Protest and radical dissent has always
8 involved friction with the state. Official opposition
9 to such basic rights made that struggle protracted, and
10 something like a thousand suffragettes were jailed for
11 civil disobedience and direct action. Campaigning,
12 activist, and community justice organisations exist in
13 the space which should be reserved for democratic
14 discourse, not state suppression by methods used in
15 countries which criminalise opposition and drive out
16 ideas which challenge the status quo. The suffragettes
17 and the slavery abolitionists of the past were on
18 the right side of history, and so are those who oppose
19 racism, oppose fox hunting and oppose immoral or illegal
20 wars in the present.

21 The campaigning of the Hunt Saboteurs Association
22 has been vindicated by the ban on hunting with dogs in
23 the Hunting Act 2004. The institutional racism of
24 the police, which the Newham Monitoring Project
25 identified and campaigned against, is now broadly

1 recognised, though, as this Inquiry illustrates, it
2 remains as entrenched as ever. Three of
3 the core participants we represent have campaigned
4 against violations of international law in Palestine,
5 their concern vindicated by the assessment of the Chief
6 Prosecutor of the International Criminal Court that in
7 her view there is evidence that war crimes have been
8 committed. Global warming and the disappearance of
9 the ice caps are a constant reminder of the urgency
10 urged by the environmental movement.

11 Civil and political rights are not there to protect
12 those who concur with established narratives and
13 the status quo. They're not needed for that. They're
14 a bulwark against authoritarianism. Those who represent
15 the former UCOs accept that there is a right to protest
16 but only so far as it does not cause disruption to
17 others. That is a misstatement of both common law and
18 Convention rights. The fact that protests may cause
19 inconvenience or cause offence does not mean they can be
20 suppressed; that is the stuff of police states. In
21 the 2009 Court of Appeal case of *Tabernacle*
22 *v the Secretary of State for Defence*, Lord Justice Laws
23 asserted -- and I quote:

24 "Rights worth having are unruly things.
25 Demonstrations and protests are liable to be a nuisance.

1 They are liable to be inconvenient and tiresome, or at
2 least perceived as such by others who are out of
3 sympathy with them."

4 The Court of Human Rights held similarly in *Faber v*
5 *Hungary*. Freedom of expression protest rights can only
6 be restricted in strictly circumscribed circumstances
7 and on the basis of proportionality.

8 Counsel for the former officers further misstates
9 the law by suggesting that -- and I quote:

10 "There is certainly no right to arrange or
11 participate in public events without the police knowing
12 and without the police being on hand to maintain public
13 order."

14 The government's own website on notifying the police
15 of protests states in terms that -- and again I quote:

16 "If there is no march organised as part of your
17 protest, you do not have to tell the police."

18 Citizens don't need the permission of the police to
19 protest.

20 Furthermore, those representing the former officers
21 seek to justify their deployments by asserting that many
22 of the groups targeted were "totalitarian" and wanted to
23 suppress the views of others. This point has been
24 addressed by others, but they should perhaps look closer
25 to home and examine their own activities in that

1 respect, and they should ponder whether the NMP, for
2 example, were being totalitarian in wanting to call out
3 institutional police racism, or to protect their
4 community from racist attack, or whether indeed
5 the views of any of the groups I represent and will
6 speak about in a moment could sensibly be termed
7 "totalitarian". Their lawyers assert -- and I quote --
8 "The police must remain neutral", and they go on to
9 state that the job of the police in a liberal democracy
10 does not involve favour according to political
11 viewpoint. Perhaps they would like to reflect the fact
12 that their operations were almost exclusively targeted
13 against social justice, community and left wing
14 activists.

15 It is not for any limb of the state to insert itself
16 into, curtail or spy on political and social justice
17 activists, or to seek to determine who is a "good" or
18 a "bad" dissenter, on the basis of political viewpoint.
19 It is not for the state to insert itself into
20 the minutiae of people's lives because they disagree
21 with government policy or campaign to change the law or
22 for a better society.

23 This is not a radical manifesto, it is a restatement
24 of the principles asserted by Lord Hoffmann in
25 the leading case of Jones, as set out in our written

1 statement at paragraph 33. Lord Hoffmann recognised
2 that political activism, campaigning and civil
3 disobedience was not only to be tolerated in this
4 society but it should be recognised positively -- and
5 I quote:

6 "Civil disobedience on conscientious grounds has
7 a long and honourable history in this country."

8 He went on to recognise that history sometimes
9 vindicated such activism and that there were what he
10 expressly described as "conventions" on both sides:
11 "protesters behave with a sense of proportion" and
12 "police and prosecutors on, on the other hand, behave
13 with restraint". What restraint has the police shown in
14 its mass infiltration of individuals and organisations
15 involved in the activism of the type you have heard? Of
16 justice campaigns? Environmental campaigns? Anti-war
17 campaigns? Proponents for peace? Anti-racists? Those
18 advocating for animal rights? Those advocating for
19 the upholding of international law against
20 the commission of war crimes?

21 As I take you through the CPs I represent I urge you
22 to keep Lord Hoffmann's words in mind.

23 I start with the Newham Monitoring Project.
24 The NMP was a well known community group established by
25 black community activists and white anti-racists in

1 East London as a resource within the community to fight
2 racism including racism, including racism perpetrated by
3 the police. It came into existence in 1980 and operated
4 for three decades. It was rooted in earlier community
5 campaigns but it was a racist murder -- or in fact
6 the failure of the police to properly react to
7 the murder of a local teenager Akhtar Ali Baig -- which
8 was a driver to a coordinated local group.

9 At annex 1 to our written opening you can see an
10 exposition of the formation and development of the NMP,
11 from coordinating role to reporting on and campaigning
12 against police harassment of black communities in
13 East London. The evolution of the NMP was to see it
14 supporting and running campaigns on the one hand and
15 case work on the other, taking up individual complaints
16 with the police and other public authorities. In their
17 own words at paragraph 3 of the annex to our written
18 statement, I quote:

19 "For NMP the term 'black' was a colour of
20 resistance; it included African, Caribbean, Asian and
21 all other 'people of colour' in a political sense. Our
22 enemy because a political enemy which oppressed across
23 black communities. We recognised the nature of that
24 enemy and the need for unity in combatting it. Whilst
25 we did not ignore the cultural differences with which

1 these days increasingly appear to divide the community,
2 we rejected the way ethnicity was used to marginalise
3 our communities.

4 "In its very earliest incarnation NMP spas purely to
5 be a resource for the community through which to collate
6 and disseminate information about the scale of racist
7 violence in Newham. This limited role was quickly
8 overtaken by the political reality of racist violence.
9 Racism and racist violence are politicising phenomena.
10 Those who experience them are not passive recipients of
11 the violence and the hatred. The experience
12 radicalisation and politicises.

13 "That politicalisation led inexorably to the work of
14 NMP taking on a more directly political character.
15 NMP's analysis concentrated on the necessity of
16 understanding racism through its essential relationship
17 to class, with community self-organisation at the heart
18 of its way of working."

19 The evolution of the NPP also saw its organisation
20 and governance develop. Funding for a paid worker and
21 premises were obtained from the GLC. With abolition in
22 1986, a local community successfully campaigned for
23 Newham Council to take over its funding, which continued
24 for another decade. It had four paid workers and dozens
25 of volunteers and a reputation which went far beyond

1 Newham. This work centred firstly on racist violence
2 around the home, with persistent failures by the police
3 and other authorities to act or protect vulnerable
4 victims, and the criminalisation of those who organised
5 to protect communities. Is it that the police will say
6 justified infiltration? We don't know because they have
7 chosen to say nothing so far.

8 Secondly, the project countered organised fascist
9 attacks and less organised casual racist violence from
10 white football gangs. And thirdly, NMP encountered
11 police violence and racism including stop and search and
12 the replacement of "sus" laws by low level public order
13 prosecutions. Did the fact that the NMP was challenging
14 the police for wrongdoing lead to them being
15 infiltrated, directly or otherwise?

16 The NMP articulated, exposed and fought against
17 institutional racism within the police and other public
18 authorities long before the Macpherson Inquiry, exposing
19 existing local authority anti-racist policies to be
20 a sham, and confronting the conspiracy of silence within
21 the police as to the reporting of racist violence or
22 corruption by their colleagues. Is the fact that they
23 were a black community organisation calling out police
24 racism towards black people what made them fair game for
25 surveillance?

1 And what was the need for any covert
2 infiltration: they were funded by the state. With that
3 state funding, and owing to their own culture of
4 openness with their own community, there was robust
5 governance and reporting. Places on the management
6 committee were reserved for local councillors.
7 Substantial "Annual Reports" were published, commending
8 NMP's work and exposing the challenges facing the local
9 black communities from individual attacks and
10 institutional racism. All these reports are publicly
11 available and will be exhibited to the NMP's evidence,
12 when it is eventually requested.

13 The reports are significant because they were not
14 only published, but a copy was sent to the police
15 themselves, the local Newham Commander. If the police
16 had discharged their disclosure responsibilities to
17 the Inquiry, they should have already been provided
18 the Annual Reports, because of course these will be
19 relevant to any explanation put up for undercover
20 abrasions directed at the time NMP.

21 The NMP's section of our opening highlights not only
22 their disgust at being subject to undercover policing
23 operations but also their deep frustration at the lack
24 of disclosure to them in this process to date.
25 The targeting of the NMP rather illustrates the central

1 reason for their existence: institutional and overt
2 racism by the police. Were they targeted because they
3 were a black activist organisation? There is a strong
4 inference that they were.

5 What would proper disclosure discover? Would it
6 show that undercover activity directed at NMP was also
7 an attempt to work through NMP to infiltrate other
8 groups, other justice campaigns seeking accountability
9 from the police and from the state? NMP rightly pose
10 the question, was the very state racism they were
11 countering the real reason for the undercover policing
12 deployed against them?

13 The justice campaigns that NMP were connected with
14 include many with which the Inquiry will be well
15 familiar as they are themselves individually represented
16 before it: the Stephen Lawrence Campaign,
17 the Jean Charles de Menezes campaign, the United
18 Families and Friends campaign of those who have died in
19 custody, and many others. NMP was essentially
20 a collective giving support to a broad spectrum of
21 community social justice campaigns across the borough
22 and beyond, including organisations such as the Newham
23 Asian Women's Project.

24 As NMP themselves assert in their annex to
25 the written opening:

1 "This is the organisation which the state determined
2 should be targeted by paid undercover police officers.
3 To do what? For what purpose?"

4 Those are the questions to which NMP seeks an
5 answer.

6 Paragraph 21 of their annex itself posits one
7 answer. The NMP says -- and I quote:

8 "Of course, the local police disliked -- perhaps
9 even hated -- the NMP. The cosy narrative of 'Dixon of
10 Dock Green' style policing, together with its younger
11 cousin 'community policing', were repeatedly exposed as
12 untrue and at odds with the experiences of black
13 communities that often felt under occupation. There
14 were repeated examples of Newham police officers
15 unmasked as racists and thugs. The nature of policing
16 in black communities is still a deeply contentious
17 issue. There is at least a debate on the issue. In
18 the 1980s and early 1990s, the lack of police
19 accountability was extraordinary and incidences of
20 police violence routine."

21 These are issues that pertain to the past, in
22 the sense that the NMP itself no longer exists. They
23 are issues that are just as pressing in the present.
24 The Black Lives Matter movement of the 21st century
25 shows that the structural issues at the heart of

1 the NMP's work have not gone away, how much of that is
2 due to the state's approach in spying on, impeding and
3 undermining the work of those like NMP who would seek to
4 call out, counter and prevent that racism, rather than
5 rooting out those responsible within the own ranks?

6 I'll return to the NMP later regarding the process,
7 but before I do, I'll address the other individuals and
8 groups.

9 I've already referenced fox hunting. The Hunt
10 Saboteurs Association is an organisation with deep roots
11 in this country and which has campaigned against blood
12 sports since 1963. It's done so primarily through
13 campaigning and by disrupting hunts, through tactics
14 such as the laying of false trails for dogs. Its
15 central campaign was vindicated by the Hunting Act 2004
16 which banned the hunting of wild mammals with dogs,
17 although its work has continued because of widespread
18 flouting of the ban, and its opposition to other blood
19 sports and mass killings of animals, including
20 the badger cull. Given the lack of disclosure with
21 respect to the hunt saboteurs, it remains unclear as to
22 why the HSA was targeted for undercover policing
23 operations and infiltration. Was it because of
24 political pressure given the quintessentially
25 establishment nature of fox hunting and the status of

1 the people and estates who support it? Or was it
2 because the police sought to conflate the disruption of
3 hunts with false trails or distracting the dogs with
4 confusing horn calls -- civil disobedience in
5 Lord Hoffmann's terms -- with violence extremism?

6 How does the fact of infiltration sit with the long
7 history of the serious violence meted out to those
8 opposed to hunting by supporters? This has included
9 serious campaigns of harassment, targeting anti-hunt
10 activists in their homes, and physical attacks,
11 including one which left an activist in intensive care.
12 And yet there's been little or no police action taken or
13 prosecutions of the hunt supporters responsible.
14 The partial approach by police officers, and indeed
15 their own violence towards anti-hunt activists, is
16 flagged by one of their own undercover officers in
17 the Tradecraft Manual itself at paragraph 7.3.6., in
18 a paragraph that has been read out already but which
19 bears repeating -- and I quote:

20 "Another strange effect of my tour has been the slow
21 development of my low opinion of uniformed police
22 dealing with animal rights protests. I suppose that
23 officers in all fields come across police officers who
24 regard political protesters with contempt but their lack
25 of sensitivity and occasional violent reaction to one as

1 an animal rights activist is often out of proportion to
2 your behaviour."

3 The Inquiry has confirmed that no fewer than nine
4 undercover officers infiltrated groups over a 19-year
5 period from 1983. What about before and after what
6 date? Having regard to what is now known of the nature
7 and extent of undercover policing, the HSA doubts that
8 they've been spared the attentions of the police before
9 1983 or after 2002 and they seek further information and
10 disclosure of other such activity before and after that
11 period.

12 It's plain that the central issue upon which
13 the Hunt Saboteurs Association has campaigned has long
14 since had mainstream popular support, which ultimately
15 culminated in a change in the law. It is equally plain
16 that the tactics deployed by the hunt saboteurs were
17 either entirely lawful or at most came within the ambit
18 of civil disobedience. The targeting of
19 the hunt saboteurs cannot be justified on any principled
20 or proportionality basis, so why has such persistent
21 effort and such substantial resources been deployed in
22 their regard? Was it to interrupt and derail their
23 efforts, the legitimacy of which is underlined by
24 the change in the law? Was it because they were
25 perceived as an easy gateway to other groups and

1 individuals, and if so, how could that be justified or
2 any basis?

3 The use of undercover policing against
4 the hunt saboteurs raises other issues too concerning
5 miscarriages of justice. In some known circumstances,
6 information provided by an undercover officer appears to
7 have led to the arrests of hunt saboteur supporters. In
8 others, violence against anti-hunt activists was not
9 prevented by undercover officers, nor did their
10 involvement ensure the prosecution of those responsible.
11 Were undercover officers told to look the other way and
12 not come forward? Were there miscarriages of justice
13 where undercover officers failed to step out of
14 the shadows, or their involvement covered up? Did they
15 encourage illegal activity as agent provocateur? Did
16 undercover policing lead to blacklisting and blighting
17 of careers?

18 Some of the undercover officers involved in
19 infiltrating hunt saboteurs were ones who deceived women
20 into intimate relationships. They also deceived other
21 activists into close personal friendships,
22 infiltrating the intimacy of their daily lives and
23 experiences and even holidaying with them abroad.

24 The Inquiry must stand back and consider how, in
25 a system which purports to protect freedom of speech,

1 conscience and assembly, the police ended up targeting
2 the minor civil disobedience of those such as
3 the hunt saboteurs by the extreme methods of
4 infiltration and personal deception. The answer is that
5 the police descended into the political arena directed
6 or facilitated by government. That which will be
7 rightly considered outrageous in far away countries
8 became accepted and mundane to the police and Ministers
9 here.

10 Next I turn to Emily Apple. She's been an activist
11 all her adult life, and she's been involved in numerous
12 campaigns, including campaigns of which she was
13 a founding member. They include the Network for Police
14 Monitoring, which was established to monitor and
15 challenge excessive and discriminatory public order,
16 protest and street policing. They include an
17 organisation set up to counter intimidation and
18 harassment by police "forward intelligence teams" whose
19 role is to photograph and log information about
20 protesters. Her activities have included speaking out
21 against the designation -- rather denunciation -- of
22 protesters as "domestic extremists", identifying forward
23 intelligence teams and providing web-based advice to
24 demonstrators on how to stay safe in protest situations.
25 She's been arrested on countless occasions for her

1 activism, but her attempts to counter police violence
2 and intimidation of protesters what led to her being
3 spied upon. How can that conceivably be a valid
4 justification for her targeting by undercover officers?
5 Typically, the arrests having baseless and undertaken to
6 remove her from the scene of protests, and have included
7 occasions she was present with undercover officers
8 themselves.

9 Ms Apple has also been targeted by
10 undercover officers over her anti-arms trade activism.
11 Much of her activism around this issue has been linked
12 to the "Disarm DSEI" campaign, a campaign to shut down
13 one of the largest arms fairs in the world. She was
14 also involved in anti-war protests at Fairford against
15 the Iraq war, and with Direct Action Against War Now,
16 and the Campaign Against the Arms Trade.

17 She has also been targeted by undercover officers
18 regarding her environmental campaigning with
19 Earth First!, an environmental campaign across numerous
20 countries infiltrated by Mark Kennedy, and in various
21 other campaigns and protests over many years.

22 Indeed, it seems that no fewer than seven
23 undercover officers have been involved at various stages
24 in infiltrating organisations in which Ms Apple was
25 involved. They include HN3 known as "Jason Bishop", who

1 deceived her into a close friendship and who was heavily
2 involved in her life and that of her young son from his
3 birth and throughout his undercover deployment.

4 Serious questions regarding miscarriages of justice
5 and deliberate breach by the police of legal
6 professional privilege arise in Ms Apple's case,
7 including from her arrests and charging alongside
8 undercover officers, including HN18, HN3 and HN60.

9 Her first known arrest with an undercover officer,
10 HN18, related to the occupation of a car park of
11 the DSEI arms fair. A car park. About 20 people,
12 including Emily Apple and HN18, were charged with
13 aggravated trespass. Subsequently, legally privileged
14 material was unwittingly shared with HN18, then
15 a co-defendant. The charges were subsequently dropped
16 and it's understood in this incident led to
17 the disbandment of the SDS.

18 The second occasion, Ms Apple was arrested en route
19 to the G8 summit protest at Gleneagles when the minibus
20 in which she and others were travelling was stopped by
21 police. Two undercover officers, HN3 and HN60, one of
22 whom was driving, were in the minibus at the time.
23 Again, charges were dropped.

24 Serious questions also arise concerning the links
25 between undercover policing and corporate spying.

1 Ms Apple knows that she was targeted by at least one
2 corporate spy, Martin Hogbin, who posed as a fellow
3 activist, and with whom she developed what she thought
4 was a very close relationship. But Mr Hogbin actually
5 worked for a company contracted to provide information
6 to BAE Systems. What were the links between the police
7 and corporate spies? What was the flow of information
8 between them? What were the links between undercover
9 policing and corporations generally? To what extent
10 were numerous undercover operations against Ms Apple and
11 others justified by police actually protecting economic
12 interest of arms companies, of fracking companies, of
13 other companies in deeply controversial industries,
14 which Ms Apple and others were seeking to hold
15 accountable for their role in bringing death and despair
16 to so many?

17 Ms Apple is a journalist and a commentator, as well
18 as an activist. Her views are not hidden. There is no
19 warrant for the persistent harassment and intrusion into
20 her personal affairs and the life of her young son, and
21 the repeated and significant breaches of her trust by
22 officers of the state in order to ascertain her views,
23 opinions, motivations. She lived them openly and
24 proudly. How was this justified? Once again,
25 the police have yet to say.

1 I'll deal with the next two CPs together: Rhythms of
2 Resistance and Nicola Benge. Rhythms of Resistance or
3 "ROR" was a network of activists samba drum bands
4 established in about 1999, and most active until
5 approximately 2018, which took part in -- and provided
6 the soundtrack -- to a variety of demonstrations and
7 events across England and Wales and beyond.

8 Nicola Benge, who is a CP in her own right, was
9 a drummer associated with ROR. She was also associated
10 with a number of other activist networks and groups
11 including No Borders, the Advisory Service for
12 Squatters, Earth First!, and the Community Social
13 Centre, the Cowley Club, in Brighton.

14 The nature and extent of the infiltration of ROR by
15 undercover policing operations, or the targeting of
16 Ms Benge, remains unclear, because although they have
17 both been accorded CP status, the Inquiry is yet to make
18 any disclosure whatsoever in this respect. Ms Benge and
19 her fellow activists in ROR remain completely in
20 the dark as to when and by whom they or the network were
21 targeted by undercover officers. It's not something at
22 which they can guess. They were a group of musicians
23 providing music for demonstrations. What conceivable
24 justification could there have been for their
25 infiltration? There's a real concern that ROR may have

1 been used by undercover officers as a gateway to other
2 groups and individuals, and that members may have been
3 seriously deceived in that process, including deceived
4 into intimate relationships.

5 I move on to Guy Taylor, employed as the organiser
6 for Globalise Resistance between 2001 and 2007.
7 Defining itself as an anti-capitalist, anti-war
8 movement, Globalise Resistance intended to bridge a gap
9 between the trade union movement and activists outside
10 of it, and organised protests against globalisation and
11 against the arms trade and illegal or immoral wars. As
12 we have seen, it was Globalise Resistance that was
13 infiltrated by HN118, known as "Simon Wellings". He
14 infiltrated the group and deceived Mr Taylor himself
15 into what he believed was a close personal friendship.
16 As well as constructing the orange cardboard tank of
17 which I showed you photographs, HN118 got himself
18 elected onto the steering committee which organised
19 the events of the group, in which capacity he would
20 necessarily have been responsible -- as a state agent --
21 for influencing the group's activities. He acted
22 the group's photographer, an ideal role, it now appears,
23 for him to have fed back detailed information and
24 photographs of activists to his handlers.

25 He travelled with and on behalf of the group,

1 attending demonstration abroad, including in
2 the United States, France and Spain. His infiltration
3 of the group, and his attendance, as a trusted member of
4 the steering committee, at meetings and social groups
5 afterwards, gave him substantial access to -- and
6 influence -- over the workings of
7 the Globalise Resistance itself and its membership, but
8 also over the campaigns with which the organisation and
9 its members were involved. This included trade unions
10 such as the Communications Workers Union and a branch of
11 UNISON, as well as political groups including
12 the Green Party. What was the information he was
13 feeding back on those individuals and groups? What was
14 the justification for it? On what basis was he allowed
15 to assume such a prominent and influential role in
16 the organisation? To what extent did his involvement
17 serve to influence and derail the organisation's
18 activities? Why was he permitted to travel overseas?
19 The Metropolitan Police have chosen not to address any
20 of these questions.

21 HN118 ultimately came unstuck not through disclosure
22 from this Inquiry but because of his own error: whilst
23 briefing his police handlers on details of a number of
24 activists, he accidentally called another activist and
25 recorded the briefing onto their answer machine.

1 What was the justification for the targeting of
2 Mr Taylor. What is the justification now for
3 the serious damage caused to Mr Taylor and countless
4 other by the extensive and fundamental deception
5 perpetrated on them by state agents?

6 It is of note that, while the Inquiry has failed to
7 disclose details of other infiltration relating to
8 Mr Taylor or Globalise Resistance, his own attempts to
9 get to the bottom of the infiltration have been
10 unsuccessful. Two historic subject access requests of
11 the Metropolitan Police failed to lead to any mention of
12 HN118, casting significant doubt on the Met's disclosure
13 integrity, which should be borne in mind in these
14 proceedings.

15 Another one of our CPs who was deceived into
16 friendships with undercover officers is NRO. He has
17 obtained anonymity because he fears potential negative
18 professional consequences for himself. He's a lifelong
19 activist campaigning on issues of freedom of expression
20 and social justice. He too wants to know on what
21 conceivable basis was he targeted by the state for
22 surveillance?

23 NRO was involved with the White Overall Movement
24 Building Libertarian Effective Struggles, known as
25 "the Wombles", a loosely aligned group of individuals,

1 broadly identifying as anti-capitalist, who participated
2 in numerous protests in the UK and abroad, and were
3 readily distinguishable at protests by their dress code
4 of white overalls with padding and helmets, worn as
5 protection from the actions of police officers. They
6 also set up self managed, volunteer-run social centres.
7 NRO knows that he was spied on by EN32, known as
8 "Rod Richardson", who first approached him through
9 the Wombles and attended various protests with him in
10 the UK and abroad in 2001 and 2002.

11 The undercover officer HN77, known as "Jackie Anderson",
12 is also known to have infiltrated the Wombles.

13 One of NRO's key concerns is that his association
14 with Indymedia and Activix may have led to his
15 surveillance, an avenue it is particularly important
16 that the Inquiry pursue.

17 Activix is a progressive UK-based organisation, set
18 up to provide a non-profit making, advertisement-free
19 mode of communication for individuals and groups. It
20 provides web services for activists, including email,
21 mailing lists and hosting services. Indymedia was an
22 open publishing network of journalists reporting on
23 political and social issues which acted as an
24 independent reporting service, reporting directly from
25 the streets, without the corporate interference involved

1 in so many mainstream media outlets. At its height it
2 had more than 150 centres around the world run by
3 volunteers and collectives. Many of its key news items
4 involved protests -- where they were happening, and what
5 was happening at them, including police violence --
6 which typically would not have been covered in
7 mainstream media. Indymedia described its work as
8 "independent and alternative media activists and
9 organisations, offering grassroots, non-corporate,
10 non-commercial coverage of important social and
11 political issues". Its central slogan was, "Don't hate
12 the media, become the media". It repeatedly found
13 itself the subject of attacks by states and corporations
14 around the world, attempting to shut it down. In
15 the UK, its servers were seized by police repeatedly, in
16 2004, 2005 and 2009.

17 NRO believes that undercover officers were involved
18 in using Indymedia's website, including to post fake
19 "news stories" in order to sew deliberate
20 disinformation. Due to the lack of disclosure to date,
21 NRO is unclear whether seizures by the police of
22 Indymedia's servers may have been facilitated and/or
23 "set up" by knowledge gained by undercover officers who
24 had infiltrated Indymedia and/or the broader activist
25 community.

1 As stated, NRO's position highlights the probability
2 that undercover policing included online operations and
3 activity. It is vital that the Inquiry takes his
4 position seriously and fully investigates online
5 infiltration and other covert online activity.

6 Indra Donfrancesco is an environmental campaigner
7 who has been active in various environmental groups for
8 much of her adult life. Morgana and Megan Donfrancesco
9 Reddy, also CPs, are her daughters, frequent attenders
10 with their mother at environmental protests and meetings
11 throughout their childhood. Between 1994 and 2010,
12 Indra Donfrancesco and her daughters were involved in
13 Earth First!, an informal network of individuals sharing
14 a similar outlook in relation to the environment and
15 other social justice issues. Undercover officer
16 Mark Kennedy befriended Indra from about 2002 until his
17 exposure as a police officer in 2010. Indra
18 Donfrancesco also knew EN34, Lynn Watson, who we've
19 already referred to with respect to clowning.

20 The relationship with Mark Kennedy was particularly
21 close, or so the Donfrancesco family believed. In 2009,
22 he and Indra shared a 40th birthday party, an event
23 attended by around 200 people. Before then, in 2007, he
24 volunteered to be a photographer at Indra's wedding, an
25 event to which many fellow activists were invited. To

1 what extent were the photographs of such an intimate
2 event used by the state for their undercover officer
3 spying purposes?

4 Megan and Morgana both considered Kennedy as an
5 uncle figure, and his unmasking as a police officer has
6 affected them both significantly. You have already
7 heard of the fact that Kennedy had multiple deceptive
8 relationships with women activists, one of whom, "Lisa",
9 was a close friend of Indra's.

10 The Donfrancesco case is particularly illustrative
11 of the corrupt nature of the undercover policing
12 activities under investigation by this Inquiry. What
13 reason was there to infiltrate environmental activists
14 at all? How was pretending to befriend this family
15 including young children justifiable in any way? How
16 were these the actions of a responsible, accountable
17 police force and a responsible state? The deceptive
18 sexual predation speaks for itself. Corrupt and
19 depraved behaviour which shames not just the officer but
20 those who organised it and those who facilitated
21 the system which allowed it. And frankly, it also shams
22 those who still try to justify or make excuses for it
23 now.

24 To return to CIRCA, or the "Clown Army" as it was
25 sometimes known, you will have got a flavour of

1 the group from the footage I played at the start of my
2 opening. CIRCA was a progressive network of writers and
3 educators in the field of political theatre, cultural
4 activism and clowning, that came together in 2003 in
5 response to a state visit by George W Bush, and to
6 protest at the invasion of Iraq. CIRCA was part-funded
7 by the Arts Council England to create and tour
8 a theatrical performance around the UK, which
9 facilitated public participation in "rebel clown"
10 workshops. Participants attended at protests dressed at
11 clowns, typically with white faces, red noses military
12 style fatigues and coloured trimmings. They'd engage in
13 various activities, including mock military manoeuvres,
14 involving marching and singing, and wielding feather
15 dusters. The aim of the costume was to create a sense
16 of ridiculousness, to challenge my pre-perceptions
17 concerning activists, and to diffuse tense situations.
18 CIRCA aimed to breakdown barriers, including between
19 police and protesters, and to create unity around shared
20 values through humour and performance. In addition to
21 attending protests, CIRCA also trained others,
22 including, as we've seen, at least one
23 undercover officer in clowning and performance.
24 "Recruits" to the Clown Army were required to
25 participate in training workshops before deployment to

1 protests. It had close ties with other campaign groups
2 and activists, including Rhythms of Resistance, which
3 also used performance as protest, and many of those
4 involved were also involved with the Dissent network
5 which focused on opposing the G8 summit in 2005.

6 Jennifer Verson, the representative of CIRCA before
7 this Inquiry, is also a CP in her own right. She was
8 involved in developing and leading CIRCA workshops for
9 around three years and estimates she trained hundreds of
10 activists in that period. As I previously mentioned,
11 she trained EN34, Lynn Watson, at a two-day residential
12 course in 2004.

13 Once again, we ask the question: how on earth could
14 anyone believe that infiltrating a performing arts group
15 such as CIRCA was justified?

16 We've no doubt that the undercover officers used
17 the camaraderie and strong bonds formed within
18 a performing company to gain the trust and friendship of
19 activists in other groups and campaigns. The absurdity
20 of an undercover officer expending large amounts of
21 public resources to train as a clown is obvious, but the
22 fact that it was apparently not obvious to those running
23 the system must not be overlooked.

24 The next three CPs we represent were all involved in
25 one form or another of activism around Palestine, and

1 in particular through the International Solidarity
2 Movement, ISM. The ISM is a Palestinian-led non-violent
3 direct action and protest group, based in Palestine,
4 with informal branches in other countries round
5 the world, including the UK, London. The activities of
6 the group are focused primarily on sending volunteers
7 with the privilege of a foreign passport to Palestine to
8 bear witness to, to document, and where possible to
9 shield Palestinians from repeated violations of their
10 fundamental human rights at the hands of soldiers and
11 settlers. In Palestine, volunteers typically act as
12 observers at demonstrations against house demolitions by
13 the Israeli Army, against the seizure of Palestinian
14 land, the administrative detention of civilians without
15 trial. They accompany farmers to their fields and olive
16 groves to try to protect them from harassment or attack.
17 They stay with families whose homes are threatened with
18 demolition. They bear witness at check points
19 throughout the occupied West Bank. The activities of
20 ISM are based outside of England and Wales in
21 the occupied Palestinian territories. Activities by
22 the group itself in England and Wales would have been
23 limited to leafletting or staffing stalls. While
24 individuals involved in ISM undoubtedly participated in
25 demonstrations in England and Wales relating to

1 Palestine and other issues, the activities of the group
2 were focused overseas. What basis therefore did they
3 come under surveillance by the police in England and
4 Wales reportedly concerned with serious crime in England
5 and Wales? What was the justification for
6 the surveillance of those involved in the group?

7 Asa Winstanley became active in the ISM in
8 approximately 2004. He's an investigative journalist
9 specialising in writing about Palestine-related matters
10 and concerning the broader Middle East, an associate
11 editor of the Electronic Intifada, an online news site
12 publishing stories in relation to the Middle East, and
13 in Palestine in particular, and he also writes for
14 the Middle East Monitor.

15 Atif Choudhury and MCD are committed members of
16 civil society who are also involved with the ISM in
17 the early 2000s. All three are deeply traumatised by
18 the fact that their activities and personal lives were
19 infiltrated. In this case the Inquiry has confirmed
20 that HN18, known by the pseudonym "Rob Harrison",
21 infiltrated the ISM between 2004 and 2007, although it's
22 suspected the period was in fact longer. What was
23 the purpose of this infiltration?

24 In the case of Mr Choudhury, HN18 inveigled himself
25 into virtually every aspect of his life. He befriended

1 Mr Choudhury's parents and siblings and DJ'd his
2 sister's wedding. Mr Choudhury considered HN18 a close
3 friend and is both outraged and devastated by being
4 groomed and abused in such a comprehensive way. HN18's
5 personal depravity did not stop there. He used
6 the result of his dishonesty with Mr Choudhury to
7 deceive a young neighbour into a sexual relationship,
8 and she is one of the CPs in category H that you heard
9 about yesterday.

10 MCD's activism has been motivated by her Quaker
11 faith and commitment to active pacifism, which aligned
12 with ISM's non-violent tactics. All three CPs are at
13 a loss to comprehend any conceivable justification by
14 the state for the undercover policing of their wholly
15 legitimate activities, which were focused on seeking to
16 uphold the rules of law internationally.

17 Given the nature of the ISM's activities, there's
18 also a suspicion that the undercover activity led to
19 information flowing to foreign agencies.

20 The final CP who I will mention is VSP, who has
21 anonymity before this Inquiry.

22 VSP has been involved in numerous campaigns,
23 networks and groups relating to social justice and
24 environmental issues predominantly between 2002 and
25 2013. These included anti-war and anti-arms trade and

1 G8 protests, and protests organised by the Dissent
2 network and Earth First!.

3 She has been arrested on numerous occasions and
4 she's been targeted by both overt and covert policing.
5 She will tell you in due course that she's been put in
6 leg restraint. She's been stripped searched, including
7 by male officers. She's been mocked and jeered by
8 officers whilst naked. Multiple civil claims regarding
9 the arrests have been settled by the police.

10 VSP is aware of two undercover officers who spied on
11 her and her family: EN1, known by the pseudonym
12 "Mark Jacobs", and by Mark Kennedy. EN1 in particular
13 became extremely close to her family, socialising with
14 them and engaging in at least two deceptive sexual
15 relationships with young women in VSP's social circle in
16 an attempt, VSP believes, to better monitor her own
17 activities.

18 EN1 is known to have infiltrated
19 the Cardiff Anarchist Network with which VSP was
20 associated. He did not just participate in the group,
21 he made himself central to it, and then he proceeded to
22 disrupt it from the inside, creating such discord within
23 the group that it ceased to function in any meaningful
24 way. He also disrupted the network's solidarity with
25 overseas groups. His police funding meant that he had

1 the money to put himself forward to travel on behalf of
2 CAN to meetings abroad to meet other activist networks,
3 on at least one occasion with Mark Kennedy.

4 VSP strongly suspects that the undercover officers
5 ensured that those meetings were ineffectual.

6 That's but a short summary of some of the issues and
7 facts real relating to some of the CPs I represent. In
8 their CP applications, in the written opening annexes,
9 and there through me, the CPs have given up significant
10 details of their lives and activities. Neither
11 the opening of Counsel to the Inquiry nor the opening
12 statements of the state CPs have mentioned any of the 18
13 CPs that I represent. There is no further detail
14 forthcoming. How much longer must they wait? They
15 consider that there was and is no justification for
16 the use of undercover policing against them for
17 the intrusion into the minutiae of their political
18 lives, their civil lives, their work lives, their social
19 lives, their personal lives, their children's lives or
20 their families' lives. There's no justification for
21 the continued failure by the state and the Metropolitan
22 Police in particular to give an account of itself and of
23 its actions in relation to each of them. There's no
24 justification for the Inquiry to continue to provide
25 them cover in that failure.

1 I said I'd return to the comments from some of
2 the CPs regarding the Inquiry itself. In the NMP annex
3 to the written opening, the NMP pull no punches at their
4 disappointment with the Inquiry and their real lack of
5 confidence that it will achieve any real justice. In
6 their own words, I quote directly paragraphs 23, 24 and
7 31 of the annex and I quote:

8 "It is essential that it be appreciated that we have
9 no faith in this Inquiry. Characterised as it is by
10 extraordinary secrecy, a total lack of accountability
11 and transparency, all aggravated by the absence of
12 adequate representation and constant delay, we are
13 confident this is not a forum through which the actions
14 of police can be properly explored and scrutinised."

15 I quote:

16 "Those quaintly described as 'core participants'
17 are engaged, tantalised and seduced by the promise of
18 disclosure. This interest will, we believe, remain
19 wholly unrequited. Any meaningful disclosure is
20 unlikely to materialise in any real sense because
21 the overriding priority appears to be the protection of
22 those officers deployed. In any event, we have no faith
23 that the relevant records have not already been
24 destroyed. Yet the illusion must be maintained because
25 the continued involvement of the 'core participants'

1 adds infinitely to the credibility of a process that is
2 already bankrupt."

3 And finally I quote:

4 "The question is why we continue to remain engaged
5 with this Inquiry. We do so with a very limited and
6 narrow purpose. The extent of any interference with
7 hypothetical political and civil rights attaching to
8 NMP's volunteers and workers is not of the first
9 concern. Our purpose is to establish, through
10 disclosure, the extent to which the families and
11 individuals supported by NMP in their justice campaigns
12 were compromised or undermined by police action. If
13 they were (as we believe some may have been), we would
14 then look separately to consider whether there may be
15 any remedy. There is deep scepticism that even such
16 a limited and unambitious purpose is achievable, but for
17 those who put their trust in NMP over decades it would
18 be unconscionable not to try."

19 You could not fail to see their point. 40 years
20 since the inception of NMP, and five years since
21 the start of this Inquiry, those involved in this widely
22 respected community anti-racist group are none the wiser
23 as to the whys and wherefores of the undercover policing
24 targeted at them. Why?

25 The short answer is firstly the obsessive secrecy of

1 the state CPs, fixated on the privacy rights of their
2 own mainly retired officers, which may result in much
3 evidence being heard in secret. I have mentioned irony
4 already but it bears repeating. There's an obvious
5 irony in having an inquiry into secret policing
6 conducted in significant parts with anonymity and in
7 secret.

8 Secondly, the reluctance of the Inquiry to make any
9 meaningful disclosure until a few weeks before
10 a particular tranche, and to silo the disclosure to
11 a restricted cohort of CPs, who cannot share it with
12 others, has left all our CPs, as well as the general
13 public, in the dark about the roots of this particular
14 undercover policing. That is regardless of the fact
15 that it may have occurred decades ago, or indeed may be
16 continuing now. The refusal by the Metropolitan Police
17 Service to answer your questions last Tuesday raises
18 serious concerns in that regard.

19 The Metropolitan Police admit that their undercover
20 political policing was undertaken for their own
21 purposes, but also as agents for the security services,
22 MI5. Not only have we now had the elision of political
23 protests with criminality, but we also have an elision
24 of policing with espionage. Further, MPS introduce
25 a difficulty of analysis because it is impossible, they

1 say, to determine the "counter-factual" scenarios
2 decades later. That sounds technical but in fact all it
3 amounts to is an assertion that no one can judge
4 the success or otherwise of operations because it is
5 impossible to analyse what might have happened if they
6 had not been undertaken. The so-called
7 "counter-factual" problem would not arise if there were
8 proper records of deployments and their justification,
9 and regular assessment of them.

10 A further analysis problem arises, we're told,
11 because the records of what happened to the intelligence
12 passed to MI5 were not collated and the records were
13 "limited". Why? Surely records were kept of
14 intelligence passed from one to the other? I remind
15 the Inquiry once again, in their own words, "The MPS
16 will assist the Inquiry in every way it can". Now they
17 are saying you cannot assess that which did not happen
18 due to the failure of their own recordkeeping or
19 the value of intelligence that was passed to MI5 because
20 it was not recorded properly.

21 It's essential that the Inquiry obtain full details
22 and how and where undercover policing operations were
23 deployed to gather intelligence for
24 the security services, with respect to each CP exactly
25 what information was provided to MI5, why and under

1 whose direction. These issues do fall within
2 the Inquiry's remit.

3 A further difficulty arising from the terms of
4 reference is the confining of the Inquiry to
5 investigation of undercover policing by forces from
6 England and Wales, conducted within England and Wales.
7 Whilst it is entirely normal for a statutory inquiry to
8 be established in one jurisdiction, there is no
9 corollary normality that the facts and evidence are
10 confined to that jurisdiction unless expressly so
11 asserted in the terms of reference. Quite the opposite.

12 In establishing the terms the Home Secretary not
13 only excluded investigation of the security services,
14 she appears to have attempted to exclude what
15 the undercover officers did abroad, or even in other UK
16 jurisdictions. There is no legal, procedural or
17 practical problem whatsoever in the Home Secretary
18 amending the terms, even at this stage, or indeed
19 the Chair bringing such problems to her attention for
20 that purpose. Given that the Home Secretary plainly
21 knew from the outset of the significant role of MI5 and
22 the extensive involvement of undercover officers outside
23 of this jurisdiction, it is clear that this is
24 intentional exclusionary drafting.

25 With respect to evidence of what occurred outside of

1 the jurisdiction of England and Wales we note that with
2 respect to an event such as the G8 protests in Scotland,
3 which I've mentioned several times, the Inquiry will
4 have to look at the police planning and actions for
5 these trips, but bizarrely not what happened after
6 the minibus containing the undercover officers and our
7 clients passed Hadrian's Wall. Thereafter, the Inquiry
8 will have to consider the contact notes or whatever
9 reports were submitted from these activities if not to
10 consider what happened in the dark period when
11 the undercover officers continued their deployment to
12 the protests and returned, but to consider what
13 the consequences from that deployment were. Did it
14 affect the ongoing infiltration and targeting? Did it
15 lead to further operations? Not to put too fine a point
16 on it, the restriction apparently seeking to prevent
17 the Inquiry from considering what English and Welsh
18 officers -- involved in an undercover operation based
19 within England and Wales -- did in Scotland is unlikely
20 to be effective if the Inquiry is to be able to fulfil
21 its other terms of reference, and is likely to lead to
22 considerable argument and complication. If
23 the Home Secretary is going to persist with this
24 restriction on the Inquiry, the Inquiry should not
25 remain silent about its effect. Independence demands

1 that the Inquiry publicly challenge these restrictions,
2 because they create a conflict between terms of
3 reference which cannot be resolved.

4 The territorial restriction obviously affects those
5 activists such as CIRCA and Emily Apple who attended
6 protests in Scotland, but also a wide variety of
7 core participants who have protested and even holidayed
8 with undercover officers in various European countries.
9 These include NRO and Guy Taylor. To what extent were
10 these deployments authorised? And who paid for and
11 audited them? Is the point of the restriction because
12 the authorities of the countries involved were not
13 informed or consulted? Is it to prevent embarrassment
14 to the government? We've not seen any coherent reason
15 advanced for excluding evidence which may be highly
16 pertinent to the Inquiry, simply because it took place
17 in another country. Persons and groups targeted in
18 England and Wales by deployments organised, planned and
19 paid for within this jurisdiction, but activities which
20 took place elsewhere. We note that those representing
21 the undercover officers themselves raise
22 the illogicality and problems of excluding foreign
23 trips, and they have confirmed at least one overseas
24 undercover operation conducted in conjunction with
25 a local police or intelligence service.

1 As you heard earlier, when the Inquiries Act was
2 passed, Amnesty International called for judges to
3 decline to be appointed as Chairs, and a figure as
4 senior as Lord Saville publicly took the same view,
5 because public inquiries are established by
6 the executive, the terms of reference are set by
7 the executive, and the executive can control whether
8 hearings are public, disclosure, and even publication of
9 the report itself. The executive can stop an inquiry
10 and only it can appoint and remove a Chair and panel
11 members.

12 These were and remain important constitutional
13 matters. But the reality of inquiries is that an
14 independent Chair can act independently to require
15 production and disclosure of documents, and conduct
16 the process independently of the executive if he or she
17 chooses to, and it is practically and politically
18 difficult for the executive to interfere even if it has
19 the statutory power so to do. An independent Chair can
20 and should challenge the executive and institutions,
21 including calling for changes to terms of reference
22 which impede the fulfillment of an inquiry's aims. It
23 should do so here.

24 Conclusions.

25 In conclusion, let me draw a few threads together.

1 This Inquiry relates to interference with civil,
2 political and human rights undertaken, as has been said
3 by others, on an industrial scale, over decades. It
4 involves investigating police which -- policing which
5 grotesquely interfered with democratic rights.
6 The Inquiry has a choice. It can drag these activities
7 out into the light of open justice where wrongdoings of
8 the past can be determined and narrated, accountability
9 established, and robust recommendations made to prevent
10 such state-sponsored abuses continuing into the future,
11 or it can continue to operate in the shadows with
12 a preoccupation for secrecy. The rule of law requires
13 the former. The latter can only result in failure and
14 whitewash.

15 What is already known of the massive number of
16 undercover deployments against civil society actors,
17 campaigners, community groups, justice organisations and
18 political groups should be a wake up call for all who
19 aspire to live in a society where freedom of expression
20 and assembly are cherished and not targeted and
21 undermined by secret units of the state over many
22 decades. Any observer with a sense of decency should be
23 outraged at the gross interference with personal
24 autonomy involved, with the deceitful intimate
25 relationships we've heard about and the casual

1 indifference displayed by undercover officers
2 infiltrating families, forming deceitful close personal
3 friendships, sometimes with children, and taking
4 significant roles in milestone family events including
5 weddings and birthday parties.

6 The response of the state CPs so far has been to
7 obfuscate, sit on their hands, admit little and see what
8 they can get away with.

9 The first role of any public inquiry is to establish
10 a definitive official narrative of the facts. That
11 demands rigorous requirements are put on all the state
12 bodies, obliging them to produce all potentially
13 relevant material to the Inquiry, in an accessible
14 format, signed off as complete by the most senior
15 officer. For the process to achieve public confidence,
16 the next requirement is for maximum transparency as
17 required by the Act. Without full transparency,
18 achieved by disclosure of material, and disclosure of
19 answers to simple questions, by the state authorities,
20 not only is the process undermined but it loses one of
21 its most precious assets: the buy-in of those most
22 centrally affected. Without the effective participation
23 of the non-state CPs, how else is the Inquiry to
24 challenge the facts in contact sheets and reports
25 emanating from undercover operations? The requirement

1 of transparency has a number of sources: open justice,
2 section 18 of the Act, and ultimately the hint is in
3 the name: a "public" inquiry.

4 The second role of a public inquiry is to work out
5 what went wrong: accountability. Why did successive
6 government Ministers and generations of police
7 commanders allow this to happen? Whereas legal and
8 supervisory frameworks permeated just about every other
9 aspect of public life over the period this Inquiry is
10 considering, even the fact of these operations was kept
11 secret from Parliament and from the general public.
12 Accountability is a powerful tool in preventing future
13 governments and officials from abusing their power in
14 just the same way.

15 Finally, the role of the Inquiry is to make
16 recommendations for the future. Recent controversy over
17 the Covert Human Intelligence Sources Bill, which would
18 seem to legitimise so many of the excesses of the past,
19 highlights the importance of the learning and
20 recommendations that should come from this Inquiry and
21 the already apparent effects of inordinate delay.

22 Those are my submissions.

23 THE CHAIRMAN: Thank you, Mr Weatherby.

24 We will resume tomorrow at 10. There are two
25 further opening statements to be made, of which at least

1 one will be made tomorrow morning at 10, and we will
2 then embark on the evidence of Tariq Ali. It is
3 possible that there will be two statements before he
4 begins his evidence, but there will be sufficient time
5 in the day for all to be completed. Thank you.

6 MS PURSER: Thanks very much, everyone. That concludes
7 the opening statements for today. We will resume
8 tomorrow at 10 am.

9 (5.17 pm)

10 (The hearing adjourned until 10.00 am on Wednesday,
11 11 November 2020)

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