

**OPENING STATEMENT ON BEHALF OF CATEGORY F CORE PARTICIPANTS**

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**FOR THE TRANCHE 1 PHASE 2 EVIDENTIAL PHASE**

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**Introduction**

1. We make this statement on behalf of families who became aware that the identities of their deceased loved ones were appropriated for the purposes of constructing the covert identities of undercover police officers, specifically:
  - (a) Frank Bennett and Honor Robson, the bereaved brother and sister of Michael Hartley who died on 4 August 1968 at 18 years of age.
  - (b) Faith Mason, the bereaved mother of Neil Robin Martin who died on 15 October 1969 at 6 years of age.
  - (c) Liisa Crossland and Mark Crossland, the bereaved stepmother and brother of Kevin John Crossland who died on 1 September 1966 at 5 years of age.
  - (d) Mr, Mrs and Ms Lewis the father, mother and sister of Anthony Lewis who died on 31 July 1968 at 7 years of age.
  - (e) Barbara Shaw, the bereaved mother of Rod Richardson who died on 7 January 1973 when he was two days old.
2. Each of our clients experienced the death of a child; a life event among the most difficult it is possible to suffer. More recently, the families have also suffered the horror of learning that their loved one's identity was used by an undercover police officer precisely because of their bereavement, because their son or daughter lost their life when a child.
3. This Phase of the Inquiry is a particularly important one from our clients' perspective as it was during the years covered by this Phase of the evidence - it seems to have been in 1974 - that

undercover officers started using deceased children's identities and it rapidly became the Special Demonstration Squad's ("SDS") standard practice.

4. Our clients seek answers from this Phase of the Inquiry to the most fundamental issues regarding this callous misuse of their loved ones' identities: how on earth this abhorrent practice came to be adopted; how it came to be embedded in SDS procedures; whether there were alternatives that could and should have been adopted instead; whether anyone considered the impact upon the bereaved families of this practice; and at what level within the Metropolitan Police Service ("MPS") the practice was authorised or condoned.
5. Our clients have searched for answers to these questions for many years. They hope they will not have to wait too much longer. Barbara Shaw, the mother of Rod Richardson, for example, has been trying to uncover the truth since 2013 and is now unwell and very frail; she is distressed to contemplate that she will not live long enough to obtain these answers.
6. The families engage in this Inquiry because they want to know whether this abuse of their memories of their loved ones was necessary, whether it served any legitimate purpose and if not, why it was permitted and why it became such an embedded practice.
7. On the material now disclosed by the Inquiry for the Tranche 1 Phase 2 hearings, we believe that the conclusion must inevitably be that there was no clear rationale, no sufficient justification and no necessity for this repulsive practice.

#### **The evidence emerging from Tranche 1 Phase 1**

8. In the earlier Tranche 1 Phase 1 ("T1P1") the families learned that between 1968 and 1972 none of the undercover officers ("UCOs") deployed by the SDS, who they heard evidence about, relied upon the identity of a deceased child and none suffered compromise of their identity in consequence. Their fictitious covert identities were protected - it would appear - by common sense; the maintenance of distance from their subjects and by keeping low profiles<sup>1</sup>. During this period, the SDS deployed operational UCOs without any need to appropriate the identity of dead children. Furthermore, the evidential picture that emerged from this first Phase of the Inquiry did not suggest that there were any pressing operational imperatives that were

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<sup>1</sup> See HN343's statement at §40 and §48 [MPS/0739804/11-12] and HN348' statement at §25, §51 [MPS/0741698/CLF] and Day 13, p 30 ll 1 – 5, p33 ll 21 – 25, p 71 ll 3 - 9.

prompting or were sufficient to prompt the abandonment of the officers' practice of using fictitious identities for their legends.

### **Trance 1 Phase 2: the period prior to the use of deceased children's identities**

9. We have searched in vain for evidence in the thousands of pages of the Tranche 1 Phase 2 ("T1P2") bundle that would justify the dramatic change of approach by 1974. We do not believe it exists.
10. Several of the officers whose evidence will be heard or summarised in T1P2 were deployed before 1974. With one possible exception involving the use of a real person's identity without regard to whether they were dead or alive<sup>2</sup> (which appears to have stemmed from the choice of the individual officer involved, HN298, rather than from a change of policy), the picture is that use of fictitious identities continued until some new SDS officers were deployed in 1974. For example, HN45 ("Dave Robertson"), HN299/342 ("Dave Hughes"), HN301 ("Bob Stubbs") and HN347 ("Alex Sloan") all used a fictitious identity. None of these officers have suggested in the accounts they have provided, that using a fictitious identity presented a specific cause for concern for them in terms of maintaining their cover. Furthermore, none of their experiences suggest that using a fictitious name was a cause of or heightened the risk of exposure.
11. One of these officers, HN45 did have his undercover identity compromised in December 1973, but this had nothing to do with him using a fake name. HN45's own account<sup>3</sup> is that a member of the public, Ethel, had met him when he was still a uniformed officer and greeted his arrival at a meeting at the London School of Economics when he was undercover with, "*Here are Scotland Yard come to take us away*"<sup>4</sup>. He was withdrawn from the field immediately. His fictitious covert identity played no part in his compromise; the compromise was caused by visual recognition as a result of his prior policing history<sup>5</sup>.
12. We are only aware of two other incidents where UCOs faced a challenge to their cover identities. HN347, who infiltrated the Irish National Liberation Solidarity Front ("INLSF") was withdrawn from his deployment in 1971. There is nothing whatsoever to suggest that his use of a fictitious identity played a part in the events; and it will be appreciated that the practice of

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<sup>2</sup> HN298 who was deployed between 1971 and 1976 states that he attended Somerset House of his own initiative to find someone "*born at a similar time to me*" but who did not ascertain whether the person was alive or dead and asserts the identity was not of a deceased child: [MPS-0746258/7] at §§17 - 24

<sup>3</sup> Diane Langford provides a different account of these events but this is yet to be disclosed.

<sup>4</sup> [MPS-0741095/22] at §85.

<sup>5</sup> HN348<sup>5</sup> was withdrawn from the field at the same time as HN45 as a precaution, along with WDC Jill Mosdell.

using false identities continued for around another three years after this. HN347 describes the INLSF as being “*very nervous*” regarding infiltration by UCOs<sup>6</sup> and how he was followed and tracked to his cover flat<sup>7</sup> and confronted by two members of the group stating that he was a “*pig*”. His deployment was ended as a precaution. It is hard to see how matters would have played out any differently if this UCO had been using a deceased child’s identity. Secondly, HN298 (who, as we have just mentioned, did use a real person’s identity seemingly from his own volition) describes being challenged as a spy and responding by assaulting his accuser. As he was not withdrawn from the deployment, the risk of compromise cannot have been considered significant in any event.

13. The lack of justification for the dramatic change in policy is underscored by the contents of the SDS’s own annual reports; documents prepared each year by the officer in charge of the Unit for consideration by the senior echelons of the MPS and the Home Secretary.
14. The 1972 Annual Report written on 14 February 1973 by HN294, the Detective Inspector who was then head of the SDS, confirmed at paragraph 17: “*One of the main advantages of a field officer assuming a fictitious name, using a cover address and employment and radically altering his appearance is that – unlike an informant – he can resume his proper identity and appearance at any time and immediately be ‘lost’ to the extremists*”.
15. The 1973 Annual Report from HN294 (now a Chief Inspector) was written on 6 March 1974, the very year in which it seems that the new practice commenced. Far from identifying a new or increasing threat to the unmasking of his UCOs, he described “[t]he avoidance in nearly six years existence of the irretrievable exposure of any SDS officer”. And the point still holds good if the evidence should show that the practice was introduced in the previous year, 1973, since the 1972 Annual Report contained the almost identical observation that “*since the formation of the Squad no officer has been irretrievably exposed or identified*”<sup>8</sup>.
16. So, after six years during which the SDS relied upon a perfectly serviceable means of acquiring covert identities what then provoked the change?
17. We have also re-examined the SDS’ Tradecraft Manual, which we referred to in our opening statement for T1P1. This was the document, it will be recalled, that referred so dismissively to

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<sup>6</sup> Ibid [17] at §80.

<sup>7</sup> Ibid [16] at §78.

<sup>8</sup> At §19.

the bereaved families and their deceased loved ones in offensively flippant terms<sup>9</sup>. The Manual notes that by 1994 there was growing unease amongst SDS managers about the obvious risks inherent in adopting a provably false identity, since *“hostile enquiry”* would reveal that the person the UCO purported to be, was in fact dead<sup>10</sup>. The text also recognises that these were not new concerns; to the contrary, there had been *“many earlier fears”* that using deceased children’s identities was *“indeed unsafe”*<sup>11</sup>.

### **Commencement of the practice of using deceased children’s identities**

18. The material that has now been made available indicates that from 1974 onwards UCOs used the identity of deceased children and were either specifically instructed to do so or were given to understand that this was the expected practice. For example, HN200 (“Roger Harris”), HN353 (“Gary Roberts”) and HN351 (“Jeff Slater”) were all deployed as part of the SDS in 1974. HN200 says that he was *“told that the normal way of choosing a cover name was to go to Somerset House and find someone who had died”*<sup>12</sup>. In the same paragraph the former officer says that he *“did query whether it was necessary to do this but it was explained that this was the usual process”*. He describes someone from the SDS ‘back office’ coming with him to Somerset House to *“show me the ropes as it was a big undertaking”*. HN353 says that someone in the SDS told him how to choose a cover name by attending Somerset House and finding a person who had died who would have been of a similar age to him, if still alive<sup>13</sup>. HN351 says that it was *“the convention at the time that a deceased child’s identity would be used”*, but that he does not recall the rationale for this being discussed<sup>14</sup>.
19. T1P2 officers who were later deployed to the SDS have given similar descriptions of being told to use a deceased child’s identity in the creation of their legend: for example, HN304 (“Graham Coates”), who joined the SDS in 1975; HN354 (“Vince Miller”) who joined in 1976, HN126 (“Paul

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<sup>9</sup> See §3.1.1 The officer’s task was characterised as one of *“finding a suitable ex-person, usually a deceased child ...”* and officers were advised to find a death that was *“natural or otherwise unspectacular”*. Checking whether the deceased child had living relatives was referred to as identifying their *“respiratory status”*. And the action of adopting a dead child’s identity was referred to as *“assume squatters’ rights over the unfortunate’s identity”*.

<sup>10</sup> [MPS-0527597/8] at §3.1.3.

<sup>11</sup> Ibid at §3.1.4.

<sup>12</sup> [MPS-0740968] at §23. The beginning of the next sentence is redacted but concludes *“... and because some of the groups were prone to checking on odd details”*. It is hoped that there can be an opening up of this redaction (see §§47-53 below).

<sup>13</sup> [MPS-0740413/5] at §11.

<sup>14</sup> [MPS-0740332] at §15.

Gray”) who joined in 1977 and HN1978 (“Michael James”) and HN106 (“Barry Tompkins”) who both joined in 1978.

20. However, the disclosed documents offer no explanation for why the use of fictitious identities was abandoned; we do not know who made the decision, when it was made or why it was made. Nothing has been provided that could justify the damage that the change of practice has caused to real, bereaved, vulnerable human beings; and nothing that could justify the huge risks of avoidable harm to policing itself. The inference that we reasonably draw is that the relevant decision makers did not contemplate the *possibility* that they would ever be asked to answer questions in public about this practise. The very fact of this Inquiry’s investigation serves a vital public function in communicating that these senior police officers are not above the law. The actions of those senior decision makers will come in to focus this autumn during Tranche 1 Phase 3, and the evidence to be heard in the coming weeks will of great significance to the questions that will arise for them.

#### **Justifications provided by the State Core Participants**

21. We have looked back at the justifications that were advanced in the T1P1 opening statements by the Designated Lawyers Group (“DLG”) officers and the Metropolitan Police Service (“MPS”), when it was said that there was an essential operational imperative for UCOs to rely upon real identities.
22. The DLG’s opening statement said that the justification for relying on the identity of real people was to place officers in a position to support or “*backstop*” their false identity by way of a birth certificate that could be produced as proof that they were who they claimed to be, if they were challenged. The equivalent could not be done with a fictitious identity as a fake birth certificate could not be placed in the publicly accessible register of births, which were contained within bound volumes. The opening statement continued at paragraph 8.2.2: “*[Reliance on fictitious cover identities] was adopted to begin with ... but reviewed and abandoned after a number of undercover officers were compromised or ‘outed’*”.
23. However, we have already addressed events where officers’ cover identity was compromised. Strikingly, none of those incidents suggested or warranted the conclusion that use of a deceased child’s identity would have made a material difference.
24. The opening statement also said that: “*Some DL officers were uncomfortable with the practice, some regarded it as necessary tradecraft and all proceeded on the basis that there was no*

*alternative and the families of the deceased children in question would never know”* (paragraph 8.2.4).

25. The opening statement on behalf of the MPS also relied upon necessity, saying that evidence would be given in Tranches 1 and 2 *“as to why the practice was considered necessary, at the time, to support the work of undercover officers”*. We have yet to see it. We hope that the rationale for the introduction of this practice will be fully explored by the Inquiry in the evidence that will be heard.
26. We also note the contrast with the opening statement provided by the National Crime Agency (“NCA”), who told the Inquiry that *“the NCA has never had a policy that involved encouraging undercover officers to use the identities of deceased children when creating their legend identities. Nor is the NCA aware of any such policy being in place within the RCS<sup>15</sup>, the NCS or SOCA”*. It is material that the Regional Crime Squads (“RCSs”) operated from the 1960s until they were replaced by the National Crime Squad (“NCS”) in 1998. The RCSs contained dedicated undercover units - they might legitimately be described as the specialists in undercover policing. The RCSs operated prior to the digitisation of birth records without appropriating the identity of dead children.
27. Furthermore, if the practice of using deceased children’s identities was introduced because UCOs were outed and/or because the threat of this occurring was thought to have significantly increased, we would have expected to see a commensurate increase around this time in other SDS precautions aimed at shoring up the credibility of the UCOs’ legends and at preventing their exposure by those who were being spied on. Again, we have looked for evidence of this in vain.
28. Turning firstly to the officers who were deployed undercover in 1974. HN200 says in his statement that he did *“not create a particularly detailed background persona”*; that he was not made aware of the process of building an autobiography described in Conrad Dixon’s *“Penetration of Extremist Groups”*<sup>16</sup>; that he did not supply an autobiography or go through a process of eradicating inconsistencies within it with his superiors. He said he received no written guidance on creating his legend and *“it was largely left to me”*<sup>17</sup>. Both HN353 and

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<sup>15</sup> NCA Opening Statement at §6 a.

<sup>16</sup> [MPS-0724119].

<sup>17</sup> [MPS-0740968] at §25.

HN351 also said that they were not made aware of the guidance in “Penetration of Extremist Groups” or provided with any other written guidance<sup>18</sup>.

29. A similar impression emerges from the SDS UCOs who were deployed over the next few years. For example, HN126 says of his cover identity in his statement: *“it is possible that it was not very detailed. I do not think anyone ever really tested it”*<sup>19</sup>. HN354 says that there was no formal training as to the creation of a legend and no manual and he comments: *“I have been asked whether my undercover persona was sufficiently developed to include a cover background – I simply made my legend up as I went along”*<sup>20</sup>. He goes on to say that his legend was not tested by his managers<sup>21</sup>.
30. On the face of it, this apparent casualness over the creation of UCOs’ legends does not sit well with the proposition that fears of their exposure had escalated and had become so great from 1974 onwards that they had to adopt the extreme tactic of misappropriating the identity of a dead child. We note, of course, that the technique of using the cover of a dead person’s identity came to public prominence via Frederick Forsyth’s *The Day of the Jackal*. The novel was published in 1971 and the film of the book was released in 1973. The timing is interesting. Could it be that a work of fiction, rather than operational necessity, inspired the introduction of this repellent tactic?

### **Undercover officers’ use of the identities of deceased children in practice**

31. Once introduced, the practice of UCOs employing the identities of deceased children appears to have lasted for around 20 years – albeit not consistently in the later years. We therefore hope that the Inquiry will look carefully at the justification for it, not only at its inception but as time progressed. Strikingly, there was a demonstration of its risks and limitations shortly after it was introduced.
32. HN297 DC Richard Clarke/Richard Gibson (now deceased) was deployed in “*early 1975*”<sup>22</sup> and was withdrawn in September 1976<sup>23</sup> when members of Big Flame, a group he was spying on, confronted him with official copies that they were able to obtain of both the birth and the death

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<sup>18</sup> [MPS-0740413] at §12 and [MPS-0740332] at §15.

<sup>19</sup> [MPS-0740761] at §44.

<sup>20</sup> [MPS-0744903] at §38.

<sup>21</sup> At §42.

<sup>22</sup> [MPS-0732910/2] [MPS-0724152/3]. His deployment by 30 January 1975 is confirmed by [UCPI000001211/1] read with ‘Mary’s’ statement [UCPI0000034181/5] at §2 f).

<sup>23</sup> No later than 22 November 1976 [MPS-0732916].

certificates in his cover name<sup>24</sup>. HN297 is said to have responded by claiming that he had adopted this identity as he was wanted by the police<sup>25</sup>. Suspicions surrounding “Rick Gibson’s” true identity first emerged because of his evident lack of understanding of the relevant political and historical background<sup>26</sup>. The reference years later in the Tradecraft Manual to an SDS officer being “*confronted with his ‘own’ death certificate*” appears to be a reference to the compromise of DC Clarke’s covert identity as Richard Gibson<sup>27</sup>. It therefore seems clear that DC Clarke constructed his covert identity from the personal details of a deceased child, consistent with the practice of the SDS at the time when he was deployed; and that it was the availability of that child’s death certificate which clinched the suspicions of those who confronted him<sup>28</sup>.

33. There may be a further dimension to DC Clarke’s ‘outing’. On the account of an officer whose testimony has been gisted by the Inquiry<sup>29</sup>, DC Clarke told him that he had a couple of sexual relationships in his cover identity, which led to his identity being compromised. Richard Chessum, who HN297 “befriended” under his cover identity, recalls that the UCO had sexual contact with at least four female activists<sup>30</sup>, including one or more members of Big Flame, the group that became suspicious and started to inquire into his background. HN297 also had casual sexual relationships with both “Mary” and her flatmate, who he met through Goldsmith College and involvement in the Troops out Movement. Mary describes how they both found his behaviour oddly detached<sup>31</sup>, for example never staying for the entire night; but they did not consider the possibility that he was in fact an undercover officer until they were later informed of Big Flame’s discovery. What does seem clear, is that DC Clarke was willing to behave in a way that put exposure of his true identity at risk and in a way that may well have drawn suspicion to himself. His behaviour was certainly the antithesis of the conduct we heard described by officers in T1P1 who said that the keeping of distance and the maintenance of a low profile were essential elements of retaining cover.
34. The circumstances of DC Clarke’s exposure and withdrawal from the field prompted the officer who held overall responsibility for the SDS at that time, Chief Superintendent Bicknell, to send a memo to his superior officer informing him of the compromise and offering reassurance that

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<sup>24</sup> [MPS-0732910/2].

<sup>25</sup> Summary Risk Assessment in respect of HN297, July 2017.

<sup>26</sup> Statement of Robert Chessum: [UCPI0000034182/22] at §5.3 (iv) and at §5.14 (iv).

<sup>27</sup> [MPS-052759/8] and see §3.2.8 at [/12] and §5.10.x at [/27].

<sup>28</sup> See Summary Risk Assessment in respect of HN297, July 2017; and Richard Chessum’s statement at §5.25 (ii) – (iii).

<sup>29</sup> [UCPI0000034307/5].

<sup>30</sup> [UCPI0000034182] at §5.18(i) – (iii).

<sup>31</sup> [UCPI0000034306] at §10.

both he and Superintendent Kneale were “*keeping a very close eye on it*”. The compromise of DC Clarke was considered to give rise to “*extreme safety concerns*”<sup>32</sup>.

35. It is therefore extraordinary that the practice of reliance upon dead children’s identities was not immediately abandoned after these events in 1976. It is equally extraordinary that they did not lead to a disciplinary investigation regarding DC Clarke’s gross misconduct whilst undercover. A proper review of all of these matters in 1976 would likely have identified that the use of dead children’s identities - particularly when allied with outrageous conduct in undercover roles - ran significant risks of compromise and could not be justified. Moreover, such a review would likely have brought focus to bear on the importance of UCOs’ own conduct and the maintenance of high standards of professionalism in the securing of their own safety. In reality the use of fictitious identities and maintenance of strict professional standards including keeping a distance from the subjects of their surveillance afforded far better cover, than that provided by officers preying on the biographical details of children who had suffered tragic early deaths and then failing to maintain professional standards once deployed.
36. There are other instances of UCOs who used a deceased child’s identity coming under suspicion. HN126 (“Paul Gray”) came under suspicion<sup>33</sup> but was not considered a sufficient threat to require his removal from the field. This is a further example where an identity based upon a real person offered no more protection than a covert identity based upon a fiction, once the officer’s conduct had come under suspicion.
37. HN304’s (“Graham Coates”) cover identity was compromised because he gave his real name when stopped by police<sup>34</sup>. Obviously, this episode provides no support at all for the proposition that use of a deceased child’s identity afforded a greater level of protection for UCOs.
38. As far as we can see, there was no justification for adopting the practice of reliance upon dead children’s identities and no justification for continuing with it after the dangers associated with the practice were exposed in 1976. Not only did the SDS fail to revert to the practice of relying upon fictitious identities that had served them relatively well for six years, but the SDS did not take steps to direct and ensure that officers did not compromise their covers by engaging in conduct antithetical to their policing responsibilities. The available material indicates that SDS managers failed to direct and ensure that officers prepared assiduously for deployment and

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<sup>32</sup> See statement of HN304 at [MPS-0742282/40] at §135.

<sup>33</sup> Ibid /14 §§53 - 58 and /30 - 31 §§104 - 109.

<sup>34</sup> [MPS-0742282] at §128.

once in the field, maintained distance and avoided unnecessary intrusion. All of this speaks to a total lack of professionalism and a Unit that was operating far beyond the boundaries of acceptable policing. By way of further example, from the date of his deployment, 1974, it is highly likely that UCO HN300, who adopted the cover name of “Jim Pickford”, also used a deceased child’s identity. This officer embarked on a sexual relationship with one of the women he was spying on and subsequently had a child with her<sup>35</sup>.

39. Not only did the reliance upon dead children’s identities continue and indeed became the embedded practice of the SDS for a further two decades; the gross misconduct of officers under cloak of those identities also continued, indeed, escalated as Ms Kauffman has set out.

### **The moral dimension**

40. Remarkably few SDS officers appear to have experienced any qualms of conscience about appropriating a dead child’s identity and we have seen nothing to suggest that this immensely important aspect was taken into account by their superiors, even after it must have become known that officers were conducting deceptive sexual relationships under these stolen cover identities and – as we will come on to describe – committing crimes.
41. One of the officer’s accounts where we have only been given a short gist by the Inquiry says that he considered “*the moral implications of doing so at the time but considered it the right thing to do*” as the only way to effectively protect his safety<sup>36</sup>. We have already addressed the latter proposition. It is unclear whether there was any wider discussion of “*the moral implications*” amongst this seemingly tight-knit group of officers and the superiors who they spoke with very regularly. There plainly should have been.

### **Commission of crimes, prosecution and conviction in the names of real people**

42. Our clients have an additional concern arising from the use of deceased children’s identities for UCO’s legends, which they also hope the Inquiry will look at carefully. This is the extent to which officers committed criminal offences and were arrested and prosecuted in the names that they misappropriated and, worse still, were convicted in those names. Although officers’ use of the names of our families’ loved ones will not arise until later tranches of evidence, our clients want to understand more generally the extent to which this shocking state of affairs occurred and

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<sup>35</sup> Gist of closed officers’ witness statements [UCPI0000034307] at §21; and witness statement of HN300’s former wife and their two children [MPS-0747525] at §§5 – 7.

<sup>36</sup> [UCPI0000034307].

the extent to which, if at all, it gave managers pause for thought about the wisdom or the morality of using real identities belonging to other people.

43. HN13 is deceased, but his widow confirms that he used the surname of a deceased child from Wiltshire<sup>37</sup>. This officer, HN13, was arrested, charged and convicted of public order offences in the name of the deceased child that he took<sup>38</sup>. Similarly and earlier than those events, in 1972 HN298 – who says that he used the identity of a real person without checking whether they were alive or dead<sup>39</sup> - was arrested, charged, tried and convicted in his cover name for offences of obstructing a police officer and wilfully obstructing the highway. Other officers may have escaped arrest and prosecution but were willing to run this risk by committing offences whilst using a deceased child's identity; for example HN297 is described as participating in flyposting in his local area<sup>40</sup>
44. Surely, the fact that UCOs could face prosecution and conviction in their adopted identities provided further compelling reason for SDS superiors to be extremely cautious about using the identities of real people? Was any regard paid to the consequential and wholly unjustified besmirching of their good name? Was any regard paid to the likely impact on bereaved families of learning that their loved one's reputation had been tarnished in this way? Were any steps taken to protect the real Michael Peter Scott, who's details HN298 had causally misappropriated?

#### **An absence of supervision**

45. From all that we have read, the callous interference with bereaved families that we have described, was in every sense consistent with the motivations, culture and broader practices of an SDS Unit that had been permitted to operate without legitimacy or accountability over several years.
46. Whilst from 1974 prospective UCOs were told to take the steps necessary to acquire elements of the identities of deceased children by their superiors, there is no indication in the material we have seen, of any actual *supervision* of the officers with regard to their use and misuse of the data they accessed; not a hint of any consideration by senior officers as to the proportionality of their actions, nor to the potential consequences for the bereaved families

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<sup>37</sup> [MPS-0740967] at §3.

<sup>38</sup> [MPS-0526784].

<sup>39</sup> [MPS-0746258] at §17 and §21.

<sup>40</sup> Statement of Richard Chessum [UCPI0000034182] at §5.11.

should they become aware of what was happening; not a sign of any appreciation that this could never be characterised as action taken on the public's behalf in anticipation of public consent; and no review of necessity, efficacy or risk.

47. On the contrary, this abhorrent, grossly abusive technique simply became the embedded cultural practice of the SDS, where it sat alongside other abhorrent behaviours, all of which manifested in the context of a Unit that lacked legitimacy, accountability or effective supervision.

#### **Redacted material**

48. In preparing for this Phase of the Inquiry, our ability to probe the adoption of the practice of appropriating deceased children's identities and to examine the extent to which the previous approach afforded UCOs sufficient protection, has been hampered by the restrictive approach that has been taken to disclosure.
49. The MPS has provided evidence in the form of a statement from Alan Pughsley, Chief Constable of Kent Police, in support of its argument that should this Inquiry require disclosure of information about its undercover policing techniques and methodologies; real and tangible harm would be caused to policing.
50. That evidence has led to what our clients consider to be extensive and potentially excessive redactions of information regarding the practices surrounding the creation of fictitious identities prior to 1974 and the practices surrounding reliance on the identities of deceased children thereafter. Our clients struggle to understand how any harm to policing can be derived from the disclosure of information regarding obsolete or discredited and abandoned policing techniques. It is from our clients' perspective the abhorrent practice of appropriating the identities of their loved ones that has caused harm to policing.
51. Policing by consent has been the philosophy of British policing for almost two centuries. The "Nine Principles of Policing"<sup>41</sup> issued to every new police officer from 1829<sup>42</sup> explicitly required police officers to "*recognise always that the power of the police to fulfil their functions and duties is dependent on public approval of their actions and behaviour and on their ability to secure and maintain public respect*" and to "*maintain at all times a relationship with the public*

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<sup>41</sup> Attributed to Charles Rowan and Richard Mayne, the first and joint Commissioners of the Police of the Metropolis and contained within the "General Instructions" to officers.

<sup>42</sup> And upon which the current day Code of Ethics is based.

*that gives reality to the historic tradition that the police are the public and that the public are the police”.*

52. The conduct of the SDS has been the absolute antithesis of policing by consent.
53. We have therefore invited the Inquiry Legal Team to review whether each and every redaction sought by the MPS is in fact sufficiently justified; we hope that greater openness may be possible - particularly where the redactions conceal information regarding the discredited and abandoned technique which is at the very centre of this aspect of the Inquiry’s investigations or where the concealment concerns only obsolete practices. We invited this review because of the absolute importance to our clients of the Inquiry’s investigations being open and transparent and their being able to participate as fully as possible.
54. The evidence as it emerges is that the SDS operated with impunity and with great confidence that the Unit and its managers would not be called up to account for its actions. This Inquiry’s great burden, of course, is to ensure that this cultural expectation on the part of former SDS officers does not spread its cloak over the means by which it may detect and expose police wrongdoing. A more open approach to information concerning these practices will assist the Inquiry in discharging its functions.

### **Concluding observations**

55. Paragraph 23 of the 1973 SDS Annual Report pointed out that the risk of compromise could never be extinguished and that individual officers bore a *“great weight of responsibility”* to maintain their cover through careful preparation of their *“political backgrounds, cover addresses and employments”*, and anticipating suspicion, so that periods when it was necessary to *“live the life full time”* might be kept comparatively short. This common sense guidance sits in stark contrast with the evidence the Inquiry will hear from UCOs in T1P2 as to their actual conduct on the ground. The Inquiry will hear from officers who took scant interest in their own back stories, whose attitudes were casual, who recorded little and who recalled less; from officers who left the expected standards of professional behaviour far behind when they deployed into the field.
56. It also appears that the Security Services were available and did assist with the provision of fictitious cover identities and materials to underpin and make credible those identities on a few

occasions<sup>43</sup>. No answers emerge from the T1P2 bundle as to why the SDS took what it appears to have been its own path.

57. As we have shown, as late as 1972 and 1973 the leadership of the SDS was expressing confidence in the Unit's reliance upon fictitious identities. We have also noted that this was a method deployed by other experienced policing units. The reason for the SDS' switch to a wholesale use of the identities of deceased children remains an unexplained mystery.
58. The evidence to be heard in this phase of the Inquiry is of grave importance to the bereaved families; we believe it will establish that reliance upon the identity of deceased children became an adopted and embedded practice of the SDS without any clear rationale. Our clients seek full scrutiny, effective lesson learning and the implementation of tangible protections against future similar abuses.

**Heather William QC  
Fiona Murphy  
Doughty Street Chambers**

**Bindmans LLP**

**14 April 2021**

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<sup>43</sup> References to assistance being offered in this regard by MI5 include from 17 August 1979 [UCPI0000030893/1], 1979 [UCPI0000034308/31] and 24 March 1980 [UCPI0000028813/1].