

IN THE MATTER OF THE UNDERCOVER POLICING INQUIRY

BEFORE SIR JOHN MITTING

**OPENING STATEMENT ON BEHALF OF
PIERS CORBYN FOR TRANCHE 1, PHASE 2**

1. From the outset of the Undercover Policing Inquiry (“Inquiry”), the Non-State Core Participants (“NSCPs”) have been raising concerns about the state’s obsession with secrecy and anonymity, about the importance of the Inquiry being open and transparent, about the inability of the NSCPs to participate effectively in the Inquiry, about the Inquiry’s approach to restriction orders, witness selection and documentary redaction and the absence of any meaningful right of appeal against its decisions about these matters, and about late disclosure that does not afford nearly enough time to prepare properly for opening statements and evidential hearings. For the avoidance of doubt, we recognise the enormity of the many tasks facing the Inquiry team, the difficulties caused by the pandemic, and the undoubted obstacles being placed in the Inquiry team’s path by others. We note the recent challenge of the Designated Lawyer Officers Core Participant Group (“DL group”) in the Administrative Court, by way of judicial review, to an unknown decision by the Inquiry Chairman. The NSCPs remain completely in the dark as to the nature of this challenge or the legal or factual basis for the Court’s decision in allowing the challenge, as the Court’s two-paragraph open judgment is devoid of detail. This is yet another stark example of how so much of the business of what is supposed to be a public Inquiry happens being closed doors, with the NSCPs having no seat at the table.
2. We reiterate what many of the NSCPs keep repeating, namely that an Inquiry into undercover policing without the effective participation of those targeted and spied on by the secret state is an Inquiry not worth having. Nevertheless, we remain ready and willing to try and assist, by raising what we believe are the fundamental issues that arise

from the Tranche 1 Phase 2 disclosure and proposing what we believe are the necessary questions that should be asked of those witnesses who are due to give evidence.

3. Last November we made an opening statement on behalf of numerous individual and organisational NSCPs. During the Tranche 1 Phase 1 evidential hearings that followed, the Inquiry heard evidence from two NSCPs, both of whom we represent. Tariq Ali was the only NSCP to give oral evidence. Ernie Tate could not attend for reasons of ill-health, but his statement was read into evidence. Sadly, Ernie, who was one of the founding members of the Vietnam Solidarity Campaign (“VSC”) in 1966, passed away in February. There are many moving tributes to him on the internet. Just to give one example, the Canadian historian Bryan Palmer said that “Ernie Tate was a literate and cultured man, able to reflect engagingly on art and literature, film and music. He could build a cottage and renovate a house, organise a demonstration, engage a crowd, and convince others of the need to use their particular talents to fight for a better world.” We remain in contact with Ernie’s widow, Jess MacKenzie, who hopes that this Inquiry will do justice to his memory.
4. In Tranche 1 Phase 2 of the Inquiry, we represent Piers Corbyn. Now 74 years old, his recent notoriety as a speaker at anti-lockdown protests up and down the country shows he has not given up his activism and still retains the energy of his youth. He was one of the original applicants for core participant status and was designated by the Inquiry as long ago as October 2015. He will be giving evidence on 28th April, some five and a half years after having been granted core participant status.
5. Before we address the secret state’s interest in Piers Corbyn, we would like to make seven general points about undercover policing, as revealed by the material disclosed in the Tranche 1 Phase 2 hearing bundle, and about the Inquiry’s approach to witnesses, redactions, and disclosure.

General points

6. Firstly, what literally screams out from the pages of the current hearing bundle is the fact that the primary focus of Special Branch and MI5, as far as the Special Demonstration Squad (“SDS”) was concerned, was never the protection of

parliamentary democracy or the prevention of public disorder. Whatever the undercover officers on the ground who were deployed by the SDS may have been told by their superiors and may have genuinely believed, the predominant priority of Special Branch and MI5 was to spy on individuals and organisations because of their ideas and their politics. It was their ideas and their politics that were deemed “subversive” to the British state and a threat to the British establishment. It was their ideas and their politics that led to political support and financial backing for the SDS being authorised by the highest echelons of the police and the government.

7. The limited public disorder during street protests, for example during the odd skirmish with the National Front, that some of the undercover officers who were spying on socialists and anarchists describe in their witness statements was largely minor and low level. It certainly did not justify the spying on an industrial scale that was unleashed on the British public in the 1970s or the consequent cost to the public purse. Furthermore, it is fanciful to suggest that any of the relatively small political groups that were infiltrated by SDS officers posed a real threat to parliamentary democracy. We are still waiting for MI5’s annual threat assessments to be made public. These could make interesting reading.
8. Just to give two examples of SDS intelligence reports that demonstrate the real priorities of Special Branch and MI5 – a 21-page report on an International Marxist Group (“IMG”) & Spartacus League (“SL”) conference in May 1972 (see UCPI0000015694) and a 55-page report on the national IMG conference in August 1976 (see UCPI0000021343). These reports detail the different currents and tendencies within the IMG, summarise the many debates that took place and provide the names and Registry File references of those in attendance. What the reports do not include is anything touching upon the protection of parliamentary democracy or the prevention of public disorder.
9. In short, the SDS was engaged in secret political policing and pure intelligence gathering against the Left, at times Orwellian, at times more Monty Python. This is reflected in the witness statements of several SDS officers in which they admit gathering as much information as possible, however trivial, because it was for others to decide what was relevant. We should never lose sight of the fact that the British secret state’s addiction

to harvesting and retaining massive amounts of personal information on its targets was on par with anything practised by more notorious secret states internationally.

10. Secondly, the most significant document in the Tranche 1 Phase 2 hearing bundle, we believe, is the statement of Witness Z on behalf of the Security Service, MI5, that confirms what we asserted in our opening statement last November, namely that the SDS has always been subordinate to MI5. This corporate statement merits careful reading and thorough scrutiny, even if at times it paints a distorted picture. A glaring example of this is the assertion that Special Branch's role is limited to issues of law and order, whereas Special Branch, whatever its guidelines might say, has in fact throughout its history been primarily focused on the policing of ideas.
11. Astonishingly, Witness Z is not being called to give evidence. We cannot understand why. What a wasted opportunity. There is so much that Witness Z could be asked: about the respective roles of Special Branch and MI5, about the minutiae of their relationship, about MI5's 1972 definition of subversion as "activities threatening the safety or well-being of the State and intended to undermine or overthrow Parliamentary democracy by political, industrial or violent means", about how most if not all of those spied on by the SDS could not possibly be described as subversive, according to this definition, about how a group who wants a road closed as a play street for kids or a group who wants to keep public transport cheap or a group who wants to stop abortion rights being undermined could present a public order threat, let alone a threat to parliamentary democracy.
12. Thirdly, although there are, on our count, 18 SDS officers who were deployed during the relevant period, whose cover names have been disclosed and who are alive, the Inquiry is only calling eight of them to give evidence. That is said to be sufficient for the purpose of discharging the Inquiry's terms of reference, an exhaustive investigation neither being necessary nor proportionate for that purpose. Of the remaining ten officers, the evidence of seven will be summarised. The attendance of all ten has been excused at the direction of the Chairman and/or for reasons of ill-health and/or because the witnesses live outside the jurisdiction and are not compellable.

13. The 1970s was a critical period in the history of the SDS. The Inquiry would be assisted by as much evidence as possible from as many SDS officers as possible. We do not agree that it would be unnecessary or disproportionate to adduce a greater breadth of evidence. As was apparent during Tranche 1 Phase 1, witnesses when questioned about matters that took place decades ago sometimes remember unexpected matters that do not feature in their witness statements. In the circumstances, it is unfortunate that the Inquiry is not hearing from more SDS officers during Tranche 1 Phase 2.
14. Fourthly, we are dismayed by the Inquiry's change of approach to fully anonymous SDS officers whose real names and cover names have been restricted. Unlike Tranche 1 Phase 1, when the redacted witness statements of two fully anonymous SDS officers were disclosed, the open evidence of seven fully anonymous SDS officers in Tranche 1 Phase 2 has been reduced to an eight-page group gist. We are told that some but not all these officers will be called to give closed oral evidence.
15. As others have already observed, the group gist that has been disclosed is unsatisfactory in many respects. It is so brief and thematic that it is difficult to glean anything meaningful from it as to the true nature and extent of the spying by the individual officers or who precisely they each targeted or what precisely they each did during their deployments. We do not understand how the Inquiry can suggest that a group gist like this enables the publication of more evidence than would otherwise be possible by divorcing the evidence from specific association with identifiable officers. The logic of this escapes us. We are being asked to accept that ignorance is strength, that the more that is hidden, the more we are being told. In any event, why change the approach adopted during Tranche 1 Phase 1 by introducing something more restrictive? Was it to reduce the purported risk of mosaic identification? If so, at whose behest? We trust that during future tranches and phases, the Inquiry will revert to its earlier approach and disclose redacted witness statements from fully anonymous witnesses, as opposed to relying on another group gist like this.
16. Fifthly, what is immediately apparent from the witness statements of the SDS officers is that many if not most of their intelligence reports have been destroyed at some stage by the Metropolitan police. Just how much has been destroyed we may never know. Many of the disclosed reports that have survived (labelled UCPI as opposed to MPS by

the Inquiry) are only in existence because copies had been retained by MI5. This suggests that not just the SDS (which shut down in 2008) but the Special Branch Registry itself has been getting rid of files. That is most worrying. Interestingly, whilst MI5 is apparently happy to disclose copies of police documents, they are rather more circumspect in disclosing any of their own documents that might reveal the nature and extent of their own spying operations on political activists and others.

17. Sixthly, redactions. What has been apparent ever since we started receiving disclosure from the Inquiry is the sheer extent of documentary redaction, particularly on grounds of national security. Most frustrating (and we have raised this on several occasions already to no avail) is the redaction of the names of many groups spied on and infiltrated by the SDS between 1969 and 1984. These names should be a matter of public record. None of them should be redacted. How can it be justifiable for an Inquiry into undercover policing to withhold the names of groups spied on and infiltrated by the secret state more than 35 years ago?
18. In 2013, the government began the release of its records to the National Archives that were at least 20 years old. So why can we not know all the names of the groups spied on and infiltrated by the SDS, at least up until 2000? What is the state hiding? What is the Inquiry hiding? Surely the public interest in full and frank disclosure outweighs any other potential interest, given the Inquiry can protect the right to privacy of any police spies by restricting disclosure of their real names? By hiding the names of some of the targeted groups, the Inquiry is effectively preventing members and supporters of those groups from coming forward and telling their stories. What effect does this have on the confidence of NSCPs and the public at large in the Inquiry's work?
19. In the SDS Annual Reports between 1969 and 1984, the names of some 133 groups have been redacted. Whilst some of the same groups undoubtedly feature on multiple occasions, there are, on any view, a huge number of groups who were spied on and infiltrated during this period whose names are apparently to remain secret forever at the insistence of the very organisations who were doing the spying and the infiltrating in the first place. This is madness. This is an abject failure of openness in the name of national security. The worst years were 1973 when the names of 19 groups have been redacted and 1979 when the names of 24 groups have been redacted. Most of the

redacted names appear to belong to Maoist, anarchist, and Irish groups. However, there are others too, including Trotskyist, anti-fascist, and anti-nuclear groups. Such voluminous redaction is driving a coach and horses through the Inquiry's primary objective of getting to the truth. We call for all these names to be unredacted as it is in the public interest to know the names of all the groups who were spied on and infiltrated by the SDS more than 35 years ago. There is simply no justification for such secrecy.

20. Seventh and finally, disclosure. We keep raising this issue. We are simply not being given enough time to read and digest the disclosed material before having to make opening statements and prepare for evidential hearings. We were supposed to receive the entirety of the current hearing bundle by the middle of March. On 1st April, over 1,000 pages of documents were added. On 9th April, nearly 1,100 pages were added. There are still relevant documents undisclosed and outstanding. We understand the difficulties. However, this is unfair to all core participants, but particularly to the NSCPs, given the bulk of the material being disclosed consists of police documents never seen by us previously. We can only hope that this problem is not repeated in future tranches and phases.

Piers Corbyn

21. Turning then to Piers Corbyn. Back in 2015 when he was granted core participant status, he had no idea about the extent of the spying on him. Even in April last year, when he made his 79-page Inquiry witness statement, he had only been provided with 53 Special Branch intelligence reports (most of which were relatively unrevealing) and no witness statements from any of the undercover police officers who had spied on him, still less any photographs of those officers to help him recollect events that took place between 40 and 50 years ago.
22. Piers Corbyn's witness statement will become publicly available on the day he gives evidence. He would like to attend the Inquiry venue in person to answer questions but that has not been allowed and so he will give evidence virtually, video streamed from his office and video recorded for posterity. Like most other NSCPs, Mr Corbyn has always been open and upfront about his politics and has nothing to hide, in contrast with the former undercover police officers who hide behind anonymity and object to their

evidence being video streamed and video recorded. It has been said many times before but bears repeating: an audio stream is a poor substitute, and the failure to keep video recordings is a disservice to the historical record.

23. So why was Piers Corbyn of interest to Special Branch and MI5? It was over 50 years ago, in 1969, that a Registry file was first opened on him, a file to which he never has had access and never will be given access. Mr Corbyn was President of the Imperial College Union at the time. He was politically active. He attended rallies against the Vietnam War. In 1971, he joined the International Marxist Group (“IMG”) and attended numerous meetings and demonstrations about the burning issues of the day, including Ireland, anti-fascism, anti-racism, and trade union struggles for better pay and conditions. In 1972, he was instrumental in setting up the Squatters Action Council and the London Squatters Union, and he played a key role in the victory of the Elgin Avenue squatters, all of whom were rehoused by the Greater London Council. Squatting was a response to the lack of affordable housing, especially for young people, but was also a way of trying to establish a new type of community in the form of communal living. In 1982, he left the IMG and joined the Labour Party, the year before his brother Jeremy was elected as an Member of Parliament for Islington North. In the 1980s, he was active in the “Fair Fight” campaign to keep down the cost of public transport. In 1986, he became a Labour councillor in Southwark for four years.

24. What has Piers Corbyn learned from the current hearing bundle about the spying on him by the SDS that he did not know previously? Unfortunately, barely anything. Firstly, none of the eight SDS officers due to give oral evidence mention Mr Corbyn in their witness statements, although one of them, namely HN298 who used the cover name Michael Scott, mentions Mr Corbyn in an intelligence report as having been present at a meeting about Ireland in 1974 that he attended. Secondly, the two SDS officers who do mention Mr Corbyn in their witness statements, albeit only in passing, namely HN299/342 who used the cover name Dave Hughes and HN353 who used the cover name Gary Roberts, are not giving oral evidence. Their evidence is being summarised. Thirdly, although the Inquiry gave Mr Corbyn photos to view from the 1970s of three SDS officers, none of these officers had spied on him, so it was a pointless exercise. By contrast, the Inquiry has not given Mr Corbyn photos to view from the 1970s of any of the SDS officers who did spy on him. In particular, the Inquiry has not given Mr Corbyn

a photo to view from the 1970s of HN338, an SDS officer who attended three small political meetings at Mr Corbyn's home in January, March, and June 1972 (see MPS-0732360, UCPI0000008948, and UCPI0000008799). HN338 is deceased, his real name is restricted, and his cover name is not known. Fourthly, although Mr Corbyn was granted core participant status by the Inquiry on the basis that he was one of the main organisers of squatting groups in London between 1972 and 1982, his squatting activism barely features in the intelligence reports in which Mr Corbyn is named. In short, what is revealed by the disclosure is a damp squib.

25. What would tell us far more about the secret state's interest in Piers Corbyn is his Registry File. But nobody ever gets to see their Registry File, not even during a public Inquiry into undercover policing. Unlike his friends in Germany who were given access to their STASI files in the 1990s after the collapse of communism in the former East Germany, Mr Corbyn will sadly remain none the wiser about the full nature and extent of the British secret state's interest in him.
26. What is the reason for this? Why will the British state not release Piers Corbyn's Registry File, even after decades have passed, if only to Mr Corbyn himself? Why is this Inquiry unable to compel the state to do so, notwithstanding its broad powers? Is it because most spying is in fact so tedious and routine and unnecessary that any sensible citizen might question why so much taxpayers' money is being wasted? Or is the state afraid of something else? We will never know because this Inquiry is not going to be allowed to penetrate the edifice of secrecy at the heart of our surveillance society. Whilst secrecy continues to trump openness, the Inquiry will only scratch the surface, however interesting and revealing some of the documents it is disclosing may be.

RAJIV MENON QC
Garden Court Chambers

RUSSELL FRASER
Garden Court Chambers

RICHARD PARRY
Saunders Solicitors

16th April 2021