

IN THE MATTER OF THE UNDERCOVER POLICING INQUIRY

**AND IN THE MATTER OF THE GROUP OF CURRENT AND FORMER MPS
OFFICERS REPRESENTED BY THE DESIGNATED LAWYER TEAM**

**SECOND WRITTEN OPENING STATEMENT ON BEHALF OF
THE DESIGNATED LAWYER OFFICER CORE PARTICIPANT GROUP
TRANCHE 1, PHASE 2: SPECIAL DEMONSTRATION SQUAD
UNDERCOVER DEPLOYMENTS 1973-1982
FOR HEARING: 21 APRIL 2021**

1. Introduction

- 1.1 This further opening statement is made on behalf of the DL officer core participant group which now comprises 104 former members of the SDS and 12 former members of the NPOIU.¹
- 1.2 This statement supplements and does not repeat the above group's first written opening dated 28 October 2020 and oral opening of 3-4 November 2020 ("1st DL opening"). The abbreviations used in the 1st DL opening are adopted below.
- 1.3 The aim of this statement is to develop some of the general points and themes set out in the 1st DL opening by reference to and in the more specific context of the open T1, phase 2 evidence hearings.

2. T1P2 police evidence

- 2.1 So far as concerns the evidence of "open" SDS undercover officers within T1, phase 2, all but one of the r.9 statements and all of the live evidence have been or will be provided by 14 DL officers: HN45 (live, moved from phase 1); HN347 (live, moved from phase 1); HN299/342 (summary); HN301 (summary); HN298 (live); HN351 (summary); HN353 (summary); HN200 (live); HN304 (live); HN354 (live); HN106 (summary); HN126 (live); HN155

¹ HN81 and EN53 have recently transferred to DL representation and joined the DL officer core participant group, meaning there are now 115 DL officers in total, including HN66/EN327 who was a member of both the SDS and NPOIU.

(summary); HN96 (live).²

2.2 For health reasons, HN106 and HN155 provided r.9 statements but are unable to provide oral evidence and HN303 was unable to provide any evidence. Beyond this, the inquiry has chosen the witnesses it wishes to hear from live and those whose evidence is to be summarised.

2.3 So far as concerns the DL officer evidence summaries being read out by CTI, the inquiry refused to allow the DL or the Commissioner an opportunity to fact-check, security-check or comment on the contents of these. Accordingly, they are neither agreed nor accepted by, and are being read out against the wishes of, the relevant witnesses.

2.4 Any consideration of the evidence from and relating to the SDS undercover officers within T1, phase 2 must bear in mind that it is incomplete and excludes relevant information:

(1) Full sets of the documentary intelligence reports produced by or derived from these officers have not been recovered and almost no record of their other output has survived, e.g. telephone calls to the back office, safe flat discussions, answering questions etc. (1st DL opening, part 6.3).

(2) The inquiry is only releasing a small, selective sample of the intelligence reports that have been recovered - a fraction of a fraction of the whole.

(3) Information about MI5 interest in or coverage of particular groups and individuals (by human and technical sources) has been withheld and redacted, thereby decontextualising the parallel work of the SDS and creating a misleading impression of what the state as a whole was doing.

2.5 It is impossible to know how many intelligence reports are missing and the

² The following former SDS undercover officers are not part of the DL group: HN80 (summary); HN296 and HN344 (documents - overseas); HN13, HN297, HN300 and HN356 (documents - deceased).

attribution of those that have been recovered is often unclear or in dispute. One rough but potentially helpful way of gauging how many reports may be missing is to compare (a) the number of intelligence reports provided to each officer in connection with their r.9 request with (b) the number of safe flat meetings each of them is likely to have attended and at which draft intelligence reports were generally produced or submitted. See below in relation to T1, phase 2 DL officers:

Nominal	Approx. no. of weeks in field	Recollection re no. of safe flat meetings p.w.	No. of intelligence reports in witness pack plus top-ups	No. of R&N intelligence reports uploaded to Opus
HN45	120-145	1	69	27
HN347	33	3	43	23
HN299/342	240	2-3	c.175	30
HN301	235	2-3	144	36
HN298	233	1	536	86
HN351	43	1+	71	20
HN353	195	2-3	211	94
HN200	160	2	130	18
HN304	140-150	2	346	129
HN354	239	2	239	65
HN106	230	1-2	408	96
HN126	212	2	800+	161
HN155	224	1-2	315	110
HN96	238	2	684	134

2.6 Most of the above officers considered that their r.9 witness packs were materially incomplete and many identified specific matters and periods that were not covered but that should have been. Bearing in mind the disputes and uncertainties about attribution and the fact that some intelligence reports were

shown to more than one officer, the overall number of recovered reports is much lower than one would expect given the overall number of safe flat meetings.

2.7 It is also worthwhile comparing the number of each officer's r.9 intelligence reports with the number ultimately deemed "relevant and necessary" and uploaded to Opus. It will be seen that in every case, the number of each officer's Opus reports is less (very often significantly so) than the number of weeks they spent in the field and the number of safe flat meetings they would have attended.

2.8 The evidence of the seven "closed" DL officers who are also within T1 (HN21, HN41, HN109, HN241, HN302, HN341 and HN355) will be heard in private as T1, phase 4. A number of these closed deployments were more dangerous than their open equivalents, hence the making of restriction orders over the real and cover names of those involved. The inquiry has produced an open gist of this evidence which does not go into details, but confirms that most of these officers also described (a) gaps in the reporting contained in their witness packs (para.24) and (b) incidents of public disorder (para.30).

2.9 While it is recognised that the Chairman is, of course, able to consider a much fuller (but still incomplete) evidential picture in private, the public are not able to do the same. The importance of this and the other points highlighted above is that misconceived claims about undercover policing and the SDS are therefore being made on a false basis.

3. T1P2 civilian evidence

3.1 The inquiry is required, amongst other things, to examine the effect of undercover police operations upon individuals and the wider public and it is therefore right that it should hear evidence from those affected by or reported on in the course of such operations.

3.2 The inquiry has thus far obtained r.9 statements from 13 civilian witnesses within T1, i.e. in respect of 14 years of undercover policing by approximately 50 undercover officers. This is an extremely small sample and is inevitably confined to those willing to participate in the inquiry and discuss their conduct

in public.

- 3.3 From the opening statements and evidence provided thus far, it would appear unlikely that many of the civilians who are participating in the inquiry will accept that the deployments which affected them were justified or that the groups they supported posed a relevant threat.
- 3.4 This is not surprising and it should be borne in mind that the SDS did not focus on proscribed organisations: It follows that most of the groups it reported on promoted lawful views which they were entitled to express and that many of their members and supporters were law-abiding citizens.
- 3.5 However, the fact that a group may have had legitimate aims and moderate supporters does not mean that it could not also (a) have more extreme supporters, (b) be susceptible to being hijacked or piggybacked on by others or (c) be liable to being drawn into confrontation with opposing groups (1st DL opening, paras 5.5.2-5.5.3). For example, the SWP had moderate members such as Madeleine, but SDS undercover officers also reported on its involvement in serious violence and disorder (see below) and other concerning matters such as contact between more senior members and the PLO ([UCPI0000013412]; [UCPI0000013996]).
- 3.6 While it is recognised that the inquiry will wish to hear about the subjective feelings and perceptions of those who came into contact with undercover officers, it is also required to examine the motivation and justification for undercover police operations and must therefore come to a view about the existence of threats to public order and national security and related judgements.
- 3.7 To this end, it is submitted that the following should be borne in mind:
- (1) individuals can only speak directly to their own conduct and experiences and the inquiry must therefore seek evidence from as wide a range of sources as possible (see part 4 below);

- (2) it is important to differentiate between first-hand and hearsay evidence and between factual and opinion evidence, particularly in the context of contentious political and ideological statements;
- (3) the inquiry should not allow itself to become a forum for the making of untested claims and the propagation of partisan anti-police narratives.

3.8 In this regard, CTI twice suggested to Tariq Ali that Blair Peach had been “murdered” and did not challenge Mr Ali’s claim that Mr Peach, “was cornered on a small street in Southall after the demo and beaten to death by a group of Special Patrol Group officers”. As set out in Celia Stubbs’ witness statement, Mr Peach died from a single blow to the head almost certainly struck by a police officer. While it is, of course, tragic that this happened and appalling that no-one was held accountable, the inquiry’s function is to generate light, not heat, and it is submitted that it should guard against the making of inflammatory allegations however emotive or sensitive the subject.

3.9 In a similar vein, Piers Corbyn denies that the IMG was involved in disorder (para.20) and claims that the police killed Kevin Gately (para.151). This is an extraordinary claim. Indeed, Lord Scarman expressly found that Mr Gateley died during a criminal riot caused by an IMG attack on the police which was “deliberate, determined and sustained” and “unexpected, unprovoked and viciously violent” (*The Red Lion Square Disorders of 15 June 1974* (Cmnd.5919, February 1975), para.22). Lord Scarman also found that the IMG supporters who started the riot carried a heavy measure of moral responsibility for Mr Gately’s death (*ibid.*, paras 40 and 153). Indeed, even the IMG did not attempt to blame the police:

38. *There is no evidence that he was struck any blow by any policeman or injured in any way by a police horse: it is not even possible to say whether it was a blow, a fall, a kick, or being trampled on which caused the superficially tiny injury that led to his fatal brain haemorrhage. Mr Bailey of the IMG clearly recognised the absence of any direct evidence as to the cause of the injury when he made his remarkable declaration that political responsibility for the death lay firstly with the National Front (who were a mile or so away at the time); and secondly with the authorities for allowing the National Front to*

march - a declaration which, though it may have some emotive political value, is nonsense, if it be judged against the background of what happened and the responsibilities of those who were there and took part in the events.

4. Other available sources of evidence

4.1 The inquiry is presented with starkly contrasting views as to the factual justification for SDS reporting: on the one hand, police evidence that the groups reported on presented or appeared to present an actual or potential threat to public order which, at least, needed to be looked into; and, on the other hand, civilian evidence that these groups presented no threat to public order and any involvement in disorder or violence was the responsibility of their opponents and/or the police. Given this, it is submitted that the inquiry should do as much as possible to widen its evidence-gathering about the activities of these groups and the public order scene in London at the relevant time more generally.

4.2 On 28 August 2020, the Commissioner's Lawyer wrote to the inquiry (cc. the DL) as follows:

At a recent meeting between Counsel to the Inquiry, Oliver Sanders QC and Peter Skelton QC, a question was asked about the Chairman's background reading into undercover policing and/or historical events at the time of the formation and operation of the SDS and NPOIU. David Barr QC recommended that this was raised directly with you. I would therefore like to ask whether the Chairman would be content to confirm what additional reading he has undertaken?

4.3 It is understood that the inquiry did not respond to this request and so it is unknown what, if any, additional sources it has reviewed in order to inform itself of the wider historical, political and societal context.

4.4 In this regard, the 1st DL opening sought to introduce contextual information about the public order issues facing London and the MPS in 1968-1982. The inquiry subsequently requested copies of the Commissioner's annual reports (part 5.3) and has also obtained copies of the MPSB annual reports (para.3.3.8).

4.5 However, the need for contextual information remains important and the DL's concerns about this were heightened by questions put to HN336 by CTI and the

Chairman during the course of the T1, phase 1 hearings.

- 4.6 In this regard, HN336 said this at para.70 of his r.9 statement dated 10 May 2019:

Stop the 70's Tour were a passionate group, and the potential for violence and public disorder at demonstrations was huge. The driving force behind Stop the 70's Tour was Peter Hain. They got up to all sorts of well publicised antics: digging up the pitch at Lords, pouring oil over the wicket.

- 4.7 For the avoidance of doubt, HN336 did not suggest - and the DL officers do not suggest - that Lord Hain was personally or directly involved in or responsible for attacks on cricket grounds: the point is that STST / YL supporters *were* and their activities had serious implications for public order policing.

- 4.8 When HN336 gave oral evidence on 16 November 2020, CTI referred to the above part of his evidence and questioned him as follows:

Q. We've not been able to find any press coverage of such an event during the STST's campaign. Although there is historic media coverage of such an event a few years later, in the context of a protest about a man who was alleged to be a bank robber. Is it possible that you have - - that your recollection is confused on this point?

A. I have no recollection of a bank robber being involved in anything to do with the wicket. In my memory, and as I say, it goes back an awfully long way and has become blurred maybe in that process, if it didn't happen then there were certainly serious threats of it happening. You surprise me that you can find no -- or have found no press comment in -- in that regard. It's been long -- long held in my mind that that was a situation that -- that either existed or had been proposed.

- 4.9 The Chairman also raised the same point with HN336:

THE CHAIRMAN: Thank you. Would you bear with me, please, while I ask a couple of questions of my own. If I put to you an event which did occur and was widely reported, could I ask you just to reflect a moment. On 19 July 1975, the cricket pitch at Headingley was dug up by the Free George Davis campaign, a man who was serving I think 20 years for a serious offence at the time and some people thought that he was wrongly convicted. Does that ring a bell?

A. I remember the George Davis incident, sir; I don't remember the cricket pitch at Headingley being involved. But -- but I remember the George Davis bank robbery interest.

THE CHAIRMAN: None of us have been able to find any instance on which the cricket pitch was dug up at Lords, as you've said. And if that had happened, one would have expected it to have appeared in the newspapers.

A. *Indeed.*

THE CHAIRMAN: Is it possible you're muddling up the two incidents?

A. *I don't think I'm muddling up. I think, in retrospect, when it's been pointed out by you, sir, and by Mr Barr, that it hadn't appeared in the newspapers, it -- I'm confused therefore in my mind that something had occurred at a meeting prior to the -- the tour taking place that -- that would have indicated that they were the -- they were the intentions of the demonstrators, and -- and clearly I'm mistaken and I accept that.*

4.10 These exchanges were concerning because STST supporters carried out a coordinated attack on cricket grounds (including Lord's) on the night of 19 January 1970 which was the subject of extensive reporting in all the national newspapers at the time. It was also the subject of questions and debates in Parliament and formed part of the basis for Francis Bennion's - largely unsuccessful - private prosecution of Lord Hain on conspiracy charges in 1972 (e.g. *The Times*, 4, 16 and 22 August 1972).

4.11 A search of online newspaper archives reveals a wealth of information about the cricket ground attacks:

(1) *The Times*, 21 January 1970, "Wicket dug up as anti-apartheid campaign opens":

The campaign to stop the 1970 tour of the South African cricket team was launched by anti-apartheid protestors yesterday with attacks on 11 county cricket grounds. Walls, sight-screens, scoreboards and pitches were daubed with paint, weedkiller may have been used on the wickets, and at Sofia Gardens, Cardiff, the worst affected, a hole 4ft square was dug in the pitch. The carefully coordinated attack was made during Monday night. Mr Peter Hain, chairman of the Stop the Seventy Tour Committee, which has been responsible for many of the protests against the Springboks rugby team, yesterday disclaimed responsibility... Mr Louis Eaks, chairman of the Young Liberals, said they knew the protest was taking place, and they had been responsible for the action at Old Trafford, Manchester. He said that cricket grounds would have to expect "serious irregular assaults".

- (2) *The Guardian*, 21 January 1970, front page, “Cricket raids split the Liberals”:

A major dispute rent the Liberal Party last night after the Young Liberals had claimed responsibility for the attacks against 10 cricket grounds where the South Africans are due to play... The chairman of the Stop the Seventy Tour committee, Mr Peter Hain, denied yesterday that his group had organised the attacks on the grounds at Cardiff, Bristol, Taunton, Lords, Southampton, Leeds, Leicester, Old Trafford, Hove and The Oval. Other sources close to the committee, however, suggested strongly that it had played a large part in the episode. Mr Hain is himself a Young Liberal and so are many other members of his committee....

- (3) *The Observer*, 25 January 1970, “The writing on the wall”:

‘They may come but I reckon they will go home within a month... With cricket you just have to shine a mirror towards the batsman, or blow a whistle as the bowler starts his run’. So says Peter Hain, the quietly spoken 19-year-old engineering student, himself a South African, who is chairman of the Stop the Seventy Tour Committee. He is vehement about one thing - his organisation is against violence. He describes this week’s attacks on 10 county cricket grounds (Edgbaston has yet to show the results of the weedkiller used on it) as ‘non-violent civil disobedience’. Officially STST has no connection with last Monday’s initiatives, but Hain makes no secret of his active sympathy. Last week he told me that we may expect a great deal of this particular brand of civil disobedience in the months ahead... ‘I’m a sportsman’ says Peter Hain, ‘and I think digging up a pitch that a lot of people use just to stop one match is morally indefensible’. But Louis Eaks, Chairman of the Young Liberals who claim responsibility for last week’s guerrilla tactics, says: ‘I don’t think it matters digging up a pitch. I would be against intimidating a player, or doing permanent damage to property like burning down a stand...’

- (4) *The Times*, 13 February 1970, “S African tour cut to 12 matches”:

... One of the measures to be adopted at each of these grounds is the laying of an artificial pitch with a matting cover so that the scheduled games can be completed in the event of damage to the turf wicket by demonstrators... Immediately after Mr Griffith had made his announcement, in the committee room looking over a Lord’s cricket ground surrounded with barbed wire, Mr Peter Hain, chairman of the Stop the Seventy Tour Committee, said: “This seems to be the first round to us”. The decision to hold the tour meant a declaration of war. Mr Hain said regional briefings were already taking place among the 50 groups throughout the

country and they expected 200,000 people to take part in demonstrations during the tour.

- (5) *The Guardian*, 13 February 1970, front page, “Cricket tour is on - but under siege”:

...Mr Griffith said that each ground would install an artificial pitch somewhere on its playing square. This would allow the matches to continue if there was any attack which damaged the natural surface. If necessary the players will move to the artificial pitch in the middle of a match... Mr Hain said that he did not believe in damage to pitches, but demonstrators would aim to disrupt matches by dazzling players, calling “no ball”, invading the pitch, and sustained noisy scenes. The executive of the Stop-the-Seventies-Tour campaign is to meet on Sunday to discuss its tactics.

- 4.12 Lord Hain also wrote about the attacks in his book *Don't Play with Apartheid: The Background to the Stop the Seventy Tour Campaign* (1971), pp165-167 saying that he had not organised them, but it was “perfectly understandable” that they were linked to the STST. (Ernest Rodker recalls that he may have put weedkiller on a pitch (para.65).)

- 4.13 Furthermore, the attacks were the subject of media coverage in the run-up to last year’s hearings (in the context of STST’s 50th anniversary) and this makes the inquiry’s failure to find any related press coverage even more troubling:

- (1) *Mail on Sunday*, 16 May 2020, “Hain stops play: How a 20-year-old plotted to halt apartheid South Africa’s 1970 cricket tour of England from his bedroom... and helped change the world in the process”:

One night in January 1970, STST members broke in to many of the first-class cricket counties’ headquarters, leaving a trail of destruction...

- (2) *Wisden Cricketers’ Almanack*, 14 June 2020, “Stop the Seventy Tour: Cancel – or be damned”:

Between the Springboks’ internationals against Ireland and Wales, attention suddenly focused on the forthcoming cricket tour. On the night of January 19, in a co-ordinated attack organised by a covert anti-apartheid group, ten county grounds

were broken into. At Bristol, weedkiller was poured on the pitch, and slogans painted on the glass-fronted Jessop scoreboard. At Hove, the covers and heavy roller were daubed in paint. At Northlands Road, Southampton, the scoreboard was defaced, and walls graffitied. At Cardiff, Wilf Wooller's notoriously short temper was not improved when he discovered that, in addition to digging up the pitch and pouring tin tacks into the hole, the "hooligans" had given his car a fresh coat of paint. A small fire was started at Lord's, and there was damage at The Oval, Headingley, Old Trafford, Grace Road and Taunton. Hain carefully distanced himself from those events: despite his belief in direct action, he was uncomfortable with violence.

...

The Council did indeed suggest the counties invest in barbed wire, searchlights and guard dogs... At Lord's, MCC had already spent £200 on Dannert wire, a form of toughened barbed wire. When a much-anticipated Cricket Council meeting took place in the Long Room on a cold, dark February evening, it was possible to look through the windows and see, not the run stealers flicker to and fro, but the barbed wire silhouetted against the snow-covered turf.

- (3) Colin Shindler, *Barbed Wire and Cucumber Sandwiches* (2020), pp.78-80 (the title refers to the barbed wire erected around cricket pitches - including Lord's - after the attacks):

...the whole issue of the tour was once more brought to the attention of the world beyond cricket when, in a coordinated attack organised by the Young Liberals, ten county grounds were infiltrated on the night of Monday 19 January. Slogans were daubed on the walls and some pitches dug up...

The obvious culprits had to be the Stop the Seventy Tour movement. Hain had always believed in the efficacy of direct action and intended it to be non-violent. He phrased his response very carefully, truthfully denying any direct involvement in the coordinated attacks, but it seems reasonable to deduce that he had prior knowledge of them and in any case he had been quite open about advocating disruptive protests...

- 4.14 What was clearly being put to HN336 by CTI and the Chairman was that there was no contemporaneous press reporting to support his recollection of STST getting "up to all sorts of well publicised antics: digging up the pitch at Lords, pouring oil over the wicket" (note CTI's references to "such an event") and that he must have been thinking of the George Davis protest at Headingley in 1975.

HN336 was not being asked whether the pitch was in fact dug up at Sophia Gardens (and not Lord's) or whether the substance poured on the pitches was in fact weedkiller or paint (and not oil). While HN336 may have been confused about precisely what happened at which ground, it is submitted that a lack of accurate contextual information led to him being treated unfairly and forced to accept that he had made a fundamental error when he had not.

4.15 In order to address these difficulties, the DL officers make three positive, constructive submissions to assist the inquiry form the best possible picture of the historical facts about what was happening on the London public order scene in at the relevant time:

(1) Contemporaneous media reporting and *Hansard*

The annual reports of the Commissioner referred to in the 1st DL opening contain outline information (including dates and locations) about a large number of public order events in London in 1968-1982 which required the deployment of significant police resources or which involved or could have involved disorder. Contemporaneous media reporting of these events and related Parliamentary proceedings (questions and debates) are readily available online in newspaper archives and *Hansard*. It is submitted that such materials give a good guide to what happened and the public reaction at the time. Furthermore, newspaper headlines, articles, leaders, editorials and readers' letters all shed valuable light on the expectations and pressures on the MPS at the material time.

(2) Expert evidence

As set out above, it is not known whether the inquiry has reviewed any political or socio-economic histories of the relevant period and it is submitted that transparency about any back-ground reading is essential. Furthermore, it is not possible to put questions to books and articles and independent historians can and do give expert evidence about contextual matters in inquisitorial proceedings such as public inquiries. For example, Professor Robert Service gave valuable expert evidence to the

Litvinenko Inquiry on Russian history and politics and Professor Thomas Hennessey gave equally valuable expert evidence to the Birmingham Pub Bombing inquests on British and Irish history and the Northern Ireland Troubles.

(3) Protest group publications

Many of the groups reported on by the SDS produced newspapers and pamphlets which, at least, demonstrate what they were saying publicly at the material time. These were reviewed by the authorities and so shed valuable light on their contemporaneous responses and assessments. For example, the INSLF newspaper *Irish Liberation Press* (“ILP”) was a fanatical, partisan, propaganda newspaper full of intemperate and derogatory language, unsubstantiated allegations, conspiracy theories and grandiose, deluded self-proclamations. The ILP thus referred to the Royal Family as “layabouts”, a “mafia” and a “bunch of ponces” (vol.3, no.1, 1972, p.10) and to itself as having “no equal anywhere in the world” (vol.2, no.3, 1971, p.3). One of its main themes was a long-running conspiracy theory about the British state and media carrying out bombings and attributing them to Irish revolutionaries. The police (routinely referred to as “pigs”) were particularly singled out for irrational hatred and regular non-specific, incredible allegations, see e.g. vol.2, no.1, 1971, p.4:

MORE PIG BRUTALITY

After a demonstration in London in early December in support of workers struggling in Canada, several people were arrested and brutally beaten by the pigs. One girl had some ribs broken whilst another was stripped naked and a truncheon was put down her throat to get information out of her.

5. Just causes and public order policing

5.1 The argument that the police had no business collecting intelligence on activists or groups campaigning for just causes (e.g. anti-apartheid or anti-racist) is misconceived.

5.2 The police are obliged to remain politically neutral and they cannot possibly be

expected to judge the righteousness or worth of particular campaigns or favour those considered just over others (1st DL opening, paras 5.3.9-5.3.10)

5.3 In this regard, the police's duty to maintain public order and to obtain intelligence about related threats would have been precisely the same if an all-black West Indies Test Team had been scheduled to tour England in 1970 and there had been a far right campaign aimed at stopping them.

6. Violence, non-violence and public order policing

6.1 The argument that the police had no business collecting intelligence on activists or groups whose public positions were (a) opposed to violence and/or (b) committed to "non-violent direct action" is similarly misconceived because such groups were nevertheless capable of posing a threat to public order:

(1) The primary duty of the police to maintain public order is not confined to the prevention or detection of crime or physical violence and this is why MPSB was obliged to "provide assessments of whether marches, meetings, demonstrations and pickets pose any threat to public order and help the chief officer to determine an appropriate level of policing" (see 1st DL opening, parts 3-4). Good public order and public tranquillity require not only an absence of crime and physical violence, they also require that all citizens - both protestors and non-protestors - are equally and simultaneously able to go about their lawful activities and enjoy their liberties, possessions and leisure time and the same public spaces. The intimidation, disruption and obstruction of others and attempts to compel them to listen to and heed particular views are all contrary to good public order and capable of constituting a breach of the peace whether or not there is a resort to physical violence.

(2) Gluing locks shut and other criminal damage, obstructing vehicles, disrupting events and other forms of non-violent direct action present a double-threat to public order, first, because they interfere with the lawful activities of others and, secondly, because they are liable to prompt reaction and resistance from those others and this is inherently likely to

escalate into disorder.

- (3) Group protests and demonstrations have a further propensity to become disorderly - and are therefore capable of threatening public order - because they engage “crowd psychology” whereby individuals in large groups (a) are more difficult to communicate with, (b) lose self-restraint and a sense of responsibility for their own actions and (c) become more susceptible to provocation and agitation (1st DL opening, para.4.1.1).
- (4) Groups with moderate leaders and supporters can be and are targeted, hijacked and exploited by individuals and other groups with more extreme agendas and objectives, particularly in crowded situations.

6.2 For the same reasons, the fact that some SDS undercover officers did not witness violence or disorder does not demonstrate that their deployments were unnecessary:

- (1) the MPS Uniformed Public Order Branch was generally able to maintain order and contain disorder - with the assistance of SDS intelligence;
- (2) undercover officers would generally avoid direct involvement in disorder because this could in turn involve the commission of public order offences and lead to injury or arrest (see: HN301, para.65, “Generally-speaking I tried to stay out of any violence or public disorder and not put myself in a position where I could accidentally become involved”; HN126, para.252, “There was always a sub-group within the main group of people I was with who were looking for trouble and who wanted to be able to say they had punched a police officer or been arrested. However, there were others who did not want any aggravation at all. I tried to stick with the latter sort of people, so I did not get caught up in it”);
- (3) prior intelligence that disorder or violence was not likely at a particular public event was valuable even if not publicly available and this still

needed a source.

6.3 Moreover, SDS intelligence collection in relation to the STST *prior to the cancellation of the 1970 England and Wales v South Africa Test Series* was plainly justified - had the tour gone ahead STST's determination to force its abandonment would have had significant public order implications. In this regard, it is a fact of life that fee-paying spectators at major sporting events attend in order to watch the game and to socialise and that this very often involves the consumption of alcohol. Indeed, each of the STST-related civilian witnesses refers to the fact that many rugby and cricket fans were (a) opposed to their activities and (b) willing and able to use force to resist the interruption or abandonment of their enjoyment (Hain, paras 84-85; Rodker, paras 62, 128; Rosenhead, para.38). If the Test Series had not been cancelled, the police would have been called upon to try and maintain public order in the face of - inevitably - serious disorder and violence (see the *SDS annual report for 1970* dated 18 November 1970 [MPS-0728972], para.11).

6.4 In terms of the "open" DL undercover officer evidence falling within T1, phase 2, there are extensive references to disorder:

- (1) protestors trying to set fire to a vehicle (HN45, para.67);
- (2) regular violence and confrontations between supporters of IS/SWP and the NF (HN301, para.65; HN351, paras 41, 55; HN354, paras 101-102, 156-157, 160; HN126, paras 190, 193, 247-248; HN155, paras 66, 107; HN96, para.272; [UCPI0000014208]);
- (3) SWP tactics for attacks on the NF [UCPI0000011019]:

c) Experience had shown that incidents were over in less than a minute. Superior numbers should be used whenever possible, otherwise a longish fight could ensue when the object was to give individual members of the Front a good beating. Where necessary groups would enter pubs, coffee bars etc and attack the Front, but it should be done quickly in order to minimise the risk of arrest. All fines would be paid by the Socialist Workers Party.

d) The best method of street fighting was for a group to give one fascist a good kicking, which was more effective than punching. If police, when outnumbered, tried to arrest members of the defence groups or comrades at the meeting, they should be attacked.

- (4) the Battle of Lewisham - SWP intent on creating a riot, SWP supporters scouting the route and stashing bricks in advance, SWP supporter with air pistol, suspected SWP supporter with knife and CPE-ML contemplating the use of petrol bombs (HN354, paras 104-107; [MPS-0732886]; [UCPI0000011188]);
- (5) protestors attacking the police with sticks (HN298, para.202);
- (6) Duckett's Common / Wood Green - IMG scouting the route of the NF march in advance in order to identify attack points and ammunition (HN353, paras 20, 67);
- (7) protestors damaging cars and shop windows (HN200, paras 84, 86);
- (8) anarchists contemplating the use of violence, arson and paint and an attack on a school [UCPI0000011003, UCPI0000011648, UCPI0000021641, UCPI0000021710];
- (9) anarchists inviting a speaker from the Paedophile Information Exchange to an event at the LSE and leaking information about this to the NF in the hope that they would attend and oppose this and could then be ambushed with smoke bombs and missiles from a roof [UCPI0000021709, UCPI0000021703];
- (10) disorder at the Grunwick industrial dispute (HN304, paras 107-108; [UCPI0000011613]);
- (11) violence at SWP / Right to Work marches (HN126, paras 190, 193);

(12) SWP plans to disrupt 1980 Conservative Party conference ([UCPI0000014264] - HN80 injured in resulting disorder) and to use fake documents to access 1982 Conservative Party conference [UCPI0000014616, UCPI0000018663];

(13) SWP supporter attempting to get job with British Rail in order to access information about trains carrying nuclear waste [UCPI0000014554].

7. Expenditure of police resources

7.1 In 1972, the authorised establishment of the MPS was 26,049 officers and its attested strength was 21,460 (*Commissioner's Annual Report for 1972* (Cmnd.5331, June 1973), p.9).

7.2 It is therefore obvious that the redeployment onto other duties of the dozen or so officers within the SDS - whose expenses were funded by the Home Office - would have had no meaningful impact on the prevention or detection of crime across a major capital city with a population of approximately seven million.

7.3 Indeed, and as set out in the 1st DL opening, part 5.3, the demands of public order duties in the T1 period were having a serious adverse effect on the morale, recruitment and retention of MPS officers and (therefore) the performance by the MPS of its functions. During the T1 period, the Commissioner repeatedly made public statements - in his annual reports, public speeches and evidence to Parliament - referring to this as his number one problem and emphasising its scale, complexity and seriousness (paras 5.3.11-5.3.18). In that period, there were thousands of public order events which resulted in thousands of arrests, thousands of injuries to police officers, hundreds and hundreds of injuries to members of the public and two deaths (paras 5.3.19-5.3.28). Between 1972 and 1981, the number of demonstrations requiring the deployment of more than 100 MPS officers increased from 55 p.a. to 379 p.a. (para.5.3.18).

7.4 Given the very wide range of MPS responsibilities, the reality is that disbandment and redeployment of the SDS would have made no positive difference. Rather, it is submitted that it would have had a serious negative

impact leading to greater numbers of under-policed and over-policed public order events and (therefore) more disruption to the public, police officers and their families, more injuries, more damage and more expenditure and (therefore) further problems with recruitment and retention and fulfilment of MPS's wider functions.

8. Personal information

8.1 Every undercover officer who has been asked about the reporting of personal or seemingly trivial information has said essentially the same thing - they harvested all the information they could and it was for others to sort the wheat from the chaff.

8.2 Furthermore, the personal information included in SDS intelligence reports was no different to the personal information included in other MPSB and MI5 intelligence reports. Such details were included in all these reports whether derived from open source research, ordinary police enquiries or some other covert technical or human source of intelligence. See HN304, para.78:

It was standard for all SB reports to submit as much information as you could, whether UCO or otherwise. It was simply the standard way of putting a report together and how we were trained to do it. This report fits the format of a standard SB report. We were encouraged to report in this way because no man is an island.

8.3 All police officers are trained to observe and take note of personal identifying information - name, sex, age, height, build, appearance, eyes, hair, complexion, race, address, employment, telephone number, vehicle registration number etc - and this was routinely recorded because the correct identification of individuals is fundamental to basic police work.

8.4 Other information about personal and domestic associations and relationships, employment or unemployment, sexuality, finances, interests or opinions was recorded because it might be relevant in connection with an assessment of future activities, intentions or inclinations, amenability to recruitment as an informant or vetting enquiries. Having children, getting married, separated or divorced and assuming caring responsibilities can all have an impact on an individual's

finances, free time and disposition. Effectiveness or ineffectiveness as an orator or organiser can indicate prospects and ability to motivate or attract support. Moreover, MI5 made repeated requests to the SDS for help with information about particular individuals and “talent spotting” possible informants (Witness Z, paras 124-128).

- 8.5 So far as concerns sexuality, it should be remembered that times have changed. In the 1970s, homosexuality had only recently been decriminalised, it remained prohibited in certain professions (e.g. the armed forces), the age of consent was higher, open homosexuality was less common and a fear of being “outed” was more likely to leave individuals vulnerable to blackmail and so be relevant to vetting.
- 8.6 Even if an undercover officer felt they were only coming across low-level or trivial information, they still needed to report this, first, because it might have some unknown significance as part of a wider intelligence picture and, secondly, because their managers needed to know what they were finding in order to take informed decisions about the utility of their deployment. In this regard, the collection of low-grade intelligence was sometimes inevitable: some deployments fizzled out with their targets or “drew a blank” altogether and others went through lean spells between periods of increased activity in circumstances where the undercover officer needed to be *in situ* before the next such period (1st DL opening, para.6.1.2).
- 8.7 While it is easy to cherry-pick isolated pieces of sensitive personal data, trivia or outdated expressions from intelligence reports and query why they were recorded, it must also be borne in mind that individual undercover officers were not responsible for deciding what went into disseminated intelligence reports, to whom these were distributed or for how long they were retained. In many cases, it is the retention of the intelligence for such a long period (generally by MI5) rather than its original collection - possibly to be noted and destroyed - which is more questionable.

9. Information about children

- 9.1 There was no reason for SDS undercover officers to avoid or refrain from reporting information about children. This did not cause any harm or raise any safeguarding issues and it does not feature in the inquiry’s list of 158 *Module One Special Demonstration Squad Issues* dated 5 July 2018.
- 9.2 Intelligence about activists would inevitably extend to intelligence about (a) their domestic and family circumstances, including infants and children, and (b) teenagers who were involved in activism, demonstrations, protests and disorder or who were being targeted for related recruitment and exploitation (see HN126, para.207 in relation to SKAN involvement in fights).
- 9.3 For example, the SWP had a significant number of teachers in its ranks, HN354 refers to it wanting to have a teacher in every school (HN354, para.129) and the “National Union of School Student” materials at [UCPI0000016563] demonstrate what some were willing to do in order to recruit (other people’s) children and disrupt their education for political ends. Such activities were not, of course, the *raison d’être* of the SDS, but they were of legitimate interest to the police and they highlight that reporting on under 18s was inevitable and not sinister or harmful.

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14 April 2021

Re-dated 20 April 2021

(Para.1.1 updated, paras 2.5 and 6.4(8) corrected)

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

**AND IN THE MATTER OF THE GROUP OF
CURRENT AND FORMER MPS OFFICERS
REPRESENTED BY THE DESIGNATED
LAWYER TEAM**

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

**TRANCHE 1, PHASE 2: SPECIAL
DEMONSTRATION SQUAD
UNDERCOVER DEPLOYMENTS 1973-1982**

FOR HEARING: 21 APRIL 2021

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