

Wednesday, 21 April 2021

(10.00 am)

MR FERNANDES: Good morning, everyone, and welcome to the first day of opening statements at the Undercover Policing Inquiry. My name is Neil Fernandes and I'm the hearings manager.

This is Day 1 of the opening statements in Tranche 1, Phase 2; and this phase will conclude in three weeks' time on 14 May.

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

THE CHAIRMAN: Thank you very much.

Mr Barr, would you make your opening statement, please.

Opening statement by MR BARR QC

MR BARR: Thank you, sir.

At the hearings held by the Inquiry in November 2020, we received oral and written evidence about events leading up to the formation of the undercover police unit that will be the focus of a good deal of this Inquiry's work. The unit was known by a variety of names during its 40-year history.

I shall refer to it throughout as the "Special Demonstration Squad", or "SDS".

1 The evidence was to the effect that the SDS was set
2 up to gather intelligence about the Vietnam Solidarity
3 Committee, which I shall call the "VSC", and in
4 particular its 1968 "Autumn Offensive".

5 The desire for more intelligence about the VSC
6 appears to have stemmed from concerns, both within
7 the police and within the government, that there would
8 be a repeat of the serious and violent public disorder
9 that had occurred outside the American Embassy in
10 Grosvenor Square at the demonstration organised by
11 the VSC in March 1968.

12 The evidence about the SDS's first months of
13 operation demonstrated that it was focused on those
14 planning demonstrations against the Vietnam War,
15 principally the VSC, but also Maoists, who had founded a
16 separate organisation, the British Vietnam
17 Solidarity Front, which I shall refer to as the "BVSF".
18 Many of the early SDS undercover officers were deployed
19 for only a few weeks or months. They were all
20 Special Branch officers with experience of how
21 Special Branch had hitherto gathered and recorded
22 intelligence.

23 This had included attending activist meetings in
24 plain clothes and giving a false name, if asked. As SDS
25 undercover officers, they appear to have reported

1 the same type of information in the same format.
2 The difference was that the information which they
3 reported was obtained by assuming, for an extended
4 period, a false identity, and playing the role of an
5 activist. Doing so resulted in their obtaining much
6 more access to private meetings of political activists.
7 It also meant that some undercover police officers began
8 to participate in the social lives of political
9 activists. Regular reports were provided by the SDS
10 about the activities of the VSC and the BVSF during
11 the autumn of 1968.

12 In the event, the massive VSC-organised
13 demonstration, held on 27 October 1968, passed off
14 peacefully, following a route from the Embankment to
15 Hyde Park. Tariq Ali, one of the principal organisers
16 of the demonstration, gave evidence that the VSC's
17 leadership had no wish to see a repeat of the violence
18 that had occurred in March 1968. The route which the
19 VSC chose, avoiding the American Embassy, and
20 the group's public pronouncements were intended to avoid
21 violent clashes.

22 There were violent scenes again outside the American
23 Embassy, which was the destination of a planned
24 breakaway organised by the BVSF.

25 We received evidence about how and why the SDS

1 continued to exist after the 27 October 1968
2 demonstration. In particular, we admitted into evidence
3 correspondence between the Metropolitan Police Service,
4 which I shall call the "MPS", and the Home Office about
5 the continued need for and funding of the SDS. We noted
6 concerns on the part of the Home Office that it might be
7 embarrassed if the SDS did not observe tight security.
8 The sensitivity committed to paper at that stage was
9 about the use of public money to pay for cover
10 accommodation.

11 Documents demonstrated that the Security Service was
12 aware of the existence of the SDS from the start and
13 already had an established working relationship with
14 Special Branch before the SDS was formed. It appears to
15 have been supportive of the unit and to have valued its
16 intelligence reporting, much of which appears to have
17 been copied to it using the address Box 500.

18 The SDS's value to the Security Service was relied
19 upon by the MPS to the Home Office as a reason to
20 continue the existence of its undercover operations.
21 The documents suggest that the MPS, Security Service and
22 the Home Office proceeded on the basis that SDS
23 intelligence assisted the Security Service in
24 the discharge of its responsibility to counter
25 subversion. We considered carefully the definitions

1 of "subversion" applicable at the time; definitions
2 which it is important to keep in mind during Phase 2.

3 We saw how the SDS continued to operate after
4 October 1968, with UCO's deployed into a growing list of
5 left wing organisations, for periods of time longer than
6 the majority of the SDS's initial operations. Groups
7 were no longer being infiltrated on the basis of
8 concerns about a particular imminent threat to public
9 order; they were infiltrated on the basis that having
10 undercover officers established within left wing
11 activist groups was necessary in order to provide timely
12 intelligence if trouble were to brew suddenly.

13 A byproduct of this approach, it was said, was
14 the ongoing provision of intelligence useful to
15 the Security Service, particularly in relation to
16 the organisation and members of groups considered to be
17 subversive.

18 A noticeable feature of the evidence admitted in
19 Phase 1 was how little criminality was reported amongst
20 the groups that were being infiltrated, how often groups
21 reported on had subversive aims but lacked the means to
22 realise those aims, and the limited extent of serious
23 public disorder after 1968. Former undercover officers
24 nevertheless often felt that the SDS had provided timely
25 and accurate intelligence which permitted appropriate

1 police resources to be allocated for the purposes of
2 public order policing.

3 At opposite ends of the spectrum, there was, on
4 the one hand, some reporting connected with
5 Irish-related terrorism about the funding of terrorism;
6 on the other, there was considerable reporting on causes
7 considered today to be mainstream: anti-racism and
8 women's rights.

9 Another striking feature of the SDS reporting in
10 Phase 1 was the extensive, detailed and highly personal
11 reporting on individuals. Some such reports were
12 drafted in terms indicative of attitudes that are
13 relevant to the issues of race and sex discrimination
14 that we are investigating. The Phase 1 SDS deployments,
15 particularly after October 1968, often appear to have
16 involved the UCO being given a significant degree of
17 latitude in relation to which events to attend and what
18 information to report. In some cases, that latitude
19 extended to which groups to infiltrate.

20 In terms of what was reported, SDS
21 undercover officers seem typically to have cast their
22 nets wide. Their understanding seems to have been that
23 it all helped to build the intelligence picture, or that
24 it was for others to decide what was relevant, or that
25 it might be useful at some point. The written evidence

1 that we have obtained for Phase 2 is consistent with
2 these themes, and we will be exploring the detail
3 further in oral evidence.

4 In total, the deployments of 25 former SDS
5 undercover officers were covered in Phase 1, together
6 with evidence relating to four early managers.

7 We now embark upon Phase 2 of the Inquiry's
8 hearings. The Inquiry's method, in relation to the SDS,
9 remains to investigate on an officer-by-officer basis.
10 In this phase, we will be receiving evidence which
11 results from our investigation of a further 29 former
12 SDS undercover police officers. In keeping with our
13 investigative approach, we will be calling witnesses and
14 admitting written evidence about the deployments of
15 these SDS undercover police officers in a broadly
16 chronological order.

17 Seven of the former UCOs are the subject of
18 restriction orders, which cover both their real and
19 cover names. The amount of evidence that the Inquiry
20 can publish emanating from, or relating to, these
21 officers is limited by the need to protect their
22 identities. However, the Inquiry has obtained documents
23 relating to all seven deployments and witness statements
24 from each of the former undercover officers which form
25 part of the closed evidence that you, Sir, will take

1 into account. A single composite gist containing
2 the evidence relating to all seven which can be made
3 public is being published on the Inquiry's website
4 today.

5 All but one of the remaining 22 former UCOs in
6 Phase 2 are the subject of orders which restrict
7 the publication of their real names but not their cover
8 names. I will refer to them as "open officers".
9 The exception is HN297, Richard Clark, who is not
10 the subject of any restriction order. The earliest
11 deployment in this group is that of the officer known by
12 the Herne nominal "HN45" who used the cover
13 name "David Robertson". Our investigations suggest that
14 he deployed between 1970 and 1973. The latest
15 deployment is that of HN155, who used the cover
16 name "Phil Cooper". We understand that this officer
17 deployed in 1979 and remained undercover until either
18 late 1983 or early 1984.

19 All of the Phase 2 officers infiltrated political
20 groups and all of their principal targets were left wing
21 organisations. One officer, HN303, who used the cover
22 name "Peter Collins", was instructed by his target group
23 and not the SDS to infiltrate right-wing groups: he
24 appears to have done so, presumably in order to maintain
25 his cover.

1 A wide range of groups was reported on, but the
2 evidence will show that the group most commonly targeted
3 by the SDS, during the 1970s, was that known until 1977
4 as the International Socialists, and thereafter as
5 the Socialist Workers Party.

6 The average length of the Phase 2
7 undercover officers' deployments is markedly longer than
8 that of the very earliest SDS deployments. Deployments
9 of between three and five years are the norm, although
10 they are exceptions and there is a significant amount of
11 variation between individual deployments. For example,
12 shorter deployment could result if an undercover officer
13 asked to be withdrawn, as the officer who used the cover
14 name "Jeff Slater", HN351, states occurred; or if
15 the officer's cover identity was compromised to some
16 degree, as happened in the case of HN297, Richard Clark,
17 the officer who used the cover name "Rick Gibson".

18 We are investigating a large number of issues in
19 relation to the SDS, but three deserve particular
20 mention at the outset. In Phase 2, we will receive
21 the first evidence of sexual contact and
22 sexual relationships occurring between SDS
23 undercover police officers, in their undercover
24 identities, and women whom they met whilst using those
25 undercover identities. Secondly, we will investigate

1 the first instances in which the SDS instructed its
2 undercover officers to use aspects of the identity of
3 a deceased child upon which to found their undercover
4 identities. Finally, we will hear evidence that will
5 require the Chairman to consider whether to refer cases
6 to a panel set up to consider potential
7 miscarriages of justice arising from undercover
8 policing. I will return to all three of these important
9 topics later this morning.

10 Of the 22 open officers in Phase 2, four are
11 deceased. We are due to hear oral evidence from eight
12 former undercover officers. Seven more have provided
13 witness statements but will not be called to give oral
14 evidence for a variety of reasons. In the remaining
15 three cases, we have not been able to obtain a witness
16 statement from the officer, but we have recovered
17 documents relating to his deployment. In one of these
18 cases, that of HN296, who used the cover
19 number "Geoff Wallace", the Inquiry anticipates being
20 able to obtain a witness statement at some point in
21 the future.

22 The procedure for admitting the evidence of those
23 former UCOs who give oral evidence will be to publish
24 their witness statements and the documents relating to
25 their deployment on the Inquiry's website on the start

1 of the session in which the officer will give his oral
2 evidence.

3 The evidence of the former UCOs who have provided
4 witness statements but who will not be called to give
5 oral evidence will be summarised by junior counsel to
6 the Inquiry in a live-streamed session. The witness
7 statement and documents relating to the deployment will
8 be uploaded onto the Inquiry's website at the same time.

9 The documents relating to the deployments of those
10 former undercover officers from whom there is no witness
11 statement will be published on the Inquiry's website at
12 a point appropriate to his place in the chronology.

13 We are not investigating the Security Service but an
14 important aspect of our investigation of the SDS
15 concerns its relationship with the Security Service. We
16 have been greatly assisted to date by the Security
17 Service in our search for potentially relevant
18 documents. We have been further assisted by
19 the provision of a corporate witness statement which
20 provides important contextual evidence. It also
21 explains the Security Service's perspective on documents
22 which evidence the relationship between it and the SDS
23 during the Tranche 1 era. The witness statement, made
24 by a Security Service witness whom we are
25 calling "Witness Z", together with a significant number

1 of associated documents, will be published on
2 the Inquiry's website today.

3 We will have the benefit of more evidence from
4 activists who were reported upon by the SDS in Phase 2
5 than we had in Phase 1. Nine witnesses in this category
6 will be giving oral evidence; three more have provided
7 witness statements. Two of these will be read into
8 evidence, and the third posted on the Inquiry's website.

9 In addition to the former undercover police officers
10 and those who were subject of SDS reporting,
11 the evidence of six more witnesses completes
12 the programme for Phase 2. The Inquiry has been
13 provided with helpful statements from the relatives of
14 two of the deceased former undercover officers: HN3000,
15 who used the cover name "Jim Pickford", and HN13, who
16 used the cover name "Barry" or "Desmond Loader".

17 We will be hearing from two of the risk assessors
18 appointed by the Metropolitan Police Service because
19 there is a dispute of fact about what was said in their
20 presence by the officer who used the cover
21 name "Phil Cooper", HN155. The dispute concerns whether
22 or not he said that he had engaged in sexual activity
23 with another person in his undercover identity.

24 Finally, we have two witness statements which
25 address the question whether or not HN298's conviction

1 in his undercover identity was ever recorded in
2 the criminal record of the living person whose name
3 HN298 used as a cover name. These will be posted on
4 the website when HN298 gives evidence.

5 The default position for a witness who gives
6 evidence in Phase 2 is that he or she will do so
7 remotely over a virtual audio-visual link, which enables
8 the Chairman, Counsel to the Inquiry, other relevant
9 lawyers and the witness to see and hear one another.
10 The audio-visual feed will usually be streamed live at
11 the Inquiry's hearing venue, the Amba Hotel,
12 Marble Arch.

13 In the cases of two witnesses, for specific reasons
14 accepted by the Chairman, only the audio feed will be
15 streamed live at the hearing venue. In all cases,
16 people who wish to follow the evidence other than at our
17 hearing venue will be able to do so online. The audio
18 feed of all of the sessions at which witnesses give oral
19 evidence to the Inquiry will be streamed online with
20 a 10-minute delay. The Inquiry's near real-time
21 transcript will also be streamed online, subject to
22 the same 10-minute delay. A finalised version of
23 the transcript will be published on the Inquiry's
24 website at the end of each day. Some non-police
25 witnesses have exercised the option to have both

1 the audio and visual feeds of their oral evidence
2 streamed with a 10-minute delay.

3 Core participants will begin making their opening
4 statements for Phase 2 this afternoon, and will continue
5 through to the end of the week. They will all be
6 streamed live on the Inquiry's YouTube channel. We will
7 be pausing at 10 am tomorrow for a minute's silence to
8 remember Stephen Lawrence on the anniversary of his
9 death 28 years ago. We will also pause at 10 o'clock on
10 Friday for a minute's silence to remember Blair Peach,
11 who died on 24 April 1979. The evidential sessions will
12 begin next Monday and last until Thursday, 13 May.

13 A timetable for the witnesses and other evidence being
14 received will be published on the Inquiry's website,
15 together with an Operational Note.

16 Issues.

17 We remain guided, but not straitjacketed by
18 the Lists of Issues published on the Inquiry's website.
19 Two of the Inquiry's published issues list are, in very
20 large part, relevant to the Phase 2 investigation.
21 First, the Module 1 Special Demonstration Squad Issues
22 List, which is directed at the SDS's
23 undercover officers; second, the module 2(a)
24 Special Demonstration Squad Issues List, which concerns
25 unit level management of the SDS.

1 I turn now to say a little about the political and
2 geopolitical context in which the events that we will be
3 hearing about in Phase 2 occurred.

4 The long-running Vietnam War came to an end in 1975,
5 and the remainder of that conflict did not provoke any
6 further public disorder in this country on the scale
7 seen in Grosvenor Square in March 1968. However,
8 the Cold War continued throughout the period we are now
9 considering, and formed an important part of the context
10 in which events with which the Inquiry is concerned
11 occurred.

12 At its core was the rivalry between two
13 systems: communist and capitalist. The latter often
14 referred to as the "Free World" by its support and
15 "imperialist" by its detractors. There was concern
16 within Government that foreign powers, especially
17 the Soviet Union, were seeking to foment division and
18 unrest. In fact, one SDS undercover officer, HN106, who
19 used the cover name "Barry Tompkins", did report being
20 approached by the Soviet foreign intelligence service,
21 the KGB. But such contact was an isolated occurrence
22 for the SDS.

23 More relevant, for our purposes, is the apparent
24 interest in any form of left wing political activity
25 considered subversive. The evidence heard in Phase 1

1 and that in Phase 2 indicates that this interest
2 emanated both from the Security Service and
3 Special Branch. Counter-subversion was a part of
4 the Security Service's remit to defend the Realm.
5 A part of Special Branch's remit was to assist
6 the Security Service in its counter-subversion work.

7 Relations between the West and
8 the People's Republic of China changed significantly
9 during the period in which the Phase 2 UCOs were
10 deployed. At the start of the period, China was Maoist.
11 Relations with the West were poor. Relations gradually
12 improved. President Nixon's visit to China in 1972 was
13 an important step in that process. Diplomatic relations
14 between the United States of America and China were
15 restored at the start of 1979. Mao died in 1976 and
16 China entered a post-Maoist era.

17 Two Phase 2 SDS officers, HN45 "David Robertson" and
18 HN13 "Desmond" or "Barry Loader" specifically
19 infiltrated Maoist groups. The former in 1970 and
20 the latter in 1975. Why these groups were targeted and
21 whether their infiltration was justified remain
22 the subject of investigation. We shall be hearing oral
23 evidence from Diane Langford, a prominent member of
24 Maoist groups at the time, whose activities, personal
25 and political, were reported on by a number of

1 undercover officers.

2 The Prime Ministers during the Phase 2 era were
3 Edward Heath, Harold Wilson, James Callaghan and
4 Margaret Thatcher.

5 The Home Secretaries during the Phase 2 era were
6 Reginald Maudling, Robert Carr, Roy Jenkins,
7 Merlyn Rees, William Whitelaw and Leon Brittan.

8 The Troubles in Northern Ireland, which had flared
9 in 1969, continued throughout the 1970s and into
10 the 1980. The early to mid-1970s were particularly
11 violent, especially after the killings on Bloody Sunday
12 on 30 January 1972. Special Branch retained lead
13 responsibility for countering Irish-related terrorism on
14 the mainland throughout the Phase 2 deployments.

15 A consistent theme in the Phase 2 evidence is
16 Special Branch's interest in groups campaigning about
17 the situation in Northern Ireland. Two of
18 the deployments that we are considering in Phase 2 were
19 targeted specifically at Irish-related groups. HN347,
20 who used the cover name "Alex Sloan", targeted
21 the non-sectarian but, as it described itself,
22 anti-imperialist Irish National Liberation Solidarity
23 Front, the INLSF, in 1971. Both HN347, and
24 Dr Normal Temple, who was a member of the INLSF, will be
25 giving oral evidence.

1 HN344, who used the cover name "Ian Cameron", was
2 transferred into the SDS having secured an entrée into
3 the Northern Minorities Defence Force in 1972.
4 The NMDF is recorded as believing that civil war was
5 imminent in Northern Ireland, and as seeking to provide
6 military training to volunteers prepared to fight in
7 the anticipated conflict. Many left wing groups of
8 the era campaigned in support of a united Ireland, among
9 other causes. Very many of the Phase 2 UCOs reported on
10 this activity in the context of their infiltration of
11 the groups concerned.

12 Racism was an important political issue for
13 the left wing throughout the period of the Phase 2
14 deployments. Reporting on the anti-racist activities of
15 both single issue groups and left wing groups generally
16 is very common amongst the documents we have recovered.
17 The issues of the day were both domestic and
18 international, and the evidence that we will be
19 receiving in Phase 2 needs to be considered in
20 conjunction with the related evidence already taken in
21 Phase 1.

22 There was considerable protest against the system of
23 apartheid in South Africa that was in place throughout
24 the Phase 1 and 2 eras. This included, for example,
25 the work of the Anti-Apartheid Movement, or "AAM" as

1 I shall call it, and specific campaigns, such as
2 the Stop the Seventy Tour, or STST.

3 There was also protest against the Government of
4 Rhodesia, which had unilaterally declared independence
5 from the United Kingdom in 1965 and persisted, almost
6 unrecognised internationally, with a system of white
7 minority rule until it was forced to capitulate after
8 a long guerilla war. The country was granted
9 international recognition as Zimbabwe, in 1980,
10 following elections won by Robert Mugabe's ZANU party.

11 At the start of the Phase 2 era, Portugal remained
12 a right wing dictatorship which exercised colonial power
13 over a number of African countries. Of specific
14 relevance for our purposes, these included Angola and
15 Mozambique. The dictatorship fell in the 1974 Carnation
16 Revolution, and with it Portuguese colonial rule.

17 The SDS reported, for example, on the activities in
18 England of the Dambusters Mobilising Committee,
19 a campaign against the Caborra Bassa dam project in
20 Mozambique. The project was a collaboration between
21 Portugal, South Africa and Rhodesia. There are other
22 occasional mentions in SDS reporting of events both in
23 Portugal and its southern African colonies.

24 At home, the 1970s witnessed a marked rise in far
25 right political parties, especially the National Front

1 and the British Movement. There was considerable
2 tension between these groups and groups on the left
3 which resolutely opposed them. These tensions spilled
4 over into violence. Sometimes violence was on a small
5 scale, for example in relation to the sale of party
6 newspapers. But, occasionally, violence occurred on
7 a larger scale, particularly when there were
8 demonstrations and counter demonstrations.

9 There is a significant amount of SDS reporting about
10 the struggle between the far right and anti-racist,
11 anti-fascist groups. In terms of public order policing,
12 perhaps the biggest single race-related disturbance
13 reported upon in the Phase 2 period by SDS officers was
14 that which occurred when the National Front marched from
15 New Cross to Lewisham on 13 August 1977, an occasion
16 known colloquially as the "Battle of Lewisham". Amongst
17 other things, we will be examining the role played by
18 the SDS in policing before, during and after that event.

19 We have obtained two news reports about
20 the Battle of Lewisham, which give a flavour of
21 the events that took place. We are grateful to
22 the BBC and Associated Press respectively for them.

23 Please could we play DOC043 {DOC/43}.

24 (Video footage played to the Inquiry)

25 Thank you. Could we now view the Associated Press

1 report. That's DOC042 {DOC/42}, please.

2 (Video footage played to the Inquiry)

3 Thank you.

4 On 23 April 1979, the National Front held a meeting
5 at Southall Town Hall in the run-up to the 1979 general
6 election. It was met with staunch opposition from
7 counter-demonstrators. In the course of the public
8 disorder that ensued that evening, Blair Peach, an
9 anti-racist, anti-fascist member of the SWP and
10 Anti-Nazi League, which I shall refer to as the "ANL",
11 received a blow to the head that was to prove fatal.
12 The lethal blow was almost certainly struck by a member
13 of the MPS's Special Patrol Group.

14 The aftermath of Blair Peach's death and the justice
15 campaign that was established after his death were
16 reported on by members of the SDS. We shall be
17 exploring the extent to which it did so, and hearing
18 oral evidence from Celia Stubbs, Blair's partner, who
19 was also reported on.

20 HN106, who used the cover name "Barry Tompkins",
21 infiltrated and reported on the East London Workers
22 Against Racism, or ELWAR. The group was connected to
23 the Revolutionary Communist Party. It had, as the name
24 suggests, revolutionary aims. ELWAR's members are
25 recorded as visiting victims of racist attacks and

1 organising vigilante patrols in areas with a history of
2 racist attacks. By this route, HN106 may have come into
3 contact and reported on the identities of the victims of
4 racist attacks. He stated that he would -- I quote:

5 "... would go as a group of three or four people to
6 offer support to families that were experiencing
7 difficulties as a result of their race and we would
8 offer assistance and invite them to become involved with
9 [Workers Against Racism]."

10 He certainly reported on ELWAR's activities in this
11 regard.

12 Could we please look at UCPI0000018095 {UCPI/18095}.

13 Thank you:

14 "On Saturday, 8th May 1982, a contingent of members
15 of the East London Workers Against Racism (ELWAR)
16 assisted by contacts of the Revolutionary Communist
17 Party's (RCP) Sheffield branch visited so-called defence
18 cases in the East London area. The main area of
19 activity was the Priory Court Estate in Walthamstow.

20 "A total of seventeen members and contacts visited
21 a number of blocks on the Priory Court Estate with
22 the intention of gaining physical support for
23 the [privacy redaction] of [privacy redaction]
24 'U' Block, who claim to have suffered racial harassment
25 from youths on the estate. Accompanying this group was

1 [privacy redaction] of 'Time Out' Magazine who, as
2 previously reported, in gathering material for an
3 article of racism to be published in his magazine.
4 Future plans by ELWAR involving this estate including
5 the issuing of a statement in the name of [privacy
6 redaction] appealing for assistance for his family,
7 the holding of a public meeting at the local residents
8 hall, and a leaflet detailing instances of racism on
9 the estate."

10 That document can be taken down, please.

11 Through ELWAR, HN106 also reported on a march in
12 support of the Newham 8 campaign. A public meeting of
13 the Newham 8 defence campaign held on 28 October 1982
14 was the subject of another report, although HN106 has no
15 recollection of it. There appear to be at least some
16 similarities between HN106's deployment and that of
17 HN81, who used the cover name "David Hagan". In
18 the 1990s "David Hagan" reporting on
19 the Stephen Lawrence Campaign. He did so having
20 infiltrated another group which campaigned against
21 racism, the Movement for Justice.

22 Racial tensions between the police and people in
23 the London Borough of Lambeth, combined with serious
24 social and economic problems, boiled over in April 1981
25 when the Brixton riots occurred. The scale and ferocity

1 of the violence that ensued was considerable.

2 The documents that we will be putting into evidence do
3 not suggest that there was significant SDS intelligence
4 either before or during the riots, but there is some
5 evidence of reporting in their aftermath. For example,
6 HN356, cover name "Bill Biggs", had been infiltrating
7 the Socialist Workers Party, or SWP, in south-east
8 London, particularly in Greenwich and Plumstead, for
9 some time before the riots. However, he appeared in
10 Brixton in the months following the riots, apparently in
11 connection with a newly formed branch of the SWP.

12 Many of the civilian witnesses in Phase 2 were very
13 active anti-racists. Both Lord Peter Hain and
14 Christabel Gurney OBE held particularly prominent
15 leadership roles. All have evidence to give relevant to
16 the infiltration of anti-racist groups.

17 Campaigning for sexual equality continued throughout
18 the Phase 2 era. Many of the groups infiltrated by
19 the SDS supported this cause. Towards the end of
20 the Phase 1 hearings we heard evidence from HN348, whose
21 cover name was "Sandra". She infiltrated the Women's
22 Liberation Front, reporting on members of that group,
23 including Diane Langford. Our oral evidence in Phase 2
24 will begin with hearing from Diane Langford. Towards
25 the end of our oral hearings, we will also hear

1 from "Madeleine", whose activism within the Women's
2 Voice subgroup of SWP was reported by
3 HN354 "Vince Miller" in the late 1970s.

4 The 1970s, particularly after the oil crisis of 1973
5 and the early 1980s, were a period of economic malaise
6 and industrial unrest. There was high inflation and
7 mass unemployment. A number of the groups infiltrated
8 by the SDS involved themselves in the industrial unrest
9 and championed associated causes.

10 For example, the support of both
11 the Workers Revolutionary Party and the International
12 Socialists for Shrewsbury 2 and Shrewsbury 24 campaigns
13 was reported on by SDS officers. There were also
14 protests against unemployment, such as Right to Work
15 marches, which the Phase 2 evidence indicates were
16 infiltrated by SDS officers. We will be exploring why
17 such reporting was made and whether it was justified.

18 Trade unions and strike action organised by them
19 were prominent in the 1970s and early 1980s. References
20 to trade unions and trade union membership is common
21 amongst the Phase 2 documents, but appears to arise in
22 the context of SDS deployments into left-wing political
23 groups and not as a result of any specific targeting of
24 trade unions. It includes some references to
25 core participant unions UCATT and the NUM.

1 One officer, HN299/342, cover name "David Hughes",
2 has stated that he joined a trade union, the Transport
3 and General Workers' Union, which I shall refer to as
4 the "TGWU". However, we have found no evidence that
5 trade unions were the specific target of an SDS
6 deployment.

7 There will be some evidence to the effect that
8 the groups infiltrated by the SDS were themselves
9 seeking to infiltrate and influence the direction of
10 trade unions. We will be examining why trade unions and
11 trade union membership featured in SDS reporting.

12 One particularly protracted industrial dispute at
13 the time is mentioned repeatedly in SDS reporting and
14 involved significant public disorder: that at
15 the Grunwick Film Processing Laboratories. The dispute,
16 about union recognition, involved a two-year strike. We
17 are grateful to the Associated Press for the following
18 contemporary report.

19 Please could we display DOC041 {DOC/41}.

20 (Video footage played to the Inquiry)

21 Returning to the international stage, other events
22 occasionally feature in the evidence that we will be
23 adducing. For example, the death of Franco in 1975,
24 which led to the end of fascist dictatorship in Spain
25 and a transition to democracy; the Arab-Israeli conflict

1 which persisted throughout the Phase 2 period; and
2 the coming into power in Cambodia of Pol Pot's
3 Khmer Rouge.

4 Before I turn to introduce some specific documents
5 that will form part of the evidence in Phase 2, I should
6 make some preliminary observations on documents
7 generally.

8 Shortly before the start of the Tranche 1 Phase 1
9 hearings, we posted a disclosure note on the Inquiry's
10 website, setting out for the whole of Tranche 1 how
11 the documents in the hearing bundle had been obtained,
12 selected and redacted. On 25 March, we published an
13 addendum on the website to bring these matters up to
14 date. Amongst other things, the addendum set out how we
15 have obtained material from the Security Service and
16 outlined the contents of the Phase 2 hearing bundle.
17 The vast majority of the documents that we will be
18 putting into evidence in Phase 2 have come either from
19 the Metropolitan Police Service or the Security Service.
20 In many instances, copy quality is a serious problem.
21 I'm afraid that some of the documents that we will be
22 working with are very difficult to read. In some places
23 text is illegible.

24 It has sometimes been necessary to put into
25 the hearing bundle documents which postdate the Phase 2

1 era. For example, so that they can be put to witnesses
2 who we are calling in Phase 2 and avoid having to recall
3 them at a later date. Save for one exceptional case,
4 such documents have been redacted to the state in which
5 they will be used not just in Phase 2 but also later in
6 the Inquiry. It is important that people bear in mind
7 that some of the persons mentioned in these documents
8 will not have their say about them until much later in
9 the Inquiry. The truth or fairness of their contents
10 may be disputed. Future witnesses may have important
11 context to add. The Inquiry will be considering these
12 documents, at this stage, on that basis.

13 Annual reports.

14 We are today uploading to the Inquiry's website
15 the SDS's annual reports for the years 1975 to 1984
16 inclusive and associated correspondence. Earlier annual
17 reports were admitted into evidence in Phase 1 and are
18 already on the website. The pattern in the period 1975
19 to 1984 is similar to that of previous years. A report
20 was produced by the SDS itself, and signed either by
21 the Chief Inspector or by one of the unit's detective
22 inspectors. It was passed up the chain of command and
23 clearly informs the contents of a letter from a senior
24 officer in the Metropolitan Police to the Home Office,
25 advocating the continuing need for the unit and seeking

1 continued funding for the SDS for another year.

2 Approval was then forthcoming in a written response.

3 The annual reports contain a great deal of
4 information about the SDS. We will be examining their
5 accuracy and significance in oral evidence, in this
6 phase and in Phase 3, when we will be hearing from
7 former SDS managers. The later reports overlap with
8 both deployments of UCOs and the tenure of managers who
9 will be considered in Tranche 2. I consciously leave
10 until then consideration of such material, for example
11 the references to the Campaign for Nuclear Disarmament
12 and the animal rights movement.

13 The records record information about the size of
14 the SDS. Between 1975 and 1984, the overall size of
15 the unit fluctuates between 15 and 18 persons.
16 The number of undercover officers fluctuates between
17 nine and 12; most usually it is 12. Staffing of
18 the back office is usually five or six; although in 1977
19 it fell to four.

20 A common feature of the annual reports is
21 a statement about the purpose of the unit. They
22 differentiate between what is stated to be the primary
23 role of the SDS, which relates to the policing of public
24 order, and a secondary aim relating to subversion.

25 For example, paragraph 2 of the 1975 report

1 states -- I quote:

2 "Since 1968, the SDS has concentrated on gathering
3 intelligence about the activities of those extremists
4 whose political views are to the left of the Communist
5 Party of Great Britain, generally described as
6 the 'ultra-left', and the anarchist and libertarian
7 movements. The primary aim has been to give warning of
8 impending demonstrations and to obtain information, not
9 available from any other source, regarding the number of
10 persons taking part and the degree of planned or likely
11 public disorder. This information enables 'A'
12 Department to assess the required police coverage to
13 ensure adequate control. In pursuance of this aim,
14 valuable information is also obtained regarding
15 subversive organisations which is passed to other
16 Special Branch Squads and to the Security Service."

17 One explanation given from time to time in
18 the documents to justify the SDS's role is an assertion
19 that some left wing groups did not cooperate with police
20 when organising demonstrations. For example,
21 paragraph 7 of the 1975 report states:

22 "Such schisms [amongst left wing groups] and smaller
23 groupings are of course to the advantages of the police,
24 whose manpower would be severely stretched should the
25 'ultra-left' sink their differences and unite for joint

1 demonstrations. This advantage, however is to some
2 extent outweighed by the need for greater SDS coverage
3 of the smaller groups, who, unlike the larger, more
4 established organisations rarely inform police of their
5 intention to demonstrate, and lacking a committee
6 structure or headquarters, cannot be contacted in
7 the normal way. Such information which is obtained by
8 the SDS is passed, with the necessary safeguards, by
9 Commander 'Operations' to Commander 'A' Department."

10 The Assistant Commissioner (Crime)'s covering letter
11 to the Home Office in 1977 developed the point.

12 I quote:

13 "Non-cooperation with the police is a current
14 feature of ultra-left revolutionary philosophy and
15 the primarily, and almost unique, value of
16 the Special Demonstration Squad lies in its ability not
17 only to provide warning of forthcoming events but also
18 to forecast the size of the support and the degree of
19 threat to public order. This intelligence is of immense
20 value to our uniformed colleagues who are able to assess
21 the strength of police coverage required, as well as to
22 deploy that strength operationally in the most suitable
23 way, [that is to say] ... both overt and in reserve.
24 Needless to say, this brings a side benefit in ensuring
25 the most economic use of manpower. The fact that many

1 of the individuals and organisations of concern to
2 the Squad fall into the subversive category produces
3 a byproduct of information which is of direct interest
4 to the Security Service and which is acknowledged by
5 them as being of considerable assistance."

6 Another reason given within the annual reports to
7 continue SDS operations is the risk of sudden future
8 public disorder even during times when public disorder
9 was on the wane. In other words, infiltrate just in
10 case. Paragraph 31 of the 1975 report reads:

11 "Whilst, for a variety of reasons there has, over
12 the past few years, been a decline in the disorders
13 associated with political demonstrations, violence
14 generally has increased within our society and
15 the potential for attacks on public order are ever
16 present. The situation could change rapidly and it is
17 the responsibility of the SDS to watch such trends
18 carefully and be strategically placed to take efficient
19 action."

20 In the same vein, paragraph 18 of the 1979 Annual
21 Report succinctly states:

22 "A constant supply of intelligence about
23 the intentions of the extremists remains an essential
24 ingredient of police preparations in preventing disorder
25 and is the primary object of the Special

1 Demonstration Squad."

2 A third reason is the argument that maintaining
3 public order is important, sensitive and only the SDS
4 could obtain the intelligence that they did. It is
5 articulated at paragraph 33 of the 1975 report.

6 I quote:

7 "The Commissioner has stated that 'the maintenance
8 of order during political demonstrations has always been
9 the most sensitive problem of the Metropolitan Police'.
10 The SDS was formed in 1968 to assist in providing
11 a solution to this very problem and the officers
12 currently serving, closely supervised and constantly
13 aware of the need for security, will continue to provide
14 valuable intelligence on public order, which only they
15 can obtain."

16 The annual reports always give an indication of
17 the groups that the SDS has targeted. A list of those
18 groups, divided by report, is set out in appendix 1 to
19 the written version of this opening statement. With
20 the exception of a little reporting on the far right,
21 which resulted from HN303 being tasked to do so by
22 the Workers Revolutionary Party, all of the groups are
23 either left wing or tended to draw support mainly from
24 the left. A large number of different groups were
25 infiltrated falling into the following

1 categories: Trotskyist, Maoist or Marxist-Leninist,
2 Irish related, anarchist, alternative society,
3 anti-racist and anti-fascist, revolutionary socialist
4 and latterly anti-nuclear. Animal liberation groups
5 also appear as a category in their own right on
6 the lists towards the end of the period.

7 There are sometimes other groups, such as
8 the National Abortion Campaign and, in 1984, and
9 therefore Tranche 2, miners' support groups.

10 HN303's infiltration of the far right is summarised
11 in the 1975 Annual Report, which reads:

12 "For the first time an officer has penetrated
13 the National Front, at the instigation of a leading
14 member of the Workers Revolutionary Party with whom he
15 is particularly friendly, and is obliged to lead
16 a 'treble' life. By attending National Front meetings
17 in the East End of London he has discovered a small
18 group of hard line fascists, dissatisfied with
19 the National Front leadership, calling themselves
20 the Legion of St George, whose intent is to move even
21 further to the right. Although few in number, such
22 a group could well pose future public order problems."

23 The apparent explanation as to why the SDS did not
24 infiltrate the far right until later in its history,
25 with the exception of HN303's unexpected diversion into

1 the right at the behest of the WRP, can be found in
2 the 1976 Annual Report. Special Branch already had
3 excellent sources in the far right. The SDS, however,
4 made it clear to its superiors that it stood ready to
5 infiltrate the far right if it were to become necessary.
6 Paragraph 9 of the 1976 report reads:

7 "For some months in 1975 an officer from the Squad
8 penetrated the National Front at the behest of
9 his 'parent' Trotskyist organisation. The information
10 gained added nothing of real value to that obtainable
11 from already excellent Special Branch sources and since
12 the officer's withdrawal early in 1976 it has not been
13 considered necessary to replace him. If
14 the Metropolitan Police is to keep the peace between
15 the extremes of the political spectrum it is clearly
16 essential that accurate information be readily available
17 from both ends. Should existing sources on the far
18 right show any sign of weakening, the SDS will give
19 immediate consideration to renewed coverage there."

20 The justification given for infiltrating anarchist
21 groups is a concern that they will spawn further serious
22 violent offending of the type committed by
23 the Angry Brigade in the early 1970s. In this vein,
24 paragraph 6 of the 1976 Annual Report states:

25 "Little has changed on the anarchist front in

1 the last year. Those professing the creed are
2 a continuing nuisance on demonstrations and from
3 the circles in which they move come rumours of
4 the formation of 'Angry Brigade' type cells bent upon
5 violence. Several individuals known to hold such views
6 have appeared in political campaigns recently and SDS
7 coverage of anarchist groups continues in the hope that
8 advance warning may be obtained of any intention to
9 carry political protest into the realms of violence."

10 References to SDS intelligence leading to arrests
11 are uncommon generally in our work, but one such
12 reference appears, in connection with the anarchist
13 scene, at paragraph 2(iii)(c) of the 1978 Annual Report,
14 which reads:

15 "During the past year SDS coverage of the Anarchist
16 scene has been continued. In June, two people, known by
17 forenames only and wanted by police for conspiracy to
18 cause explosions, were identified, and although their
19 appearance had been changed radically, located and as
20 a result of the information provided they were
21 arrested."

22 The 1982 report contains evidence of a raid on
23 the Freedom Collective of Anarchists based on SDS
24 intelligence but which did not result in arrests.
25 Police are recorded as having found pamphlets dealing

1 with the manufacture of explosive devices, homemade
2 guns, assassination techniques and booby traps which
3 were seized. It also recorded the results of SDS
4 intelligence-gathering in the aftermath of the Brixton
5 riots. I quote:

6 "SDS information has indicated that no links exist
7 between the highly politicised Brixton anarchists and
8 the local young black community."

9 A review of the unit's activities during the year is
10 always included in an annual report. The contents
11 record salient events and issues. Typically, the major
12 demonstrations and public order issues of the year are
13 covered, sometimes with specific reference to the SDS's
14 contribution to public order policing. For example,
15 against a background of recent confrontations between
16 the left and right, paragraph 29 of the 1976 Annual
17 Report includes the following passage:

18 "Similar confrontations were planned in Blackburn
19 and Walsall on 11 and 25 September, respectively, and it
20 was a matter of some satisfaction within the SDS that
21 the Squad was able to provide the Police Forces
22 concerned with accurate assessments of likely ultra-left
23 involvement ..."

24 Based on the 1977 Annual Review, the Assistant
25 Commissioner (Crime) wrote to the Home Office in early

1 1978 about both the industrial dispute at Grunwick's and
2 the "Battle of Lewisham":

3 "1977 saw the escalation and eruption of street
4 violence in London in the Grunwick's industrial dispute
5 and the confrontations between extreme right and extreme
6 left-wing political parties which reached its zenith in
7 the Lewisham street battle in August. Throughout these
8 confrontations the intelligence supplied by
9 the Special Demonstration Squad of the numbers and
10 intent of the numerous revolutionary parties enabled
11 the Uniform Branch to effectively and economically
12 police some of the most violent public disorder in
13 recent times."

14 How accurate an assessment the above passage was, in
15 relation to the SDS's contribution, will be examined.
16 HN354, cover name "Vince Miller", has stated that
17 valuable intelligence which he provided shortly before
18 the Battle of Lewisham was not acted upon.

19 Before we proceed further, Sir, would now be
20 a convenient moment?

21 Sir, I think you're on mute.

22 THE CHAIRMAN: Thank you. That's the first and only time
23 today; it won't be the last, I suspect.

24 We will now adjourn for a quarter of an hour, when
25 you will resume your opening.

1 Thank you.

2 (11.14 am)

3 (A short break)

4 (11.30 am)

5 MR FERNANDES: Welcome back, everyone. I will hand over to
6 the Chairman to continue proceedings.

7 Chairman.

8 THE CHAIRMAN: Thank you.

9 Mr Barr.

10 MR BARR: Thank you, Sir.

11 An example of the SDS providing public order
12 intelligence to a regional police force is given in
13 the 1982 Annual Report, at paragraph 27. It relates to
14 the picket organised by the SWP outside the Conservative
15 Party's autumn conference held in Brighton. Sussex
16 Police are stated -- I quote:

17 "... to have placed on record their appreciation of
18 the assistance rendered by the SDS in connection with
19 the event."

20 The Assistant Commissioner, GJ Kelland, asserted to
21 RJ Andrew, the Deputy Under Secretary of State at
22 the Home Office, by letter dated 7 March 1980, that
23 the SDS had been invaluable to the policing of extremist
24 activity during the 1979 General Election Campaign.
25 The terms in which he did so make clear that the SDS had

1 provided intelligence relating to events following
2 the death of Blair Peach. The Friends of Blair Peach
3 Committee is not mentioned by name. The description
4 used is -- and I quote -- "the subsequent campaign
5 against Police". Paragraph 3 of the letter reads as
6 follows:

7 "The focal point of much of the extremist activity
8 in 1979 was the General Election held in May with
9 the extreme Left contriving to take advantage of
10 the National Front's election campaign to provoke
11 hostile confrontation whenever possible.

12 The culmination of the virulent anti-fascist
13 demonstrations was the death of the Anti-Nazi League
14 supporter Blair Peach and the subsequent campaign
15 against the Police. During this period of
16 Special Demonstration Squad was able to provide useful
17 information which was invaluable, enabling uniformed
18 officers to be effectively deployed."

19 There can be little doubt that tensions between left
20 and right were running high during the 1979
21 General Election Campaign and with it the need for
22 intelligence to inform public order policing. However,
23 we note the defensive language used to describe
24 the Blair Peach justice campaign, and the fact that
25 reporting on it was communicated to the Home Office, as

1 having been a part of an invaluable service. We shall
2 need to examine the motives for reporting on
3 the campaign.

4 In this regard, paragraph 9 of the 1979 Annual
5 Report, upon which AC Kelland's letter was presumably
6 based, is also worded defensively when referring to
7 the Blair Peach campaign. It explains the SDS's action
8 as being directed at public order policing:

9 "The General Election held in May was the focal
10 point of intensive activity by several extremist
11 parties. The Socialist Workers Party eschewed
12 contesting any constituency in favour of a policy of
13 confronting the National Front during the latter party's
14 election campaign. The SWP contrived to make use of all
15 public meetings arranged by the [National Front] to
16 arouse anti-fascist feeling; the death of Blair Peach,
17 an active supporter of the Anti-Nazi League, which was
18 a consequence of a violent anti-fascist demonstration in
19 Southall, provided the extreme left wing with an
20 opportunity to mount a sustained campaign to discredit
21 and criticise the Police. Information supplied by SDS
22 staff was of great value in enabling uniformed officers
23 to deal effectively with the public order problems which
24 arose both during the period before the election and on
25 subsequent demonstrations held in connection with

1 the death of Peach."

2 On security, the authors of the annual reports are
3 clearly conscious of the risk of criticism should what
4 the SDS was doing become known.

5 In the following passage, at paragraph 10 of
6 the 1975 report, the author refers both to the risk of
7 embarrassing the Commissioner and the need to protect
8 undercover police officers. It reads:

9 "Over the past eight years since the inception of
10 the SDS, security has been of paramount importance, not
11 only to prevent embarrassment to the Commissioner should
12 any leakage of our activities occur, but also to protect
13 the field officers themselves. This is achieved
14 primarily through supervision, and it is probably true
15 that no other unit of police officers is so regularly or
16 ... strongly supervised. In addition to normal
17 supervisory visits, the field officers have been seen by
18 Commander 'Operations', [Deputy Assistant
19 Commissioner] and the [Assistant Commissioner (Crime)]."

20 Paragraph 14 of the 1976 Annual Report addresses
21 what is described as the political sensitivity of
22 the SDS operation in the following terms:

23 "The political sensitivity of the SDS operation is
24 fully recognised by all officers concerned and, to
25 protect the ultimate defence line, great care is taken

1 to ensure that penetration of an organisation can be
2 fully justified on the basis of the Commissioner's
3 responsibility for the preservation of public order in
4 the Metropolis."

5 Whether the SDS maintained what the author
6 styled "the ultimate defence line" is, of course, an
7 important issue for the Inquiry.

8 The group Big Flame discovered that SDS UCO
9 detective constable Richard Clark, about whom I shall
10 have more to say later, was not who he said he was.
11 Consequently, DC Clark had to be withdrawn from his
12 deployment. The event is referred to in the 1976
13 report, and appears to have contributed to considerable
14 police suspicion about the group, even though it was not
15 thought to have been involved in any illegal activities
16 in London. I quote:

17 "The sinister Big Flame organisation, which
18 originated in the North West but soon spread to London,
19 was the subject of close scrutiny until September when,
20 for security reasons, it was decided to withdraw ...
21 Whereas the ultra-left as a whole claims to be security
22 conscious, no organisation has shown practical ingenuity
23 in the field of investigation to compare with that of
24 Big Flame ..."

25 Paragraph 8 of the 1982 Annual Report suggests that

1 maintaining security had become more difficult over
2 time, and that precautions had been developed to address
3 this issue. I quote:

4 "The difficulties in maintaining a high degree of
5 security have increased in direct proportion to
6 the length of time the Squad has been in existence, now
7 14 years. To combat this problem, security precautions
8 are continually reviewed. Each new operational officer
9 is carefully selected, thoroughly schooled in a 'cover
10 story' ... provided with appropriate documentation to
11 substantiate his 'new' existence. Improvements over
12 the years have catered for most, if not all, loopholes
13 or anomalies save [for] the human error ..."

14 Amongst the documents associated with the annual
15 reports are minute sheets which show the reports passing
16 up the chain of command within the MPS. As well as
17 being evidence of the knowledge of the senior officers
18 concerned about the SDS and its activities,
19 the documents record high praise and support for
20 the SDS.

21 For example, on 26 February 1979, Deputy Assistant
22 Commissioner Bryan wrote to the Assistant Commissioner
23 (Crime) that -- I quote:

24 "The SB Special Demonstration Squad (SDS) Annual
25 Report is submitted for your consideration. The work of

1 the unit scarcely needs extolling and its members have
2 yet again made most valuable contributions in the public
3 order field. Election year will no doubt increase
4 the demands upon them but I have every confidence in
5 their ability to respond."

6 Amongst the documents which we have grouped with
7 the 1983 Annual Report in the hearing bundle is what
8 appears to be an illuminating programme and briefing
9 pack prepared for a visit to the SDS by
10 Sir Kenneth Newman, then Commissioner of the Police of
11 the Metropolis. It is clear from the programme that
12 the plan was for the Commissioner to spend two hours
13 with the unit, over a buffet lunch, at what is described
14 as an "in-field location".

15 Can we have a look, please, at MPS-0730903
16 {MPS/730903/30}, and once that's up, can we go to
17 page 30, please. I'll give people a moment to absorb
18 that.

19 Thank you. Could you take it down, please.

20 The briefing pack includes a brief profile of each
21 member of the SDS at the time. Detective Sergeant
22 Roger Pearce's has not had to be redacted, so we can
23 look at that one.

24 Please could we display MPS-0730903, and when we get
25 to it, can we have page 40, please. {MPS/730903/40}.

1 Thank you. Could that be taken down.

2 The profiles include the officer's target: in
3 Detective Sergeant Pearce's case it was the anarchist
4 field. These documents add to the evidence that
5 the most senior officers within the SDS were aware not
6 only of the unit's existence but to some extent
7 the details of what it was doing.

8 The Phase 2 documents also indicate that
9 the Home Office was receiving at least a little more
10 information about what the SDS was doing than is
11 recorded in the relatively brief annual letters seeking
12 the continued authorisation and funding of the unit's
13 existence. The 1984 letter from the Home Office
14 authorising the continued existence of the SDS concluded
15 with a request to know more about the current focus of
16 the Squad's work and how it was being carried out.

17 I quote:

18 "Without in any way making that authority
19 provisional, I think it would be helpful for us in due
20 course to know more about which groups and activities
21 are the current focus of the Squad's work and how that
22 is carried out. Both on resource grounds, and in view
23 of the sensitivity of such undercover work, it would be
24 desirable to have this indication of how the squad's
25 task and role has adapted to current circumstances since

1 the days of the Vietnam war demonstrations when it was
2 set up. A brief account of this in a report or by way
3 of discussion between Colin Hewett and Roy Harrington
4 here would be very helpful."

5 The Home Office's 1985 annual authorisation letter
6 to the Assistant Commissioner Confirms that a discussion
7 of the kind requested had taken place the year before.
8 The same sort of discussion was again being sought.
9 I quote:

10 "Because of the inevitable political sensitivity of
11 this sort of operation, we should like to keep in touch
12 -- in general terms -- with their current areas of
13 interest and it would be helpful to us if those
14 concerned here could have the same sort of informed
15 discussion with Peter Phelan as took place last year.
16 Roy Harrington will be getting in touch with him."

17 A minute dated 7 June 1984 from Deputy Assistant
18 Commissioner CV Hewett to the Assistant Commissioner
19 (Crime) records the 1984 meeting. It took place on
20 5 June 1984. Roy Harrington, from F4 Division of
21 the Home Office, had met with Commander Phelan. It is
22 significant for two reasons.

23 First, it records the Home Office's concern that
24 the SDS might have been -- quote -- "something which had
25 been allowed to drift on after having been set up for

1 a specific purpose in 1968".

2 Second, the minute records that Harrington was shown
3 and permitted to make notes on the 1983 SDS Annual
4 Report. This is significant because we have not found
5 evidence that the annual reports were sent to
6 the Home Office. The terms of the note suggest that
7 security concerns might have been the reason why.

8 Could we display please, MPS-0737347, and when it's
9 up, can we go to the bottom of page 9, please.
10 {MPS/737347/9}.

11 I'll just read that out:

12 "Roy Harrington (F4 Division Home Office) came to
13 this office on 5th June 1984 and discussed
14 the Special Demonstration Squad with Commander Phelan.

15 "Harrington told Phelan that enquiries by Sir Brian
16 Cubbon had instigated Partidge's letter. Sir Brian was
17 concerned to know that the SDS could ..."

18 If we could move to the next page {MPS/737347/10}:

19 "... be defended as a current response to current
20 problems and was not just something which had been
21 allowed to drift on after having been set up for
22 a specific purpose in 1968.

23 "Phelan showed Harrington the Annual Report of
24 the SDS for 1983 and underlined the very sensitive
25 nature of its content. Harrington was allowed to make

1 some notes and he expressed the view that he had enough
2 material to allay Sir Brian Cubbon's fears and to answer
3 more than adequately the points raised in Partridge's
4 letter. He proposed to do this by way of an internal
5 [Home Office] note the terms of which he discussed with
6 Phelan in sufficient detail to ensure that nothing in it
7 could jeopardise the security of our operations.

8 " In future, I think we should include in the annual
9 letter for renewal some comment on the targeting of
10 the Squad and the results being achieved. If you agree,
11 I will ensure that the draft letters are prepared
12 accordingly."

13 If you could take that down now, please.

14 I turn now to the SDS policy file. Nineteen further
15 documents from that file are being uploaded onto our
16 website today to supplement those from the Phase 1 era
17 published in November last year. The new documents are
18 dated between 17 April 1974 and 13 November 1981. Most
19 concern financial or personnel-related issues. However,
20 three documents deserve specific mention here.

21 The first two are linked and shed light on how the SDS
22 sought to justify its continued existence to
23 the Home Office in the light of a decline in public
24 disorder.

25 In a memorandum dated 24 February 1976, Commander

1 Rodger tasked the then Chief Superintendent Rollo Watts
2 to set up a study group to consider thee questions.
3 The purpose of the study group's work was expressly to
4 assist preparation of that year's case for continuation
5 of the SDS to the Home Office.

6 Could we have up, please, MPS-0730658 {MPS/730658}.
7 Thank you.

8 I'm just going to read the first four paragraphs:

9 "Another year has passed and we are required to
10 submit a case within the next few weeks to Home Office
11 for the continuation of the Special Demonstration Squad
12 (SDS) for a further period of 12 months.

13 "As you are aware this Squad has been in existence
14 since the Summer of 1968 and it is considered timely at
15 this juncture for a complete review of the Squad to be
16 undertaken, its activities and objectives. The SDS was
17 set up initially to produce intelligence by way of
18 penetration by undercover Special Branch officers at
19 a time when ultra-extremist left-wing activity on
20 the streets of London was at a peak. Confrontation with
21 police with the planned objective of creating scenes of
22 violence and public disorder by divers of Trotskyist,
23 Maoist, Anarchist, etc, were exceedingly regular
24 features.

25 "Over the past 7 years, however, this form of

1 political activity by minority extremist groups has
2 dwindled considerably, and with the exception of the Red
3 Lion Square conflict in 1974 and possibly one or two
4 other incidents of deliberate confrontation, upsurges of
5 violence in the streets have become less and less
6 frequent.

7 "To assist, therefore, in preparing the case for
8 submission to Mr Robert Armstrong, the Deputy Permanent
9 Assistant Secretary of State, I wish you to set up
10 a small study group under your chairmanship, comprising
11 Ch Supt R Wilson, Ch Supt [HN332], Ch Insp Kneale and
12 Insp Craft. Your terms of reference are as follows:

13 "(a) Is there a continuing need for the SDS as
14 constituted at present.

15 "(b) Does the public order problem demand
16 the coverage of the range of extremist subversive
17 organisations currently effected.

18 "(c) What proportion of the overall intelligence
19 gathered is of primary benefit towards assisting uniform
20 police to control public meetings and demonstrations,
21 and that which is of interest mainly to
22 the Security Service."

23 Could that be taken down, please.

24 The members of the study group were well versed in
25 the work of the SDS, three of them especially so: HN332

1 had been the chief inspector of the unit; Kneale was
2 the then current chief inspector and Craft his deputy,
3 soon to succeed him. The group's unanimous findings are
4 set out in a memorandum dated 15 March 1976.

5 Could we have up, please, MPS-0730745 {MPS/730745}.
6 I'm going to read the whole page:

7 "In order to review the current situation regarding
8 the Special Demonstration Squad, I set up a working
9 party, as directed by you, comprising Chief
10 Superintendents R Wilson and [HN332], together with
11 [Chief Inspector] Kneale and [Detective Inspector] Craft
12 under my chairmanship.

13 "I should, at the outset, say that during our
14 deliberations I found complete agreement amongst all
15 members on the issues we discussed. These can best be
16 summarised as follows.

17 "1. Certainly, the degree of violence associated
18 with public demonstrations has declined since
19 the formation of the Squad in 1968. However, if
20 anything, the popularity of street demonstrations has
21 increased, so that public issues like abortion,
22 trespass, unemployment, civil liberties etc have brought
23 very large numbers onto the streets with the ever
24 present potential for public disorder.

25 "2. With respect to the degree of coverage

1 considered necessary by the SDS, two aspects are of
2 primary importance. Firstly the degree of involvement
3 and manipulation exercised by the 'ultra-left' in all
4 protest organisations, particularly in ad hoc committees
5 formed to arrange major demonstrations. Secondly,
6 the number of splinter-groups continually being formed,
7 invariably consisting of militant elements. The latter
8 do not recognise the need to liaise with police
9 regarding proposed demonstrations and pickets, many of
10 which ..."

11 If we could move down now, please:

12 "... are organised at short notice, and coverage
13 within, or access to, these organisations is essential
14 if adequate police arrangements are to be made.

15 "Nevertheless, with the reduction in political
16 public disorders, the strength of the SDS has gradually
17 been reduced from the original 26 operational officers
18 to the current 12 officers engaged in the field. It is
19 agreed that this is the minimum coverage necessary to
20 prove effective and might have to be increased if
21 the situation deteriorated.

22 "3. Bearing in mind that the primary task of the SDS
23 is to provide intelligence in the public order field, it
24 is difficult to proportion their value in this field
25 compared with the 'off-spin' information provided for

1 the Security Service. For example, if an officer covers
2 a meeting called to discuss whether to demonstrate or
3 not, and the latter view prevails, then the only
4 positive result of his attendance is seen in
5 the subsequent report of individuals attending etc which
6 is of interest to Box 500. Nevertheless his reasons for
7 attending are of equal importance from a public order
8 point of view.

9 "Suffice it to say that the contribution made by
10 the SDS to the national interests of
11 the Security Service is a very considerable one; a point
12 which is fully acknowledged."

13 Could that be taken down now, please.

14 The third document dates from just over two years
15 later, 1 May 1978. It is significant because it is
16 a rare survival of a document expressly recording in any
17 detail the relationship between the SDS and A Department
18 of the MPS, the primary consumer of the SDS's public
19 order intelligence. Moreover, it relates to a large and
20 significant anti-racist event: the Rock Against Racism
21 rally and concert. It is a memorandum from the then
22 newly appointed Detective Chief Inspector of the SDS,
23 Michael Ferguson (HN135) to the Detective Chief
24 Superintendent S Branch and is a defence of criticism
25 apparently made by A Department's Deputy Assistant

1 Commissioner about the accuracy of SDS intelligence.

2 There was no disorder at the event. A Department's
3 criticism was, apparently, that the SDS's intelligence
4 about the level of attendance at Rock Against Racism had
5 been inaccurate. The content of the document provokes
6 thought about whether intelligence that disorder was not
7 expected was of use to the police. If so, could it have
8 been obtained by other means?

9 If the memorandum is accurate, the SDS had reported
10 both that "no disorder was planned or envisaged" at
11 the ANL event, and that those attending it did not
12 intend to oppose a National Front march planned for
13 the following day. That intelligence is stated to have
14 come from -- and I quote, "constant contact with our
15 sources".

16 Home Office documents.

17 Five further documents obtained from the Home Office
18 are being uploaded onto the website today. The first is
19 a latecomer from the Phase 1 era recording an informal
20 review, conducted on 13 November 1967, at the instance
21 of the then Home Secretary, Roy Jenkins, to consider
22 whether there was any duplication in the work of
23 the Security Service and of Special Branch of
24 the Metropolitan Police. It is principally of interest
25 because paragraph 3 explains the respective interests of

1 the two organisations in relation to subversive
2 activities. It may assist in understanding why
3 information was reported and stored.

4 Implicit in the passage is the view that
5 a subversive threat could be long-term, which may
6 explain why the SDS reported on the membership of some
7 organisations over the course of many years. Whether
8 they were justified in so doing is one of the issues
9 which the Inquiry must consider.

10 The relevant passage reads -- I quote:

11 "Both bodies were often interested in the same
12 target but the Security Service sought to assess
13 the long-term as well as the short term threat and were
14 therefore particularly interested in the policy and
15 membership of subversive organisations; the immediate
16 police interest was in discovering what action, such as
17 a demonstration, was being planned. The interests of
18 the two bodies led them to complement rather than
19 duplicate one another's activities ..."

20 The second document is a Home Office circular
21 number 97/1969, entitled "informants who take part in
22 crime". It featured in the Phase 1 bundle and is
23 repeated here not least because of its relevance to
24 the question of whether miscarriages of justice may have
25 occurred as a result of the activities of one or more

1 Phase 2 SDS undercover police officers. I shall return
2 to that topic later.

3 The third document is dated 29 May 1974 and is
4 a letter from the then Director General of
5 the Security Service to chief constables in England and
6 Wales, including the Commissioner of Police of the
7 Metropolis. Following concerns raised in Parliament, it
8 sought to remind chief constables of the guidance given
9 in the terms of reference for a Special Branch issued on
10 the authority of the Association of Chief Police
11 Officers in June 1970. We considered those terms of
12 reference in Phase 1. In particular, the letter
13 emphasised the distinction between subversion and
14 militancy, the former being of interest to
15 the Security Service, the latter off limits.

16 Could we have a look, please, at UCPI0000004545.
17 Could we go down, please, to paragraph 7 {UCPI/4545/2}.
18 Thank you:

19 "7. In this connection, it may be helpful to remind
20 you of the distinction we draw between subversion and
21 militancy in industrial disputes in the following
22 definitions:-

23 "'Subversion is defined as activities threatening
24 the safety or well-being of the State and intended to
25 undermine or overthrow Parliamentary democracy by

1 political, industrial or violent means.

2 "'Industrial militancy is defined as readiness to
3 use or threaten the use of strikes, sit-ins and other
4 forms of aggressive action in the furtherance of
5 industrial disputes and an unwillingness to seek or
6 accept compromise solutions through negotiations,
7 conciliation or arbitration.'"

8 While we have this document up, could we scroll down
9 to paragraph 8, please.

10 Forgive me, the definition continued over the page.
11 I must continue, {UCPI/4545/3}:

12 "'Militancy in pursuit of trade union disputes with
13 employers is not subversive unless the motivation and
14 purpose of the militants is primarily political and
15 threatens the parliamentary democratic system.
16 Opposition to industrial policies of the Government of
17 the day is not in itself subversive.'"

18 I wanted also to mention, while we have this
19 document up, paragraph 8, which is relevant to
20 blacklisting:

21 "It is standing Security Service policy not to pass
22 to non-official agencies, commercial firms or employers'
23 organisations any information deriving from their
24 investigation into subversive activities in industry.
25 It is equally important that Police Forces should not

1 give to their contacts in trade unions, firms or
2 employers' organisations information deriving from
3 official sources about subversive organisations or
4 individuals."

5 Could we take that down now, please.

6 The final two documents are both dated
7 December 1984, and so fall shortly after the deployment
8 of the last officer whose evidence we will be
9 considering in Phase 2. The first is entitled
10 "Home Office Guidelines on the Work of
11 a Special Branch". Much of the content is in line with
12 similar older documents that we have published. Of note
13 is the fact that it contains the first substantial
14 guidance that we have obtained on the subject of data
15 protection. We assume that it was the result of
16 the enactment of the first Data Protection Act in 1984.
17 We will be considering, in due course, in Tranche 2
18 whether this new legal regime made any difference in
19 practice to what was recorded by the SDS and retained.
20 For the moment, we note that the document permits
21 a comparison between practice prior to 1984 and that
22 which from then on ought to have been complied with.

23 Could we have a look, please, at UCPI0000004538.

24 And if we could scroll down to paragraph 16, please.

25 {UCPI/4538/3}.

1 Thank you:

2 "Records.

3 "16. Records should be maintained in order to
4 discharge effectively the functions listed in
5 paragraphs 3-12 above. It is important, however,
6 because of the particular sensitivity of the information
7 concerned, that only information relevant to those
8 functions should be recorded. Close attention should
9 therefore be paid to paragraphs 3-12, and to
10 the definitions given in paragraph 20, in deciding what
11 information should be recorded or not recorded. Data on
12 individuals or organisations should not under any
13 circumstances be collected or held solely on the basis
14 that such a person or organisation supports unpopular
15 causes or on the basis of race or creed.

16 "17. It is also important to ensure that, wherever
17 possible, information recorded about an individual is
18 authenticated and does not give a false or misleading
19 impression. Care should be taken to ensure that only
20 necessary and relevant information is recorded and
21 retained. Each Special Branch should therefore ..."

22 If we could move down, please {UCPI/4538/4}. Thank
23 you:

24 "... maintain an effective system both for updating
25 information where necessary and for weeding out and

1 destroying information which can no longer be clearly
2 related to the discharge of its functions.

3 "18. Access to information held by Special Branch
4 should be strictly limited to those would have
5 a particular need to know. Under no circumstances
6 should information be passed to commercial firms or to
7 employers' organisations.

8 "19. The security of records maintained by
9 Special Branch is of paramount importance. Because of
10 the sensitivity of the information concerned and because
11 of the damage to individuals which might result if
12 unauthorised persons were to gain access to it, or if
13 improper use were made of the information,
14 Special Branches must ensure that the most stringent and
15 appropriate precautions are taken to safeguard
16 the information and to protect it against both
17 unauthorised access or disclosure and accidental loss."

18 Thank you. If that could be taken down, please.

19 The final Home Office document is an updated version
20 of the Home Office Guidelines on the Work of
21 a Special Branch issued to Chief Officers. Of
22 particular significance is the guidance in the section
23 entitled "Assistance to the Security Service", which is
24 highly germane to our investigation as to whether
25 aspects of the SDS's intelligence-gathering were

1 justified. Were the lines drawn by the guidance drawn
2 in the right place? If so, were they crossed by
3 the SDS?

4 We also note the emphatic statement at paragraph 4
5 of the guidance about the importance of training. Thus
6 far in our hearings, we have had no evidence that
7 the SDS provided any formal training to its UCOs but
8 relied upon general police and Special Branch training
9 combined with the SDS's informal arrangements.

10 Could we have a look, please, at UCPI0000004584
11 {UCPI/4584}. I'd like to read from paragraph 4, please,
12 if that could be moved up a little.

13 Starting from paragraph 4:

14 "Because of the exceptional sensitivity of much of
15 the work undertaken by Special Branches, it is of
16 the utmost importance that Special Branch officers
17 attain a high degree of professional competence and that
18 to this end all Special Branch officers should attend
19 the appropriate training courses run by the Metropolitan
20 Police Special Branch and Security Service. Officers
21 should attend refresher courses, particularly when they
22 have been away from Special Branch duties for some time.

23 "Assistance to the Security Service.

24 "When a Special Branch is operating in support of
25 the Security Service chief officers should attach

1 importance to the need to consult that Service and to
2 seek its advice as necessary. This is particularly
3 important when collecting, processing and recording
4 information about subversive or potentially subversive
5 organisations or individuals. Under the definition of
6 subversion given in the Guidelines (paragraph 20), an
7 organisation currently operating within the law may
8 nevertheless be subversive because its long term aims
9 satisfy the definition and therefore be a proper subject
10 of investigation. Senior officers must exercise strict
11 control over the selection of targets for investigation
12 when the current activities of an organisation are
13 legitimate and peaceful."

14 If we could scroll up, please:

15 "When intelligence is gathered on subversive
16 organisations, very great care should always be taken
17 not to give grounds for Special Branch enquiries being
18 misrepresented as wrongful police interference in
19 the exercise of civil and political liberties. This
20 applies especially to coverage of demonstrations and
21 protest marches, which will often provide an opportunity
22 for the collection of information about subversive
23 elements in a particular organisation."

24 If we could go to the next page, please

25 {UCPI/4584/2}:

1 "Special Branch investigations into subversive
2 activities in particularly sensitive fields, for example
3 in educational establishments, in Trade Unions, in
4 industry and among racial minorities, must be conducted
5 with particular care so as to avoid any suggestion that
6 Special Branches are investigating matters involving
7 the legitimate expression of views. Enquiries into
8 subversive activities in these fields which may be
9 necessary to meet the requirements of
10 the Security Service should be initiated only after
11 consultation with the Security Service.

12 "Care should also be taken to ensure that
13 investigations in relation to industrial disputes are
14 not misrepresented as being aimed at the penetration of
15 trade unions rather than the investigation of subversive
16 groups which may be active in disputes or for public
17 order purposes. Subversion should not be confused with
18 industrial militancy. Industrial militancy is the use
19 or threatened use of strikes, sit-ins or other
20 disruptive action in the furtherance of industrial
21 disputes, and an unwillingness to seek or accept
22 compromise solutions through negotiations, conciliation
23 or arbitration. The actions of industrial militants
24 only become subversive when their intent is to threaten
25 the safety and well-being of the State and to undermine

1 overthrow Parliamentary democracy.

2 "It is not the function of the force Special Branch
3 to investigate individuals and groups merely because
4 their policies are unpalatable, or because they are
5 highly critical of the police, or because they want to
6 transform the present system of police accountability."

7 Could that be taken down, please.

8 Returning to the corporate witness statement and
9 documents provided by the Security Service, it is
10 divided into two parts. The first part addresses
11 questions about the role and remit of
12 the Security Service throughout the period covered by
13 the Inquiry's terms of reference. It also covers
14 the role of Metropolitan Police Special Branch,
15 particularly vis-à-vis the Security Service, for
16 the same period.

17 The second part of the statement deals in more
18 detail with the Tranche 1 era. It is focused upon
19 the Security Service's relationship with Metropolitan
20 Police Special Branch and the SDS in particular during
21 this period. The Inquiry will be requesting further,
22 tranche-specific, evidence from the Security Service as
23 our investigation proceeds. Individual
24 Metropolitan Police Service witnesses will be providing
25 us with their own evidence about the liaison

1 relationship during the Tranche 1 era in this phase and
2 Phase 3.

3 Time does not permit me this morning to deal at any
4 length with the Security Service's evidence, which can
5 be read online. However, I will make a few observations
6 before I move on.

7 At the start of the Phase 2 era, the official
8 definition of subversion was that contained in
9 the Maxwell Fyfe Directive to which I referred last
10 November. It is so important to our work that I shall
11 repeat it:

12 "The Security Service is part of the Defence Forces
13 of the country. Its task is the Defence of the Realm as
14 a whole, from external and internal dangers arising from
15 attempts at espionage and sabotage, or from actions of
16 persons and organisations, whether directed from within
17 or without the country which may be judged to be
18 subversive of the security of the State."

19 The director of F Branch, with which branch the SDS
20 had direct contact, defined subversion in 1972 as --
21 I quote:

22 "... activities threatening the safety or wellbeing
23 of the State and intended to undermine or overthrow
24 Parliamentary democracy by political, industrial or
25 violent means."

1 Director F's above definition was formally adopted
2 in by Lord Harris of Greenwich in a debate in the House
3 of Lords on 26 February 1975. It has since been known
4 as the "Harris definition".

5 We note in particular that the Harris definition has
6 two limbs. First, do the activities threaten the safety
7 or wellbeing of the State and; second, are they intended
8 to undermine or overthrow Parliamentary democracy by
9 political, industrial or violent means?

10 What amounts to an activity which threatens
11 the safety or wellbeing of the State is not defined.
12 However, the threshold for meeting this test is
13 important in the context of this Inquiry, because so
14 many of the groups infiltrated are described by the SDS
15 undercover officers as having had subversive aims but
16 lacking the means to realise them.

17 The inclusion of political and industrial means in
18 the second limb of the test may explain the interest in
19 groups at both ends of the political spectrum and the
20 interest that those on the far left took in industrial
21 disputes and the trade union movement.

22 What is clear is that the threat must be to the
23 system of Parliamentary democracy and not just to the
24 government of the day. Witness Z explains that in 1978,
25 the then Deputy Director General of the Security Service

1 clarified that subversion did not equate to "activity
2 which threatens government policies or may threaten its
3 very existence". Witness Z also refers to essentially
4 the same point being made publicly by Sir Leon Brittan,
5 then the Home Secretary, in 1985. He was quoted as
6 saying:

7 "There is a clear distinction between subversion and
8 opposition to the policies of the government of the day
9 or peaceful campaigning to bring about changes in those
10 policies or to influence public opinion generally."

11 Witness Z further explains that the Security
12 Service's counter-subversion role was as, "the provider
13 of objective factual information about the security
14 status of individuals and groups ..."

15 These are all important parameters against which we
16 can test the SDS's reporting, especially that which was
17 provided to the Security Service.

18 Witness Z's evidence is that: within the context of
19 its investigations into subversion, the Security Service
20 was most interested in subversive groups that sought to
21 influence non-subversive organisations through obtaining
22 membership of those organisations, for example trade
23 unions, in order to achieve the subversive goal of
24 undermining parliamentary democracy.

25 What he describes as "ultra-left groups", consisting

1 of Trotskyist, Maoists and anarchists, were considered
2 a threat but didn't take high priority until
3 the mid-1970s.

4 As to what the Security Service did with the SDS's
5 reporting, Witness Z states that -- I quote:

6 "It appears that, on at least one occasion,
7 the Security Service considered disseminating SDS
8 intelligence to liaison partners. However, we have
9 found no evidence to suggest that any SDS intelligence
10 was, in fact, shared outside the Security Service."

11 Witness Z confirms that the Security Service did
12 provide the SDS with what is described as -- quote:

13 "... occasional and limited assistance with
14 the development of SDS undercover officers' cover
15 identities."

16 Witness Z adds that -- quote:

17 "There is also limited evidence to suggest that
18 the Security Service was occasionally able to help
19 protect the safety of an SDS officer at risk of being
20 compromised."

21 On the question of targeting, Witness Z accepts that
22 the Security Service made requests of the SDS for
23 certain intelligence, and that Security Service
24 briefings may have influenced SDS decisions. However,
25 Witness Z emphasises that the decisions were ultimately

1 for the SDS. Paragraph 108 of Witness Z's statement
2 reads:

3 "Whilst the meetings with the SDS discussed
4 the targeting of SDS agents, it is important to note
5 that the decisions on deployment of SDS agents were
6 taken by the SDS alone. Further, for various reasons,
7 including lack of relevance to the MPSB's remit and
8 availability of resources, the SDS did not provide
9 intelligence in relation to all Security Service
10 requests. The SDS were responsible for their agents
11 and, while the Security Service's briefings may have
12 influenced SDS decisions, the Security Service had no
13 control over the placement or targeting of the SDS
14 agents."

15 As to the debriefing of SDS undercover police
16 officers by the Security Service, Witness Z observes
17 that only three formal requests for debriefs in
18 the relevant period were acceded to by the SDS: in 1982
19 and 1983. However, Witness Z accepts that there were
20 other meetings, albeit that Witness Z's understanding is
21 that these were contrary to SDS policy.

22 Turning to the utility of SDS reporting to
23 the Security Service, as perceived at the time,
24 Witness Z states that -- and I quote:

25 "The development in the relationship is evidence

1 that the Security Service found, on the whole, SDS
2 reporting to be useful, enabling them to gain
3 intelligence into subversive organisations which may not
4 have otherwise been readily available."

5 Witness Z's view now of the utility of the SDS's
6 reporting is essentially the same. Of note is
7 Witness Z's view that it helped to assess the subversive
8 threat that each group, or individual, posed.

9 Paragraph 123 of Witness Z's statement reads:

10 "I have been asked how useful the SDS reporting is
11 considered to have been now, and for what purpose was
12 the reporting useful. It appears from the review of
13 documents that the SDS reporting was useful to assist
14 the Security Service in building the wider intelligence
15 pictures in respect of subversive individuals and
16 organisations. It is clear from a review of
17 the Security Service's intelligence requirements,
18 summarised above, that the purpose of the reporting for
19 the Security Service was to obtain detailed information
20 about the functioning of these groups and
21 the individuals within them, which in turn would help
22 towards the Security Service's assessment, when combined
23 with other intelligence, of the subversive threat that
24 each group, or individual, posed. The SDS reporting did
25 not provide comprehensive coverage of these

1 organisations, in part as a consequence of their law and
2 order remit. It is clear to me that the SDS reporting
3 was one element of intelligence that
4 the Security Service relied upon to fulfil its functions
5 to protect the United Kingdom from subversion."

6 The documents that accompany Witness Z's statement
7 evidence what appears to be a fluctuating level of
8 contact between Security Service and SDS managers over
9 the Tranche 1 period. We shall be examining that in
10 more detail in Phase 3, when we will hear evidence from
11 some of the SDS's managers. We will also be raising
12 with individual officers who give oral evidence any
13 material directly relevant to them. With both of those
14 points in mind, I shall only make two observations on
15 the documents at this stage.

16 First, in January 1973, the then Commissioner's
17 concerns about the potential of the SDS to
18 cause "embarrassment" are recorded in a Security Service
19 file note. The note records a meeting between
20 the Security Service's F4 and DAC Vic Gilbert. It
21 states -- quote:

22 "Special Branch penetrate these groups by the Hairy
23 Squad, ie Special Branch officers who are given a false
24 identity and background. Gilbert said
25 the Commissioner was concerned about possible

1 embarrassment arising out of this operation and he,
2 Gilbert, felt that the Hairy Squad survived almost day
3 to day."

4 At a meeting between SDS managers and
5 the Security Service's F6 on 8 April 1980, what appear
6 to have been perceived as the advantages of the SDS's
7 operation over the Security Service's own were recorded.
8 The material part reads:

9 "This discussion also highlighted the advantages
10 they have over ourselves when Butler told me that they
11 meet their sources two or three times a week. Their
12 sources are fully briefed and all options are discussed
13 at these meetings."

14 Evidence of subversion.

15 There are numerous examples of documents in
16 the hearing bundle which evidence the subversive aims of
17 some far-left groups. However, I must mention one
18 particular document dated 15 May 1974 from
19 HN299/342 "David Hughes's" reporting. It relates to
20 what is referred to as a "Marxist study group", although
21 from the context in which it is found, it is clear that
22 it was a Marxist-Leninist group. It is an isolated
23 example, but in terms of subversive aims it is the most
24 disturbing document that we have found.

25 Could we look, please, at UCPI0000008823

1 {UCPI/8823}. And could we expand paragraph 3, please.

2 Thank you:

3 "[Privacy redaction], during the course of his
4 numerous interventions, stated that when the socialist
5 revolution took place some two million people in this
6 country would have to be liquidated, because they could
7 never be converted to the cause of the revolution and
8 would present a permanent threat to its continuance. He
9 counted among those people such groups as senior police
10 officers -- especially those in Special Branch, members
11 of the Security Service, senior army officers, big
12 businessmen and all leading members of the Conservative
13 Party."

14 Thank you. Could the document be taken down,
15 please.

16 "David Hughes" states that these sorts of views were
17 present to varying degrees, but that the majority of
18 people he encountered during his deployment were not
19 that extreme.

20 Witnesses.

21 This morning, time does not permit me to introduce
22 the evidence of all of the witnesses who will give
23 evidence in Phase 2, or to go through each of
24 the deployments of the undercover officers being
25 investigated. However, the written version of this

1 opening statement, which will be posted on the Inquiry's
2 website, contains sections which set out the relevant
3 issues from the Inquiry's Issues Lists, identifies
4 the managers of the period and introduces each of
5 the civilian witnesses and undercover officers in this
6 phase. In addition, as we did in Phase 1, we are
7 appending to the written version of this opening
8 statement a lengthy appendix 2, which summarises
9 the evidence obtained to date relating to each former
10 undercover officer in the phase.

11 Miscarriages of justice.

12 I now turn to some of the main themes that we will
13 be exploring in the oral hearings: first, miscarriage
14 of justice.

15 That actions of undercover police officers have
16 the potential to give rise to miscarriages of justice is
17 well known, particularly if they act as
18 agent provocateurs, if necessary disclosures are not
19 made to prosecutors, or if a court is misled. The fact
20 that Mark Kennedy's undercover deployment as a member of
21 the National Public Order Intelligence Unit was not
22 properly disclosed led to a number of convictions being
23 overturned and a large number of prosecutions being
24 abandoned.

25 The Inquiry's terms of reference require it to

1 review the extent of the duty to make disclosure of an
2 undercover operation during a criminal prosecution and
3 the scope for miscarriage of justice in the absence of
4 proper disclosure. They also reflect a concern that we
5 may discover further potential miscarriages of justice
6 as we investigate. The material parts of the terms of
7 reference read as follows:

8 "The Inquiry's investigations will include a review
9 of the extent of the duty to make, during a criminal
10 prosecution, disclosure of an undercover police
11 operation and the scope for miscarriage of justice in
12 the absence of proper disclosure. The Inquiry will
13 refer to a panel, consisting of senior members of
14 the Crown Prosecution Service and the police, the facts
15 of any case in respect of which it concludes that
16 a miscarriage of justice may have occurred as a result
17 of an undercover police operation or its non-disclosure.
18 The panel will consider whether further action is
19 required, including but not limited to, referral of
20 the case to the Criminal Cases Review Commission."

21 It is clear from the terms of reference that
22 the Inquiry is not required to decide whether there has
23 been a miscarriage of justice. Rather, it must refer
24 any case in which it concludes that a miscarriage of
25 justice may have occurred as a result of an undercover

1 police operation or its non-disclosure. It is not
2 the Inquiry's function to determine criminal liability.
3 Section 2 of the Inquiries Act 2005 expressly provides
4 that an inquiry panel is not to rule on, and has no
5 power to determine, any person's civil or criminal
6 liability. However, that provision also states that an
7 inquiry panel is not to be inhibited in the discharge of
8 its functions by any likelihood of liability being
9 inferred from facts it determines or recommendations
10 that it makes. A miscarriages of justice panel, as
11 required by the terms of reference, has been
12 established.

13 The Inquiry will not wait until it has completed its
14 work to make references to the panel in appropriate
15 cases. If evidence is admitted which meets
16 the threshold test for referral to the panel, then
17 a referral should be made. I know, Sir, that you will
18 be considering immediately after the current hearings
19 whether a referral should be made.

20 The principle that there is an obligation on
21 the prosecution to disclose the use of a participating
22 informant to enable the court to be sufficiently
23 informed to ensure a fair trial, now comprehensively set
24 out in Patel and others, was an established principle
25 governing the disclosure obligations on the prosecuting

1 authorities in the Phase 2 era. In R v Marks and
2 Beyfus, the court held that the prosecuting authority is
3 entitled to withhold the names of those from which
4 information has been obtained unless, at trial,
5 the judge considers that the disclosure of the name of
6 an informant or the nature of the information
7 is "necessary or desirable in order to shew
8 the prisoner's innocence".

9 Contemporaneous reference to the same broad
10 principle can be found in R v Birtles, in which
11 the Court reiterated that "within certain limits ...
12 informers should be protected" but that "the court of
13 trial should not be misled". The court gave as an
14 example of such an occasion the facts giving rise to
15 R v Macro, a case in which the fact of a participating
16 informant was not disclosed. The principles to be
17 derived from Macro were later distilled for the wider
18 consumption of police and prosecuting parties in
19 the Home Office circular 97/1969 "Informants who take
20 part in crime".

21 To date, the only relevant written guidance that we
22 have received in evidence concerns the Home Office
23 circular 97/1969. The guidance was addressed to chief
24 constables and directed at informants who take part in
25 crime. The guidance sets out broad principles, endorsed

1 by the then Home Secretary. Of particular interest are
2 paragraphs 3 and 4.

3 Could we have a look, please, at MPS-0727104
4 {MPS/727104}. Thank you.

5 Could we start with paragraph 3:

6 "The Conference in general agreed on the following
7 points.

8 "(a) No member of a police force, and no police
9 informant, should counsel, incite or procure
10 the commission of a crime.

11 "(b) Where an informant gives the police information
12 about the intention of others to commit a crime in which
13 they intend that he shall play a part, his participation
14 should be allowed to continue only where:-

15 "(i) he does not actively engage in planning and
16 committing the criminal;

17 "(ii) he is intended to play only a minor role; and

18 "(iii) his participation is essential to enable
19 the police [force] to frustrate the principal criminals
20 and to arrest them (albeit for lesser offences such as
21 attempt or conspiracy to commit the crime, or carrying
22 offensive weapons) before injury is done to any person
23 or serious damage to property.

24 "The informant should always be instructed that he
25 must on no account act as agent provocateur, whether by

1 suggesting to others that they should commit offences or
2 encouraging them to do so, and that if he is found to
3 have done so he will himself be liable to prosecution."

4 If we could go over the page, please {MPS/727104/2}:

5 "(c) The police must never commit themselves to
6 a course which, whether to protect an informant or
7 otherwise, will constrain them to mislead a court in any
8 subsequent proceedings. This must always be regarded as
9 a prime consideration when deciding whether, and in what
10 manner, an informant may be used and how far, if at all,
11 he is to be allowed to take part in an offence. If his
12 use in the way envisaged will, or is likely to, result
13 in its being impossible to protect him without
14 subsequently misleading the court, that must be regarded
15 as a decisive reason for his not being so used or not
16 being protected.

17 "(d) The need to protect an informant does not
18 justify granting him immunity from arrest or prosecution
19 for the crime if he fully participates in it with
20 the requisite intent (still less in respect of any other
21 crime he has committed or may in future commit).

22 "(e) The handling of informants calls for
23 the judgment of an experienced officer. There must be
24 completely confidence and frankness between supervising
25 officers and subordinates, and every chief officer of

1 police should ensure effective supervision of his
2 detectives; a decision to use a participating informant
3 should be taken at senior level.

4 "(f) Payment to informants from public funds should
5 be supervised by a senior officer.

6 "(g) Where an informant has been used who has taken
7 part in the commission of a crime for which others have
8 been arrested, the prosecuting solicitor, counsel and
9 (where he is concerned) the Director of Public
10 Prosecutions should be informed of the fact and of
11 the part that the informant took in the commission of
12 the offence, although, subject to (c) above, not
13 necessarily of his identity.

14 "(h) Careful instruction should be given to
15 detectives in training."

16 "4. The Home Secretary fully endorses these broad
17 principles. He feels sure that they are already widely
18 applied in the police service; but in view of recent
19 public interest he thinks it right to bring them to
20 the notice of all chief officers of police. He asks
21 that you will find means of commending them to everyone
22 who may be concerned in your force. He has instructed
23 HM Inspectors of Constabulary to pay particular
24 attention, in the course of their inspections, to
25 the arrangements made in police forces for supervision

1 and training in these matters."

2 Could that be taken down, please.

3 In Phase 1 the evidence was to the effect that many
4 officers stated that they understood the need not to act
5 as agent provocateur, but few could recall seeing
6 the circular. None could recall any formal training
7 within the SDS, but all had naturally had basic police
8 training and training by Special Branch. None could
9 recall any direct involvement with the SDS by Her
10 Majesty's Inspectorate of Constabulary. We shall
11 continue to explore the understanding which
12 undercover police officers had in relation to matters
13 germane to miscarriages of justice. Not just their own
14 actions when deployed, but also their training,
15 instructions, supervision and oversight.

16 We will be receiving evidence from three civilian
17 witnesses: Christabel Gurney OBE, Professor Rosenhead
18 and Ernest Rodker; and from one former SDS
19 undercover police officer, HN298, about the incident
20 which occurred on 12 May 1972. All four, together with
21 others, were arrested whilst protesting against
22 apartheid outside the Star & Garter Hotel in Richmond.
23 All four were subsequently prosecuted and convicted.
24 All of the witnesses, save for Ernest Rodker, will give
25 oral evidence. We will be exploring with the witnesses

1 who give oral evidence the circumstances, to establish
2 what happened and, in particular, whether or not there
3 may have been a miscarriage of justice.

4 The Inquiry has also established that one of
5 the deceased former SDS officers, HN13, was twice
6 arrested and subject to criminal proceedings together
7 with others in his undercover identity. The relevant
8 evidence will be posted during the course of
9 the hearings. You will, Sir, need to consider whether
10 any of the resulting convictions merit a referral to
11 the miscarriages of justice panel.

12 Deceased children's identities.

13 In her opening statement on behalf of the relatives
14 of deceased individuals, Ms Williams QC eloquently
15 explained the hurt, distress and revulsion felt by
16 the relatives about the practice of using deceased
17 children's identities when constructing undercover
18 legends. She drew attention to the condemnation of
19 the practice, both by the Home Office Select Committee,
20 the Home Secretary and the Metropolitan Police Service's
21 apologies. She explained the investigations to date,
22 which I shall not repeat, and emphasised the desire of
23 the relatives for answers to all of the questions to
24 which use of the practice has given rise.

25 The Inquiry Legal Team has, as far as possible,

1 established whether or not former SDS
2 undercover officers used a real person's identity. In
3 cases where a deceased child's identity was used and
4 the officer's cover name is not restricted, we have
5 sought to establish whether there are surviving close
6 relatives who can be traced and contacted. In relation
7 to the Phase 2 era, we have contacted relatives in eight
8 cases. In none of those cases have the relatives wished
9 to apply for core participant status or to participate
10 as witnesses in the Inquiry.

11 None of the former undercover officers whose
12 evidence was received in Phase 1 stated that they had
13 been instructed to use a deceased child's identity to
14 construct their cover identity. Chief Inspector Dixon
15 wrote the study paper entitled "Penetration of extremist
16 groups", which covered the construction of a cover
17 legend, but did not advocate using a deceased child's
18 identity. The study paper does not appear to have been
19 circulated amongst SDS undercover officers though, and
20 the evidence was to the effect that there appears to
21 have been little guidance given to early officers about
22 how to construct their undercover identities. The steps
23 taken to produce a cover identity by early SDS UCOs
24 appeared, on the evidence, to have been basic.

25 Some of the early SDS undercover officers, who did

1 not use a real person's identity, were either
2 compromised or withdrawn from their deployments because
3 of the risk of compromise. We will be hearing oral
4 evidence from HN45, who was recognised by a neighbour at
5 an activist meeting, and from HN347, who was withdrawn
6 after being accused of being an undercover police
7 officer. The reasons for that suspicion will need to be
8 explored.

9 At some point during the early to mid-1970s, the SDS
10 began to instruct its UCOs to use deceased children's
11 identities. No written instruction or guidance to
12 record the introduction of the practice survives, if
13 such ever existed.

14 The written evidence that we have obtained from
15 HN347, HN299/342, HN298 and HN301 suggests that the SDS
16 was not instructing its officers to use deceased
17 children's identities in 1971, the year in which they
18 all joined the SDS. However, the evidence relating to
19 HN353, cover name "Gary Roberts", HN351, cover
20 name "Jeff Slater", HN297, cover name "Rick Gibson" and
21 HN200, cover name "Roger Harris", who all joined the SDS
22 in 1974, is that they each used deceased children's
23 identities to some extent. HN301, cover
24 name "Bob Stubbs", and HN344, cover name "Ian Cameron",
25 who joined the SDS in 1971 and 1972 respectively, each

1 told their risk assessors, at the anonymity stage, that
2 they were not instructed to use a deceased child's
3 identity.

4 Three cases deserve specific mention.

5 First, HN298, who used the cover name "Michael
6 Scott", states that he obtained that name by visiting
7 the registry of births and deaths, then at
8 Somerset House, in 1971. However, his recollection is
9 that he was not guided or instructed to do so. Unlike
10 later officers, who were instructed to use a deceased
11 child's identity, he did not ascertain whether
12 the person whose identity he used was dead or alive.
13 The Inquiry has established that the real Michael Scott
14 was not dead and was not a child in 1971. We have been
15 able to trace and contact him. He did not wish to give
16 evidence and we are respecting that wish.

17 The facts give rise to a concern that the criminal
18 conviction that HN298 received in his cover identity
19 might have been entered onto the real Michael Scott's
20 record. Our investigations have confirmed that
21 the Star & Garter conviction is not recorded against
22 Michael Scott on the Police National Computer. However,
23 we have not been able to establish whether or not there
24 ever was a record of conviction. The witness statements
25 of Karen Progl and Detective Constable Katie McAleer,

1 which go to this issue, will be published on the day
2 that HN298 gives oral evidence.

3 The second case is that of HN297, Detective
4 Constable Richard Clark, aka "Rick Gibson". Although he
5 is deceased, it appears that he used a deceased child's
6 identity, because one of the groups that he infiltrated,
7 Big Flame, discovered that fact. Mr Chessum will be
8 giving evidence about Richard Clark's deployment,
9 including the discovery that he was not who he said he
10 was. Thus, we will hear that one of the first SDS
11 undercover officers to use a deceased child's identity
12 found that it was not robust enough fully to protect his
13 cover story.

14 The third case is that of HN80, who used the cover
15 name "Colin Clark". He has stated that he refused to
16 use a deceased child's identity. He states that:

17 "It distressed me to consider using the details from
18 a dead child's birth certificate and I knew that it
19 would necessarily cause distress to that child's family
20 if it was discovered ..."

21 Most of the Phase 2 officers describe in their
22 statements using only some information about
23 the deceased child whose identity they used. Typically,
24 the name, or part of the name, together with the date
25 and/or place of birth. Few describe visiting the area

1 where the deceased child lived, although there are two
2 exceptions. First, HN304, who described making a detour
3 of his own volition to the place where the deceased
4 child in question had been born.

5 Second, HN96, who used the cover name, "Michael
6 James", goes further. He describes being instructed to
7 visit Blackpool, the birthplace of the deceased child,
8 Robert Michael James, whose middle and last names he had
9 adopted. Moreover, he states that he was assisted by
10 the local Special Branch to establish that Robert James'
11 family no longer lived at his former address. Thus, we
12 have an example of inquiries being made about
13 the deceased child's family. We will be exploring in
14 more detail the issues surrounding the use of deceased
15 children's identities with the Phase 2 witnesses who
16 give oral evidence.

17 We have included the SDS's Tradecraft Manual in
18 the Phase 2 hearing bundle because of the content
19 relating to the use of deceased children's identities.
20 That is to say, section 3 and appendix E. However,
21 readers should be aware that as far as we have been able
22 to ascertain, this document appears to date from
23 the 1990s, long after deployments of the officers who
24 will be giving evidence in Phase 2.

25 Sexual relationships.

1 Ms Kaufmann QC and Ms Williams QC in their
2 respective opening statements made crystal clear
3 the devastating and life-altering impact that deceitful
4 sexual relationships conducted by undercover police
5 officers have had, and the burning need for answers felt
6 by the core participants in category H. The
7 Metropolitan Police Service has long since issued an
8 unreserved apology which, amongst other things, has
9 accepted that sexual relationships between
10 undercover police officers and members of the public
11 should not happen. There can be no doubt that deceitful
12 sexual relationships were one of the principal issues of
13 public concern which led to this public inquiry being
14 established. We shall be pursuing our search for
15 the truth on this issue throughout the Inquiry.
16 The importance of the present phase to the process is
17 that the evidence that we are going to hear and read
18 concerns the first known sexual contact between SDS
19 undercover officers and members of the public.

20 There was no evidence of sexual contact between SDS
21 undercover officers and members of the public in
22 Phase 1. However, there was evidence of some social
23 contact of the kind which may be a precursor to more
24 intimate contact: HN336, cover name "Dick Epps", gave
25 evidence that he had a drink with a female activist.

1 There was also evidence of a blurring of the lines
2 between undercover work for policing purposes (whether
3 or not it was justified) and social contact with a woman
4 befriended by an SDS officer for other purposes.

5 HN345 "Peter Fredericks" gave evidence that after he had
6 left the police, he returned to the home of a female
7 activist.

8 The evidence in Phase 2 is going to be altogether
9 different. We move into a period when there is evidence
10 that at least five former SDS officers had sexual
11 contact with as many as 12 different women.

12 The evidence that I briefly introduce below is obviously
13 subject to the oral evidence that we are about to hear,
14 and we do not rule out taking further evidence about
15 these officers if more witnesses come forward.

16 Richard Clark, cover name "Rick Gibson", HN297, is
17 deceased. He deployed into the Troops Out Movement and
18 Big Flame between 1974 and 1976. He is described by
19 HN304 as having a reputation for being something of
20 a "ladies' man". Mary's written evidence is that Clark
21 was a frequent visitor to her flat, and they had
22 half-hearted sexual encounters, which she did not
23 initiate and fizzled out. She has stated -- quote:

24 "Had I known he was a police officer there is
25 absolutely no way I would have had any sexual contact

1 with him at all."

2 Her flatmate confided in her that she, too, had
3 become sexually intimate with him.

4 Richard Chessum has provided a witness statement
5 which explains that he knew "Rick Gibson" well, and he
6 had sexual relations with at least four women in his
7 undercover identity. "Mary" was one of those women. All
8 were activists. We will be exploring, insofar as
9 possible, Clark's motives for forming these
10 relationships. A hallmark of his deployment is how
11 thoroughly he appears to have infiltrated his target
12 group, and how active and influential he was within
13 it. "Mary's" impression is that Detective Constable
14 Clark was seeking to use sexual activity with her to
15 bolster his cover.

16 HN300, who is now deceased, used the cover
17 name "Jim Pickford" to infiltrate anarchist groups
18 between 1974 and 1976. There will be evidence that he
19 was known as a philanderer who chased after women. His
20 second wife, to whom he was married at the start of his
21 deployment, and family members made a statement during
22 the course of the anonymity process which indicates
23 that "Jim Pickford" met a woman in his undercover
24 identity whom he went on to marry. HN300 and his third
25 wife had a child together. The marriage did not last

1 and ended in divorce. There is corroborative evidence
2 in the closed officer gist that HN300 told a fellow UCO
3 that he had fallen in love with a woman associated with
4 his group and wanted to tell her everything.

5 HN354, who used the cover name "Vince Miller",
6 infiltrated the SWP between 1976 and 1979. He has
7 stated that he had four -- he says -- "one night stands"
8 whilst in his undercover identity at a time when he was
9 single. On his account, two of the women with whom he
10 slept were activists and two were "friends of friends".
11 He states that he did not tell his managers. As I have
12 already mentioned, one of the activists with whom he
13 slept was "Madeleine". Her account of the relationship
14 is different. She states that there was a sexual
15 relationship initiated by "Vince Miller", which lasted
16 up to a couple of months and which occurred soon after
17 the breakup of her marriage. It was not a casual thing
18 for her, and she was very upset when "Vince Miller"
19 disappeared. We shall be hearing oral evidence from
20 them both. We are grateful to "Madeleine" for providing
21 the Inquiry with photographs of "Vince Miller" during
22 his undercover deployment. We can look at one of those
23 now.

24 Can we display, please, UCPI0000034331 {UCPI/34331}.

25 Thank you. Could that be taken down, please.

1 Two of the fully anonymous officers, HN302, who
2 served in the 1970s, and HN21, who served in the late
3 1970s and early 1980s, have stated that they had sexual
4 contact with women whilst in their cover identities.
5 The material parts of their witness statements have been
6 included in the closed officer gist.

7 Could we look, please, at UCPI00000034307. Could we
8 turn to page 4, {UCPI/34307/4}, please. And could we
9 look at paragraph 20:

10 "20. Most officers state that they did not engage
11 in any sexual relationships in their cover identities.
12 The exceptions to this are:

13 "(a) One officer, HN302, describes a brief sexual
14 encounter early in his deployment with a woman from
15 a group reported on whilst undercover. He states:

16 "'After a couple of meetings I developed
17 a friendship with a woman, we had a drink ... after one
18 of the meetings and then we went back to my [cover
19 accommodation]. I was a single man at the time both in
20 my real life and my cover identity ... It did not go
21 further than that night. I did not come across her
22 again in my deployment ... I did not set out to sleep
23 with anyone, but the circumstances presented themselves
24 to me and I did not say no. Having a drink with this
25 woman did bolster my cover identity, but the fact that

1 we ended up having sex did not, at least in my view,
2 provide any additional benefit in terms of cover, and
3 that is not why I did it. Any friendly interaction you
4 had with anyone added layers to your legend but it was
5 not necessary to sleep with people to have
6 a well-rounded cover identity. It was not something
7 that my management told me to do and I did not speak to
8 my managers about it afterwards. I did not think it was
9 necessary to do so, it was not relevant to any
10 instructions or training I had received. It was just
11 something that happened before my deployment had really
12 got going that did not require any further actions on
13 their part.'

14 "(b) Another officer, HN21, describes having engaged
15 in occasional sexual encounters with two women whilst
16 deployed. During his deployment in the late 1970s and
17 early 1980s HN21 attended an evening class. He attended
18 the evening class in his cover identity but not with his
19 target group. He never reported on the evening classes.
20 He engaged in some kissing and fondling on a few
21 occasions with one named woman from the ..."

22 If we could go over the page, {UCPI/34307/5},
23 please:

24 "... classes. He had sex a couple of times with
25 another woman who was associated with the evening class

1 and who attended socials after them. Neither woman was
2 a target of his infiltration and he did not see either
3 woman again. Neither of the women was involved in any
4 of the groups he infiltrated."

5 Thank you, could we take that down, please.

6 Sir, I notice the time. I've got about six or seven
7 pages to go, which is about 15 minutes.

8 THE CHAIRMAN: I think it is better that you should finish
9 and we should then break, but 15 minutes later than
10 intended, but for the same period.

11 MR BARR: Thank you, Sir.

12 Both HN302 and HN21 are going to give oral evidence
13 in closed hearings. This is necessary in order to avoid
14 undermining the restriction orders made in respect of
15 their real and cover names. It is also necessary to
16 enable them to be questioned freely, without
17 the questions having to be tailored and the answers
18 stifled, in order to avoid undermining the restriction
19 orders. We will be reviewing, after they have given
20 evidence, what can safely be put into the public domain.

21 HN106, who used the cover name "Barry Tompkins",
22 denies that he had any sexual relationships in his cover
23 identity. However, there is a Security Service document
24 which suggests that his managers thought that he had
25 probably "bedded" -- I am quoting -- a woman and they

1 had warned him off. There is also evidence that another
2 woman was referred to by some activists as "Barry's
3 girlfriend". HN106 states that he had a close
4 friendship with the second woman, but denies having sex
5 with either of them. HN106 is unable to give evidence
6 because he is both abroad and in ill-health.

7 HN155, who used the cover name "Phil Cooper", denies
8 in his witness statement having any sexual encounters or
9 relationships whilst in his undercover identity.

10 However, the risk assessors understood him to have
11 admitted to having "a number of liaisons". HN155 denies
12 making this admission. That dispute of fact will need
13 to be decided.

14 I should make clear that we are seeking to establish
15 the facts. On the question of sexual contact, we are
16 not drawing bright lines between one night stands and
17 lengthy relationships such that we are investigating one
18 but not the other. Nor are we investigating only sexual
19 contact with activists. We ask former
20 undercover officers whether they engaged in any sexual
21 activity in their cover identities. As will be apparent
22 from the cases to which I have just referred, we have
23 elicited evidence of a wide variety of intimate
24 relationships and sexual contact. However, the Chairman
25 necessarily has to make fact-sensitive judgments on

1 a case-by-case basis about how far we should pursue
2 investigations. The terms of reference do not require
3 exhaustive investigation of every instance of sexual
4 contact. Even in those instances which the Inquiry
5 would wish to investigate further, we sometimes cannot
6 do so. We are not always able to trace witnesses. Some
7 civilian witnesses whom we do contact may not reply to
8 the Inquiry. Whether and, if so, the extent to which
9 deceived women participate in the Inquiry is entirely
10 voluntary. The need to protect a former
11 undercover police officer from harm may, in some cases,
12 such as HN302's, outweigh the need to trace and contact
13 a deceived woman.

14 We have found no evidence of any written instruction
15 for SDS officers relating to sexual activity in their
16 undercover identities during the Phase 2 era. Nothing
17 to state that they must not engage in sexual activity in
18 their undercover identities with members of the public.
19 Nothing to state that they should. There will be some
20 evidence that SDS officers were advised against it
21 orally. There is also evidence, such as the reference
22 to HN106 being "warned off", which suggest at least some
23 management opposition to sexual relationships. However,
24 we will also be hearing evidence that there was comment
25 and joking amongst SDS undercover officers about sexual

1 relationships that, it is stated, would have been made
2 in the presence of managers. Moreover, the officer to
3 whom HN300 spoke about falling in love with the woman
4 who became his third wife states that he agreed to act
5 as a conduit between HN300 and his managers.

6 In Phase 1, five of the SDS officers who served in
7 the earliest years of the SDS were female. In Phase 2,
8 all of the officers and their managers are male. We
9 will be exploring whether the complete absence of female
10 officers from the SDS after 1973 until 1983, when
11 HN33/98 joined the SDS, affected the culture within
12 the SDS. In particular, we will be examining whether it
13 affected the attitude within the unit to male officers,
14 in their undercover identities, having sexual contact
15 with women who did not know who the men really were.

16 The overwhelming majority of SDS undercover officers
17 were married or in a relationship when they joined
18 the SDS. Of those who have made witness statements, 12
19 were married, two others had partners. Only one states
20 that he was single. The reasons for this phenomenon
21 will need to be examined. There is clear evidence of
22 marital status being noted at the time of recruitment.
23 We see this in the case of two officers who went on to
24 have sexual relationships with women in their undercover
25 identities. If marital status was thought to be

1 a deterrent to the formation of sexual relationships by
2 UCOs in their undercover identities, it did not always
3 prove to be so.

4 Could we look, please, at MPS-0724152. Could we
5 turn to page 3, please, {MPS/724152/3}. I'm going to
6 read paragraphs 2 and 3:

7 "[Detective constable] [HN300] has been seen and has
8 indicated his willingness to join the Squad. He joined
9 the Force in ... 1969, and the Branch in ... 1973.
10 A married man, aged 30, he lives with his wife and
11 [child] in [redacted]. He has passed the promotion
12 examination and has served in roles including in 'C'
13 Squad (Surveillance Section).

14 "DC Richard Clark has also been approached with
15 a view to joining the SDS, and is willing to do so. He
16 joined the Force in June 1967 and the Branch in
17 October 1970. He is a married man, aged 29, with ...
18 children and lives at ... DC Clark has attended the
19 Junior CID Course and has passed the promotion
20 examination. For the last six months he has worked on
21 'F' Squad (Black Power)."

22 Could that be taken down now, please.

23 In our quest to get to the truth, there will plainly
24 be a great deal to explore in oral evidence on the issue
25 of sexual relationships. I must not preempt that

1 evidence or the findings of fact that you will make,
2 Sir. But, it can safely be said that from the mid-1970s
3 onwards, sexual contact between SDS officers in their
4 undercover identities and members of the public was not
5 uncommon.

6 Analysis of undercover officers' witness statements.

7 The requests for witness statements that the Inquiry
8 issues to former SDS undercover officers, pursuant to
9 Rule 9 of the Inquiry Rules 2006, are organised under
10 common headings. This facilitates the gathering and
11 analysis of evidence across themes. We have obtained
12 witness statements from 15 former undercover officers in
13 Phase 2 who are not fully anonymous. All will be
14 uploaded onto the Inquiry's website during the course of
15 the hearings for followers of the Inquiry to read. We
16 have analysed them and make the following observations
17 about general themes and broad patterns in the evidence.

18 All of the undercover officers were recruited from
19 within Special Branch.

20 All but one (HN200) held the rank of detective
21 constable when recruited into the SDS. Four more were
22 promoted to detective sergeant during their service with
23 the SDS.

24 All who gave specific answers served in B (Irish) or
25 C ("Extreme Left") squads of Special Branch at some

1 point in their Special Branch careers. That is to say
2 branches likely to have had a particular interest in SDS
3 intelligence.

4 Two state that they had done undercover work prior
5 to joining the SDS over and above the usual
6 Special Branch activity of attending activist meetings
7 in plain clothes: HN299/342 and HN155.

8 Recruits were mostly approached by current or former
9 members of the SDS. A minority asked to join. There is
10 no evidence that the role of SDS undercover officer was
11 advertised or that there was any formal recruitment and
12 selection process beyond an interview.

13 The SDS provided no formal training of any kind.
14 However, the majority recall spending months in
15 the SDS's back office before deploying. Those who do
16 not recall doing so are confined to the early part of
17 the Phase 2 period. When taken together with
18 the Phase 1 evidence, in which we heard that some of
19 the earliest officers had no, or only brief stints in
20 the SDS back office, we see a clear trend emerging.
21 The practice of spending some months in the back office
22 before deploying becomes cemented. HN200 and HN126
23 recall the longest periods: both recall spending
24 six months in the back office.

25 A few officers recall being given specific guidance

1 about what to do in the event of an arrest. Most
2 officers did not recall being given any specific advice
3 about involvement in private lives,
4 sexual relationships, criminal activity or legal
5 professional privilege.

6 The majority of officers could not recall being
7 shown Home Office Circular 97/1967 entitled "Informants
8 who take part in crime".

9 A trend appears to the effect that the later
10 officers commonly recall being told to expect
11 a deployment of approximately four years' duration.
12 Starting with HN304, who joined in 1976, five of
13 the officers have this or a similar recollection.

14 All 15 officers had cover employment, sometimes
15 fictional, and a cover address. None shared their
16 accommodation with activists. Only HN96 and HN106, who
17 shared accommodation with one another, recall sharing
18 with another officer.

19 A trend emerges towards the end of the Phase 2
20 period to the effect that more officers recall living in
21 their cover identity for a period before approaching
22 their targets: HN304, HN106, HN96 and, insofar as he can
23 remember, HN155.

24 All of the officers who joined from a point in 1971
25 onwards recall having a car. Only HN45 and HN347 do

1 not.

2 On the question of targeting, the majority write in
3 their statements of being steered by senior SDS managers
4 or collaborating with them in the making of decisions.
5 Two, HN298 and HN299/342, refer to it being their
6 decision, and write respectively of self-tasking and
7 being left to his own devices. Both of these officers
8 reported on and appear to have mixed with a significant
9 number of different groups.

10 There is a broad trend over time which has earlier
11 officers recalling weekly meetings in the SDS safe house
12 (HN45, HN347 and HN298), then thrice weekly meetings for
13 a period, and then recollections of twice weekly
14 meetings, unless the officer was too busy appears to
15 have been the position.

16 Only HN298 recalls being arrested and being advised,
17 with others, by a solicitor. Most officers state that
18 they did not offend in their undercover identities.
19 Those who did so refer to minor offences: flyposting,
20 graffiti and obstruction.

21 Most of the officers state that they at least
22 witnessed some violence during their deployments.

23 Only one officer states that he joined
24 a trade union: HN299/342, who states that he joined
25 the TGWU.

1 Former SDS UCOs in the Phase 2 era typically believe
2 that their work contributed to the effective and
3 efficient policing of public order. Most also refer to
4 their work assisting the Security Service.

5 Only one officer, HN106, states that he had direct
6 contact with the Security Service during his deployment.

7 Many of the officers assumed positions of
8 responsibility. HN298 became the membership secretary
9 of the Putney Branch of the Young Liberals, HN353 became
10 the vice president of a student union, which was not his
11 target, and HN106 formed a new group with two others.

12 However, by far the most common examples of
13 the assumption of responsibilities occurs in deployments
14 into the International Socialists, or SWP as it became.
15 Positions such as treasurer, paper sales organiser, or
16 member of a committee with responsibility for
17 a particular activity, such as the Right to Work
18 Campaign are typical. None states that he became
19 a branch secretary, and there is some evidence that this
20 post was actively avoided. The assumption of positions
21 of responsibility occurs mostly at branch level but
22 sometimes at higher levels. Richard Clark, HN297, was
23 particularly active in the Troops Out Movement. He did
24 not avoid the role of secretary, and worked his way up
25 from branch secretary, having been involved in

1 the setting up of the branch, to London Organiser and
2 then National Organiser.

3 On the question of subversion, many officers
4 describe their targets as having subversive aims but not
5 the means with which to realise those aims. Some
6 targeted groups that were in no way subversive.

7 Recollections that senior police officers visited
8 the SDS are common. Many recall visits by
9 the Commissioner of the day.

10 There was no formal welfare support provided by
11 the SDS for its officers. However, many officers
12 describe their managers as having been supportive.
13 There was no formal post-deployment support.

14 Most officers recall that overtime payments
15 increased their income, in some cases dramatically.

16 None states that he used his SDS undercover legend
17 in the private sector after having left the SDS.

18 Future hearings.

19 Turning to the future conduct of the Inquiry after
20 the Phase 2 hearings, the outstanding elements of
21 Tranche 1 of our investigation will include:

22 First, closed hearings at which some of the fully
23 anonymous Phase 2 former SDS UCOs will give oral
24 evidence.

25 Second, the Tranche 1 Phase 3 open hearings. These

1 are being held principally so that the Inquiry can
2 receive evidence from former SDS managers and
3 administrators. In particular, those whose postings to
4 the SDS fell wholly within the Tranche 1 era.
5 The managers will be preceded by further evidence from
6 a new core participant, Lindsey German. It had been our
7 intention to hold the Phase 3 hearings in October 2021,
8 but in order to permit time to obtain evidence from
9 Lindsey German, it will need to be put back. A further
10 advantage of putting the date back is that it should
11 enable a less pressured preparatory phase than has been
12 the case in phases 1 and 2. We anticipate being able to
13 set a new date for Phase 3 by July.

14 Third, closed hearings at which former SDS managers
15 can give oral evidence. The purpose of any such
16 hearings will be to hear evidence that cannot be given
17 at a public hearing.

18 The Inquiry will be taking steps to obtain witness
19 statements for Tranche 6 witnesses from the Tranche 1
20 era. In other words, from senior police officers in
21 the chain of command above the SDS itself and relevant
22 witnesses from other parts of Her Majesty's Government,
23 to ascertain their state of awareness of the SDS's
24 undercover operations.

25 I explained in November that the work of the Inquiry

1 has been seriously affected by the global pandemic.
2 That was before the second wave. Serious disruption has
3 continued to affect the Inquiry and those upon whom we
4 rely to advance our work. The impact on our timetable
5 is now more serious than we anticipated last November.
6 We no longer expect that the Tranche 2 hearings will be
7 ready for hearing in 2022. Detailed replanning work for
8 Tranche 2 and later tranches is currently ongoing.

9 I would like to end by thanking everyone involved in
10 the preparations for the present hearings. Publicly
11 investigating the actions of undercover police officers
12 involved in the private lives of members of the public
13 is no easy task. We are very conscious that we have, in
14 the course of our work, had to ask many people to work
15 to tight deadlines. We are grateful for their
16 considerable efforts.

17 THE CHAIRMAN: Thank you, Mr Barr. There is no criticism
18 from me whatever of your overrunning. You have taken
19 the shortest period of time that reasonably could have
20 been taken to explain the activity that the Inquiry has
21 undertaken, its product in general terms, and what we
22 are about to undertake in the next three weeks.

23 Because you have overrun, we will resume at 2.20,
24 not 2 o'clock as anticipated, so the timescales will be
25 put back.

1 Thank you.

2 MR FERNANDES: We will now take an hour's break for lunch.

3 Proceedings will resume at 2.20 pm.

4 (1.22 pm)

5 (The short adjournment)

6 (2.20 pm)

7 MR FERNANDES: Good afternoon, everyone, and welcome to
8 the afternoon session of the Day 1 opening statements at
9 the Undercover Policing Inquiry. I will now hand over
10 to our Chairman, Sir John Mitting, to continue
11 proceedings.

12 Chairman.

13 THE CHAIRMAN: Thank you.

14 Mr Skelton.

15 Opening statement by MR SKELTON QC

16 MR SKELTON: Thank you, Sir.

17 The MPS's first opening statement last year looked
18 broadly at what went wrong in respect of
19 undercover policing, particularly in the SDS, and
20 explained the significant changes that had been made
21 since the events under investigation by your inquiry,
22 and emphasised the continuing value of
23 undercover policing.

24 This opening statement is narrower in focus and
25 shorter. It addresses only the evidential phase ahead:

1 the work of the SDS undercover officers in the period
2 1973 to 1982.

3 As before, the MPS will not try to preempt or
4 predict what that evidence will in due course show. It
5 is possible, however, to draw on some of the issues
6 which arise in this tranche of evidence, particularly
7 where they occur for the first time, and where possible
8 make preliminary observations about them.

9 In doing so, Sir, the MPS reiterates the four simple
10 but important thematic points that were made in
11 the first opening statement.

12 First, the work of the SDS was
13 intelligence-gathering, so care must be taken when
14 trying to assess the value of that intelligence work
15 retrospectively.

16 Second, the actions of the undercover officers
17 should be assessed by reference to their contemporaneous
18 historical, social and regulatory context, not by
19 the standards of today.

20 Third, the evidence of this period is not
21 comprehensive: a number of witnesses note that not all
22 of their reports appear to have been provided. In
23 particular, records or reports relating to public order
24 policing may not have been recovered by your inquiry.
25 In addition, of course, witnesses are no longer

1 available and memories of events 40 or 50 years ago may
2 have faded.

3 Lastly, the SDS gathered intelligence to assist both
4 mainstream policing, particularly public order policing,
5 and the Security Service, referred to in the documents
6 as "Box 500", in its counter-subversion work.

7 Sir, I'm going to address you on the following three
8 issues before making some brief concluding remarks: one,
9 the SDS 1973 to 1982; two, targeting and justification,
10 and; three, issues emerging 1973 to 1982.

11 So the first of these: the SDS 1973 to 1982.

12 As was said in the MPS's first opening statement, an
13 understanding of the historical context is absolutely
14 essential. The work of the SDS didn't occur in
15 a vacuum, it occurred in response to what were
16 considered by the government and the public to be two
17 important problems of the day: the need to maintain
18 public order and the need to preserve the security of
19 the state, in a decade of protests, demonstrations,
20 industrial unrest and political polarisation.

21 The period 1973 to 1982 saw a range of demands on
22 the MPS and on policing in general. The early 70s saw
23 a campaign of firebombing by the Angry Brigade against
24 public figures, businesses and public buildings. And on
25 30 January 1972, 26 civilians were shot by British

1 soldiers in Northern Ireland during an anti-internment
2 march in Bogside, resulting in the deaths of 13 people,
3 known as "Bloody Sunday".

4 In 1974, the IRA launched a sustained campaign of
5 bombings in England and on UK targets abroad, which
6 lasted several years and included the M62 coach bombing,
7 the Guildford and Birmingham pub bombings, the Hyde Park
8 and Regent's Park bombings, as well as the murders of
9 Airey Neave MP and Lord Mountbatten.

10 This period also saw substantial industrial unrest,
11 including a seven-week strike by the miners in
12 January 1972, and a strike by dockers in August 1972,
13 both of which resulted in the Prime Minister of
14 the time, Edward Heath, calling a state of emergency.

15 In May 1973, approximately 1.6 million workers
16 joined a one-day strike, causing disruption to railways,
17 car manufacturing, newspaper production, mining and
18 docks.

19 In January 1974, the Conservative government
20 introduced a three-day week to conserve electricity
21 during another period of industrial action by the
22 miners. The dismissal of Devshi Bhudia and others from
23 the Grunwick Film Processing Laboratories in Willesden,
24 North London, caused a strike which was to last for
25 nearly two years.

1 In September 1978, industrial action started at
2 Ford, setting off a train of events leading to what is
3 known as the "Winter of Disconnect": widespread strikes
4 by public and private sector workers.

5 Lorry drivers went on strike in January 1979,
6 leading to shortages of heating oil and fresh food. And
7 later in the same month, gravediggers and waste
8 collectors joined that strike.

9 The National Front and left wing groups clashed
10 during violent demonstrations including
11 the Red Lion Square disorders in June 1974 during which
12 Kevin Gately died, the "Battle of Wood Green" in
13 April 1977, the "Battle of Lewisham" in August 1977, and
14 the Southall demonstration in April 1979 at which
15 Blair Peach sustained injuries from which he later died.

16 The period towards the end of Phase 2 also saw an
17 increase in racial tensions between the police and local
18 African-Caribbean communities, leading to riots in
19 Brixton, Manchester, Birmingham and other inner cities.
20 The Scarman report which followed led to the enactment
21 of the Police and Criminal Evidence Act 1984, and
22 the period also saw the start of activity on the part of
23 the animal liberation movement and the establishment of
24 the peace camp at Greenham Common.

25 Sir, it is vitally important that the inquiry has

1 a proper understanding of these events, and that they
2 are articulated and explained in public during its
3 hearings. Otherwise, there is a real danger that it
4 will reach judgments that are unfair or misplaced,
5 either because they are based on incomplete or
6 subjective accounts, or because they are based on
7 information which has been gleaned from outside
8 the Inquiry process, and so is not known to its
9 participants and has not, as necessary, been tested by
10 them.

11 Such an understanding, we submit, must be based on
12 evidence and not submissions. Submissions may be
13 informative but when made by participants, they are
14 vulnerable to accusations of selectivity and bias. And
15 even when made by Counsel to the Inquiry, as you heard
16 earlier from Mr Barr, they still do not have the status
17 of authoritative evidence, and cannot by definition be
18 elaborated or challenged.

19 What the MPS respectfully submits is needed, Sir, is
20 evidence from an expert historian, which provides
21 the Inquiry and its participants with a clear,
22 comprehensive and independent overview of the various
23 periods under scrutiny. Such evidence would be in
24 the form of one or more reports or witness statements
25 which would be supplemented by oral evidence, coupled

1 with the introduction of contemporaneous documents at
2 the start of the hearings for each tranche or phase.

3 To avoid controversy or impropriety, the evidence
4 would need to be scrupulously neutral and factual,
5 without expressions of opinion on any matters that are
6 historically contentious, or on issues that are for
7 the Inquiry alone to determine.

8 As the designated lawyer officer group note in their
9 written submissions for this hearing, this type of
10 evidence was given by eminent historians,
11 Professor Robert Service and Professor Thomas Hennessey
12 in the Litvinenko Inquiry and in the Birmingham bombings
13 inquest. And in both cases, it was a highly effective
14 and proportionate means of summarising the complex
15 historical period in which the events in question
16 occurred. It would, the MPS submits, be of even greater
17 value to this Inquiry, which is looking at an
18 unprecedentedly long period of UK history.

19 Sir, the second issue I wish to address you on is
20 targeting and justification.

21 Between 1973 and 1982, the SDS had between nine and
22 12 active undercover officers at any one time. They
23 were targeted, as Mr Barr said earlier, at a range of
24 organisations, which included Trotskyists,
25 Maoists/Marxist-Leninists, anarchists, anti-fascists,

1 anti-nuclear and Irish nationalist supportive groups.
2 SDS funding continued to be provided by the Home Office,
3 which received information about the work of the unit in
4 annual letters seeking permission to continue its work;
5 and on each occasion agreed to its continuation.

6 The MPS notes that a number of the non-state
7 core participants raise concerns about having been
8 targeted or reported on in the course of undercover
9 policing in this period. This is a complex issue which
10 will be considered throughout the Inquiry's tranches,
11 including the managers' evidence and in Tranche 6
12 (management and oversight).

13 It will only be appropriate to form a view of
14 justification once the fullest evidential picture has
15 developed; and when doing so, to bear in mind that
16 relevant evidence from this time may no longer be
17 available, particularly paper records, as I have said,
18 relating to public order policing, in furtherance of
19 which the SDS did much of its work.

20 The assessment of the justification for
21 the targeting in this period will include, but not be
22 limited to, consideration of: (a) the history or stated
23 aims of a movement or individuals within it; open or
24 concealed connections between groups or organisations;
25 the potential for groups to pose issues for law and

1 order, including where the deployment demonstrates that
2 this is not in fact the case; the need to embed a false
3 persona before moving into more security conscious
4 organisations, known as "legend building", and; finally,
5 wider law and order concerns and pressures and
6 responding to the requests for information from
7 the Security Service or others.

8 In addition to the information set out in the annual
9 reports, there is evidence of MPS Special Branch
10 critically evaluating the ongoing need for SDS
11 intelligence. In 1976, in recognition that large scale
12 public demonstrations had at that stage, albeit with
13 noted exceptions, dwindled, as compared with the late
14 1960s, Special Branch internally reviewed the Squad by
15 setting up a study group to consider whether there was
16 continuing value in its work.

17 One specific term of reference for the study group
18 was to consider, and I quote:

19 "What proportion of the overall intelligence
20 gathered is of primary benefit towards assisting uniform
21 police to control public meetings and demonstrations,
22 and that which is of interest mainly to
23 the Security Service."

24 Concluding that the Squad should remain in
25 operation, the study group emphasised the importance for

1 public order policing of negative intelligence; for
2 example, that an event was not going to take place even
3 though in such a case -- and again I quote:

4 "The only positive result of
5 [the undercover officer's] attendance is seen in
6 the subsequent reports of individuals attending etc
7 which is of interest to Box 500 [the Security Service]."

8 They concluded:

9 "Suffice it to say that the contribution made by
10 the SDS to the national interests of the Security
11 Service is a very considerable one ..."

12 A point which is fully acknowledged.

13 This conclusion, Sir, is borne out by other
14 contemporaneous paperwork. Contact with
15 the Security Service was frequent and it was productive.
16 Detailed requests for them for information from the SDS
17 about policies, identities and other information about
18 the membership of organisations of interest is common.
19 It occurred both in general terms at high level meetings
20 and in the form of briefing -- detailed briefings or
21 letters; and this can be seen both in the evidence of
22 the Security Service and also on the face of some SDS
23 reports.

24 Indeed, the SDS appears to have viewed the agency as
25 a "customer" for its intelligence. There are indicators

1 that although Special Branch's focus was on law and
2 order whilst the Security Service's was on
3 counter-subversion, the latter, ie the Security Service,
4 was able to exercise some influence over the placement
5 of undercover police officers.

6 Sir, I now turn finally to issues emerging in
7 the period 1973 to 1982; and first the use of
8 the identities of deceased children.

9 As indicated in the MPS's openings statements in
10 October last year, this period saw the first use by SDS
11 undercover officers of the identities of deceased
12 children. The first use of a real person's identity
13 appears to be HN298 in summer 1971, although there is no
14 evidence in this case that it was of a deceased child.
15 HN298 says he was not instructed to go to
16 the General Records Office, he went because he thought
17 it would be a good place to find a real identity.

18 After this time, other officers recall going to find
19 themselves an identity at the General Records Office,
20 and some recall being instructed to do so. In
21 the months and years thereafter, the use by
22 the undercover officers of the name and dates of birth
23 of real individuals came to be standard practice.

24 The first few SDS deployments in 1968 were short --
25 some lasting only a number of weeks. Many of

1 the remaining first recruits and the second recruits
2 remained in position for about a year; and typically
3 these early deployments lasted only about 12 to
4 18 months, albeit with some outliers.

5 It seems that the gradual increase in length on
6 deployments was born of a developing judgment by
7 reviewers at the time that, in general, intelligence
8 product improves with length of service.

9 Infiltration of groups beyond the Vietnam Solidarity
10 Campaign, such as those operating in small cliques,
11 demanded more sophisticated methods of penetration than
12 were necessary to cover large-scale demonstrations.
13 The longer deployments and the move to infiltration of
14 more security-conscious organisations also brought
15 a need to ensure that the identities used by
16 undercover officers could withstand scrutiny.

17 One of the earliest developments, for example, was
18 in respect of accommodation. A note in the 1969 annual
19 report states that it was now vital that officers cover
20 was adequate, and that experience had showed that
21 individual addresses for officers were required. A move
22 from the use of hire cars to those purchased by or for
23 officers was in part justified by the additional support
24 it would provide to the officers' undercover identities.

25 There was no viable means of inserting a fictitious

1 entry into publicly available hard copy records held by
2 the General Records Office. Thus, if checks were made
3 in that office, a fictitious name would thereby be
4 revealed. And it was believed, therefore, that using
5 a genuine identity would better withstand scrutiny.

6 As Operation Herne has previously concluded,
7 the practice of using a genuine identity was an
8 imperfect solution of the time to address the need to
9 backstop a cover identity and that the unit had little
10 choice before 1994.

11 However, the MPS has, and does, acknowledge and
12 apologise for the distress and offence that this
13 practice will have caused to the families of children
14 whose identities were relied upon in this way. Some of
15 those families are core participants in this Inquiry,
16 and will engage with you in this phase and help
17 the Inquiry, in this and future phases, to explore
18 the background to this practice, no doubt including
19 testing the extent to which it was operationally
20 necessary and whether, and whether and if so how
21 the genuine backgrounds of the deceased children were
22 relied upon beyond the information in the birth
23 certificate. The MPS takes this opportunity to restate
24 that this practice is not in use today.

25 The second issue, Sir, is inappropriate and/or

1 sexual relationships by officers in their undercover
2 identities.

3 Sir, as the MPS made clear at the outset of this
4 Inquiry, sexual relationships between
5 undercover officers and the targets of their
6 deployments, or people with whom they had contact while
7 in their undercover persona, should not have happened.
8 This is the case however short-lived those relationships
9 may have been. The sexual relationships which occurred
10 in this phase were not justified, and no attempt at
11 justification will be made by the MPS, which apologies
12 unreservedly for them.

13 Sir, the MPS recognises that there will naturally be
14 questions about what MPS management knew, or did not
15 know, about these events. And that is a matter which
16 will be considered in more detail during phase 3 of
17 Tranche 1, the 1968 to 1982 managers; and also with
18 managers in the later tranches.

19 Third, undercover officers engaging in criminal
20 activity in the criminal justice system. In Phase 2,
21 the Inquiry will for the first time hear evidence live
22 from undercover officers engaging in criminal activity
23 and with the criminal justice system. This will include
24 the actions of HN298, Michael Scott, who is one of
25 several people convicted in May 1972 of obstruction of

1 the highway and obstructing police following an incident
2 in which vehicles and protesters sought to block
3 the South African rugby team bus from travelling to
4 the airport at the end of their tour. In HN298's case,
5 there are some records of managerial decision-making.
6 However, the assessment of what inferences can properly
7 be drawn about senior officers' knowledge and
8 authorisation of such activities and how they were
9 subsequently managed, including within the justice
10 system, must necessarily await the managerial and
11 back office evidence in Phase 3 to be heard in
12 the autumn. As the MPS stated in its first opening
13 statement, there will be occasions where the SDS
14 management did not get it right.

15 Fourth, so-called blacklisting. The MPS notes
16 the concern raised by core participant Richard Chessum
17 that information gleaned from SDS reports about him may
18 have led to him being unable to secure certain
19 employment in ensuing years. So-called blacklisting
20 organisations used numerous methods for collating their
21 information. Separately, the police, including
22 Special Branch themselves, accrued material from wider
23 sources than undercover policing. Whether and to what
24 extent Mr Chessum's allegation falls within
25 the Inquiry's terms of reference and should be

1 investigated is a matter for you.

2 Fifth, reporting about Blair Peach. Blair Peach
3 died on 24 April 1979 having been struck on the head
4 while attending an Anti-Nazi League demonstration in
5 Southall the previous day. Investigations at the time
6 indicated that he had been fatally injured by a police
7 officer. In 2010, the MPS and the then Commissioner
8 Sir Paul Stephenson acknowledged that Mr Peach's death
9 in these circumstances was a matter of grave concern.
10 This remains the case, however, the Crown prosecution
11 service has concluded that no further investigations are
12 now possible. The Inquiry's not investigating the death
13 of Blair Peach, however, it has obtained evidence from
14 a former undercover officer who states that they
15 attended the demonstration in Southall prior to
16 Mr Peach's fatal injury and another who attended
17 Mr Peach's funeral. The Inquiry will also hear evidence
18 regarding reporting into the campaigning and public
19 demonstrations that followed Mr Peach's death
20 surrounding his inquest and thereafter, typically
21 referenced in the context of reporting about groups
22 which supported the campaign.

23 Sixth, intelligence collation and personal
24 information. Sir, it is correct to observe that
25 the reporting in this period includes a substantial

1 volume of personal information. Some of this, such as
2 a person's approximate age, their physical appearance,
3 their address, professional trade, employment and
4 employment history, contacts and associated vehicles may
5 be understood as being relevant to reporting on persons
6 of interest to Special Branch or the Security Service.
7 Indeed the papers show that SDS officers were frequently
8 asked to provide exactly this sort of information.

9 There is also reporting on sensitive personal
10 information which may or may not have been justifiable
11 to record, depending on the context. Such reporting
12 might include details about relationships starting or
13 ending, with reasons, or attendees at social events, and
14 the members of a person's family or household. The MPS
15 acknowledges that some of the information about personal
16 lives was set down in more detail than was necessary,
17 but it reiterates that intelligence collection does, on
18 occasion, require the recording of detail which may seem
19 innocuous or irrelevant but may be significant at
20 a later date because it explains the contacts and likely
21 associations of a person of interest or can be connected
22 to other information to form a more complete picture of
23 a person's motivations.

24 Additionally, Sir, in the years preceding
25 the Regulation of Investigatory Powers Act 2000, known

1 as "RIPA", the MPS didn't approach the risk of
2 collateral intrusion, or its avoidance or minimisation,
3 as it currently would. In the period 1973 to 1982,
4 the concept of collateral intrusion would simply not
5 have been appreciated by undercover officers or their
6 managers.

7 Within the SDS's reporting there are also
8 descriptive words and phrases that are, by modern
9 standards, out of date and which clearly would not be
10 acceptable now, including words such as "coloured".
11 The MPS observes only that the Inquiry shouldn't
12 criticise officers for the use of language 40 or
13 50 years ago which was uncontroversial at the time,
14 notwithstanding that it would now not be used. However,
15 Sir, no attempt will be made to justify the use of
16 language that was discriminatory, gratuitously insulting
17 or clearly irrelevant and without any conceivable
18 intelligence value.

19 Finally, Sir, training and support for
20 undercover police officers. Just as in Phase 1,
21 throughout this period there was no national undercover
22 training or standards of best practice. Undercover
23 policing wasn't subject to the legal regulatory and
24 professional structures or policies and training that
25 are now in place, and while the officers continued to

1 rely on their police and Special Branch training,
2 a system developed of spending time in the back office
3 which period -- during which time officers learned about
4 the work of the SDS from those who were doing it
5 already. The system of regular meetings and access to
6 management, both at a group and individual level,
7 throughout the deployments appears to have formalised
8 during this period, and the importance of welfare and
9 support plainly was noted as a priority. The MPS
10 recognises, however, that the officers themselves have
11 a range of views about the level of support they
12 received, and the effects of their deployments on them
13 and on their families.

14 Sir, in conclusion, the MPS doesn't suggest that
15 the points I've made in this opening are comprehensive.
16 This isn't the place for a detailed review of
17 the evidence and all the issues arising in this phase of
18 the evidence. However, the MPS will continue to
19 participate fully and facilitate the Inquiry's work in
20 Tranche 1 Phase 2 of its investigations, and to do so,
21 as throughout, with openness, transparency and
22 a willingness to learn and to improve.

23 Thank you, Sir.

24 THE CHAIRMAN: Thank you, Mr Skelton. And in particular,
25 thank you for taking rather less than your allotted

1 time.

2 May I raise one matter with you? It concerns
3 paragraph 24 of your written opening statement, if
4 I could refer to that.

5 One of the tasks of the Inquiry arising from its
6 terms of reference is to consider whether or not
7 a miscarriage of justice may have occurred in
8 consequence of the activity of an undercover officer.
9 Such an instance may arise in Phase 2 of Tranche 1,
10 the Star & Garter incident. The test which I propose to
11 have in mind when determining whether or not
12 a miscarriage of justice may have occurred is that which
13 would be applied by the Court of Appeal, hearing an
14 appeal from the Crown Court in a criminal case, namely
15 whether or not the conviction is unsafe.

16 If there are reasonable grounds for believing that
17 any conviction is unsafe, then I would be minded to
18 refer the matter to the panel to investigate as
19 a potential miscarriage of justice. If that threshold
20 is not met, I don't intend to refer it. If it is met
21 and I have a stronger view than merely there are
22 reasonable grounds to believe, I will say so.

23 I do not intend, in relation to the Star & Garter
24 incident, to defer doing that until after we've heard
25 the evidence in phase 3 for this reason. The only

1 evidence about managerial knowledge of what occurred at
2 the Magistrates' Court comes from three officers, all of
3 whom are dead. Assistant Commissioner Ferguson Smith,
4 Commander Rodger, HN294, and from one officer who
5 attended the Magistrate's hearing, HN103, whose report
6 on what took place in the Magistrates' Court is in
7 the bundle. I cannot conceive that any further material
8 is going to be discovered which can cast light upon what
9 managers knew, or authorised or ordered should happen
10 than we already have. In those circumstances, my
11 intention would be not to delay.

12 If you have any representation to make about
13 the test which I have in mind to apply, by all means
14 make it. I'm not inviting you to do so instantaneously,
15 of course, and I would invite you to consider whether,
16 if you did wish to make any such representation, you
17 would prefer to do so on paper immediately after
18 the close of the evidential hearings in this phase, or
19 orally, at the end. But I'd ask that you reflect upon
20 that.

21 I'm also going to ask Mr Ryder, who is also
22 concerned in this matter, to do the same.

23 MR SKELTON: Sir, thank you. Without wishing to give, as it
24 were, a final response, I think the MPS's position is
25 that there may not be any need to provide a legal gloss

1 or definition to the test, which is clear on the face of
2 the term of reference, which requires you to refer any
3 case in respect of which you conclude that
4 a miscarriage of justice may have occurred as a result
5 of an undercover operation or its non-disclosure.

6 But, Sir, may I avail myself of the opportunity
7 you're giving me to put in written submissions, if so
8 advised, having taken formal instructions?

9 THE CHAIRMAN: Yes. I would also be grateful if you would
10 discuss it with your counterpart, Mr Ryder, because it
11 may be that there is an agreed position. If there is,
12 that would be of assistance. If there is an area of
13 disagreement, it may be narrowed.

14 MR SKELTON: Sir, I anticipate that if you are to set a --
15 as it were, a general test for your future consideration
16 of not just HN298's position but also that of other
17 officers going forward in your inquiry, that that test
18 may be of interest to other participants. In those
19 circumstances, you may consider it appropriate to --
20 I do appreciate you don't want to have a hearing about
21 this, but to open up the opportunity to them to make
22 representations as well.

23 THE CHAIRMAN: If and when issues arise that affect
24 individuals represented by recognised legal
25 representatives, of course they will have that

1 opportunity. But I am in particular concerned with
2 a conviction that occurred now 49 years ago where those
3 who were convicted who are still alive will wish to know
4 whether their conviction is a miscarriage of justice or
5 not, and I cannot delay until the end of the Inquiry
6 when all of these issues have been fully ventilated to
7 do that.

8 MR SKELTON: No, sir, and that is entirely fair.

9 Sir, I will liaise with Mr Ryder as you request.

10 Thank you.

11 THE CHAIRMAN: I'm grateful to you.

12 I think we are now going to break, are we not, for
13 15 minutes to permit the shorthand writers to have
14 a rest in between your submission and those of
15 Mr Sanders.

16 MR FERNANDES: We will now take a 15-minute break. The time
17 is 2.55, so we shall reconvene at 3.10 pm. Thank you.

18 (2.52 pm)

19 (A short break)

20 (3.10 pm)

21 MR FERNANDES: Welcome back, everyone. I will now hand
22 the Chairman to continue proceedings.

23 Chairman.

24 THE CHAIRMAN: Thank you.

25 Mr Sanders.

1 Opening statement by MR SANDERS QC

2 MR SANDERS: Good afternoon, Sir.

3 This is the second opening statement on behalf of
4 the Designated Lawyer Officer core participant group in
5 advance of the hearing starting next week. We have
6 provided you a slightly corrected second written opening
7 statement, which I believe is now on your website.
8 There were just a couple of typos in there.

9 So, since I gave my first opening in October last
10 year, the composition of our core participant group has
11 changed slightly in that HN81 and now EN53 have joined,
12 and so we have 103 Special Demonstration Squad officers,
13 11 NPOIU officers and one officer who was a member of
14 both units.

15 I've been very grateful for the opportunity to
16 address you today, Sir. My aim is to pick up some of
17 the particular points and themes we stressed in our much
18 longer first opening. I propose broadly to follow
19 the structure of the written opening that we served last
20 week. So what I'm going to do is break my submissions
21 into two halves, essentially. So the first half will be
22 just to look at some of the evidential questions that
23 are facing you, Sir -- so that's parts 2 to 4 of our
24 second opening -- and then the second half will be to
25 look at some of the specific issues that have been

1 raised and that are coming up in the coming hearings.

2 So, starting with evidence and parts 2 to 4 of our
3 opening, the main theme that we want to stress is in
4 relation to the completeness of the evidence, and our
5 starting point for that is the fairly straightforward
6 proposition that the more complete the evidential
7 picture you have, the more secure a foundation it will
8 provide for safe and reliable findings of fact.

9 In terms of the evidence that you have so far and
10 that you're going to be hearing next week, it is, in our
11 submission, clear that there is a significant gap and
12 significant polarisation as between the evidence from
13 police officers and the evidence from those on
14 the civilian side.

15 In terms of the police evidence -- and this is
16 part 2 of our opening -- all 15 of
17 the undercover officer Rule 9 statements that are
18 arising in the Tranche 1 Phase 2 hearings coming up have
19 been produced by the Designated Lawyer team, albeit that
20 HN80 was no longer a Designated Lawyer Officer at
21 the time he signed his statement.

22 We have already stressed the limitations --
23 inevitable limitations that there are in terms of
24 the information and the materials available to you for
25 putting to our clients in their Rule 9 requests and

1 their witness packs. So, the first limitation is in
2 relation to intelligence reports and the fact that
3 the reports that you do have available are largely those
4 sent to and retained by MI5. Most of my clients think
5 that their witness packs are incomplete in terms of
6 the intelligence reports that are there, so some
7 identify particular periods when they would have
8 expected to see reporting particular events, or even
9 particular reports that they remember writing. And then
10 apart from intelligence reports, there's obviously
11 a dearth of available contemporaneous records, so there
12 are very few records of telephone calls and meetings and
13 so on.

14 What we've tried to do, just to give a rough
15 indication of that, is to set out at paragraph 2.5 of
16 the statement some basic numbers for our clients. So,
17 if you -- one way of testing how many intelligence
18 reports you might expect each undercover officer to have
19 produced is to consider how many safe flat meetings they
20 would have attended during the course of their
21 deployment, because it was at the meetings that they
22 either submitted or drafted intelligence reports. So,
23 if one takes a rough number of safe flat meetings that
24 there would have been for each officer and compares that
25 with the number of intelligence reports that each

1 officer was shown, one sees that there are -- by and
2 large there's a much smaller number of reports than one
3 might expect. Then, again, a smaller number still of
4 those reports that have been recovered have been posted
5 onto Opus and released for publication.

6 In terms of the material that's available to
7 the public -- so obviously you have, Sir, a wider range
8 of evidence in front of you, but in terms of what's
9 being released to the public, it's a selection, so it's
10 a fraction of a fraction of the available material, and
11 we say it's significant that those materials, in some
12 cases, have been redacted to conceal or obscure MI5
13 interest in individuals, and that those redactions,
14 unfortunately, in some cases, decontextualise
15 the reporting, the reasons for the reporting and why
16 SDS officers were doing what they were doing.
17 Furthermore, in terms of the upcoming phase of hearings,
18 they will have of course exclude the closed officers, so
19 the officers who were undertaking, by and large,
20 the more dangerous deployments.

21 So, that's the -- on the one hand, the police
22 evidence and the difficulties that there are in relation
23 to that.

24 On the other hand, Sir, is the civilian evidence.
25 You have 11 civilian subjects of reporting coming up in

1 the hearings over the next few weeks, and those 11
2 individuals, in their rule 9 statements and in their
3 live evidence, for those who are being called live, will
4 be speaking to 14 years of undercover policing by
5 approximately 50 SDS officers. So it's obviously
6 a small example of those affected, and it is noticeable
7 that the sample is somewhat skewed towards
8 anti-apartheid campaigns in a way that the overall
9 coverage of the SDS was not.

10 Most of the groups reported on by the SDS inevitably
11 have a spread of members and supporters from the more
12 moderate end of the spectrum to the more extreme. And
13 so what one has is -- within any group, there are
14 the individuals who are able to say they have no
15 interest in violence or disorder and there may be
16 individuals who had a very different perspective. And
17 of course, as we stressed in our original opening, it's
18 a complicated picture in terms of the public order scene
19 with various groups piggybacking on other groups and
20 campaigns, or hijacking other groups and campaigns and
21 seeking to exploit them, and also scope for
22 confrontation between groups who, by themselves, might
23 not have done anything disorderly but, when confronted
24 with opposing views, might act differently.

25 So for example, when one considers

1 the International Socialists, the SWP, that organisation
2 had a lot of teachers and social workers as members at
3 branch level who were, by and large, perfectly moderate,
4 law-abiding citizens. It also had within its ranks
5 others who were involved in serious violence and
6 disorder who were interested in targeting and taking
7 over other causes and campaigns, and who were involved
8 in talking to the PLO and so on.

9 It's clear from both contemporaneous evidence
10 relevant to the time in question and also from
11 the opening statements and the evidence that you've been
12 provided with that some of those reported on by the SDS
13 held, and still hold, extreme anti-police views. In
14 this regard it's important, in our submission, to keep
15 in mind the fact that the police are often seen, or
16 treated as the visible embodiment or personification of
17 the establishment or the status quo, and so for some
18 people and for some groups, clashes with the police and
19 the perpetuation of anti-police narratives were, and
20 still are, one way to attack and discredit and stir up
21 resentment towards the establishment and the status quo.

22 As you know, Sir, this Inquiry engages a number of
23 very sensitive and contentious issues and incidents,
24 some of which involve the police. We've picked up in
25 paragraphs 3.8 to 3.9 of our opening statement claims

1 made by Tariq Ali and Piers Corbyn about the deaths of
2 Blair Peach and Kevin Gately. These are obviously
3 sensitive topics, and the simple point that we emphasise
4 is it is important to differentiate between first-hand
5 evidence and hearsay and between factual evidence and
6 opinion evidence.

7 Turning to part 4 of our written opening and really
8 trying to bring together the two sides of the evidence
9 that you have, in our submission, there is an emerging
10 evidential picture which is highly polarised. So on
11 the one hand, police witnesses speaking about threats to
12 public order and the need for intelligence, and on
13 the other hand, civilian witnesses disputing this
14 completely. In order to establish where the truth lies,
15 it's not enough simply to compare the two accounts or
16 choose between them. In our submission, what you, Sir,
17 and your team need to do is to obtain more contextual
18 evidence as to what was going on on the ground at
19 the period in question in order for you to contextualise
20 the two different sides of the evidence.

21 In our written opening, simply to illustrate this
22 point, and just by way of case study, we've picked up
23 the example of what happened with HN336 and
24 the questions that he was asked about
25 the Stop the Seventy Tour campaign. I am not going to

1 take you through the ins and outs of it now, to a large
2 extent it's water under the bridge, but the short point
3 is that HN336 recalled the Stop the Seventy Tour
4 supporters having attacked and damaged cricket grounds,
5 and it was put to him that there was no press coverage,
6 as the Court already had said, and that he may have been
7 thinking of a later event. Now, in fact, there was
8 a very well documented attack on multiple cricket
9 grounds that was plainly linked to
10 the Stop the Seventy Tour and which broadly fitted with
11 HN336's recollection.

12 Now, I see no need to get bogged down in the detail
13 of that at this stage, Sir, but the point we draw out of
14 it is that the Inquiry needs more reliable contextual
15 evidence in order to frame and assess the evidence of
16 the witnesses it's going to hear from. It may well be
17 that you and your team have undertaken more background
18 reading and research, and we flagged up in our written
19 opening the question that the Commissioner's team asked
20 your team in terms of what materials you have read or
21 considered about the historical context and
22 the background. In our submission, that question should
23 be answered. There should be transparency about
24 the materials that the Inquiry has considered in terms
25 of informing itself about the context.

1 We drew attention to, in our first written opening,
2 the various annual reports of the Commissioner, which
3 contain a great deal of information about the public
4 order and the public order scene at the material time,
5 and since we gave our opening, I think we have provided
6 your team with copies of relevant extracts. We also
7 flagged that there were regular reports produced by
8 Special Branch, and I understand that those have now
9 been obtained and they're in the process of being
10 redacted and will be released in due course.

11 In addition to those materials, we would like to put
12 forward three possible sources of further contextual
13 evidence to assist you in evaluating the competing
14 accounts of the witnesses you're going to hear from.
15 So, the first is contemporaneous media and Hansard
16 reports. The Commissioner's annual reports that we've
17 referred to give dates and locations for hundreds of
18 public order events during the Tranche 1 period, and in
19 our submission, one way of collating evidence about
20 those events is to look at contemporaneous media
21 reporting before, and particularly after, they took
22 place. So, reporting about the incidents themselves;
23 also Hansard debates and questions about them. All of
24 that material is, in our submission, highly
25 illuminating, particularly in terms of evaluating

1 the pressures and the expectations that were generally
2 placed on the police at that time and what they were
3 being asked to do.

4 The second proposal that we put forward, Sir, is one
5 of calling expert evidence about the period in question.
6 We've mentioned, in our latest written opening,
7 the evidence that Professor Robert Service gave to
8 the Litvinenko Inquiry and the evidence that
9 Professor Thomas Hennessey gave to the Birmingham pub
10 bombing inquests. It is well established that expert
11 academic historians are able to assist inquisitorial
12 processes understand the context within which particular
13 events happened, and in our submission, there must be
14 individuals who could help you, Sir, understand
15 the extent to which public order was an issue and
16 a problem for society and for the Metropolitan Police in
17 particular.

18 The third source that we say would assist you, Sir,
19 if considered more closely, is publications produced by
20 the groups that were reported on by the SDS, because
21 these show what those groups were saying, what they were
22 urging their supporters and potential supporters to do,
23 or positions to take. You've seen in the evidence of
24 Norman Temple reference to the INLSF publication,
25 Irish Liberation Press, and we've drawn out in our

1 opening some of the extraordinary and wild content of
2 that publication, and in our submission it's important
3 to consider those, because they shed light on what
4 the groups were doing, what the police and MI5's
5 understanding about that may have been, and what their
6 concerns may have been and the reasons they may have
7 felt that the collection of intelligence would be of
8 value.

9 So, that's all I want to say about evidence from
10 a general perspective.

11 Just turning now to the second half of
12 the submissions I want to address you on today, and
13 that's the specific issues, or a number of specific
14 issues in particular that have been raised in or emerge
15 from the civilian evidence and openings.

16 So, the first -- and this part 5 of our second
17 written opening, Sir -- is the question of just causes
18 and whether it's relevant that a particular group was
19 pursuing what might be considered a just or a righteous
20 cause. Some of the evidence that you have been provided
21 with places considerable emphasis on the fact that
22 causes being proposed or pursued were just, and that's
23 particularly in connection with anti-apartheid and
24 anti-racist causes. In our submission, that is
25 irrelevant from the perspective of public order

1 policing. The police's duty to maintain public order
2 and to keep the peace is and must be the same regardless
3 of the politics or aims of particular campaigners or
4 protesters, and this remains true when a demonstration
5 or protest is about or against the police itself.

6 Furthermore, the collection of intelligence on
7 particular groups does not require or signify police
8 opposition to that group's objectives. The concern is,
9 with public order, it does not matter whether the police
10 agree with the particular cause. And it's important to
11 grasp the fact that the police cannot be expected to
12 judge which causes are just or which causes will be
13 judged as having been just in the fullness of time, and
14 neither can they be expected to stand back and let
15 the proponents of just causes, or those who are
16 demonstrating against the police, or complaining about
17 police misconduct, simply get on with it unsupervised.
18 That is because the duty to keep the peace is universal.

19 In this regard, we've flagged in our written opening
20 that one of course has the Stop the Seventy Tour, which
21 was opposed to all-white South African sports teams
22 touring the country, and the fact that the activities of
23 the Stop the Seventy Tour obviously had public order
24 implications. From the police perspective, it would
25 make no difference if it was a far right group seeking

1 to disrupt a tour by an all-black West Indies cricket
2 team. The public order implications are the same
3 regardless of whether or not those protesting or
4 campaigning are in the right or in the wrong.

5 So, the next theme that emerges from the civilian
6 evidence and the openings is an emphasis on whether
7 particular groups supported the use of violence or
8 whether, by contrast, they supported non-violent direct
9 action. Again, in our submission, this misses
10 the point. Public order is not simply an absence of
11 violence, it is a state of public tranquility and calm
12 which allows protesters and non-protesters to go about
13 their lawful activities at the same time and in the same
14 public spaces. And so whether or not they involve
15 violence, intimation and disruption and obstruction of
16 others are forms of disorder, and they're also liable to
17 escalate and become more disorderly.

18 And furthermore, protests and demonstrations
19 involving large numbers of people engage considerations
20 of crowd psychology that we've flagged in our previous
21 opening, and again are amenable to being hijacked and
22 exploited by others with other agendas. Orderly
23 protests and demonstrations still require police
24 oversight and management in order to maintain the peace.
25 So the fact that a particular protest or demonstration

1 did not involve violence and disorder may have been due
2 to successful public order policing and does not mean
3 that the collection of intelligence about it in advance
4 was not justified.

5 Similarly, the fact that a particular SDS officer
6 did not witness disorder or violence, either generally
7 or at a particular event, may be because he or she
8 avoided trouble or because the event was orderly due to
9 successful public order policing. And again, it does
10 not mean that the collection of intelligence by that
11 officer was not justified.

12 Furthermore, there is extensive evidence of groups
13 reported on by the SDS being involved in disorder. At
14 paragraph 6.4 of our opening we set out 13 examples of
15 serious disorder being planned or taking place. And
16 similarly, in relation to the Stop the Seventy Tour
17 campaign, it is, in our submission, obvious that if
18 the South African cricket team had arrived and the tour
19 had gone ahead, the activities of
20 the Stop the Seventy Tour campaign would have had
21 significant public order implications and that it was
22 right that the police were collecting intelligence on
23 those so that, had the tour gone ahead, public order
24 could have been maintained. Lord Hain, Mr Rodker and
25 Mr Rosenhead all refer to a violent reaction from rugby

1 fans at matches that were interrupted by
2 the Stop the Seventy Tour campaigners. One only needs
3 to remember what international sporting events are like.
4 One has thousands of enthusiasts there who have paid
5 good money to see their favourite sport, and many of
6 them will be drinking on the day, and from
7 the perspective of rugby or cricket fans, to see
8 the lawful match interrupted and them denied their
9 enjoyment is bound to lead to the potential for
10 disorder.

11 So, the next issue I wanted to pick up was at part 7
12 of our notice written opening; it's just in relation to
13 police resources. So, one suggestion has been made that
14 the Special Demonstration Squad was a waste of resources
15 and that it would have been better to have deployed
16 the officers involved elsewhere, and in our submission,
17 it's important to stand back and to remember that in
18 the 1970s the population of London was approximately
19 7 million and the authorised establishment of
20 the Metropolitan Police was 26,000 officers. So it can
21 be seen that the redeployment of a dozen or so
22 Special Branch detectives cannot be said to have made
23 a material difference to crime in the Capital.

24 And indeed, we say it is clear from
25 the Commissioner's annual reports for that period that

1 the Met was approximately 20% below complement during
2 that period, and that the Commissioner's clear view was
3 that spiralling public order duties were having
4 a negative effect on morale, recruitment and retention
5 within the police. And we referred in our first opening
6 to there having been thousands of significant public
7 order events and thousands of injuries to police
8 officers during the Tranche 1 period. What one sees is
9 the Commissioner, in his annual reports, in public
10 speeches, and in evidence to Parliament emphasising
11 again and again that his number one problem was public
12 order, and in our submission, the collection of reliable
13 public order intelligence was a cost effective way of
14 dealing with that problem and of managing the resources
15 of the police in general.

16 Finally, Sir, I just want to turn to the question of
17 information that's included in the intelligence reports
18 that the Inquiry has been able to obtain. You will have
19 seen in the Rule 9 statements, Sir, of my clients that
20 every undercover officer says pretty much the same
21 thing, which was that they harvested all the information
22 they could, they reported it back more or less
23 unfiltered, and it was for others to sort the wheat from
24 the chaff and take decisions about what was useful, what
25 to keep and for how long it should be kept. It's also

1 important to bear in mind that precisely the same types
2 of information were routinely included in other
3 Special Branch reports, whether or not collected by
4 undercover police officers or from secret sources.

5 In terms of the information that was collected, it's
6 also important to bear in mind that it was being
7 provided to MI5 for use in identifying possible
8 informants and for use in carrying out vetting
9 enquiries, so there will be lots of information and
10 personal information which may have a relevance for MI5
11 and it may be appropriate to report it as a result.

12 The groups that the SDS reported on, Sir, were of
13 course made up of people, and therefore it was
14 inevitable that reporting on those groups and the people
15 in them involved the reporting of personal information.
16 That was necessary, first, to identify who was being
17 referred to, who was being talked about; and secondly,
18 because the information might be relevant or useful,
19 either to Special Branch or to MI5.

20 In terms of the reporting of information about
21 children, as we touch on in our written opening, it's
22 not in one of your issues lists, the fact that there was
23 information about children in SDS undercover officer
24 reporting. In our submission, there is nothing harmful
25 about including information about children, and

1 the individuals who were being reported on had children,
2 and in some cases they were trying to recruit and
3 exploit and raise money from other people's children.
4 We've referred to in paragraph 9.3 of our opening
5 a document aimed at children produced by the national
6 union of school children -- sorry, the National Union of
7 School Students, and the document's entitled, "How to
8 disrupt your school in six easy lessons", and
9 essentially it encourages children to go on strike
10 against school uniform, petty rules, exams and useless
11 lessons, and it also reminds them to collect funds and
12 send them to the national office. In our submission,
13 some of this activity is highly questionable, and
14 the fact that groups being reported on by the SDS were
15 involved in it meant that inevitably it would be caught
16 up in the subject of SDS reporting and there's nothing
17 sinister or harmful in that act.

18 It is, in our submission, easy to cherry-pick
19 isolated examples of reports which contain sensitive
20 personal data, trivia or outdated terms of expression
21 taken from intelligence reports that may be 40/50 years
22 old that were compiled at the height of the Cold War and
23 the Northern Ireland troubles, and it's easy to take
24 those and to query whether or not that information
25 should have been collected.

1 What we say is more important is not the fact that
2 it was collected but that it was retained. Had items of
3 trivia been collected and discarded a short while later,
4 it would have put a completely different complexion on
5 things, because that would be part of what one might
6 expect: information is collected and then it's sifted
7 and only what's need to be kept is kept. So in our
8 submission, the more important question is not why was
9 such information collected in the first place but why
10 was it retained so long, particularly by MI5, and that's
11 a question which Witness Z does not answer in their
12 statement.

13 Those were the points we simply wanted to flag up in
14 advance of the hearings, and I'm very grateful for
15 the opportunity and the time today to do that.

16 THE CHAIRMAN: Thank you, Mr Sanders.

17 May I take up one point that arises principally out
18 of your written opening rather than what you have just
19 spoken?

20 HN336: I don't want to make a mountain out of this
21 molehill, but it illustrates a point and therefore
22 I will go into it in a little bit more detail than
23 I think that it would otherwise deserve. You say that
24 his evidence was -- and I quote what you say -- "they
25 attacked and damaged cricket grounds". In fact, it

1 wasn't. It was "they got up to all sorts of well
2 publicised antics, digging up the pitch at Lords,
3 pouring oil over the wicket".

4 I did, as it happens, check to see whether there was
5 any reporting of digging up the pitch at Lords and
6 pouring oil all over the wicket. There wasn't. And
7 the reason there wasn't is because it didn't happen.
8 You're quite right, there was reporting about incidents
9 which had taken place at cricket grounds throughout
10 the country on one night.

11 I was trying, as indeed Counsel to the Inquiry was
12 trying, with a witness who, it seemed to me, was doing
13 his best to tell me what he recalled as best he recalled
14 it, to explain what he had identified as a specific
15 incident when he was mistaken about it, and I put to him
16 the only very well known incident of digging up
17 a cricket pitch, the third test at Headingley in 1975,
18 "George Davis is innocent", and with a view to seeing if
19 that might explain a statement that was inaccurate.
20 That was my only purpose in doing it and I thought it
21 was to his credit that he accepted that he might be
22 mistaken about that.

23 However, if you, as his recognised -- or instructed
24 by his recognised legal representative, thought that
25 the proposition I had put to him and his acceptance of

1 it was wrong and needed further exploration, you had
2 the opportunity, in re-examination, to put that right.

3 This is a minor matter, and I'm devoting very much
4 more time to it than I would ordinarily choose to do so,
5 but it illustrates a point. If you think that
6 Counsel to the Inquiry or I have got something wrong,
7 either mistakenly or from an erroneous viewpoint, and
8 have put something to your witness stemming from that
9 and have produced an answer which you conclude is wrong,
10 then of course you're free to re-examine on that.

11 The period allowed for the advocate for recognised legal
12 representatives permits exactly that to happen.

13 And so, if this is, or was, or should ever have been
14 treated as a significant matter, then that's the method
15 of dealing with it which is available to you, and if it
16 arises in the future, you might consider using it.

17 MR SANDERS: Well, Sir, the difficulty is of course that, at
18 the time, I didn't have any material, any evidential
19 basis at my fingertips for coming back on that, and what
20 Mr Barr put to HN336 in his questions was that there had
21 been no press reporting of such an event.

22 Now, granted, the pitch was dug up at Sophia Gardens
23 not Lords, and oil wasn't poured on any pitches but
24 weedkiller was, but to say to HN336 that there was no
25 reporting of such an event and the closest that can be

1 found is the "George Davis is Innocent" event at
2 Headingley in our submission wasn't fair and it's
3 a question of the material that's available.

4 I don't understand why, if you and Mr Barr had had
5 the information about Sophia Gardens and about
6 weedkiller in front of you, that wouldn't have been put
7 to him instead of the possibility that he was thinking
8 about 1975 and Headingley, because there was obviously
9 a link to the Stop the Seventy Tour.

10 THE CHAIRMAN: Well, I've said what I want to about it, I've
11 heard what you say in response, but should this
12 situation arise in the future, there is a method of
13 dealing with it, which I would urge you to adopt.

14 MR SANDERS: Well, I take that on board and we will, if and
15 when we can.

16 It's maybe worth mentioning that we contacted HN336
17 and said that we would be raising this in opening and
18 that, you know, we felt he'd been right all along, and
19 he was very relaxed and said he'd forgotten about it.
20 So it's really just to illustrate the point about
21 contextual information, Sir.

22 THE CHAIRMAN: It also illustrates the point about asking
23 officers now of some age, like some of us -- not you --
24 about events that occurred when we were all very young,
25 and it illustrates the difficulty of giving precise

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