DIANE LANGFORD
OPENING STATEMENT
TRANCHE 1, PHASE 3

I: Introduction

1. This opening statement on behalf of Diane Langford for Phase 3 of Tranche 1 of the Inquiry follows her witness statement, her written and oral opening statement for Phase 2 and her oral evidence.

2. Diane has given a detailed account of her principled political activism from 1967 onwards. That evidence records the non-violent profoundly democratic way in which she sought to transform the social and political system, using debate, protest and lawful means of community organisation and persuasion. As she explains, she was Mother of the Chapel (shop steward) for the union the Society of Graphical and Allied Trades (SOGAT) at the Press Association for 18 years between 1974 and 1996. It is clear, both from her evidence and from that of the undercover police officers (UCOs) who spied on her, that (§38 Statement):

   "*I have never been involved in any criminal activity. All my activism has always been open and through the usual democratic means from lobbying the government to attending demonstrations. I have never been arrested for a criminal offence*."

3. The evidence also shows that Diane's activities posed no threat to public order (see §228 statement). She has never been involved in any violence.

4. Despite this the disclosure made to her by the Inquiry shows that she was the subject of detailed surveillance by undercover officers posing as fellow political activists for nearly five years between July 1968 and February 1973. Six UCOs infiltrated her private life in various capacities and reported on her during that period. The

surveillance was detailed and intrusive, with undercover police officers regularly entering her home, attending private social gatherings and political meetings, and recording detailed information about her political views, family arrangements, marriage, and employment. They then stored and shared this private information with other police officers and the Security Service. Their reporting was often accompanied by inappropriate personal commentary on Diane's views and family arrangements.

II: Diane 's rights

5. The right to freedom of expression is integral to democracy and is protected both by common law and the European Convention on Human Rights:
   (1) "*In a democracy it is the primary right: without it an effective rule of law is not possible*."
   (2) It is '*valued for its own sake. But it is well recognised that it is also instrumentally important….freedom of speech is the lifeblood of democracy. The free flow of information and ideas informs political debate*." (R v *ex parte Simms* [2000] 2 AC 115 at 125G-126H).

6. Article 10(1) ECHR expressly protects the freedom to hold opinions and to receive and impart information and ideas without interference. That freedom from interference includes being able to do so without attracting the attention of the police and without being monitored and placed under surveillance (see *Kate Wilson v Commissioner of Police for the Metropolis and National Police Chiefs Council*, [2021] UKIPTrib IPT_11_167 at §332-3).

7. To be lawful any interference with the right of freedom of expression by the state must meet a pressing social need, and be no more restrictive or intrusive than required to meet that need. In this regard there is no difference in principle between English law and Article 10 (see *Attorney- General v. Guardian Newspapers Ltd. (No. 2)* [1990] 1 A.C. 109, 283- 284 per Lord Goff and *Derbyshire County Council v. Times Newspapers Ltd.* [1993] A.C. 534, 550-551 per Lord Keith). The test is particularly strict for the use of covert powers: "*Powers of secret surveillance of citizens, characterising as they do the police state, are tolerable under the Convention only in so far as strictly necessary for safeguarding the democratic institutions*" (§42) *Klass v Germany* (1978) 2 EHRR 214

8. Equally the subject of muscular protection at common law and under the ECHR is the sanctity of the home and family. The private citizen is entitled to assert the inviolability of her home, her person, her goods and her private information against trespass and breach of confidence. The police, like any other citizen, must strictly justify their trespasses or other torts (see *IRC v Rossminster* [1980] AC 952 at 1008; *Entick v Carrington* (1765) 95 ER 807 at 817-8). At common law, prior to the passage of the Police and Criminal Evidence Act 1984 (*PACE*), police could enter property and execute searches when arresting offenders, and preventing imminent crime, injury or breach of the peace. Importantly, however (see *Ghani v Jones* [1970] 1 QB 693 at 706G-H, confirmed in *R(Rottman) v Commissioner* [2002] 2 AC 692:

"*The common law does not permit police officers, or anyone else, to ransack anyone's house, or to search for papers or articles therein, or to search his person, simply to see if he may have committed some crime or other. If police officers should so do, they would be guilty of a trespass*."

9. Furthermore, even where a power is vested in a person to issue search warrants, the common law's aversion to general warrants is long established (see *Privacy International v Investigatory Powers Tribunal* [2021] QB 936 at §39-48). The aversion is '*one of the basic principles on which the law of the UK is founded*'. It cannot be overridden even by statute except with clear words (§48). It protects property and privacy, including the '*secret nature*' of private papers (§46, referring to *Entick v Carrington* (1765) 19 State Tr 1029). No warrant can be lawful '*which requires the exercise of judgment or discretion by the official executing the warrant as to which individuals or which property should be targeted*.' (§45) Were such a power to exist it would be '*totally subversive of the liberty of the subject*' (*Wilkes v Wood* (1763) 19 State Tr 1153, Lord Camden CJCP).

10. Similarly Article 8 ECHR protects people's homes, families and private lives from interference by the state, save where those interferences are in accordance with the law, justified by a pressing social need and no more than strictly necessary to achieve that need.

11. The rigorous standards set in relation to ordinary state interference with Article 8 ECHR rights are enhanced where the powers exercised are covert. Powers of surveillance are a '*menace*' (§41) to all citizens, '*characterising.. the police state*' (§42) and

pose a '*danger …of undermining or even destroying democracy on the ground of defending it*' (§49, *Klass v Germany*). Consequently states do not enjoy '*an unlimited discretion to subject persons within their jurisdiction to secret surveillance*' and '*may not, in the name of the struggle against espionage and terrorism, adopt whatever measures they deem appropriate*.' (Klass §49) Further '*whatever system of surveillance is adopted, there must exist adequate and effective guarantees against abuse'* (§50).

12. The UK's then system (in 1978) of granting police warrants for telephone tapping of those suspected of serious crime, did not constitute a trespass because the tapping was to telephone lines outside the home and was domestically lawful, but did not meet the necessary standard of law (*Malone v United Kingdom* (1984) 7 EHRR 14). That was because it did '*not indicate with reasonable clarity the scope and manner of exercise of the relevant discretion conferred on the public authorities. To that extent, the minimum degree of legal protection to which citizens are entitled under the rule of law in a democratic society is lacking*.' (*Malone* at §79).

III: *Wilson v Commissioner and NPCC*

13. In *Wilson* the Investigatory Powers Tribunal (**IPT**) considered whether the Commissioner of the MPS ("**the Commissioner"**) and the NPCC had violated Kate Wilson's (**KW**) Article 3, 8, 10, 11 and 14 ECHR rights over several years of infiltration and surveillance of the social and environmental groups of which she was a member by at least six UCOs from the National Public Order Intelligence Unit (NPOIU). One of the UCOs, Mark Kennedy, had entered into a sexual relationship with KW, in respect of which the IPT made a number of findings under Articles 3 and 14 ECHR. Its findings on Articles 8, 10, and 11 relate to the broader surveillance of her conducted by the NPOIU.

14. The Commissioner and the NPCC made a number of significant concessions under Article 8 ECHR (see §270 and Annex 2A and 2B to the judgment):
    (1) They accepted that the intelligence gathering nature of the deployment created a risk of significant interference with the Claimant's right to respect for private life under Article 8 because the UCOs needed to establish relationships with people in the groups and there was a risk they would gather information which exceeded information which was relevant to the deployment.

(2) They accepted that an informed assessment of the risk of intrusion into Article 8 ECHR required an assessment of the risk of intrusion into privacy of subjects and third parties, and also that it was necessary to take steps to avoid that intrusion.

(3) They accepted it was necessary to be aware of the information obtained, the other UCOs deployed and the overall intelligence picture to assess the level of interference and the other intelligence opportunities which might have negated the need for the cover activity.

(4) They accepted none of this was done or done properly, and the deployment (quite apart from the sexual relationship) did lead to a breach of KW's private life rights.

(5) They accepted that the Article 8 ECHR breach was exacerbated by a number of factors including the cumulative effect of the number of UCOs present in KW's life, the nature of the groups surveilled which included individuals whose intentions were to pursue their objectives by legitimate means and without engaging in criminal activity, and the nature and extent of the information recorded which included sensitive and personal information about KW and her family which should not have been obtained or recorded.

15. The Commissioner and NPCC nonetheless maintained that the deployment, while disproportionate, was necessary in a democratic society and met a pressing social need (§271 *Wilson)*. They argued that '*the intelligence…provided allowed the police to provide a proactive and measured response to prevent crime and public disorder and to ensure the safety of the public and those engaged in legitimate peaceful protest*.'

16. The IPT disagreed; it endorsed the conclusions of the HMIC report to the effect that while the deployment of UCOs to gather intelligence on serious criminality might justify some intrusion into people's lives, it would be unlikely that the test of proportionality and necessity would be satisfied in relation to policing protests generally (see §282- 284 *Wilson*). The IPT accepted that significant intelligence was provided which may have led to the police being able to provide a measured response to prevent crime and public disorder (§286 *Wilson*) but highlighted that there was an important distinction between intelligence gathering for domestic extremism and that of public order issues which was not reflected in the NPOIU's documentation (§286).

In KW's case the Commissioner and the NPCC could not show a pressing social need; she had no criminal convictions and there was no evidence that serious criminality was common amongst those subject to surveillance (§287). A fair reading of the authorisations in her case was that the principal justification for the surveillance was public disorder rather than serious criminality, and that KW was named as a subject because of the usefulness of her connections within the movement (§288). The IPT concluded (§289-290):

> *§289 ..the Respondents have failed to show that the intrusion into the Claimant's Art 8 rights, quite apart from the admitted breach arising from MK's sexual relationship, was necessary to meet a pressing social need. It is clear from Piechkowicz at para 212 that the burden is on the State to demonstrate that need. The evidence of a pressing social need is, in our view, thin and fails to distinguish between domestic extremism potentially involving serious criminality and public order issues. The safeguards to ensure that the surveillance was, and continued to be, focused on a pressing social need were without doubt inadequate. There was no rigorous assessment of continuing necessity; wholly inadequate (or ineffective) oversight; and in practice the operation and its intrusion into the Claimant's life continued for years without proper scrutiny or oversight. We agree with SOCA that the authorisations were over-broad. Further, there were wholly inadequate attempts to balance the highly intrusive nature of the surveillance, and the very obvious potential for, and reality of, collateral intrusion into the lives of those around the Claimant.*
>
> *290. For all these reasons we find that MK's deployment, and the consequent interference with the Claimant's Art 8 rights, was not necessary in a democratic society and not proportionate based on the need for intelligence on the protest movement, let alone on the Claimant's own activities.*

17. The IPT also found that the actions of the UCOs in gathering, recording, storing and transmitting information about her political activities and separately the occasions when Mark Kennedy had influenced some of her decisions and activities had interfered with KW's Article 10 and 11 ECHR rights (§325-6 and §332-3, *Wilson*), and could not be justified for the same reasons as the Article 8 ECHR interferences could not be justified (§336).

18. Neither the Commissioner nor the NPCC appealed any of the findings in this judgment.

IV: Police and Security Service powers, Tranche 1 period, 1968-1983

19. During the period covered by Tranche 1, neither the police nor the Security Service had any statutory powers to conduct undercover surveillance: see, in respect of police powers of intrusive surveillance, Lord Nolan's criticism of this state of affairs in *R v Khan* [1997] AC 558, 582. Insofar as any of their actions constituted torts (such as trespass to land, property or chattels), they would have to be justified in the ordinary way, and agents could also be prosecuted for any criminal offences committed while undercover. Furthermore as public authorities they had to act reasonably and lawfully within the limits of their powers, and to comply with international obligations under the ECHR. The UK ratified the ECHR in 1951, and signed up to the right of individual petition in 1966.

20. All the common law and human rights law restrictions on the exercise of police powers in respect of people's homes, property and persons which applied to overt police action thus applied equally to covert action, including the acts of undercover officers. The fact that these officers took their uniforms off and lied about their identity and purpose to gain access to land, property and information[1] did not lower the applicable standards at common law or under human rights law. Indeed it enhanced them. Interferences with individual rights under the ECHR had to be justified as strictly necessary, with the test particularly onerous given that the powers used were covert (*Klass* at §55).

21. In an echo of this need for stringency, interception of communications by police or security services had for centuries only been permitted upon a warrant from the Secretary of State, with a high, albeit somewhat mobile, threshold for its issue (see above and Cat H CPs Legal Framework, on which Diane relies).

[1] Neither a fraudulently obtained consent, nor a fraudulently obtained licence is a defence to trespass to person, land or goods: see Clayton & Tomlinson, *Civil Actions against the Police* (3rd ed.), §§6-038-6-046; *Cundy v Lindsey* (1878) 3 App Cas 459; *Hillen v ICI* [1936] AC 65 at 69.

22. That strict necessity test was also reflected in the Directive given to the Security Service by Sir David Maxwell Fyfe in 1952, still current throughout the relevant period (see Witness Z §10-11[2]):

"You will take special care to see that the work of the Security Service is strictly limited to what is necessary for the purposes of this task. …..

No enquiry is to be carried out on behalf of any Government Department unless you are satisfied that an important public interest bearing on the Defence of the Realm, as defined in paragraph 2, is at stake."

23. It is unsurprising that the 1952 Directive included this strict necessity test; Sir David Maxwell Fyfe was one of the principal drafters of the ECHR which entered into force the following year in 1953.[3] The strict necessity test was continued in the Security Service Act 1989 which provided at section 2(2):

The Director-General shall be responsible for the efficiency of the Service and it shall be his duty to ensure –

(a)that there are arrangements for securing that no information is obtained by the Service except so far as necessary for the proper discharge of its functions or disclosed by it except so far as necessary for that purpose or for the purpose of preventing or detecting serious crime; and

(b)that the Service does not take any action to further the interests of any political party.

24. By section 3, warrants (including those authorising entry onto or interference with property), could only, except in urgent cases, be issued under the hand of the Secretary of State and only if:

> *the Secretary of State –*
>
> *(a)thinks it necessary for the action to be taken in order to obtain information which –*
>
> *(i)is likely to be of substantial value in assisting the Service to discharge any of its functions; and*
>
> *(ii)cannot reasonably be obtained by other means;*

V: Policing by consent

25. Nine principles (known as the Peelian principles) were set out in the 'General Instructions' that were issued to every new police officer from 1829. They remain the

[2] **{UCPI0000034350}**.

[3] See Schabas, *The European Convention on Human Rights: A Commentary* (OUP 2015) 8.

foundation for the important tradition of 'policing by consent'.[4] They include the following:

(1) (Principle 2) To recognise always that the power of the police to fulfil their functions and duties is dependent on public approval of their existence, actions and behaviour and on their ability to secure and maintain public respect.

(2) (Principle 3) To recognise always that to secure and maintain the respect and approval of the public means also the securing of the willing co-operation of the public in the task of securing observance of laws.

(3) (Principle 5) To maintain at all times a relationship with the public that gives reality to the historic tradition that the police are the public and that the public are the police, the police being only members of the public who are paid to give full time attention to duties which are incumbent on every citizen in the interests of community welfare and existence.

V: Phase 3 evidence: Managers

26. The evidence adduced in Phases 1-2 shows that:

(1) Diane's political activities were the subject of intense and long-term surveillance and reporting by at least six UCOs (see Langford at §6[5]);

(2) The surveillance and reporting of two of these officers HN348 and HN45 was particularly intense. HN348 infiltrated Diane's life for two years, and HN45 for three, with both attending private meetings in her home[6] and the homes of fellow activists and compiling dozens of reports containing detailed private information about her political views, that of her husband Abhimanyu Manchanda and about their private family life;

(3) Sandra Davies (HN348) confirmed that the meetings of the WLF she attended were often held in private homes. She was invited in her undercover identity and attended the meetings; she told her senior officers about this and "*there was no suggestion that I should not attend because the meetings were held in people's*

[4] A statement of those principles can today be found at: *https://www.gov.uk/government/publications/policing-by-consent/definition-of-policing-by-consent*.
[5] **{UCPI0000034348/2}**.
[6] See, for example, **{UCPI0000010567}** (in respect of HN45) and **{UCPI0000026997}** (in respect of HN348).

homes" (HN348 at §61[7]). She was not given any guidance not to report private or personal details observed in people's private homes;[8]

(4) The groups HN348 infiltrated were involved in hosting meetings, leafleting and demonstrations. They were all within the bounds of the law: '*the political ideology they were promoting did not spill over into what they were doing*.' (HN348 at §19[9]);

(5) HN348 was not aware of any criminal activity and there was no record of public disorder by Diane or any other WLF members nor were any of them arrested (HN348 at §63, §93-94[10]). HN348 observed WLF were more talk than action and for the entirety of her two year deployment she did not see any subversive or disruptive or violent extremist behaviour.[11] She was tasked to observe them because '*Special Branch did not know much about them and wanted to find out what was really happening*'(HN348 at §94[12]);

(6) Tasking to infiltrate particular groups was broad brush and *ad hoc*;[13]

(7) UCOs received specific requests for information from the Security Service with which they complied;[14]

(8) UCOs were not given guidance on the meaning of subversion or extremism, but HN348 understood that '*all these groups were working against our form of democracy*' and that '*the purpose of our job,[was] to see whether or not they were going to take direct action, or whether it was just words*';[15]

(9) HN348 did not think her undercover policing was worthwhile and queried whether police officers should be undercover at all (HN348 at §133[16]).

(10) HN45 was given the broad task of infiltrating Maoist groups; which groups were a matter for him and he had fluid membership of lots of groups (HN45 at §28 and §32[17]).

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[7] **{MPS-0741698/26}.**
[8] **{Day13T1P1/12:17}.**
[9] **{MPS-0741698/9}.**
[10] **{MPS-0741698/26}, 38.**
[11] **{Day13T1P1/46:13}.**
[12] **{MPS-0741698/38}.**
[13] **{Day13T1P1/26:9}.**
[14] **{Day13T1P1/16:2}.**
[15] **{Day13T1P1/30:14}.**
[16] **{MPS-0741698/48}.**
[17] **{MPS-0741095/7, 9}.**

(11) "*The SDS was trying to find out whether these groups posed a risk to public order and the security services also had an interest in gathering information about any risks posed to state security*" (HN45 at §32[18]).

(12) There was no clear next step once a UCO got connected with a group; they were expected to use their initiative, discretion and judgment but HN45 '*would not have reported on matters that did not fall within my broad remit*' . He knew that his role was to gather as much intelligence as he could on his target groups and pass this back to the SDS. (HN45 at §33-34[19]). He reported on names, occupations, addresses and positions of all members of the groups he infiltrated without selection; one of his main jobs was to find out about membership of protest groups (HN45 at §65[20]);

(13) The Maoists were generally not violent and HN45 does not remember them being engaged in public disorder (HN45 at §68-9[21]): '*they were subversive in the sense that [their] whole purpose… was to subvert the political system but they could not actually achieve this as they did not have the means to do so and were largely pretty ineffective'* (HN45 at §72[22]);

(14) "*The security services were interested in everything and you did not ask questions about why they wanted certain information…*' (HN45 at §73[23]);

(15) HN45 was closer to Diane Langford and Manchanda than to other activists (HN45 at §76[24]).

27. The evidence adduced in Phase 3 from managers confirms that:[25]

(1) The tasking was extremely broad brush;

(2) There was confusion about whether the intelligence gathered was intended to assist the police in maintaining public order or be passed to the Security Service to assess subversive activity or both;

[18] **{MPS-0741095/9}.**
[19] **{MPS-0741095/9}.**
[20] **{MPS-0741095/17}.**
[21] **{MPS-0741095/18}.**
[22] **{MPS-0741095/19}.**
[23] **{MPS-0741095/19}.**
[24] **{MPS-0741095/20}.**
[25] See the Opening Statement for Category H Core Participants for Tranche 1 Phase 3 at §20.

(3) Managers within the SDS had little to no involvement in decision making on targeting and tasking of the undercover officers[26] which was thought to come instead from a variety of sources in Special Branch or the Security Service;

(4) Undercover officers were often left to direct or determine targeting of individuals or organisations based on their own judgment and discretion;[27]

(5) Undercover officers were expected to know what to report without guidance and *'instinctively'*;[28]

(6) There was no filter on intelligence gathered as the SDS "*was not gathering it for its own purposes"*[29] but for *'customers'*;[30]

(7) There was no limit on the private information about individuals gathered;

(8) There was no evidence of consideration of the rights of individuals;

(9) No warrants were obtained;

(10) The violence associated with the March 1968 demonstration in Grosvenor Square was not repeated to the same degree in October 1968, and there was thereafter overall very little crime, disorder or intelligence about real risks to democracy. The evidence largely showed an absence of risk;

(11) Despite this the ongoing need for the SDS's operations was never properly reviewed;

(12) The principal benefit of the intelligence from a policing perspective was to allocate effective police resources to achieve crowd control.

VI: Issues arising in Tranche 1, Phase 3

28. When considered against the backdrop of the applicable law, it is plain from the evidence that the SDS's undercover operations in respect of Diane Langford, and in respect of all the groups of which she was a member, were incompatible with all the applicable contemporaneous standards of law, whether those standards were common law, administrative law or international human rights law. All sources of law spoke then and speak now with one voice on three basic principles:

(1) No general authorisation may be given to the police or the Security Service to search individuals or property for evidence of wrongdoing.

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[26] HN3378 **{MPS-0747802/12,22}; HN244 {MPS-0747578/13,28}; HN2152 {MPS-0747155/16}.**
[27] HN218 **{MPS-07403554/10-11}; HN307 {MPS-0747658/18}; HN218 {MPS-0747797/12-13}.**
[28] HN103 **{MPS-0747443/12-13}; HN2152 {MPS-0747155/15}; HN218 {MPS-07403554/10-11}.**
[29] HN368 **{MPS-0747527/6}; HN244 {MPS-0747578/64}; HN308 {MPS-0747952/44}.**
[30] HN244 **{MPS-0747578/45}; HN368 {MPS-0747527/13}; HN218 {MPS-0747797/50}.**

(2) Police powers to trespass on land, property, and the person, and interfere with private and personal lives, will only be lawful where necessary and proportionate to meet a pressing social need, such as prevention or investigation of serious crime or an imminent breach of the peace.

(3) The use of covert powers by the police and the security service is itself a danger to democracy, and is therefore subject to a particularly strict necessity test, both in terms of the seriousness of the threat said to justify their use, and the lack of any alternative method of meeting it.

29. The SDS's operations breached all of these basic principles:

(1) The authorisations to conduct the operations were broad brush, speculative and relied on the discretion of officers to decide which groups to infiltrate, which individuals to conduct surveillance on and what to report.

(2) There was no pressing social need: maintaining public order could rarely if ever justify the use of highly intrusive powers and certainly not where the main purpose was effective allocation of police resources; as for investigating subversive activity, the political activities reported on were lawful, no criminal offences were being committed, and no serious threats to the realm were ever identified.

(3) The fact that the intrusive powers were being used covertly rather than overtly made it **more** not less important that they could be strictly justified as the only available method to prevent serious crime or in defence of the realm. There is no evidence at all of any such strict justification.

30. In addition, the SDS's operations:

(1) appear to have had no clear basis in any law at all, so that they fell drastically short of the requirement that they be *'in accordance with the law'* (*Malone v UK* at §79),

(2) were the subject of minimal oversight and supervision with no or minimal attempts to assess their necessity either at the start or on an ongoing basis,

(3) were plainly wholly disproportionate to the aim pursued.

31. Both the MPS and the NPCC have already effectively accepted that this is the case; first they made a series of concessions about the lack of proportionality of their similar

actions in the forthcoming Tranche 4 period of this Inquiry in *Wilson*, and second they did not appeal any of the IPT's conclusions in *Wilson* about lack of necessity of undercover surveillance of protest groups for parallel public order situations in the Tranche 4 period (see above at paragraphs 16 - 18). Nor have they challenged the findings of breaches of Article 8, 10 and 11 ECHR in relation to acts and intrusions by UCOs which have a striking similarity to those carried out four decades earlier in Diane's case. Their Opening Statements for this Inquiry furthermore make no claim to need undercover policing to police public order; on the contrary they identify only serious crime or terrorism as requiring it (see MPS O/S T1/P1 at §§61-79; NPCC O/S T1/P1 at §§20-21; NCA O/S T1/P1 at §§20-21).

32. In these circumstances, Diane respectfully suggests that the starting point for the investigations for this Phase of Tranche 1, and for those that follow in Tranches 2-4 must be that, unless the pattern of undercover policing substantially deviates from that apparent in the evidence for Tranche 1 (already before the Inquiry) and Tranche 4 (as already considered in *Wilson*) the SDS's activities were unlawful and unjustified and involved:

    (1) multiple breaches of the most hallowed principles of the common law, including the prohibition on general searches, unjustified trespasses to land and to goods, and unjustified breaches of confidence (for example in the sharing of bank details by Treasurers), and
    (2) numerous violations of fundamental rights under Articles 8-14, and
    (3) a serious breach of the public trust reflected in the Peelian principles, in particular the requirement to work co-operatively with the public and the principle that the police are the public and the public are the police, and finally
    (4) in the secret infiltration, detailed recording and extensive monitoring of private lives and political views, a serious threat to democracy itself.

33. The critical question then is how and why these serious inroads into hallowed principles of British democracy were allowed to occur in the first place, approved by senior police officers and ministers who must have known that the SDS's practices conflicted with centuries of law and practice concerning the interactions of the police

with private citizens, private homes and private communications. The next critical question is why the unlawful conduct persisted for so long, and survived reforms to police practices like PACE, and the introduction of the HRA and RIPA.

34. As for the further examination of the evidence in this Phase, Diane has seen and concurs with the suggested themes identified by the Cat H CPs.

VI: Rule 9 questions and disclosure

35. Diane received, and in the spirit of co-operation with which she is approaching this Inquiry, answered in detail, a series of questions put to her about her political views and family circumstances. Her willingness to answer those questions should not be misunderstood as agreement that either the questions or the answers are relevant to the key issues before this Inquiry. In particular she wishes to highlight that:

    (1) Her political views and family arrangements are private and no business of the state. Neither the police nor the Security Service, nor this Inquiry have any right to know or investigate her views, or to record them. Her right to her views untrammelled by surveillance or interference by the state, secret or otherwise, is a lynchpin of a democratic system, and a key distinguishing feature between democracy and totalitarianism.

    (2) The police's surveillance of her was wholly unjustified as explained above. They had no right to be in her home and were trespassing there; there was no crime to investigate and they had no lawful authority. They had no right to record details of her family life or her views expressed in the privacy of her own home or the homes of others; there was no pressing need to do so. Their action was for them to justify at the time and they have not done so.

    (3) In the course of this Inquiry ordered by the Home Secretary into the circumstances in which this unlawful conduct of the police came to occur it is essential that the police's breaches of Diane's rights at common law and under the HRA are not compounded by questioning, or by the further unnecessary investigation and recording of her political views and private family affairs. The Inquiry is a public authority and has its own obligations under the HRA.

36. Finally, Diane wishes to observe that she has assisted the Inquiry to the best of her ability on the basis of the documents with which she has been provided. She is conscious, however, that disclosure to her has been limited, and that she has not received all documents relevant to the surveillance of her, the groups of which she was a member, or her family, or even all those held by the Inquiry in which she is named for the Tranche 1 period. She understands that this is due to her late designation as a CP in December 2020 and the fact that Tranche 1 documents had already been reviewed and tagged by this time, so that documents naming her may have been missed in retrospective reviews of material. If Diane is provided with more relevant reports, including reporting on the women's liberation movement, she believes that she would have been able to, and could still, provide further evidence relating to the lawfulness and justification of the relevant deployments, as well as the extent of the intrusion into her life. She hopes that all this material will now be provided, so both she and the Inquiry can assess the full extent of police wrongdoing in respect of her, her family and the groups of which she was a member.

CHARLOTTE KILROY QC
TOM LOWENTHAL
BLACKSTONE CHAMBERS
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