
“MADELEINE”
OPENING STATEMENT
TRANCHE 1, PHASE 3

I: Introduction

1. This opening statement on behalf of “Madeleine” 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. Madeleine has detailed the political activism which began in her early teens and continued into her twenties, inspired by her parents’ experience of extreme poverty and of war and their strong anti-fascism. She has explained the anti-war, anti-fascist and anti-capitalist beliefs which led to her joining the International Socialists, and later the Socialist Workers Party, at 14 or 15 years old in order to create a fairer and more equal society. She has told how as a bus conductor in her twenties she was a trade unionist in the Transport and General Workers Union, sitting on a regional women’s sub-committee, following which her political activities waned, and she re-trained as an artist, teaching in schools and community groups.
3. It is plain from her evidence, and from that of the UCOs who spied on her, that Madeleine has never been involved in any violence, was never arrested and never convicted for a criminal offence.
4. Despite this, the evidence shows that in 1970 when still a child of 16, Madeleine had a Special Branch Registry File.
5. By the age of 23, an SDS undercover police officer, Vincent Harvey, was infiltrating her home and private life in his covert identity. For the next two years, while frequently attending public SWP meetings and private gatherings at her home,

Harvey produced regular secret reports relating to her (and others) which were shared with the Security Service. The reports included physical descriptions of her, and details about her family relationships, her political beliefs and her occupation.

6. Worst of all, in 1979, by the time Madeleine was 25, Vince Miller, as Harvey was then known, started a sexual relationship with her which lasted around two months. The relationship had a deep emotional impact on Madeleine for some time. It was one of four sexual relationships he has admitted to while undercover.
7. After he was withdrawn from his deployment in the autumn of 1979, pretending to have gone to the USA, Harvey went on to assume senior roles in the police force, including leading Operation Pragada, an investigation into child abuse at Lambeth Children's Services and becoming National Director of the National Criminal Intelligence Service (NCIS).

II: Madeleine's position

8. Madeleine has read, agrees with and adopts the Opening Statements of the Cat H Core Participants (CPs), and that of Diane Langford. She relies on, without repeating it, the Legal Framework summarised in and attached to those statements, the summaries of Tranche 1 evidence and the themes identified for exploration with witnesses giving oral evidence.
9. Further she makes plain that she agrees with those Opening Statements that the evidence that has emerged in Tranche 1, assessed against the applicable legal framework, including the unappealed conclusions in the recent case of *Kate Wilson v Commissioner of the Metropolis and National Police Chiefs Council* (NPCC) [2021] UKIPTrib IPT 11 167 H, demonstrates that the SDS's operations:
 - (1) Failed to comply with numerous basic requirements of common law, international human rights law and administrative law.
 - (2) Involved multiple unjustified torts, including trespass to the person, land and goods, and breached numerous fundamental rights of a wide range of individuals.
 - (3) Significantly exceeded longstanding parameters set for the use of police powers, and broke the public trust inherent in the nine Peelian policing principles.

10. In her case it is clear that the wrongdoing of the SDS was particularly grave. Vincent Harvey invaded the sanctity not just of her home and private life, but of her body and her deepest emotions. His actions were not an aberration. The risk that he might do so was well-known to the SDS, both because it was obvious and inherent in long-term deployments of young male police officers posing as single activists, and because such sexual relationships had by then already occurred (when Rick Clark had to be withdrawn from his deployment in September 1976).¹ The stark absence of any steps to obviate these inevitable risks even once they had arisen in practice, strongly suggests tolerance within the SDS and Special Branch. It means that, irrespective of the state of actual knowledge of senior officers of Vincent Harvey's relationship with Madeleine, which is still to be established, the responsibility for the serious violations of Madeleine's most fundamental common law rights to security of her person, and her right to freedom from inhuman and degrading treatment and discrimination under Articles 3 and 14 ECHR, extends far beyond Vincent Harvey.

III: Phase 3 evidence: Managers

11. Madeleine relies on the summary of evidence in the Cat H CPs OS. She adds the following about the evidence specific to the deployment of Vincent Harvey.

12. The evidence adduced in Phase 1-2 shows as follows:

- (1) Vincent Harvey (HN354) had not been tasked to infiltrate either the SWP or the branches Madeleine was a member of, or Madeleine herself.² He was asked to *'observe and then become involved in an active subversive group that were of interest to S[pecial] B[ranch]'*. He chose the targets of his operation himself and used his own judgment about what to report.³
- (2) His role was to gather both information and intelligence regarding potential public order problems and activities defined as subversive by the Security Service; he wasn't provided with any other information about the intended targets of his work.⁴

¹ See [MPS-0732910/2]: Richard Chessum and Mary Opening Statement T1/P2 pp. 11-12; §146 [MPS-0742282/42]).

² HN354 §§68-9 [MPS-0747657/15].

³ HN354 §72, §74 [MPS-0747657/16].

⁴ HN354 §70, §72 [ibid.].

- (3) HN354's tasking was not changed or refined at any point during his three-year deployment.⁵
- (4) He worked seven days a week, 14 hours a day and earned substantial overtime.⁶
- (5) HN354 viewed his position as treasurer of SWP committees and branches as a '*fantastic*' opportunity and used this position of trust to gather financial information on members, including bank details, addresses, occupations and living arrangements. He then reported this information to the SDS expecting that it would be of use to the Security Service.⁷
- (6) He also reported information about children because the SWP had youth movements and he considered the information important to Special Branch and the Security Service.⁸
- (7) The SWP branches that Madeleine was involved with engaged in entirely open, and lawful political activities whose central aim was to create a fairer society. They held weekly public meetings, sold newspapers in public, attended demonstrations in public and some members joined trade unions.⁹
- (8) Madeleine has made plain that neither she nor her fellow members supported violence in any shape or form, and were strongly opposed to any form of terrorism.¹⁰ Julia Poynter, who was a fellow SWP activist in the same group, has confirmed this in her written evidence.¹¹ HN354 explains that a general strike rather than violence was the mechanism envisaged by the SWP for achieving change, although '*street violence was ...permissible against the fascists*',¹² and he agrees that '*acts of individual violence were positively discouraged by the SWP*'.¹³ Even when attacked by the National Front, few SWP members would engage in violence.¹⁴

⁵ HN354 §73 **{ibid.}**.

⁶ HN354 §§84-85 and 90 **{MPS-0747657/18-20}**.

⁷ HN354 §112 **{MPS-0747657/24}**, §113 **{MPS-0747657/25}**, §119 **{MPS-0747657/26}**, and §133 **{MPS-0747657/29}**.

⁸ HN354 §132 **{MPS-0747657/29}**.

⁹ 'Madeleine' 1 §§18-20 **{UCPI0000034313/6}**.

¹⁰ **{Day13T1P2/10-11, 30}**.

¹¹ First Statement of Julia Poynter §68 **{UCPI0000034801/19}**.

¹² HN354 §136 and §162 **{MPS-0747657/30}**; **{MPS-0747657/35}**.

¹³ **{Day14T1P2/198}**

¹⁴ HN 354 §101 **{MPS-0747657/22}**.

- (9) The evidence suggests that disorder and violence involving the SWP, when it occurred, was instigated by the National Front, took place at events organised by them and was thus predictable.¹⁵ Where violence was envisaged in self-defence against the National Front '*[t]here was often a great deal of rhetoric and language that was much stronger than action that followed*'.¹⁶
- (10) Madeleine and her fellow SWP members did not believe revolution was imminent¹⁷ and did not think they could '*overthrow*' any part of the state.¹⁸ In terms of a revolution '*there was an awful lot talked about and very little action in that direction*'.¹⁹ They '*were far more interested in building the working class movement*' and sought instead to raise awareness in the working class and build a mass movement through their campaigning activities, including selling papers, trade union activities and protests.²⁰
- (11) Much of the benefit of SDS intelligence was cumulative rather than related to individuals, confirmation of an absence of risk rather than a presence of risk, and was said to have permitted accurate deployment of police resources at demonstrations.²¹

13. In relation to sexual conduct, the evidence shows that:

- (1) HN354 says he had four '*sexual encounters*'. He initially said these were all '*sometime after [he] had split up with the previous long-term partner*' but was '*not sure about the timing of these sexual encounters*'²² and his '*memory of that time is not that clear*'.²³ These '*things happened more than 40 years ago, most of the evening events involved consumption of alcohol, [and] they were disconnected from my "real" life*'.²⁴ He later accepted that two sexual encounters took place at the start of his deployment when he was still in a relationship.²⁵

¹⁵ HN354 §§156-160 {MPS-0747657/34}.

¹⁶ {Day14T1P2/176}.

¹⁷ {Day13T1P2/8-9}; First Statement of Julia Poynter §87 {UCPI0000034801/19}.

¹⁸ HN354, {Day14T1P2/197}.

¹⁹ HN354, {Day14T1P2/197-8}.

²⁰ HN354, {Day14T1P2/197-8}.

²¹ HN354 §207 {MPS-0747657/44}.

²² HN354 §235 {MPS-0747657/49}.

²³ HN354 §236 {MPS-0747657/50}.

²⁴ HN354 §237 {ibid.}.

²⁵ {Day14T1P2/124}.

- (2) HN354 met Madeleine in 1977, and regularly visited her house after meetings.²⁶ Madeleine recalls their sexual relationship beginning probably at the end of summer 1979²⁷ and continuing for two months. Her feelings grew stronger, but he started to withdraw, blaming a past traumatic relationship.²⁸ Soon afterwards HN354 disappeared altogether, claiming to have left for the USA. She was very upset.²⁹ Madeleine's account is corroborated by Julia Poynter, who had not until recently seen Madeleine for 30 years.³⁰
- (3) HN354's recollection is that he had sex with Madeleine only once.³¹ He was *'single and in my 20s at the time, ..had to mingle and network socially and consume alcohol in order to maintain [his] cover. [He] was living a strange double-life and...did not think [he] was putting anyone's feelings at risk'*.³² As a single man in his 20s, *[I]t would have appeared odd to have acted otherwise'*³³ and *'people would expect you to have some kind of relationship'*.³⁴
- (4) He did not tell his colleagues or managers or anyone else about *'the one-night stands'* he had while undercover³⁵ because he *'didn't attribute it much importance'* and he finds it *'very difficult to answer'* whether *'sexual activity in [his] cover identity [was] permitted'*.³⁶ He does not recall guidance for sexual relationships,³⁷ and suspects it was left to his own judgement how far to become involved in the private lives of those met undercover³⁸ although HN34 (Geoffrey Craft) had told him not to start a relationship with Julia Poynter.³⁹ He accepts it *'was morally questionable'* for him to have a sexual relationship with a member of the public while undercover over a long period of time⁴⁰ and that Madeleine would not have had a sexual relationship with him had she known he was an

²⁶ Madeleine §§60-61 {UCPI0000034313/21}.

²⁷ Madeleine §67 {UCPI0000034313/23}.

²⁸ Madeleine §§71-80 {UCPI0000034313/24-26}.

²⁹ Madeleine §82, §84 {UCPI0000034313/27}.

³⁰ See Poynter 1 §17 {UCPI0000034801/5}, §§29-34 {UCPI0000034801/8-9}.

³¹ HN354 §246 {MPS-0747657/53}.

³² HN354 §248 {MPS-0747657/54}.

³³ {Day14T1P2/16}.

³⁴ {Day14T1P2/109}.

³⁵ HN354 §250 {MPS-0747657/54}.

³⁶ HN354 §§168-169 {MPS-0747657/36}

³⁷ HN354 §24 {MPS-0747657/6}; {Day14T1P2/15}.

³⁸ HN354 §23, {MPS-0747657/5}.

³⁹ {Day14T1P2/19}.

⁴⁰ {Day14T1P2/21}.

undercover police officer.⁴¹ Stricter guidance and firmer supervision would probably have led to HN354 making different decisions on sexual relationships.⁴²

- (5) He didn't use contraception because *'my perception was that as a full feminist socialist supporter, then if there was any need for protection, then she would have mentioned it...this was a member of the women's movement, and things like that...'*⁴³ He did not use contraception with the other three women he had sex with for the same reason.⁴⁴
- (6) HN354 accepts that Madeleine's evidence that their sexual relationship continued for around two months⁴⁵ and included sexual intercourse approximately once a week, is genuine, but he has a different recollection.⁴⁶
- (7) HN354 can't recall hearing sexual banter amongst UCOs⁴⁷ and although he knew that a number of UCOs who were in the SDS before, alongside and after him had reputations as womanisers and/or engaged in sexual relationships undercover, he only realised this after he left the SDS.⁴⁸ He is *'unaware that the management ever knew of any such relationships'*.⁴⁹
- (8) The SDS was a club within a club and ranks were not particularly important;⁵⁰ he called in and spoke to managers every morning⁵¹ and attended meetings with them in safe houses twice a week.⁵²
- (9) HN 354 was withdrawn from deployment in autumn 1979 because he was promoted.⁵³

14. Vincent Harvey was managed by three police officers who are due to give evidence in Phase 3: Geoffrey Craft, Angus McIntosh and Trevor Butler.⁵⁴ Madeleine relies on the

⁴¹ {Day14T1P2/110}.

⁴² {Day14T1P2/128-9}.

⁴³ {Day14T1P2/111}.

⁴⁴ {Day14T1P2/123}, {Day14T1P2/126}.

⁴⁵ Madeleine 1, §§69-71 {UCPI0000034313/24}.

⁴⁶ {Day14T1P2/116}.

⁴⁷ {Day14T1P2/62-63}.

⁴⁸ {Day 14T1P2/65, 66, 67, 69}.

⁴⁹ {Day 14T1P2/70}.

⁵⁰ HN354 §187, {MPS-0747657/40}.

⁵¹ HN354 §189 {MPS-0747657/41}.

⁵² HN354 §76, {MPS-0747657/17}.

⁵³ HN354 §177, {MPS-0747657/38}.

⁵⁴ HN354 §185, {MPS-0747657/40}.

summary of their and other managers' evidence in the Cat H CPs O/S T1/P3 at §22 and highlights the following:

- (1) All claim not to have known that he or anyone else had had sexual relationships with members of the public. They describe exercising close supervision over undercover officers to ensure their welfare and provide support during the deployment but deny knowledge of undercover officers engaging in intimate relationships.⁵⁵
- (2) It is clear, however, that they were aware there was a risk of undercover officers engaging in sexual relationships. Angus McIntosh described a preference for married men because there would be less 'temptation' for them to enter into inappropriate relationships.⁵⁶ He also described discussions within the SDS about undercover officers deflecting suspicion about not having a girlfriend but denied knowledge of officers under his supervision admitting they had intimate relationships with women.⁵⁷ Despite this there was no guidance on intimate relationships as UCOs were treated "*as mature adults*" who knew not to bring the police force into disrepute.⁵⁸
- (3) Geoffrey Craft denies giving guidance on sexual relationships,⁵⁹ but this conflicts with HN 354's evidence about receiving guidance in relation to Julia Poynter.⁶⁰

IV: Issues arising in Tranche 1, Phase 3

15. It is clear from the summary of evidence above, and in the Cat H CPs Opening Statement, that the actions of the SDS and Vincent Harvey in respect of Madeleine and the SWP branches of which she was a member were flagrantly unlawful. They violated a wide range of her most fundamental rights at common law and international human rights law. Madeleine relies on §§23-28 of the Cat H CPs Opening Statement and highlights the following:

⁵⁵ Geoffrey Craft HN34 {MPS-0748041/5-6}, 14-15; HN34 {MPS-0747446/8}, 15, 41,46-51; Angus McIntosh HN244 {MPS-0747578/10,16,46,51,56}; Trevor Butler HN307 {MPS-0747658/26}, 27, 29; Trevor Butler HN307 {MPS-0747658/22}; 1980 SDS Annual Report {MPS-0728962/6}.

⁵⁶ Angus McIntosh HN244 {MPS-0747578/12}.

⁵⁷ Angus McIntosh HN244 {MPS-0747578/29}; {T1P2Day12/40:15-22}; Gist of T1 witness statements received by UCPI {UCPI0000034307/5}.

⁵⁸ Angus McIntosh HN244 {MPS-0747578/57-59}.

⁵⁹ Craft 1, §§117-118 {MPS-0747446/50}.

⁶⁰ {Day14T1P2/19}.

- (1) No general authorisation may be given to the police or the Security Service to search individuals or property for evidence of wrongdoing, and yet Vincent Harvey was sent into the field to pose as an activist and operate undercover for four years without even having a target organisation to infiltrate, still less an identified individual. He was left to exercise his own judgment on who and what to report on, when and where to conduct his surveillance, and how much or how little to interfere into private lives and homes, **for three years**. His deployment only ended because he was promoted.
- (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. There was no pressing need for any invasive surveillance of either Madeleine or her fellow SWP branch members, still less a pressing need for invasive surveillance of this depth and length. Neither Madeleine nor her branch of the SWP had been identified by the SDS as a target. She had not committed any crime, nor did she pose any imminent threat of breach of the peace which could justify the deployment into her life and home. Once deployed, Harvey's surveillance confirmed this lack of criminality, and lack of any imminent threat of violence, and yet the invasive surveillance continued.
- (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 need to show the lack of any alternative method of meeting it. *A fortiori* this strict test was not met in the case of Madeleine and the Walthamstow and Leyton branches of the SWP.
- (4) Given the lack of any proper justification for the surveillance in the first place, the risk of sexual abuse by police officers to which Madeleine was exposed for at least three years and possibly longer (see below), and the lack of any steps to avert that risk, amounts to a particularly egregious violation of her rights. Harvey's casual and contemptuous use of Madeleine's body and emotions for his own ends (as he explained '*he didn't attribute it much... importance*'⁶¹) was

⁶¹ HN354 §§168-169 {MPS-0747657/36}

inhuman and degrading treatment of her by him and all those responsible for his deployment which can never be justified.

16. Madeleine agrees with the Cat H CPS that the critical question for the Inquiry is how and why these serious breaches of fundamental rights 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.
17. She also wishes to highlight that it is a direct result of this departure from basic common law and human rights principles that she was put at risk. Had the SDS's invasive tactics been reserved for serious crime or imminent violence, she would have been safe. Had Harvey been given proper targets and tasking, she would have been safe. Had there been tight boundaries, clear guidance and adequate supervision, she would have been safe. The decisions of senior officers and ministers to send young male undercover police officers out into the field for years at a time on invasive surveillance missions which amounted to vast fishing expeditions, conducted in accordance with the UCO's own judgment and discretion, not only conflicted with all applicable laws, it put members of the public at risk. It was unforgivable.
18. Madeleine also agrees with the Cat H CPs that the next critical question is how and why the unlawful conduct persisted for so long. It is particularly shocking to her that the risks to which she and other women were exposed in the 1970s continued for four decades, without any discernible attempts to stop the practice or protect women. The consequence was that Harvey's sexual relationship with her was followed by many examples of male UCOs using sex with female members of the public to enhance their legends, obtain sexual gratification and/or access better sources of intelligence. These risks culminated in the conduct of Mark Kennedy considered in Kate Wilson's case between 2003-2010, where he is said to have had 11 sexual relationships in the course of his deployment, and with the knowledge of more senior officers, used Ms Wilson to enhance his legend and gain access to other sources of intelligence (see *Wilson Annex A(4)*). Madeleine suggests that the reason why these practices were able to

become so entrenched and remain without correction for decades is a critical issue for exploration in this Phase and in subsequent Tranches.

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

V: Rule 9 questions and disclosure

20. Madeleine was grateful for the opportunity to give evidence in this Inquiry, and in the spirit of co-operation, answered in detail a series of questions put to her about her political views, activities and family circumstances. It was a process she found stressful, however,⁶² and she agrees with the observations of the Cat H CPs at §39 of their OS 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 their views, or to record them (see above and attached Legal Framework). Her right to her own 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. They had no right to put her at risk of deceitful sexual relationships and when Harvey conducted such a relationship with her both they and Harvey violated her most precious rights, and degraded and debased her and her body for their own ends.
- (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 the rights of members of the public at common law and under the HRA are not compounded by questioning, or by the further unnecessary investigation and recording of political views and private family affairs. The Inquiry is a public authority and has its own obligations under the HRA.

⁶² Madeleine 2, §21 {UCPI0000034818/6}.

21. Finally, Madeleine wishes to emphasise that she has not received full disclosure of all the documents relevant to her surveillance by Harvey and other officers for the decade in which she was apparently subject to police surveillance. She initially received 21 reports which named her prior to giving her written and oral evidence, and has since received five further reports. She has not received all Harvey's reporting from the period of her surveillance or that of Phil Cooper. She has also not been given her Registry File created at the age of 16. The consequence of this partial disclosure is first that she remains still uncertain and anxious about the full extent of, and responsibility for, the unlawful inroads into her fundamental rights. Second, this approach means that she cannot assist the Inquiry as well as she might otherwise do i) to assess the veracity and accuracy of Harvey's reporting (a matter of considerable importance given his self-confessed lapses of recollection), ii) to interpret the significance of contemporaneous events, and/or iii) to identify links between UCOs or chains of responsibility beyond Harvey himself. To give one simple example she cannot address reports about events which she attended, including at her home, which do not mention her and cannot suggest reasons why her name might be. She agrees with the Cat H CPs that for both these reasons fuller disclosure should be given, especially to women whose rights have been so egregiously violated by the police.

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25 April 2022