

Monday, 9 May 2022

(10.00 am)

MR BARR: Good morning, Sir.

Opening statement by MR BARR

We now turn to the management of the Special Demonstration Squad, which I shall refer to as the "SDS", between its formation at the end of July 1968 until approximately 1982. In this hearing, we shall be adducing the evidence of eight civilian witnesses, together with evidence relating to a total of 24 early managers or administrators. Two of the civilians and seven of the former managers will give oral evidence.

We expect, through a combination of oral and written evidence, to establish a clear understanding of how the SDS was managed internally. We will also begin the task of establishing how SDS managers worked with their superiors, which will be completed by future Module 2(b) investigations.

There will be some evidence of the interaction between managers with the SDS and other police forces, as well as direct contact between the SDS and the Security Service. We will, of course, be using the evidence already adduced in phases 1 and 2 to inform our examinations of witnesses.

1           We are guided by the Module 2(a)  
2           Special Demonstration Squad Issues List, which is  
3           available on the Inquiry's website. Some of the issues  
4           on the list are not engaged at all in the Tranche 1 era,  
5           most obviously the disbandment of the SDS. In relation  
6           to others, the evidence that will be adduced in  
7           Tranche 1 may amount to relevant background or context.

8           For example, in relation to the issue concerning  
9           reporting on the Stephen Lawrence Campaign and  
10          Duwayne Brooks OBE, there is evidence from the Tranche 1  
11          era that the SDS reported on the activities of black  
12          justice campaigns and infiltrated far-left groups which,  
13          amongst other things, actively promoted racial equality.

14          SDS reporting on such matters formed a part of  
15          a wider Special Branch interest in racial tension, and,  
16          on the face of documents that we will be putting into  
17          evidence, interactions between far-left groups and  
18          persons of colour.

19          Other issues are of central importance to our  
20          investigation of the management of the SDS in  
21          the Tranche 1 era: how the SDS was formed, constituted  
22          and operated; who it targeted, how and why; what the SDS  
23          was reporting, to whom and for what purpose; whether,  
24          and if so to what extent, its activities were justified;  
25          what was known about the sexual contact between some SDS

1           undercover officers and people they met whilst  
2           undercover; whether the risks of such relationships were  
3           appreciated; what managers' attitudes to sexual  
4           relationships between undercover officers and people  
5           they met whilst undercover were; whether anything was  
6           done to stop such relationships; management's response  
7           to the prosecution of some of its officers; and the use  
8           of deceased children's identities.

9           I should make clear first that evidence relating to  
10          the management of the SDS is not confined to this  
11          hearing. We have already admitted much evidence  
12          relevant to the management of the SDS in earlier  
13          tranches, which will not need any formal repetition now.  
14          Further relevant evidence may be obtained as a result of  
15          our ongoing investigations of senior management above  
16          the SDS and the state of knowledge of the SDS within  
17          Her Majesty's Government; all of which fall within our  
18          Modules 2(b) and 2(c).

19          Secondly, the approach that we are talking involves  
20          the admission of a lot of evidence on paper, an approach  
21          which applies both to documents and to the content of  
22          all witness statements. Adopting this approach enables  
23          us to proceed more quickly and to question witnesses  
24          with more focus on the most important issues.

25          Piecing together who the managers and administrators

1 of the SDS in the Tranche 1 period were, which posts  
2 they held, and especially when they were in post, has  
3 been a complex and painstaking task. To assist those  
4 following the Inquiry, we have produced a timeline  
5 together with an accompanying explanatory note. It  
6 graphically depicts our understanding of who served in  
7 the SDS, when, in what role and at what rank.

8 It is being published on the Inquiry's website  
9 today, together with an explanatory note and signature  
10 guide. I emphasise that it is based on the Inquiry  
11 Legal Team's interpretation of the material that we have  
12 seen to date, and is therefore very much subject both to  
13 the oral evidence that will be given in Phase 3 and, of  
14 course, Sir, your interpretation of the evidence.

15 The head of the SDS was usually a detective chief  
16 inspector. There were exceptions to this rule.  
17 Occasionally, a detective inspector would fulfil  
18 the role. We have obtained witness statements from all  
19 three surviving former heads of the SDS, namely  
20 Geoffrey Craft, Barry Moss and Trevor Butler. All three  
21 are due to give oral evidence in this phase of our  
22 hearings. Mr Craft has also provided the Inquiry with  
23 a witness statement relating to his subsequent service  
24 as a superintendent at the end of the Tranche 1 era,  
25 when he had responsibility, amongst other things, for

1 the SDS.

2 The head of the SDS was usually supported by one or  
3 more detective inspectors. The number of detective  
4 inspectors serving in the SDS at any one time varies  
5 during the Tranche 1 era between one and three. Both  
6 Geoffrey Craft and Trevor Butler served as detective  
7 inspectors in the SDS before being promoted, and so will  
8 give evidence about their service as both detective  
9 inspectors and detective chief inspectors.

10 In addition, we have obtained witness statements  
11 from the three further surviving former SDS detective  
12 inspectors from the Tranche 1 era, Derek Brice,  
13 Agnus McIntosh and Anthony Greenslade. Both Mr Brice  
14 and Mr McIntosh will give oral evidence in this phase.  
15 Mr Brice will give his evidence over a video-link.

16 Beneath the detective inspectors in the rank  
17 structure sat sergeants. Normally, there were one or  
18 two sergeants serving in the SDS at any given time. We  
19 have obtained witness statements from Roy Creamer,  
20 David Smith, Dick Walker, Richard Scully, Paul Croyden  
21 and Christopher Skey. Mr Creamer and Mr Smith will give  
22 oral evidence; Mr Creamer's evidence will be given via  
23 a video link.

24 At times, there were also constables who served in  
25 the SDS office in an administrative capacity. In this

1 category, we have obtained a witness statement from  
2 William Furner.

3 Appended to the written version of this opening  
4 statement is a full list of the 24 managers and  
5 administrators in respect of whom evidence is being  
6 admitted in this phase, together with ranks and dates of  
7 service. Twenty-two of them served in the SDS.  
8 The others are Wilf Knight and David Bicknell.

9 Wilf Knight appeared on the BBC programme  
10 "True Spies", and recounted anecdotes about the SDS.  
11 However, on the evidence available to us, it appears  
12 that he did not in fact serve in the unit.

13 David Bicknell served as a superintendent in the SDS  
14 chain of command between 1974 and 1975. He is unable to  
15 provide a witness statement to the Inquiry, but he is  
16 one of the few people involved with the SDS from this  
17 era from whom a statement was taken by Operation Herne.  
18 We will be publishing his Operation Herne witness  
19 statement.

20 The two civilian witnesses from whom we shall be  
21 receiving oral evidence are Lindsey German and Elizabeth  
22 Leicester.

23 Lindsey German rose to become one of the Socialist  
24 Workers Party's senior officials during the Tranche 1  
25 era, with a seat on the organisation's central

1 committee. She also knew and had significant contact  
2 with the SDS undercover officer, Colin -- who used  
3 a cover name "Colin Clark", during his infiltration of  
4 the SDS. Ms German is a core participant who was  
5 affected by SDS undercover policing in later tranches.  
6 We will be requesting further evidence from her in due  
7 course. In this phase, we will be seeking her  
8 assistance solely in relation to events which occurred  
9 during the Tranche 1 era.

10 Elizabeth Leicester was a member of the Workers  
11 Revolutionary Party, or WRP, and for a time one of  
12 the permanent residents at its White Meadows education  
13 centre in Derbyshire. She has stated that she cannot  
14 remember either of the undercover officers whom we heard  
15 in Phase 2 had infiltrated the WRP, namely the officers  
16 who used the cover names "Mike Scott" and "Peter  
17 Collins". However, we anticipate that she will still  
18 have valuable evidence to give about the WRP, and  
19 White Meadows in particular.

20 Roy Battersby was, at the material time,  
21 Elizabeth Leicester's husband and also a member of  
22 the WRP. He resided at White Meadows with his then wife  
23 and has provided a witness statement to the Inquiry. It  
24 will be admitted into evidence in writing and posted on  
25 the Inquiry's website today.

1           Five more witness statements have been received by  
2           the Inquiry. The core participant who we are  
3           referring to as "Madeleine" has provided further  
4           evidence about Vince Harvey's treatment of her and her  
5           reaction to the publication of his real name. In  
6           particular, she has found a postcard which she states  
7           was sent to her by Vince Harvey, posing as  
8           "Vince Miller", after the end of his deployment.

9           We anticipate hearing more evidence in future  
10          tranches about SDS undercover officers sending postcards  
11          to their groups as part of their withdrawal strategies.  
12          Therefore, I am going to take a moment to ask that  
13          the card exhibited to "Madeleine's" further witness  
14          statement be displayed. It has the UCPI reference  
15          number {UCPI/34819}.

16          Thank you. Could that be taken down now, please.

17          "Madeleine" articulates concerns about the fact that  
18          Vince Harvey went on to hold senior positions, including  
19          as a detective chief inspector in Special Branch,  
20          a Superintendent in another police force, and ultimately  
21          as a director in the National Criminal Intelligence  
22          Service, work that included responsibility for  
23          investigating sexual offences against children.

24          The Inquiry will be investigating the role of former  
25          SDS undercover officers who went on to hold managerial



1 positions relevant to undercover policing. For example,  
2 our investigation of managers in Tranche 1 Phase 3  
3 includes Detective Chief Inspector Michael Ferguson and  
4 Detective Chief Inspector Barry Moss, both of whom had  
5 served as SDS undercover police officers earlier in  
6 the life of the unit.

7 There is also reference in the documents to HN68  
8 serving as a detective inspector. In this capacity, his  
9 service straddles the boundary between tranches 1 and 2.  
10 Using the pseudonym "Sean Lynch", he was one of  
11 the SDS's earliest undercover officers.

12 Other former SDS undercover officers went on to  
13 manage within the unit at later dates. We will be  
14 particularly interested in Bob Lambert from this  
15 perspective, because he was an SDS manager who is known  
16 to have had a number of sexual relationships and  
17 fathered a child whilst pretending to be "Bob Robinson".

18 We will also be interested in former SDS  
19 undercover officers who rose to very senior rank in  
20 the chain of command for the SDS. For example, Mr Moss  
21 went on to become Commander Special Branch in the 1990s,  
22 and will be asked to make a further witness statement  
23 for the purposes of assisting with Tranche 3 of  
24 the Inquiry's work. We will be investigating what  
25 difference their former service as

1           undercover police officers made to their management of  
2           the SDS.

3           "Madeleine" has drawn the Inquiry's attention to one  
4           of HN354's intelligence reports, which she states  
5           relates to a meeting that she thinks it extremely  
6           likely, but cannot be certain, that she attended. Her  
7           attendance is not recorded in the report and she  
8           suspects that her name was deliberately omitted.  
9           Whether names were deliberately omitted from reports,  
10          and if so, why, is an issue that we will be considering  
11          in relation to HN15 Mark Jenner's deployment in  
12          Tranche 3 and, potentially, others.

13          Julia Poynter was a friend of "Madeleine's" and  
14          a fellow member of the Socialist Workers Party. She has  
15          provided the Inquiry with a statement containing her  
16          recollections of Vince Harvey and the officer who used  
17          the cover name "Phil Cooper", her response to  
18          the extensive reporting which names her, and her  
19          evidence about the nature of  
20          the Socialist Workers Party.

21          I shall not attempt to summarise all of Ms Poynter's  
22          witness statement here, but I should note that she  
23          refutes Vince Harvey's evidence that she was keen to  
24          start a relationship with him. She also provides  
25          evidence corroborative of aspects of "Madeleine's"

1 account. Her evidence about "Phil Cooper" includes  
2 evidence of a close friendship that she had with another  
3 activist and hearsay evidence to the effect that  
4 "Phil Cooper" "would regularly get stoned". She states  
5 that he said that he had a girlfriend, and she recalls  
6 participating in anti-nuclear and anti-racist  
7 campaigning with him.

8 One of the exhibits to her witness statement is  
9 a photograph of "Phil Cooper" and herself taken during  
10 the course of their anti-nuclear work. it graphically  
11 illustrates why SDS undercover police officers were  
12 colloquially known as "The Hairies".

13 Please could we have on display {UCPI/34799}.

14 Thank you. Could that be taken down now, please.

15 Both "Madeleine's" and Julia Poynter's statements  
16 will be summarised by junior counsel to the Inquiry on  
17 Wednesday.

18 John Rees states that he joined  
19 the Socialist Workers Party in about 1977, and was also  
20 involved with the Anti-Nazi League and  
21 Rock Against Racism. Amongst other things, he was  
22 present both on the picket line during the Grunwick  
23 dispute and at the Battle of Lewisham.

24 Joan Rudder states that she joined the Anti-Nazi  
25 League and began working for that organisation in

1 approximately 1978. She explains her understanding of  
2 the ANL's aims and methods, and provides an eyewitness  
3 account of her experiences at the Southall demonstration  
4 on 23 April 1979 at which Blair Peach was fatally  
5 injured. Both of these witness statements will be  
6 published on the Inquiry's website today.

7 Diane Langford, who gave oral evidence in our  
8 Tranche 1 Phase 2 hearings, has provided the Inquiry  
9 with a second witness statement. It addresses two  
10 matters.

11 First, Ms Langford explains why she now thinks that  
12 her friend Ethel, who recognised the SDS  
13 undercover officer who used the cover name  
14 "David Robertson", lived in the same block as the SDS  
15 safe house rather than in the same block of flats as  
16 HN45's cover accommodation.

17 Second, Ms Langford explains that she has now  
18 obtained documents from the Metropolitan Police Service  
19 in response to a subject access request. She makes  
20 observations about and raises questions arising from  
21 these documents. We are publishing the record sheet  
22 from her registry file, together with a table exhibited  
23 to Ms Langford's witness statement which identifies  
24 which of the intelligence reports referred to in  
25 the record sheet have been published by the Inquiry

1 providing their Inquiry reference numbers. These show  
2 that Special Branch's interest in Ms Langford and the  
3 intelligence filed about her went well beyond that  
4 provided by the SDS.

5 The sequence in which the phase 3 oral evidence will  
6 be called, other witness statements summarised and the  
7 associated written evidence will be published has been  
8 posted on the Inquiry's website.

9 The civilian witnesses will be called first.  
10 Thereafter, the evidence relating to the SDS managers or  
11 other back office staff will be adduced in broadly  
12 chronological order. An exception to this approach is  
13 that it is necessary to call Mr Moss this week out of  
14 turn.

15 In each case, we will be publishing documents  
16 relating to the individual concerned together with their  
17 witness statement where we have one.

18 As we did in Tranche 1 Phases 1 and 2, we have  
19 produced an appendix to the written version of this  
20 opening statement which summarise with some analysis  
21 the evidence relating to each manager or member of  
22 the back office staff involved in this phase of  
23 the Inquiry's hearing.

24 In addition to the witness statements and documents  
25 relating to specific individuals to which I have just

1 referred, we will also be adducing in evidence documents  
2 in six separate categories.

3 First, some documents obtained from open sources.  
4 Secondly, extracts from Special Branch annual reports  
5 from the Tranche 1 era. Thirdly, various Special Branch  
6 management and Security Service documents. Fourthly,  
7 documents from the Home Office. Fifthly, relevant  
8 police regulations and general orders. Finally, some  
9 further reporting by SDS undercover officers and  
10 associated documents. They are being posted on  
11 the Inquiry's website today.

12 I shall be using much of my time this morning to  
13 introduce salient features of this evidence, although  
14 I will not cover everything that is in our written  
15 opening statement.

16 The earliest of the open-source documents are  
17 relevant to the investigation of undercover policing  
18 connected with the Vietnam Solidarity Campaign's  
19 27 October 1968 mass demonstration. They start with  
20 the note of an ad hoc meeting of the Prime Minister,  
21 Home Secretary and four other Cabinet Ministers which  
22 took place on 16 September 1968, together with some  
23 associated notes. The meeting concerned demonstrations  
24 and student unrest. The content of these documents  
25 evidences the fact that the October demonstration was of

1 concern to the country's most senior elected  
2 politicians. A wide range of measures were discussed to  
3 try and control events.

4 Despite believing there to be a risk of violence at  
5 the October demonstration, the Home Secretary,  
6 James Callaghan, did not wish to prevent  
7 the demonstration taking place. He is recorded as  
8 saying that:

9 "Amongst the large number of reasonable and  
10 essentially peaceful protesters would be a hard core of  
11 agitators and militants, who wanted violence and would  
12 seek to provoke the police into responding with  
13 violence. Nevertheless, it would be undesirable, even  
14 it were practicable, to try to prevent the demonstration  
15 or march taking place."

16 The Home Secretary was keen to use the courts to  
17 deter violent demonstrations, stating that:

18 "The attitude of the courts was critical, and when  
19 the House reassembled he proposed to take a further  
20 opportunity to remind magistrates of the need to impose  
21 adequate penalties on those brought before the courts on  
22 charges arising out of violent demonstrations."

23 The Prime Minister, Harold Wilson, was evidently  
24 concerned about media coverage and seeking to influence  
25 it. He is recorded as directing the Home Secretary to

1 speak to senior figures in television in these terms:

2 "Ministers had also expressed concern at  
3 the irresponsible behaviour of television teams on  
4 a number of occasions, and it would be right for  
5 the Home Secretary to talk to Lord Hill and Lord  
6 Aylestone on this matter and to invite their  
7 cooperation."

8 Lord Hill was then the Chairman of the board of  
9 governors of the British Broadcasting Corporation. Lord  
10 Aylestone was the Chairman of the Independent Television  
11 Authority. At that time, the country enjoyed a total of  
12 three television channels: BBC 1, BBC 2 and ITV; and so  
13 speaking to the two men named in the note would cover  
14 the whole of domestic television broadcasting.

15 The Secretary of State for Education and Science,  
16 Edward Short, seems to have agreed and is recorded as  
17 having proposed a remarkable degree of control over what  
18 was broadcast. I quote from page 3 of the note of  
19 the ad hoc meeting of ministers:

20 "It might be worthwhile trying to get the television  
21 authorities on our side, and to organise, for example,  
22 a confrontation between three leading radical students  
23 and three tough, intelligent, moderate students.  
24 The intellectual destruction of the radicals would have  
25 a considerable impact on intelligent student opinion.



1           Alternatively, an interview might be arranged between  
2           a BBC interviewer and a group of radical students. Only  
3           if the interview went well need it be used."

4           There was also discussion of using the withdrawal of  
5           student grants to assert discipline on university  
6           campuses. According to the note, the Prime Minister  
7           summed up the discussion as follows.

8           "... the meeting had shown general agreement that,  
9           while the problem of student unrest was essentially one  
10          for university and college authorities to deal with,  
11          they would be well advised to adopt a common policy on  
12          the question of reporting students with a view to  
13          the withdrawal of their grants. There was a strong case  
14          for reporting any student who, by boycotting  
15          examinations or preventing others from attending  
16          lectures, prevented his university from performing its  
17          proper function. Every encouragement should be given to  
18          moderate bodies of students to assert themselves (as  
19          they had done, for example, in Bradford) against a small  
20          minority who wished to disrupt the university. He would  
21          give further thought to the question of an approach to  
22          the television authorities on this subject."

23          The subsequent associated notes contain a number of  
24          relevant points. First, a Home Office note for  
25          the record dated 24 September 1968, shows that

1 the authorities believed that the organisers of  
2 the October demonstration were not in favour of acts of  
3 violence. The Ministry of Defence was nevertheless not  
4 reassured that the event would pass off peacefully, and  
5 was considering the use of troops to protect  
6 MOD property. The note states that.

7 "The Ministry of Defence had already made fairly  
8 large preparations and were contemplating providing  
9 soldiers within their building. They were told that any  
10 proposal should be agreed by Ministers as it raised wide  
11 and sensitive issues."

12 Another Home Office note for the record, dated  
13 September 1968, records behind the scenes efforts to try  
14 to steer events such that the October demonstration  
15 would take place on the 27th rather than the 26th  
16 October and start from Trafalgar Square. The author,  
17 Mr James, wrote:

18 "I consulted Mr James Elliott and the Deputy  
19 Commissioner of Police. Mr Elliott told me that  
20 the Security Service would prefer the Square to be made  
21 available to the VSC on October 27th. Mr Mark said that  
22 the Commissioner remained of the opinion that there was  
23 much advantage in Trafalgar Square being the rallying  
24 place for the large scale demonstration on 27th  
25 October~...

1            "I went to see Mr Potts at the Ministry of Works,  
2            who is the Principal responsible for applications for  
3            use of the Square. He confirmed that the Square  
4            remained free and that he would not approve any  
5            application for its use on 27th October without prior  
6            consultation with the Home Office ...

7            "I reported the position fully to Chief  
8            Superintendent Cunningham, Special Branch, and to  
9            the Security Service. It was agreed that it was up to  
10           Special Branch now to take such steps as they thought  
11           appropriate to see that an application by the VSC for  
12           the use of the Square, on Sunday 27th October, reaches  
13           the Ministry of works at an early date."

14           A remarkable Home Office note records that on  
15           the morning of 17 October 1968, the Home Secretary did  
16           meet with senior figures from the media. He was  
17           accompanied by the then Commissioner of Police of  
18           the Metropolis and Sir Philip Allen. Not only was  
19           Lord Aylestone present, together with the Chief  
20           Assistant to the Director-General of the BBC,  
21           representing Lord Hill, so too were the Chairman of no  
22           fewer than eight newspaper publishing companies.  
23           The note records the gravity with which the Home  
24           Secretary regarded the October demonstration and the  
25           decisions that he was having to make about it. I quote:

1           "The Home Secretary said he had summoned the meeting  
2 because the demonstrations raised questions of policy on  
3 which he would be answerable to Parliament. The ...  
4 demonstration on 27th October was clearly going to be  
5 a serious occasion. It raised the question whether  
6 exceptional action should be taken to restrict it, but  
7 he had decided against this. His attitude was that  
8 the demonstrators should have every freedom to  
9 demonstrate, but it was a freedom under the law ...  
10 the most worrying feature was the appearance of certain  
11 splinter groups, mainly Trotskyists and anarchists, who  
12 were primarily interested in provoking violence."

13           Mr Callaghan went on to confirm that policing of  
14 the demonstration itself would follow traditional lines,  
15 and the Commissioner gave the media details of  
16 the demonstrators' plans and the policing arrangements  
17 that were being made. There were also numerous  
18 references to some of the Inquiry's Non-State Core  
19 Participants, who were politically active during  
20 the Tranche 1 era, for example Diane Langford,  
21 Lord Hain, Piers Corbyn, the National Union of Mine  
22 Workers, Freedom Press and Dave Morris.

23           I beg your pardon. I think I've taken a wrong turn.  
24 Just let me get that right. Forgive me.

25           It is not the role of this Inquiry to examine

1 the relationship between government and the media in  
2 1968, interesting as these documents would be for that  
3 purpose. For our purposes, this material is relevant as  
4 evidence of the importance of the October demonstration  
5 to the government of the day, the attention it was being  
6 given at the highest levels of government and policing,  
7 and the length that both the government and the  
8 Metropolitan Police were going to in response to that  
9 forthcoming event. It was a big deal.

10 Two contemporary newspaper articles from The Times  
11 complete the open-source elements in this phase of  
12 the hearings. The first is dated 24 October 1968, three  
13 days before the October demonstration, which reported an  
14 appeal by core participant Mr Tariq Ali for marchers to  
15 avoid a confrontation with the police.

16 The second is dated 28 October 1968 and contains  
17 reporting very favourable to both the police and the  
18 Home Secretary in the immediate aftermath of the October  
19 demonstration. The headlines read:

20 "Police win the day against militant few in march."

21 "6,000 in Grosvenor Square fail against 'calm  
22 wall'."

23 "Good sense praised by Callaghan."

24 The latter article includes a passage which may be  
25 significant to the issue of justification in relation to

1 the formation of the SDS and its operations relating to  
2 the October demonstration. It reads:

3 "In political terms, there is no doubt that  
4 the biggest success belongs to Mr Callaghan. The Home  
5 Secretary had refused to be stampeded into banning  
6 the demonstration on the basis of some forecasts of  
7 violence, and his judgment proved correct. He relied  
8 here on reports reaching him from the police, and he  
9 made it quite clear in the Commons last week that he did  
10 not expect anything like the 100,000 demonstrators which  
11 had been forecast on the march."

12 To what extent the reports reaching the Home  
13 Secretary from the police were based upon information  
14 obtained by SDS undercover operations needs to be  
15 considered and compared to what was available from other  
16 sources. But if The Times' report is accurate, then it  
17 appears that SDS undercover policing at least  
18 contributed to the Home Secretary's decision not to ban  
19 the October demonstration and to let uniformed police  
20 deal with it in the ordinary way.

21 We are publishing a selection of pages from  
22 the autobiography of Sir Robert Mark, who was  
23 the Commissioner of Police for the Metropolis between  
24 1972 and 1977. Perhaps of greatest relevance to  
25 the work of the Inquiry is the passage at page 293 of

1 the internal pagination, which refers to Sir Robert's  
2 time in the Manchester Special Branch and includes  
3 the following about subversive activity:

4 "The simple truth is that fascists, communists,  
5 Trotskyists, anarchists et al are committed to  
6 the overthrow of democracy and to the principle that  
7 the end justifies the means. Democracy must therefore  
8 protect itself by keeping a careful eye on them. It is  
9 not difficult because they have never represented  
10 a serious threat. Paradoxically, they are less likely  
11 to do so if the state continues to treat them, as at  
12 present, as a bad joke."

13 These are the words of the man who was ultimately  
14 accountable, within the Metropolitan Police, for  
15 the SDS, and who, as other documents that we have found  
16 demonstrate, undoubtedly knew about the unit's existence  
17 and its work. He plainly believed that groups which  
18 aimed to overthrow parliamentary democracy should be  
19 monitored. However, the final two sentences which  
20 I have just quoted seem hard to square with Lord Harris'  
21 definition of subversion and the work of the SDS. Lord  
22 Harris defined subversive activities as:

23 "... those which threaten the safety or wellbeing of  
24 the State, and which are intended to undermine or  
25 overthrow Parliamentary democracy by political,

1 industrial or violent means."

2 With this definition in mind, Sir Robert's words  
3 give rise to two questions, both relevant to  
4 the question whether the SDS's infiltration of such  
5 groups was justified.

6 First, if these groups never represented a serious  
7 threat, why did they require monitoring? Secondly, if  
8 the best thing to do was to treat such groups as a bad  
9 joke, why infiltrate them on a long-term basis and  
10 report information about them in the way that the SDS  
11 did?

12 The next open-source document that I need to  
13 introduce today is an extract from core participant  
14 Diane Langford's dissertation entitled "The Manchanda  
15 connection". Ms Langford gave evidence that her  
16 dissertation dated from 2007. She undertook to provide  
17 this material to the Inquiry at the end of her oral  
18 evidence in Phase 2, because it contains a previous  
19 account of the incident at which her work colleague,  
20 Ethel, recognised the officer who used the cover name  
21 "David Robertson" as a police officer. You will recall,  
22 Sir, the difference in the evidence given in Phase 2  
23 about this incident by Ms Langford and HN45. The key  
24 passage in the dissertation reads as follows:

25 "I'd got a job at the Daily Mirror and an Irish



1 workmate Ethel, came along with me to a meeting at  
2 the London School of Economics. John Gittings,  
3 Malcolm Caldwell, Manu and Pat Jordan of  
4 the International Socialist Committee were getting an  
5 Indo-China Solidarity Committee together. Ethel was  
6 interested in becoming involved. Dave was there. When  
7 Ethel saw him, she greeted him brightly. 'Oh, I know  
8 Dave', she said. He grabbed her by the wrist and  
9 said 'I want to talk to you outside'. They didn't come  
10 back. Next day at work, Ethel was cool and awkward with  
11 me. After a week of this she asked me to meet her for  
12 a drink. 'Dave works for the Special Branch,' she told  
13 me. 'He's threatened that if I tell you or Manchanda,  
14 he'll cause something nasty to happen to my family in  
15 Ireland'.

16 "Dave disappeared off the radar and was never seen  
17 again ..."

18 We are including an extract from the authorised  
19 history of the Security Service 'Defence of the Realm',  
20 by Christopher Andrew, which relates to vetting.  
21 Information gathered by SDS undercover officers appears  
22 to have contributed to the information filed by  
23 Special Branch and the Security Service and used for  
24 vetting purposes. In establishing the facts,  
25 the material extract is relevant, because it dates

1 the point in time at which the Security Service ceased  
2 to keep a record of rank-and-file members of  
3 the organisations which it considered to be subversive,  
4 namely 1992. By that time, the number of groups  
5 considered subversive had fallen from over 70 in  
6 the 1970s to around 45; none were considered to  
7 represent any significant threat to national security;  
8 and there had been no evidence in respect years that any  
9 subversive group had deliberately set out to obtain  
10 classified information.

11 Finally, we are publishing a recording of  
12 the World in Action documentary entitled "The State of  
13 Britain" from 1980, which covered the 1980 Right to  
14 Work March, which was the subject of infiltration by  
15 the SDS. HN80, who used the cover name "Colin Clark",  
16 and HN155, who used the cover name "Phil Cooper", were  
17 both involved.

18 The Inquiry has obtained copies of Special Branch's  
19 annual reports for the years 1970 to 1983. We were  
20 informed by the Metropolitan Police that annual reports  
21 for 1968 and 1969 could not be found.

22 Special Branch annual reports are lengthy,  
23 classified documents. Putting them through our  
24 restriction orders process in their entirety so that we  
25 could put them into open evidence was considered both

1 unnecessary and impractical. Consequently, the approach  
2 that we have taken has been to process one report in  
3 full for publication, that for 1979. In relation to  
4 the others, we have put extracts through the restriction  
5 orders process.

6 The significance of these annual reports is that  
7 they put the work of the SDS into the wider context of  
8 Special Branch's work overall, as represented by  
9 Special Branch to the Commissioner of Police for  
10 the Metropolis.

11 I am going to draw attention to a number of passages  
12 and features of the reports, but must first emphasise  
13 that this evidence is, of course, subject to evaluation  
14 in the light of the evidence that we have and will  
15 receive from non-state witnesses and also that of state  
16 witnesses, other documents and the legal framework.

17 There is occasional express mention of the SDS in  
18 the annual reports. In the introduction to the 1970  
19 report, the author first stated that:

20 "Two matters dominated the extremist scene in London  
21 during the year -- the campaign against apartheid  
22 centred around the South African rugby and cricket  
23 teams; and activities of the IRA."

24 The text then continues first to trumpet the role of  
25 the SDS (or Special Operations Squad as it was then

1 known) in relation to the Stop the Seventy Tour  
2 campaign, but then acknowledges that the anti-apartheid  
3 campaign was no threat to the State and that many of  
4 the protesters were law-abiding. The material part of  
5 the text reads:

6 "Although only one demonstration took place in  
7 the Metropolitan Police District -- at Twickenham on  
8 31 January -- the agitation around the cricket tour  
9 developed strongly and a considerable effort was mounted  
10 by the Branch to ascertain the plans of the militants.  
11 In this situation the value of the Special Operations  
12 Squad was once again emphatically illustrated.

13 "Despite the success of the countryside agitation  
14 which resulted in the cancellation of the cricket tour,  
15 the extremists (anarchists, Maoists, Trotskyists) were  
16 never able to transform the manifestations of protest  
17 they had created into anything faintly approaching  
18 a revolutionary situation, the ultimate purpose of their  
19 participation in all such militant activities. This is  
20 indicative of the isolation in which these elements find  
21 themselves, for it became obvious that a significant  
22 number of those engaged in the protests were not  
23 prepared to resort to violence but preferred to make  
24 their point in a constitutional and legal way.  
25 The backlash of public opinion against the militancy

1 associated with Anti-Vietnam War demonstrations which  
2 was evident in 1968 and 1969 clearly continued into  
3 1970."

4 A passage in the 1971 report clearly illustrates  
5 a belief that it was worth infiltrating left wing  
6 activist groups just in case public disorder were to  
7 break out in the future. The material passage relates  
8 to a contingency which did not, in fact, eventuate, and  
9 reads:

10 "It is, I think, in the order of things that  
11 the period of relatively quiet demonstrations must end  
12 soon. There are presently stirrings among the students  
13 who are protesting over projected Government control of  
14 their college union finances, an issue which is  
15 attracting very strong support (16,000 turned out in an  
16 orderly demonstration in London in November). This  
17 could well have the effect of giving them a taste for  
18 demonstrating on other controversial matters of wider  
19 interest. The question of the Rhodesian settlement has  
20 so far produced surprisingly little reaction among  
21 extremist groups but it remains an issue which could  
22 well bring large numbers on to the streets once again  
23 should the British Government formally recognise  
24 the independence of the country. In such a situation  
25 the patient undercover work at present being done by

1 the Special Squad should prove of no little value to our  
2 uniform colleagues."

3 The 1974 report contains another explicit  
4 endorsement of the SDS, on this occasion in the context  
5 of the reference to the demonstration in  
6 Red Lion Square, on 15 June 1974, at which Kevin Gately  
7 died. Two parts of the quotation that I am about to  
8 read stand out. First, Special Branch's conclusions  
9 about the way in which revolutionaries were believed to  
10 be operating in the Metropolis and, secondly, the value  
11 attaching to public order intelligence provided by  
12 the SDS. I quote:

13 "The use of violence in the pursuit of political  
14 objectives was not, of course, the prerogative of  
15 the IRA. Although our own extremist groups showed  
16 little inclination to resort to the bomb or the gun in  
17 1974, the hard-core of dedicated, clever revolutionaries  
18 which were to be found behind every public  
19 demonstration, 'pop festival', or squat or sit-in showed  
20 themselves ever ready to exploit such situations and use  
21 the police -- as the nearest and most visible form of  
22 authority -- as targets for political and sometimes  
23 physical attack. The most extreme example of such  
24 behaviour was to be seen in Red Lion Square on 15 June,  
25 when the combined forces of the extreme left were

1 mounted in opposition to the National Front and,  
2 inevitably, against the police who were trying to keep  
3 the two factions separated. The outcome of that  
4 demonstration, which is now a matter of history,  
5 underlined the value of Special Branch intelligence  
6 assessments in police preparations for demonstrations,  
7 and the major Special Branch effort in London -- apart  
8 from the Irish problem -- is now applied to this issue.  
9 In this respect the work done by the Special  
10 Demonstration Squad, often in difficult and even  
11 hazardous circumstances, has proved invaluable in  
12 keeping uniformed colleagues informed of the plans of  
13 demonstrators."

14 Were revolutionaries behind and exploiting every  
15 public demonstration, "pop" festival, or squat or  
16 sit-in, or were Special Branch, even allowing for risks  
17 to national security generated by the Cold War, looking  
18 for Reds under the bed? Was SDS reporting for public  
19 order purposes, in all the circumstances, invaluable?

20 There are references in the text which appear to be  
21 based upon specific reporting that we published in  
22 the course of phases 1 and 2. Some examples are set out  
23 in the written version of this opening statement.

24 There are also numerous references to some of  
25 the Inquiry's Non-State Core Participants who were

1 politically active during the Tranche 1 era:

2 Diane Langford, Lord Hain, Piers Corbyn, Tariq Ali,  
3 Joan Ruddock, the National Union of Mine Workers,  
4 Freedom Press and Dave Morris, for example.

5 The format of the Special Branch annual reports  
6 includes sections on fields of activism of interest to  
7 Special Branch. For the purposes of Tranche 1, Phase 3,  
8 the contents of the sections on Trotskyists, Maoists,  
9 anarchists, Irish-related groups, anti-racists and the  
10 far right are of greatest relevance.

11 Trotskyist groups.

12 The 1973 annual report contains the significant  
13 observation that:

14 "Unlike the Communist Party and the Maoists,  
15 Trotskyists in Britain have no association with, and owe  
16 no allegiance to, a foreign country."

17 This observation seems relevant to the question  
18 whether, even in the Cold War era, Trotskyist groups in  
19 the United Kingdom really threatened the safety of  
20 the State. We have heard ample evidence of their  
21 subversive aims, but without the backing of a foreign  
22 power, were they a sufficient threat to meet  
23 the definition?

24 The 1974 Special Branch annual report contains  
25 a passage relevant to that question. I quote:



1            "Trotskyists share with orthodox Communists the aim  
2 of the destruction of capitalism and the establishment  
3 of world wide socialism. Unlike Communists, who have  
4 seen a partial realisation of their aim, Trotskyists  
5 have never come near holding any sway and their failure  
6 has led to an almost obsessive indulgence in fine  
7 theoretical differences and sterile discussion. This in  
8 turn has resulted in a self-defeating and endemic  
9 fractionalism which proved, once again, to be  
10 the principal characteristic of the British Trotskyist  
11 groups in 1974."

12            The section of the 1976 Special Branch annual report  
13 which deals with Trotskyism commenced in a similar vein,  
14 but with added observations to the effect that one must  
15 look through their propoganda to their relatively modest  
16 size properly to evaluate their revolutionary potency.

17            In contrast to these disparaging passages about  
18 the progress of Trotskyist aims, the annual reports go  
19 on to record the successful use of entryism by some  
20 Trotskyists. For example, the 1976 report contained  
21 the following passage on the use of entryism in the  
22 Labour party by the Revolutionary Socialist League,  
23 which became Militant Tendency. I quote:

24            "The principle of 'entryism' is classically  
25 Trotskyist and consists of working undercover in an

1           organisation, political party or industrial concern in  
2           order to influence and ultimately control its policies.  
3           The tactic was first highlighted last year when attempts  
4           were made by the clandestine Revolutionary Socialist  
5           League to oppose re-adoption of Labour's Minister of  
6           Overseas Development, Reg Prentice as Parliamentary  
7           member for the Newham North-East constituency. Since,  
8           then the RSL has changed its name to  
9           the Militant Tendency and with approximately 1,000  
10          members and 80 branches distributed throughout  
11          the country controls the National Organisation of Labour  
12          Students and maintains considerable influence over  
13          the Labour Party Young Socialists, the youth wing of  
14          the Labour Party. Despite the adverse publicity their  
15          activities attract, the Militants persist in pursuing  
16          their aim and through obtaining control of constituency  
17          labour parties have succeeded in threatening  
18          the positions of an estimated 12 Members of Parliament.  
19          Perhaps the Tendency's most controversial success during  
20          the year was in securing the appointment of Andy Bevan,  
21          one of its members, to the post of National Youth  
22          Organiser of the Labour Party. Being a clandestine  
23          organisation, the Militant Tendency, unlike many of its  
24          brothers, does not take to the streets on demonstrations  
25          in its own name and as such cannot at present be

1           regarded as a threat to public order."

2           The reports also blame the Trotskyist SWP for major  
3 public order problems. In particular, the 1977 report  
4 apporitions blame to the SWP for violence at what became  
5 known as the Battles of Wood Green and Lewisham. It  
6 reads:

7           "... The SWP has also made much political capital  
8 out of the anti-National Front campaign which brought  
9 about particularly violent clashes with police at  
10 Duckett's Common, N8, on 23 April and at Lewisham on  
11 13 August. The main initiative for the physical attacks  
12 on the National Front ... has come from the SWP although  
13 the notion of a total ban on [National Front] marches is  
14 widely supported by most sections of the Left,  
15 the Maoist CPE(ML) have provided small but very violent  
16 contingents on anti-National Front marches; the bulk of  
17 their membership of about 100 persons is in East London  
18 and are a continuing source of trouble to police."

19           There are other passages which attributed violence  
20 to the SWP by Special Branch. The 1976 report refers to  
21 43 police officers being injured and 44 demonstrators  
22 being arrested on 19 March 1976 towards the end of  
23 the Right to Work march, which is also described as:

24           "... the most successful Trotskyist-inspired event  
25 of 1976."

1           The same report also states that:

2           "Frequent confrontations took place between  
3 IS supporters and members of the National Front, many of  
4 them occurring at the latter's weekly meeting place at  
5 Brick Lane, E1, and it was only the presence of a strong  
6 contingent of uniformed police officers on each occasion  
7 that prevented any serious violence from breaking out."

8           Special Branch's perception of the SWP more  
9 generally is perhaps exemplified by the 1979 report's  
10 coverage of Blair Peach's funeral, SDS reporting on  
11 which we heard evidence about in Phase 2. I quote:

12           "On 13 June, Blair Peach was buried at  
13 the East London Cemetery, Grange Road, London, E3.  
14 The funeral was preceded by a carefully stage-managed  
15 'lying in state' the previous night at the Dominion  
16 Cinema, Southall. There is little doubt that the great  
17 majority of 'mourners', particularly the SWP, regarded  
18 the funeral as a secular demonstration of solidarity and  
19 a propaganda exercise. Indeed, The Guardian was moved  
20 to comment on Tony Cliff saying 'let us mourn, but let  
21 us organise and mobilise' at the time of the burial.

22           "..."

23           "Regardless of the outcome of the Coroner's inquest  
24 on Peach, now adjourned to 17 July, the Peach affair  
25 will be used by the left for some time as an instrument

1 of propaganda against police."

2 The International Marxist Group (which later became  
3 the Socialist League in 1983), although small is also  
4 asserted to be a source of public disorder problems.  
5 For example, the 1972 report states, I quote:

6 "... [IMG] members were well to the fore in  
7 the militant demonstration held under the auspices of  
8 the [Anti-internment] League on 5 February when attempts  
9 to breach uniformed police cordons across Downing Street  
10 resulted in 127 arrests."

11 The 1975 report relates Lord Scarman's findings  
12 about the IMG's role during the disturbance at  
13 Red Lion Square the year before:

14 "It had assaulted the police in an unexpected,  
15 unprovoked and viciously violent attack."

16 The 1979 report states that the IMG, including  
17 core participant Piers Corbyn, was expected to  
18 participate in resisting the Greater London Council's  
19 efforts to evict squatters.

20 The 1980 report associates the IMG with entryism:

21 "IMG now channels its efforts into three main areas;  
22 namely the infiltration of industry, the Labour Party  
23 and the Campaign for Nuclear Disarmament."

24 So too does the 1982 report.

25 The Socialist Labour League, which became

1 the Workers' Revolutionary Party in 1973, is frequently  
2 referred to in the annual reports. However, it is not  
3 referred to as committing crimes, as a public order  
4 threat or as an imminent threat to parliamentary  
5 democracy. It is recorded as concentrating on  
6 industrial issues and organising meetings which were  
7 well attended and orderly. It is also recorded as  
8 participating in democratic elections. From 1976  
9 onwards, there are references to its seeking, and later  
10 receiving, funding from Libya's then ruler,  
11 Colonel Qaddafi and adopting the Palestinian cause in  
12 return.

13 Towards the end of the Tranche 1 era, Red Action  
14 emerges as a small, potentially violent Trotskyist  
15 group. We will hear more evidence about Red Action and  
16 its infiltration by the SDS later in the Inquiry.

17 Maoist groups feature regularly in the excerpts from  
18 the annual reports up to 1972, but with fewer references  
19 to them thereafter. They are typically described as  
20 small. Some, but not all, are described as being  
21 associated with violence or disorder.

22 For example, in the 1970 report the  
23 Internationalists are described as a considerable public  
24 order problem, whereas the Communist Party of Britain  
25 (Marxist-Leninist) is described as "a long range

1 security problem rather than any immediate challenge to  
2 public order".

3 The 1971 report described a reduced level of public  
4 order threat:

5 "Although Maoists were active throughout the year,  
6 their proclivity to foment disorder was seen on  
7 remarkably few occasions and their ardour was confined  
8 in the main to a series of internal feuds and schisms."

9 The 1978 report explicitly addresses the impact of  
10 political changes in China following Mao's death in 1976  
11 upon Maoist groups in this country. It reads:

12 "The political changes in China are perplexing  
13 pro-Chinese communist organisations. The Revolutionary  
14 Communist League of Britain is gradually absorbing  
15 the smaller Maoist groups, and the Communist Party of  
16 England (Marxist-Leninist), whose leader, Reg Birch, is  
17 the only individual in this area to exercise any real  
18 influence as a senior official of the AUEW, has  
19 transferred its allegiance to Albania."

20 Although President Nixon's important visit to China  
21 in 1972 and the death of Mao in 1976 appear to have  
22 brought some changes to the activities of Maoist groups  
23 in this country, they continued to exist and to be of  
24 interest to Special Branch. Some Maoist groups retained  
25 their reputation as a threat to public order. The 1978

1 report includes the following passage about  
2 the East London People's Front:

3 "It was, of course, ELPF members who instigated  
4 the trouble at the picket of the NF election meeting at  
5 Ilford on 25 February. It did not escalate into  
6 a larger incident because the Trotskyist elements at  
7 the picket would not support the ELPF agitators."

8 Anarchists.

9 Anarchists appear to have been regarded as posing  
10 little threat to political stability in this country but  
11 as a public order threat. On the extremes of  
12 the anarchist scene were people capable of committing  
13 very serious acts of violence, notably bombings. Bomb  
14 attacks carried out by the Angry Brigade were the most  
15 prominent but not the only such incidents.

16 The 1970 report summarised anarchists as:

17 "... essentially so individualistic in outlook and  
18 their philosophy is capable of so many diverse  
19 interpretations that they offer little threat to  
20 political stability in this country. By the same token,  
21 however, any type of anti-authoritarian activity, from  
22 passive resistance to extreme violence, can be  
23 reconciled with anarchism and in consequence its  
24 adherents continue to pose a public order problem,  
25 despite their small numbers."



1           The same report also recorded petrol bombings by  
2 both members of the Ninth of May Movement and four other  
3 anarchist-inspired bombings believed to be the work of  
4 the Spanish First of May group.

5           The annual reports refer to numerous anarchist  
6 groups, as well as connections with activism connected  
7 to squatting and the claiming of state benefits; for  
8 example the Claimants' Union.

9           Incongruously, and perhaps indicative of attitudes  
10 within Special Branch towards women and women's rights,  
11 we note that the activities of the Women's Liberation  
12 Movement are recorded under the heading "Anarchism and  
13 Neo-Anarchism" in some reports. In 1973, under that  
14 heading, what is recorded about that movement involved  
15 entirely legitimate political expression. It reads:

16           "Most activity within the Women's Liberation  
17 Movement is organised at group level, and the movement  
18 as a whole had shown itself unable to mobilise large  
19 numbers at short notice. The only demonstration of note  
20 occurred on 2 February when about 120 women demonstrated  
21 outside the House of Commons during a debate on  
22 the Anti-Discrimination Bill. Some entered the public  
23 gallery where they applauded and cheered; later about  
24 200 marched to Downing Street to present a petition ..."

25           The 1976 report described anarchist groups in London

1 as generally quiet and seeking a more respectable image:

2 "Anarchist groups in London remained generally quiet  
3 during the year, due partly to their inability to bridge  
4 the gap between ideology and any kind of effective  
5 action, and partly to their noticeable attempts over  
6 the past year to present a more respectable image.  
7 Anarchist ideas have suffered in reputation from  
8 the criminal activities of groups such as  
9 the Angry Brigade and the Baader-Meinhof Group, and  
10 there are currently no personalities in the anarchist  
11 field of sufficient standing to persuade the present  
12 student generation that anarchist principles have any  
13 relevance to today's political problems."

14 However, the same report also noted that Anarchist  
15 Black Cross remained the most potentially dangerous of  
16 all anarchist factions, as it advocated individual acts  
17 of violence by its members.

18 The 1979 report refers to the trial of  
19 the Mills/Bennett group of anarchists, which led to  
20 the acquittal of four who pleaded not guilty to  
21 conspiring to cause explosions and the conviction and  
22 imprisonment for nine years of a fifth who pleaded  
23 guilty.

24 It also referred to proceedings at  
25 the Anarcho-Syndicalist conference which had taken place

1 in November 1978. As well as a reference to  
2 core participant Dave Morris, the part of the text is of  
3 interest because it sharply contrasts these anarchists  
4 with those who perpetrated serious acts of violence.  
5 The direct action suggested at the conference was  
6 limited to: riding on buses without paying the fare;  
7 breaking windows; and the production of stickers for  
8 distribution to Anarcho-Syndicalist groups. The latter  
9 suggestion received the most support.

10 The May section of the 1979 report contains an  
11 unusually lengthy passage about an individual,  
12 core participant Dave Morris, who is described as an  
13 increasingly key individual and an archetypal anarchist.  
14 The June 1979 section relates to the arrest and charging  
15 of a young anarchist who had infiltrated  
16 the National Front's headquarters and was intending to  
17 cause criminal damage there.

18 I referred earlier to the police raid on  
19 Freedom Press and Little "A" Printers in 1982, which is  
20 the last entry of note about anarchists in  
21 the Special Branch annual report from the Tranche 1 era.

22 Anti-racists.

23 Special Branch interest in the activities of  
24 anti-racist campaigners is reflected in several ways in  
25 its annual reports. In the early years, 1970 to 1973,

1           there are sections entitled "Racialism", which cover  
2           specifically anti-racist groups; Stop the Seventy Tour,  
3           Black Power, Action Committee Against Racialism,  
4           the Anti-Apartheid Movement and Stop All Racialist  
5           Tours.

6           Although there are some mentions of disorder, in  
7           relation to some of these groups, a good deal of  
8           the content of these sections recites the groups'  
9           activities.

10          In 1971 there are references in the section to only  
11          minor disorder, and the 1973 section states that no  
12          serious disorder was expected from the Stop All  
13          Racialist Tours campaign.

14          Clashes between the far right and groups which  
15          opposed them feature prominently in the reports,  
16          particularly from 1974 onwards.

17          The monthly sections of the 1979 report include many  
18          subsections which concern or touch upon racial issues.  
19          A good deal of the content does not expressly concern  
20          public disorder but recites the activities of groups or  
21          instances of racial tension, for example there is  
22          a section on community relations in Islington.

23          The race riots of 1981 feature prominently in  
24          the 1981 annual report.

25          The far right.

1           The public order section of the 1977 Special Branch  
2           annual report succinctly confirms over evidence before  
3           the Inquiry which might explain why the SDS in this era  
4           infiltrated far-left organisations but not the far  
5           right. Special Branch had other sources. The relevant  
6           passage reads -- I quote:

7           "The internal threat to public order has come mainly  
8           from the organisations of the extreme left with  
9           the occasional incursion from their opponents at  
10          the opposite end of the spectrum. Both factions are  
11          under close scrutiny by the Branch."

12          Irish related groups.

13          Events relating to the Troubles were plainly high on  
14          Special Branch's agenda during the Tranche 1 era,  
15          because at that time it had responsibility for  
16          Irish-related terrorism on the mainland.

17          In addition to the terrorist organisations  
18          responsible for atrocities, the annual reports refer to  
19          many Irish-related campaign groups, most of which are  
20          familiar to us from the SDS's reporting. There is some  
21          reference to public disorder, but many demonstrations  
22          are described as passing off without disorder. There is  
23          limited reference to fundraising for terrorist purposes.

24          A good deal of the relevant content of the annual  
25          reports concerns the internal affairs of the groups.

1 The 1972 report contains a significant observation about  
2 groups campaigning about events in Ireland -- I quote:

3 "Our monitoring of Irish Republican extremist groups  
4 have shown a distinct bias in favour of relatively  
5 innocuous political and fundraising roles rather than  
6 a move towards violence."

7 This conclusion accords with and may well have been  
8 based upon SDS reporting on Irish-related groups at the  
9 time.

10 Recordkeeping.

11 Awareness of the political sensitivity attaching to  
12 the keeping of records relating to public disorder is  
13 expressly acknowledged by Deputy Assistant  
14 Commissioner Bryan. He signed the 1979 report, which  
15 included the passage:

16 "A substantial increase in civil staff and  
17 the formation of a data entry team ensured significant  
18 progress in the computerisation of those selected  
19 Special Branch records concerned with terrorism and  
20 public disorder. I am aware of its political  
21 sensitivity."

22 An insight into the scale of Special Branch  
23 recordkeeping is afforded by statistics in the 1979  
24 report. In that year, 5,268 docketts were opened, there  
25 were 1,179,503 entries in the nominal index and 229,314

1 searches made.

2 A snapshot of the size and composition by rank of  
3 Special Branch is included in the 1979 report.  
4 The effective strength of Special Branch at that time  
5 was 386. Sergeants and constables were by far the most  
6 populous ranks.

7 The 1979 report also provides an insight into  
8 the scale of Special Branch's vetting work at the time.  
9 Amongst other things, in 1979 there were 8,025 "Reports  
10 on information obtained by individual officers" and  
11 2,846 "Enquiries for Box 500", that is to say,  
12 the Security Service.

13 Sir, would now be a convenient moment to break?

14 THE CHAIRMAN: Yes, indeed it would. We will break now for  
15 15 minutes.

16 May I, first of all, apologise to those in  
17 the public gallery to whom I had intended to extend  
18 a welcome at the start of our proceedings, but  
19 difficulties with my equipment prevented me from doing  
20 so. I now wish to put that right.

21 Thank you. We'll break for 15 minutes.

22 (11.18 am)

23 (A short break)

24 (11.35 am)

25 MR BARR: I'm moving now to Special Branch management and

1 Security Service documents, Sir.

2 THE CHAIRMAN: Yes.

3 MR BARR: A number of documents evidence liaison between  
4 the Metropolitan Police and the Security Service during  
5 the Tranche 1 era. They record what appears to have  
6 been a complex and fluctuating relationship.

7 The earliest document is a memorandum which shows  
8 that on 10 January 1974, the then head of the SDS,  
9 HN294, and his deputy, Detective Inspector Derek Brice,  
10 attended the Security Service's offices.

11 There, they were informed that the Security Service  
12 was forming a new F6 section, which would be responsible  
13 for -- I quote -- "extremist politics to the left of  
14 the Communist Party, ie Trotskyists, Maoists,  
15 anarchists, the alternative society etc".

16 The associated minute sheet records a defensive  
17 response from senior police officers. The then Deputy  
18 Assistant Commissioner, Vic Gilbert, first wrote on  
19 30 January 1974 to the Assistant Chief Constable:

20 "I shall ensure that senior officers here are even  
21 more protective of the work of the SDS to ensure that  
22 any operation by MI5 which goes wrong does not expose  
23 police officers to personal risk or potential  
24 embarrassment. In particular, I propose to limit  
25 further the opportunities MI5 may have for personal



1 contact with supervising officers in charge of the SDS."

2 Shortly afterwards, he passed the instruction down  
3 the chain of command to the Chief Superintendent of  
4 C Squad, through Commander Operations, describing it as  
5 a prudent precaution.

6 A police memorandum later the same year, dated  
7 13 November 1974, records further measures being taken  
8 to safeguard the SDS in its dealings with  
9 the Security Service. The material part reads:

10 "In future all copy reports from this section will  
11 bear the initials 'SDS' at the top of the reports by  
12 the classification stamp and the file or minute sheet to  
13 which the report is attached will carry the words -- 'If  
14 a copy report is sent to Box 500 it must be sent under  
15 cover to "F6 [redacted]" only.

16 "As at present the decision to forward such a copy  
17 will rest with the Chief Superintendent of the squad  
18 concerned'."

19 This change to the filing system, which was made to  
20 enable dissemination of SDS intelligence within  
21 the Security Service to be controlled, has been of great  
22 significance to our investigation. The resulting files  
23 contain solely SDS reporting, which has greatly assisted  
24 us in identifying what was sent to the Security Service  
25 by the SDS. However, the reporting under this system

1 was not attributed to individual officers. This has  
2 made attribution to individual officers difficult in  
3 many cases. We note that the decision whether to  
4 forward any given report to the Security Service rested  
5 with the chief superintendent of the Squad within  
6 Special Branch which had received the report from  
7 the SDS. Although it is clear that a great deal of SDS  
8 reporting was sent to the Security Service, it follows  
9 that we cannot assume that it all was.

10 A series of three documents records an exchange, in  
11 late 1975/early 1976, between the Security Service and  
12 Special Branch about their respective role in relation  
13 to the passing of "security information" about employees  
14 to certain employers.

15 The relevant employers were described as Government  
16 Departments, List X companies and public corporations,  
17 including the Atomic Energy Authority, Bank of England,  
18 British Airports Authority, British Airways (European  
19 and Overseas Divisions), Post Office Corporation,  
20 British Broadcasting Corporation, British Council,  
21 National Research Development Council and Crown Agents  
22 for Overseas Governments and Administrations.

23 The Security Service described its understanding of its  
24 role and the potential consequences for affected  
25 individuals as follows.

1           "Where a person with an adverse security record is  
2 found to be employed in the Civil Service,  
3 the Security Service has a duty to establish whether or  
4 not he has access to classified information, to provide  
5 his department with a summary of the information, and to  
6 offer an assessment of the risk which the continuation  
7 of any such access might entail.

8           "The transmission of security information to an  
9 employing authority can have serious consequences for  
10 the person concerned, leading in extreme cases to purge  
11 from the Civil Service or, in other cases, to denial of  
12 access to classified information which can have an  
13 adverse effect in careers."

14           Three documents evidence the institution of a system  
15 of informal twice-yearly meetings between senior  
16 Special Branch managers and representatives from  
17 the Security Service. We are publishing notes from  
18 the first and third such meetings held on  
19 11 October 1976 and 27th September 1977. Two of  
20 the matters referred to in the notes of the October 1976  
21 meeting call for comment.

22           First, there is a reference to  
23 the Security Service's vetting role, which I have just  
24 touched upon. It suggests a streamlining of the work  
25 being done to inform vetting -- I quote:

1           "Then then followed some discussion on Box 500's  
2 need to fully identify applicants to join subversive  
3 organisations in view of their vetting responsibilities.  
4 There was general agreement that basic identification  
5 was the main need nowadays and that the days had passed  
6 of long involved reports."

7           Many of the reports produced by the SDS, including  
8 those sent to the Security Service, were reports about  
9 individuals, including identifying information and  
10 information about their membership of various left wing  
11 groups.

12           Second, there is a reference to Special Branch work  
13 relating to racial tension in Brixton and Notting Hill.  
14 I quote from the document at paragraph 7:

15           "Commander Watts then turned to the subject of  
16 the build up of racial tension in the Brixton and  
17 Notting Hill areas, he stated that we were not sure of  
18 the potential for serious disorder, but were currently  
19 undertaking a study of the problem. A special section  
20 led by a DI and consisting of a Sergeant and  
21 a DC from 'E' Squad and a Sergeant and a DC from 'C'  
22 Squad had been set up for this purpose. The study would  
23 commence in the Brixton area and one of its most  
24 important aspects was to discover to what extent  
25 left-wing extremists were influencing the coloured

1 people in this area."

2 The study referred to does not appear directly to  
3 have involved the SDS, but it is notable because it may,  
4 together with the Special Branch annual reports, help to  
5 put both isolated SDS reporting on race-related issues  
6 and specific deployments, for example that a few years  
7 later of the officer who used the cover name "Barry  
8 Tompkins" into East London Workers Against Racism group,  
9 into a wider context.

10 Such reporting and deployments often concern  
11 the work of left wing activists with people of colour.  
12 But intelligence-gathering on this topic was clearly not  
13 limited to the SDS. It was being conducted more widely  
14 by Special Branch and discussed with  
15 the Security Service.

16 A final observation on the October 1976 meeting  
17 concerns the prevalence of links between  
18 the Special Branch attendees and the SDS. The meeting  
19 was chaired by Commander Watts, under whose command, via  
20 Chief Superintendent Bicknell, the SDS was at the time.  
21 Commander Saunders was a former SDS manager and  
22 Superintendent R Wilson had also been involved with  
23 the SDS in the past. It is an illustration of what  
24 a small world Special Branch was at senior management  
25 level.

1           The September 1977 document is notable for what it  
2 records about investigative journalism. Unfortunately,  
3 the document does not fully explain the thinking of  
4 those involved in a discussion about investigative  
5 journalism, but it states that -- I quote:

6           "The Chairman underlined the need to explain  
7 the dangers of investigative journalism to  
8 Special Branch training courses."

9           We have received evidence in earlier phases of  
10 reporting about journalists and on contact between  
11 activists and journalists. Whether it was simply  
12 the result of an unfiltered approach to reporting or  
13 whether there is more to it is presently unclear.

14           Three documents from 1977 evidence  
15 the Security Service and Metropolitan Police liaising to  
16 make the best use of Metropolitan Police Special Branch  
17 and Security Service resources. It was agreed at Deputy  
18 Assistant Commissioner level on the police side that  
19 detective chief superintendents would meet their  
20 Security Service counterparts to discuss what was  
21 described as "source planning".

22           For our purposes, a memorandum from the then chief  
23 superintendent of C Squad, A Dickinson, and Commander  
24 Operations recording the outcome of the former's meeting  
25 with his Security Service counterpart is particularly

1 relevant. It shows an interest in filling gaps in  
2 the knowledge of membership of specific groups on  
3 the far left and the Security Service requesting  
4 information about subversive activity within industry.

5 Finally, in this category are documents which show  
6 that the Security Service invited Special Branch  
7 officers to a thank you party that was scheduled to take  
8 place on 24 October 1983. They include a list of those  
9 due to attend which is notable because of the number of  
10 attendees with links to the SDS. Commander Phelan had  
11 upon his recent appointment just assumed responsibility  
12 for the SDS. Commander Bicknell, detective chief  
13 superintendents Pryde, Wilson, Kneale, Fisher and Craft  
14 had all been involved in the past with the SDS in some  
15 capacity. As had Detective Superintendent Greenslade,  
16 HN200, who used the cover name "Roger Harris", and HN96,  
17 who used the cover name "Michael James". Although  
18 altogether they comprised almost a third of the guest  
19 list. It is another example of what a small world  
20 Special Branch was.

21 Home Office documents.

22 The first two documents that we have obtained from  
23 the Home Office date from 1974, and relate to  
24 Special Branch activity in the industrial field.  
25 The first is a minute of a meeting between the then

1 newly appointed Home Secretary, Roy Jenkins, and seven  
2 Labour Members of Parliament, including John Prescott,  
3 which took place on 30 April 1974. The MPs were  
4 evidently concerned about whether Special Branch was  
5 operating appropriately in the industrial field, and the  
6 documents are plainly of relevance to blacklisting  
7 generally.

8         There is no specific reference to undercover  
9 policing or to the Special Demonstration Squad, but the  
10 concerns raised are wide enough to include concern about  
11 the use to which intelligence about persons active in  
12 the trade union movement, gathered by Special Branch as  
13 a whole, was being put. That is to say, wide enough to  
14 include, amongst other things, intelligence obtained by  
15 SDS officers about members of far-left organisations who  
16 were also trade unionists.

17         The MPs pressed for an independent inquiry.  
18 Mr Wellbeloved expressed the view that it was:

19         "... unacceptable ... to have what amounted to  
20 a political police force ..."

21         And Mr Atkinson was concerned about the use to which  
22 information gathered by Special Branch was being put.

23 He is recorded as stating that:

24         "... Special Branch activity in the industrial field  
25 seems to have intensified in the last two years.



1 Enquiries by the police into trade unions had been  
2 taking place. It could be seen as a part of a general  
3 attempt to smear the trade unions. People were anxious  
4 and apprehensive and asked themselves what reason could  
5 there be for the police investigating matters relating  
6 to trade unions unless it was to enable the management  
7 to be warned of likely militancy. Basic questions were  
8 whether this was the right use for a branch of the  
9 police force and whether employers were entitled to  
10 information about employees and potential employees from  
11 Special Branch sources. There has been recent  
12 discussion in the AUEW of the function of the police."

13 We have recovered an SDS intelligence report about  
14 the International Socialists, which covers a strike  
15 meeting. The meeting was chaired by an AUEW member who  
16 was suspected of being a member of the Communist Party  
17 of Great Britain. In other words, collateral reporting  
18 on the AUEW.

19 The second document is an internal minute to  
20 the Home Secretary, dated 3 June 1974, which is stated  
21 to have followed a discussion with Sir Michael Hanley,  
22 the then director general of the Security Service, that  
23 had taken place on 13 May 1974.

24 The broad conclusions are recorded in these terms:

25 "(i) We ought not to be too sweeping in anything

1           said about infiltration, because special branches are  
2           interested in threats to public order, which are not in  
3           themselves the business of the Security Service, as well  
4           as with subversive activity which is. But there is  
5           certainly no infiltration of trade unions so far as  
6           the Security Service is concerned; and, although we have  
7           not gone around checking with every chief officer, it  
8           would be very surprising if there was any infiltration  
9           for ordinary police reasons.

10           (ii) We ought, however, to recognise that  
11           Special Branch officers engaged in finding out either  
12           about subversion or about threats to public order may  
13           very well be thought to be finding out about trade  
14           unions. Since the various subversive bodies make it an  
15           object of policy to infiltrate the unions -- not for  
16           information but for influence -- and the police may try  
17           to infiltrate the subversive bodies, denials about their  
18           interest in the unions may be disbelieved (as I gather  
19           they were by Mr Atkinson).

20           (iii) In view of the sensitivity of the subject, it  
21           would be as well to remind Special Branch officers about  
22           the particular need for more care and discretion in  
23           the industrial field."

24           This is clearly related to the additional guidance  
25           provided by the Security Service to chief constables,

1           entitled "Subversive Activity in Industrial Disputes",  
2           dated 29 May 1974, which we published in Phase 2.

3           The minute goes on to deal with the use to which  
4           information obtained by Special Branch officers was put  
5           in a passage which is revealing on three counts. First,  
6           because it accepts that this was "dangerous ground".  
7           Secondly, because it appears to refer to  
8           the Economic League without naming that organisation;  
9           and, thirdly, because it also accepts implicitly that  
10          information obtained by Special Branch about trade  
11          unionists might well be given either to other trade  
12          unionists, or to employers, albeit without authority.

13          It reads:

14          "The Members expressed fears that information  
15          obtained by Special Branch officers about trade unions  
16          might be given either to other trade unionists or to  
17          employers. This is difficult ground. We know ourselves  
18          that some employers plead to be given warning if known  
19          agitators seek or obtain employment with them.  
20          The official response has always been refusal, sometimes  
21          with a hint that that there are unofficial bodies which  
22          might help. But when a Special Branch officer is  
23          himself seeking help from an employer, or from a union  
24          official, it is asking a good deal to expect him to  
25          insist invariably that he is engaged in a one-way

1 traffic. Only good and experienced officers can  
2 maintain this position and the most we can do is run  
3 the point home whenever there is a chance."

4 Subversive activity in schools.

5 The next two documents that we have obtained from  
6 the Home Office concern the gathering of information by  
7 the police for the Security Service in relation to  
8 subversive activities in schools. They may help to  
9 explain why we have found SDS reporting on children  
10 involved in activism, for example the extensive  
11 reporting on School Kids Against the Nazis arising from  
12 HN125's, who used the cover name "Paul Gray's",  
13 deployment between 1977 and 1982.

14 The first document is a circular produced by  
15 the Security Service, dated 16 December 1975, which is  
16 addressed to chief constables. It seeks information  
17 from police forces about subversive activity in schools,  
18 particularly -- and I quote:

19 "i. Members of the teaching or administrative staff  
20 at a school who are using their position for subversive  
21 purposes, eg attempting to convert pupils or making  
22 school premises available to subversive organisations;

23 "ii. Older pupils (14 or over) who are active in  
24 subversive organisations which are exploited for  
25 subversive purposes such as the National Union of School

1 Students (NUSS);

2 "iii. Members of governing bodies of schools or of  
3 other bodies who appear to be promoting subversion in  
4 the schools for which they are responsible."

5 Recognising the sensitivity of the territory,  
6 the circular goes on to state at paragraph 2:

7 "We do not ask you to make enquiries in schools on  
8 our behalf, but we would welcome any help you could give  
9 us on the basis of information which comes your way from  
10 the local papers or from members of the public, or by  
11 recourse to other sources outside schools which you can  
12 use without risk of embarrassment."

13 The second document is a letter dated  
14 8 December 1978, from the Security Service to  
15 the Home Office, which records that the circular was  
16 agreed between Sir Michael Hanley and Sir Arthur  
17 Peterson. The latter was the Permanent Undersecretary  
18 of State in the Home Office at the material time.

19 Special Branch training.

20 The Home Office has provided the Inquiry with a copy  
21 of the timetable for the initial training course for  
22 Special Branch officers, held between 3 and  
23 21 September 1979. This document helps to add some  
24 detail to the oral evidence given by numerous of  
25 the early SDS officers that they received formal

1 specialist training when they joined Special Branch.

2 A day and a half of the course is devoted to  
3 subversion with, amongst others, sessions devoted to  
4 the role of the Security Service,  
5 Police/Security Service liaison, subversion in industry,  
6 Trotskyists, Anarchists and the Alternative Society and  
7 (I quote the language used in the document) "Subversion  
8 in the UK Coloured Community".

9 A further day covered public order, including A8  
10 Public Order, The Ultra Left, public order in  
11 the industrial field and voting offences, Trotskyists  
12 and public order and right wing extremism.

13 I pause to note that the speaker for the session on  
14 Trotskyists and public order was Detective Inspector  
15 Les Willingale, who had served in the SDS as a sergeant  
16 and then as a detective inspector between 1975 and 1977.

17 At the end of the first week, there was a 50-minute  
18 session entitled "the Racial Scene". During the second  
19 week, a day and a half was devoted to the Irish  
20 Republican Army (covering both the Official and  
21 Provisional IRA) and Protestant extremism. There is no  
22 reference in the syllabus either to the SDS or the use  
23 of undercover police officers.

24 Terms of reference for Special Branch.

25 The remaining four documents obtained from

1 the Home Office are arguably the most significant. They  
2 relate to the terms of reference for Special Branch's  
3 assistance to the Security Service. You will recall,  
4 Sir, that we published these terms of reference, which  
5 are dated 8 April 1970, in Phase 1.

6 The documents that we are now putting into evidence  
7 show that at the end of the 1970s, senior officials  
8 within the Home Office had a number of concerns about  
9 the terms of reference. They were asking fundamental  
10 questions about the way in which Special Branch was  
11 assisting the Security Service. Insofar as they  
12 encompass the work of the SDS, they were questions that  
13 remain pertinent to the work of this Inquiry more than  
14 40 years later.

15 The Home Office's concerns were such that, at one  
16 point, a senior official wrote that the only thing that  
17 the Home Office could not do was nothing. However, we  
18 have yet to find any evidence that anything of substance  
19 was done during the Tranche 1 era. Our investigations  
20 are continuing as part of our Tranche 1 Module 2(c)  
21 investigation, and will continue into Tranche 2.

22 The documents in question start with a minute from  
23 the Home Office's F4 to Mr Phillips dated 2 April 1979.  
24 We understand this to be Sir Hayden Phillips, then  
25 assistant secretary in the Home Office. It confirms

1           that the Security Service's June 1970 terms of reference  
2           for Special Branch, as supplemented by the circulars on  
3           subversive activities in industrial disputes and  
4           subversive activities in schools remained current.

5           It then refers to a meeting held by the then  
6           Permanent Secretary at the Home Office,  
7           Sir Robert Armstrong, on 7 December 1978, which had  
8           discussed the work which special branches undertook for  
9           the Security Service. At the meeting it appears that it  
10          had been the then Chief Inspector of Constabularies who  
11          had initially raised concerns about how the relationship  
12          between the Security Service and Special Branch was  
13          working in practice.

14          The memorandum reads:

15          "... HMCIC had expressed the view on an earlier  
16          occasion that the Security Service sought more  
17          information from Special Branches than they really  
18          needed. And certainly, as Mr Heaton has noted,  
19          the question of how far Special Branches should go on  
20          behalf of the Security Service and who decides this are  
21          begged by the 1970 terms of reference which talk only  
22          about Special Branches collecting information about  
23          subversives and potentially subversive organisations and  
24          individuals, in consultation with the Security Service."

25          The Permanent Secretary is recorded to have rather



1 tentatively proposed agreeing an up-to-date statement.

2 I quote:

3 "... Sir Robert Armstrong indicated that, although  
4 we should be in no hurry to reopen the question of  
5 the existing terms of reference, we should give  
6 consideration to putting forward a note to any new  
7 Home Secretary following a general election, which  
8 represented an agreed and up to date statement of what  
9 was feasible and acceptable to the Security Service and  
10 the police."

11 The author of the memorandum records that there had  
12 been subsequent discussions about how to proceed, and  
13 proposed a working party to produce more detailed  
14 guidance for the police.

15 The only other document in the group of four  
16 documents which bears a date is a note from David Heaton  
17 to Mr Andrew and Sir Brian Cubbon, copied to  
18 Mr Phillips. It is dated 8 October 1980, and attaches  
19 an internal discussion paper about special branches,  
20 also dated October 1980. The note appears to have  
21 followed a meeting between (at least) Mr Andrew and  
22 Sir Brian Cubbon the day before at which the internal  
23 discussion paper had been mentioned. Sir Brian was by  
24 then the permanent Undersecretary of State at  
25 the Home Office, having succeeded Sir Robert Armstrong.

1           The discussion paper repays careful reading, and  
2 I do not pretend to be able to do it full justice here.  
3 However, I will seek to alight upon some of its more  
4 salient features. It sought to identify current issues  
5 and, in a preliminary way, how they might be tackled.  
6 It begins by noting that the 1970s had seen:

7           "... a growth in the proportion of Security Service  
8 effort devoted to monitoring terrorism and subversion as  
9 opposed to counter-espionage work."

10           Which meant that special branches had in recent  
11 years:

12           "... become more heavily involved in those aspects  
13 of their duties which are the most politically  
14 sensitive."

15           The paper then moves on to summarise criticisms of  
16 Special Branch:

17           "Generally, [the criticisms] are that Branches are  
18 over-secretive and under-accountable, and that they  
19 interest themselves in, and record the activities of,  
20 people who are merely undertaking proper political or  
21 industrial activity. Specifically, criticism has  
22 centred on Special Branch work in monitoring subversion,  
23 an activity Branches undertake largely on behalf of  
24 the Security Service. There has been concern about  
25 the records kept by Special Branches on individuals,

1 particularly on those judged to be subversive."

2 Specific recent incidents which are described as  
3 having fuelled criticism of Special Branch are then  
4 enumerated. None directly concern the SDS, but  
5 the nature of the information gathered in these  
6 incidents is often not unlike that which we know was  
7 gathered by the SDS. One records the elision of  
8 opposition to racism with subversion:

9 "... a young man who was recorded as of potential  
10 subversive interest because of some badges he was  
11 wearing when he passed through Dover which indicated  
12 that he was opposed to racism."

13 I also note in passing that the police had distanced  
14 themselves from the raid on the WRP's White Meadows  
15 education centre:

16 "The raid by the Derbyshire Police on  
17 the Workers Revolutionary Party Training Centre on  
18 the advice of the Security Service, but much against  
19 the advice of the Metropolitan Police Special Branch."

20 Concerns on the part of chief constables about their  
21 work for the Security Service are recorded:

22 "There have in the relatively recent past been  
23 indications that some chief constables are not entirely  
24 at ease about the work of Special Branches.

25 Specifically, their anxieties seemed to be about: (a)

1           whether there was Ministerial approval and authority for  
2           the work done by Special Branches on behalf of  
3           the Security Service; (b) the nature of the work done on  
4           behalf of the Security Service and its potential for  
5           creating difficulties in ordinary police work and  
6           damaging relations between the police and the public;  
7           (c) the weight to put on Security Service requests for  
8           Special Branch to undertake particular tasks."

9           So, too, are concerns that operational officers in  
10          special branches seem uncertain about the proper extent  
11          of their role. In the context of whether information  
12          that was being recorded was really of security interest,  
13          an example is given of the practice which is stated to  
14          have grown up amongst Port Officers "of reporting  
15          trade union office holders who left the UK on holiday or  
16          to attend a union meeting abroad".

17          Having noted that the growth in Special Branch's  
18          assistance to the Security Service is likely to  
19          continue, the discussion paper proceeds to consider in  
20          turn:

21          "... those issues on which there is at present  
22          uncertainty and to prepare answers to those on which  
23          there is criticism."

24          The first such issue is the Special Branch terms of  
25          reference, and on this topic the paper contains two

1 particularly important paragraphs:

2 "In the course of last year and in response to  
3 the public and police concern mentioned earlier, F4  
4 Division attempted a consolidation and up-dating of  
5 the 1970 terms of reference and subsequent letters of  
6 guidance: a copy of the resulting document was welcomed  
7 by HMCIC and the head of MPSB, the Security Service saw  
8 no case for revising the terms of reference and indeed  
9 likely disadvantages in so doing. They suggested that  
10 all that might be needed was for some arrangement  
11 whereby the attention of newly appointed chief officers  
12 would be drawn to the 1970 terms of reference and other  
13 relevant documents.

14 "The difficulty with this and indeed with the draft  
15 revision of the terms of reference produced last year is  
16 that the 1970 document begs a number of very important  
17 questions. Some of the more difficult aspects of  
18 the document are indicated by underlying on the copy at  
19 Annex A. It therefore seems that:

20 "(a) The 1970 document plus additions may not be  
21 a satisfactory starting point as a statement of  
22 Special Branch functions;

23 "(b) Before a revision of the documents can be  
24 attempted, however, certain central questions need to be  
25 answered;

1           "(c) Any attempt to continue with a revision of  
2 the terms of reference is going to require careful  
3 explanation to and discussion with the Security Service  
4 and the police."

5           We believe that we have a copy of the underlined  
6 Annex A referred to in the discussion document which  
7 identifies those parts of the terms of reference which  
8 the Home Office's F4 Division were particularly  
9 concerned about.

10           Could we display, please, {UCPI/4459}.

11           If we can scroll down now, please. On to the next  
12 page, please, {UCPI/4459/2}. Thank you.

13           Could we scroll down to the bottom half of that  
14 page. Thank you.

15           Could we go further down, please. Thank you.

16           Could we go to the next page, please {UCPI/4459/4}.

17           Can we scroll further down, please. Keep going.  
18 I'm looking for the next underlining. Thank you.

19 {UCPI/4459/5}.

20           And could you scroll down to the bottom, please.  
21 Thank you. Could you scroll further down, please.

22           Could you just scroll down to the very bottom.  
23 Thank you.

24           Could that be taken down now, please.

25           The second and related issue considered in

1 the papers is the work of the special branches on behalf  
2 of the Security Service. F4 describes this work as  
3 the most sensitive aspect of the work of Special Branch  
4 and:

5 "... the work which can most easily jeopardise  
6 police -- public relations and ... also the area in  
7 which the police themselves, or some of them, seem least  
8 certain of the authority for their role."

9 The papers go so far as to state:

10 "... it may be appropriate to ask how valuable is  
11 the work which Special Branches do on behalf of  
12 the Security Service and what would be the implications  
13 of dropping or curtailing it."

14 The paper next moves to consider the definition of  
15 subversion, and contains important passages which  
16 criticise the use of the Harris definition of  
17 subversion. Of particular concern to F4 was the lack of  
18 any requirement for conduct to be unlawful before it  
19 could fall within the Harris definition. The relevant  
20 passages read:

21 "This definition has been repeatedly criticised by  
22 Mr Robin Cook MP and others, and contrasted with  
23 the definition of Lord Denning in his 1963 report that  
24 subversives are those who would 'contemplate  
25 the overthrow of the Government by unlawful means'.

1            "It is the absence in the present definition of  
2            a clear reference to unlawful activities which prompts  
3            most of the criticism. In the Adjournment debate  
4            initiated by Mr Cook on 7 November last year, Mr Brittan  
5            answered criticism that the present definition enabled  
6            Special Branches to spy on perfectly proper political or  
7            trade union activity by saying that the 'definition is  
8            such that both limbs must apply before an activity can  
9            properly be regarded as subversive'. In other words,  
10           there has to be an actual or potential threat to  
11           the safety or wellbeing of the State and an intention to  
12           undermine Parliamentary democracy which, taken together,  
13           in police terms will mean the detection of an illegal  
14           act or the prevention of a possible illegal act. In  
15           correspondence with Kevin McNamara MP we used the phrase  
16           that Special Branch officers are properly concerned with  
17           information relating to terrorism, subversion, or other  
18           breaches of the law. But it may be doubted whether  
19           these attempts to impart the concept of unlawfulness  
20           into the present definition of subversion are wholly  
21           successful."

22           I note that whilst focusing on whether  
23           the definition of subversion should require illegality,  
24           the paper dilutes the requirements of the Harris  
25           definition as to the degree of threat required by



1 interpreting it widely enough to include not only an  
2 actual but also a potential threat.

3 The paper records the difficulty that Special Branch  
4 officers were finding in practice in defining  
5 subversion. It states:

6 "There is certainly evidence that Special Branch  
7 officers find difficulty in practice in defining  
8 the proper boundaries of subversion ..."

9 And (quoting a senior police officer):

10 "... it is nowadays often difficult to establish  
11 where legitimate political activities end and subversion  
12 begins ... I am sure that no Special Branch officer  
13 doing his job efficiently can avoid becoming involved,  
14 at least on the fringe of legitimate politics (of either  
15 wing) ..."

16 On this issue, the author's conclusions show that  
17 they were clearly dissatisfied with the status quo, and  
18 felt it to be fundamentally flawed. They wrote:

19 "Neither the present definition of subversion nor  
20 the 1970 terms of reference assist officers in resolving  
21 this dilemma. Nor do they provide Ministers or chief  
22 officers with a water-tight basis on which to justify  
23 the work of police officers in investigating and  
24 recording the activities of subversives."

25 The concerns about the difficulties with

1 the definition of subversion are carried over into  
2 a discussion about recordkeeping, particularly in  
3 the context of the advent of computerised records.

4 The authors wrote:

5 "... it seems reasonable to assume that, in the area  
6 of subversion, the difficulty which arises in defining  
7 of proper extent of Special Branch interest also arises  
8 in deciding what information should be recorded ..."

9 And concluded:

10 "... The nature of information stored by  
11 special branches is in many respects secondary to  
12 the question what Special Branches are there to do.  
13 The more clearly the proper extent of their interest in  
14 subversion is defined, for example, the more easy it  
15 should be for officers to judge what they should record  
16 and what not. But there may also be a case for taking  
17 more positive steps, perhaps through HM Inspectorate, to  
18 ensure that forces' procedures for judging what to  
19 record and for weeding out or disposing of irrelevant  
20 information are satisfactory."

21 These are important observations and concerns in  
22 the context of our investigation. The intelligence  
23 reports from the Tranche 1 era that we have recovered  
24 were not computerised but, even so, we have retrieved  
25 SDS intelligence reports from both Metropolitan Police

1 and Security Service records, in large volumes, that  
2 date back 40 or 50 years or more. They contain a great  
3 deal of information about the private lives of a large  
4 number of people. The questions that you must ask, Sir,  
5 are not so very different from those being asked in  
6 the Home Office in 1980. Should all of this information  
7 have been recorded? Should it have been kept for so  
8 long?

9 The authors considered the accountability of  
10 special branches, about which they also had concerns.  
11 They observed that much of Special Branch's work is  
12 carried out on behalf of the Security Service, which  
13 meant that the Security Service had an important say in  
14 what work special branches actually did. However, they  
15 further observed that:

16 "... the Security Service does not, of course, have  
17 responsibility for the way in which that work is  
18 discharged."

19 As for police authorities and the Home Office, they  
20 wrote:

21 "Neither police authorities nor the Home Office have  
22 responsibility for Special Branch operations, any more  
23 than they have for the operational aspects of other  
24 police work. Chief officers are, generally speaking and  
25 for understandable reasons, reluctant to disclose to

1 police authorities anything other than the most general  
2 information about their Branches. The Home Secretary's  
3 national powers and responsibilities (including his  
4 special position in relation to the Security Service and  
5 the Metropolitan Police) mean, however, that  
6 the Home Office has more of an opportunity for  
7 influence. In recent years, a close working  
8 relationship has developed between the Home Office,  
9 the Security Service and MPSB, particularly on terrorist  
10 matters, and under pressure of events, this relationship  
11 is gradually being extended into other areas. But there  
12 are limits to which this is particularly so, of course,  
13 in relation to provincial Special Branches. The role of  
14 the Home Office in this area is often limited to picking  
15 up the pieces after some unfortunate incident."

16 In their concluding section, the authors returned to  
17 their unease about the definition of subversion, writing  
18 that:

19 "... there are a number of respects -- most notably  
20 that in relation to the monitoring of subversion -- in  
21 which it is difficult to ensure that very generalised  
22 definitions are easily turned into readily defended  
23 operations and procedures."

24 And calling for:

25 "... a more coherent and coordinated approach on

1 the basis that we, the Security Service and the police  
2 have a clear and common view of what Special Branches  
3 are for and what they are doing."

4 They then turned to some of the difficulties which  
5 they foresaw in trying to establish such an approach:

6 "The difficulties in the way of developing this sort  
7 of approach are obvious. There is the inherent  
8 sensitivity of the work Special Branch do. There is  
9 the operational independence of Chief officers and,  
10 equally important in this case, of the Security Service.  
11 There are the operational jealousies of the police and  
12 the Service. There is the need for us to define more  
13 clearly our own role and to recognise the limitations,  
14 eg because of lack of information, and the need to  
15 distance the Home Secretary from the details of  
16 operations, which must inevitably be placed upon it."

17 The paper concludes by proposing five possible ways  
18 in which to take matters forward. Of particular  
19 importance for our purposes are the first two, which  
20 read:

21 "(i) we might seek a further discussion with  
22 the Security Service on the question of the work done by  
23 Special Branches on behalf of the Security Service.  
24 Sir Robert Armstrong chaired such a discussion in  
25 December 1978 but matters have moved on since then and

1 a meeting now might deal in particular with  
2 the questions of the revision of the terms of reference  
3 and of the definition of subversion. It is for  
4 consideration at what point HMCIC and the head of MPSB  
5 should be brought in;

6 "(ii) we might try to define more clearly  
7 the justification for and proper limits of Special  
8 Branch and Security Service interest in some of the more  
9 sensitive issues. A good current example is race ..."

10 We also have annex B to the discussion paper, which  
11 is F4's draft consolidation and updating of the 1970s  
12 terms of reference for Special Branch. Of particular  
13 note are the proposed revision to the definition of  
14 subversion and proposed guidance on the collection and  
15 dissemination of intelligence about the subversive  
16 background to public disorder. The proposed revision to  
17 the terms of reference read:

18 "Subversive activities are defined as those which  
19 threaten the safety or wellbeing of the state, and which  
20 are intended to undermine or overthrow Parliamentary  
21 democracy by political, industrial or violent means.  
22 This includes the activities of organisations or  
23 individuals which, while operating at present within  
24 the law, have as their long-term aim the overthrow of  
25 Parliamentary democracy."

1           The proposal is striking. It would have included  
2 activity which was both lawful and posed no current  
3 threat to the continuation of parliamentary democracy.  
4 For example, a group such as the Workers Revolutionary  
5 Party, on the evidence that we have received about it,  
6 would appear to fall within the proposed definition,  
7 whereas it does not appear to fall within the Harris  
8 definition.

9           Turning to the guidance on the subversive background  
10 to demonstrations, paragraph 7 of the draft revised  
11 terms of reference stated:

12           "In consultation with the Security Service, to  
13 investigate any subversive background to demonstrations  
14 and breaches of public order. The function at 1 above  
15 [which is the provision of intelligence affecting public  
16 order] will provide the opportunity for the collection  
17 of information about subversive elements, whether  
18 individuals or organisations, in a particular  
19 demonstration. Investigations should go no further than  
20 is necessary to fulfil the function and should be  
21 conducted with sensitivity in order to avoid any  
22 suggestion that the Special Branch is investigating  
23 legitimate expression of views."

24           For consideration is whether the above wording, if  
25 it had been adopted in the terms of reference, might

1 have brought about a change in the approach to  
2 intelligence-gathering which we have heard former SDS  
3 officers give evidence about, an approach which seems to  
4 have involved applying little if any filter to what was  
5 reported and/or recorded.

6 Before I move to the significant covering note which  
7 accompanied the internal discussion paper, I pause to  
8 deal with an important but undated note from  
9 David Heaton to Mr Andrew and Mr Wright. It seeks  
10 Sir Brian Cubbon's views about the continuation of  
11 the examination of the terms of reference for  
12 special branches. Although it is hard to be sure, this  
13 document appears to pre-date the discussion paper. Of  
14 particular significance is the section of the note which  
15 deals with the terms of reference. It is apparent that  
16 it was thought that the consolidated and updated terms  
17 of reference for Special Branch were needed particularly  
18 in order to ensure that there was ministerial approval  
19 and authority for the work done by special branches on  
20 behalf of the Security Service. However, the draft  
21 consolidation had not satisfied David Heaton. It is not  
22 absolutely clear whether he is referring to the draft  
23 terms of reference which I have just spoken to or some  
24 earlier version, but Mr Heaton wrote:

25 "This consolidation has now been done but it has



1 proved to be more of a shoring up than a pulling  
2 together and the result is a poor thing. It is clear  
3 that no consolidation based on the 1970 terms of  
4 reference can be satisfactory. This is because those  
5 terms of reference begged a number of important  
6 questions which would have to be examined if  
7 consolidated terms of reference were to be issued,  
8 whether under the imprimatur of ACPO or the Home Office.  
9 These questions are:

10 "a. How can the work of police officers (which all  
11 members of Special Branches are) in investigating  
12 subversion, as currently defined, be justified given  
13 that the definition covers some activities which are  
14 not, as such, unlawful? The current working definition  
15 of subversion is:

16 "'Activities threatening the safety or well being of  
17 the State and intended to undermine or overthrow  
18 Parliamentary democracy by political, industrial or  
19 violent means'.

20 "b. How valuable is the work which Special Branches  
21 do on behalf of the Security Service and what would be  
22 the implications of dropping or curtailing it?

23 "c. Should Special Branches be involved at all in  
24 such areas as carrying out enquiries relating to  
25 immigration control?

1           "d. Who should have effective control over  
2 individual Special Branches and decide on the extent of  
3 their activities; the chief officer of the force  
4 concerned or the Security Service?

5           "These are all questions of major importance which  
6 need careful examination before answers can even be  
7 sketched out. Time and effort would be needed for such  
8 an examination. We now therefore need to decide whether  
9 to proceed further or whether to let the current terms  
10 of reference and Security Service circulars stand as  
11 they are.

12           "The arguments for continuing the examination  
13 further are first the simple one that times have changed  
14 since the present terms of reference were issued and it  
15 seems only prudent to look at them again to see if they  
16 are still sensible. Second, there is no point in  
17 Special Branches doing sensitive work likely to attract  
18 public criticism if examination would show that such  
19 work was not really necessary or not necessary to such  
20 an extent. Third, new terms of reference issued after  
21 such an examination would, it is to be hoped, dispel  
22 most of the anxieties felt by Special Branch and chief  
23 officers about accountability and control and reassure  
24 them about Ministerial approval and support for their  
25 work.

1           "Against these arguments stand the Security Service  
2 who have pointed out that the original proposal to  
3 consolidate the 1970 terms of reference was made at  
4 a time of Ministerial questioning of the role of  
5 Special Branches, and that part of its purpose was seen  
6 as reassurance to Ministers vulnerable to critics of  
7 Special Branches. There is also a Pandora's Box  
8 argument ie that if we once undertake a radical  
9 re-examination of the basis of Special Branches work we  
10 may well destroy the confidence built up between  
11 chief officers, Special Branches and  
12 the Security Service, not to speak of the relationship  
13 which the Home Office has with each of them. Finally,  
14 there is a question of resources. At present F4 has not  
15 the capacity to undertake such a major exercise: either  
16 more staff (? A Principal) would be needed (admittedly  
17 only for a limited period) or some current work in F4  
18 would have to be diverted elsewhere."

19           Returning now to the covering note which accompanied  
20 the October 1980 discussion paper, Mr Heaton, in this  
21 document, expresses the view that the Home Office could  
22 not do nothing.

23           "I attach a copy of the paper. It is an admirable  
24 and comprehensive analysis. The question is where do we  
25 go from here. There are obvious constraints -- not

1 least the sensitivities of the Security Service,  
2 the operational independence of chief officers and  
3 the limited resources which, given F4's other heavy  
4 commitments, we can afford to devote to this area. But  
5 the issues are too important to allow us to do nothing.

6 "...

7 "The first two proposals, particularly the question  
8 of the terms of reference and of the definition of  
9 subversion, are more important but also more abstract  
10 and difficult. You may like to have the issues in mind  
11 when you visit the Security Service with [the Secretary  
12 of State] on 22 October, and thereafter to have  
13 a meeting with Mr Andrew, Mr Phillips and myself to  
14 consider how best to proceed."

15 We are continuing our investigation of the issues  
16 raised in these important documents and will need to  
17 consider them further once our investigation is  
18 complete. In particular, they will need to be analysed  
19 in the context of the totality of the Module 2(b) and  
20 Module 2(c) evidence and the legal framework.

21 Police regulations and general orders.

22 The police disciplinary regime during the Tranche 1  
23 era was provided The police  
24 (Discipline)(Amendment) Regulations 1967, a copy of  
25 which we are publishing today. I apologise for the poor

1 copy quality. Of particular note is regulation 1,  
2 discreditable conduct, which appears wide enough to  
3 cover inappropriate sexual activity by  
4 undercover police officers. It reads:

5 "Discreditable conduct, which offence is committed  
6 where a member of a police force acts in a dis-orderly  
7 manner or any manner prejudicial to discipline or  
8 reasonably likely to bring discredit on the reputation  
9 of the force or the police service."

10 Regulation 15 is relevant to situations where  
11 undercover police officers committed criminal offences,  
12 at least where the offence is committed without proper  
13 authority. It provides:

14 "Criminal conduct, which offence is committed where  
15 a member of a police force has been found guilty of by  
16 a court of law of a criminal offence."

17 We have obtained and are posting on the website  
18 the Public and Other Events section of both the 1969 and  
19 1982 editions of the Metropolitan Police General Orders  
20 and Regulations. I do not propose to summarise all of  
21 the relevant provisions now but make four specific  
22 observations.

23 First, the General Orders make clear the role of  
24 the section of the Metropolitan Police known as "A8" in  
25 relation to public meetings involving groups at the far

1 ends of the political spectrum. Paragraph 59 of both  
2 the 1969 and 1982 General Orders reads:

3 "Early notification of all important meetings of  
4 communists, fascists, or other similar political  
5 organisations is to be sent by telephone in urgent cases  
6 to Special Branch and A8, giving the time and place and,  
7 if possible, the names of the principal speakers."

8 Secondly, the 1969 and 1982 orders deal at  
9 paragraph 67(2) with police powers to enter private  
10 premises, stating that:

11 "It must be remembered, however, that police have  
12 a Common Law right of entry in certain circumstances, eg  
13 fear of a breach of the peace or anticipation of  
14 seditious speeches."

15 Thirdly, the 1969 and 1982 orders both deal at  
16 paragraph 68 with the attendance of plain clothed police  
17 officers at meetings, requiring that:

18 "Officers in plain clothes on duty at meetings  
19 should obtain copies of all handbills and pamphlets  
20 distributed or sold, which will be submitted with their  
21 reports. Whenever practicable three copies should be  
22 obtained."

23 Fourthly, in relation to racial disturbances,  
24 the 1969 orders state at paragraph 76A that:

25 "Brief information of all disturbances or incidents

1 where there is some racial significance is to be sent  
2 forthwith by teleprinter to A7 and confirmed by a report  
3 in triplicate, with an additional copy for  
4 Special Branch."

5 Paragraph 76A of the 1982 orders contained  
6 significantly developed provisions in relation to racial  
7 incidents. It provided that:

8 "(1) Any incident, whether concerning crime or not,  
9 which is allegedly by any person to include an element  
10 of racial motivation, or which appears to the reporting  
11 or investigating officer to include such an element,  
12 will be reported to the District Community Liaison  
13 Officer.

14 "(2) In addition to (1) above, any such incidents  
15 which may have serious impact upon community relations  
16 or arouse media interest will be reported immediately to  
17 A7, A8, Special Branch, Press Bureau and the District  
18 CLO by teleprinter using the coded format 'RACINC' which  
19 is contained in the MP Directory. A full report will be  
20 submitted in confirmation.

21 "(3) Serious racial disturbances will be reported  
22 in accordance with the instructions contained in  
23 para 95."

24 Further UCO reporting and associated documents.

25 We are adducing 54 further reports and other

1 documents not previously published, which predominantly  
2 originate from Tranche 1 UCOs and are relevant to their  
3 deployments and/or Non-State Core Participants. A table  
4 of attribution, as far as it is known, has been provided  
5 to assist comprehension of these documents.

6 Open transcripts and excerpts from the Tranche 1  
7 closed hearings.

8 Last autumn we called five fully anonymous former  
9 SDS undercover police officers from the Tranche 1 era to  
10 give oral evidence at a closed hearing. The transcripts  
11 of those hearings have been put through the Inquiry's  
12 restrictions order process and are being published  
13 today. There are five attributed transcripts together  
14 with some unattributed excerpts. The officers concerned  
15 are HN21, HN41, HN109, HN302 and HN341. Time does not  
16 permit me to introduce all of this material, but I will  
17 mention some of the salient features.

18 HN21.

19 HN21 infiltrated the Socialist Workers Party at the  
20 end of the 1970s and start of the 1980s. Like most SDS  
21 undercover officers, he was a married man. He gave oral  
22 evidence that he had had sex on two occasions, six or  
23 seven months apart, with a woman whom he had got to know  
24 quite well at an evening class he attended whilst  
25 undercover. He stated that the woman was apolitical and



1 not an activist. He socialised with her as part of  
2 a small group. His evidence about the first time was  
3 that they had both been drinking and:

4 "It was one evening whereby she was living in  
5 [redact] and she was quite frightened and I stayed  
6 overnight because one of the guys [redact] had been  
7 making approaches to her and she was a bit frightened  
8 and I stayed there one, one evening til slightly later  
9 and then, and then it happened. We weren't too pleased  
10 about it because we were friends."

11 HN21 described the second occasion on which he had  
12 sex with the same woman in the following terms:

13 "I accept there was one other occasion when she  
14 moved flat [redact], so I, it was one of the things  
15 that, because I had a car, you shift stuff around and  
16 that happened at her new flat and that was just  
17 a relaxing time, but it was some time afterwards."

18 HN21 described getting amorous, by which he meant  
19 kissing and cuddling the woman on other occasions.

20 HN21's oral evidence about sexual activity in his  
21 undercover identity was inconsistent with his witness  
22 statement which refers to two women. HN21 raised  
23 the fact that he wished to change his evidence in this  
24 regard prior to the hearing and, at the hearing,  
25 described the reference to the second woman in his

1 witness statement as a mistake which he did not spot  
2 before he signed the statement.

3 HN21 described being a part of the small group of  
4 friends to which he and woman he accepts that he had sex  
5 with belonged, and attending events with them was quite  
6 important to his cover. He stated that he had alluded  
7 to his back story but did not go into detail with her.  
8 He used contraception.

9 He expressed regret about what he had done but could  
10 not explain why he did it, saying initially, "I don't  
11 really know". He later said:

12 "... It was a particular time and place which was  
13 slightly surreal and there were occasions when you were  
14 deployed that became surreal. It became unreal. You  
15 forgot about what your actual work was and you started  
16 to relax, which is really dangerous. That's when things  
17 go terribly wrong. So I regret from a personal point of  
18 view, from my upbringing and also from a professional  
19 point of view, but it was a weakness which I regret."

20 And he said:

21 "... it was me not being professional and not  
22 following what I should have done."

23 HN21 knew what he did was wrong and said that he did  
24 not tell anyone.

25 HN21 also gave significant evidence of his

1 experiences whilst infiltrating the SWP, including being  
2 involved in violent incidents and being directed to  
3 attend Blair Peach's funeral, which he did to identify  
4 people there. As to who was initiating violence on  
5 the streets, he stated:

6 "It depended on exactly where it was and how many  
7 people were there. From the SWP side, it was mostly  
8 shouting. From the Far Right thing, it was mostly  
9 physical violence. You know, you knew if the police  
10 weren't there, then you would have to run for it."

11 He described Maoist activists being violent towards  
12 the police, stating:

13 "... it was mostly scuffles, but, against  
14 the police, it was full-on, full-on [redact]. Yes, they  
15 were a very strange bunch."

16 HN21 has provided the Inquiry with a name for  
17 the woman with whom he had sex during this deployment.  
18 We have attempted to identify and locate the woman in  
19 question using an inquiry agent. However, those  
20 inquiries did not produce details of any person who  
21 sufficiently fitted the information which the Inquiry  
22 has about the woman in question from HN21 to justify an  
23 approach.

24 HN41 was present at the demonstration in  
25 Sir John Waldron at which Blair Peach died. He may have

1 provided intelligence in advance about this event. His  
2 managers had some reservations about his  
3 attending "because uniform police were going to clamp  
4 down on the demonstrations". He provided a statement to  
5 police investigating Blair Peach's death, but he had no  
6 involvement with material events and did not recall  
7 coming across Mr Peach during the day.

8 HN109.

9 HN109 is one of the few officers from the Tranche 1  
10 era who recalls any written training material. However,  
11 he cannot recall there being any written instruction  
12 about sexual contact with people in his undercover  
13 identity. He does recall oral instructions to  
14 the effect that it was not permitted and understood that  
15 the SDS recruited married officers because:

16 "... it had the potential to prevent involvement  
17 with others in sexual contact."

18 He received glowing reports for his work which was  
19 described as extremely important to Special Branch and  
20 Security Service. He recalls congratulations from  
21 Downing Street being passed to the SDS for success in  
22 combating public disorder.

23 HN302.

24 HN302 gave evidence that whilst undercover and  
25 building up his cover he met a woman at meetings and got

1 to know her over a period of months. He could not  
2 remember her name. He said that he did not deliberately  
3 pick her out but that a certain frisson developed  
4 between them. He socialised with her both with others  
5 and alone. He felt that their friendship bolstered his  
6 cover. He described her as a "peripheral activist" whom  
7 he did not see again after they had sex. He said that  
8 he had sex with the woman after an evening in the pub in  
9 circumstances where both had been drinking but neither  
10 were drunk. He invited her back to his bedsit where  
11 they had sex. He used contraception. She did not know  
12 that he was a police officer and he suspects that she  
13 would not have consented had she known. He thought  
14 having sex with her might have enhanced his cover, but  
15 it didn't. He answered no when asked whether it had  
16 crossed his mind that he was a police officer on duty  
17 during this episode. He did not tell his supervisors or  
18 superiors because he didn't think that it was necessary.  
19 He thinks that if he had told them he would have been  
20 given words of advice. He told no one else.

21 On the question of subversion and revolutionary  
22 potency of the groups that he infiltrated, HN302 said:

23 "Given the opportunity and leadership and right  
24 catalyst, the social circumstances perhaps at the time,  
25 I believe there was a possibility that that outcome

1 might have taken place or [been] attempt[ed]."

2 HN341.

3 HN341 gave evidence of a relaxed and communal  
4 atmosphere in the safe house but did not recall any  
5 conversation about women being targeted or women in  
6 the groups being targeted, or UCOs sleeping with women.  
7 He felt that he had provided valuable public order  
8 intelligence during the course of his deployment, which  
9 was its primary purpose. His deployment was terminated  
10 after an incident which was stress related. He found  
11 the work very stressful and smoked and drank a great  
12 deal to self-medicate.

13 Unattributed excerpts.

14 On the topic of using deceased children's items, one  
15 officer gave evidence that he decided to adopt some  
16 particulars of a deceased child and did so after his  
17 managers accepted the proposal. Another officer recalls  
18 being told by "the office" that HN297, Richard Clark's  
19 cover had been blown when he was presented with  
20 the death certificate of the child whose particulars he  
21 had adopted.

22 An officer gave evidence that during the course of  
23 his deployment he attended a small wedding in his  
24 undercover identity having been invited and secured  
25 the authority of his managers. He also babysat during

1 the course of his deployment. He did both because they  
2 were good for his cover. The same officer also took  
3 cannabis during the course of his deployment.

4 An officer witnessed violence on one of  
5 the occasions on which HN13, who used the cover name  
6 "Barry" or "Desmond Loader" was arrested and describes  
7 Maoists as being involved in the fighting. The officer  
8 himself was chased by supporters of the far right.

9 In relation to the industrial dispute at  
10 the Grunwick factory, one officer describes attending  
11 about half a dozen times, witnessing some violence and  
12 his managers being pleased with the intelligence which  
13 the undercover officers were providing. Another recalls  
14 being present and telephoning through intelligence  
15 consistent with that described in the SDS annual report  
16 for 1977.

17 In relation to the Battle of Lewisham and sort of  
18 advance intelligence provided by the SDS, one witness  
19 stated that the sort of intelligence provided was:

20 "That it was going to kick off. That it was, that  
21 this was going to happen. If they marched that  
22 particular route at that particular time, coming up that  
23 road, then a lot of my comrades seemed to be aware of  
24 where they were going to come out or the only possible  
25 way they could go and so the focus was on that, on that

1 particular area."

2 On the topic of sexual relationships, one witness  
3 described HN67, who used the cover name "Alan Bond"  
4 being ribbed, or subjected to banter by, possibly,  
5 Vince Harvey suggestive that HN67 might have fathered  
6 a child:

7 "... I think one of the words was 'I saw somebody  
8 pushing a pram and it looked just like you', or  
9 something in that region. I thought this was a bit of  
10 banter, but I didn't think there was any basis in that  
11 particular comment."

12 A witness described HN300 "Jim Pickford" as a sexual  
13 predator and an alcoholic but was not aware that HN300  
14 had married someone he met in his undercover identity.

15 A witness described HN297 Richard Clark as  
16 a womaniser and a carnivore. He also recounted that  
17 Clark had told him that "he had been involved in in fact  
18 two sexual relationships which led to his compromise".  
19 However, the witness was convinced that Richard Clark  
20 would not have told Geoffrey Craft about his sexual  
21 activity:

22 "Because Geoff Craft's attitude was sort of  
23 conservative and straight down the line and I cannot  
24 believe for a second he wouldn't have been apoplectic  
25 about that and we wouldn't have all been lectured at



1 length about it. I am sure he and the office weren't  
2 aware, utterly convinced of it."

3 The same witness went on to describe being shocked  
4 because of the amount of Richard Clark's compromise  
5 given in the safe flat by his managers was not the one  
6 that he was later given in the pub:

7 "I was shocked ... Because I had been told a story,  
8 and I can't remember whether it was on the same day,  
9 I am sure it probably was on the same day, in the, in  
10 the flat about him being presented with a birth  
11 certificate and then I am getting a completely different  
12 story in the pub and I just thought it was, leaving  
13 aside the morality of it, it was incredibly stupid to do  
14 that sort of thing whilst you were engaged in undercover  
15 work because it was a quick road to disaster, as it  
16 turned out to be for him."

17 He described the conversation in the pub as  
18 involving four, five or six people in the pub. He did  
19 not report what Richard Clark had said to management.

20 The same officer also gave evidence that HN300  
21 "Jim Pickford" had confessed to falling in love with  
22 someone in the group, although not to actually entering  
23 into a relationship. The officer explained the position  
24 to the office and that rapidly led to HN300's withdrawal  
25 from his deployment in December 1976. The witness

1 described "Jim Pickford" as a man who couldn't hold  
2 himself, not a carnivore but a man who:

3 "... genuinely fell in love with people all over  
4 the place."

5 When asked who in the office he had spoken to,  
6 the officer stated that it was Agnus McIntosh. He said  
7 managers did not speak to officers about what had  
8 happened to the officer who used the name "Jim Pickford"  
9 and dangers of relationships.

10 When told of the other undisputed sexual activity  
11 which the Inquiry has received evidence of in Tranche 1,  
12 he said that he was shocked at the stupidity and  
13 wrongness of it.

14 A witness recalls Richard Clark saying that there  
15 was a lot going on in his group as far as "horizontal  
16 politics" was concerned, meaning sexual activity.

17 Another witness recalls that:

18 "Rick had a certain reputation and it gradually came  
19 out that he had a sexual relationship which led to his  
20 being compromised, and that was, to my way of thinking,  
21 generally well known among the existing SDS officers."

22 The Tranche 1 Phase 3 witness statements:

23 A number of broad observations can be made about  
24 the content of the witness statements that we have  
25 obtained for this phase of the Inquiry's hearings.

1           These observations are, of course, subject to the oral  
2           evidence which is to come. There are also many other  
3           issues that I and other members of the counsel team will  
4           be exploring in oral evidence with those who are being  
5           called.

6           All of the witnesses had prior experience within  
7           Special Branch before assuming either an administrative  
8           or managerial post within the SDS.

9           There is no evidence of a formal application process  
10          for a role within the administration or management of  
11          the SDS.

12          All state that there was no formal training provided  
13          specifically for a role within the management or  
14          administration of the SDS. Any training was informal  
15          and on-the-job.

16          The SDS, as a unit, issued no formal guidance to its  
17          officers to set boundaries when it came to the extent to  
18          which undercover officers interfered with private lives,  
19          became involved in sexual activity in their undercover  
20          identity or reported on legal professional privilege.

21          There was no equality or diversity training.

22          Although some of the early witnesses had attended  
23          meetings or demonstrations in plain clothes whilst in  
24          the SDS, none of the witnesses worked undercover in an  
25          assumed identity.

1           There are differing recollections about who made  
2 decisions on targeting and tasking.

3           None of the witnesses states that he was aware of  
4 any sexual activity between contemporary SDS  
5 undercover officers and people whom they met undercover.  
6 However, there is some evidence of an awareness of  
7 the risk that this might occur.

8           None of the witnesses give first-hand  
9 contemporaneous evidence of the SDS's decision to adopt  
10 the practice of using deceased children's identities as  
11 part of the process of building a cover identity. There  
12 is evidence that the SDS was not the first either to  
13 have the idea or to use this technique. Many witnesses  
14 give evidence to the effect that the technique improved  
15 the officer's cover and/or that they did not think that  
16 the families would ever find out.

17           There is evidence relevant to the arrests and  
18 prosecutions of the officers who used the cover names  
19 "Michael Scott" and "Desmond/Barry Loader" none of which  
20 suggests that the relevant courts knew that the men in  
21 front of them were undercover police officers.

22           No Phase 3 witness states that he knew of violence  
23 being used by an SDS undercover police officer.

24           The managers' evidence is that trade unions were not  
25 specifically targeted and any reporting about trade

1 unions arose because the SDS's targets were involved  
2 with them.

3 Next steps.

4 The approach that we have taken in Tranche 1 has  
5 been to publish evidence relating to the management of  
6 the SDS, the dissemination of its reporting and  
7 involvement of relevant government bodies as we have  
8 proceeded. Thus, some Module 2(b) and Module 2(c)  
9 evidence has already been adduced. However, our work is  
10 ongoing in this area. We are moving away from our  
11 original plan, which was to deal with these issues in  
12 a separate tranche, Tranche 6. Instead, we are seeking  
13 to deal with them by incorporating them into  
14 the chronological approach that we are taking in  
15 Tranches 1 to 4.

16 The approach that we are taking to evidence  
17 gathering in Module 2(b) -- that is to say senior  
18 management and dissemination of intelligence -- was  
19 recently outlined with the Draft Module 2(b) issues list  
20 that we have circulated for submissions. A draft  
21 Module 2(c) issues list will also be produced and  
22 circulated for submissions.

23 The Inquiry has been notified that sadly both HN80  
24 who used the cover name "Colin Clark" and HN106, who  
25 used the cover name "Barry Tompkins" have passed away.

1 I know that you, Sir, will be considering whether to  
2 review the restriction orders which prohibit publication  
3 of their real names.

4 We will need, amongst other things, to cover  
5 the legal framework. It is essential to the assessment  
6 of whether the SDS's activities were justified and to  
7 the fulfillment of other parts of the terms of  
8 reference. In that regard, we are grateful to  
9 Ms Kilroy QC and her team for the helpful legal  
10 submissions that she is going to make at this hearing  
11 and which we have had advance sight of. We are  
12 considering them. We also anticipate that state  
13 core participants will wish to respond once they have  
14 had sufficient opportunity to do so.

15 Once our Module 2(b) and 2(c) investigations are  
16 further advanced, decisions will be taken, based on  
17 the evidence obtained, as to whether oral hearings will  
18 be necessary in relation to the tranche era.

19 I know, Sir, that you wish to produce an interim  
20 report in order to enable those who had participated in  
21 Tranche 1 to have your findings without having to wait  
22 until the end of the Inquiry. The scope of that report  
23 is a matter which I also know you will be considering  
24 once the further Tranche 1 era investigations that  
25 I have just mentioned are further advanced.

1           The timescale will, of course, be dependent upon  
2           the scope of the interim report and the completion of  
3           the necessary investigations. Those who have  
4           participated in Tranche 1, including those representing  
5           the coordinating group of Non-State Core Participants,  
6           will be afforded the opportunity to make closing  
7           submissions in due course.

8           Turning to Tranche 2, we intend to start evidential  
9           hearings in the spring of 2024. Unlike Tranche 1, we  
10          are preparing to hear the evidence of officers and  
11          relevant managers within the SDS without the long gaps  
12          between phases that have been necessary in Tranche 1. I  
13          am afraid that it is not possible to provide a firm  
14          timetable for the remainder of the Inquiry at this  
15          stage. Work is ongoing on tranches 3 and 4 concurrently  
16          with our work on tranches 1 and 2.

17          Finally, I would like to thank all of those who have  
18          contributed to the preparations for this phase of  
19          the Inquiry's work. As with previous phases, it has  
20          involved a great deal of effort on the part of a great  
21          many people both within and outside the Inquiry. We are  
22          agree.

23          THE CHAIRMAN: Thank you, Mr Barr. We will now take an hour  
24          off for lunch, and we'll therefore resume at 2.05,  
25          rather than 2 as planned. We will hear, I anticipate,

1 from Mr Skelton, counsel for the Acting Commissioner of  
2 the Metropolitan Police.

3 (1.06 pm)

4 (The short adjournment)

5 (2.05 pm)

6 THE CHAIRMAN: Mr Skelton?

7 Opening statement by MR SKELTON

8 MR SKELTON: Sir, thank you.

9 So, before I start, it may help if I make clear that  
10 for the most part, this oral opening statement follows  
11 the structure and contents of MPS's written opening,  
12 which I know you have. However, it does omit several  
13 quotations, and in a few key respects advances some  
14 additional points.

15 THE CHAIRMAN: Yes.

16 MR SKELTON: So this is the third phase, P3, of  
17 the Inquiry's first tranche, T1, in which it will hear  
18 evidence from some of the SDS's managers during  
19 the years 1968 to 1982.

20 This period includes the establishment of the SDS on  
21 30 July 1968, in response to the Grosvenor Square  
22 demonstration against the Vietnam War on 17 March 1968,  
23 and its evolution into a long-term secret MPS  
24 Special Branch, which I will call "MPSB", unit for  
25 gathering intelligence on a wide range of public order,



1           subversion and interrelated issues.

2           It also includes the first use of the identities of  
3           deceased children by undercover officers, who I will  
4           call UCOs, in the SDS, the first inappropriate  
5           sexual relationships by UCOs, and the first engagement  
6           of UCOs in criminal activity and the criminal justice  
7           system.

8           So the MPS has previously set out its position in  
9           respect of all of these issues, together with wider,  
10          generic themes -- what went wrong? What has changed? --  
11          in its opening statements for T1 P1 and T1 P2. It has  
12          also apologised to the women who were deceived into  
13          sexual relationships by undercover police officers and  
14          to the families of those whose children's identities  
15          were used by the SDS. And so those apologies are  
16          affirmed again now.

17          The focus of the written and oral statements for  
18          this phase is not, however, on the substantive issues  
19          that arise within T1. Rather, it is on the process and  
20          scope of the Inquiry's investigatory work.

21          First, for the Inquiry to fulfil its terms of  
22          reference "to examine the motivation for ... undercover  
23          police operations in practice", and to make findings in  
24          respect of the justification for the SDS's work, it must  
25          obtain witness evidence from officers who served in

1 the two bodies for whom the SDS primarily gathered  
2 intelligence: first, A8, uniform branch, which was  
3 responsible for public order policing; and, second,  
4 the Security Service, which was responsible for  
5 protecting the UK from subversion.

6 It should also obtain evidence from former officers  
7 who served in C Squad, the MPSB unit which was  
8 the principal conduit of SDS intelligence, and which  
9 directed the general focus of the SDS's work, collected  
10 and assessed its intelligence reports and disseminated  
11 to A8 and the Security Service the intelligence which  
12 they required. Some of this work has begun, but more,  
13 Sir, is needed.

14 Second, as the MPS made clear in its opening  
15 statement for the T1 P1 hearing in 2020, it is essential  
16 that the Inquiry explores and understands  
17 the historical, political and policing context of  
18 the work of the SDS as it evolved throughout the 1970s  
19 and thereafter.

20 As the MPS went on to say in its second opening for  
21 the T1 P2 hearing in 2021, this understanding must be  
22 based on evidence, not submissions, and can best be  
23 achieved by calling independent, neutral expert  
24 witnesses to give evidence at the public hearings.

25 Third, the Inquiry should provide details of any

1 relevant reading of open-source material that you, Sir,  
2 have read during your appointment. Any such  
3 information, particularly background and contextual  
4 evidence, should be ventilated openly and, where  
5 necessary, tested publicly.

6 Fourth, the Inquiry should ensure that its  
7 investigation of the origins of the use of deceased  
8 children's identities is comprehensive, and includes  
9 whether their use originated outside the SDS and  
10 pre-dated its work.

11 Sir, finally, at the conclusion of this statement,  
12 the MPS sets out its preliminary response to  
13 the Inquiry's proposal to produce an interim report, and  
14 to the question of how the Inquiry should approach its  
15 consideration of the laws and standards that were  
16 applicable at the time to the activities of the SDS,  
17 MPSB, the Security Service and the Government.

18 So I turn now to the Inquiry's terms of reference  
19 and list of issues.

20 The Inquiry's terms of reference direct it, in part,  
21 to investigate the role and contribution made by  
22 undercover policing towards the prevention and detection  
23 of crime; to examine the motivation for, and the scope  
24 of, undercover police operations in practice; to  
25 ascertain the state of awareness of undercover police

1 operations of Her Majesty's Government; to identify and  
2 assess the adequacy of the justification, authorisation,  
3 operational governance and oversight of  
4 undercover policing; and to investigate whether and to  
5 what purpose, extent and effect undercover police  
6 operations have targeted political and social justice  
7 campaigners.

8 In furtherance of those terms of reference,  
9 the Inquiry has published a list of issues for its  
10 investigation of the SDS in Module 1, and that comprises  
11 the examination of the deployment of SDS  
12 undercover officers in the past, their conduct and the  
13 impact of their activities on themselves and others, and  
14 it includes general questions relating to the targeting  
15 and initial authorisation and the prevention and  
16 detection of crime, and focus questions related to  
17 the justification and value of any UCO reporting on  
18 justice campaigns, the Stephen Lawrence Campaign and  
19 Duwayne Brooks OBE, elected politicians, political  
20 organisations and activists, trade unions and  
21 trade union members, social and environmental activists.

22 For Module 2(a), which involves managers and  
23 administrators from within the undercover policing  
24 units, the Inquiry has published a list of issues which  
25 contains similar questions, together with a further

1 question relating to what, if any, processes were in  
2 place to review the ongoing justification for  
3 deployments, and a set of specific questions relating to  
4 the relationship between the SDS and the  
5 Security Service. Similar questions have been included  
6 in the Inquiry's draft list of issues for Module 2(b),  
7 which was published for consultation purposes on  
8 19 April 2022.

9 So the MPS recognises the importance of these  
10 issues. As it stated in its first opening statement in  
11 2020, it also accepts that questions over whether  
12 specific deployments and actions occurred or were  
13 justified will depend on the facts in each case. It  
14 follows that they can only be answered once those facts  
15 are known.

16 The MPS will scrutinise all the evidence that  
17 the Inquiry obtains, and to be clear, it will not seek  
18 to justify the indefensible, and will acknowledge  
19 failings where it is appropriate to do so. But as  
20 I will now go on to explain, its present concern is to  
21 ensure that those matters are properly investigated by  
22 this Inquiry, so that any resulting findings are  
23 reasonable, fair and properly contextualised.

24 Before doing so, may I sound a note of caution on  
25 behalf of the MPS in respect of the reliance being

1 placed in the opening statements of the category  
2 H core participants on the judgment of the Investigatory  
3 Powers Tribunal, the IPT, in Kate Wilson's case.

4 That judgment focused on the deployment of one  
5 officer, Mark Kennedy, in a different policing unit,  
6 the National Public Order Intelligence Unit, over  
7 20 years after the T1 period. The tribunal's judgment  
8 on the legality of that deployment and the concessions  
9 made by the NPCC and the MPS on that issue are obviously  
10 instructive. But they should not be seen as  
11 establishing sweeping legal principles which render all  
12 public order and subversion-related undercover  
13 deployments wrongful or unlawful over a 50-year period.

14 On the contrary, Sir, the judgment is, as  
15 the tribunal itself recognised, fact-sensitive. And  
16 although this Inquiry is not determining questions of  
17 legal liability, it will need to establish the relevant  
18 facts for itself, and thereafter to make its own  
19 evaluation of them by reference to the principles and  
20 standards that have been set out transparently so all  
21 participants are aware of them.

22 So I turn now to the responsibilities of MPSB. As  
23 the Inquiry's focus has turned to the management of  
24 the SDS in the period 1968 to 1982, so greater attention  
25 is now being given to the relationship between the SDS

1 and MPSB, the relationship between MPSB and the MPS more  
2 widely, the relationship between MPSB and the  
3 Security Service, the respective responsibilities of  
4 MPSB and the Security Service, and the role and  
5 responsibilities of central government, in particular  
6 the Home Office and the Cabinet Office.

7 The Inquiry has designated many of these issues to  
8 its Tranche 6 and modules 2(b) and 2(c), and the MPS is  
9 reassured that it now appears to be accepted that  
10 investigation of these issues is a necessary part of  
11 the evaluation of what was happening on the ground  
12 within deployments.

13 Exploration of these issues is essential to meet  
14 the terms of reference, not just the element asking  
15 about awareness outside the police, but also to fairly  
16 assess the contribution made by undercover policing,  
17 the motivation for it, its justification and its  
18 oversight. This is as true for the fair assessment of  
19 the SDS in the 1968 to 1982 period, Tranche 1, as it is  
20 for other parts of undercover work allocated to other  
21 tranches

22 The work of MPSB, like that of all police  
23 Special Branches, was directed towards public order  
24 policing and the provision of specific assistance to  
25 the Security Service. These responsibilities were set

1 out in the terms of reference prepared in collaboration  
2 with the Security Service and other interested parties,  
3 and agreed with the Association of Chief Police Officers  
4 of England and Wales, ACPO, in 1970. Under  
5 the heading "Function", these stated.

6 "Special Branch is responsible for acquiring  
7 security intelligence, both secret and overt (a) to  
8 assist the Chief Officer in the preservation of public  
9 order, and (b) as directed by the Chief Officer to  
10 assist the Security Service in its task of defending  
11 the realm from attempts at espionage and sabotage and  
12 from actions of persons and organisations which may be  
13 judged to be subversive of the security of the State."

14 The wording of the second of MPSB's responsibilities  
15 echoes that of the Security Service's then charter  
16 the 1952 Maxwell-Fyfe Directive. And I'll read a small  
17 portion of that:

18 "The Security Service is part of the Defence Forces  
19 of the country. Its task is the Defence of the Realm as  
20 a whole, from external and internal dangers arising from  
21 attempts of espionage and sabotage, or from actions of  
22 persons and organisations whether directed from within  
23 or without the country, which may be judged to be  
24 subversive of the state."

25 The 14 specific tasks of Special Branch from 1970



1 include, at section 3:

2 "(a) To provide the Chief Officer with intelligence  
3 affecting public order; and. On behalf of  
4 the Chief Officer, the Security Service with  
5 intelligence affecting national security.

6 "(d) In consultation with the Security Service to  
7 collect, process and record information about subversive  
8 or potentially subversive organisations and individuals.

9 "(f) To investigation any subversive background  
10 to ..."

11 And this word I think is illegible:

12 "... demonstrations and breaches of public order;  
13 and, in consultation with the Security Service, to  
14 certain industrial disputes."

15 The Terms of Reference go on to state:

16 "It is important that Special Branches should have  
17 a clear idea of what constitutes 'persons and  
18 organisations which may be judged to be subversive of  
19 the security of the State'. Broadly speaking these are  
20 any organisation or individual whose purpose is  
21 the undermining or overthrow of the established  
22 democratic order."

23 Sir, it is clear from the written opening statements  
24 of Counsel to the Inquiry and from counsel for several  
25 Non-State Core Participants that critical questions

1           arise as to what constituted subversion for the purpose  
2           of the Security Service, the UK Government,  
3           the Metropolitan Police Special Branch, in the 1960s and  
4           the 1970s.

5           Were the individuals and groups on whom intelligence  
6           was gathered reasonably judged by MPSB, by  
7           the Security Service or by the UK Government, to be  
8           subversive or potentially subversive at the time by  
9           the standards of the time? And/or were they reasonably  
10          judged to present a threat to public order at the time  
11          by the standards of the time? Or, if they were  
12          reasonably judged to be subversive or to present  
13          a threat to public order, was there sufficient  
14          justification for gathering intelligence on them by  
15          means of undercover deployments?

16          Sir, answering these questions requires careful  
17          consideration of what was happening socio-politically 40  
18          to 50 years ago, and of the values and views of  
19          the government, the public and the police at that time.

20          As counsel for several Non-State Core Participants  
21          also rightly point out, these questions also engage  
22          important issues as to the proper role and limits of  
23          the state in protecting its citizens and itself from  
24          harm, and the proper place of the police in assisting  
25          with that protection.

1           The MPS does not seek to evade these questions or  
2           the answers they may produce, but its concern, as  
3           throughout the Inquiry, is to ensure that to the extent  
4           they are looked at, this is carried out fully, fairly  
5           and neutrally. In short, this means that appropriate  
6           evidence must be sought and tested.

7           The first type of evidence that the Inquiry should  
8           seek is historic documentation relating to  
9           the government's interest in subversion and public  
10          order.

11        THE CHAIRMAN: Forgive me a moment. Someone tried to enter  
12          the room. Ignore my signal, please.

13        MR SKELTON: Thank you, Sir. I'm glad it wasn't me.

14          At this time, as now, the Security Service operated  
15          under the supervision and direction of  
16          the Home Secretary, who in turn was answerable to  
17          the Prime Minister and their Cabinet. However, like  
18          other agencies in Whitehall, its lines of reporting were  
19          complex and subject to change.

20          In 1972, for example, it produced a report on  
21          "Subversion in the UK -- 1972" for the Cabinet  
22          secretary, Burke Trend, at the behest of the Prime  
23          Minister, Edward Heath, and later took part in the new  
24          Interdepartmental Group on Subversion in Public Life.  
25          Notably, this was chaired by James Waddell, later Sir

1 James Waddell, the deputy undersecretary of state at the  
2 Home Office, who from 1968 to 1974 was also personally  
3 responsible for approving the SDS's annual Home Office  
4 funding.

5 The group's attendees included the deputy assistant  
6 commissioner for MPSB and officials from  
7 the Security Service, the Cabinet Office, the Foreign  
8 and Commonwealth, as it then was, the Scottish Office  
9 and the Department of Employment.

10 Many of the inter-departmental groups reports and  
11 minutes, together with associated correspondence and  
12 memoranda, have now been declassified and are publicly  
13 available at the National Archives in Kew. Other  
14 classified documents may be directly available to the  
15 Inquiry from the Cabinet Office or other government  
16 departments.

17 These documents, Sir, are directly relevant to any  
18 understanding of the government's interest in, and  
19 monitoring of, subversion and potential subversion in  
20 the 1970s, including through the work of the SDS.  
21 Further documents may also be available that demonstrate  
22 the Government's interest in public order issues  
23 throughout the T1 period.

24 Where the MPS has located and holds copies of  
25 relevant documents, these will of course be provided to

1 the Inquiry. However, these are not MPS documents and  
2 the MPS has no more access to them than the public. And  
3 of course, not all of the documents are publicly  
4 available, at Kew or elsewhere. Therefore, the Inquiry  
5 is invited to exercise its powers -- its statutory  
6 powers to obtain all relevant documents directly from  
7 the Cabinet Office and the Government.

8 The second type of evidence that the inquiry should  
9 seek is witness evidence.

10 Thirteen former SDS managers from the 1968 to 1982  
11 period have provided witness statements to the Inquiry,  
12 of whom seven are providing evidence at this public  
13 hearing. Their evidence makes clear that the SDS worked  
14 in furtherance of MPSB's responsibilities for its two  
15 primary intelligence customers, A8, the uniform branch  
16 of the MPS responsible for public order policing, and  
17 the Security Service. The former, like the SDS, was set  
18 up specifically in response to the Grosvenor Square  
19 demonstration on 17 March 1968.

20 For most of the 1970s, the MPSB unit with primary  
21 responsibility for meeting the intelligence requirements  
22 of A8 and the Security Service was C Squad, which  
23 specialised in intelligence on domestic extremism,  
24 communism and subversion and public order.

25 The SDS was originally an independent unit within

1           MPSB sitting outside the operational squads A, B, C, D,  
2           E and P, for "Ports". However, from late 1972 or early  
3           1973, it became part of C Squad, and from July 1974 it  
4           was part of the newly created S squad, which was formed  
5           to coordinate the various technical and support  
6           functions performed by Special Branch.

7           So this is relevant to any understanding of the  
8           SDS's role and how the squad sat within MPSB's wider  
9           work.

10           C Squad officers also directly answered  
11           the Security Service's specific requests for information  
12           and disseminated hundreds of relevant SDS intelligence  
13           reports to them at Box 500. The magnitude and the  
14           unremitting nature of C Squad's and the MPSB's work for  
15           the Security Service and for A8 is illustrated by  
16           a memorandum written by Commander Rollo Watts following  
17           a meeting between MPSB and the Service on  
18           11 October 1976, and this states at paragraph 3 -- I  
19           quote:

20           "Chief Superintendent R Wilson, then spoke about  
21           manpower difficulties on his [C] Squad -- theoretically  
22           60 officers usually reduced by other commitments to  
23           about 30 at any one given time. Despite this, however,  
24           between 250 to 300 enquiries were completed for Box 500  
25           every month. He stated however, that he was bound by

1 the primary objectives of the Police Service, to give  
2 priority to enquiries which related to matters of public  
3 order. Mr Watts emphasised this point by explaining  
4 that Special Branch were responsible for something in  
5 the region of 600 to 700 pre-demonstration assessments  
6 every year for the information of the Uniform Branch."

7 It is clear from the managers' evidence that the SDS  
8 did not set the intelligence requirements that drove  
9 the tasking of its undercover deployments. Nor, for  
10 the most part, did it pass intelligence directly to its  
11 ultimate customers. This process was directed and  
12 mediated primarily by C Squad, based on the requirements  
13 of A8, public order, and the Security Service,  
14 subversion, etc, and the MPSB B Squad, Irish  
15 nationalism. Within C Squad, detective inspectors  
16 occupied specific posts relating to  
17 the Security Service, the ultra left, special  
18 demonstrations, and the Communist Party.

19 The SDS also didn't assess, in the formal sense of  
20 collate and analyse, the intelligence that its officers  
21 gathered. Intelligence relating to public order was  
22 disseminated elsewhere for analysis and action. For  
23 example, it was converted by C Squad into sanitised  
24 pre-demonstration assessments, which I have referred to,  
25 also known as "threat assessments", for the benefit of

1 A8, although urgent public order intelligence could be  
2 telephoned directly to A8 at a high level.

3 Intelligence relating to subversion was passed by  
4 C Squad in its original, unsanitised form directly to  
5 the Security Service. And in respect of the specific  
6 intelligence work undertaken by the SDS between 1968 and  
7 1982, the task of producing a comprehensive, objective  
8 assessment of its justification and value on a granular  
9 level, deployment by deployment or report by report, is  
10 impossible.

11 The exercise of asking the undercover officers,  
12 their managers -- and their managers to do so 50 or  
13 60 years -- 40 or 50 years after the index events is  
14 inherently problematic and unfair. The events are too  
15 long ago and the causative pathways and the  
16 counter-factual scenarios are too obscure and too  
17 complex.

18 Any attempt to assess the justification and the  
19 value of intelligence retrospectively would be an  
20 exceptionally difficult task. This is partly because  
21 intelligence work may be justified -- because  
22 intelligence that was collected had a latent or  
23 potential value, but this value never subsequently  
24 materialised. For example, details of a plan to create  
25 public order which did not occur, or the name of an



1 individual who associated with a dangerous anarchist  
2 group but who left and was never heard of again.

3 It's also because knowledge of subsequent events  
4 inevitably colours the evaluation of earlier events. To  
5 take an obvious example, it is now known that none of  
6 the groups which advocated the end of capitalism or  
7 democratic society in the 1960s or the 1970s came close  
8 to succeeding in their aims, and so governmental and  
9 police interest in them at the time may, to modern eyes,  
10 appear alarmist or anti-democratic or quaint.

11 But if, notwithstanding these points, the Inquiry  
12 does intend to make findings about the justification and  
13 the value of SDS deployments in the T1 period, then in  
14 the interests of fairness, the Inquiry must provide  
15 the core participants with a clear indication of how it  
16 intends to approach these matters. This must be given  
17 in advance of the closing stages, so that proper  
18 consideration can be given to the question of whether  
19 sufficient evidence has been sought.

20 The Inquiry should indicate the level of granularity  
21 at which it proposes to make findings about value  
22 justification and authorisation. For example, whether  
23 it proposes to make findings about the value of  
24 deployments into specific groups, or reporting on  
25 specific individuals, or reporting on specific events,

1 or reporting of specific types of information during  
2 the T1 period.

3 The Inquiry also needs to set out transparently for  
4 all core participants the test it will apply and the  
5 factors it will consider to be relevant to establish  
6 value and justification. Where these may be contentious  
7 or involve questions of law, these matters should be  
8 decided by the Inquiry only after hearing submissions  
9 from the core participants.

10 Additionally, Sir, for the Inquiry's findings on  
11 these issues to be fair, it must ask former officers of  
12 MPSB C Squad, A8 uniform branch and the Security Service  
13 directly to explain the justification for seeking  
14 intelligence on those groups and individuals, and what  
15 value the resulting intelligence had to their work.

16 They should also explain why intelligence needed to  
17 be sought using undercover deployments rather than by  
18 some other means available to them, for example open  
19 sources such as public meetings and publications, or  
20 alternative closed sources, such as informants and  
21 surveillance.

22 Those critical questions cannot be answered  
23 definitively and fairly by the SDS's former managers, as  
24 they themselves have said; and to rely on their opinion  
25 evidence alone alongside the available documents would

1 lead the Inquiry into error. That is particularly so  
2 given that highly relevant contemporaneous documentary  
3 evidence, specifically SDS reporting on public order  
4 that was not passed to the Security Service and  
5 pre-demonstration reports or threat assessments produced  
6 by MPSB for the benefit of A8, haven't been located.

7 It is understood that the Inquiry is now intending  
8 to obtain witness evidence from former managers in MPSB  
9 C Squad, and this is welcome; and the MPS will do  
10 everything it can to facilitate the provision of this  
11 evidence to the Inquiry and has already identified some  
12 potential witnesses to the Inquiry.

13 The evidence they produce will be of limited value,  
14 however, if the Inquiry doesn't at the same time seek  
15 and obtain evidence from those on whose behalf C Squad  
16 gave overall direction to the focus of SDS infiltrations  
17 and collected and assessed and distributed  
18 the intelligence it gathered. Evidence points to the  
19 fact that C Squad was a conduit between the SDS and its  
20 ultimate customers, and that it deliberately kept  
21 the SDS in the dark, for the sake of protecting its  
22 UCOs, about intelligence it received from other sources,  
23 including the Security Service.

24 In the case of the Security Service, more is needed  
25 than a composite corporate statement from Witness Z, who

1 has no direct experience of any of the events in  
2 question. Unsurprisingly, such evidence is of limited  
3 value. For the reasons I've given, it is vital that  
4 the Inquiry gains a proper and full understanding of  
5 the role and responsibility of the Security Service, its  
6 position as the link between the government and MPSB,  
7 and its relationship with MPSB. Therefore, statements  
8 should be sought from contemporaneous officers who  
9 requested intelligence from MPSB on subversion or  
10 security-related matters, assessed the resulting product  
11 and reported directly to the Government.

12 The Government, through the Home Office and the  
13 Security Service, required MPSB and the SDS to obtain  
14 intelligence on particular groups, movements, issues and  
15 individuals. This should be made clear in witness  
16 evidence, so the Inquiry can fairly assess  
17 the justification for the SDS's work and its resulting  
18 value.

19 If the Inquiry intends to find that the specific  
20 aspects of the SDS's work were not justified or  
21 valuable, then these criticisms must be put to those  
22 people and bodies who requested, relied on and/or funded  
23 the SDS's work, not simply the SDS officers themselves.  
24 The Inquiry will no doubt wish to consider carefully to  
25 whom it must in due course give the opportunity to

1           respond to such criticisms during the warning letter  
2           process for its interim or its final reports.

3           The work of the Security Service, insofar as it  
4           intersected directly with that of MPSB and the SDS  
5           during the index period, is clearly within the Inquiry's  
6           terms of reference, as you, Sir, have previously stated.  
7           It's not understood that the Service itself has sought  
8           to argue otherwise.

9           The investigatory requirement for proper witness  
10          evidence, which the MPS first identified in its opening  
11          statement for T1 P1, is therefore obvious and  
12          unanswerable. And, further, there are no procedural  
13          reasons why such statements should not be sought.  
14          Former Security Service officers are former servants of  
15          the state, and so no different from former  
16          undercover police officers and their managers. If their  
17          evidence is relevant and necessary, then it should be  
18          obtained without fear or favour.

19          Finally, Sir, in respect of additional evidence,  
20          the Inquiry must contextualise the work of the SDS by  
21          reference to the historical, political, legal and  
22          policing circumstances of the time. Only by doing so  
23          can the reasons for the Government's and  
24          the Commissioner's interest in public disorder,  
25          industrial unrest and subversion be properly understood;

1 together with the MPS's and the Security Service's  
2 resulting requirements for intelligence relating to  
3 those matters, and the decision to use undercover  
4 deployments to obtain that intelligence.

5 None of the witnesses called during Tranche 1,  
6 including the civilian witnesses and the former SDS  
7 officers and their managers, have been able to provide  
8 independent, impartial or comprehensive accounts of  
9 the wider national or metropolitan context in which  
10 their actions and experiences occurred. Nor could they  
11 have been expected to do so. They were personally  
12 involved in the specific events under scrutiny either as  
13 SDS officers or as civilians who featured in the SDS's  
14 reporting.

15 Additionally, and understandably after 40 to  
16 50 years, some witnesses' accounts are incomplete, or  
17 entirely at odds with those of other witnesses, or  
18 unanswered by potentially relevant countervailing  
19 evidence. If it doesn't properly embed its findings  
20 within that complex history, there is a real danger that  
21 the Inquiry, in good faith but inadequately, will assess  
22 complex events by reference to a small number of  
23 opposing accounts.

24 Obvious but important questions which are needed to  
25 make sense of the historical concerns and

1 decision-making and relevant to the assessment of  
2 the SDS's work have not yet been fully and independently  
3 answered. Such questions include:

4 1. During the period 1968 to 1982, what public  
5 disorder was occurring in London and elsewhere in  
6 the UK?

7 2. What was its cause?

8 3. Which groups, movements or issues were involved?

9 4. Which groups/movements were seeking to cause  
10 public disorder?

11 5. Which groups/movements were seeking to undermine  
12 the security of the state?

13 6. Did the Government, and other state  
14 institutions, including the police, judge those groups,  
15 or people associated with them, to present a threat to  
16 public order or the security of the state?

17 In the MPS's oral opening for the T1 P2 hearing on  
18 21 April 2021, it urged the Inquiry to contextualise  
19 the evidence under scrutiny using written and oral  
20 evidence from a suitable academic historian. Its  
21 findings on this issue are quoted in full at paragraph  
22 42 of the written opening by the MPS for this hearing.

23 Sir, during the Bloody Sunday Inquiry, the tribunal  
24 commissioned expert reports from two historians of Irish  
25 and Northern Irish history, Professor Paul Bew and

1 Professor Paul Arthur. Their evidence, together with  
2 open-source material, read and disclosed by  
3 the tribunal, formed the basis for the detailed,  
4 neutral, historical narrative with which the Inquiry  
5 contextualised the events on 30 January 1972 in its  
6 report. Such evidence was obviously important to an  
7 inquiry in which, as in this Inquiry, national history  
8 itself was relevant and under scrutiny.

9 One of the primary tasks of an expert witness would  
10 be to adduce at the public hearings relevant evidence  
11 about which none of the existing factual witnesses can  
12 speak with authority or independence. This would  
13 include introducing the objectives and activities of  
14 the various groups and factions that were involved in  
15 demonstrations in London, or were judged to present  
16 a threat to the security of the state during the 1970s,  
17 such as the International Socialists/Socialist Workers  
18 Party, SWP, and the International Marxist Group, IMG.

19 This could be done by reference to contemporaneous  
20 material not as yet considered openly by the Inquiry,  
21 such as the Socialist Worker newspaper, which, as one  
22 historian noted at the time, had a section  
23 entitled "Where we stand", in which the SWP set out its  
24 'calls for mass action by the workers to seize control  
25 of the wealth created by them under capitalism and to



1 destroy the system'.

2 Another important task of an expert witness would be  
3 to identify the scope of the MPS's responsibilities and  
4 to explain, one, how public order policing was  
5 undertaken at the time and, two, how intelligence work  
6 was conducted in the 1960s and 1970s, including how  
7 operations were planned and how intelligence was  
8 collected, assessed, shared and filed. Such evidence is  
9 essential for a fair assessment of the SDS's work, as  
10 other inquiries have recognised.

11 Most recently, the Brook House inquiry has  
12 commissioned and heard evidence from three expert  
13 witnesses during its investigation of the mistreatment  
14 of individuals detained at the Brook House Immigration  
15 Removal Centre. This includes evidence on  
16 the legislative and policy context of the use of force  
17 in detention centres, its governance and oversight, and  
18 the professional standards applicable at the time of  
19 the index events.

20 In their opening for this hearing, the category 8  
21 core participants and others have raised serious  
22 questions about the lawfulness, necessity and  
23 proportionality of the SDS's work during the T1 period  
24 and subsequently. The Inquiry is charged with making  
25 findings of fact, not determinations of civil law

1 criminal liability, which are precluded by section 2(1)  
2 of the Inquiries Act 2005. But the MPS welcomes focus  
3 on the contemporaneous legal framework within which  
4 the SDS, MPSB and the Security Service and the  
5 Government operated, which must, again, be assessed by  
6 reference to the values and standards of the time. And  
7 I will return to this issue at the conclusion of  
8 the statement.

9 One of the tasks of an expert would be to introduce  
10 evidence for which there is no surviving factual  
11 witnesses from the time. An example of this is an  
12 article on public order policing in July 1975, in  
13 the edition of the Police Journal by the then  
14 Commissioner, Sir Robert Mark called, "The Metropolitan  
15 Police and Political Demonstrations".

16 This provides a high level commentary on the complex  
17 task of policing political demonstrations in London in  
18 1975, and includes statistics relating to the preceding  
19 three years. It was first published as appendix 8 to  
20 the Commissioner's 1975 annual report, which covered  
21 the MPS's work in 1974.

22 All the Commissioner's annual reports for the period  
23 1968 to 1982, together with MPSB's annual reports, have  
24 been provided by the Inquiry -- provided to the Inquiry.  
25 They are a valuable source of information and evidence

1 about which the MPS's work throughout Tranche 1 cannot  
2 be properly understood.

3 It is all the more important that such documents are  
4 introduced into evidence and contextualised by  
5 a historian, given that Sir Robert Mark and both his  
6 predecessor and successor from this period, Sir John  
7 Waldron and Sir David McNee, are dead. So, too, are  
8 the officers at the rank of commander and above who  
9 directly oversaw the work of the SDS during this period.  
10 None of them can now be witnesses to this Inquiry.

11 The MPS is not seeking to nominate specific experts  
12 to provide evidence. That is a matter for the Inquiry,  
13 assisted by submissions from the core participants.  
14 However, several potential witnesses exist. One is  
15 Christopher Andrew, who is the author of several books  
16 on the history of intelligence-gathering in the UK,  
17 including *The Defence of the Realm*, which Counsel to the  
18 Inquiry quoted from earlier.

19 Other potential candidates are Richard Aldrich or  
20 Rory Cormac, who are coauthors of *The Black Door: Spies,*  
21 *Secrets, Intelligence and British Prime Ministers.*

22 Both of these publications contain meticulously  
23 researched accounts of the Government's concerns about  
24 left wing subversion, and the associated issue of unrest  
25 throughout the 1970s, and its resulting efforts to

1 monitor the threats these were thought to present at the  
2 time.

3 The MPS urges the Inquiry to reconsider  
4 the appointment of one or more historical and  
5 professional experts. It would be most unfortunate if  
6 an inquiry of this breadth and importance did not ensure  
7 that the scope of its public work included proper  
8 contextual evidence.

9 Such evidence is important procedurally. In  
10 addition, for two reasons.

11 First, the expert would be able to draw on any and  
12 all relevant material available from public open sources  
13 or through the Inquiry. The scope of that material  
14 would be much wider than the narrow categories of  
15 documents and other material that have been adduced in  
16 the bundles for the Inquiry's witness hearings.

17 This will reduce the burden on the Inquiry and its  
18 core participants to seek out and review such material.  
19 It will also ensure that the sources ultimately relied  
20 on by the Inquiry in its reports are as comprehensive  
21 and as balanced as possible, and, as importantly, that  
22 they are clear to the participants and the public.

23 Second, the experts' evidence will provide a clear  
24 structure to the Inquiry's consideration of  
25 the historical events and practices under scrutiny. At

1 present, it is not fully apparent how the Inquiry is  
2 investigating the wider socio-political policing and  
3 national security context of the time, what sources of  
4 information are -- it is being based on, or how it  
5 intends to construct a narrative out of its  
6 investigations.

7 Evidence from an expert would provide a means of  
8 clarifying each of these matters fully and openly. It  
9 would identify key facts, policies and other  
10 considerations in a neutral and independent way. These  
11 could then be probed and tested during the oral  
12 hearings, commented on in the core participants' closing  
13 submissions, responded to as necessary during  
14 the warning letter process, and of course ultimately  
15 relied on in the Inquiry's reports.

16 I turn now, Sir, to the reading that has been done  
17 by you as chairman.

18 It is clear, Sir, that you have read open-source  
19 material which provides information that is relevant to  
20 the events you are investigating, and this includes some  
21 or all of The Defence of the Realm and the book In  
22 the Office of Chief Constable, the autobiography of  
23 Sir Robert Mark, who was Commissioner from 1972 to 1977.  
24 It may also include The Black Door, which I have just  
25 mentioned, and publications on the history of

1 Trotskyism.

2 The very fact that this reading has been necessary  
3 supports the MPS's position, which I have outlined, that  
4 this Inquiry requires contextual evidence, albeit that  
5 such evidence should be adduced publicly not privately.

6 The MPS and the Designated Lawyer's have asked  
7 the Inquiry what background reading you have undertaken  
8 in respect of issues which may bear upon the Inquiry's  
9 terms of reference. The Inquiry has not as yet provided  
10 an answer to this question. And, Sir, this is  
11 unfortunate, because the issue is important. Section 18  
12 of the Inquiries Act provides that:

13 "Subject to any restrictions imposed by a notice or  
14 order under section 19, the chairman must take such  
15 steps as he considers reasonable to secure that members  
16 of the public (including reporters) are able --

17 "[...]

18 "(b) to obtain or to view a record of evidence and  
19 documents given, produced or provided to the inquiry or  
20 inquiry panel."

21 So if you have read books, scholarly articles or  
22 contemporaneous documents that provide information about  
23 the issues that are within the Inquiry's terms of  
24 reference, then this should be disclosed to  
25 the core participants and the public.

1           The relevant material should also be identified and,  
2           where possible, published, so that it can be referred  
3           to, as necessary, in witness questioning, submissions,  
4           opening and closing statements, and, in due course,  
5           responses to warning letters made pursuant to rule 13 of  
6           the Inquiry Rules 2006.

7           This applies to all relevant material that has been  
8           considered, not just material upon which the Inquiry  
9           intends to rely in its reports.

10          If the Inquiry does not publish your reading, this  
11          will impede the core participants' understanding of and  
12          engagement with the Inquiry's investigatory work. They  
13          will remain ignorant of information that may elucidate  
14          matters that are under investigation directly or by way  
15          of general context.

16          As importantly, there is a real risk that  
17          the Inquiry's conclusions will be informed by and based  
18          on factual assertions and viewpoints that are unknown,  
19          or untested, or controversial, or wrong. And this would  
20          undermine public confidence in the Inquiry and  
21          the fairness of its findings.

22          For these reasons, the MPS respectfully repeats its  
23          request that the Inquiry clarifies these matters.

24          The final matter, Sir, that I would to address today  
25          is the origins of the use of deceased children's

1 identities.

2 The MPS has apologised for the hurt caused by the  
3 use by the SDS of the identities of deceased children,  
4 and it maintains that apology. The Module 1  
5 Special Demonstration Squad Issues List includes  
6 the following questions about the origins of  
7 the practice of using deceased children's identities  
8 under the heading "Legend building:

9 "When and why did the practice of using deceased  
10 children's identities begin?

11 "Who devised and/or authorised the practice?"

12 The answers to these questions are important to  
13 the MPS and to its former officers. They are also  
14 important to the Inquiry's other core participants,  
15 including those in category F, and to the public, given  
16 the national media coverage of the issue and the finding  
17 of the Home Affairs Select Committee in 2013. They  
18 should therefore be important to the Inquiry.

19 If the practice of using deceased children's  
20 identities was first used in the UK by the SDS in  
21 the early 1970s, then that fact should be made clear.  
22 If it was first used by other state bodies, such as  
23 the Security Service, and thereafter adopted by the SDS,  
24 then that fact too is significant and should be made  
25 clear.



1           It's the clear implication, Sir, of items 19 and 20  
2 of the issues list I have just read out that it would  
3 investigate those matters. Further, establishing when  
4 the practice began and who devised it is of obvious  
5 importance or obvious relevance to any assessment of  
6 whether its use by the SDS was standard in undercover  
7 work and/or reasonable. If the origins of the practice  
8 cannot be determined at this remove, then that is also  
9 significant and should be made clear. Fairness to  
10 the SDS and its officers and managers requires that  
11 these matters are clarified by this Inquiry as a matter  
12 of public record.

13           The Designated Lawyer team, which represents most of  
14 the former SDS officers, wrote to the Inquiry about this  
15 issue on 14 October 2021, and I'll quote from their  
16 letter:

17           "... it has been suggested that other agencies, eg  
18 MI5 and the KGB, used information about deceased  
19 individuals in the creation of cover/fictitious  
20 identities and that this may have informed or inspired  
21 the SDS. Operation Herne Report 1 -- Use of Covert  
22 identities (July 2013), part 4 also refers to Operation  
23 Mincemeat, The Man Who Never Was and The Day of  
24 the Jackal. Please could you confirm if the Inquiry has  
25 followed these suggestions up with MI5 or any other

1 agency, ie in order to discover if the practice was more  
2 widely used and, if so, when, where, how and by whom?  
3 If the Inquiry has done this, what information was  
4 provided? If not, please could the Inquiry make  
5 enquiries along these lines?"

6 Sir, it is understood that the Inquiry subsequently  
7 confirmed to the DL that it does not intend to  
8 investigate the origins of the use of deceased  
9 children's identities other than by asking former  
10 SDS officers about the practice. More recently,  
11 the Inquiry has indicated to the MPS that it is "clear  
12 from the issues list [that] the Inquiry's investigation  
13 is confined to the use of the practice by the SDS".

14 For the reasons given, the MPS requests that  
15 the Inquiry reconsider its position and investigate this  
16 issue fully, as indicated in the list of issues. There  
17 can be no good reason for not asking  
18 the Security Service whether the practice was used by  
19 its officers or agents prior to its use by the SDS.  
20 Much of the work of the Security Service and its past  
21 methodologies is now in the public domain, most  
22 obviously in the authorised history by Christopher  
23 Andrew to which I have referred.

24 Even if the Inquiry's investigations are unwelcome  
25 or the answers to them embarrassing or sensitive, which

1 is likely given their generic nature, that does not mean  
2 that enquiries should not be made.

3 I turn, lastly, to the conclusion of this statement.

4 The core participants have now been told by your  
5 counsel in his opening statement that the Inquiry will  
6 produce an interim report concerning Tranche 1, but that  
7 decisions on scope have not yet been finalised. The MPS  
8 would welcome urgent clarification of the proposed  
9 timetable for the production of this report. It would  
10 also be grateful for a clear indication of the issues  
11 that the Inquiry intends to address in both its interim  
12 and its final reports, ie their scope, together with  
13 those it does not intend to address at this stage, or is  
14 precluded from addressing by law, including matters of  
15 civil or criminal liability in respect of the actions of  
16 the SDS, the MPSB, the Security Service and the  
17 Government.

18 This will enable the MPS to best assist the Inquiry  
19 by way of further evidence and submissions.

20 To be clear, the MPS's position is that it would not  
21 be appropriate or fair for an interim report to include  
22 findings about the justification or value of the SDS's  
23 work in the T1 period or the provenance of the use of  
24 DCIs unless and until the Inquiry has completed its  
25 Module 2(b) and 2(c) investigations and obtained

1 the specific and contextual evidence identified in this  
2 statement, including testing it in live hearings. If  
3 this is not the Inquiry's position, the MPS would be  
4 grateful for confirmation that there will be an  
5 opportunity to make submissions on those matters.

6 The MPS submits that it is essential that  
7 the Inquiry obtains and hears witness evidence in public  
8 from the SDS's two intelligence customers, A8 uniform  
9 branch and the Security Service, and the operational  
10 squad most directly concerned with its work, MPSB  
11 C Squad. It also repeats its request that the Inquiry  
12 call expert evidence which places the SDS's work in its  
13 proper historical, political and professional policing  
14 context, and its request for the Inquiry to properly  
15 investigate the origins of the use of deceased  
16 children's identities.

17 Sir, if you are not minded to accept the MPS's  
18 submission on these issues, then may I formally request  
19 that you provide a written ruling setting out your  
20 reasons for rejecting them.

21 Finally, the MPS would also be grateful for  
22 clarification by the Inquiry of the test or standards  
23 that it intends to apply when assessing  
24 the justification and value of the SDS's work in  
25 the period 1968 to 1982.

1           This includes the applicable legal principles and  
2 standards governing the activities of the SDS, MPSB,  
3 the Security Service and the Government.

4           As I have said, the MPS welcomes consideration of  
5 these issues, which it has itself been considering and  
6 which have now been brought to the fore by the opening  
7 statements of the category H core participants and  
8 others.

9           No doubt in the normal way, Counsel to the Inquiry  
10 will ask questions which bear upon these issues during  
11 the forthcoming hearing, including whether the SDS  
12 managers considered the lawfulness of their work at the  
13 time, and whether advice was sought on that question.

14           Of course, such questions will also need to be  
15 explored with Module 2(b) and 2(c) witnesses before  
16 conclusions can be fairly drawn.

17           However, it needs stating that because public  
18 inquiries are inquisitorial not adversarial, it is not  
19 for one set of participants to set out submissions on  
20 the law and allegations on the facts, for other  
21 participants to be required to respond to those  
22 submissions and allegations, and for the tribunal  
23 passively to receive them and to hand down judgment, as  
24 would occur in a trial, in a court. This is also  
25 because, as I have said, the Inquiry must not rule on

1 and has no power to determine any person's civil or  
2 criminal liability, per section 2(1) of the Act.

3 So, to conclude, the MPS must take the lead --  
4 sorry, the Inquiry must take the lead now, and set out  
5 in writing the issues that it proposes to address in its  
6 interim report, and the legal framework and standards  
7 that it intends to apply in reaching its determinations.

8 The MPS respectfully suggests that a timetable  
9 should also be set for written submissions and relevant  
10 evidence from the core participants in response to  
11 the Inquiry's proposals, together with an oral hearing  
12 if necessary. In this way, the core participants,  
13 including the MPS, will be best placed to assist  
14 the Inquiry in its consideration of these important  
15 matters.

16 Sir, in closing, I would like to reaffirm  
17 the assurance the MPS has given in this statement that  
18 it will not seek to defend the indefensible. May I also  
19 repeat the assurance that the MPS has given previously,  
20 that it will continue to participate fully in  
21 the Inquiry's work, and to do so with openness,  
22 transparency and a willingness to improve.

23 Thank you.

24 THE CHAIRMAN: Thank you very much, Mr Skelton. I'm  
25 encouraged by your last words.

1           I do not intend to issue a formal written ruling in  
2 response to your submissions, but I propose to answer  
3 them orally now; not in the precise order in which  
4 you've raised them but in an order which seems to me to  
5 make sense.

6           First of all, you submit that I need the advice of  
7 one or more historians to inform me about historical,  
8 social and political events and the circumstances in  
9 which policing was undertaken in the period from 1968  
10 until, in the case of the SDS, its conclusion in 2008.  
11 I decline to do that, for a number of reasons.

12           First, the period under review is one during which  
13 I was throughout a sentient adult interested in  
14 political affairs. I give an example, which is, as it  
15 happens, slightly before and slightly outside the period  
16 that I'm looking at, so as to avoid trespassing on to  
17 matters that may ultimately be the matter of  
18 submissions.

19           I listened on the radio to live broadcasts of  
20 the evenement of Paris in May 1968. I heard General  
21 de Gaulle's brusque speech on his return from  
22 General Massu in the French Army part of West Germany.  
23 And I saw on the television the reaction of Parisian  
24 people to his speech and the events which had occurred.  
25 I was also aware of the outcome of the general election

1           that then followed these events in France.

2           I won't at this stage say what my reaction to all of  
3           that was, lest I betray some tendency that I should not.

4           But you need have no concern that I am, from my own  
5           personal experience, and from reading, to which I will  
6           come in a moment, aware of the political and, in  
7           general, social circumstances in which the events that  
8           I'm inquiring into occurred.

9           The second reason is this. I choose two dead  
10          historians, so as to avoid offending the living. But if  
11          I had commissioned reports from Eric Hobsbawm and Robert  
12          Blake about these events, I would have got two very  
13          different reports because of their differing starting  
14          standpoints.

15          You ask about my reading. I have a library at home  
16          of over 300 volumes about modern history, in  
17          the classical sense, post-1713, but almost all of them  
18          are post-1789. I do not have a catalogue of my library,  
19          and I do not intend to sit down to produce one. But  
20          inevitably I have informed myself over the years about  
21          historical events, in particular reasonably modern  
22          historical events.

23          I suspect your question was prompted by my questions  
24          of Tariq Ali about Trotskyism and Andreu Nin, who, as  
25          I'm sure you know, was executed, murdered by agents of



1 the NKVD in Republican Spain when Stalin required him to  
2 be put out of the way.

3 Now, I know about that because I read Hugh Thomas'  
4 book on the Spanish Civil War. And more recently I read  
5 Stephen Kotkin's admirable biography, as yet incomplete,  
6 of Stalin.

7 I'm not going to announce formally that I have read  
8 these things. I deal with it by questioning somebody  
9 who knows a great deal more about Trotskyism, Tariq Ali,  
10 than I ever could hope to.

11 So the answer to your second proposition, that  
12 I should disclose a list of my reading, is -- what  
13 I have read and is going to be taken into account in  
14 the course of the Inquiry certainly will be published,  
15 as it has been by Mr Barr this morning. But I am not  
16 going to put into the public domain every bit of history  
17 that I have read that has informed my understanding of  
18 what in the general political and social circumstances  
19 of the United Kingdom, England and Wales and Europe  
20 occurred.

21 Third, and perhaps rather more important, is  
22 the contemporaneous evidence about the receipt and the  
23 use to which it was put of SDS intelligence. Now,  
24 the best contemporaneous evidence for any historian or  
25 inquisitor, such as me, into what happened, is

1 contemporaneous documents. My understanding is that  
2 the A8 contemporaneous documents, the threat reports  
3 about the major disturbances that occurred in Tranche 1,  
4 can't be found. I can't find them if the Metropolitan  
5 Police don't know where they are. And if they've gone,  
6 they've gone.

7 As you rightly say, there is nobody in the senior  
8 position in A8 now who is alive and able to provide  
9 a statement. I very much doubt the utility of asking  
10 a junior officer at the time involved in processing  
11 the reports and sanitising them so that they end up in  
12 a threat assessment without being capable of being  
13 attributed. I strongly doubt the utility of asking any  
14 such a person.

15 We do in fact have one or two people who fulfil that  
16 role who can be asked. To the extent that they can  
17 help, gladly I will accept their assistance. But I am  
18 not going to go chasing around umpteen junior officers  
19 whose identities I do not know to try and find out if  
20 they might be able to help.

21 As far as the Security Service goes, I am not  
22 investigating the Security Service, I am investigating  
23 a unit of the Metropolitan Police, as you know.  
24 The Security Service have provided me with a mass of  
25 documents, which I could never have hoped to get from

1 the Metropolitan Police, which have provided invaluable  
2 information about what occurred. They've also provided  
3 a thoughtful, entirely public witness statement from  
4 Witness Z. I would have no objection at all to  
5 the Metropolitan Police providing a similar statement  
6 if, as I anticipate, they, any more than I, cannot  
7 identify individuals who can provide it from their own  
8 knowledge.

9 The next point deals with the use of deceased  
10 children's identities.

11 It is clear that at some stage the SDS adopted this  
12 practice. Precisely when I have not yet discovered.  
13 By "precisely", I mean to within a month or two. I now  
14 believe that it's possible to establish approximately  
15 when it occurred, but not, certainly, to within a month  
16 or two.

17 Now, a decision must have been made within the MPS,  
18 if not at SDS managerial level -- and you rightly submit  
19 there's no evidence of that -- at a higher level. It  
20 must have been documented. At least I hope it must have  
21 been documented. I don't know where the documents are.  
22 If the MPS can find them, then I would gladly welcome  
23 assistance. But it is conceivable -- here, I'm purely  
24 speculating -- that Arthur Cunningham was the source of  
25 the idea, because he was, I now know, from the helpful

1 research that has been done by the DL, in charge of  
2 the investigation into the KGB use of the identity of  
3 a dying man, who subsequently was prosecuted in this  
4 country for, I think, making a false passport  
5 application. But it was clearly rather more than that,  
6 as the judge's remarks made clear.

7 But unless such evidence can be found, I very much  
8 doubt it is going to be possible to say, within the MPS,  
9 who did it.

10 I don't, in those circumstances, see the utility of  
11 asking the Security Service, who I am reluctant to pry  
12 into their practices, in circumstances where I have no  
13 reason to believe that they would have done, let alone  
14 SIS, who may or may not have used the practice, but --  
15 as their responsibilities are for gathering intelligence  
16 abroad, it couldn't possibly have any legitimate impact  
17 upon a police force gathering intelligence in this  
18 country.

19 So the answer to that is that I do not intend to  
20 investigate whether deceased children's identities were  
21 used by others. And I can't for one moment think that  
22 you would wish it to be thought that the KGB had been  
23 the originator of the practice adopted by a domestic  
24 police force. I think the less said about that  
25 the better.

1           Now, there's a final issue, which you haven't raised  
2           in your submissions, and I'm not expecting an  
3           instantaneous response to, but is a matter raised by  
4           Ms Kilroy, and is one that the Inquiry would ultimately  
5           have looked into, I hope, in any event. And that is  
6           the lawfulness of some of the practices adopted by  
7           the SDS. I'm not talking at the moment about  
8           sexual relationships with activists or in a false name,  
9           I'm not talking about turning up at demonstrations and  
10          participating in events that on one view amount to  
11          public disorder, I'm not talking about trivial matters  
12          such as flyposting. I'm talking about things that were  
13          actually undertaken with the knowledge of managers, and  
14          certainly without disapproval, but which raise questions  
15          as to lawfulness. And may I give the two examples that  
16          occur to me.

17          The first is gaining entry to someone's home by  
18          falsely pretending to be somebody else. My  
19          understanding is that it has always been accepted that  
20          at common law -- and here I'm concerned with common law,  
21          not the Convention -- that was regarded as a trespass.  
22          Certainly for the purposes of the Larceny Act, gaining  
23          entry to a home between 9 and 6, ie at night, by fraud  
24          was regarded as constructive breaking. You know you had  
25          to break and enter to commit burglary under the Larceny

1 Act. I have seen nowhere any suggestion that  
2 the lawfulness of that particular technique was  
3 considered at any level within the MPS.

4 The second, slightly more arcane, is  
5 the distribution of confidential information, such as  
6 banking details, without a warrant.

7 If it is a breach of the law, it's plainly a breach  
8 of the civil law, just as trespass would be a breach of  
9 the civil law. But on the whole, my understanding is  
10 that the police forces of this country have always  
11 sought to operate within the civil law, hence the need  
12 for warrants to perform acts that would amount to  
13 a breach of the civil law. And I would welcome  
14 submissions on that. Plainly, you're right, I'm not  
15 here to make findings about whether or not unlawful  
16 activity occurred. But I do want to know whether  
17 the lawfulness of activities were considered; and if so,  
18 what, if any, conclusion was reached about it. And, if  
19 not, whether, in fact, these activities could properly  
20 be considered to be lawful.

21 Forgive me for that rather long response. And of  
22 course you may, if you wish to, respond now. But you  
23 may prefer to hold your peace, and I won't hold it  
24 against you if you do.

25 MR SKELTON: Sir, you've offered me a lifeline which I'm

1 going to take.

2 THE CHAIRMAN: Right. Thank you very much for your  
3 patience. We will now break for a quarter of an hour  
4 before Mr Sanders makes his submissions. Thank you very  
5 much indeed.

6 (3.11 pm)

7 (A short break)

8 (3.25 pm)

9 THE CHAIRMAN: Mr Sanders.

10 MR SANDERS: Good afternoon, Sir. Thank you.

11 THE CHAIRMAN: Good afternoon.

12 Opening statement by MR SANDERS

13 MR SANDERS: This is the opening statement for the T1 P3  
14 hearings on behalf of the Designated Lawyer Officers,  
15 who, as you know, comprise 115 former members of mostly  
16 the Special Demonstration Squad, SDS, and also  
17 the National Public Order Intelligence Unit, NPOIU.

18 So my clients and the members of that  
19 core participant group include the vast majority of  
20 the police witnesses that you've heard from so far and  
21 that you will be hearing from this week and next week.

22 Sir, it was my intention to be quite brief in this  
23 oral statement. I may have to be even briefer now,  
24 because I feel somewhat like a footballer stepping up to  
25 take a penalty only to find not only have the goalposts

1           been moved, they've been taken down and the ball has  
2           been taken away as well.

3           Obviously, I'm quite closely aligned with Mr Skelton  
4           in terms of the issues I was going to press. I don't  
5           want to take up your time unnecessarily. It's -- by  
6           the same token, it's quite difficult for me to extricate  
7           parts that may no longer be live, at least for yourself.

8       THE CHAIRMAN: Of course. And I have no objection at all to  
9           your making submissions that have not already been made  
10          by Mr Skelton and which you share, or I understand that  
11          you share them. If you want to say anything additional,  
12          then please do. My mind is obviously not closed until  
13          after I've heard everybody, however firmly I may have  
14          expressed my opinion.

15       MR SANDERS: Yes, I'm not sure Mr Skelton will feel very  
16          good about it if you suddenly changed your mind after  
17          hearing me say exactly the same things, but I'll press  
18          on nevertheless.

19          So, in our written opening, we've touched on three  
20          more substantial evidential issues and then three more  
21          miscellaneous matters. I'm going to follow that outline  
22          and then touch briefly on the issue that you've raised  
23          in relation to Ms Kilroy's submissions on lawfulness and  
24          legal framework, and so on.

25          The first evidential issue, Sir, is just in relation



1 to modules 2(b) and (c). So that's the evidence from  
2 senior personnel above the SDS and also other personnel  
3 working with and around the SDS. In our submission,  
4 it's important that this evidence is heard before you  
5 sit down to finalise any interim report on the T1  
6 period. Nothing you've said or that Mr Barr has said  
7 suggests you're minded to do otherwise, but that's very  
8 clearly our position.

9 The importance of evidence from and about the A8  
10 Uniformed Public Order Branch, the C Squad and the other  
11 Special Branch squads, and also MI5, is in relation, we  
12 submit, to the justification for the SDS reporting. And  
13 in order to assess and make findings about  
14 the justification issues, we say you need to hear  
15 evidence about the setting of specific intelligence  
16 requests. So particular requests that were sent to  
17 Special Branch and then passed on to the SDS to answer,  
18 and also the setting of general intelligence  
19 requirements to cover particular areas or particular  
20 groups or particular individuals.

21 Also important evidentially is the use to which  
22 intelligence obtained by the SDS was put. That  
23 intelligence obviously went into individual intelligence  
24 reports, it went into other oral and written  
25 communications, and it went into, ultimately,

1 the general resource of the Special Branch registry. So  
2 anyone referring to registry files would be referring,  
3 or could be referring, to, amongst other things,  
4 intelligence obtained by the SDS. And then  
5 the intelligence was also fed into threat assessments  
6 that were passed to A8 by the Special Branch squads.

7 I've heard, obviously, what you have said to  
8 Mr Skelton about the difficulty of obtaining evidence in  
9 relation to those matters, and pleased to hear that  
10 there are some names that you have that you may be able  
11 to follow up.

12 I think, talking generally to my clients, there  
13 should be evidence out there about threat assessments,  
14 how they were formulated, what purpose they served.  
15 We've got some quite tangential evidence from  
16 Christopher Skey, who obviously went on to work as  
17 the Special Branch liaison officer in A8. And in our  
18 submission, there must be -- there should be other  
19 people still available to give evidence about that and  
20 about liaison between, first, the SDS and the MPS  
21 squads, and then, secondly, the liaison between the MPS  
22 squads and both A8 and MI5.

23 You, of course, have already obtained quite a lot of  
24 evidence about direct liaison between SDS and MI5 on  
25 a separate dotted line, as it were.

1           One important thing to bear in mind in this regard  
2           is that of course, consumers of SDS intelligence were  
3           not always conscious of the fact that they were  
4           consumers of SDS intelligence, either because it went to  
5           them in a sanitised format, or because they were simply  
6           referring to materials or making enquiries of  
7           the Special Branch registry. So there are, of course,  
8           difficulties in that regard, but we submit that it is  
9           important to try, as far as possible, to obtain evidence  
10          from witnesses able to speak directly to those matters;  
11          because otherwise what you're left with is a focus on  
12          the SDS as either the antenna or the pipe collecting  
13          this information and passing it up the chain, but no  
14          evidence about what happened to it, which must be  
15          crucial to any assessment of its value and utility.

16          So far as concerns MI5, we say there are limitations  
17          to the statement of Witness Z, in that it's secondhand  
18          evidence, it's crafted to be open only evidence, and so  
19          therefore deliberately refrains from touching on closed  
20          matters. It's very much focusing on the relationship --  
21          the direct relationship between MI5 and the SDS, and has  
22          very little about the relationship between MI5 and  
23          the Special Branch and the Special Branch squads, and  
24          nothing about the correspondence passing between MI5 and  
25          the squads.

1           In our submission, that's quite important contextual  
2 information. One has seen a reasonable proportion of  
3 the intelligence reports attributed to the SDS beginning  
4 with a cross-reference to a Box 500 enquiry, and  
5 effectively that report is then answering that enquiry.  
6 We have seen very little -- I can think of only a couple  
7 of examples, possibly in relation to closed officers --  
8 where we've seen the letter from Box 500 to the squad  
9 that's then generated the intelligence report containing  
10 the answers. All of that, in our submission, is not in  
11 the statement of Witness Z, and it would be helpful to  
12 get some more evidence, if possible, about it.

13           There's also nothing in Witness Z's statement about  
14 vetting. And of course, Witness Z, he or she, is not  
15 giving any closed evidence and not giving any oral  
16 evidence.

17           So for those reasons, and for the reasons elaborated  
18 on by Mr Skelton, we do say that more evidence is  
19 important in terms of modules 2(b) and (c), collecting  
20 it before any T1 closing statements and interim report  
21 is important. And, in our submission, that should be  
22 done -- or should include live evidence dealing with  
23 those matters.

24           Sir, my next topic was under the heading "Other  
25 available evidence", where we of course are closely

1 aligned with Mr Skelton in relation to the need for an  
2 expert historian, or historians, to give evidence about  
3 the political and socio-economic context.

4 We've also made the point that it would assist you,  
5 Sir, to have some evidence from clinical psychologists  
6 or behavioural scientists as to the way in which human  
7 beings respond to long-term undercover deployments and  
8 to living second fictitious lives, evidence explaining  
9 what one can expect from human beings in those  
10 circumstances, what attributes would make someone  
11 suitable for that work or unsuitable for that work, and  
12 the stresses it involves, the risks that it may carry  
13 and the best way to manage those risks. That's  
14 a further area where we say you should obtain evidence.

15 And we are aligned with Mr Skelton in relation to  
16 your background reading.

17 I heard, obviously, your response in relation to  
18 expert historical evidence and in relation to your  
19 background reading. The difficulty with the approach  
20 that you're taking is that in some senses you're almost  
21 treating yourself as a witness to say, "Well, I was  
22 a sentient adult at the time; I witnessed these events  
23 unfolding on television and radio, and read about them  
24 a great deal."

25 The difficulty with that, in my submission, is that

1 none of the core participants can propose questions to  
2 be put to you about that, and Counsel to the Inquiry  
3 won't be able to put those questions to you.

4 You also alluded to having opinions about matters  
5 that you perhaps wouldn't want to share at this stage,  
6 or it wouldn't be appropriate to share. It's important,  
7 in my submission, to -- of course, you have your own  
8 knowledge and your own experience, and that's perfectly  
9 understandable, but to have someone independent of  
10 yourself and of all the core participants speak to these  
11 matters and give evidence -- because obviously you can't  
12 give evidence, you can't be a witness -- and to allow  
13 for that evidence to be questioned is an important part  
14 of the process. So, we would urge you to reconsider  
15 that.

16 I take the point about you not wanting to catalogue  
17 your library, but some indication of what you see as  
18 the key texts that you've read -- from my perspective,  
19 events in France and Spain and so on seem fairly  
20 peripheral. But there must be books in your library  
21 which really speak directly to the matters of relevance  
22 to this Inquiry that it would be helpful to know that  
23 you have read them.

24 It may be, we don't know, that one of  
25 the core participants may be able to suggest, "Well,

1 here's a -- have you read that book? You must read this  
2 one," or, "You must bear this point in mind when it  
3 comes to chapter 3," or something like that.

4 So all of this is just about transparency and  
5 allowing all of the core participants to participate in  
6 the process, address you and put questions to witnesses  
7 who can give evidence.

8 I also note that you don't intend to give a written  
9 ruling about this, but I would urge you to provide some  
10 guidance in writing for the core participants as to your  
11 approach and your reasons, so that they can be  
12 considered and understood.

13 Sir, the third evidential matter that I just wanted  
14 to address you on briefly is in relation to the use of  
15 deceased children's identities. And I've heard what  
16 you've said about that today, and of course Mr Barr  
17 addressed you on it this morning, or possibly it was  
18 just before lunch. But I understand your position.

19 The reason we say you should and you must go wider  
20 than the SDS and its use of information about deceased  
21 children and deceased young adults in constructing or in  
22 forming the basis for undercover identities is that it's  
23 vitally important to meeting the issues outlined in  
24 the issues list.

25 One narrative about this matter -- and particularly

1           you'll see this in the category F core participants'  
2           submissions -- is that the SDS use of the practice or of  
3           the tactic was potentially plucked from popular culture,  
4           was an instance of isolated, aberrant thinking that's  
5           characteristic of a unit that's gone off the rails, and  
6           that no one else did such a thing or would have done  
7           such a thing because it was so obviously unconscionable  
8           and disgusting, and also that other alternatives were  
9           available.

10           It's clear, in our submission, that the idea didn't  
11           come from "The Day of the Jackal". And as you've seen  
12           from our written statement, we in fact spoke to  
13           Frederick Forsyth, who explained that he heard about it  
14           from a mercenary he had met while covering the Biafran  
15           War. It was the way in which, at that time,  
16           pre-computerisation, a false British identity was  
17           constructed.

18           Mr Barr has recognised that it was used by others.  
19           You've referred to the Mulvena prosecution, which was  
20           obviously brought to our attention by Geoffrey Craft,  
21           who was involved in the case, and that culminated in an  
22           editorial in The Times, highlighting the fact that there  
23           was a loophole in the system, in that birth certificates  
24           of deceased people could be obtained and then used to  
25           obtain passports, other documents and so on. And



1 likewise, the Portland spy ring, which is referred to in  
2 the "Dead Doubles" book and in the Christopher Andrew  
3 book.

4 One point we've highlighted in our written  
5 submissions is that where that's mentioned in  
6 Christopher Andrew's book, he refers to MI5 putting in  
7 place a system that would be triggered by the KGB making  
8 applications to the records offices that might be used  
9 to found a "dead double" identity. And in our  
10 submission, the fact that there appears to have been  
11 some kind of system along those lines, and the fact that  
12 it appears to us inevitable that other agencies who  
13 wished to backstop covert legends or identities would  
14 have used the practice, but those are all matters which  
15 you should investigate, because you're faced with what  
16 was -- where did this come from? What was  
17 the justification for doing it?

18 If the SDS managers were doing something that was  
19 just completely off the wall, obviously egregious, in  
20 the words of the Home Affairs Select  
21 Committee "ghoulish", that no one in their position  
22 could possibly or should reasonably have done, then that  
23 would be an important finding for you to make. Equally,  
24 if they were doing something that was being done by  
25 those around them, those that they were working with,

1 possibly even those they were working against, and that  
2 that was the way a false identity was established  
3 pre-computerisation, then that's an important matter for  
4 you to make findings about. Otherwise, you'll simply  
5 be saying: the SDS did it, other people did it, we don't  
6 know in particular who introduced it or formalised its  
7 introduction.

8 And it also goes to the question raised by  
9 the category F core participants about whether there  
10 were available alternatives. Was there another way of  
11 doing this which didn't trespass into the use of  
12 information about people who have died?

13 So, for those reasons, we say this is a matter you  
14 should go into.

15 Now, I take your point that you're not here to  
16 investigate MI5. We're not inviting you or suggesting  
17 you should look into MI5's use of the tactic, or MI6's  
18 use of the tactic, but just simply whether or not it was  
19 a tactic that they used. What were the systems that  
20 they had in place with the registry to alert them to  
21 the fact that the KGB might be making a dead double  
22 application? Did they, or would they, have liaised with  
23 Special Branch or the SDS about the existence of those  
24 systems, so that they weren't triggered by SDS  
25 undercover officers collating their legends?

1           So again, that's another reason why we say further  
2           inquiry into this, which could be done simply by asking  
3           the agencies -- it could even be dealt with in closed,  
4           but it would inform you in terms of making a finding as  
5           to whether or not this was an aberration, an  
6           unforgivable, inexplicable aberration by a group of  
7           officers who had just become cut off from reality, or  
8           whether it was something that was the way things were  
9           done at that time.

10          Sir, I think that's all I'll say about that third  
11          evidential issue.

12          Then three miscellaneous matters which I can deal  
13          with much more briefly.

14          The first was just to complete a point that we'd  
15          first raised in our T1 P2 opening statement. And  
16          I think it was a point that we came to having listened  
17          in particular to the evidence of Lord Hain and the  
18          points that were being made that the SDS was a monstrous  
19          waste of money and that the resources would have been  
20          better spent elsewhere and would have reduced crime in  
21          the capital if they had been spent elsewhere. And it's  
22          simply just to collate the statistics for that, which  
23          are that 98 -- more than 98% of Metropolitan Police  
24          officers were deployed outside Special Branch. So  
25          Special Branch itself is less than 2% of the attested

1 strength of the MPS.

2 Just focusing on Special Branch itself, more than  
3 95% of Special Branch officers were deployed outside  
4 the SDS. So the SDS was less than 5% at any one time of  
5 the attested strength of Special Branch.

6 And then, standing back from that, more than 99.9%  
7 of Metropolitan Police officers were deployed away from  
8 the SDS.

9 And so the relevance of that, we say, is that  
10 the focus that you have on the SDS can be distorting,  
11 because you're just looking at the unit, and it's easy  
12 to be distracted by that and to fail to step back and  
13 see the wider picture. In our submission, when one  
14 looks at the whole apparatus of the Metropolitan Police,  
15 the SDS was a very, very small commitment, a series of  
16 antennae around the Capital taking in information that  
17 could be of use in relation particularly to public order  
18 policing, and also of assistance to MI5 in relation to  
19 subversion. If one were to look at it from  
20 a cost-benefit perspective, it's important to bear in  
21 mind how cost effective and minimal the expenditure on  
22 it was, particularly bearing in mind that  
23 the Home Office covered its expenses.

24 The second matter, Sir -- and this is just very  
25 briefly; Mr Barr has already touched on this -- it's

1 just the fact of the MI5 document that's now been  
2 disclosed in relation to information about children  
3 which shows that police forces across the country were  
4 being asked to provide MI5 with information  
5 about "subversion in schools". Again, as with the use  
6 of deceased children's identities, the focus on what  
7 the SDS was doing, in the abstract and without  
8 the contextual information about what others were doing,  
9 can be distorting. The fact that MI5 was asking for  
10 this information is strongly supportive of the fact that  
11 SDS officers thought that it was appropriate to report  
12 it.

13 Thirdly, and finally, under this heading, Sir, is  
14 just in relation to HN354 and it's just a point that we  
15 think is important in terms of setting the record  
16 straight. The second statement of "Madeleine" alleges  
17 that HN354 gave false evidence in his main witness  
18 statement. Of course that's wrong, as you know, because  
19 you've seen the unredacted version. He did not conceal  
20 or obscure the fact that he sent postcards to former  
21 targets after his deployment. And just in his  
22 interests, him having been accused of having lied on  
23 oath, we think it's important to set the record straight  
24 about that. It's no criticism of "Madeleine"; of  
25 course, she hasn't seen the unredacted version of

1 the statement. There it is.

2 Before turning to Ms Kilroy's points, the final  
3 point we said in our conclusion, Sir, was just an urging  
4 or an encouragement that there be more hearings in front  
5 of you, at least periodically, now that we're hopefully  
6 coming out of the pandemic and restrictions that we've  
7 been operating under. Your next scheduled evidential  
8 hearings are in two years' time and, just from  
9 experience of how the Inquiry unfolds and issues come  
10 up, in our submission, it would assist to have,  
11 periodically, more hearings in front of you to discuss  
12 issues, or for the core participants to make  
13 applications or to request rulings rather than the next  
14 opportunity we all get to air our concerns and our  
15 grievances is in two years' time. I know that there  
16 are, of course, meetings between the Inquiry legal team  
17 and the various core participant groups, and there's  
18 the opportunity for correspondence, but just being able  
19 to, every now and then, have a dialogue with you, Sir,  
20 in our submission, we think, would be very helpful.

21 Just to take an example, the question that we raised  
22 about whether or not you would be -- that we have raised  
23 about whether or not you would be getting expert  
24 evidence from a psychologist/a behavioural scientist,  
25 the question we raised about expert evidence from

1 a historian, they've been raised once every 18 months  
2 and we just -- we haven't had a response, and it's very  
3 difficult, in that situation, to know why that is. So  
4 if we put a question to you, nothing comes back, or if  
5 it's just a "I'm not going to do that", we don't know,  
6 is that because you think it was a ridiculous and  
7 impertinent suggestion and you're not going to dignify  
8 it with a response, is it because you think, "There may  
9 be something in that but I'm going to park it for  
10 a while and deal with this and come back to it", that  
11 type of thing, in our submission, if we had more  
12 hearings in front of you every now and then, we could  
13 get to the bottom of things and make a bit more  
14 progress. So this is just a general suggestion,  
15 a general bit of feedback.

16 Finally, Sir, just to come on to Ms Kilroy's  
17 analysis on behalf of the category H core participants.  
18 What I'm going to say now is all very provisional. I've  
19 only that had since, I think, Tuesday afternoon last  
20 week and I was only able to read all the openings at  
21 the weekend, so I just give you two sets of provisional  
22 thoughts. The first set is procedural in nature and  
23 goes to: what's the relevance of this. And the second  
24 is more substantive, just in terms of the legal analysis  
25 that's been put forward.

1           In relation to procedure, before we or any of  
2           the other core participants address this, I would submit  
3           it would help to have some guidance about what  
4           the purpose of the exercise is and which parts of  
5           the analysis are thought to be important and which parts  
6           are not. As things stand at the moment, as a matter of  
7           public law, all decisions of public authorities must be  
8           presumed to be lawful unless and until a court of  
9           competent jurisdiction declares otherwise. This is not  
10          a court of competent jurisdiction and so therefore, as  
11          a matter of public law, there's not going to be any  
12          finding that it was unlawful to have an  
13          undercover police unit or anything like that.

14          Also, in terms of the terms of reference of  
15          the Inquiry, the legality or the lawfulness of what  
16          happened isn't an issue within the terms of reference.  
17          So what the terms of reference refer to is the Inquiry  
18          identifying and assessing the adequacy of  
19          the justification, authorisation, operational governance  
20          and oversight of undercover policing, and the selection,  
21          training, management and care of  
22          undercover police officers. In our submission,  
23          the adequacy of authorisation is not and cannot be code  
24          for the legality or lawfulness of the use of  
25          undercover police officers, and if that had been meant,



1 the terms of reference would have said so expressly.

2 So we put that there as our first thought, first  
3 response in relation to the analysis as to: what is  
4 the relevance of this; where would it go in terms of  
5 your report; does it fall within the terms of reference.

6 Secondly, in relation to the substantive or  
7 the correctness of the analysis, we made brief  
8 submissions on the functions of police constables and  
9 police officers and the relevance of those functions to  
10 the work of the SDS in our T1P1 opening -- so that's  
11 October 2020 -- that's at part 3.1 -- and to  
12 the lawfulness of undercover policing at part 4.3. We  
13 referred to the report of the Popay Inquiry in 1833,  
14 within a few years of the establishment of  
15 the Metropolitan Police, where the prima facie  
16 lawfulness of undercover policing was affirmed. Of  
17 course, that was a Parliamentary inquiry, but that was  
18 clearly the understanding on which  
19 the Metropolitan Police was working and would have been  
20 working thereafter.

21 Beyond that, it would take us some time to unpick  
22 and respond to what's said in the category H  
23 core participants' opening, so in Ms Kilroy's  
24 submissions, but three provisional points occur to us.

25 The first -- and this is of particular relevance

1 when it comes to the period we're concerned with at  
2 the moment, 1968 to 1982 -- is of course that  
3 the reliance upon and the reference to the Wilson  
4 decision of the Investigatory Powers Tribunal is  
5 inapposite, because that's a decision of a tribunal  
6 applying the Human Rights Act 1998 and jurisprudence of  
7 the Strasbourg court in relation to Article 8, so it's  
8 applying legal principles that didn't apply as a matter  
9 of domestic law in 1968 to 1982. It's also a decision,  
10 as Mr Skelton has mentioned, that's based on concessions  
11 by the NPCC and by the Metropolitan Police, and in our  
12 submission, we go on to say that it's important to bear  
13 in mind that those are concessions made in the context  
14 of a particularly egregious set of facts where it's  
15 evident that the Metropolitan Police was trying to give  
16 just satisfaction, through Ms Wilson, in terms of what  
17 it admitted so as to make it unnecessary for those  
18 matters to be determined by the tribunal. So that's  
19 the first in relation to the fact that  
20 Wilson/the decisions about the Human Rights Act wasn't  
21 in force at the relevant time that we're concerned with  
22 at the moment.

23 Then the second topic in relation to this is just as  
24 to what the law was at that time, 1968 to 1982.  
25 Essentially, the position was that the law was as set

1 out in the Malone decision, that police  
2 forces/police constables, as Crown bodies and officers  
3 of the Crown, have power to do anything unless they were  
4 prohibited from doing it. This was a period, of course,  
5 before the reform of Order 53, and O'Reilly v Mackman  
6 and the development of judicial review, it was before  
7 the enactment and entry into force of PACE, of  
8 the Human Rights Act, the Interception of Communications  
9 Act, the Regulation of Investigatory Powers Act,  
10 the Investigatory Powers Act, any of the data protection  
11 acts, or the GDPR, and also it was at a time when  
12 the ECHR jurisprudence was very different to  
13 the jurisprudence now. So, the Klass v Germany decision  
14 comes at the very end of the 70s.

15 So in our submission, it's unreal and unrealistic to  
16 -- and ultimately futile to spend time asking yourself  
17 whether the Special Demonstration Squad would have  
18 passed muster under all this raft of legislation and  
19 this ECHR jurisprudence that's come after it was  
20 conducting these operations, because that simply wasn't  
21 what those involved were faced with at the time.  
22 The domestic law was different, and in our submission,  
23 they were clearly complying with domestic law.

24 Then the third point to flag, again provisionally,  
25 here is in relation to the logic of this analysis and

1 where it really goes. So in relation to both  
2 the Article 8 Human Rights Act jurisprudence but also in  
3 relation to the points that have been made in relation  
4 to tort law or the civil law, the logic of this analysis  
5 would apply to every undercover policing operation, to  
6 all the SDS operations that have been dealt with in  
7 closed, and to all operations of MI5, MI6 and GCHQ.  
8 Particularly when one considers Article 8, there are of  
9 course two limbs to Article 8, the "in accordance with  
10 the law" limb, and we know because all of  
11 the legislation I referred to save for the data  
12 protection legislation was passed to provide a legal  
13 basis for the exercise of functions so that the "in  
14 accordance with the law" limb of Article 8(2) is  
15 satisfied.

16 Now, in the 60s/70s/80s, the legislation wasn't in  
17 force, so we know it wouldn't have met the "in  
18 accordance with the law" standard of Article 8. But  
19 that doesn't matter, because Article 8 wasn't part of  
20 domestic law. The Security Service Act wasn't passed  
21 until 1989, the Intelligence Services Act wasn't passed  
22 until 1994. These were operations conducted just within  
23 a different legal context, and retrospectively asking  
24 yourself what the IPT or what another court would make  
25 of it now is, in our submission, just pointless. Things

1 are very different now.

2 The same goes in relation to the tort analysis,  
3 because what one then is faced with are, say,  
4 the questions that you've raised about what might  
5 vitiate consent so as to render entry onto premises  
6 a trespass. Eventually, you can look at the law of what  
7 constitutes fraud, did the powers that the police had  
8 mean that this wasn't a fraud, but essentially what you  
9 end up doing is speculating as to what a court would  
10 have made at the time if faced with a tort claim  
11 alleging that an undercover officer has committed  
12 a trespass by going into private premises. And again,  
13 in my submission, it just becomes pointless and  
14 something that is not within your power or the terms of  
15 reference to determine, and that would -- if it were  
16 the case that it was a trespass for an  
17 undercover officer to give a false identity and enter  
18 a premises, that would apply to every single undercover  
19 police operation, every MI5 operation, MI6 and so on.  
20 And so, in our submission, it just becomes  
21 a meaningless, hollow exercise to say what,  
22 hypothetically or counter-factually, courts applying  
23 the law now would have made of what was being done in  
24 the 60s and 70s.

25 But as I say, these are just provisional thoughts in

1 response to the analysis, and happy to come back to it.  
2 It would help to have some guidance from you, Sir, or  
3 from Mr Barr as to which parts of the analysis require  
4 our attention, otherwise we're all just producing essays  
5 about the law.

6 Sir, those were my reasonably brief, I hope,  
7 submissions, and unless there's anything else, I would  
8 just thank you for your time.

9 THE CHAIRMAN: Commendably brief, thank you. Because you've  
10 raised an interesting and a possibly difficult question,  
11 I will deal with what you were talking about last  
12 briefly, if I may.

13 I accept, subject to what Ms Kilroy has to say,  
14 the proposition that something that was not part of our  
15 domestic law at the time, as the European Convention on  
16 Human Rights was not, cannot determine whether something  
17 was then lawful. As from 1 January 2000, it can, of  
18 course, but it wouldn't apply retrospectively. That's  
19 when the Human Rights Act came into force.

20 MR SANDERS: 2 October.

21 THE CHAIRMAN: 2 October, is it? Wrong date. Thank you.

22 I do think it is part of my terms of reference to  
23 look into the justification for undercover policing.  
24 I find it, at the moment, difficult to conceive that  
25 something that was not lawful under the common law could

1 be justified as a police operation, hence my worries  
2 about the two specific aspects to which I drew  
3 everybody's attention.

4 I think your analogies with GCHQ,  
5 the Security Service and Special Intelligence Service  
6 are inapt for a number of reasons. First, GCHQ didn't  
7 trespass anywhere, but it did do things that  
8 the European Court of Human Rights has held require to  
9 be authorised by law, and of course at that time, nobody  
10 -- there was no law which authorised it. All that  
11 I accept. Likewise the activities of  
12 the Security Service in obtaining Home Office warrants  
13 to interfere with telephones, or of the police to put  
14 listening devices on the outside of people's homes, all  
15 of which have been the subject of litigation in  
16 the European Court of Human Rights.

17 None of that do I need specifically to address,  
18 because I am concerned with the lawfulness under the law  
19 as existed at the time in domestic law, subject, of  
20 course, to what Ms Kilroy may say otherwise. If she  
21 persuades me that that view is too narrow, then I will  
22 listen with care to what she has to say. But I do think  
23 that lawfulness under domestic law has got to be  
24 addressed, and it's only, as I see it at the moment, in  
25 the two respects that I've identified where routine SDS

1 activity might have been considered unlawful.

2 So I hope that partly puts your mind at rest, partly  
3 focuses it, and leaves you with a question that I think,  
4 in due course, you need to answer.

5 Now, can I deal with the other points.

6 I would be perfectly happy to have meetings attended  
7 by all core participants to discuss issues as  
8 the Inquiry goes along. You know the circumstances in  
9 which that, which was my original proposal, came to an  
10 end. I hope that those times have now passed and we can  
11 engage in fruitful discussions. I am not closing  
12 the door on that at all.

13 Secondly, I am happy to have suggested to me reading  
14 matter that you think I ought to look at. I'm very  
15 interested in the research that you've undertaken into  
16 the use of deceased children's identities before the SDS  
17 used it. I read that in your opening statement with  
18 great interest, and if you come up with anything more  
19 like that, please tell me.

20 I don't intend at the moment to have psychiatric or  
21 psychologists' evidence, because there is in fact a very  
22 clearly documented trail of what happened when it was  
23 realised that these problems existed, and I've read  
24 a great deal in the internal SDS management reports and  
25 in what psychologists/psychiatrists said about it, and



1 I doubt that I need to know more about it than what I'm  
2 told by those reports and by what  
3 the psychiatrists/psychologists said at the time in  
4 the 90s and early noughties. I have got to have regard  
5 to the need to report within a reasonable time and at  
6 reasonable cost, and engaging in all these interesting  
7 byways is going to delay things and cost something, and  
8 at the moment I don't see the need for it.

9 MR SANDERS: It's helpful and a good illustration of  
10 the benefits of being able to speak to you face-to-face,  
11 Sir.

12 THE CHAIRMAN: Yes.

13 MR SANDERS: I mean, in relation to the first point and  
14 question of lawfulness or legality, in my submission,  
15 there's an analytical issue here, which is, if one takes  
16 the point standing back, you would say, well, you can't  
17 justify something if it involved illegality. But that's  
18 -- that really just sort of imports the question of  
19 legality into the terms of reference in a way in which  
20 they're not there.

21 When one talks about the justification for  
22 the undercover reporting, the justification, in my  
23 submission, must mean the justification in  
24 practice: was there a need for public order  
25 intelligence; was there a need or a perceived need for

1 intelligence about subversives. The justification for  
2 using the undercover method as the means to the ends is  
3 wrapped up in that. But to then say, well, you must  
4 remember that you can't justify something that could or  
5 would have been giving rise to a liability, immediately,  
6 in my submission, one's into problems with section 2,  
7 one's into problems with the scope of the terms of  
8 reference and one's into the problems of drawing you  
9 into making findings that you have no power to make,  
10 that you're not competent to make -- I don't mean that  
11 in the sense of --

12 THE CHAIRMAN: I well understand the sense in which you're  
13 using it. I don't take it as an insult.

14 MR SANDERS: And therefore it's pointless, because  
15 the operation of the SDS, as a matter of law, it was  
16 lawful. No court of competent jurisdiction has said  
17 otherwise. And as I say, going into these questions  
18 about, well, what would a court have made of a tort  
19 claim or a breach of confidence claim, inevitably that  
20 court would have been presented with different  
21 submissions about the relevance of the policing context,  
22 and the justification for it and so on, so it just  
23 becomes, in my submission -- I see the logic of saying  
24 it couldn't be justified if it involved illegality, but  
25 then that just opens a door into something that, in my

1 submission, you -- into a territory you can't and  
2 shouldn't go into.

3 In relation to the second point, Sir, we do think it  
4 would assist to speak to a psychologist or a behavioural  
5 scientist. We did take some steps to try and find one  
6 who might be able to produce a helpful report. It's  
7 very difficult to find one, because those  
8 psychologists/behavioural scientists working in this  
9 field are engaged by police services and  
10 the Security Service, so (a) there's a difficulty with  
11 their independence, and (b) they appear to be very  
12 reluctant to disclose information or to talk about  
13 things publicly that might be seen as trespassing into  
14 sensitive matters. So we spoke to someone who was very  
15 helpful, who was recommended by one of our clients, but  
16 she just said she felt it wasn't something she can  
17 assist with.

18 But some of the things she said went further than  
19 what's in the papers from the 90s and noughties, and  
20 I appreciate that they mirrored and they chimed with  
21 a lot of that, but a report, again, by someone who can  
22 then answer questions from all of the core participants  
23 and from your team would be of much greater value. It  
24 wouldn't, in my submission, cost a huge amount of money,  
25 lead to any delay, because it can be done in parallel

1 with other matters, or require more than half a day of  
2 hearing. It would assist greatly. There seem to be  
3 issues to do with personality types, maintaining of  
4 boundaries, the suitability and so on, and the effects  
5 of this type of deployment on people, and some expert  
6 evidence on that, in our submission, would assist you,  
7 would assist you in making sound findings.

8 The other difficulty with saying, "Well, I've got  
9 this material from the 90s with the introduction of  
10 psychometric testing and so on, so I think I've got  
11 enough there", is that, we would say, before you produce  
12 a T1 interim report, it would assist you to have this  
13 information, because you're going to be making findings  
14 about the conduct of officers in the 70s without having,  
15 or before hearing or considering evidence about  
16 the stresses and strains they may have been under,  
17 the things that certain personality types are inevitably  
18 going to do in certain types of situation and so on.  
19 And in terms of a fair set of findings about their  
20 conduct, you know, this includes people who are no  
21 longer with us, Rick Clark and so on, in fairness to an  
22 understanding of what they did and how it falls to be  
23 judged -- I'm not saying it's acceptable, but it needs  
24 to be understood in context -- it would assist you, we  
25 say, to hear some expert evidence. You can ask

1 questions and we can all ask questions.

2 THE CHAIRMAN: And then I would find it impossible, would  
3 I not, to resist applications by those who have been  
4 affected by undercover policing, to pay for them to have  
5 psychiatric or psychological evidence of an expert kind  
6 to support them? I'm afraid that I have got to do this  
7 within a reasonable time and within reasonable cost  
8 limits, and investigating something the outcome of which  
9 has actually been demonstrated by facts is not  
10 a particularly good idea.

11 Now, we can all read what happened to  
12 undercover officers in the lifetime of the SDS, and  
13 no one is going to suggest that it did not have an  
14 adverse impact upon some of them, just as no one is  
15 going to suggest that their conduct, not necessarily  
16 the same individuals but the conduct of  
17 undercover officers, had an adverse impact on the lives  
18 of those with whom they interacted undercover.

19 I think there is a limit as to what I can be  
20 reasonably required to investigate, and I think that  
21 crosses it.

22 MR SANDERS: Well, Sir, I mean, I've said what I can from  
23 our side about that. I wouldn't say that the fact that  
24 hearing evidence about the impact on and the psychology  
25 of being an undercover officer means that you would then



INDEX

PAGE

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

Opening statement by MR BARR .....1

Opening statement by MR SKELTON .....104

Opening statement by MR SANDERS .....151