

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 taking 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 summarises 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 if it were practicable, to try to prevent
15 the demonstration 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 recent 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 in 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 Red Lion Square 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 grateful.

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 H
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 or

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

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