

IN THE MATTER OF THE UNDERCOVER POLICING INQUIRY

BEFORE SIR JOHN MITTING

**SUBMISSIONS ON BEHALF OF
THE NON-POLICE, NON-STATE CORE PARTICIPANTS ('NPSCPs')
IN RELATION TO THE PRELIMINARY DRAFT MODULE 2B ISSUES LIST
SPECIAL DEMONSTATION SQUAD ('SDS')**

1. These submissions are made on behalf of the NPSCPs in response to the request for submissions on the draft list of issues for Module 2b ('M2b').¹

General submissions

2. The NPSCPs note the Inquiry's acknowledgment that the draft list of issues for M2b:
 - a. falls to be read with the Issues Lists for Module 1 and Module 2a;
 - b. is shorter and less detailed than the above lists to provide greater flexibility and to ensure that M2b investigations are evidence-led (as the Inquiry's investigations are less advanced for the period 1982-2008 as compared with the Tranche 1 era);
 - c. is likely to be updated and/or amended as collection of the evidence for the period 1982 onwards progresses;
 - d. will not constrain the Inquiry from investigating further issues that may emerge from documentary records or from witness evidence.
3. These submissions are therefore premised on the understanding that there will be further opportunities to raise more specific issues relevant to M2b, not least when disclosure has been made.

¹ Preliminary DRAFT Module 2b Issues List Special Demonstration Squad, 19 April 2022.

4. By way of over-arching observation, as with previous lists of issues, this draft list of issues is, in places, divided by category according to the perceived nature of the groups targeted – e.g., targeting is particularised by reference to certain groups such as targeting the Stephen Lawrence campaign and Duwayne Brooks OBE; reporting on elected politicians, political organisations and political activists, social and environmental activists etc. The NPSCPs have previously, in their submissions in response to the list of issues for the SDS Module 1 and 2(A)², objected to this approach. A number of NPSCPs do not accept the categorisation adopted by the Inquiry. It is submitted the majority of the central issues that the Inquiry will need to investigate apply to all of those spied upon, irrespective of the category to which they have been assigned by the Inquiry. It is vital that the Inquiry approaches its investigation of the treatment of all groups and individuals with an open mind. The NPSCPs reiterate their submission that the same central issues should be investigated in respect of all SDS deployments.

5. In terms of the approach to Module 2b, the NPSCPs note that the intention is for the Inquiry to narrow its focus on the role of senior managers in relation to particular episodes of public disorder or incidents of significance, with a focus on gathering evidence in relation to systemic senior management issues. The NPSCPs do not agree that enquiries should be limited in this way. A proper understanding of systemic issues arising from the M2b Issues List requires as full an analysis as possible based on all the relevant evidence. The NPSCPs submit that a wider approach needs to be taken as the evidence to date suggests that a disproportionate amount of the SDS's time was not spent reporting on incidents of public disorder or incidents of significance and was dominated by irrelevance and triviality. A narrower focus on certain limited incidents, from the senior management perspective, risks distorting the Inquiry's understanding of the precise role played by senior management across the whole of SDS operations.

² Proposed amendments to the draft list of issues for SDS module 2(A) on behalf of the NPSCPs, 12 April 2019.

6. The NPSCPs reiterate the comments that were made in their T1P3 opening statement³ and ask the Inquiry to look wider and, at the very least, seek to obtain all analysis of public order threats relying in whole or in part on SDS reporting, including from outside the SDS, the wider Metropolitan Police Special Branch ('MPSB'), Metropolitan Police Service ('MPS') and from the provincial police forces.⁴ The NPSCPs also request that the Inquiry seeks to obtain any official records of the morning meetings between Commanders from the MPSB and Chief Superintendents, as referenced in the evidence of an SDS manager in T1P3.⁵ The NPSCPs suggest that such documents will be highly relevant to the issues that the Inquiry must determine in M2b as they will inform an understanding of the role of senior managers, their knowledge of the SDS and how they may have influenced SDS operations across the board. The NPSCPs also request that all Chief Superintendents and Superintendents within C - Squad should be identified where they had responsibility for dissemination of SDS intelligence, including those currently referred to by 'TN' nominals.
7. In terms of the Inquiry's methodology on evidence gathering and disclosure, the NPSCPs note that consideration of the M2b issues will be led by the evidence gathered as part of Modules 1a and 2a. The NPSCPs query whether the finalisation of the M2b Issues List will result in further requests for disclosure from the MPSB/MPS and provincial police forces in respect of the period 1968- 1982.
8. In terms of witness selection and the giving of oral evidence, the NPSCPs request that there is early consultation on which senior police managers will be called to give evidence. The Inquiry will recall the highly relevant evidence given by Roy Creamer in T1P3 – a witness who was originally scheduled to be read. It is understood that further witness statements for M2b and M2c for the Tranche 1 era are yet to be disclosed. The NPSCPs request an opportunity to consider these remaining witness statements and, if necessary, make representations on the need for a further oral hearing.

³ Opening statement for tranche one phase three on behalf of the NPSCPs, 25 April 2022.

⁴ See also CTIs Second Addendum Disclosure Note Regarding Tranche 1, 14 April 2022 which limits M2b investigations to MPSB threat assessments to prominent events at which public disorder occurred.

⁵ Witness statement of Geoffrey Craft 7 December 2020, MPS-0747446/11 [para 27].

9. The NPSCPs understand that T6 issues - management & oversight by mid and senior rank officers, other agencies, and government departments - are now to be considered in earlier tranches and will focus on issues set out in a Module 2(c) ('M2c') Issues List. The M2b draft Issues List does not deal with T6 matters. However, T6 matters must inform the approach to evidence gathering in relation to M2b. There must be consideration of senior managers' state of knowledge on T6 issues and communication and contact between senior management and members of the government. The NPSCPs request that a general issue on senior management state of knowledge and communication on T6 matters should be added into the appropriate sections in the M2b Issues List, where indicated below.
10. The NPSCPs note the publication on the 30 June 2022 of the Draft M2c Issues List for the Tranche 1 era and will make separate detailed submissions on that draft, but note for the purposes of these submissions that the M2c Issues List does not refer to communication between the the government and senior police management. As indicated above, M2b and M2c should not be treated as distinct sets of issues but should cover communication and knowledge of communication between senior management and government departments and other agencies.
11. The M2b and M2c draft Issues Lists also do not refer to the Foreign and Commonwealth Office ('FCO') or make clear whether Security Service encompasses MI6. The terms of reference require the Inquiry to "*ascertain the state of awareness of undercover police operation of Her Majesty's Government*". Given the apparent and anticipated links between some targeted Core Participants and foreign states (e.g. Peter Hain and South Africa, anti-nuclear campaigns and the United States) both the M2b and M2c Issues Lists must not exclude the possible role played by the FCO and MI6 and must explore the extent to which theses governmental institutions knew about and/or influenced undercover policing at the behest of foreign states (to also include the passing of information to foreign states). These issues will be developed in response to the M2c draft Issues List but ought to be reflected in the M2b Issues List, with a focus on senior management state of knowledge.

Specific Submissions on Preliminary DRAFT M2b Issues List

The establishment of the Special Demonstration Squad and its continuation

12. Submission: Re issues 2 & 5: include an issue going to T6 matters and to cover senior management state of knowledge of the SDS. This should cover when knowledge was acquired and how it changed over time, e.g., state of knowledge prior to SDS involvement / contact, during the time of most SDS involvement/ contact, after SDS involvement / contact ceases and post MPS/ other employment. This is relevant to the general state of knowledge of the SDS within the MPS and beyond. It is also important to ascertain how and why senior management may have obtained information about the SDS and whether it was connected to a specific role or position.
13. Submission: Re issues 7 & 22: these issues should also address the extent to which the culture of the SDS reflected and/or was influenced by the prevailing culture within the MPS at senior management level.
14. Re Issue 7 add (*in italics*): “To what extent *was the behaviour, culture and priorities of the SDS and the SDS’s procedures, targeting operations, tactics, techniques and reporting methods directed, controlled, or in any other way influenced by the chain of command above the unit itself?*” .
15. Re issue 9 add: “*extent and nature*” .

Training and Guidance

16. Submission Re issue 17: this should include a reference to informal and formal training and guidance.
17. Add additional issue: A further issue should be included specifically addressing whether any procedures were in place for reviewing the need for SDS training, guidance and instruction and for learning lessons from past practice; and what level of review took place.

18. Add additional issue: “senior management knowledge and/or awareness of the SDS Tradecraft Manual and its authors”.
19. Submission Re issue 18: this should not be limited to the legal and regulatory framework at the time of establishment of the SDS. The Inquiry will need to consider whether the framework changed over time. Specifically, the Inquiry will need to ensure that it is clear about the legal and regulatory framework that was applicable at the time of each officer’s actions (their actions might extend over a greater period of time than their deployment. For example, where officers continued to use their undercover legend even though their deployment had officially ended). Further, the investigation of these issues should be iterative, in that the Inquiry will need to consider whether and how the legal and regulatory framework was reviewed and developed in light of the activities of SDS officers over time. Was there recognition within the SDS and/or elsewhere that tighter regulation was required? Was there any system in place for reviewing past conduct and learning lessons for future regulation?
20. Add additional issue: “Did senior management fail to provide training and/or guidance to SDS officers regarding the application of the law in relation to powers of entry, search, and seizure in the context of undercover policing?”.
21. Add additional issue: “What, if any, communication did senior managers have with other agencies including MI5, government departments, senior decision makers and politicians touching upon the legal and regulatory framework and/or legality of SDS operations (to include indirect knowledge of such communications)”.
22. Add additional issue: “Did senior managers seek legal advice (or consider the need to seek such advice) on the legal and regulatory framework and/or legality of SDS operations?”.

Legend building and the use of deceased children’s identities

23. Add additional issue: “What, if any, thought was given by senior management to the legality and legal ramifications of using deceased children’s identities for cover identities?”.

24. Add additional issue: “What, if any, thought was given by senior management to the ethics of using deceased children’s identities for cover identities?”.
25. Add additional issue: “To what extent was senior management made aware of any unsanctioned uses of deceased children’s identities by undercover officers?”.

Targeting and authorisation

26. Re Issue 22 add additional issue: “Did the prevailing culture within senior management – including any political and/or discriminatory culture– influence the conduct and priorities of the SDS?”.
27. Submission Re issue 22.13 [reporting on social and environmental activists]: this issue should specifically include investigation of senior police managers’ knowledge of (a) whether information on social and environmental activists was disseminated to private sector organisations and (b) any links, whether formal and/or informal, between SDS management and private sector organisations, for example, but not limited to, McDonald’s, the Economic League, Barlow Lyde & Gilbert - McDonald’s solicitors, and the private investigators hired by McDonald’s?
28. Submission Re issue 22: There were individuals engaged in activities who were subjected to surveillance but only a portion of that surveillance appears to have been carried out by the SDS. A corollary issue is why some groups or individuals who appear to fall within the SDS target criteria were apparently ignored. There should be an issue under the targeting heading to specifically address why, how and on what basis it decided whether the SDS would target any given individual as opposed to some other form of state surveillance and the role of senior management in this decision-making process.
29. Submissions re issue 22.11: This should be developed to cover senior management state of knowledge on the use of intelligence gathered on trade unions and, in particular, whether senior management were aware of blacklisting (directly or indirectly).

30. Submission Re issue: 22.1, 22.4, 22.7, 22.10, 22.13 amend (*in italics*): “stated purpose” to “purpose, *stated or otherwise*”.
31. Submission Re issue 24 & 25: this issue should be expanded, and further issues should be added to cover whether any aspect of targeting was influenced by either conscious or subconscious bias on grounds of sex, political and/or socio-economic class and, to the extent that this may be different, whether the selection of targets was influenced by the potential targets’ race, sex, politics, or class.
32. Re issue 27 add: “*and can senior managers account for any missing documentation?*”.
33. Add additional issue: “What consideration was given by senior management to the potential effect of the targeting on those individuals and groups who were targeted?”.
34. Add additional issue: “What, if any, consideration was given by senior management to the balance between protecting the right to protest, political imperatives, and policing needs? How were such decisions passed to those overseeing the SDS or those requesting intelligence from the unit and what role was played in this process by senior management?”.
35. Submission: A T6 related issue should be added to cover senior management’s state of knowledge on the direction and control of targeting and authorisation for targeting from other agencies including MI5, government departments, senior decision makers and politicians, to include how any such requests were communicated to senior police management and then to the SDS.

Special Demonstration Squad Record Keeping

36. Add additional issue: “(a)What, if any, direction was given or received by senior managers to destroy records; and (b) whether senior managers are aware of any direction to destroy records being given and, if so, by whom, when and whether any destruction of records occurred?”.

Senior Management knowledge of, and attitudes towards, relationships between undercover officers in their cover identities and those with whom they came into contact

37. Re Issue 37.1 amend (*in italics*): “To what extent were senior managers involved in or aware of the creation and dissemination of any such policy, instruction, procedure or guidance *and/or to what extent ought they to have been?*”.
38. Re issue 40.1 add as 40.2: “If yes, did senior managers turn a ‘blind eye’ to such relationships and, if so, why?”.
39. Add additional issue: “What, if any, consideration did senior managers give to the risk of children being born, out of the relationships of undercover officers with those upon whom they were reporting or with whom they came into contact, in their cover identities (whether they knew of children being born or not)?”.
40. Add additional issue: “Were senior managers aware at any time of the fathering of children by undercover officers with those upon whom they were reporting, or with whom they came into contact, in their cover identities?”
1. If so, what were their attitudes to this?
 2. If so, what consideration was given to the impact on women's reproductive rights, specifically in relation to the impact of pregnancy and childbirth?
 3. If so, what consideration was given in relation to the impact on the child and the child’s best interests, including whether it was in the best interests of the child to know the identity of their parents?
 4. If so, would the undercover officer be permitted to approach their child and uncover the truth about his identity?
 5. If not, should they have been?
 6. If not, what were the disciplinary consequences of this occurring, for the undercover officer by senior management?
 7. What consideration, if any, did senior managers give to the duties – ethical and/or legal – to support children born from these relationships?”.

41. Add additional issue: “What, if any, communication did senior managers receive from or have with other agencies including MI5, government departments, senior decision makers and politicians touching upon relationships between undercover officers in their cover identities and those with whom they came into contact (to include indirect knowledge of such communications)?”.

Senior management knowledge of, and attitudes to, infringement of legal professional privilege by undercover officers

42. Submission Re issue 65: these issues should be amended to clarify, in the appropriate place, whether any such policy, instruction, procedure or guidance concerning an undercover officer being arrested, charged or summonsed in his or her cover identity included guidance in respect of (i) instructing a solicitor; (ii) legal professional privilege where a UCO had access to information about legal advice given to those s/he was reporting on; (iii) appearing in Court; (iv) accepting a caution / entering a plea? Furthermore, what, if any, policy, instruction, procedure, or guidance existed concerning an undercover officer taking part in any meeting or discussion about possible legal defences or tactics before or after arrests?
43. Re issue 67 & 68 add: *“was there anything in the culture of senior management that could have been interpreted to condone the obtaining of legally privileged information?”*.

Senior management knowledge of, and attitudes towards, undercover officers’ involvement in criminal proceedings

44. Submission Re issue 49 – 61: were senior managers aware of whether police officers outside of the MPSB were told of the involvement of an SDS officer or officers in activity under investigation? For example, it is now known that Christine Green’s involvement in the Ringwood Fur Farm case was not notified at the time to Hampshire Police. Was that a one-off incident, or is it reflective of SDS practice more generally?

Senior Management knowledge of, and attitudes towards, undercover officers’ involvement in civil proceedings

45. Add additional issue: “(1) What, if any, policy, instruction, procedure or guidance existed concerning an undercover officer taking part in any defence campaign relating to civil cases?; and (2) was information gleaned from undercover officers’ participation in civil defence campaigns passed on to any private sector organisations, either directly or indirectly (for example, via the Economic League), in particular, but not limited to, those connected to a party in the civil proceedings?”.

Whistleblowing

46. Re issue 70 add: “70.1 if yes, what was the motivation for this and, in particular, was undue consideration given by senior managers to insulating the SDS from scrutiny and maintaining total secrecy at the expense of other considerations such as the rights and welfare of members of the public?”.

Disbandment of the Special Demonstration Squad

47. Add additional issue: “What, if any, recognition was there (i) within the MPS and (ii) within other bodies that were aware of the existence of the SDS, of the need to learn lessons from the way in which the SDS had operated?”
48. What, if any, measures were put in place: (i) to disseminate good and bad practice and methods from the SDS to other undercover policing units; and (ii) to prevent bad methods and practice from the SDS being replicated in other undercover policing units?”.

Special Demonstration Squad interaction with senior police officers and oversight bodies

49. Re issue 84 amend (*in italics*): “Was the SDS visited or inspected *or otherwise supervised or monitored* by senior police officers?”.

Interaction with Security Service

50. Add additional issue: “What contact did senior managers have with government departments, senior decision makers and politicians in relation to the Security Service and its relationship to the SDS and for what purpose?”.
51. Submission: It is presumed that Security Service also includes MI6 for the reasons set out above but this should be made explicit in the M2b and M2c Issues Lists.

Additional issues: miscellaneous

52. Add additional issue: “Senior managers’ state of knowledge on the interaction between the SDS and other police forces, including local Special Branches and the flow of information between the SDS and other police forces, including local Special Branches”.
53. Add additional issue: “Did senior managers know that SDS officers were being deployed overseas when undercover?”.

Kirsten Heaven

1 July 2022