

**IN THE MATTER OF THE UNDERCOVER POLICING INQUIRY**

**BEFORE SIR JOHN MITTING**

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

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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 2c ('M2c').<sup>1</sup>
2. The NPSCPs note that this M2c Issues List relates to the Tranche 1 era only and that submissions will be invited on the draft Issues List for Tranches 2-5 in due course.
3. The M2c Issues List is a crucial document going to a vitally important part of the Terms of Reference ('ToR') for this Public Inquiry, namely, "the state of awareness of undercover police operations of Her Majesty's Government". The NPSCPs are therefore surprised by the brevity and lack of detail in the M2c draft Issues List. Not only are certain obvious departmental government bodies omitted but there appears to be an attempt to limit the scope of enquiries to certain events in a way that appears to be at odds with the ToR. However, what is most concerning is the failure to include within the M2c draft Issues List any reference to the state of knowledge of the government of the day, all the way up the political hierarchy to the Office of the Prime Minister ('OPM'). This Inquiry is tasked with examining the motivation for undercover policing. The NPSCPs request an assurance that these enquires are taking place.

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<sup>1</sup>Draft Module 2C Issues List for Tranche 1, 30 June 2022

## Scope of Inquiries, Investigations and Disclosure

4. The Inquiry has requested and received disclosure from the Home Office and MI5 but it appears that further evidence is being sought from the Home Office. The material disclosed thus far from these two government bodies clearly goes wider than just particular episodes or incidents of significance. This must be the case given the broad way in which the ToR have been drafted. However, the NPSCPs are extremely concerned at the suggestion, made in paragraph 5 of the preamble to this draft M2c Issues List for Tranche 1, that future investigations for M2c matters are to be limited:

“5. In preceding tranches (i.e. Tranches 1-5), the Inquiry’s approach to Module 2c will take into account the need for the Inquiry to report as soon as reasonably practicable and will be influenced by the evidence it gathers in Modules 1, 2a and 2b. It is anticipated that this will mean that in its future investigation the Inquiry focusses on the role of official bodies in relation to particular episodes or incidents of significance revealed by evidence gathered as part of Modules 1, 2a & 2b.

6. This approach means that core participants should not expect evidence from each of the official bodies listed above in each of Tranches 1-5.”

5. It is not clear from the preamble to the draft M2c Issues List how in fact the Inquiry proposes to limit its investigations into official government bodies. The NPSCPs request further clarification. It appears that the request for witness statements will be limited by a focus on ‘incidents of significance’. However, is the Inquiry now proposing to limit its search for documents and disclosure requests on M2c issues to certain ‘incidents of significance’? As already highlighted in the NPSCPs’ submissions on the Module 2b Issues List, the NPSCPs do not agree that any enquiries and/or disclosure should be limited in this way. Such limitations are not only fundamentally at odds with the ToR, but they will inhibit a proper understanding of systemic issues and prevent this Inquiry from getting to the truth about the political motivation underlying undercover policing in the Tranche 1 era. Any limitation risks distorting the Inquiry’s understanding of the precise role played by government bodies across the whole of SDS operations. It also risks the

perception that the Inquiry is prejudging the issues by appearing to narrow the scope. This Inquiry must commit to obtaining all potentially relevant evidence from witnesses for M2c who can assist the Inquiry to fulfil the ToR.

### **Office of the Prime Minister**

6. Add additional issue:
  - a. What role did the OPM / Prime Minister play in the establishment, continuation, authorisation, and funding of the SDS?
  - b. What role, if any, did the OPM / Prime Minister play in the way in which the SDS operated?
  - c. What influence did the OPM / Prime Minister have, either directly or indirectly, on the SDS?
  - d. What was the state of knowledge of the OPM / Prime Minister of the SDS and its operation, including of the methods used by undercover police officers to infiltrate organisations?
  - e. Was the OPM / Prime Minister ever made aware of SDS operations targeting and/or operating in close proximity to Members of Parliament.<sup>2</sup>
  - f. Did the OPM / Prime Minister consider the legal framework for the SDS's methods?
  - g. Who, if anyone, briefed the Prime Minister about undercover policing and the SDS and were these briefings documented or recorded?
  - h. What records were kept and where?

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<sup>2</sup> The Wilson Doctrine 1966 prevents the police and intelligence services from tapping the telephones of members of the House of Commons and the House of Lords. Such surveillance was possible but on the authorisation of the Prime Minister on the grounds of national security. Given the doctrine was established shortly before the Tranche 1 era its significance would be well understood, including by the MPS. SDS officers were undertaking surveillance at least in close proximity to MPs and there is evidence to suggest some reporting was placed on an MP's Registry File (Ernie Roberts MP - MPS-0728759/6). It is therefore important for the Inquiry to establish whether this was known about or authorised by the Prime Minister.

## Government Bodies

7. The NPSCPs note that many state bodies and government departments have been omitted from the list set out in paragraph 3 of the draft M2c Issues list. A full list is therefore set out in Annex A and the NPSCPs request that all these state bodies and government departments are contacted by the Inquiry with a request for relevant disclosure.
8. As noted in the NPSCPs' response to the Module 2b draft Issues List,<sup>3</sup> given the breadth of the ToR and the apparent and anticipated links between certain activists and foreign states (e.g., Peter Hain and South Africa, anti-nuclear campaigns, and the United States),<sup>4</sup> the M2c enquiries and Issues List must not exclude the possible role played by the Foreign and Commonwealth Office ('FCO'). Clarification is also requested as to whether 'Security Service' includes MI6. The Inquiry must explore the extent to which the FCO and MI6 knew about and/or influenced undercover policing and the extent to which there was any communication with foreign states involving undercover policing (to include the passing of SDS acquired intelligence to foreign states and the passing of information and requests, or similar, or tasking from foreign states).
9. Add additional issue:
  - a. Was the UK government asked by any foreign state to collect intelligence on any core participant?
  - b. If yes, was the SDS tasked to obtain any such intelligence and, if so, by whom?
  - c. Was any intelligence reported by the SDS provided to a foreign state by the UK government and, if yes, by whom?
  - d. What was the state of knowledge within the UK government on any communication between the UK government and a foreign state on matters relating to undercover policing and the intelligence produced by the SDS on the above issues?

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<sup>3</sup> Submissions on behalf of the NPSCPs in relation to the Preliminary Draft Module 2B issues list SDS, 1 July 2022, paragraph 11

<sup>4</sup> Undercover officers travelling with activists outside the UK features in Tranche 2

## State of knowledge

10. There is only one question on a government department's state of knowledge of the SDS and this appears under the Home Office in Issue 5. There should be an Issue addressing the state of knowledge of all government departments. State of knowledge should be subdivided into further issues by reference to category as suggested below:

- a. Cat D – Was [*insert relevant government department*] aware that at least one undercover police officer had been deployed in close proximity to a sitting Member of Parliament and had access to the House of Commons?<sup>5</sup>
- b. Cat E – What was [*insert relevant government department*]'s state of knowledge and role in any targeting and surveillance of trade unions and trade union members?
- c. What was [*insert relevant government department*]'s state of knowledge of the compilation of lists of individuals and the sharing of such lists (and intelligence) between government departments and external non-governmental bodies such as employers, employers' associations, academies.
- d. Cat F – Was [*insert relevant government department*] aware that SDS undercover officers were relying upon the identities of deceased children to apply for cover identity documents?
- e. If yes, at what level of seniority did the [*insert relevant government department*] sanction (alternatively, condone) the use of deceased children's identities?
- f. Cat H – Was [*insert relevant government department*] aware of the risk that long-term infiltration of organisations and private lives could lead to intimate personal relationships and/or of the fact that SDS officers entered into close personal relationships when undercover, including fathering children?
- g. Cat I – Was [*insert relevant government department*] aware that SDS officers had direct and/or indirect contact with the judicial system?
- h. Cat J & K – What was [*insert relevant government department*]'s state of knowledge and role in any targeting of justice campaigns and political activists?

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<sup>5</sup> UCPI0000027515/1, 30 July 1982

- i. What did the Home Office know about the role of the SDS in the targeting of political parties?
- j. What was the state of knowledge of [*insert relevant government department*] in relation to controversial deaths connected to the MPS or other police forces including, but not limited to, the deaths of Blair Peach and Kevin Gately?
- k. Cat L - What was [*insert relevant government department*]'s state of knowledge on the sharing of intelligence gained from undercover policing with corporations and private businesses?
- l. What was [*insert relevant government department*]'s state of knowledge on the tasking of the SDS in response to requests for intelligence from corporations and private businesses.

## The Home Office

### 11. Add additional issues

- a. What oversight did the Home Office have over the SDS?
  - i. What role, if any, did the Home Office have in the establishment of the 1976 Working Group review of the SDS? When and under what circumstances was the Home Office made aware of the report of that working group?
- b. What, if any, role did the Home Office have in the retention and destruction of documents relating to the SDS?
- c. What formal or informal links between the Home Office and other government agencies (including the Security Service) were used in relation to the SDS?
- d. What, if any, connection existed between the Home Office and/or the Cabinet Office Committees concerned with subversion (such as the Subversion at Home Committee and Subversion in Public Life Group), the Security Service and the SDS and how, if at all, did these Committees influence the continuation, authorisation, funding, and scope of SDS operations?<sup>6</sup>

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<sup>6</sup> James Waddell and Robert Armstrong were connected to the Home Office 'Subversion at Home Committee' and 'Subversion in Public Life Group' with the former sitting on the committee. As Deputy Secretary to the Home Office, he managed day-to-day liaison with MI5 and the Home Office.  
<https://research.edgehill.ac.uk/en/studentTheses/thatchers-culture-of-conformity-the-disintegration-of->

12. Issue 2 should include investigation of:

- a. Which Home Office representatives met with SDS Managers and what were the circumstances surrounding such meetings?
- b. Whether those meetings began in response to the concerns documented by David Heaton between 1979 – 1980;
- c. The purpose of any meetings between the Home Office and the SDS.

13. Issue 4 should include investigation of:

- a. The information, if any, that the Home Office received from Her Majesty's Inspectorate of Constabulary ('HMCIC') arising from their inspections;
- b. What the Home Office did in response to any such information provided by HMCIC;
- c. What action did the Home Office take, if any, in relation to the concerns expressed about the Special Branch terms of reference and the absence of a workable framework for accountability in relation to Special Branches' work on behalf of the Security Service more generally?
- d. What action did the Home Office take, if any, arising from the concerns expressed about the definition of subversion being relied upon in this context?

14. Issue 5 – this is drafted in general terms. It should be broken down into: (i) What did the Home Office know about the operations of the SDS? and (ii) What should the Home Office have known about the operations of the SDS? Both Issues should be subdivided into further issues by reference to the categories suggested below:

- a. Cat D – Was the Home Office aware that at least one undercover police officer had been deployed in close proximity to a sitting Member of Parliament and had access to the House of Commons?<sup>7</sup>

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partystate- By 1986 we know that Armstrong was chairing the 'Subversion at Home Committee' ('SAHC') <https://www.documentcloud.org/documents/6386177-CAB-301-485> Both Waddell and his successor Robert Armstrong, who signed the funding letter in 1976 and 1977, were the civil servants responsible for MI5 {UCPI0000034284} & Wright, Spycatcher, p348. Civil servant Michael Partridge signed off an SDS authorisation letter in 1984 {MPS-0730903/1} and sat on the 1987-89 SAHC.

<https://discovery.nationalarchives.gov.uk/details/r/C16747871> CAB 301/486

<sup>7</sup> UCPI0000027515/1, 30 July 1982

- b. Cat E - What was the Home Office's state of knowledge and role in any targeting and surveillance of trade unions and trade union members?
- c. What was the Home Office's state of knowledge of the compilation of lists of individuals and the sharing of such lists (and intelligence) between government departments and external non-governmental bodies such as employers, employers' associations and academies?
- d. Cat F - Was the Home Office aware that SDS undercover officers were relying upon the identities of deceased children to apply for cover identity documents?
- e. If yes, at what level of seniority did the Home Office sanction (alternatively, condone) the use of deceased children's identities?
- f. If no, did the SDS actively deceive representatives of the Home Office (e.g., HM Passport Office) when applying for cover identity documents in the names of deceased children?
- g. Cat H - Was the Home Office aware of the risk that long-term infiltration of organisations and private lives could lead to intimate personal relationships and/or of the fact that SDS officers entered into close personal relationships when undercover, including fathering children?
- h. Cat I - Was the Home Office aware that SDS officers had direct and/or indirect contact with the judicial system?
- i. Cat J & K - What did the Home Office know about the role of the SDS in the targeting of justice campaigns and political activists?
- j. What did the Home Office know about the role of the SDS in the targeting of political parties?
- k. What was the Home Office's state of knowledge of any controversial deaths connected to the MPS or other police forces including, but not limited to, the deaths of Blair Peach and Kevin Gately?
- l. Cat L - What was the Home Office's state of knowledge of the sharing of intelligence gained from undercover policing with corporations and private businesses?
- m. What was the Home Office's state of knowledge on the tasking of the SDS in response to requests for intelligence from corporations and private businesses?



15. In terms of what the Home Office should have known about the operations of the SDS, the following Issues should be included:
- a. Based on the knowledge that the Home Office did have (for example, that SDS deployments were long term), what consideration was given to the 'risks' to (i) targets (direct and indirect); and (ii) officers arising from:
    - i. the formation of close and intimate personal relationships?
    - ii. the consequences of deploying officers into educational institutions?
    - iii. the potential unlawfulness of police activity?
    - iv. the risk of violence to officers?
    - v. the risk of lost employment opportunities to targets arising from blacklisting or the sharing of intelligence received from undercover officers?
    - vi. the risk arising from contact between undercover officers or their representative and corporations and any sharing of intelligence (direct and indirect)?
    - vii. the risk from personal data collection / breaches including in relation to Members of Parliament?
  - b. What steps were taken by the Home Office to mitigate and protect against those risks (to include any risk assessments)?
16. Add in Issue 6
- a. What did the Home Office know and understand the legal and regulatory frameworks governing undercover SDS operations to be?
  - b. What, if any, communication did the Home Office have with other agencies including the Security Service, government departments, senior decision makers and politicians touching upon the legal and regulatory frameworks and/or legality of SDS operations (to include indirect knowledge of such communications)?
  - c. Did the Home Office seek legal advice (or consider the need to seek such advice) on the legal and regulatory frameworks and/or legality of SDS operations?

## The Security Service

### 17. Add in Issue 9:

- a. Was there any consideration by or discussion with the Security Service as to the legal limits of requests for intelligence from the SDS?<sup>8</sup>
- b. To what extent did the Security Service assist the SDS with the creation of cover identities?
- c. Were there alternative methods to using a deceased child's identity available to create cover identities through assistance from the Security Service and/or the Home Office? Did the SDS unreasonably fail to avail themselves of those methods?
- d. To what extent was the Security Service aware of the methods used by the SDS in infiltrating organisations and private lives of those spied on?
- e. Was the Security Service aware of the risk that long-term infiltration of organisations and private lives by the SDS could lead to intimate personal relationships and/or were they aware of the fact that SDS officers entered into close personal relationships when undercover, including fathering children?

## The Cabinet Office

### 18. Add additional issues:

- a. What role did the Cabinet Office play in the establishment, continuation, authorisation and funding of the SDS?
- b. What role, if any, did the Cabinet Office play in the way in which the SDS operated?
- c. What influence did the Cabinet Office have, either directly or indirectly, on the SDS?
- d. What was the state of knowledge of the Cabinet Office about the SDS, including of its operational methods and of the legality of its operations?
- e. What records were kept and where?

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<sup>8</sup> This issue arises in the context of the acknowledged public interest and concern on lawfulness of activities carried out for the Security Service - UCPI0000004437/7; UCPI0000004715/4, para 11(a)

19. Add in Issue 10:

- a. What, if any, connection existed between Cabinet Office Committees concerned with subversion, the Security Service and the SDS and how, if at all, did these Committees influence the continuation, authorisation, funding, and scope of SDS operations?
- b. Was the MPS Special Branch represented at the Interdepartmental Working Group on Subversion in Public Life?
- c. If yes, did SDS intelligence contribute to the Interdepartmental Working Group?
- d. What influence did the Interdepartmental Working Group have, if any, on the work of the MPS Special Branch?

**Relationship between SDS and other undercover state policing/spying bodies**

20. This issue is important as there has been very little disclosure of information about the division of responsibility for undercover policing and state surveillance between state bodies responsible for such surveillance. The ToR cannot be met unless the Inquiry can explain why the SDS did not target certain groups and individuals on the political left wing. To ignore this would be to present a very partial picture. The following Issues are suggested for inclusion in M2c:

- a. What was the relationship between the SDS and other undercover state policing/surveillance bodies and how did it impact on the work of the SDS?
- b. Which government departments and Ministers were aware of the relationship? What role did they play in deciding the nature of the relationship? What were the reasons for the decisions?
- c. Were groups or individuals who met the criteria for undercover policing - such as key elements of the left - deliberately excluded from SDS/MET Special Branch surveillance, if yes, why were they excluded and who decided this?

## Her Majesty's Inspectorate of Constabulary

21. It is understood that the material disclosed by the HMCIC does not relate to the Tranche 1 era. In any event, it is not clear why there is no reference to HMCIC in the M2c Issues List given what is noted about them and the concerns they raised in the Tranche 1 era, as recorded in the Home Office's disclosure for Tranche 1 Phase 3.<sup>9</sup> HMCIC features in the M2b Issues List. The NPSCPs requests assurances that enquiries are being made of HMCIC and an appropriate witness will be requested to provide a statement (provided this is possible). Even if there were no inspections of the MPS Special Branch and/or SDS by HMCIC, it is important that this is formally confirmed for the record, given the express observations of the Home Office.

22. Add additional issue:

- a. What inspections of the MPS Special Branch took place between 1968-1982?
- b. Did HMCIC carry out any inspection of the SDS during the inspections of the MPS Special Branch between 1968-1982? If not, why not? If yes, what were their findings?
- c. What information did HMCIC provide to David Heaton in response to his enquiries about inspections of Special Branches? Were there any changes implemented to HMCIC Inspections at the request of the Home Office?

## Closed Proceedings and M2c Issues

23. The NPSCPs request clarity as to how the Inquiry intends to investigate any M2c Issues that may arise where they are covered by a Restriction Order and whether views will be sought from Core Participants (where possible).

Kirsten Heaven

22 July 2022

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<sup>9</sup> UCPI0000004715/3

## Annex A<sup>10</sup>

1. Every police force in England including Special Branch archives
2. Every police force in Wales including Special Branch archives
3. RUC
4. Garda In Republic of Ireland
5. MPS
6. M15
7. MI6
8. Home Office
9. Ministry of Justice
10. Foreign and Commonwealth Office [to including Industrial Research Department]
11. The Office of the Prime Minister
12. Cabinet Office
13. Crown Prosecution Service
14. Attorney General's Office
15. HM Treasury
16. Northern Ireland Office
17. Office of Secretary of State for Northern Ireland
18. Office of Secretary of state for Scotland/ Scottish Office
19. Office of the Secretary of State for Wales/previous equivalent
20. DPP
21. Public Records office (re use of deceased children's names)
22. Passport Office
23. DVLA
24. National Public Record Office/National Archives and Welsh equivalent if there is one
25. Office of the Commissioner of Police for the Metropolis
26. Police Federation
27. National police institutions
28. NPCC and its predecessor / ACPO
29. National Crime Agency/predecessor
30. College of Policing
31. Police Federation
32. IPCC/IOPC
33. Head Coroner's Office/specific coroner's offices involved in inquests into deaths in custody
34. Electoral Role Office/ regional Electoral Registration Offices
35. Department for Social Security
36. Ministry of Defence
37. Department of Education
38. Relevant government department with responsibility for certain former government bodies (Department of Employment (and Productivity from 1968 to 1970), Department of Trade and Industry (from 1970), Manpower Services Commission, Health and Safety Commission, Advisory, Conciliation and Arbitration Service (ACAS) Council (all from 1974 and 1975) - blacklisting)

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<sup>10</sup> Not all of these bodies are relevant to Tranche 1 but they are included for completeness