

Counsel to the Inquiry's Closing Statement for Tranche 1

Introduction

1. Sir, inquiring publicly into the actions of an undercover police unit, which was gathering intelligence about political activists, half a century ago, is no easy task. However, we have now reached the point at which we have obtained, prepared for publication and adduced evidence about the formation of the Special Demonstration Squad ("SDS") and its operation from 1968 until the early 1980s. We have investigated 56 undercover officers ("UCOs"), all of whom joined the SDS at some point between 1968 and 1979¹. We obtained witness statements from 36 of these officers. 16 former undercover officers and two risk assessors gave oral evidence in open hearings and a further five gave closed oral evidence. 21 civilian witnesses provided witness statements and 12 of them gave oral evidence. We have also investigated the management of the SDS, obtaining witness statements from 13 former managers or administrators who served within the SDS and calling seven of them to give oral evidence². Witness statements from six former police officers who were involved either in the SDS' higher chain of command or as disseminators or consumers of SDS intelligence have been put into evidence. As have four witness statements from former Home Office officials, all of whom discharged functions with some connection to the SDS. The evidence of witnesses is valuable and, on some issues, invaluable. However, at this remove in time, there can be no doubting the utility of contemporary written records. The discovery of very extensive surviving records from the Tranche 1 era enables a much more effective forensic exercise than would have been possible had we had to rely upon human memories alone.

The Evidence

2. I do not propose either to rehearse or to analyse in detail the evidence that we have received. We have already produced detailed openings for each of the hearings in Tranche 1, as well as submissions on the law, which it would serve no purpose to repeat. Rather, I shall summarise the broad conclusions, which it appears to us, can be drawn from the evidence. On issues in which core participants have a particular interest, they or their counsel will make more detailed submissions. I shall, in places, seek to identify emerging themes and trends, although I am conscious Sir that for the

¹ Including HN218, HN318 and HN328. Excluding HN325, HN332, HN294 & HN1251 on the ground that they were managers who did some undercover work.

² We have counted HN218 in both the UCO and manager figures. In total 41 different persons gave oral evidence in Tranche 1.

purposes of your interim report you may decide that some such issues are best left until you have heard all the evidence. As in previous submissions, I shall also use SDS throughout to refer to the undercover unit which, at least in its early years, was referred to formally and informally by a variety of other names³.

The October Demonstration and Formation of the SDS

3. Metropolitan Police Special Branch was already gathering intelligence about groups and individuals on the far left of the political spectrum, amongst others, before the Special Demonstration Squad was established. It collected such intelligence from numerous sources. A common source was plain clothed officers who attended and reported on meetings held by activists. Such officers could attend public meetings but were not always successful in their attempts to attend private meetings. They either did not deceive others as to their identity or did so briefly using only temporary and superficial cover. Intelligence was recorded in the same format and on the same forms as were first used by the SDS. Special Branch used these sources to build up a detailed picture not only of the groups but also their members and sympathisers, especially leading members.
4. In 1967 and, particularly, 1968 there was an increase in violent political demonstrations both in London and across Europe. Especially prominent were massive demonstrations against the Vietnam War, a cause which united not only far left groups but also large sections of the public. The shocking violence and narrow margin by which protesters were prevented from breaking through to the American Embassy on 17 March 1968 prompted great concern within the Government and the Metropolitan Police Service ("MPS"). Both were determined to avoid a repeat of the violence. The SDS was born of this concern and formed on either 30 or 31 July 1968. Its principal purpose, at this stage, was to obtain and co-ordinate intelligence relating to the forthcoming October Demonstration. Initially, the SDS gathered intelligence using a range of methods of which undercover policing was but one. Very quickly, however, the SDS became a purely undercover police unit. It was and remained a part of Special Branch.
5. The first recruits to the SDS were allocated to the unit by management and instructed to attend an initial meeting. Thereafter, recruitment was typically by way of a targeted approach to an existing Special Branch officer whom it was thought might

³ In the early documents, particularly at working level, various names are used. For example, Demonstration Squad, Demo Squad, Special Squad or Hairies. In higher level official documents, the unit is referred to as the Special Operations Squad. Noticeably so in communications with the Home Office from at least December 1968. Only later did it formally become the SDS at some point in either 1972 or 1973.

UNDERCOVER POLICING INQUIRY

make a good undercover officer. In its very early years the SDS was predominantly but not exclusively male. Three female officers served in the unit in 1968 and two more were recruited as UCOs in 1970 and 1971 respectively. After their deployments ended in 1973, SDS UCOs were all male throughout the remainder of the Tranche 1 era.

6. In the period between its formation and the October Demonstration, most of the groups infiltrated by the SDS were involved in preparations for that demonstration or were supportive of it. The depth to which the groups were infiltrated and the level of intrusion into the lives of individuals in 1968 was notably less than it was in later years. In some cases, there was not a great deal of difference between the traditional approach adopted by plain clothed police officers and that of a very early SDS undercover officer. They concentrated on attending meetings, did not spend a great deal of time with their groups outside meetings and slept in their real homes. What was different was the continuous use of a cover identity and a change of appearance which enabled the officers to appear to be genuine activists. The result was greater access to private meetings and social events at which activists spoke more freely. SDS undercover officers sometimes entered the homes of activists and others in their undercover identities. This happened occasionally in the very early days of the SDS but much more frequently later. There is no evidence that the legality of doing so was given any consideration.
7. The intelligence gathered by the SDS formed the basis of a series of reports produced by Chief Inspector Dixon and Detective Constable Roy Creamer. Their reports, which are in Chief Inspector Dixon's name, were fed up the chain of command. They must have helped to inform the Home Office.
8. In the result the main body of demonstrators marched without serious disorder on 27 October. The only serious trouble was occasioned by breakaway Maoist and Anarchist demonstrators in Grosvenor Square. There is no doubt that in official circles the SDS was credited with contributing to the successful outcome. There was even mention of undercover officers in the press. The Times lauded the Home Secretary's handling of the demonstration and attributed his success to intelligence received from the police. Special Branch received a letter of thanks from the American Ambassador.
9. Assessing the actual contribution of undercover policing to the outcome on 27 October 1968 is more difficult. The Vietnam Solidarity Campaign's leadership promoted a peaceful outcome. The breakaway group's intentions were well-known. Special Branch had sources other than the SDS' undercover police officers. However, it might be said that the undercover officers' reports were timely,

authoritative, and consequently provided further assurance to those planning the police response. They helped to avoid an overreaction.

The Continuation of the SDS after the October Demonstration

10. The perceived success of the SDS, combined with continuing concerns about forthcoming mass demonstrations, rapidly led to a decision to maintain the unit. Chief Inspector Dixon set out his vision for the unit's continued existence in a paper entitled "*Penetration of Extremist Groups*". Of note are the respects in which his vision was not followed in practice. His advice that deployments should last no more than a year and that undercover police officers must not take office within a group, chair meetings or draft leaflets was ignored.
11. The Home Office played a pivotal role in the continued existence of the SDS. It funded cover accommodation for the SDS which required periodic approval. From the financial year 1972/73 onwards, approval was granted for each financial year in response to a letter from a very senior officer, usually the Assistant Commissioner (Crime). From the outset there was unease within the Home Office about the SDS. It feared embarrassing revelations, ostensibly the fact that the Home Office was funding the unit's unorthodox accommodation. Contemporary documents emanating from the Home Office repeatedly impressed upon senior police officers the need to ensure that the SDS' ongoing existence remained a secret. However, it was not until 1984 that anyone in the Home Office asked for more details and was then permitted to see a copy of an SDS annual report. One might infer from these facts that the Home Office was more concerned about the SDS remaining a secret than it was about precisely what the SDS was doing. Although the Home Office can rightly say that operational decisions are properly matters for the police, it is nevertheless striking that the Home Office was so uninquisitive about such sensitive operations. For example, Sir Hayden Phillips stated that: "*All I recall was that my predecessor and immediate superior had taken the view that our role was to support the MPSB and I authorised continued funding accordingly*". That is a long way from the caution originally advocated by Sir James Waddell, in 1968, who asked the MPS to keep the reasons for the SDS' existence under review and did not think that the SDS should become a permanent feature of the Branch.
12. Home Office officials might have taken comfort from senior police officers who enthusiastically supported the SDS and referred to the unit in glowing terms whenever they sought continued funding from the Home Office. The evidence shows that senior officers visited the SDS periodically and received reports from the unit to inform successive bids for funding from the Home Office. These reports spelt out in some detail what the SDS had been doing and to what effect. They trumpeted the

UNDERCOVER POLICING INQUIRY

work of the SDS. We noted in the evidence on occasions a disconnect between the evidence of undercover officers and the terms in which managers represented their deployments in the annual reports.

13. Further anti-Vietnam War demonstrations did not materialise on the same scale after October 1968. However, 1969 brought the unwelcome resumption of serious violence in Northern Ireland. There was also militant anti-apartheid protest, which included the use of direct action, by the Stop the Seventy Tour campaign in 1970. It fuelled concerns that anti-apartheid was an issue that was likely to continue to generate large scale protest. These two developments, together with other disturbances, were more than enough to persuade the Home Office and senior police officers of the continuing need for the SDS. It was also argued that the time taken for an undercover police officer to win the trust of some groups was such that infiltration had to be conducted proactively rather than reactively.
14. In these circumstances the SDS morphed, after the October Demonstration, into something quite different from what it had originally been. The unit had been created to deal with a specific, large scale, threat to public order. It had conducted numerous short-term, relatively “shallow”, infiltrations broadly directed to gathering intelligence about that forthcoming demonstration. Officers had been given no specific training and in some cases no time to create a cover identity either. Early undercover officers deployed very rapidly when they joined the SDS.
15. After the October Demonstration the SDS quickly became an undercover police unit which conducted long term infiltrations of groups on the far left of the political spectrum. It continued to operate without providing its undercover police officers with any bespoke formal training. However, there was a trend towards officers spending longer and longer in the back office before deploying. Time that was spent learning informally, becoming accustomed to the ways of the SDS, and building an undercover identity.
16. The size and management structure of the SDS varied only a little after the October Demonstration. It was normally led by a Detective Chief Inspector. He was supported by at least one and sometimes as many as three Detective Inspectors. There was also always at least one and sometimes as many as three Sergeants. Typically, one Sergeant dealt with reporting whilst another was responsible for other administrative matters. But the unit was so small that those of managerial rank sometimes discharged other tasks or covered for colleagues. The number of undercover officers varied a little but was typically 12. A pattern begins to emerge, even during the Tranche 1 era, of former SDS undercover police officers returning to the unit to take up managerial posts. Early undercover officers HN135 Mike

UNDERCOVER POLICING INQUIRY

Ferguson and HN218 Barry Moss “Barry Morris” each went on to lead the SDS before the end of Tranche 1. We will be investigating the impact that former undercover officers who returned as managers had on the culture and practices within the unit as we progress through Tranches 2 & 3.

17. There was no formal recruitment or selection process for undercover officers. Special Branch officers were usually approached and interviewed. Some recruits describe having asked to join and then being considered. New undercover officers were mostly Detective Constables although some were Detective Sergeants. It became the norm, after the first few years, for the SDS to recruit officers who were either married or in long term intimate relationships. Almost all witnesses gave answers to the effect that a reason for this practice was to help anchor the officer to reality. Many also either stated or alluded to the fact that there was a belief that it would serve to discourage undercover officers from forming intimate relationships whilst in their undercover identities. We regard this as important early recognition that there was a risk of such relationships.
18. A practice also developed by which managers would visit prospective undercover officers, often in their own homes, to meet their partners. It probably started in 1978 when HN96 “Michael James” was recruited. Managers sought to assure themselves that the officer would have a supportive home environment and to give assurances to the officer’s partner.
19. SDS managers, like their undercover colleagues, received no bespoke training when they joined the SDS. It is tempting to attribute problems which occurred to the lack of bespoke training for all concerned, or a lack of regulatory oversight for that matter, but I refrain from doing so at this stage. These are issues which need to be investigated in future tranches before conclusions can be reached safely after consideration of all the evidence. We are keenly aware that in Tranche 4 we will be receiving evidence about a unit whose members had specific training and operated under the statutory framework imposed by the Regulation of Investigatory Powers Act 2000. Despite these developments we know that deeply problematic activities continued. Explanations other than training and regulation need to be considered. For example, were there deep-seated cultural problems which proved to be impervious to both training and statutory regulation?

Legend Building and the Use of Deceased Children’s Identities

20. Legend building by new undercover officers was initially rudimentary. The very earliest undercover officers deployed immediately. For example, HN329 “John Graham” stated that he deployed “straight away”, never had cover employment but

UNDERCOVER POLICING INQUIRY

did rent a bedsit. Cover accommodation, cover employment and changes to dress and appearance rapidly became the norm. Vehicles followed, with driving licences in the officer's cover identity being normal in Phase 2. However, in other respects, undercover identities remained superficial. Cover accommodation was typically a bedsit. Only two Tranche 1 undercover officers shared cover accommodation: HN106 "Barry Tompkins" and HN96 "Michael James".

21. SDS officers appear to have been given considerable latitude when constructing their undercover identities such that HN298 "Michael Scott" took the extraordinary step of adopting the name of a living adult. It is of particular concern that HN298 later went on to be convicted in that name. Despite persistent efforts, we have not been able to trace the record of this conviction.
22. A marked change occurred in the early to mid-1970s. The practice of basing cover identities on at least some of the particulars of a deceased child was introduced. No written instructions about how to find and use a deceased child's identity, or part thereof, when constructing a cover legend have survived from this time, if they ever existed. However, the practice was certainly introduced. Almost all the subsequent SDS undercover officers in the Tranche 1 era adopted at least a part of the name of a deceased child. Some gave evidence that they conducted research in the location where the child in question had lived. For example, HN304 "Graham Coates" made a detour to the location of his own volition. HN96 "Michael James" stated that he had been instructed to visit Blackpool and was assisted by the local Special Branch to establish that Michael James' family no longer lived at their former address. However, in most cases the evidence is that officers did no more than conduct research using the registers of births and deaths before selecting a deceased child for legend building purposes. There appears to have been no consistent practice as to the age-at-death of the child who should be selected. One school of thought was that a child who had died very young would leave much less evidence of their real life for anyone investigating the officer to find. The opposing school of thought was that the death certificate of an older child would be much more time consuming to find. Few researchers would be inclined to stick at the task for long enough to uncover the deception.
23. At the heart of the rationale for adopting the name of a real individual was that it afforded protection, at the material time, from anyone who might decide to check whether the undercover officer had a real birth certificate. The register of births in those days was kept in hard copy and entries were made in order in books. A person who did not adopt the identity of a deceased individual was vulnerable to a straightforward check of the register which would give rise to a strong suspicion that

UNDERCOVER POLICING INQUIRY

they were not who they said they were. False entries could not be inserted into the records because they were compiled in order in hard copy.

24. Even on a utilitarian analysis, there were strict limits to the level of additional protection that adopting a deceased child's identity would afford from hostile inquiry. Anyone persistent enough to search through the register of deaths might eventually find the child's death certificate. This is precisely the fate which befell HN297 Richard Clark "Rick Gibson", one of the earliest officers to use a deceased child's name.
25. At a moral level, adopting the name of a deceased child is deeply problematic. Deceased children leave bereaved parents, siblings and other loved ones. Typically, former members of the SDS appear to have taken the view that this did not matter because they believed that relatives would never find out.
26. It is unclear precisely why the SDS adopted the practice of using aspects of deceased children's identities in the construction of cover legends. There had been no previous compromise of an SDS officer because he did not have a verifiable birth certificate. It is known that others, including the KGB, used the technique. It had also received wide publicity because of its use in the *Day of the Jackal*. We have not been able to establish who initially decided upon or authorised the SDS' use of the practice.

Targeting

27. We have received a variety of accounts about how decisions about targeting were made and by whom. They are not all reconcilable and there does not appear to have been a single rigid approach. Individual UCOs recalled varying experiences. Some were tasked at the outset of their deployments quite specifically. Others were given much vaguer briefs, based upon fields of activism, or geographic areas. Most describe a process of discussion with and steering from their SDS managers. Two state that they were essentially left to their own devices: HN298 "Michael Scott" and HN299/342 "David Hughes". Both these officers mixed with a significant number of different groups.
28. The Security Service communicated either to senior Special Branch officers or direct to SDS managers those groups that it had an interest in, gaps in "coverage" that it wished to see filled and, on occasions, some very specific intelligence requirements. For example, the Security Service on occasion made very specific requests for intelligence about the Socialist Workers Party ("SWP"). The Security Service did not decide how SDS UCOs were deployed, but its requirements, as a major consumer of

UNDERCOVER POLICING INQUIRY

SDS intelligence, were clearly influential. It was, for example, very interested in the Workers' Revolutionary Party, a party that was infiltrated by the SDS despite it posing no public order threat and pursuing its revolutionary aims through the ballot box. Ultimate responsibility for targeting remained with the police.

29. The UCOs investigated in Tranche 1 infiltrated groups on the extreme left-wing or which were suspected of being influenced by the extreme left wing. The most frequent targets were Trotskyist groups, particularly the International Socialists, who became the SWP in 1977; the International Marxist Group; and the Workers Revolutionary Party. Maoist groups were also targeted as were anarchists, anti-apartheid groups, groups campaigning about Ireland and groups campaigning for race or sex equality.
30. The evidence suggests that the groups infiltrated by the SDS were the kind of groups that were of interest to Special Branch and which Special Branch would have gathered intelligence about with or without the SDS. More notable are those groups which were of interest to Special Branch and/or the Security Service but were not infiltrated by the SDS: in particular, the Communist Party of Great Britain and the extreme right wing. In both cases it appears that the most likely reason is that there were alternative sources of intelligence available. In the case of the far right there might also have been some reticence about the risks involved, although SDS managers did go so far as to make clear that the unit could, if needed, infiltrate the far right. Moreover, the SDS did in fact go on to infiltrate the far right.
31. The groups infiltrated by the SDS were also, in the main, the kind of groups which featured in reports produced for the various counter-subversion committees, evidence of whose activities, is contained in the documents adduced in our Module 2c investigation. The SDS was also reporting on public order issues that were of specific interest to the Home Office and the Cabinet Office. For example, the October Demonstration at the start of the Tranche 1 era and the aftermath of the Brixton riots at the end of that period were both of particular interest to these departments. In other words, the work of the SDS went with the grain of concerns that were being discussed at the top of Government. There are though limits to the extent to which the work of the SDS correlated with concerns within Government. As I have already observed, the SDS did not target the Communist Party of Great Britain ("CPGB") and the intelligence which it provided in relation to subversion within industry was limited. This despite both the CPGB and industrial unrest being of real interest to the Governments of the Tranche 1 era.

SDS Reporting

32. A striking feature of SDS intelligence reports is the sheer breadth of intelligence gathered. Information about individuals and groups was hoovered up for later analysis without a great deal of filtering by the SDS. Some officers stated that they knew what to report based on previous experience within Special Branch. Many officers took the view that it was for others to decide what was relevant and what was not because they (the UCOs) did not have the full picture. Consequently, they cast their nets wide. They were not told to do otherwise. They saw precedents whilst working in the back office before deploying. Their reports were signed off by managers and their product was gratefully received by “customers”.
33. In relation to individuals, more attention was paid to leaders and committed activists than to others. However, reporting was by no means limited to such people. Individual attendees at meetings are often listed in reports where they could be identified. Supporters and sympathisers of groups are sometimes mentioned as well as members. In some instances, people are identified in reports for no more than expressing interest in a group.
34. A wide range of information was recorded about individuals, where it could be obtained. For example: names, addresses, employment particulars, physical appearance, race, sexual orientation, intimate relationships, marital status, children, health issues, finances and vehicle particulars as well as political beliefs and political activities.
35. The extent to which officers became involved in the lives of the activists upon whom they were reporting is striking. There are instances of UCOs attending weddings and of babysitting children.
36. Reporting relating to children was not always ancillary to the activities of their parents. The political activities of teenagers were sometimes recorded independently. The Security Service had an interest in the efforts made by political groups on the extremes of the political spectrum to influence school-aged children and the activities of the youth wings of political parties which it considered to be subversive. The SDS serviced these intelligence requirements where it could do so. There were also fears that politicised teenagers posed a public disorder threat.
37. As with other facets of the SDS’ work, what it did in recording details about children was not out of kilter with wider Special Branch operations. For example, a Registry File was opened on the core participant we refer to as “Madeleine” in 1970 when she was 16.

UNDERCOVER POLICING INQUIRY

38. The tone of SDS intelligence reports is on many occasions sarcastic, or otherwise unprofessional. The attitudes betrayed by the language used in reports are significant. There is sexism. There is racism. There are many examples. Such reporting was known to managers and accepted because they signed off the reports. There appears to have been no anti-discrimination training for either officers or managers, despite the coming into force during this era of the Sex Discrimination Act 1975 and the Race Relations Act 1976. Sir, you will need to consider whether racism and/or sexism influenced targeting and, in the case of justice campaigns, whether it influenced the deployment. That will involve considering not only the evidence of attitudes contained in the reporting but in other written and oral evidence that you have heard. The same applies to the sexual activities of undercover police officers with members of the public in their cover identities. This may be an issue that you choose to wait to deal with in your final report, once we have the benefit of the full evidential picture for both the SDS and the NPOIU.
39. Reports often centred upon how disorganised, divided and ineffective they were. Such observations serve to cast further doubt upon whether the people and groups reported on really were a sufficient threat either to public order or to parliamentary democracy as to justify deploying undercover police officers into their midst.
40. Reporting on groups sought to build up as full a picture as possible of a given group's activities. Everything from a group's constitution, policies, literature, membership details, financial affairs, leadership, factions, inter-personal dynamics, aims, conferences, social events, meetings, demonstrations and other political activities were reported upon. Very long and detailed reports on the proceedings at national conferences were common and often drew praise.
41. We do not suggest that detailed, professional, reporting on a group or an individual by an undercover police office is in principle wrong. But the threat posed by the group or individual must be sufficiently serious to justify such reporting on them. It is one thing to infiltrate an organised crime gang and report relevant intelligence. It is quite another to infiltrate a law-abiding political party or protest group which is neither a threat to public order nor threatens the safety or wellbeing of the State.
42. Securing a position such as treasurer or membership secretary within a group was a route often taken by undercover officers. It afforded access to accurate and comprehensive intelligence about the group's financial and membership details. This practice was particularly common amongst but not limited to those officers who infiltrated the Socialist Workers Party. Two UCOs, HN80 "Colin Clark" and HN155 "Phil Cooper" secured access to the SWP's Central Office where they obtained and reported much confidential information.

UNDERCOVER POLICING INQUIRY

43. HN297 Richard Clark rose through the ranks of the Troops Out Movement (“TOM”) becoming a Branch Secretary, Regional Organiser and then Convenor of the Secretariat. The taking of offices of this nature was unusual and many officers gave evidence to the effect that roles such as secretary were deliberately avoided because of the risk that the officer would become involved in decisions which would influence the direction of the group. Mr Chessum gave important evidence about the influence which Richard Clark had in TOM and its effects within the group.
44. There can be no doubt that managers were aware that UCOs were taking office within target groups. They signed off the reports which record their election to these offices. Having an undercover police officer assume an office within groups such as the SWP and TOM is deeply problematic. Even more so where the role involves participating in decision making on behalf of the group.
45. We have not found evidence that elected politicians were specifically targeted. Elected politicians are sometimes mentioned in SDS intelligence reports. For example, prominent figures on the left of the Labour Party appear in reports from time-to-time. However, the references to them are usually incidental to reporting on extreme left-wing groups. Typically, politicians such as these are referred to in reports because they have spoken at events attended by the UCO’s target group. Occasionally, there was closer contact although it too was incidental to the targeting of an extreme left-wing group.
46. Similarly, we have not found evidence that trade unions were specific SDS targets or that individual trade unionists were reported upon solely because of their trade union activities. However, trade unions and trade unionists are both mentioned in SDS reporting. There was a clear interest in the activities of members of extreme left-wing groups within trade unions, especially so when this was thought to be clandestine. The influence of extreme-left wing groups within trade unions was reported upon.
47. One SDS undercover officer joined a trade union, the Transport and General Workers Union, to enhance his cover: HN299/342 “David Hughes”.
48. Specific justice campaigns often feature in SDS reporting. This tended to occur when an infiltrated group supported the campaign in question, for example the reporting on the Shrewsbury Two Action Committee and the Newham 8 Defence Campaign was ancillary to deployments into other groups. There is also reporting about protests against the police and the activities of police monitoring groups in the Tranche 1 era. As we discussed in our recent Opening Statement for Module 2(b) and 2(c) in the Tranche 1 era, there is evidence of a free-standing interest within the Metropolitan Police in gathering intelligence about campaigns which it considered to be anti-police

and police monitoring groups. The Friends of Blair Peach Campaign is an example of a justice campaign, critical of the police, which was the subject of reporting by officers operating within sympathetic groups. Reporting continued despite evidence that the campaign was not causing public disorder. The sensitivity of the case did not prevent SDS attendance at the funeral. We have heard moving evidence from Celia Stubbs about the impact which these revelations have had upon her.

49. The Women's Liberation Front (or WLF) was infiltrated by the SDS and existed specifically to champion sexual equality. However, it was a Maoist group and may have been targeted because it was Maoist. Similarly, most extreme-left groups in the Tranche 1 era campaigned for sex equality and they appear to have been infiltrated not because they did so but because they were on the extreme-left and considered to be either a threat to public order, or subversive, or both. Nevertheless, it is striking that an undercover police officer was deployed into the very small WLF which was campaigning for things many of which are either required by law, or considered entirely normal, today. Particularly so when the WLF itself was not involved in criminality other than flyposting, posed no threat to Parliamentary democracy and was not a threat to public order. We submit that this deployment which lasted for almost two years is a particularly clear example of unjustified targeting. The aims and objectives of the WLF included: equal rights for women; equal pay; equal opportunities in employment, education, training, social and political life; to fight against discrimination with regard to marriage, divorce, inheritance of property, taxation and insurance, and discrimination against children born in or out of wedlock; the right to contraception and abortion facilities; women's involvement in political and social activities; and to support the struggle of workers and oppressed people around the world.
50. Reporting on campaigning for race equality arose in various ways. On occasion, the SDS specifically targeted groups which were single issue groups. For example, the Anti-Apartheid Movement and the Stop the Seventy Tour campaign. The Anti-Apartheid Movement is another example of a particularly questionable target. The Anti-Apartheid Movement did not have subversive aims. It also co-operated with the authorities when organising and conducting demonstrations. Its demonstrations, although large, do not appear to have been a threat to public order.
51. More frequently, officers reported on race related activism having infiltrated extreme left-wing groups whose campaigning on race equality was but a part of the group's activity. The Socialist Workers' Party is but one of many examples of such groups.
52. The deployment of HN106 "Barry Tompkins" developed a significant focus on race related campaigning. It started with a brief to find groups on the far left other than the

UNDERCOVER POLICING INQUIRY

ones which the SDS already had well covered. HN106 infiltrated a number of groups, including the Revolutionary Communist Group through which (in its various manifestations) he became involved the East London Workers Against Racism. It is a deployment which appears to have some similarities with the later deployment of HN81 "David Hagan" who reported on the Stephen Lawrence Campaign, via the Movement for Justice, in the 1990s.

53. Occasionally, officers appear to have been steered mid-deployment to a race-related issue which was of concern. In particular, the SDS sought to gather intelligence in the aftermath of the Brixton riots. HN356 "Bill Biggs" moved from South-East London SWP to the newly formed Brixton SWP soon after the riots.
54. There was, in general, little awareness of what legal professional privilege is amongst SDS undercover officers. Still less was there a recognition of the fundamental importance of legal professional privilege to the rule of law. On occasions, SDS undercover police officers became privy to legally privileged material and reported it back. It was not filtered out of the formal reports which were produced and filed. Consequently, we have found instances of privileged material being recorded in SDS intelligence reports. We have found no evidence to suggest that legally privileged material was specifically sought out by SDS officers or requested by its customers in the Tranche 1 era. However, procedures should have been in place to prevent the violations of legal professional privilege which clearly occurred.
55. Similarly, there appears to have been little awareness of the importance of protecting independent journalism. Again, protections should have been in place to prevent inappropriate reporting.

The Uses to which SDS Reporting was put

56. Special Branch was the single largest consumer of SDS intelligence. Written SDS intelligence reports were usually filed by Special Branch as well as being circulated to parts of the organisation which it was felt needed to be aware of them. Once filed they could be retrieved and used for various purposes. The most obvious purpose for which Special Branch appears to have used SDS intelligence was to inform reports which were made to assist the A8 branch to keep the peace. SDS intelligence played a role not just in relation to major demonstrations but in relation to demonstrations, pickets and other forms of protest of varying size.
57. The role played by the SDS to assist with keeping the peace was not confined to written reports. Valuable real time, or near real time intelligence was also telephoned

UNDERCOVER POLICING INQUIRY

in when it was too urgent to use the normal written channels of communication. For example, intelligence was telephoned in during the Battle of Lewisham.

58. Another purpose for which SDS intelligence reports might have been relied upon by Special Branch was for vetting purposes.
59. We cannot rule out that SDS intelligence reports were leaked by Special Branch officers to private sector organisations which then used them for blacklisting purposes. The provision of intelligence of this sort to private sector organisations such as the Economic League was against regulations. However, as we have noted in previous submissions there appears to have been some recognition that Special Branch officers were, in practice, likely to be tempted to do so.
60. Information gathered by the SDS may also have been relied upon in Special Branch reports provided to Government, especially the Home Office. It is also likely to have been used by R Squad, the research department, and other parts of Special Branch.
61. Most SDS intelligence reports were copied to the Security Service. The provision of SDS intelligence to the Security Service appears to have occurred throughout the Tranche 1 era. The Security Service filed the SDS intelligence which it received. The Security Service appears to have considered SDS intelligence useful. It was monitoring most of the groups infiltrated by the SDS and had its own vetting function. It appears that SDS intelligence might, on occasions, have formed part of the body of evidence used by the Security Service to compile reports for at least some of the various counter subversion committees which we considered in Tranche 1, Module 2c.
62. There was a considerable overlap between the groups and individuals of interest to the Security Service and those of interest to Special Branch. The basis for the Security Service's interest was its duty to counter subversion whereas Special Branch's remit was based upon its duty to keep the Queen's Peace and to assist the Security Service.
63. Witness Z stated that as far as can be ascertained from surviving written records, there is no evidence that the Security Service passed on SDS intelligence to any third party outside Government.
64. On occasion information appears to have been passed to the Security Service from the SDS orally. In the Tranche 1 era this usually took place through meetings with SDS managers. Such meetings were more frequent towards the end of the Tranche 1 era. At least two SDS undercover officers met directly with the Security Service: HN106 "Barry Tompkins" and HN336 "Dick Epps".

UNDERCOVER POLICING INQUIRY

65. The fact that we have found so many intelligence reports from as long ago as the Tranche 1 era gives rise to questions about why they have been retained for so long and for what purpose. We suggest that this is an issue best pursued in future tranches and considered at the end of the evidential hearings.

SDS Undercover Police Officers and the Courts

66. There is some evidence that the SDS played an evidential role in the detection and prosecution of crime but it is limited. Early in the life of the SDS, HN323 Sgt Helen Crampton was involved in the prosecution and conviction of a member of Black Power for incitement to riot. The case was regarded as important. The then Director of Public Prosecution considered it as well as the Attorney General who consulted the Home Secretary about it.
67. The original intention was that evidential work should form a part of the SDS' work. In practice the SDS quickly became and remained a purely intelligence gathering unit. We have found no other example in the Tranche 1 era of SDS undercover officers giving evidence for the prosecution as a result of SDS operations.
68. There is evidence of SDS intelligence leading to the identification of suspects and their arrest. The 1978 Annual Report records the arrest of two anarchists wanted for conspiracy to cause explosions.
69. The role of SDS undercover officers in court proceedings in their cover identities is a matter of concern. The foremost example is that of HN298 "Michael Scott". He was convicted, with others, in the name of a real living person. He violated the legal professional privilege of his co-defendants. His real identity was not disclosed to the prosecution. Nor was it disclosed to the Court. Consequently, the Court was misled and a miscarriage of justice occurred. The work of this inquiry has helped to put that right. The convictions of Christabel Gurney, Ernest Rodker and Professor Jonathan Rosenhead were overturned last month.
70. The SDS appears to have put the security of its operation over and above its duty to the Court and the rule of law. The priority accorded to protecting the secrecy of the SDS' work is consistent with other evidence that we have received, including the visit which HN45 "David Robertson" received from very senior officers, Vic Gilbert and Roland Watts, after his cover was blown. On his evidence it was made clear to him that, should he ever need to explain himself, he was expected to pretend that he was acting on his own initiative.
71. Sir, you will need to consider whether a further referral to the miscarriage of justice panel should be made arising from the evidence about the deployment of HN13

“Barry Loader”. He was prosecuted twice in Barking and Lambeth Magistrates’ Courts. On the first occasion, when he was tried with others, the documents record that the Court was told that one of the defendants was an informant. However, Mr Craft’s evidence is that he informed the Court that HN13 was an undercover police officer. On the second occasion, the documents indicate that the Court was informed that HN13 was a “*valuable informant in the public order field*”. This is a level of information which falls short of confirming that the man before the Court was really an undercover police officer acting in a false identity. His case was tried separately from that of three other activists but all four were convicted.

72. HN68 “Sean Lynch” was convicted, in his cover identity, together with five others, for obstruction, at Bow Street Magistrates’ Court in 1970 after they all entered guilty pleas. There is no evidence that the Court was aware of HN68’s real identity. There is also some evidence that HN68 may have been convicted of flyposting in his cover identity.
73. HN339 “Stewart Goodman” was stopped by police on suspicion that he was driving with excess alcohol. He gave his real name but thinks that he may have been prosecuted in his cover name after Chief Inspector Saunders informed the court who HN339 really was.
74. Many Tranche 1 SDS officers participated in the commission of minor offences, typically flyposting or obstruction. Managers clearly regarded such offending as justified by the nature of the operations that the UCOs were participating in. One officer, HN298 “Michael Scott”, committed a crime of violence by hitting an activist leader, Gerry Lawless. No action was taken either by Lawless or the SDS.

Sexual Relationships

75. There is uncontested evidence that five SDS Tranche 1 undercover police officers became involved in sexual activity with women who they met undercover. Two of these five officers are known to have had sexual contact with more than one woman. Another ultimately married the activist with whom he began a relationship and had a child with her. The other sexual contact involved ranged from isolated encounters, through friendships which became sexual to what appeared to “Madeleine” to be, potentially, the beginning of an intimate long-term relationship. The motives of the officers varied from case-to-case. Motives included sexual gratification, advancing or protecting a deployment and, in HN300’s case, seemingly love.
76. The deceived women were mostly but not always activists and members of target groups. Two of the undercover officers have had to remain fully anonymous. In the

UNDERCOVER POLICING INQUIRY

case of HN302 we can consequently only say that he served in the 1970s. All the other deceiving officers served in the mid-1970s or later. The Inquiry has heard oral evidence from the three surviving undercover officers who have admitted sexual activity in their undercover identities. We have heard evidence about the other two who are both deceased. We have also had the benefit of the accounts of two of the deceived women, whom we refer to by the pseudonyms “Madeleine” and “Mary”.

77. HN300 “Jim Pickford” was married to his second wife and had children when he deployed as an undercover police officer. Real questions arise as to his suitability for the role based on the evidence of his contemporaries. He is described as having had an alcohol problem, being a philanderer who chased after women and as a man who fell in love all over the place. HN304 “Graham Coates” said in evidence that HN300: *“could not be in the presence of a woman without trying it on”*. We are particularly grateful to HN300’s second wife and children whose evidence confirms that HN300 left his second wife to marry a woman whom he had met whilst operating as an undercover police officer. The fact that HN300’s third wife was heard referring to HN300 in his cover name indicates that the relationship started whilst he was in that role. HN300’s second wife provided evidence that HN300 went on to have a child with his third wife. She has also confirmed that HN300’s third marriage failed. We note that there appear to be at least some parallels between HN300’s case and that of HN14 Jim Boyling “Jim Sutton”, whose actions some 20 years later we will be investigating in Tranche 3.
78. Of some importance is the evidence of what was known within the SDS of HN300’s sexual conduct whilst deployed. It will be for you Sir to decide who knew what and when and I will not set out all of the relevant evidence here. I know that others are going to make more detailed submissions on this issue. It perhaps suffices to say that there is a very strong body of evidence to demonstrate that HN300’s reputation as a womaniser was well known within the SDS. Further, the evidence of a closed officer was to the effect that he told HN244 Detective Inspector Angus MacIntosh at least that HN300 had fallen in love with an activist: enough to lead to HN300’s departure from the SDS. Although this specific evidence was not accepted by Mr MacIntosh in evidence it is consistent with more general evidence from HN304 “Graham Coates”.
79. HN297 Richard Clark is another officer who was the subject of unflattering evidence from his contemporaries. He was described, amongst other things, as a womaniser and a “carnivore”. There is evidence that he was involved in the sexual deceit of as many as four different women. Two of the women were active within South-East London Troops Out Movement. At least one of the other two was associated with Big

UNDERCOVER POLICING INQUIRY

Flame, the group that Clark was attempting to infiltrate when it was discovered that he was not who he said he was. It is a particular troubling detail of Richard Clark's deployment that a man with a carnivorous sexual appetite was deployed into a university setting: the more so because he was significantly older than most undergraduates. The risk of sexual misconduct was surely foreseeable.

80. Richard Clark's motive may not have been limited to sexual gratification. Mary's impression was that HN297 deceived her to bolster his cover. Whatever his motive, she was clear that there was absolutely no way that she would have consented to sex with him had she known that he was an undercover police officer. His actions understandably left her feeling used and invaded both by him and the State.
81. There is clear evidence that Richard Clark's colleagues knew something of his sexual activity with activists. He appears to have told them himself. Whether Clark's managers knew is less clear. They deny it which brings their evidence into conflict with that of HN304 "Graham Coates".
82. HN354 Vince Harvey "Vince Miller" admitted to sexual activity with four different women during his undercover work for the SDS. Two of the women were not activists and the sexual activity, in these cases, consisted of a one-night stand on his account. The third woman was "Madeleine" and the fourth, like "Madeleine" was also a member of the SWP. Sir, there remain some differences of fact between "Madeleine" and Vince Harvey that you will need to decide, although we note that "Madeleine's" version of events benefits from corroboration. The corroborative evidence comprises of a near contemporary document and the evidence of Julia Poynter, both of which tend to show that the sexual contact was not confined to a one-night stand but occurred over time. "Madeleine" puts the period at about two months.
83. Mr Harvey was the first undercover police officer who has admitted to having sex with a member of the public whilst in his undercover identity to give oral evidence to the Inquiry. He accepted that what he did was wrong and that he did not think that "Madeleine" would have consented to sex with him had she known that he was a police officer. He did not use contraception. He did not tell anyone because he did not attribute much importance to it.
84. "Madeleine" is the first deceived woman to give oral evidence to the Inquiry. Vince Harvey's cover story had the effect of evincing sympathy from her. She feels betrayed, vulnerable and disgusted. Sir, I have dealt with this evidence only briefly conscious that advocates for both "Madeleine" and Mr Harvey will be addressing you in more detail in due course.

UNDERCOVER POLICING INQUIRY

85. HN21 admitted to having become friendly with and then having sex with a woman who was not an activist. He had met the woman through an evening class which he was taking in his undercover identity. He stated that a lot of alcohol was involved on both his and her part. The encounter occurred on an evening when HN21 was staying to protect her from the unwanted sexual advances of another man. HN21 gave evidence that the pair remained close enough to have kissed and cuddled on a couple of further occasions and then had sex again some six or seven months after the first encounter. He does not know if the woman would have consented to sex if she had known who he really was. He used contraception. He accepted that what he did was wrong and unprofessional but his guilt appeared to be focused more upon the fact that he was being unfaithful to his wife than the fact that he was a police officer on duty: he did not consider that at the time. He did not tell anyone about these events which he regarded as a mistake.
86. HN302 gave evidence that he became friendly with a woman through attending meetings which he was using to build up his cover. This took place over an extended period of, perhaps, six months. He socialised with her both in company and alone. They had sex after he invited her back to his bedsit. He used contraception. Although she had been involved in activism, he did not see her again after that. He said that he did not draw a distinction between a friendship and sexual activity because he was trying to live a parallel life and was trying not to be a police officer. He thought having sex might enhance his cover but it didn't. He did not tell his managers because he thought it was part and parcel of living in his undercover identity. He does not think that he would have been given more than advice that he had perhaps made a mistake had he informed his managers.
87. We can see from these admitted sexual relationships alone that instances of sexual activity between undercover police officers in their cover identities and members of the public were not uncommon from the mid-seventies onwards. In addition to the admitted cases, there is at least some evidence that a further three Tranche 1 undercover officers were involved in sexual activity with members of the public. In each of these cases Sir you will need to evaluate the evidence and reach a conclusion.
88. Mr Neil Hardie volunteered information to the Inquiry and later made a statement about HN126 "Paul Gray". In his witness statement, Mr Hardie states that he was an Anti-Nazi League activist when he met HN126. He gives his reasons for believing that there was a deceitful intimate relationship between "Paul Gray" and a now deceased activist, Ros Gardner. There is evidence to corroborate the fact that at times "Paul Gray" and Ms Garner moved in the same circles during HN126's

UNDERCOVER POLICING INQUIRY

deployment. The Inquiry has afforded HN126 the opportunity to respond to Mr Hardie's allegation which he categorically denies.

89. The documents raise suspicions that HN106 "Barry Tompkins" might have been involved in sexual activity with two different women. The evidence in relation to the first woman comes from a Security Service document, made after a meeting with SDS management, which records that HN106 had "probably bedded" the woman and been "warned off" by his managers. The evidence in relation to the second woman is that she is described in documents as "Barry's girlfriend". HN106 was too ill to give oral evidence but has provided a witness statement in which he denies engaging in any sexual activity with activists. His explanation in relation to the second woman, whom he stated was not an activist, is that there was a close friendship which developed after her husband left her and that sometimes he slept in her spare room.
90. Finally, there is the case of HN155 "Phil Cooper". The dispute of fact in this instance is whether he confessed to sexual activity in his undercover identity to police risk assessors in 2017. Both risk assessors have given oral evidence to the Inquiry to the effect that he did so and stand by the written records of their dealings with HN155.
91. We have found no evidence of any positive management instruction in Tranche 1 that SDS undercover officers should engage in sexual activity with anyone undercover. Accordingly, the key questions, on the evidence, we suggest, turn upon what managers did or did not know of the sexual activity that was occurring? Whether managers did enough about such sexual activity as any of them were aware of? Whether managers were aware of the risk of sexual misconduct? Whether they did enough to prevent UCOs from engaging in sexual activity with members of the public in their false identities; and whether the actions of members of the SDS, both officers and managers, were affected by their attitudes to women? I shall leave detailed submissions to the core participants with the greatest interest in these issues but, as I have touched upon already, there is evidence of at least some management knowledge of some of the sexual activity that took place. There is also evidence that the risk of sexual misconduct was both obvious and recognised. More could and should have been done to reduce the risk of sexual misconduct by UCOs. There was no formal training. There is some evidence that advice was given not to participate in sexual activity but it seems to have been haphazard. If you accept the evidence that managers had some knowledge of sexual activity then the response to it was inadequate.
92. A theme which we shall need to explore in later tranches is whether the absence of a disciplinary response was influenced by the prevailing culture, including attitudes to women and/or the desire to keep the activities of the SDS secret. The evidence of

more than one SDS witness, on the issue of sexual relationships, was striking in that it focused upon the risk to the SDS, or the risk to the UCO, or the impact upon the UCO's real-life partner. The impact upon the member of the public with whom the UCO was engaging in sexual activity was either not a concern or not the first concern. Sir, I am aware that you are considering how far to go in dealing with the more thematic aspects of this part of the Inquiry in your interim report and what is best left for a decision once we have the benefit of all the evidence that the Inquiry will hear about deceitful sexual activity.

Officer Welfare

93. There is ample evidence that long term undercover deployments of the kind that became the norm in the SDS were very stressful. There was a constant fear of being found out and of what the consequences would be were that to happen. Plus, the disorientating effect of leading two very different lives in parallel. The mental health of a striking number of officers was adversely affected by their work. Most officers were positive about the support which they received from their managers but there was a lack of specialist support. There was also a lack of aftercare. This is an issue on which we will be hearing a lot more evidence in Tranches 2 and 3. So too is the way in which the partners of SDS officers were treated. In Tranche 1, two former heads of the SDS: HN218 Barry Moss and HN34 Geoffrey Craft accepted, with hindsight, that better care and attention could have been paid to them.

Knowledge of the SDS within Government

94. The evidence shows that the existence of the SDS was well known to many senior police managers in the chain of command. They visited the unit, received its annual reports and lobbied for continued funding from the Home Office, extolling the virtues of the unit as they did so. They are likely to have been aware in broad terms of what the SDS was and what it was doing but less likely to have been aware of the details.
95. The SDS must have been at least reasonably well known within Special Branch more generally, albeit shrouded with some mystery. This is so because Special Branch was a relatively small institution. Those who served in the SDS were recruited from within Special Branch and usually returned to its more conventional postings after their time with the SDS.
96. The Security Service knew about the SDS from the latter's very inception, although the number of people within the Security Service who knew appears to have been deliberately limited to a select few. Conrad Dixon had a pre-existing working relationship with the Security Service before the SDS was established and met with

UNDERCOVER POLICING INQUIRY

members of the Security Service, on 2 August 1968, which was two or three days after the SDS was founded. The Security Service received most of the SDS' intelligence reports throughout Tranche 1 and from 1974 onwards filed SDS intelligence as such. The degree of direct personal contact that the Security Service had with the SDS varied over time but was sometimes frequent.

97. There was certainly some knowledge of the SDS within the Home Office. It received and approved requests for funding and, in 1970, the then Home Secretary was personally consulted about such funding. In 1984, Mr Harrington, was permitted to inspect and make notes on the SDS' 1983 Annual Report.
98. We have dealt at some length in our [Tranche 1 Phase 3](#) and [Tranche 1 Module 2b and 2c](#) Opening Statements with Home Office documents about the role of Special Branch assisting the Security Service with counter subversion work. Some of the officials involved in those conversations knew of the existence of the SDS. The concerns raised within the Home Office in the late 1970s and early 1980s about Special Branch's role in counter subversion were apposite. I invite you, Sir, to consider whether an opportunity, relevant to the SDS, was missed when those concerns were not acted upon. In particular insofar as they relate to persons who were acting lawfully and were not threatening either the safety or wellbeing of the State. The result of much debate emerged in 1984 in the form of the Home Office Guidelines on the Work of a Special Branch and accompanying confidential letter. These documents continued to permit counter subversion work to be carried out by Special Branch, including the SDS, against people who were obeying the law and only "potentially" subversive.
99. It is likely that knowledge of the existence of the SDS was disseminated within some of the high-level counter subversion committees discussed in our recent Opening Statement for [Module 2\(b\) and Module 2\(c\)](#) in the Tranche 1 era by those on the committees who knew about the SDS. The membership of these committees included representatives from various parts of Government but with an emphasis on the Home Office and the Cabinet Office. By way of examples, the Subversion at Home Committee, chaired by the then Cabinet Secretary, Sir Burke Trend, appears from the cryptic contents of its January 1969 minutes, to have been aware of the existence of the SDS. Deputy Assistant Commissioner Vic Gilbert sat on the Subversion in Public Life committee. He had had direct contact with the SDS because he is one of the senior officers who HN45 "David Robertson" stated spoke to him after he was compromised.

Justification

100. The primary stated purpose of the SDS was to provide intelligence for public order purposes. There can be no doubt that the SDS did that. Its UCOs provided intelligence before, during and after demonstrations and other forms of protest. Intelligence provided in advance of demonstrations, as to likely numbers, demeanour and other matters no doubt assisted those charged with policing public order to calibrate the police response. In some cases, SDS intelligence would simply corroborate other sources. In other instances, particularly in relation to secretive groups which did not co-operate with police, other sources will usually have been fewer and potentially less reliable. Intelligence during events must have helped police on the ground. Other forms of assistance, such as identifying hotheads or offenders from photographs had value. However, it is hard to identify a single instance in which SDS intelligence averted a public order calamity in the Tranche 1 era. Without the SDS the police would still have had all their other sources available to them.
101. I do not propose to conduct a systematic analysis of every group infiltrated by the SDS but the threat to public order posed by different groups differed widely both between groups and over time. The evidence from UCOs about some groups was to the effect that the group was not a public order threat at all: I have already mentioned the Anti-Apartheid Movement, Women's Liberation Front and Workers Revolutionary Party in that regard. Sometimes the public order justification offered was the fear that a group might become a public order threat. Other groups were involved in public disorder, notably the International Socialists who became the Socialist Workers Party and grew considerably in size during the Tranche 1 era. The International Marxist Group, although small, could provoke trouble out of all proportion to its size, as events at Red Lion Square show. Some Maoists and some anarchists could do the same. The Stop the Seventy Campaign was not violent, but it was uncooperative with police and used direct action to further its aims.
102. There were times which were particularly febrile from a public order perspective: the autumn of 1968 principally amongst them. The peaks of tension between the far-left and the far-right, especially but not limited to 1977, were also challenging for police. But there were other times when things were quieter.
103. The utility of SDS intelligence for public order purposes is only one part of the equation. The level of intrusion into people's lives arising from SDS operations, particularly once long-term deployments became the norm, was very considerable. Moreover, the intrusion resulting from the SDS' operations was into very sensitive areas of people's lives: their political lives, their financial affairs, their legal affairs,

UNDERCOVER POLICING INQUIRY

their families, their friendships and even, in some instances, their sex lives.

Operations were not limited to times of heightened risk, nor confined to the “shallow paddling” of the earliest SDS undercover officers. They were long-term and highly intrusive operations conducted continuously.

104. In these circumstances, we submit that the need for and value of the public order intelligence provided by the SDS was not an adequate justification for the intrusion caused by the SDS model of long-term undercover policing in the Tranche 1 era.
105. The SDS’ ancillary purpose was to assist the Security Service to defend the Realm against subversion. The principal difficulty that we have with what occurred is quite simply stated. The groups infiltrated were not subversive. They do not meet the Harris definition which was adopted by the Security Service in 1972 and made public in 1975. Most, although not all, wished to overthrow Parliamentary democracy. However, on the evidence that we have received, they did not “threaten the safety or wellbeing of the State”: a definition that uses the present tense. None were anywhere close to toppling multi-party democracy. None had international backing of the kind enjoyed by the CPGB. Some fanned the flames of industrial unrest, although that activity was not the focus of SDS reporting. Some organised demonstrations or counter demonstrations which were violent. Insofar as they did either of these things though they could not be said to have threatened the wellbeing of the State. Or, if we are wrong about that and they did so, then the scale and duration of any such threat was not serious enough to justify the level of intrusion that in fact occurred.
106. Personal information recorded by SDS officers may have been used when files were later interrogated for vetting purposes. However, vetting occurred both before and after the SDS’ existence. The level of intrusion into people’s lives occasioned by SDS infiltrations does not seem to be justified by any additional relevant data that the SDS might have collected. It is certainly not a purpose which features prominently in the documents.

Lawfulness

107. There is no evidence that anyone took legal advice about, or considered, the legality of the methods that the SDS was using. Someone should have done so. Had they considered domestic law there would have been areas of concern which should have prompted at least relevant training and supervision. Especially in relation to trespass to property and the taking of confidential information. Some of the circumstances in which SDS UCOs obtained access to private homes and took confidential information appear to have been of doubtful legality. The threat to public order or to national

UNDERCOVER POLICING INQUIRY

security, if it existed at all, appears simply not great or immediate enough to amount to a defence.

108. There was no statutory framework for undercover policing during the Tranche 1 era. Nor was there any system of judicial oversight. A statutory framework was only introduced in 2000, very shortly after the Human Rights Act 1998 came into force. In the absence of a statutory framework, it is highly questionable whether the United Kingdom was compliant with its international law obligations under Article 8 of the European Convention on Human Rights at any point during the Tranche 1 era in relation to the undercover policing conducted by the SDS. How important that observation is to the work of this Inquiry in Tranche 1 is, perhaps, another matter. The much bigger questions, I suggest, in relation to statutory frameworks, is why things continued to go wrong after the introduction of the Regulation of Investigatory Powers Act 2000 and whether the current statutory framework is adequate. Those are questions for later tranches.

Parliamentary Privilege etc.

109. Since I am touching upon legal issues, this is a convenient place at which to say a little about the core participants written closing statements. We are grateful for the submissions received and the considerable thought and industry which they reflect. However, the submissions made by teams led by Mr Scobie KC, Ms Heaven and Mr Sanders KC urge you to impugn the evidence given to the Home Affairs Select Committee and/or accuse politicians of misleading Parliament. Parliamentary privilege prevents you, Sir, from entertaining any such submissions. Such issues are a matter for Parliament alone.
110. There is also mention in some submissions of “case” and the burden of proof. This inquiry is being run on an inquisitorial basis. There is no question of deciding between competing cases or imposing a burden of proof upon any participant.

Conclusion

111. I turn finally to some concluding remarks. The SDS was created in 1968 to deal with a specific, large scale public order threat, for which there was a concrete basis for concern. It used relatively short and shallow deployments to gather valuable intelligence about the October 1968 Demonstration. The unit then became a permanent feature, deploying undercover officers continuously into far-left groups, often with vague remits. Individual deployments which lasted for several years became the norm. Officers became involved in the lives of those they were spying on. Although, they were not ordered or encouraged to do so, in some instances, this

UNDERCOVER POLICING INQUIRY

went as far as sex. Reporting was extensive, unfiltered, deeply personal and often recorded in unprofessional terms. We cannot rule out that some of it, once filed, was leaked to the private sector and misused to blacklist activists.

112. The whole operation was secret and a very high priority was accorded to keeping it that way. Courts were sometimes misled. Miscarriages of justice occurred as a result. An officer whose cover was compromised was told to pretend that he was acting independently. Discipline was not enforced. Aspects of deceased's children's identities were used even though they added only a limited further protection.
113. These operations have caused a lot of harm. Democratic freedoms have been infringed, outrage and pain has been caused. The damage is not limited to members of the public. Former undercover officers have suffered psychiatric injury.
114. The primary reason for conducting these operations was to gain intelligence to assist police to maintain order on the streets. However, the level of threat posed to public order was often not commensurate with a need to deploy undercover police officers for this purpose. Not in the way that they operated. The benefits which the unit's intelligence brought to public order policing do not, in our submission, justify the means.
115. The ancillary reason for the SDS' work was to assist the Security Service to counter subversion. However, the evidence of the SDS' own officers and other contemporary documents show that the groups targeted by the SDS did not meet the official definition of subversion. Many of those targeted were revolutionaries. But they did not threaten the safety or wellbeing of the State. In the words of Commissioner of Police for the Metropolis, Sir Robert Mark, they were "a bad joke".
116. There was a remarkable lack of oversight, formal training and instruction. However, the SDS was not a rogue unit. It was part of a larger intelligence gathering apparatus and counter subversion effort which also operated in secrecy. The SDS was known to the chain of command within the Metropolitan Police Service. Senior officers visited the unit on occasion and met its undercover officers. They received annual reports about the unit's work. The existence of the SDS was known to some within the Security Service, the Home Office and, to a lesser extent, the Cabinet Office.
117. We remain of the view expressed in last month's submissions. There was no effective review of the SDS' operation. No one appears to have considered whether the level of intrusion occasioned by SDS long-term undercover police deployments was justified. No one appears to have addressed their mind specifically to the legality of the SDS' operations. No one appears to have considered whether (after

UNDERCOVER POLICING INQUIRY

its introduction) both limbs of the Harris definition were met. There is a strong case for concluding that, had they done so, they should have decided to disband the SDS.

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16 February 2023