

## **Summary of of Cat H Closing Statement for Tranche 1<sup>1</sup> of the Undercover Policing Inquiry (UCPI).**

This is a summary of the Closing Statement delivered orally and in written form to the Undercover Policing Inquiry on behalf of “Category H”<sup>2</sup> Core Participants on 21 February 2023 (see [VIDEO LINK](#)). The original 108-page written statement drafted by Charlotte Kilroy KC and Shanthi Sivakumaran contains considerably more detail. References in square brackets [] refer to paragraphs in that document which is available here [\[LINK to C/S\]](#).

### **Introduction [§1-19]**

This is the fourth statement Category H CPs have made to the inquiry. Earlier statements summarised the devastating impact of the actions of Undercover Officers (UCOs) [See first statement [here](#)], highlighted emerging evidence of an institutionally sexist culture, and of UCOs engaging in sexual relationships with members of the public from the very outset of the period being investigated [See second statement [here](#)]; and examined evidence about the activities of undercover officers, including the invasion of homes and private lives, and just how completely that contravened the legal framework applicable at the time [See third statement [here](#)].

That third statement examined the evidence, demonstrating serial breaches of key principles of the common law, including the prohibition on general searches, unjustified trespasses to land and to goods, and unjustified breaches of confidence; violations of the fundamental rights of thousands of ordinary people under Articles 3, 8, 10, 11 and 14 ECHR; a breach of the public trust reflected in the Peelian principles; and a serious threat to democracy itself, in the secret infiltration, detailed recording and extensive monitoring of people’s private lives and political views. All of this began in the T1 period and perpetuated through later reforms such as the Regulation of Investigatory Powers Act (RIPA).

This statement builds on those previous statements by addressing the final state of the evidence in T1; and exploring how and why serious inroads into key principles of British democracy were allowed to occur and were approved by senior police officers and ministers, who must have known that the SDS’s practices conflicted with long-standing law and practice concerning the interactions of the police with private citizens, private homes and private communications.

It is structured as follows:

- (1) 1968-1983: the Policing Context.
- (1) What happened: evidence about the SDS’s activities more generally
- (2) Sexual relationships
- (3) Conclusions

### **1968-1983: the Policing Context [§20-46]**

The Cat H CPs case is that SDS misconduct, and the tolerance of it by senior police officers, including MPS Commissioners, can only be fully understood in the context of policing culture at the time. They present key evidence from contemporary materials, including Inquiry Reports<sup>3</sup>,

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<sup>1</sup> T1 examines the conduct of the SDS between 1968- 1982.

<sup>2</sup> The Cat H CPs are 25 women who were deceived into intimate sexual relationships with undercover police officers (UCOs), a child of one of those relationships, and a man who was deceived into a close long-term friendship.

<sup>3</sup> For example *the Fisher Report on the Confait Case*, 1977, and *The Scarman Report*, 1981

Studies<sup>4</sup> and the biographies of former police officers, including Chief Constables<sup>5</sup> that puts the written and oral evidence of MPS officers in its proper context and explains how the failings identified in previous statements were inextricably linked to this wider police culture. The institutionalisation of sexism and misogyny, as well as other discriminatory and corrupt practices, dates back to this earlier period.

### **THE 1983 PSI REPORT [§27-29]**

Perhaps the most significant document is a 1983 report commissioned by then MPS Commissioner Sir David McNee from the Policy Studies Institute (**PSI**). The PSI report<sup>6</sup>, entitled *Police in Action*, provides invaluable insights into MPS practice and culture which are of critical relevance to understanding the conduct of the SDS. The report demonstrates that the police were aware of these cultural issues as early as 1983. It is not clear whether the MPS has disclosed this report to the UCPI.

Key findings from that report and other contemporary sources included the following:

#### **Compliance with legal rules and standards [§30-34]**

MPS officers (including its Commissioners) viewed legal constraints as an impediment to policing, to be evaded<sup>7</sup>; MPS officers deviated widely from rules, and created ‘working rules’ for officers, (which police believe it is wrong to break), and ‘presentational rules’ that were only for public display<sup>8</sup>. The report pointed out “*There are therefore considerable dangers in the simple response to accounts of bad policing behaviour: that is, just suggesting more rules. If these additional rules turn out to be presentational ones, then this is a way of pretending to take action without willing the means*”<sup>9</sup>. These conclusions were accepted and referred to by the then Home Secretary, Leon Brittan, when introducing PACE (the Police and Criminal Evidence Act) to Parliament in November 1983.

#### **Wrongdoing by fellow officers [§40-41]**

MPS officers operated according to a powerful code of “backing each other up”, and would normally tell lies to prevent another officer from being disciplined or prosecuted. They were known by senior officers to do so.<sup>10</sup>

#### **Supervision [§44-46]**

It was a general and accepted feature of policing that junior police officers were left unsupervised by senior officers in most of their interactions with the public<sup>11</sup>.

#### **Misogyny and Institutional Sexism [§35-39]**

Cat H CPs particularly wish to highlight the misogyny and institutional sexism endemic in police culture. The MPS was dominated by a ‘cult of masculinity’ which glamourised violence and male physical courage, placed heavy emphasis on drinking as a test of manliness, and involved extreme denigration and sexualisation of women including women police officers<sup>12</sup>. These attitudes went to the highest level and were accompanied by deep structural discrimination including an ‘unofficial’

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<sup>4</sup> PSI Report, *The Police in Action*, 1983; R. Reiner, *The Politics of the Police*, 1985 (First Edition – the Politics of the Police is now in its 5<sup>th</sup> edition); *An Inside Job*, Malcolm Young, 1991; *Twenty three women police officers’ experiences of policing in England*, Cunningham, Ramshaw, International Journal of Police Science & Management, 2020 vol 22(1)

<sup>5</sup> *McNee’s Law*, Sir David McNee, 1983; *In the Office of Constable*, Sir Robert Mark, 1978

<sup>6</sup> This report was commissioned by MPS Commissioner, Sir David McNee and was produced after researchers accompanied working police groups for two years (see *McNee’s Law* p234; *Police in Action*, Preface and p316).

<sup>7</sup> PSI, *The Police in Action*, 1983, p169-72, p229-230; *McNee’s Law*, Sir David McNee, 1983, p180-181, *In the Office of Constable*, Sir Robert Mark, 1978, p54-55, 58-59 (Pagination from Fontana Paperback Edition)

<sup>8</sup> See also *In the Office of Constable*, Sir Robert Mark, 1978, p55-59

<sup>9</sup> PSI, *The Police in Action*, 1983, p172

<sup>10</sup> *Ibid.* pp70-71, p229.

<sup>11</sup> *Ibid.* pp274-285

<sup>12</sup> *Ibid.* p91-97 and 339-40; see also Rob Reiner, *The Politics of the Police*, 1985 p99-100; *An Inside Job*, Malcolm Young, 1991, pp191-194; *Twenty three women police officers’ experiences of policing in England*, Cunningham, Ramshaw, International Journal of Police Science & Management, 2020 vol 22(1), pp31-33, *In the Office of Constable*, Sir Robert Mark, 1978, p. 61, p95, pp231-2.

policy of keeping the number of women police to about 10% of the MPS<sup>13</sup>, and barriers to women doing certain types of work<sup>14</sup>. As recent events have demonstrated, these attitudes remain a huge issue in policing culture today<sup>15</sup>. The 1983 PSI *Police in Action* highlighted the practice of stamping parts of women police officer's bodies with the station stamp. One of the victims of police officer and serial rapist David Carrick reports this happening as late as 2004.<sup>16</sup>

### **Corruption, Miscarriages of Justice and Riots [§20-24]**

The T1 era was an especially febrile period for English policing, characterised by deep-rooted corruption, serious miscarriages of justice resulting from police wrongdoing, incidents of excessive use of force, and civil disturbances. Some of this came to public attention in the T1 period, prompting widespread public concern:

1. Major corruption scandals broke relating to the actions of the MPS's CID, Drug Squad and Obscene Publication Squad<sup>17</sup>. The public was shocked to discover so many police officers were taking bribes and working in concert with career criminals, and that there was a 'systematic, institutionalised and widespread network of corruption, the so-called 'firm within a firm'<sup>18</sup>.
2. Long-standing concerns that the rights of criminal suspects were violated by police came to a head in the Maxwell Confait case<sup>19</sup>.
3. Simmering tensions over the dysfunctional relationship between the police and ethnic minorities crystallised in the Brixton riots in 1981<sup>20</sup>. The *Police in Action* report concluded that while the majority of police officers will only use what force is necessary in the execution of their duty, Officers at all levels in the MPS 'operate with different working rules when dealing with a major public disturbance or riot'. 'In circumstances like the Brixton riots, officers seem to switch into a different 'mode' in which they think the normal rule no longer applies'.

These scandals were eventually followed by re-organisations in the police, a series of public inquiries in the 1970s and early 1980s<sup>21</sup> and ultimately legislative reform. However, it appears these reforms did not affect the secretive SDS.

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<sup>13</sup> PSI, *The Police in Action*, 1983, p339-340

<sup>14</sup> *Ibid* p93-97

<sup>15</sup> Operation Hotton Learning Report published in January 2022 found "an underlying culture allowed conduct issues to permeate and behavioural problems went unchallenged."; the Angiolini Inquiry was established in November 2021 to investigate the issues raised by the abduction, rape and murder of Sarah Everard by Wayne Couzens, a serving Metropolitan police officer. The Terms of Reference for the Inquiry were updated in February 2023 to include the case of former PC David Carrick. <https://www.angiolini.independent-inquiry.uk/>. On 25 January 2023, Sir Mark Rowley, MPS Commissioner admitted that two to three Met Police Officers will appear in court every week including for sexual offences. L. Dearden, *Two to three Met Police officers including alleged sex offenders to appear in court every week*. 25 January 2023 <https://www.independent.co.uk/news/uk/crime/met-police-officers-court-rape-rowley-b2268832.html>

<sup>16</sup> One of David Carrick's victims who was also a Metropolitan police officer recalled that the practice of stamping parts of the anatomy of female officers with "property of the MET" continued into at least 2004. J. Burns and J. Kelly *David Carrick: Officer raped by Disgraced PC feared reporting him to bosses*, BBC news 6 February 2023 last accessed on 6 February 2023 at: <https://www.bbc.co.uk/news/uk-64492062>.

<sup>17</sup> e.g. scandals over CID, Drug Squad and Obscene Publication Squad in 1969, 1972 and 1975 (Reiner, *Politics of the Police*, 1985, p65-68, *In the Office of Constable*, p112-114), and again in relation to CID in 1978, (see *McNee's Law*, 1983, Ch 9, *Politics of the Police*, 1985, p66-68, John Alderson, *Law and Disorder*, 1984, Ch 10)

<sup>18</sup> Reiner, *Politics of the Police*, 1985, p65

<sup>19</sup> Three teenage boys, including one with serious mental disabilities, were wrongly convicted in 1972 for murder after false confessions. After their convictions were quashed in 1975, an official inquiry (the "Fisher Inquiry") in 1977 found their rights had been violated by the police in a variety of ways and evidence emerged in 1979 exonerating them completely See Reiner, *Politics and the Police*, 1985, p68-69; Fisher Report at [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/228759/0090.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/228759/0090.pdf); and <https://www.thejusticegap.com/cases-the-changed-us-maxwell-confait/>

<sup>20</sup> Reiner, *Politics of the Police*, 1985, p70-72

<sup>21</sup> See Annex to the full statement for a List of Public Inquiries and reports prompted by police conduct in the 1970s and 1980s.

There was also considerable political controversy at the time about Special Branch monitoring the activities of people who are “merely undertaking proper political or industrial activity”. This led to a 1984-5 report by the Home Affairs Select Committee into the work of Special Branch. Notably neither the Home Office nor the MPS disclosed the existence or the activities of the SDS to the Committee; had they done so, it is very unlikely the report would have concluded that ‘the special branches of the police service...do not justify public anxiety’.

Set against the background of this policing culture, the secrecy and lack of accountability or outside scrutiny of the SDS created obvious high risks to the public. Appreciation of contemporary police culture, and the historical context helps explain why the law was so persistently flouted by the SDS, and why particular abuses of undercover powers, such as the abuse of women, or the infiltration of justice campaigns occurred, and persisted, uncorrected for decades, even when more stringent legal controls such as RIPA were introduced.

## **What happened in the SDS? [§47-126]**

The statement conducts a detailed examination of the evidence presented so far to the Public Inquiry, and places it in context.

### **Approaching the police evidence**

The Cat H CPs submit that the written and oral evidence of MPS officers in T1 must be considered in the light of the contemporaneous policing culture, attitudes, standards and practices outlined above. Where there is dispute (e.g. over wider MPS knowledge and awareness of sexual relationships) one must remember the “powerful code” that means police officers will normally lie to prevent *other* officers being disciplined or prosecuted. We note that the only officers in the T1 period whom other SDS’ officers have acknowledged may have had sexual relationships are deceased. Vince Harvey has given evidence that he himself engaged in several sexual relationships but has denied telling anyone about it (which would implicate those he told). Only one officer (Graham Coates) has given forthright evidence about explicit sexual banter (which the Police in Action report shows was pervasive in the MPS). Others have admitted it reluctantly, but many have denied it outright. Several officers have expressed anger about the actions of officers which have led to the UCPI exposing the work of the SDS. [§49]

Many allowances were made for these officers, including evidence in closed, protection of their real identities and immunity offered by the Attorney General. Despite this, some police officers, including senior officers, have not told the whole truth to this Inquiry. They have continued to prioritise the ‘powerful code’ of backing each other up over the right of the Inquiry, and ultimately the public, to discover the truth.

### **What the evidence shows**

Notwithstanding the deeply corrosive ‘them and us’ culture on the part of the MPS, pitting internal police interests against the public they are supposed to serve, the inquiry has seen and heard considerable evidence of serious wrongdoing by the SDS, including the following:

#### **1) Monitoring the lawful exercise of fundamental rights [§50-52]**

The SDS monitored a very wide range of organisations, including political parties, Peace Campaign groups, and Justice Campaigns. Members of groups targeted by the SDS were lawfully exercising their rights to freedom of expression and assembly. Special Branch reports at the time recognised that groups being monitored by the SDS often posed no threat to the state.

**1) UCOs entered private homes [§53-55]**

It was an explicit objective of the SDS to obtain entry into meetings in private homes, and senior officers encouraged this. UCOs socialised with individuals they met in their cover identities and attended personal and intimate events such as the weddings, funerals, and birthday parties.

**2) Private information was recorded by police and shared with MI5 [§56-57]**

UCOs gathered and reported all information indiscriminately without any consideration of privacy or even relevance. Managers and officers suggested that a reason for reporting personal information was that it would be of interest to the Security Service.

**3) Common law and human rights of individuals were not considered [§58]**

Neither the Home Office, the MPS or the SDS appear to have considered, or if they did so it appears they disregarded, the lawfulness at common law of their operations, or whether they interfered with fundamental rights.

**4) They prioritised the secrecy of the SDS [§59-61]**

Secrecy was at the heart of SDS operations and was prioritised over lawfulness, honesty to the courts, and the rights of the public.

**5) There were no safeguards or controls on the use of secret powers [§62-68]**

There was no focused targeting of organisations based on pre-existing assessments of any threat posed by those organisation, and often UCOs were required to “use their own initiative” to pick targets themselves. There was confusion about who (if anyone) was responsible for such targeting and tasking. There was no review of the necessity for deployments either before or during.

**6) There was no guidance or training [§69-71]**

Neither UCOs, managers nor back office staff received any training or guidance before being deployed. They were expected to “learn on the job”.

**7) There was no adequate review of the SDS [§72-74]**

There was no proper internal or external review of whether there was a need for the SDS. Cat H Cps agree with the conclusion of Counsel to the Inquiry that had anyone ever conducted such a review it should have lead to the disbanding of the SDS.

## **Evidence about sexual relationships [§75-126]**

The statement includes an in-depth examination of the state of evidence seen by the inquiry so far about undercover officers conducting sexual relationships with members of the public and draws the following conclusions:

### **Risk of sexual relationships [§75-81]**

The risk of UCOs entering into sexual relationships was obvious. Socialising with target groups was a central part of the job and the MPS knew that those social scenes involved sexual relationships. Deployments were long, reaching 3-5 years and UCOs spent long periods undercover, sometimes working seven days a week. Some considered sexual relationships were expected, and they offered a clear tactical advantage.

### **Sexual relationships [§82-86]**

Several UCOs have admitted to romantic relationships with female members of the public, that they deny became sexual. Mostly the women themselves have not been called to give evidence and these denials ought to be treated with some caution. Where women have given evidence it conflicts with officer accounts, and suggests officers have minimised their conduct. Although the evidence is patchy, it is sufficient to conclude that sexual relationships had, by the mid-1970s, become a regular feature of SDS undercover policing. It is evident that out of a total of 23 UCOs, at least six had one or more sexual relationships with female members of the public in their undercover identity. Some of these relationships persisted over several months, and were perceived as significant by the women involved; one even led to marriage. Given the absence of evidence from many officers and women, and the reluctance of officers to implicate each other, it is impossible to be sure whether the remaining 16 UCOs, five of whom are now dead, had sexual relationships. It is likely at least some of them did.

### **Wider knowledge and denials of knowledge of sexual relationships among senior MPS managers, Home Office Officials and Ministers [§87-115]**

The risk UCOs would enter into sexual relationships and the fact that such relationships were likely to be taking place was widely understood by UCOs and managers at the time. The evidence refers to at least two relationships that were dealt with at management level and became the subject of widespread knowledge in the SDS. Furthermore, the PSI study and other contemporary sources demonstrate that the sexual exploits of police officers were a topic of frequent conversation, banter and ribald speculation at all levels of seniority in a force that was overwhelmingly male and dominated by a '*cult of masculinity*'. Some managers have acknowledged knowing about the risk, and there is evidence that it was discussed at all levels including with the Security Services. Against this backdrop it is inconceivable that the obvious risks were overlooked.

Nevertheless, several SDS Managers still seek to deny they were aware. These denials do not withstand scrutiny. The risks are obvious and inherent, and such denials require us to accept that some senior officers were aware of and involved in discussions about relationships, including one which was of such "*great significance operationally*" that it was mentioned in an SDS annual report, yet other managers working alongside them at the same time, remained wholly unaware. Cat H CPs submit that denials that managers knew there was a real risk of sexual relationships between UCOs and members of the public, or indeed that such relationships had in fact occurred, should be rejected.

The risk of sexual relationships with female members of the public would also have been understood by senior police officers outside the SDS, including MPS Commissioners. Some SDS managers went on to more senior policing roles, and given prevailing attitudes to women in the MPS as a whole, extending to its Commissioners<sup>22</sup>, the obvious risk of sexual relationships inherent in the type of deployment was likely regarded with equanimity and even some jocularly, as long as it assisted and did not compromise SDS's operations.

### **Measures taken to combat the risks of sexual relationships [§116-122]**

From the evidence, the only measure introduced by the SDS which could conceivably be said to address the known risk of sexual relationships was the active recruitment of men who were married or in long term relationships (although that was not the stated intention of that policy). In any case,

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<sup>22</sup> See comments about policing culture above, and *In the Office of Constable*, Sir Robert Mark, 1978, p. 61, p95, pp231-2

it provided inadequate protection, as relationships did take place. In the police force as a whole adultery was generally accepted to be a risk.

*“Policemen have one of the highest divorce rates in the country. There’s always a bit of spare around the corner, because of the glamour of the job”*<sup>23</sup>

No other steps were taken. There was no guidance or training. SDS managers have confirmed that they did not give officers advice about sexual relationships whilst undercover; there was no support to develop cover backgrounds and legends which alleviated the risk of sexual relationships; there was no effective supervision of UCOs in the field; and there were no meaningful sanctions when sexual relationships did occur.

### **Sexism in the MPS [§123-126]**

It is incontestable that there was widespread misogyny and sexism in the MPS at the relevant time, and it is clear those attitudes had a real impact on conduct. Sexual relationships became increasingly common in the T1 period. Senior police officers turned a blind eye and, when relationships did occur, they never resulted in disciplinary proceedings, nor were any meaningful steps ever taken to prevent sexual relationships occurring in the future.

Cat H CPs submit that entrenched misogyny and sexism in the MPS lie behind the fact that UCOs entered into sexual relationships with female members of the public while undercover, and the fact that senior police officers failed to take any steps whatsoever to address this obvious risk. Neither the women nor their fundamental rights were deemed of any importance at all. Even now, forty years later, after the MPS have apologised to a number of women and the courts have found that such sexual relationships were abusive and amounted to inhuman and degrading treatment<sup>24</sup>, former senior officers in the SDS are unwilling to acknowledge that fact.

### **Conclusions [§127-141]**

Cat H CPs submit that the use of undercover policing by the SDS was unjustified, unlawful, and profoundly anti-democratic. It seriously violated fundamental rights at common law and human rights law. All those who instigated, aided, counselled or directed the SDS’s activities were jointly responsible. That includes the Home Office who authorised and funded the SDS’ activities, knowing their nature, and the Security Service who received and retained the private information obviously obtained by trespass and other torts and sought more. Such interferences had to be strictly justified and tightly controlled to be lawful.

In tacit recognition of the difficulties in justifying the SDS’s activities, the police rely on the fact that intelligence gathered by SDS UCOs was shared with the Security Service (MI5). This does not justify the unlawful behaviour of the SDS, however the wider involvement of the Home Office and the Security Service does help explain why the MPS acted in a manner which senior officers must have known was unlawful. At the time MPS Commissioners publicly declared their belief that i) they considered it necessary to break the law to achieve policing objectives, and that ii) they had the tacit support of the establishment, including the judiciary, in doing so<sup>25</sup>. In respect of the SDS’ activities, that view will have been fostered by the funding and close encouragement of the Home

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<sup>23</sup> Reiner, 1985, *Politics of the Police*, p99

<sup>24</sup> Letter dated 30 March 2017 from Fiona Taylor, Assistant Commissioner of the MPS; IPT judgment in *Wilson* at §228-231.

<sup>25</sup> *McNee’s Law*, 1983, p180-181; *In the Office of Constable*, 1978, p54-55, 58-59

Office, and the Security Service. Cat H CPs consider this belief, and the role of the Home Office and Security Services in fostering it, is a matter of serious concern.

When they unlawfully interfered with the public's long-standing constitutional rights, the MPS also took the misogyny which riddled and corrupted the entire organisation into the private homes and private lives of women. Both the MPS, and the men sent into their lives, had contempt for them. It is clear women were severely discriminated against by the SDS's activities, and were subject to discriminatory risks at the hands of a police force in which sexism was endemic. Any police officer, official or minister who knew officers were being sent undercover with false identities and cover addresses for years, knew about that risk. That extends to Commissioner level and into the Home Office; it also encompasses the Security Service<sup>26</sup>.

Contemporary materials strongly corroborate evidence heard in T1 of lurid and offensive sexual banter, and boasting about sexual relationships, and totally undermines the evidence of those who deny it. Cat H CPs accordingly invite the Chair to find that endemic misogyny and institutional sexism in police culture was a strong contributing factor in:

- (1) The fact that UCOs entered into sexual relationships with members of the public in T1;
- (1) The failure of more senior officers in the SDS and MPS to take any steps to eliminate the obvious risk of such relationships;
- (2) The persistence of the sexual misconduct of UCOs over the T1 period, and beyond.

The Cat H CPs consider that the endemic misogyny in the MPS, and the culture of '*them and us*' has to be eradicated for the safety of the public. As the crimes of David Carrick and Wayne Couzens have shown, these attitudes, and the tolerance for them in the MPS, have horrific consequences for women. They can literally be a matter of life and death. They hope and trust that the Inquiry will recommend that the long overdue process of eradication will be prioritised and urgently progressed.

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<sup>26</sup> Evidence given to the UCPI confirms that knowledge of SDS within MPS extended to the Commissioner who were known to visit the SDS in person; knowledge within the Home Office of the SDS extended to Sir Robert Armstrong, Permanent Under Secretary of State and later Head of Home Civil Service and his successor as Permanent Secretary to the Home Office, Sir Brian Cubbon, and Security Service personnel were well aware of the SDS.