

The Pitchford inquiry into undercover policing: some lessons from the preliminary hearings

Raphael Schlembach

Abstract:

The public inquiry into undercover policing (“the Pitchford inquiry”) commenced in July 2015 and in its first year has considered a range of preliminary issues, including the awarding of core participant status to interested parties. Although the inquiry is perceived broadly as an inquest into undercover policing, it is highly politically charged due its focus on the infiltration of left-wing protest groups by undercover police units. In this paper I reflect on some of the key issues arising from the preliminary hearings and from the remit set by the Home Secretary. In particular, I query whether the inquiry suffers from a legitimacy deficit, due to a number of shortcomings; for example the restriction of the inquiry’s remit to England and Wales only and the police’s resolve to give some of the evidence in private rather than public. This has implications for how non-police core participants will relate to it and how it will be perceived more widely.

Keywords:

Public inquiry; surveillance; undercover policing; protest, legitimacy

Introduction

The public inquiry into undercover policing commenced in July 2015 with the consideration of a range of preliminary issues. In his report to the Home Office, the inquiry’s Chair Lord Justice Pitchford is tasked with addressing allegations that undercover officers had sexual relationships with targets; that they gathered information on Stephen Lawrence’s family and their campaign for justice; that they used the identity of dead children as cover; that they withheld evidence in court leading to miscarriages of

justice; and that they spied on political groups and elected representatives including Members of Parliament. Although the inquiry is perceived broadly as an inquest into undercover policing, it is highly politically charged due its focus on the infiltration of left-wing social movements by the Special Demonstration Squad and the National Public Order Intelligence Unit.

In Britain, public inquiries are now favoured judicial instruments to respond to crises in government and governance. Their quasi-independent status from both the executive and the legislature grants them a privileged role in establishing the facts of past events and learning the lessons of institutional failures, thereby seeking to restore public confidence and trust. Their seemingly transparent and public character is decisive for one of their central functions: providing a public response to ‘the insistence that “something must be done”’ (Burgess, 2011: 3). Inquiries into major incidents and breakdowns of institutional management, in particular, gain high status within legal and administrative circles. They are typically chaired by senior members of the judiciary and granted a level of autonomy and in some instances statutory powers under the Inquiries Act 2005. Their symbolism is not lost on those observing public inquiries: unlike in the High Court their chairs do not wear wigs, their inquisitorial nature lends itself to a closer and more cosy relationship with the public and their ways of working indicate openness, transparency and truth. It is perhaps ironic, then, that the Pitchford inquiry established by the Home Office as a statutory judge-led inquiry is tasked with breaking open one of the most invisible fields of public management and control – undercover policing.

It is true, of course, that ‘in an apolitical age characterised by public cynicism and mistrust, the relative authority that public inquiries enjoy, compared to fixed institutions, is striking’ (Burgess, 2011: 8). The proliferation of calls for public inquiries and inquests in Britain is perhaps symptomatic of declining reverence by both the public and the elites towards institutions. Despite this there are important criticisms that frequently accompany public inquiries, especially where they regard the investigation of serious institutional failures or wrongdoings. Their justification is, after all, based on ‘a democratic pluralist position not without its critics’ (Scruton, 2013a: 48). Most importantly, inquiry teams are well aware that they will be scrutinised on the basis of identifying not just individual transgressions but on their ability to point to systemic breakdowns. Furthermore, the Inquiries Act 2005 has significantly reduced the independence of public inquiries by establishing a stronger framework for ministerial

influence over the inquisitorial process. Also, members of the public are effectively reduced to being observers rather than participants, unlike in jury trials and inquests. The establishment of such mechanisms of accountability may therefore amount to little more than a ministerial move to increase the government's popularity at the expense of one or several of its public institutions (Sulitzeanu-Kenan, 2010).

In this paper I apply such analyses to the role of public inquiries as a form of governance to the Undercover Policing Inquiry (UCPI). My data draws from the first twelve months of the inquiry beginning in July 2015 and specifically considers the issues arising out of the preliminary hearings held in the Royal Courts of Justice. Two themes are explored in depth: (1) the relative legitimacy of the inquiry in the eyes of those who were the targets of intrusive surveillance by undercover police, and (2) the adversarial nature of the proceedings separating the police and the non-police core participants. It is suggested that a deficit in the former can only be addressed if the public interest in openness and disclosure is given priority over the police's interest in confidentiality and anonymity.

My analysis of the preliminary hearings of the UCPI is based on extensive engagement with campaign materials, observations of court hearings, and an analysis of submissions made to the inquiry over the course of its first year. This forms part of a broader project to scrutinise the legitimacy of the inquiry in the eyes of core participants and the wider public. As Scraton (2013b: 2) notes, the existence of campaigns running alongside inquiries and investigations can be regarded as 'an alternative method for liberating truth, securing acknowledgement and pursuing justice'. This study aims to highlight just that with regards to the Pitchford inquiry.

A legitimacy deficit?

While their independence from direct political intervention is not questioned, inquiries are primarily mechanisms for remedying institutional failures, rather than adversarial instruments for laying blame. Their role is essentially contrived by their set terms of reference related to specific issues and their habitual reliance on the expertise of middle-of-the-road judges and other esteemed professionals, 'achievers within the status quo' (Scraton, 2013a: 48).¹ Similarly, in their now classic work on official discourse, Burton

¹ The controversies that have so far engulfed the Independent Inquiry into Child Sexual Abuse, however, are a reminder of how contested the role of inquiry chairs can be.

and Carlen consider them to be a 'routine political tactic directed towards the legitimacy of institutions' (Burton and Carlen, 1979: 13).

As some authors have noted, public inquiries into state crime, such as the collusion of state actors with non-state political violence in Northern Ireland, were 'essentially mechanisms for re-establishing the legitimacy of the authoritarian state' (McGovern, 2013: 11; also Rolston and Scraton, 2005; White, 2010; Gilligan, 2013). This would certainly be true for those who were subjected to police infiltration by undercover officers. The units in question – the Special Demonstration Squad (SDS) and the National Public Order Intelligence Unit (NPOIU) – focused their work on left-wing, anti-racist and environmental protest groups and individuals, although far right groups were also targeted. All of them are vocal critics of state policy, and in some instances have developed a political outlook that sees state accountability mechanisms as cynical attempts to detract from state crime. Nevertheless, these very same activist groups were at the forefront of the call for a public inquiry into undercover policing. Their relationship to the inquiry remains complex, however. The official investigation is not so much seen as a way of achieving justice, but rather as a part of the strategy for truth recovery – despite the apparent impossibility of its attainment within a totalising system of law (see Carlen, 2013). From a different theoretical perspective but with similar implications, recent analysis of the Leveson Inquiry has shown how public inquiries can bring invisible aspects of police work to the front stage, even though impression management tactics used by the police may be designed to protect the institution's image (Mawby, 2014).

The terms of reference

As a statutory, judge-led inquiry the UCPI was set up by the then Home Secretary Theresa May in accordance with the Inquiries Act 2005. The Terms of Reference she established are rather broad, although there are some notable omissions from its remit. As the Chairman of the inquiry, Lord Justice Pitchford, is keen to stress his priority is the understanding of what happened – the truth. He is tasked to 'inquire into and report on undercover policing operations conducted by English and Welsh police forces in England and Wales since 1968', a period of 48 years. 1968 refers to the establishment of one undercover police unit in Special Branch, the Special Demonstration Squad. Its successor unit, the NPOIU, will also be scrutinised. While the inquiry does not restrict itself to

undercover operations conducted in order to gather intelligence on political campaigns, the nature of these two units already suggests an emphasis on what critics would call 'political policing'. This is interesting in so far as public inquiries into policing matters are frequently restricted by very narrow Terms of Reference that rarely look beyond the improvements that can be made to police management. Pitchford will have to negotiate the broader political perspectives with smaller administrative ones.

The restriction of the inquiry to operations in England and Wales only, however, is a major bone of contention. The NPOIU, for example, was centrally involved in gathering intelligence for the purposes of informing public order policing in Scotland, as well as internationally in countries such as Germany, Iceland, Italy, France and Spain. A number of stakeholders have made repeated calls to the Home Secretary to broaden the remit to include at least Scotland and Northern Ireland. The Scottish government for example has formally requested inclusion in the Terms of Reference. However, in a letter to the Member of the Scottish Parliament Neil Findlay, the newly appointed Home Office minister Brandon Lewis appeared to dismiss this option. The issue has also been raised by senior politicians in Ireland and Germany.

The Terms of Reference ask the inquiry to pay particular attention to six aspects of undercover policing. In brief, these can be summed up as:

- i. the aims and achievements of undercover policing
- ii. its rationale, and its effects on the public
- iii. its justification
- iv. knowledge of undercover policing methods in government
- v. oversight and governance
- vi. selection process, training and management, and support available to undercover officers.

It is worth noting also what the inquiry does not cover:

- i. as mentioned above, undercover police work outside England and Wales
- ii. corporate intelligence gathering on political activism and its relationship to the public police; this includes the blacklisting of workers
- iii. anything that involves the security services, domestic or international.

One of the concerns of the inquiry is the potential of miscarriages of justice, resulting for example from cases where intelligence gathered through undercover operations has not

been made available to the defence in criminal trials. This concern is in part informed by an earlier review into a specific account of miscarriages of justice where the work of one officer – Mark Kennedy – had led to the pre-emptive arrest and eventual prosecution of a group of environmental activists (Rose, 2011). The fact that Kennedy had infiltrated the protest group was not disclosed to the activists’ defence team, although it was known to the prosecution. In the event, the Court of Appeal quashed the sentences of several activists deeming their convictions unsafe. While the inquiry is not itself responsible for investigating miscarriages of justice, in the event of identifying any potential unsafe convictions Pitchford is obliged to report these to a justice panel.

Preliminary rulings

From the establishment of the inquiry team in 2015 up to July 2016, a large part of the work of the inquiry has constituted evaluating submissions from interested parties, determining preliminary legal issues and setting out guidance principles. In cases where submissions to the inquiry needed further exploration, Pitchford has held preliminary oral hearings in the Royal Courts of Justice. There have been a series of these hearings to date, before the formal evidence hearings begin:

- i. a hearing to determine applications for core participant status
- ii. a hearing on legal representation and public funding
- iii. a two-day hearing on the legal approach to be taken in relation to applications for restriction orders
- iv. a hearing on the terms of undertakings the inquiry will make to the Attorney General
- v. a hearing on the state’s duty to disclose to the parents of a deceased child that the child’s identity was used for police purposes.

Following the first two hearings Pitchford has accepted, to date (August 2016), the applications of 200 core participants in the inquiry and ruled that the legal representatives of 178 of them should be in receipt of public funding. He has refused 87 applications. The Chairman has made it clear that he regards the chances of success for the inquiry to be bound up with the participation of those 178 non-state/non-police (NSNP) participants. The status of NSNP participants has been determined on the basis of categories to which they belong:

- [D] Political organisations and politicians
- [E] Trades unions and trades union members
- [F] Relatives of deceased children
- [G] The family of Stephen Lawrence, Duwayne Brooks OBE and Michael Mansfield QC
- [H] Individuals in relationships with undercover officers
- [I] Miscarriage of justice
- [J] Justice campaigns
- [K] Political activists
- [L] Social and environmental activists

Most of the participants are named, although some are known only by a code number or other identifier. Controversially, Pitchford has also rejected several applications for core participant status, some from high profile campaigners including Ricky Tomlinson, Peter Tatchell and Jenny Jones. The rejections have usually been on the grounds that there was no evidence that the police monitoring of the applicant had been made through the manipulation of relationships by authorised Covert Human Intelligence Sources. Yet as the applicants and their supporters have pointed out, to prove beyond doubt that such targeted surveillance occurred would necessitate a prior disclosure of police authorisation documents and therefore the inclusion as interested parties in the inquiry.

The inquiry as an adversarial battle

Even though public inquiries are inquisitorial by nature, the preliminary hearings have been marred by a significant adversarial tone of engagement; principally due to the approach taken by the counsel for the various state institutions – the Metropolitan Police Service, the National Crime Agency and the National Police Chiefs’ Council – and in a similar way to the Hillsborough inquests.² In a number of ways, police and state actors have sought to restrict public access to evidence, citing – without a sense of irony –

² After a twenty-seven year campaign for the truth by the families of the victims, the jury in the inquest into the Hillsborough stadium disaster finally returned an “unlawful killing” verdict. Commenting on the drawn out process – the inquest was the longest running jury inquest in English legal history – the QC for the family campaign accused the police of turning the inquisitorial process into an adversarial battle. Under pressure, the Chief Constable of South Yorkshire police resigned amidst accusations that his force sabotaged the inquest and blocked the process.

concerns over the intrusion into the private lives of serving and former undercover police officers.

Restriction orders

The submissions, hearings and rulings on the legal principles to govern the application for restriction orders have been the most contentious ones so far. They are also able to tell us something about the nature of the inquiry and the relationship between state and non-state participants. In broad terms, the counsel for the non-state participants – and those here included representatives for the media, for elected representatives and for the police whistle-blower Peter Francis – approached the preliminary hearings from what we may call a ‘principle of openness’. Their emphasis was on the maximum disclosure of the kinds of policing operations that have gathered intelligence on political campaigns. By contrast, the police’s submissions rested on a ‘principle of confidentiality’. This was based on the premise that ‘fairness’ to police officers could only be guaranteed if evidence to the inquiry was protected by anonymity of core state participants. The Metropolitan Police Service therefore argued that in most instances facts and details of undercover deployments should not be disclosed in open inquiry sessions.

Non-state core participants submitted written and oral statements opposing such restrictions, particularly attempting to query the logic behind a blanket policy of not confirming cover identities. These submissions seeking public disclosure of documents identifying and proving the identity of further Covert Human Intelligence Sources were submitted by a range of non-police core participants, as well as a group of elected representatives, the former SDS officer Peter Francis, a group of media actors including Guardian News and Media Ltd, Times Newspapers Ltd and the BBC, as well as a personal submission by one of the NSNP core participants, Helen Steel.

Pitchford’s ruling on the matter sets out the legal principles that underlie decisions under section 19 of the Inquiries Act 2005, as to applications for restrictions on the public disclosure of evidence and information. Most importantly this addressed the question of confidentiality for undercover police officers and the implied principle of ‘neither confirm, nor deny’ that the police had relied on in a bid to maintain their anonymity. The ruling notes, on eighty-five pages, the central importance of the legal approach taken and the public interest in disclosure. In summary, Pitchford decided to take an ‘incremental

route' through case-by-case decisions on restriction orders and anonymity, which remains largely non-committal towards public disclosure of evidence.

The ruling notes that the police and the Home Office have offered full access to secret documentation they hold about undercover policing, 'subject to exceptional circumstances'. The inquiry is of course reliant on full compliance by these institutions, but does not see reason to doubt their commitment to transparency.³ The ruling completely subjects itself to meeting the public interest. It recognises that a balance needs to be struck between two competing public interests – the interest for a public inquiry and the interest for protecting secrets and individuals and the public from harm. This second interest is somewhat tautological: according to the ruling there is public interest in secrecy only when secrecy is in the public interest. However, the ruling does give some reassurance to the NSNP core participants in saying that the police's 'neither confirm, nor deny' position cannot amount to a blanket ban on disclosure. In practice, Pitchford has published 'minded-to notes' suggesting he will grant restriction orders that prohibit the naming of core participants both for police officers and for non-police participants, such as the former partners of undercover officers as well as for activists. In one of the first restriction orders, Pitchford granted anonymity to an undercover officer referred to only by the codename 'Cairo' in the inquiry.

Undertakings and the importance of asymmetry

Similar issues arise from the ruling on undertakings. In the ruling the Inquiry Chair indicated that he would seek an undertaking from the Attorney General that self-incriminating evidence given to the inquiry cannot be used against the individual in any criminal proceedings. This would be essential to allow witnesses coming forward to give evidence without fear of being investigated or prosecuted. This was of course a key demand of the NSNP core participants to facilitate their full participation in the inquiry, but they also argued for the importance of asymmetry. Their submissions upheld that in an inquiry about the wrongdoings of police units there is a difference between the status

³ Mark Ellison QC had criticised the Metropolitan Police's records management in the Stephen Lawrence Independent Review, deeming it 'chaotic' (Ellison, 2014: 16). In response, the Met launched Operation FileSafe, which in turn has received criticisms from campaigners as insufficient.

of police witnesses and those witnesses who participate as 'victims' of intrusive surveillance.

Deceased children

A final contentious issue raised in the preliminary hearings regarded the police's practice of appropriating the identity of deceased children to legitimate and protect undercover officers' assumed identities. A Home Affairs Select Committee Report into undercover policing raised this as a serious instance of police failure:

The practice of 'resurrecting' dead children as cover identities for undercover police officers was not only ghoulish and disrespectful, it could potentially have placed bereaved families in real danger of retaliation (Home Affairs Committee, 2013).

Submissions to the inquiry were made by core participants designated as 'Relatives of deceased children', in particular the mother of Rod Richardson. In her submission she cited the positive duty of the state under Article 8 of the European Convention on Human Rights to provide information about the possible infringement of state actors into private lives. The Home Affairs Select Committee was clear that it expected the police to identify instances of the practice, to notify the families concerned and to apologise.

In his preliminary ruling, the Inquiry Chair did not fully endorse this view, but he did decide that he would contact the parents and close relatives of deceased children where he could establish that the child's identity had been used for the purposes of undercover policing. However, once again, a restriction order granting anonymity to the police officer would override this and parents would not be notified in those cases.

Campaigning for a public inquiry

The public inquiry, its Terms of Reference, and the legal principles applied to it following the preliminary rulings are not in any way natural responses by the British state keen to deflect criticism. In fact, all of those, and the concessions granted, rested heavily on groups of campaigners and individuals who have played a pivotal role in making sure that the 'spycops scandal' reached the level of public scrutiny it has.

In their recent work, Greer and McLaughlin (2016) are interested in the notion of institutional scandals in the regulatory state. They note their proliferation engulfing Britain's public institutions – from local authorities to the BBC. Building on symbolic interactionist perspectives, they explain scandal proliferation as a process shaped by the dynamic interactions between a set of state and non-state actors. Here they grant a significant space to the power of the mainstream media to define and amplify public scandals. Greer and McLaughlin assert that transformations in the British media landscape make 'scandal hunting' a lucrative endeavour for the national press and internet news sites alike. Initially, the scandal might be largely concealed from public knowledge but latently present as an open secret within the institution. These open secrets may become activated where rumour or chatter on social media and online forums is picked up and verified by mainstream news agencies (see also Greer and McLaughlin, 2011). Thus validated, scandals provoke reaction, primarily by public institutions seeking to manage their institutional reputation. In cases where the scandal fits with the news agency's business model, a phase of 'trial by media' sets in, whereby individuals are blamed and institutional processes are scrutinised – leading to scandal amplification. The accountability phase of the scandal's lifecycle is characterised by 'the *separation* of the individual and institutional accountability' (Greer and McLaughlin, 2016: 11, emphasis in the original). The authorities will seek to manage the institutional crisis by seeking to establish the 'official truth' and rectify the institutional failures.

Applied to the infiltrations of political targets by the police's undercover units, Greer and McLaughlin's (2016) model can be usefully applied – yet, as we will see, with an important reservation:

1. *Latency*. In this phase social movement activists first suspected and then discovered the identity of undercover officers who had infiltrated environmental campaigns and other protest networks.
2. *Activation*. A post on the activist website Indymedia UK alerted other activists to the police identity of Mark Kennedy. Working with the journalists Paul Lewis and Rob Evans from the *Guardian* newspaper, the scandal was brought to public attention in the national press.
3. *Reaction*. Kennedy and his former police employers reacted in various ways to contain and neutralise the scandal, as well as to shift the blame. Kennedy, for

example, made frequent media appearances whilst the police launched an internal investigation into the allegations.

4. *Amplification.* The uncovering of further police infiltrators served to amplify the scandal. A whistle-blower, Peter Francis, alleged that he had been sent to monitor and smear the justice campaign run by Stephen Lawrence's family and his mother. These revelations and allegations proved toxic for the police.
5. *Accountability.* A number of accountability mechanisms were employed, from official investigations, to the quashing of sentences for falsely convicted activists. Eventually, the Home Secretary recognised that the scandal had warranted enough public concern to establish a statutory inquiry.

While the model works, there is a significant shortcoming in its applications to this case. In its description as a 'scandal machine', Greer and McLaughlin themselves insinuate that there is something mechanical in the workings of their procedural model, although they warn against any sort of determinism. Reading it in this way, it appears as if the establishment of the Pitchford inquiry was a natural and inevitable phase in the 'process' of the scandal proliferation model. In fact, the scandal proliferation that led to the public inquiry was driven *by activists* seeking to establish the truth very much *against* the official accountability processes.

Greer and McLaughlin note the advances of a regulatory state, one which has lost its traditional deference to the sanctity of its own public institutions. Members of the British government and establishment are less adamant to protect public bodies from criticism and instead employ the mechanisms of audit, accountability and performance management to maintain the dynamic yet continuous legitimacy of state institutions. Greer and McLaughlin mean to criticise the work of political scientists, who, in a functionalist manner, assume that state-sanctioned moral outrage about the failings of its own system components is an acceptable mechanism for the correction of individual faults. In the regulatory state on the other hand, the public inquiry brings to the fore systemic and institutional failure.

Clearly, such theorisation on institutional scandals is a noteworthy attempt to regenerate criminological state analysis by infusing it with the conceptual frameworks of media sociology and regulation. Thus it goes beyond an analysis of the abstract role of the state

to create, justify and enforce legal rules designed to maintain economic, racialised and gendered divisions in the accounts of many critical criminologists. It seeks instead to progress a more empirically-grounded and interactionist understanding of the changing character of the state in different regimes of accumulation.

But what does this mean for political strategy and agency? Even though the model advocated by Greer and McLaughlin reintroduces an activation phase in the cycle of moral panic and scandal formation, it foregrounds the state's (and mainstream media's) response and inserts the conflicting interests of state control and its detractors only as an afterthought. The model describes the context of scandals as a business model of the press and a state increasingly prepared to allow the hollowing out of its own institutions. But agency here only serves to activate and accelerate an already existing structural failure. By contrast, in the various stages of the undercover policing scandal, campaigners and activists played a pivotal role.

There is perhaps a more political reading we can suggest here. Commenting on the strategic lessons that the left could draw from the Lord Scarman Report following the 1981 Brixton riot, Stuart Hall (1982) suggested that there is more to official recommendations for police reform than an attempt at foreclosing debate and legitimising existing practice. In fact, he contended, the appearance of cracks and differences within the established positions on law and order signalled a political opening that progressives would do well to engage with and exploit: 'internal contradictions are not random occurrences and we need to understand both why they occur and what they mean' (Hall, 1982: 67). There is no guarantee that the Pitchford inquiry will provide similar openings, and it is certainly too early to say whether 'Pitchford matters'. But, the process of the inquiry is very much driven by those who want to see justice done. Those who are engaging in the process, the non-state/non-police core participants, are a vital public from where the inquiry receives legitimacy and acknowledgement. Without the active and critical participation of those whose lives were infiltrated, the inquiry is dead in the water.

Conclusion

Critical scholarship has repeatedly pointed out that official inquiries in the United Kingdom fulfil a political, or even ideological, function. They serve to manage actual or

perceived crises of legitimacy, restore confidence in public institutions and generate trust of accountability processes. For Burton and Carlen (1979: 48) the official discourse of the state was embedded in its 'legal and administrative rationality', a mode of argumentation that could put to bed the claims of more vernacular knowledge and dispel myths and rumours. One reading of the UCPI, then, is that it is designed to manage the scandal that engulfed undercover policing and to demonstrate to the public the necessity of covert surveillance for the benefit of public safety and national security. As a secondary function, but from a similar perspective, it is seen as having been instigated by the then Home Secretary Theresa May, despite police concerns, keen at overcoming past accusations of police wrongdoing. This would feed into her agenda of streamlining the service and moulding it more in the shape imagined by new public management and drives for efficiency and cost-cutting.

But another reading, for which I have provided some evidence here, would focus on the agency and struggle involved in forcing concessions from state institutions that are eager to maintain reputations and shift blame to other aspects of the institutional construct. Greer and McLaughlin (2016, see also White, 2010) make use of Stan Cohen's work in his book *States of Denial* to analyse how the state's response can shift from outright denial to an acceptance of liability if put under pressure. Cohen (2001) argued that criminologists have helped to normalise state crimes which stand in a disproportional relationship to the vast body of research carried out on relatively minor transgressions. Both criminology and state actors have found ways of denying or justifying atrocities on huge scales. Elsewhere Cohen describes acts of denial as a 'spiral' (Cohen, 1993), where states first deny the existence of atrocities committed, or, upon exposure, engage in forms of partial denial to shift attention or blame. Scraton (1999), similarly, employs the Foucauldian notion of a 'regime of truth' to question the adequacy of police accountability in processes whereby the state seeks to reconstruct and suppress the truth. These are not literal denials. Rather they issue public self-criticism embedded within discourse that 'implicates the rule of law, harnessing its processes and procedures to conduct a sophisticated "legal defense"' (Scraton, 1999: 279; Cohen, 1996). Conceivably, various police actors and their oversight bodies are deeply embedded in a spiral of denial of their own. It is most clearly evident in the Metropolitan Police's policy of 'neither confirm, nor deny'.

The Pitchford inquiry, optimistically due to report its findings to the Home Office in 2018, has embarked on one of the most thorough investigations into the practice of state abuse ever conducted in England and Wales. Despite its reduced independence as set out in the Inquiries Act 2005 Pitchford is armed with statutory powers, an extensive team of counsels, public funding and an extended timeframe of evidence hearings. And despite its complex problems of gaining legitimacy from those who have been victimised by undercover policing, it is a powerful reminder of the vulnerability of those citizens engaged in political activity and their civil liberties to state abuse. The struggle for the public inquiry, and for the legal principles that will guide it, has played an important role in galvanising a civil liberties and anti-state crime movement in Britain.⁴ The exposure of infiltrators in political, environmental and justice campaigns has already brought about the establishment of new civil liberties organisations – including the *Campaign against Police Surveillance* and the group *Spies Out of Our Lives*. Some of their activities have been a remarkable coming together of individuals and groups who have all had the experience of police infiltration. Few of them so far have received apologies, or compensation payments for some of the worst invasions of their private and political lives. However, I have highlighted how those who have become non-police core participants in the inquiry are at the forefront of making the inquiry public and accountable. The legitimacy of the Undercover Policing Inquiry is clearly bound up with their full co-operation.

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Raphael Schlembach is a Lecturer in Criminology at the University of Brighton. His research interests include critical theory, social movement studies and the policing of protest. He currently works on the project "Protest networks and the Pitchford inquiry": <https://www.brighton.ac.uk/ssparc/research-projects/protest-networks-and-the-pitchford-inquiry.aspx>

Email: r.schlembach@brighton.ac.uk