

**IN THE SURREY CORONER’S COURT
BEFORE HM SENIOR CORONER FOR SURREY, MR RICHARD TRAVERS
IN THE MATTER OF THE GUILDFORD PUB BOMBINGS 1974
AND IN THE MATTER OF THE INQUESTS TOUCHING AND CONCERNING
THE DEATHS OF:**

- (1) MR PAUL CRAIG (DECEASED)**
- (2) GUARDSMAN WILLIAM FORSYTH (DECEASED)**
- (3) PRIVATE ANN HAMILTON (DECEASED)**
- (4) GUARDSMAN JOHN HUNTER (DECEASED)**
- (5) PRIVATE CAROLINE SLATER (DECEASED)**

**WRITTEN SUBMISSIONS ON BEHALF OF
COUNSEL TO THE INQUESTS**

For Hearing at a Pre-Inquest Review: 16th July 2021 at 9:30am

1. Abbreviations

“CJA 2009”	Coroners and Justice Act 2009;
“CSR”	Current Situation Report from Surrey Police;
“CTI”	Counsel to the Inquests;
“GPB”	the Guildford Pub Bombings 1974;
“HGPH”	the Horse & Groom Public House;
“HMC”	HM Senior Coroner for Surrey, Mr Richard Travers;
“IP”	Interested Person;
“MOD”	Ministry of Defence;
“MPS”	Metropolitan Police Service;
“PIR”	Pre-Inquest Review;
“PIRA”	the Provisional IRA;
“RARDE”	Royal Armament Research & Development Establishment;
“RSCH”	Royal Surrey County Hospital;
“SECAmb”	South East Coast Ambulance Service;

“SIO”	Senior Investigating Officer;
“SP”	Surrey Police;
“SSPH”	the Seven Stars Public House;
“WRAC”	Women’s Royal Army Corps.

2. Introduction

- 2.1. Further to written submissions from CTI dated 23rd March 2021 for the previous PIR on 29th March 2021, these submissions provide another update on completed and upcoming work on preparations for the final evidential hearings for these inquests, provisionally listed for Spring 2022.
- 2.2. Insofar as these submissions contain information and proposals in relation to next steps, it should be borne in mind that HMC may take a different view and that any IP may submit questions, challenges or alternative proposals.
- 2.3. Again, we wish to emphasise that the progress made to date has depended upon, and would not have been possible without, the invaluable assistance and contribution of the SP GPB team, Operation IGIL.

3. Evidence collation and disclosure

- 3.1. Previous written submissions from CTI detailed the work done by IPs and others in collating potentially relevant material, and the provision of the majority of that material, largely via SP in a series of Tranches.

Disclosure

- 3.2. Tranches 1 – 4 have now been provided to HMC by SP. The latest Tranche (Tranche 4) was provided on 23rd April 2021. It is a large tranche containing material relating to the criminal investigation following the GPB. It is

understood that SP are currently working on Tranches 5 and 6 and aim to provide them together by the end of July. These are much smaller tranches. Tranche 5 relates to the criminal appeals process. Tranche 6 relates to the Caterham Arms pub bombing.

- 3.3. It follows that the vast majority (potentially all) of the material which is likely to be relevant, having regard to the provisional scope of the inquests, was contained in Tranches 1 – 3. Accordingly, good progress can now be made with disclosure to IPs. This is being done in a series of “Batches”.
- 3.4. On 18th June 2021, IPs were granted access to Batch 1 of disclosure, subject to an implied undertaking prohibiting onward disclosure or collateral use, via Caselines. Batch 1 consists of:
 - 3.4.1. 320 witness statements;¹
 - 3.4.2. 98 floorplans/sketch plans; and
 - 3.4.3. 25 other documents.
- 3.5. The contents of Batch 1 comprise relevant witness statements from Tranches 1 and 2, along with any associated sketch plans and floorplans. A number of other “core documents” were also disclosed to provide some overarching context to the material, along with selected materials which CTI had gathered from other sources.

¹ This is a slightly higher figure than the 315 witness statements from Tranches 1 and 2 identified as disclosable in CTI’s previous written submissions. That is because other documents reviewed for disclosure with Batch 1 (not coming from Tranches 1 or 2) included a small number of further witness statements.

- 3.6. It is intended that Batch 2 will include all remaining relevant material from Tranches 1 – 3. Good progress has been made in reviewing that material, and CTI aim to provide IPs with access to Batch 2 within the next four to six weeks.
- 3.7. IPs are asked to note that Batch 2 will contain further photographs, including of the bodies of the Deceased. These images are graphic and may cause distress. Families will be consulted about whether or not they wish to be sent or given access to these and the documents in question will be flagged with warning on Caselines. If any IP wishes to propose a different approach or that such photographs should be withheld from dissemination for viewing in person at court only, they should raise this for HMC’s consideration at the PIR.

Outstanding enquiries

- 3.8. There are a small number of enquiries outstanding. These relate primarily to enquiries with the National Archives for relevant documentation that may have been deposited by predecessor bodies to SECamb and the Royal Surrey NHS Foundation Trust (see §§4.5-4.6 of CTI’s previous written submissions). It is hoped that these enquiries will be concluded by the time of the next PIR, but this will be dependent on the re-opening of the National Archives.

4. Scope and Article 2

- 4.1. Once Batch 2 of disclosure has been provided to IPs, all concerned should have the bulk of the evidential material relevant to the provisional scope of the inquests, and be in a position to consider whether that scope ought to be altered, and/or whether Article 2 of the European Convention on Human Rights is engaged.
- 4.2. In view of the further disclosure still to take place, CTI do not intend to make detailed submissions on scope at the PIR on 16th July, although any IPs who wish to make any observations or submissions at this time are invited to do so.

4.3. In that regard, written submissions from KRW Law (on behalf of the family of Ann Hamilton) were received by the court on 6th July 2021. Those submissions address the scope of the inquest and the engagement of Article 2. CTI understand the thrust of the submissions to be, in summary:

4.3.1. HMC should not determine the scope of the inquest until after disclosure has taken place, and should resist ruling any matter out of scope at this stage if it is “sufficiently related” to the bombing or its aftermath (see e.g. §§14-15 and §42).

4.3.2. Article 2 is engaged in these inquests, because it is arguable that there was a state failure to prevent the GPB in circumstances where (it is said) (a) it was the culmination of an extensive PIRA bombing campaign in England and (b) pubs in Guildford were widely known to be frequented by members of the locally stationed British military (see §§18-19).

4.4. CTI would respond to those submissions as follows:

4.4.1. Following the disclosure of Batch 1 of evidential materials, although IPs are invited to consider the scope of the inquests and make submissions if they wish to do so, it has not been (and is not) proposed that HMC should *determine* scope at the upcoming PIR. It is agreed that it is appropriate to keep the scope of these inquests under review as the disclosure process continues, and retain scope as an agenda item for future PIRs. That said, at present CTI see no reason to depart from the indication given by HMC in his Ruling on Resumption dated 31st January 2019 at §13:

12. In my view, the above restrictions mean that the resumed inquests cannot investigate the identities of the Provisional IRA terrorists who carried out the attack, any evidence pointing towards or away from any particular perpetrators or any questions relating to the conduct of the original police investigation or prosecution. I give this ruling on this basis, notwithstanding that, in due course, I

will be required to undertake a more detailed assessment of the scope of the inquests....

- 4.4.2. Furthermore, we agree that the engagement or not of Article 2 can remain under review in light of the disclosure. In that regard, CTI can confirm that any material tending to suggest that a public body was arguably in breach of its substantive obligations under Article 2 will be deemed relevant and included with the disclosure. However, it can also be confirmed that, based on the material reviewed thus far, CTI has seen no such material and no evidence to suggest that GPB could or should have been foreseen or prevented or that Article 2 is engaged. In this regard, it should be borne in mind that GPB was the first of a wave of connected PIRA attacks on the Great Britain mainland and not the culmination of a series.

5. The Habershon Report

- 5.1. There has recently been some media commentary about a document known as the Habershon Report. It has been reported that it contains material relating to relevant PIRA activities prior to GPB and raises questions about what was known by police at the time of the attack and whether it could have been prevented.
- 5.2. The MPS disclosure updates dated 29th October 2019 and 10th February 2020 both referred to the report as follows:

Leading counsel to the inquests asked the MPS' counsel for information about the Habershon Report, which is referred to in the schedule provided by the Home Office of documents from the May Inquiry preserved in the National Archives.

Neither a copy of the Habershon Report, nor any information about it, was located within the MPS. Officers therefore attended the National Archives to review the report to assist the Coroner.

The Habershon Report was written on 25th September 1975 by Commander Roy Habershon (Head of the MPS Bomb Squad). It relates to the finding of the premises (Fairholme Road, London W14) used by the London PIRA Active Service Unit following the murder of PC Stephen Tibble.

The only reference to Guildford is in paragraph 57. Commander Habershon comments on not finding any connection between those charged with the Guildford Pub Bombings and the PIRA ASU's Fairholme Road premises found by police.

A copy of the Habershon Report has been obtained. It does not appear to fall within the scope of the inquests.

5.3. It should be noted that the Habershon Report is referred to and quoted at length in the Final Report of Sir John May's *Inquiry into the circumstances surrounding the convictions arising out of the bomb attacks in Guildford and Woolwich in 1974* (HC 449, 30th June 1994) ("SJM3").

5.4. SJM3, §14.1 gives the context which made the Habershon report relevant to Sir John May's Inquiry:

The Guildford bombings were the first in a new wave of Provisional IRA attacks in England. Between them and the Woolwich bombing there were a number of others. The Woolwich bombing was followed by still more, up to and including 27th January 1975 when seven devices were detonated in London. Thereafter there was a so-called cease fire until the Caterham bombing on 27th August. The incidents from 5th October 1974 to 27th January 1975 were to become known as "Phase 1"; those from 27th August 1975 to what has become known as the "Balcombe Street siege" in December 1975 as "Phase 2". Of the four men arrested at the successful conclusion of the siege, three were later to claim that they had been involved in the Woolwich bombing and one was later to claim also that he had been at Guildford. All were to claim in due course that the Guildford Four were innocent. Who these men were, the events leading up to their arrest and the

crucial part they were to play in the case of the Guildford Four are dealt with in Chapters 15-18 of this report.

- 5.5. SJM, §14.25 introduces the Habershon Report and sets out §§46, 51, 55, 57 and 58 in full.
- 5.6. A recent article published on the BBC news website on 30th June 2021 “Report reveals ‘IRA Guildford pub bombing cell’ activities” said the following:

A report that is set to be omitted from an inquest into the Guildford bombings contains key details on IRA activities before the attack, the BBC has learned.

The BBC has seen a copy of the 1975 Habershon report, which contains bomb squad intelligence, including details of terror suspects linked to Guildford.

Papers from an inquest said the report did not appear to fall within scope.

However, lawyer Alastair Logan said the document raised the question of whether the bombings could have been prevented.

...

Mr Logan, who represented the wrongly-convicted Guildford Four, said the report by bomb squad commander Roy Habershon in September 1975 showed police were aware of offences committed prior to the Guildford bombings.

He said: “They must have had some view an active service unit was operating.

“It raises the question of how much they knew at the time the bombings took place and it raises the spectre that they might have been able to prevent it from happening.”

The 30-page document, which has attached schedules linking 31 IRA suspects to incidents in Ireland, the England “provinces” and London,

states it “deals comprehensively with the activities between August 1974 and February 1975 of a Provisional IRA active service unit (ASU)”.

A grid lists eight incidents predating the Guildford attacks, including bombings, a shooting and a stolen car, and links them to 12 alleged IRA members.

...

Investigative journalist Ros Franey, who exposed the wrongful convictions in the 1980s, said: “It’s simply not true to say there’s nothing in the Habershon report that’s relevant to the inquest - because it goes to the heart of what happened.”

She said survivors and the victims’ families deserved more from the inquest and needed to know “what went wrong, why they were misled and why the wrong was never put right”.

- 5.7. The MPS have provided HMC and CTI with a complete copy of the Habershon Report and its available appendices.
- 5.8. Paragraph 1 of the Habershon Report does indeed begin, “This report deals comprehensively with the activities between August 1974 and February 1975 of a Provisional IRA ‘Active Service Unit’ based on addresses in London”. However, it is important to appreciate that the report does not contain any information about PIRA activities prior to the GPB on 5th October 1974. So far as concerns August and September 1974, §45 reads as follows:

August and September provided a lull in the PIRA campaign so far as the Metropolis was concerned but October 1974 was to see a resumption on a scale and with a variety of attack which clearly indicated a new philosophy on the part of the PIRA command and a marked escalation in the seriousness of events. A list is attached of all the terrorist incidents in the Metropolis and the South of England and Wales which occurred during the known currency of operations of the Fairholme Road ‘active service unit’, i.e. October 1974, until 27th January 1975 when the ‘cease-fire’ came into effect.

- 5.9. The attack on the HGPH, Guildford on 5th October 1974, with which these inquests are concerned, appears as the first entry on the abovementioned list of “all the terrorist incidents in the Metropolis and the South of England and Wales which occurred during the known currency of operations of the Fairholme Road ‘active service unit’”.
- 5.10. The Habershon Report does *not* contain key details on PIRA activities before the attack, its contents do *not* raise questions about whether the GPB could have been foreseen or prevented or show that police were aware of prior relevant or connected offences. The reference to a grid which “lists eight incidents predating the Guildford attacks, including bombings, a shooting and a stolen car, and links them to 12 alleged PIRA members” would appear to relate to a chart linking fingerprint samples, 59 premises, objects or incidents and 30 suspects. It does not appear to be relevant, but a number of its entries are illegible and a better copy has been requested accordingly.
- 5.11. For these reasons, disclosure of the Habershon Report in the context of these inquests does not appear to be appropriate.

6. Witnesses

- 6.1. Batch 1 of disclosure was accompanied by a comprehensive list of disclosed documents, along with a colour-coded list of 196 individuals who had given the statements included with Batch 1. The key to the (provisional) colour-coding is as follows:
- 6.1.1. Green: central witnesses likely to be able to give important evidence who could be called (if alive and traceable) or whose statements could be read. CTI have identified 30 “green witnesses” in this category.

- 6.1.2. Amber: borderline witnesses who may or may not be able to supplement the evidence of those in the first category. This category currently contains 44 “yellow witnesses”.
- 6.1.3. Red: more peripheral witnesses whose statements meet the criteria for disclosure, but who are unlikely to be able to add to the evidence of others. The remaining 122 “red witnesses” fall into this category.
- 6.2. IPs are invited to comment on that categorisation to the extent they currently feel able to do so.
- 6.3. It is also appropriate to consider a process by which potential witnesses can be traced and contacted. Specifically, CTI propose as follows:
 - 6.3.1. Efforts are made to trace and contact the green witnesses in the first instance.
 - 6.3.2. Depending on the outcome of those enquiries, it may then be appropriate to expand tracing efforts to include some yellow witnesses and potentially, in rare cases, a witness from the red category.
- 6.4. This not only affords primacy to evidential considerations, but also has the benefit of being a more proportionate approach.
- 6.5. As indicated in CTI’s previous written submissions, insofar as they are able to do so, all the IPs, SECAMB and RSCH have offered to assist with tracing former employees and staff and (in the case of SP) others identified as possible witnesses. Helpfully, SP has already made some progress in this regard, having confirmed that a number of individuals are either alive or deceased. CTI propose that SP be asked to continue to identify witnesses in the green and yellow categories who are alive and traceable. Once this has been done, CTI will request that the relevant IP (or other entity) take forward contacting efforts

of green witnesses in the first instance. Again, SP has helpfully agreed to provide assistance (to the extent it is able to) where another entity is unable to trace a particular witness.

- 6.6. In parallel, HMC's officer is liaising with the families of the Deceased to identify appropriate witnesses to provide relevant background evidence about their loved ones. This process has already commenced.
- 6.7. Finally, following the last PIR, at which the issue of witness names in the public domain was discussed, CTI undertook a review of relevant parts of the book *Trial and Error*, by Robert Key. It was confirmed that the following names were published in the relevant chapter:

ALLISON Ivan	BURNS Carol	MCKAY Rosemary
BONNAR Terence	BURNS Eileen	MURPHY Samuel
BRISTOW Alan	BURNS Robert	PARROTTE Sheila
BRISTOW Heather	CUMMINS Linda	SPOONER Julie
BRYAN Michael	LYNSKEY Paul	TINNEY James

- 6.8. CTI have confirmed that we have statements from all those mentioned, and the contents of the book tracks these closely. Accordingly, it does not appear that Mr Kee had access to additional materials which CTI have not seen, and this exercise has not identified any additional lines of enquiry.

7. Expert evidence

- 7.1. Further to CTI's previous written submissions, Professor Thomas Hennessey, Professor of Modern British and Irish History at Canterbury Christ Church University, has been contacted by the court, and confirmed that he would be happy assist these inquests by providing a report. Similar to his contribution to the Birmingham Pub Bombing Inquests, it is envisaged

that his report would provide evidence on the historical context of the Northern Ireland Troubles and the PIRA bombing campaign on mainland Britain in 1973-1974, tailored as appropriate to meet the requirements of these particular inquests.

- 7.2. HMC has expressed the view, shared by CTI, that such a report would serve a useful purpose in contextualising the evidence heard in these inquests. IPs are invited to make submissions on that point, and the instruction of Professor Hennessey in particular, at the PIR. A copy of his CV will be circulated with these submissions.
- 7.3. In the meantime, without prejudice to HMC's final decision on instructing an expert, the preparation of instructions to Professor Hennessey is currently underway. Should HMC confirm his intention to instruct Professor Hennessey, IPs will be given an opportunity to comment on the proposed letter of instruction. It is suggested that this be done by way of correspondence and/or written submissions, rather than waiting to the next PIR hearing, in order that a report may be obtained as soon as possible.

8. Application for an adjournment

- 8.1. In further submissions on behalf of the family of Ann Hamilton, KRW Law have invited HMC to adjourn these inquests until 1st October 2021, when it is expected that the Ministry of Justice will announce its response to the Justice Committee Report on the Coroner Service (HC 68, 18th May 2021). The report contains a recommendation that non-means tested legal aid or other public funding is made available to bereaved families in all inquests where public authorities are legally represented (see §103).
- 8.2. CTI understand the basis of the application to be a submission that, having been denied legal aid, the family of Ann Hamilton are not able effectively

to participate in the inquest process without funding to secure legal representation.

- 8.3. While HMC has previously made clear that he thinks the families should be given legal aid, CTI do not support the application to adjourn, for the following reasons:
 - 8.3.1. The prospect of the Ministry of Justice announcing changes that will alter the present funding position is speculative and it is not appropriate to delay these inquests on such a basis.
 - 8.3.2. Given that the inquest process is still at the stage of collating, processing and disclosing evidence, it is difficult to see what an adjournment could achieve, other than delaying that process. Even if funding was acquired at a later date, there is no significant benefit pausing the work being carried out by CTI, which needs to be done in any event.
 - 8.3.3. It is now almost 47 years since the bombing, and it is a reality that some potential witnesses are very elderly. Whilst the inquest process cannot be rushed, nor can it be delayed without very persuasive reasons.
 - 8.3.4. Whilst the views of the family of Ann Hamilton are of undoubted importance, it is necessary to take the views of all families of the Deceased into account. In that regard, no other family members have sought an adjournment.
- 8.4. Accordingly, CTI submit that the application should be refused. This of course does not prejudice the ability of Ann Hamilton to renew the application at a later date, for example once the disclosure process is completed. IPs are invited to comment on this application at the PIR.

9. Other issues

9.1. Two further issues which will need to be determined in due course are mentioned below so that IPs can begin thinking about them and, should they wish to do so, comment on them at the PIR:

9.1.1. The empanelment of a jury.

9.1.2. The admission of findings from the May Inquiry as evidence in these inquests.

9.2. As to the empanelment of a jury, in normal circumstances section 7 of the CJA 2009 applies and provides as follows, so far as relevant:

7. Whether jury required

(1) An inquest into a death must be held without a jury unless subsection (2) or (3) applies.

(2) An inquest into a death must be held with a jury if the senior coroner has reason to suspect-

(a) that the deceased died while in custody or otherwise in state detention, and that either –

(i) the death was a violent or unnatural one, or

(ii) the cause of death is unknown,

(b) that the death resulted from an act or omission of-

(i) a police officer, or

(ii) a member of a service police force,

in the purported execution of the officer's or member's duty as such, or

(c) that the death was caused by a notifiable accident, poisoning or disease.

(3) An inquest into a death may be held with a jury if the senior coroner thinks that there is sufficient reason for doing so.

9.3. However in this instance, HMC adopted an analysis of the law in which the resumption these inquests was considered (and ultimately approved) under §8(1) of Schedule 1 to the CJA 2009 (see §6 of the Ruling on Resumption), although they had originally been suspended under provisions pre-dating the Act. Proceeding on that basis (although it is acknowledged that a different analysis may apply²), §11 of Schedule 1 to the CJA 2009 applies:

(1) Where an investigation is resumed under this Schedule the senior coroner must resume an inquest that was adjourned under paragraph 6.

(2) The following provisions apply, in place of section 7, to an inquest that is resumed under this paragraph.

(3) The resumed inquest may be held with a jury if the senior coroner thinks that there is sufficient reason for it to be held with one...

9.4. For completeness, CTI can confirm that, based on the material reviewed and disclosed thus far, it does not appear that a jury would be *required* under section 7 in this case. Accordingly, irrespective of which legislative provision applies, the question for HMC will therefore be whether there is “sufficient reason” for summoning a jury. It is appropriate that this matter remain on the Agenda for future PIRs, so that IPs can make submissions once the disclosure process is complete.

9.5. As to the admission into evidence of findings from the May Inquiry, rule 24 of the Coroners (Inquests) Rules 2013 provides as follows:

² For example, HMC may have had an inherent/implied residual power to resume the inquests by application of or parity of reasoning with the Coroners (Amendment) Act 1926, s.20(2) and the Coroners Act 1988, s.16(3) and (7).

24. Inquiry findings

(1) A coroner may admit the findings of an inquiry, including any inquiry under the Inquiries Act 2005, if the coroner considers them to be relevant to the purposes of the inquest.

(2) Before admitting such inquiry findings as evidence, the coroner must announce publicly that-

(a) the findings of the inquiry may be admitted as evidence

(b) the title of the inquiry, date of publication and a brief account of the findings; and

(c) that any interested person is entitled to see a copy of the inquiry findings if he or she so wishes.

- 9.6. Before considering whether any findings of the May Inquiry could usefully be admitted as evidence in these inquests, submissions are invited on whether rule 24 is in principle engaged in connection with that Inquiry.

10. Conclusion

- 10.1. Progress continues to be made towards the final hearings for these inquests, which continue to remain provisionally scheduled to begin in April 2022. A further PIR has been scheduled for 8th October 2021, by which time it is hoped that:

10.1.1. All outstanding enquiries relating to searches for and collation of documents will be complete.

10.1.2. The process of SP providing Tranches of material to CTI will be nearing completion.

- 10.1.3. IPs will have been granted access to Batch 2 of disclosure.
- 10.1.4. The process of witness tracing and contact will have commenced.
- 10.1.5. Draft instructions to Professor Hennessey will have been provided to IPs.

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MATTHEW FLINN

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9th July 2021