

<p>1 Thursday, 27 July 2017 2 (10.00 am) 3 (Proceedings delayed) 4 (11.00 am) 5 Opening remarks by THE CORONER 6 THE CORONER: Yes, good morning. 7 Mr Skelton, I will address you, if I may. 8 COUNSEL TO THE INQUESTS: Yes, sir. 9 THE CORONER: I understand that two press releases have been 10 released this morning: one from a number of families and 11 one from KRW Law, the Belfast firm of solicitors who 12 represent those families, although there are other 13 families who are represented and unrepresented. 14 The essence of those two press releases, as 15 I understand them -- and you will tell me in a moment -- 16 is that they are considering an application for judicial 17 review of my decision on scope and also indicating that 18 they will not attend today's hearing. 19 I also understand that Mr O'Donnell, a solicitor 20 from KRW Law, came to court today but has declined to 21 remain and explain the position. Therefore, to some 22 extent, I have to rely upon the press releases for 23 progress today. 24 As coroner, I had notice two days ago, on 25 July, 25 that KRW Law were considering an application for</p> <p style="text-align: center;">Page 1</p>	<p>1 made. Such a challenge, if made -- and I feel I have no 2 clarity on this as yet -- would inevitably delay the 3 start of the Inquests. 4 These Inquests will, of course, be held in due 5 course. That is clear. But the delay both in the Legal 6 Aid funding and the possibility of a judicial review 7 application will inevitably mean that the start date of 8 late September of this year is no longer viable. 9 It has always been my wish that these Inquests 10 should proceed in the autumn, in late September or soon 11 thereafter. I also regret that it will not be possible, 12 because of the lack of clarity, to fix a new date today. 13 It is always important, and I feel it is very important 14 not least for the families, to be able to know the date 15 of the Inquests, but sadly, because of this turn of 16 events, I will be unable to arrive at a safe date today. 17 So, can you help about the two press releases, 18 please? 19 Update on the Progress of the Inquest by COUNSEL TO THE 20 INQUESTS 21 COUNSEL TO THE INQUESTS: I can, sir. 22 To summarise, KRW Law take issue with your decision 23 to exclude the issue of perpetrators from the scope of 24 the Inquests. 25 THE CORONER: Yes. Which they are very entitled to do.</p> <p style="text-align: center;">Page 3</p>
<p>1 judicial review. They have had 24 days since my ruling 2 but they have made no decision yet, which they are 3 entitled to, and that was the gist of their letter and 4 email, and there was no indication of any withdrawal on 5 their part or on the part of their clients. 6 Clearly the Inquests into the deaths of the 21 who 7 died on 21 November 1974 will proceed in any event. 8 I have a public duty to conduct them. I have been 9 specifically appointed by the Lord Chief Justice for 10 that purpose. 11 I would like to say, however, that the door will 12 always be open for those families who have chosen for 13 the time being at least to withdraw. I have welcomed 14 their participation in the past and I will always 15 welcome it. As I said before as Chief Coroner, and as 16 I say now as Coroner for these Inquests, the families of 17 the bereaved, and in this case all of them, should 18 always be put at the heart of the inquest process. That 19 still my view. Nevertheless, we must move forward. 20 For the moment I await a little more clarity. I do 21 not know, for example, if KRW Law remain as solicitors 22 on the record, the firm to communicate with on behalf of 23 their clients, for example, to provide forthcoming 24 disclosure to or not. I also need to know as soon as 25 possible whether a judicial review challenge will be</p> <p style="text-align: center;">Page 2</p>	<p>1 COUNSEL TO THE INQUESTS: Which they are entitled to do, 2 indeed. 3 As a result of that, they have determined that they 4 should no longer participate in the Inquests for the 5 time being at least, and have said in the press 6 release -- and intimated in correspondence two days 7 ago -- that they are considering judicial review 8 proceedings; but that in order to consider those 9 proceedings they require disclosure of certain documents 10 relating to the Devon and Cornwall Constabulary's 11 involvement in the criminal investigation that 12 post-dated the conviction of the Birmingham 6. 13 That is something which your legal team need to 14 consider. But I think it is necessary for me to say 15 that when I, as your counsel, on your behalf asked 16 Mr O'Donnell directly if a challenge would be 17 forthcoming, I was told in no uncertain terms that it 18 would be. Not a question of it being considered; it 19 will be forthcoming, and the Solicitor to the Inquests 20 received the same message directly as well. 21 THE CORONER: But that is not stated in today's press 22 release? 23 COUNSEL TO THE INQUESTS: It is not. There is considerable 24 equivocation in the press releases, both of them, as to 25 whether or not it will proceed.</p> <p style="text-align: center;">Page 4</p>

<p>1 Were it to proceed, clearly it must proceed, subject 2 to the High Court, on an expedited basis. As you say, 3 sir, we have waited a long time for these Inquests and 4 the challenge needs to be dealt with and dealt with 5 swiftly. But it is fair to say that the challenge goes 6 to the heart of what these Inquests are about, and on 7 that basis, sir, with respect, I must agree that we 8 cannot proceed today to deal with the issues which we 9 would like to have dealt with, which is identification 10 of the topics and evidence that would speak to those 11 topics to be held at the Inquests later this year. 12 THE CORONER: It is unfortunate, because of the funding 13 problem, that the issue of scope would have been heard, 14 in terms of submissions, at the pre-Inquests review 15 hearing in February. 16 COUNSEL TO THE INQUESTS: It would, sir. As we intimated in 17 November -- the November PIR, the first PIR -- as soon 18 as funding was in place it was your intention to 19 determine that issue in February. 20 As we would have expected, that would have led to 21 a ruling, as the ruling has occurred, following which 22 the topics would have been circulated, as they have 23 been, and agreed at the further PIR. So I think it is 24 fair to say we are three to four months behind schedule 25 as a result of the funding issue, and now this late</p> <p style="text-align: center;">Page 5</p>	<p>1 evidence-gathering exercise, both in terms of the 2 disclosure we are seeking from our major stake-holders 3 including in that particular West Midlands Police, who 4 have the major archive; the Crown Prosecution Service, 5 for example; and indeed Devon and Cornwall, insofar as 6 they have retained any material at all. And likewise, 7 of course, in respect of witness evidence. 8 So the plans I would have liked to have sketched out 9 for the court today, which are the result in part of 10 discussion with those interested persons who are 11 represented in the court today, can no longer be 12 sketched out in detail. 13 THE CORONER: Once those topics which are part of the scope 14 decision are developed into a clear structure and 15 framework, that then in turn allows you, and myself as 16 Coroner, to decide which witnesses will be called under 17 each heading? 18 COUNSEL TO THE INQUESTS: Yes, sir. The topics are 19 effectively a road map for the Inquests themselves, from 20 the opening of the Inquests and the empanelling the jury 21 right through to closing submissions. But they include 22 the substantive issues which clearly fall within scope, 23 for example forewarning and the events of the day, and 24 the wider overview of what was going on in the early 25 1970s in the West Midlands area.</p> <p style="text-align: center;">Page 7</p>
<p>1 judicial review will damage the timetable even further, 2 I am afraid. 3 So far as today is concerned, sir, I think we have 4 to leave the provisional list of topics insofar as they 5 cannot reliably be finalised today, even on 6 a provisional basis, in light of the intimation of 7 proceedings against the court. However, there may be 8 some things we can usefully deal with. 9 The topic list or agenda for the PIR includes the 10 list of topics -- 11 THE CORONER: If I can pause and go back to the first item 12 on the agenda, the list of topics. The list of topics 13 flows from my ruling on scope. 14 COUNSEL TO THE INQUESTS: It does. 15 THE CORONER: So that if that is challenged, which of course 16 they are entitled to do in the High Court, then that 17 could have a knock-on effect on the list of topics which 18 you have helpfully supplied to interested persons. 19 COUNSEL TO THE INQUESTS: Inevitably it would. Because the 20 issue of perpetrators would come back in, and then there 21 would be specific topics, evidential topics, which would 22 fall beneath that primary issue which for present 23 purposes of course are entirely excluded. 24 And that topic list, or that inclusion of that issue 25 within scope, would of course have a major effect on the</p> <p style="text-align: center;">Page 6</p>	<p>1 Those are the kinds of issues which require witness 2 evidence and so far as necessary documentary evidence. 3 They also include of course expert evidence, and there 4 are things I could usefully say today about issues of 5 evidence with your leave, sir, so that those who are 6 present today are clear as to what work is being done. 7 As to what work can now be done in light of the 8 judicial review proceedings, I think one needs to 9 proceed quite carefully. Your legal team need to 10 consider carefully what work we can properly do, and 11 safely do, which will be unaffected by the judicial 12 review outcome either way. What we don't want is 13 a position where we start a large work stream, for 14 example examining the prosecution archive for documents 15 which are relevant to the scope as it stands, only to 16 find after doing two or three months of work that that 17 effort has been in vain. 18 THE CORONER: And you have to start all over again looking 19 for something different. 20 COUNSEL TO THE INQUESTS: Indeed. That would be a very 21 significant and regrettable waste of time. 22 THE CORONER: Yes. 23 COUNSEL TO THE INQUESTS: But there are some things we can 24 reasonably do. 25 There are issues, for example, about the events of</p> <p style="text-align: center;">Page 8</p>

<p>1 the day, which are expert evidence, for example, which 2 can be elicited, dealt with, and hopefully come up to 3 the fore in September, which aren't going to be affected 4 by the judicial review. 5 THE CORONER: Yes. I think it is important that the 6 investigation process continues on issues which are not 7 likely to be contentious and which will develop the 8 process and continue the process. 9 COUNSEL TO THE INQUESTS: Yes, sir. 10 Would it help if I addressed a few of issues or the 11 work we have done so far? 12 THE CORONER: I think it would. 13 COUNSEL TO THE INQUESTS: Thank you. 14 So to update on disclosure if I may. Since the 15 hearing on 29 June, work has continued to identify and 16 disclose materials to the interested persons. 17 A database called Relativity is now being used to 18 provide that disclosure. 19 On your behalf, 1093 documents have been disclosed 20 on Relativity in 15 separate tranches and the most 21 recent tranche was disclosed yesterday. In total, 22 7359 pages of materials have been disclosed to date, and 23 broadly those materials comprise witness statements, 24 exhibits and reports from the previous investigations 25 into the bombings and materials about each person who</p> <p style="text-align: center;">Page 9</p>	<p>1 building not. 2 COUNSEL TO THE INQUESTS: Yes, sir. Mitchells & Butlers 3 were the publican landlords for both the Mulberry Bush 4 and the Tavern in the Town, and arrangements were made 5 to attend their offices to review potentially relevant 6 materials, and a small number of documents relating to 7 the re-opening of the Mulberry Bush after the bombings, 8 and plans of the Mulberry Bush and the Rotunda from the 9 late 1960s have been identified and been disclosed. 10 A review has been completed of the Parliamentary 11 Archives in the Palace of Westminster. From a previous 12 update provided to the interested persons, there was one 13 file that was outstanding from that review and that is 14 entitled "Protested Innocence of Patrick Joseph Hill", 15 who is one of the Birmingham 6, and arrangements have 16 been made to review that file and inspect it, but it 17 didn't contain relevant material. 18 The College of Policing have provided materials 19 about police training, including an operational booklet, 20 the Prevention of Terrorist Act fact sheet, a Birmingham 21 Constabulary brochure and various other documents and 22 reports dealing with the planning for major incidents 23 and disasters, which will be relevant particularly to 24 the issue of forewarning, for example, and the expert 25 evidence that attaches to that, which I will come on to</p> <p style="text-align: center;">Page 11</p>
<p>1 died and material obtained at your direction from third 2 parties. 3 In addition, a number of videos and other footage 4 have been disclosed or made available to the interested 5 persons. In order to assist with your investigation, 6 enquiries have been made and continue to be made with 7 a number of different organisations which I will 8 explain. 9 The first is the former tenants of King Edward 10 House, which is the location of the Tavern in the Town, 11 to confirm whether those former tenants hold any 12 materials that are relevant. We understand that former 13 tenants include HMV, Legal & General and the 14 Intercontinental Hotel Group, and we have contacted each 15 of those organisations for material. We are told they 16 do not hold anything. 17 The Prudential Group, another tenant, have provided 18 a small number of photographs showing the exterior of 19 King Edward House from several decades ago. 20 Mitchells -- 21 THE CORONER: Which may not have changed much. 22 COUNSEL TO THE INQUESTS: It may not have changed much, 23 indeed. 24 THE CORONER: No. I am sure the venues will have changed of 25 the two public houses, but maybe the outside of that</p> <p style="text-align: center;">Page 10</p>	<p>1 in a moment. All of these documents have been disclosed 2 to the interested persons. 3 The BBC and ITV have provided still photographs that 4 they hold from the night of the bombings. ITV has done 5 so through their archive which is managed by an 6 organisation called Rex Features, and these have been 7 disclosed. Photographs of the bombings held by other 8 groups -- Getty Images, Mirrorpix and the Press 9 Association -- have also been obtained and disclosed. 10 Enquiries are ongoing with the Caters News Agency, 11 and contact has also been made with the Media Archive 12 for Central England and ITV Source to review materials 13 which it is understood that they hold about the 14 bombings. 15 We are also in contact with Trinity Mirror Plc who 16 run the archives for the Birmingham Post and The Mail, 17 as well as national newspaper archives for The 18 Daily Mirror, The Sunday Mirror and the Sunday People. 19 In fact, Trinity Mirror Plc have assigned a dedicated 20 researcher to search for material in their archives that 21 could be relevant to these Inquests and we will provide 22 an update on that in due course. 23 Materials held by Birmingham City Archive have now 24 been reviewed for potential relevance but nothing was 25 identified. However, work is continuing to review</p> <p style="text-align: center;">Page 12</p>

<p>1 a large, very large, volume of material held by the 2 Crown Prosecution Service from the proceedings relating 3 to the prosecution of the Birmingham 6. Likewise, with 4 the West Midlands Police Archive which has been the 5 subjected of repeated discussion during the course of 6 these PIRs. 7 It is anticipated there will be a considerable 8 degree of duplication between those archives for 9 understandable reasons. The police were working very 10 closely with the prosecution services and the review 11 necessarily takes some time to identify material that 12 may be relevant to the Inquests and that is not 13 available elsewhere. 14 Likewise, as we all anticipate, there may be issues 15 of sensitivity, redaction requests, which require 16 procedural considerations possibly leading to further 17 ruling by yourself in due course. But I think in light 18 of the judicial review proceedings, it is premature of 19 me to anticipate whether or not we will get to that 20 point. 21 Work is continuing to access what materials are held 22 by other police forces and Government departments and 23 other state institutions, for example the Police Service 24 of Northern Ireland, that may be relevant to the 25 Inquests. More details about that work will be provided</p> <p style="text-align: center;">Page 13</p>	<p>1 been instructed. His remit is to consider the response 2 of West Midlands Police to information that may have 3 provided them with forewarning of the attacks on the 4 night of 21 November, and specifically consider whether 5 further steps could or should have been taken by the 6 police to prevent those bombings. 7 His evidence is of course opinion evidence. He is 8 not a fact-finding expert. He will be reliant, possibly 9 on a hypothetical basis, on facts that are found by the 10 jury ultimately should we get to that point. I make 11 that clear only because Ms Williams' submissions rightly 12 raised the point that it is not for experts as a rule to 13 make findings of fact. So Mr Gerard will proceed on the 14 basis of information and evidence that is provided to 15 him and a hypothetical conclusion after that as to what 16 that means. 17 As to other experts, we do not at this stage propose 18 instructing anyone else. We don't, in particular, 19 intend to instruct an expert, if such a person can be 20 located, on, for example, counter-terrorist intelligence 21 operations in the 1970s. That issue is not presently 22 within the scope of the Inquests. However, as we are 23 obliged to do, we keep open our mind as to the need for 24 experts in the future and clearly we would need to 25 review that position in light of the judicial review and</p> <p style="text-align: center;">Page 15</p>
<p>1 in due course to the interested persons when 2 appropriate. 3 So that, sir, is really a summary of where we are up 4 to to date in respect of disclosure. 5 So far as experts are concerned, as I think the IPs 6 are already aware, Dr Nat Carey has been instructed. 7 He's a forensic pathologist and has produced a general 8 report which has been the subject of some discussion and 9 indeed focus in the ruling on scope. 10 Professor Bull, who heads up the team of experts at 11 the Centre for Blast Injury Studies at Imperial College, 12 has also been instructed. And Dr Carey and 13 Professor Bull's analyses of the cause of death of the 14 individuals who died will initially be conducted 15 separately, but we anticipate at some point they will 16 bring their expertise together hopefully to form a joint 17 view because clearly there is overlap between the blast 18 injury group and the pathology evidence. 19 Alison Mansfield has been instructed to undertake 20 a forensic analysis of the bombs at the Mulberry Bush 21 and the Tavern in the Town, and the unexploded bomb at 22 the Barclays Bank in Hagley Road. We anticipate she 23 will be reporting in the autumn as well as those other 24 experts. 25 Duncan Gerard, a former senior police officer, has</p> <p style="text-align: center;">Page 14</p>	<p>1 we would also need to review it in light of the work 2 which has been done on the so-called British state 3 involvement or agent informant issue, which is the 4 subject of further work by your legal team and ongoing 5 work. 6 For present purposes there are no further experts 7 that we propose to instruct so that, sir, is what 8 I would like to say about expert evidence. 9 I don't think I can say much about witness evidence 10 beyond that there may be witnesses that we can now 11 consider proofing over the course of the next few weeks 12 and months whose evidence will not be affected by the 13 judicial review outcome either way. If that is the 14 case, that would clearly be helpful. Indeed, as much 15 work as we can possibly do that is unaffected and can be 16 safely done, we will do, but I don't think it is 17 appropriate for me now to try to identify those types of 18 witnesses. 19 I can say in respect of Mr Hayes -- just for 20 clarity, this is Michael Hayes who gave a BBC interview 21 on 10 July -- that we have made a request to the BBC for 22 the unbroadcast materials relating to that interview. 23 We have also made a request to the Irish Garda to 24 interview Mr Hayes and we are discussing our involvement 25 with the interview process with West Midlands Police.</p> <p style="text-align: center;">Page 16</p>

1 But beyond that, and again in light of the judicial
 2 review because clearly there is an issue of perpetrator
 3 involvement that Mr Hayes has clearly raised, again
 4 I don't think it is appropriate for me to say any more
 5 about that and what our plans might be in respect of
 6 Mr Hayes in the future.
 7 I will, though, briefly mention Mr Conway. He is
 8 also someone who has cropped up in the media. He is
 9 said to have been the director of intelligence for the
 10 Provisional IRA at the time of the bombings and to
 11 have -- at least he has said publicly he may have
 12 information to give that may be relevant to these
 13 Inquests even on the scope we are presently dealing
 14 with. We have requested to the Irish Garda disclosure
 15 of the transcripts of the interviews that were conducted
 16 with him and that's an ongoing discussion we are having
 17 at the moment.
 18 That, sir, covers, I think, disclosure, experts and
 19 witness evidence.
 20 THE CORONER: Yes, thank you.
 21 I think items 3 and 4 on the agenda are sadly
 22 adjourned as now being premature.
 23 COUNSEL TO THE INQUESTS: They are. Item 3 being background
 24 statements about each deceased person; item 4 being jury
 25 selection questionnaire.

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1 The interested persons have a draft questionnaire
 2 but that will clearly need to be redrafted --
 3 THE CORONER: Yes.
 4 COUNSEL TO THE INQUESTS: -- and therefore one cannot
 5 meaningfully discuss that today again.
 6 THE CORONER: Yes.
 7 COUNSEL TO THE INQUESTS: As to the timetable, we have at
 8 the moment, sir, a further pre-inquest review in the
 9 diary for 14 September, which is not that far away.
 10 We don't know if the judicial review will have been
 11 initiated by then. As I say, some mixed messages about
 12 the timing of that. We certainly have not received
 13 a letter and don't know when a letter will be
 14 received --
 15 THE CORONER: So there is no letter of claim --
 16 COUNSEL TO THE INQUESTS: No.
 17 THE CORONER: -- which is the first stage in any application
 18 for permission to apply for judicial review?
 19 COUNSEL TO THE INQUESTS: It should be.
 20 THE CORONER: It should normally be.
 21 COUNSEL TO THE INQUESTS: Yes.
 22 THE CORONER: Yes.
 23 And as lawyers, of course, you will be mindful that
 24 the courts are not overactive -- some courts are not
 25 overactive in August and September.

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1 COUNSEL TO THE INQUESTS: They are not. And also, I think,
 2 for those that are not aware, the judicial review is not
 3 an automatic right on the part of an aggrieved person.
 4 Permission needs to be sought.
 5 So in terms of the procedure, the appropriate thing
 6 is that there is a letter and a response, and then an
 7 application to the court for permission to judicially
 8 review, which may or may not lead to a substantive
 9 assessment by the court.
 10 THE CORONER: Yes. And has, to your knowledge, any of that
 11 been done?
 12 COUNSEL TO THE INQUESTS: No.
 13 THE CORONER: Yes, thank you.
 14 COUNSEL TO THE INQUESTS: The only thing I can add is really
 15 to repeat that were the proceedings to be initiated,
 16 expedition will be requested of the appropriate court.
 17 THE CORONER: Yes. You would be doing that --
 18 COUNSEL TO THE INQUESTS: Yes.
 19 THE CORONER: -- on my behalf.
 20 COUNSEL TO THE INQUESTS: I will.
 21 THE CORONER: Yes. Expedition will be sought.
 22 COUNSEL TO THE INQUESTS: Yes, sir.
 23 So for present purposes, sir, might I suggest that
 24 we leave the 14 September in the diary?
 25 THE CORONER: Yes.

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1 COUNSEL TO THE INQUESTS: Possibly in the expectation that
 2 it may not be required.
 3 THE CORONER: Yes.
 4 Well, I will see what anybody else has to say --
 5 including Mr Davis, who I believe is here and would like
 6 to -- I'm not sure which one Mr Davis is. I will come
 7 to you, Mr Davis, in a moment if I may.
 8 COUNSEL TO THE INQUESTS: Unless I can assist further?
 9 THE CORONER: No, thank you very much.
 10 COUNSEL TO THE INQUESTS: Thank you.
 11 Submissions on behalf of Michael John "Sean" Reilly by
 12 MS~WILLIAMS
 13 THE CORONER: Ms Williams?
 14 MS WILLIAMS: Good morning, sir. As you know I appear with
 15 my learned friend Ms Patrick for Sean Reilly.
 16 Sir, you will appreciate we have only had a limited
 17 opportunity to reflect on this morning's developments.
 18 THE CORONER: Yes. Did you have any notice of them?
 19 MS WILLIAMS: No. I mean, we were aware that there were
 20 some discussions taking place, but we were not privy to
 21 what the conclusion of those discussions were, and we
 22 were not aware of the developments that took place this
 23 morning, before we read the press releases that we have
 24 all read.
 25 THE CORONER: Yes. You didn't receive, for example,

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<p>1 a letter explaining what was likely to happen? 2 MS WILLIAMS: No. 3 THE CORONER: So that you would be in a position to think 4 about the consequences? 5 MS WILLIAMS: No, sir. 6 THE CORONER: Anyway, the answer is no. 7 MS WILLIAMS: We haven't had that opportunity. 8 THE CORONER: No, thank you. 9 MS WILLIAMS: So indeed, for the reasons already canvassed, 10 there may be a limited amount that can be done today. 11 May I just raise a couple of matters, sir? You will 12 have seen our written submissions dated 23 July -- 13 THE CORONER: Yes, thank you very much for those. Very 14 helpful. 15 MS WILLIAMS: Since then we have had a helpful meeting with 16 your team on Tuesday of this week and some of those 17 matters -- particularly practical matters around experts 18 and so forth -- we were able to discuss then and I would 19 not in any event have been seeking to trouble you today 20 with them. 21 In relation to the observations that we have made 22 about the provisional list of scope topics, may I simply 23 put down this marker, accepting that it is not 24 appropriate for you to reach conclusions on that area 25 today in light of recent developments: a particular</p> <p style="text-align: center;">Page 21</p>	<p>1 That concern, I am afraid, was reinforced when we 2 saw the email circulated by Mr Suter yesterday afternoon 3 dealing more with the position from KRW, as it had then 4 been advised, but there was reference in the course of 5 that email to the fact that West Midlands Police were 6 working on a summary of background information which 7 appeared, at least on the face of it, to relate to this 8 section 3 topic. 9 As in our submissions and indeed in our discussions 10 on Tuesday, we have suggested to your team that 11 consideration be given, for example, to an academic 12 expert presenting that overview. 13 Of course, there has to be boundaries placed. One 14 can't simply instruct an expert and they go off, as it 15 were, and pursue their own hobby horses in the area, but 16 if the person in question was given (a), a clear remit 17 by solicitors to the Inquests and, secondly, the 18 appropriate documentation upon which to base the 19 preparation of the overview, we see no reason why it 20 could not work as a matter of practicality. 21 We understand some suggestion was made to us that 22 there may be difficulty in finding the right expert. 23 But, respectfully, that's just a matter of practicality 24 rather than principle, and certainly those who instruct 25 me would be very happy to assist in trying to find the</p> <p style="text-align: center;">Page 23</p>
<p>1 concern that we have and still have following those 2 helpful discussions relates to the way that it is 3 intended that what is described as the background 4 evidence, currently section 3 of the list of topics, is 5 to be presented to the jury. 6 In particular, given that matters within that 7 history will not necessarily be without controversy, 8 given the complex history over the years, we were 9 concerned on behalf of our client that the background 10 overview is given to the court from a source that is 11 both authoritative but also manifestly impartial and 12 neutral. Indeed, we did discuss on Tuesday with your 13 team our concern that it would, for example, be 14 inappropriate for that to be given by a police officer, 15 and in particular a West Midlands Police officer. 16 I need not rehearse now, I don't think, the 17 particular concerns about West Midlands Police that 18 indeed we have dealt with in earlier submissions. But 19 on any view, they are closely involved in issues that 20 undoubtedly will be within scope, such as the adequacy 21 of the response to elements of forewarning. In our 22 submission, therefore, they would not be a manifestly 23 neutral source of such a background overview coming 24 early in the Inquest and importantly setting the scene 25 for the jury.</p> <p style="text-align: center;">Page 22</p>	<p>1 right expert. 2 So, it may be you think it premature to even 3 consider this matter further or make decisions on it at 4 this stage, because potentially there is an overlap with 5 various other issues that may or may not come within 6 scope but, given that my learned friend Mr Skelton had 7 referred to the current plan being not to instruct any 8 additional experts, I thought it wise at this stage at 9 least to, as it were, put down a marker that we have 10 that concern and would respectfully make that suggestion 11 for you to consider, but unless it is helpful I probably 12 can't usefully develop it any further at this stage. 13 THE CORONER: Yes, thank you. And it is helpfully in your 14 written submission. 15 MS WILLIAMS: Yes, it is. 16 The other main area that I would have raised in 17 submissions today -- and it is the last section of our 18 written submissions -- was a concern about timetabling. 19 In the circumstances, ironically, it may be that becomes 20 less of a concern. 21 THE CORONER: How would you have expressed your concern -- 22 MS WILLIAMS: Had circumstances -- 23 THE CORONER: -- had we had a hearing yesterday? 24 MS WILLIAMS: Yes, the way in which I would have expressed 25 the concern, sir, was that understanding that everyone</p> <p style="text-align: center;">Page 24</p>

<p>1 is working very hard to bring the Inquest hearing to 2 a commencement as soon as possible, because of various 3 unavoidable features including the funding issue that 4 has already been referred to, the timetable is not in 5 any event ideally where anyone would like it to be at 6 this stage. 7 There is still a considerable degree of outstanding 8 work to be done in terms of the expert reports that are 9 currently under preparation, and of course once they are 10 to hand that may in itself generate further evidential 11 inquiries. There are considerable ongoing processes in 12 relation to disclosure as Mr Skelton has outlined. 13 There are, even without a judicial review, challenges 14 outstanding, important areas of scope, particularly the 15 agent/informant topic, which as we understand it factual 16 investigations are still taking place in relation to, 17 and thereafter will need to be a process of you, sir, as 18 we understand it, considering a report made available to 19 you by your team and then in due course such disclosure 20 as is appropriate to interested persons, them having an 21 opportunity to make written and oral submissions on 22 whether those matters or which aspects of them should be 23 within scope, you then issuing a ruling. And clearly 24 that process in itself is going to take a period of 25 time, and inevitably, consequent upon all those</p> <p style="text-align: center;">Page 25</p>	<p>1 the Inquests progress more efficiently and without need 2 for adjournments or delays to consider various matters 3 than if one were to hold the current start date. So it 4 may be that the combination of those features, allied to 5 today's developments, may all in fact point in the same 6 direction in terms of a later start date. 7 THE CORONER: Yes. Thank you, that is helpful. 8 MS WILLIAMS: We, of course, entirely appreciate that in 9 light of today's uncertainties you are not going to be 10 in a position to give a date immediately. But of course 11 you will understand that for all concerned it would be 12 helpful to have a date, whatever that date will be, as 13 soon as practically possible. 14 THE CORONER: The sooner the better, yes. 15 MS WILLIAMS: Thank you very much, sir. 16 THE CORONER: Can I just mention something while you have 17 talked about the list of topics? I don't want to go 18 through the list of topics but it did stand out to me 19 that it certainly would be appropriate for there to be 20 site visits to the two venues, as I call them, where the 21 two public houses were. I am not sure about Hagley Road 22 at the moment, but definitely that the jury should have 23 a view of those two places, and how close they are to 24 each other and where they are. 25 MS WILLIAMS: Exactly so, sir.</p> <p style="text-align: center;">Page 27</p>
<p>1 processes, there would then be a need to identify 2 appropriate witnesses and in some instances potentially 3 take additional witness statements from them. 4 It may also be that once reports are to hand -- 5 although this predominantly will arise, I anticipate, if 6 it arises at all, in relation to pathology rather than 7 other experts -- it may be that those who instruct me 8 would wish to instruct their own expert. Understanding, 9 of course, that you, sir, would need to give permission 10 for such evidence to be called at the Inquest, but in 11 the first instance it may be useful to have a second 12 opinion and that is something that then funding 13 authority would be needed for. We are not going to get 14 funding authority at this stage where it is entirely 15 hypothetical as to whether it would be an appropriate 16 course or not. 17 So, sir, those are simply some brief illustrations 18 of the kinds of matters that are outstanding. There is 19 a lot to be done. 20 THE CORONER: Yes. 21 MS WILLIAMS: Indeed, everyone is working hard. It is 22 simply one of those situations where we were in any 23 event going to respectfully suggest that some times if 24 one puts the start date back by a few weeks from that 25 which was previously intended, it may actually mean that</p> <p style="text-align: center;">Page 26</p>	<p>1 THE CORONER: I am sure that would be helpful. 2 MS WILLIAMS: I understand from my instructing solicitor -- 3 I have not visited myself yet, but I understand from my 4 instructing solicitor -- certainly in relation to The 5 Tavern in the Town, the interior of the basement is not 6 markedly different in terms of dimensions and various 7 other features, and therefore would give the jury 8 a useful appreciation of the scale and so forth were 9 they to visit. So that is helpful to know that, sir, 10 thank you. 11 THE CORONER: Yes. And obviously where the Rotunda is in 12 relation to the Mulberry Bush and the Mulberry Bush in 13 relation to the Tavern in the Town, and where the police 14 went and so on. It would be very helpful to have that 15 visit -- 16 MS WILLIAMS: Yes. 17 THE CORONER: -- at some stage. 18 MS WILLIAMS: Indeed, presumably at an early stage of the 19 Inquest. 20 THE CORONER: Yes. 21 MS WILLIAMS: Practical circumstances permitting. 22 THE CORONER: Yes. 23 MS WILLIAMS: I'm just going to check. Nobody seems to have 24 anything else that they think I should raise. In the 25 circumstances, sir, I suspect that is all I can usefully</p> <p style="text-align: center;">Page 28</p>

1 say, unless there is anything else I can help you with.
 2 THE CORONER: Yes, thank you very much.
 3 COUNSEL TO THE INQUESTS: Sir, may I briefly intervene only
 4 because Ms Williams rightly raises an issue which we
 5 were going to address, I think, in more detail at the
 6 hearing which has not been addressed and has come up
 7 now, which is the overview evidence, which is number 3
 8 on the topic list "Background" --
 9 THE CORONER: Yes.
 10 COUNSEL TO THE INQUESTS: -- which covers the
 11 Provisional IRA bombing campaign in England and Wales in
 12 1973/4; the arrests made in August 1974; the bombing
 13 campaign thereafter; the death and funeral arrangements
 14 of James McDade, and an overview of the events on 21
 15 November 1974 and the investigations that ensued.
 16 Sir, we have not characterised that overview
 17 evidence as being expert evidence. It will come, we
 18 hope, from a professional witness of fact. You will be
 19 familiar, sir, that in major inquests where there has
 20 been criminality at the heart of the proceedings that
 21 often the SIO, the senior investigating officer, from
 22 the force charged with investigating the crime will
 23 attend the inquest to give an overview of the alleged
 24 crime and what happened afterwards in terms of finding
 25 the perpetrators.

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1 In this case, that cannot be done because West
 2 Midlands Police are an interested person in the Inquests
 3 and they are themselves the subject of some controversy.
 4 I think they accept, we accept, that it is right for
 5 that sort of evidence to come from someone who has more
 6 independence.
 7 Whether that person is a police officer from another
 8 source or an historian has yet to be finally determined.
 9 Of course that is for you ultimately, sir, to decide.
 10 There is a benefit to having the equivalent of an SIO,
 11 a police officer who can explain things in the style of
 12 a police officer, because essentially this is the role
 13 that he is taking on of the West Midlands Police SIO but
 14 with independence, or from an historian who can give
 15 a more historical overview.
 16 Whoever that witness is, he or she needs to provide
 17 a coherent and crisp and uncontroversial narrative about
 18 those events. It is not the intention of this aspect of
 19 the Inquests topics that issues of controversy or debate
 20 arise. The idea is that the jury will be provided with
 21 the essential background relevant to those issues which
 22 ultimately they will be asked to determine and no more
 23 than that.
 24 The process by which we get to the point of
 25 producing that witness's evidence will be one where we

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1 will involve the interested persons. I don't want to
 2 put anyone on the spot as to what controversies they see
 3 or foresee existing, but it is hoped that they are
 4 foreseen and foreclosed before that evidence gets to
 5 court, so that the witness's evidence will be short and
 6 easy to understand and without a problem.
 7 I only put down that marker because I hope it is
 8 clear to everyone what we are about to do. As I say, we
 9 are still considering who is the right person and when
 10 he or she should properly be instructed.
 11 Again, matters must be on hold now in light of the
 12 judicial review but we can at least line up the issue
 13 potentially.
 14 THE CORONER: Yes.
 15 Mr Cohen for West Midlands Police.
 16 Submissions on behalf of West Midlands Police by MR~COHEN
 17 MR COHEN: Yes, sir.
 18 Just really one or two matters arising. The first
 19 is to say that of course the Chief Constable is aware of
 20 the inquiries that your solicitor has undertaken in
 21 relation to Mr Hayes. All I'm instructed to say is that
 22 in fact the Chief Constable is undertaking very similar
 23 inquiries. We have also been in contact with the BBC
 24 and have made application -- or are considering making
 25 applications -- for Mr Hayes to be interviewed.

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1 The only other matter, sir, in relation to the
 2 discussions on background information is to reiterate
 3 that the Chief Constable remains absolutely and entirely
 4 committed to assisting this court to bring these matters
 5 to as swift a conclusion as is possible.
 6 It follows that I am not going to make any
 7 submissions as how the background evidence should
 8 specifically come to the fore. Those may be submissions
 9 for another day. But I simply underline the general
 10 point that we stand ready to assist as much as possible
 11 in that process and insofar as it will assist you.
 12 Sir, those are the only matters I raise.
 13 THE CORONER: Yes, thank you.
 14 Ms Leek for Her Majesty's Government?
 15 MS LEEK: Nothing from me, thank you, sir.
 16 THE CORONER: Thank you.
 17 Anybody else from counsels' benches?
 18 Mr Davis, I know that you would like to say
 19 something. I'm sorry you come last, but not least.
 20 Submissions on behalf of Jane Davis by MR DAVIS
 21 MR DAVIS: No problem.
 22 Your Honour, I did want to take the opportunity to
 23 say a few things. Firstly, to put on record that
 24 personally I am disappointed by your decision on the
 25 scope. I have read the legal arguments and I think

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<p>1 I understand it, but nevertheless I'm disappointed by 2 that decision and I would like to make that statement. 3 Wounds are deep in this issue for obvious reasons, 4 and those wounds are continuously prised open, 5 particularly by press coverage such as the Magee 6 interview broadcast on BBC Northern Ireland with 7 Mr Hayes. It seems bizarre to me as a layman that 8 journalists, serving MPs, can track down these people 9 and name these people and publicly name them on 10 television programmes, yet the police and the judiciary 11 seem to fail to be able to do the same thing. 12 The Hayes interview also included the Mullen 13 interview or part of the Mullen interview and made 14 reference to the Granada TV programme as well. I think 15 all of that should fall within the background 16 information that is sought in the item 3 at least. 17 Turning to the events of today, clearly I had no 18 knowledge of what was to be decided by the 19 representatives of the other families. Had I known 20 that, it might have saved me a 300-mile round trip. But 21 I, like everybody else here, was surprised and deeply 22 dismayed by it, the particular decision. 23 I think I am the only member -- family member -- 24 presently unrepresented still taking an active part in 25 these hearings, and for the moment I propose to continue</p> <p style="text-align: center;">Page 33</p>	<p>1 moment. I do very much regret that I cannot provide 2 that date, but as soon as there is greater clarity which 3 I am awaiting, particularly on the judicial review 4 application, then I will invite everybody to express 5 their views about a potential date. 6 Of course there are other factors: the wishes of the 7 families, obviously; the availability of counsel; the 8 availability of a court for a period of weeks. All of 9 this has to be taken into account, as it was originally 10 for late September. 11 But now things have changed as they do from time to 12 time in cases for all sorts of reasons. Judges are 13 never really taken by surprise by anything. It all 14 happens. But I'm grateful for all those who have 15 attended today. Thank you all for coming. 16 14 September. 17 (11.48 am) 18 (The Inquests adjourned until Thursday, 14 September, 2017) 19 20 I N D E X 21 Opening remarks by THE CORONER1 22 Update on the Progress of the3 Inquest by COUNSEL TO THE 23 INQUESTS 24 Submissions on behalf of Michael20 John "Sean" Reilly by 25 MS~WILLIAMS</p> <p style="text-align: center;">Page 35</p>
<p>1 to do that although I do have difficulty in navigating 2 through the Relativity database which was referred to 3 earlier. I have had some assistance on that but still 4 the search facility frustrates me. I searched for 5 a long time for the submission from Devon and Cornwall 6 Police and now, having seen the press report, I was 7 searching in vain because it doesn't exist. It is not 8 on there, and that surprised me as well. 9 All I would say to finalise this is that I am 10 dismayed by the decision of the other family members and 11 their legal counsel. I'm still considering my own 12 position but for the moment I intend to respect and 13 continue to pay attention to this hearing. 14 THE CORONER: Thank you very much. I'm grateful for your 15 attendance today. 16 Yes, well, there is not much more I can say, other 17 than to say that the next date will be 14 September, the 18 next hearing date, which will have its own agenda which 19 will be circulated. 20 As I said earlier, I'm not in a position to fix 21 a date for the Inquests yet, but that is important and 22 I will do that as soon as I can. It does look to me at 23 the moment that it is unlikely that the Inquests will 24 commence until certainly December. It may be later. It 25 may be substantially later, I just cannot say at the</p> <p style="text-align: center;">Page 34</p>	<p>1 Submissions on behalf of West31 Midlands Police by MR~COHEN 2 3 Submissions on behalf of Jane Davis32 by MR DAVIS 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p> <p style="text-align: center;">Page 36</p>

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