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› Anti-apartheid protesters' historic convictions referred back to the co...

# Anti-apartheid protesters' historic convictions referred back to the courts due to undeclared presence of an undercover police officer in group that blocked England rugby team's bus



**Published:** 16 November 2022

**Historic case      Referrals**

**The Criminal Cases Review Commission (“CCRC”) has referred the historic convictions of three anti-apartheid protestors for appeal, after it came to light that the police had failed to reveal the participation of an undercover police officer to the prosecutor or court.**

On 12 May 1972, a group of protesters from the Putney Young Liberals took part in a demonstration aimed at disrupting the departure of the England rugby union team from the Star and Garter Hotel in Richmond ahead of a tour of South Africa.

A total of 14 people were arrested and charged after sitting in the path of the coach – resulting in 13 people being convicted following trial. However, unknown to the trial or fellow defendants was that one of the group was an undercover police officer, who continued to participate in group defence discussions and report back to the police.

**Helen Pitcher OBE, Chairman of the CCRC said:**

“During our investigation we have seen evidence of deliberate and persistent non-disclosure by the police which was sanctioned by senior officers. The court was misled, and the defendants’ basic legal rights were breached.

“In our view, the misconduct by the police in this case was so egregious that a judge in possession of all the facts would have decided it was necessary to halt proceedings in order to



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protect the integrity of the criminal justice system.”

“Although these convictions date back a long time, issues around public confidence in the police and our wider public institutions are always important. Old convictions can also have an enduring impact on the lives of the individuals concerned.”

The rugby team was due to tour South Africa, which was then under the apartheid regime. The protesters assembled and sat down in the path of the coach, and a total of 14 people were arrested and charged. 13 were later convicted following trials at Mortlake Magistrates’ Court in June and July 1972.

Unbeknown to almost anyone at the time, one of the group was an undercover police officer (known as “HN298”) from the Metropolitan Police’s Special Demonstration Squad (“SDS”).

The officer had protested alongside the group, was arrested at the scene, and convicted alongside them under his assumed name. Contrary to guidance in force at the time, the SDS failed to reveal the presence of HN298 to the investigating officers, the prosecutor or the court.

The undercover officer was also party to discussions about defence tactics and legal advice that had been provided to the other defendants. He reported this information back to his superiors, therefore breaching the confidentiality between his co-defendants and their lawyers.

In light of these revelations, the CCRC has decided that there is now a real possibility that the convictions would be quashed as an abuse of process.



The three cases referred to Kingston Upon Thames Crown Court by the CCRC are:

- **Christabel Gurney** – convicted on 14 June 1972 of obstructing the highway and obstructing the police.
- **Ernest Rodker** – convicted on 12 July 1972 of obstructing the highway and obstructing the police.
- **Jonathan Rosenhead** – convicted on 12 July 1972 of obstructing the highway.

The CCRC is appealing for any of the other members of the Putney Young Liberals convicted of offences connected with this protest to come forward so that their cases can also be considered in light of the new evidence.

The new information at the heart of the CCRC's referral was provided by the Undercover Policing Inquiry ("UCPI"). These were the first cases referred to the CCRC by the UCPI.

**Ends.**

[\[Update 19/8/2023 – the convictions were quashed by the courts\] \(https://ccrc.gov.uk/news/joseph-tsang-case-referred-to-court-of-appeal/\)](https://ccrc.gov.uk/news/joseph-tsang-case-referred-to-court-of-appeal/)

## Notes to Editors

1. The UCPI was set up in 2015 to examine undercover policing in England and Wales since 1968. It followed the review into undercover policing carried out by Mark Ellison QC. The UCPI's remit is to investigate the contribution of undercover policing towards preventing and detecting crime, assess the adequacy of regulation at the time, and review the extent of the duty to make disclosure during an operation, identifying any scope for miscarriages of justice to have occurred where proper disclosure was not made. More information about the UCPI can be



found on their website: <https://www.ucpi.org.uk> (<https://www.ucpi.org.uk/>).

- The UCPI has an independent panel (which consists of senior members of the CPS and police) which considers cases where the UCPI believes a miscarriage of justice may have occurred. The panel considers if further action needs to be taken – including whether a case should be referred to the CCRC.
  - The SDS was formed in 1968. It was originally set up to investigate anarchists, but the focus developed to extreme left-wing groups, with a focus on gathering intelligence, rather than evidence. The SDS was part of Special Branch and known for its secrecy.
4. The CCRC is an independent body set up under the Criminal Appeal Act 1995. It is responsible for independently reviewing suspected and alleged miscarriages of criminal justice in England, Wales and Northern Ireland. It is based in Birmingham and is funded by the Ministry of Justice.
  5. There are currently 11 Commissioners who bring to the CCRC considerable experience from a wide variety of backgrounds. Commissioners are appointed by the Queen on the recommendation of the Prime Minister in accordance with the Office for the Commissioner for Public Appointments' Code of Practice.
  6. The CCRC usually receives around 1,400 applications for reviews (convictions and/or sentences) each year. Since starting work in 1997, the CCRC has referred around 3% of applications to the appeal courts.
  7. The CCRC considers whether, as a result of new evidence or argument, there is a real possibility that the conviction would not be upheld were a reference to be made. New evidence or argument is argument or evidence which has not been raised during the trial or on appeal. Applicants should usually have



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appealed first. A case can be referred in the absence of new evidence or argument or an earlier appeal only if there are “exceptional circumstances”.

8. If a case is referred, it is then for the appeal court to decide whether the conviction is unsafe or the sentence unfair.
9. More details about the role and work of the Criminal Cases Review Commission can be found at [www.ccr.gov.uk](http://www.ccr.gov.uk) (<http://www.ccr.gov.uk/>). The CCRC can be found on Twitter @ccrcupdate and Instagram the\_ccrc
1. Ms Gurney, Mr Rodker and Mr Rosenhead are represented by Mike Schwarz of Hodge Jones & Allen.D

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