

NORTHERN IRELAND: WHY JUSTICE IN INDIVIDUAL CASES MATTERS

HEARING BEFORE THE COMMISSION ON SECURITY AND COOPERATION IN EUROPE ONE HUNDRED TWELFTH CONGRESS FIRST SESSION

MARCH 16, 2011

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March 16, 2011

COMMISSION ON SECURITY AND COOPERATION IN EUROPE
WASHINGTON, DC

The hearing was held at 2 p.m. in room 210, Cannon House Office Building, Washington, DC, Hon. Christopher H. Smith, Chairman, Commission on Security and Cooperation in Europe, presiding.

Commissioner present: Hon. Christopher H. Smith, Chairman, Commission on Security and Cooperation in Europe.

Member present: Hon. Donald M. Payne (D-10) a Member of Congress from the State of New Jersey.

Witnesses present: John Finucane, son of Patrick Finucane; John Teggart, son of Danny Teggart; Ciarán McAirt, grandson of John and Kitty Irvine; and Jane Winter, Director, British Irish Rights Watch.

HON. CHRISTOPHER H. SMITH, CHAIRMAN, COMMISSION ON SECURITY AND COOPERATION IN EUROPE

Mr. SMITH. The Commission will come to order.

And before I begin, I'd like to welcome my good friend and colleague, Don Payne from New Jersey, who—he and I have served on the Human Rights Committee on the Foreign Affairs Committee for several decades. It's good to welcome my fellow New Jersian and good friend to the Commission, and I thank him for joining us today.

And I would like to welcome everyone for joining us this afternoon, and in particular to many old friends who are testifying today, and to others who I see in the room.

Today family members of people killed in Northern Ireland will tell us about their efforts to learn the truth about possible British Government collusion or complicity in their loved ones' murder. I join my voice with theirs to say: enough obfuscation, enough stonewalling.

We must continue to press for the truth wherever it leads, and continue to press until justice has been served and those responsible have been held to accountable. There is no statute of limitations on assassinations or on murders. Several developments since the Commission's last Northern Ireland hearings in 2004 must be mentioned before we turn to our witnesses.

Most troubling was the adoption in the United Kingdom in 2005 of a new Inquiries Act, superseding the 1921 Tribunals of Inquiry,

or Evidence Act, and empowering the government to limit independent action by the judiciary and block scrutiny of state actions in inquiries held under its terms.

I am deeply concerned that the intent behind the Inquiries Act of '05 was to prevent exposure of state collusion with paramilitaries in the North of Ireland, particularly in view of the British Government's continuing refusal to heed calls for independent public inquiry into police collusion, and to release the findings of its own inquiries into collusion.

We must be clear that the British Government, as part of the Good Friday accords and the subsequent Weston Park agreement, freely assumed the obligation to full, independent, public judicial inquiries. Later, it changed its inquiry legislation, making the sort of inquiry intended by Good Friday and Weston Park impossible.

Testifying before the U.S. Congress in 2005, before our Committee, Judge Cory said, "First, it must be remembered that when the Weston Park Accord was signed"—in July 2001—"the signatories would have had only one concept of a public inquiry. Namely, that it would be conducted pursuant to the 1921 Public Inquiry Act. To change the ground rules at this late date seems unfair," he said. "Further," he went on, "it seems to me that the proposed new act would make a meaningful inquiry impossible."

And today we can be even more sure than we were in 2004 that such inquiries are needed to establish the truth and give justice to the relatives of those slain. In January 2007, the police ombudsman for Northern Ireland, Nuala O'Loan, released a comprehensive report which identified many areas of police collusion with paramilitary organizations, including in murder, and stated that such collusion could not have occurred, quote, "without knowledge and support at the highest levels" of the police.

Moreover, the U.S. House of Representatives is on record as calling on the British Government to conduct an independent public judicial inquiry into the possibility of police collusion in the murder of Patrick Finucane, through the passage of several bills that I've authored, including H. Res. 128, which passed in the 106th Congress, H. Res. 2740, which passed in the 109th Congress, and a similar measure, again, H. Con. Res. 20, which passed during the 110th Congress.

It's also important to note that in 1999, Congress passed my amendment that suspended U.S. support and exchanges with the British Police Force in Northern Ireland, the Royal Ulster Constabulary, until standards were set to vet any RUC officers who engaged in human rights abuses. That legislation specifically sought to vet out any RUC members who may have committed or condoned violations of internationally recognized human rights violations, including any role in the murder of Patrick Finucane or Rosemary Nelson or others as well.

I had hoped to meet with the British Secretary of State for Northern Ireland, Owen Paterson, personally this week in Washington to discuss longstanding concerns in these and other cases, and am happy to be able to say that we are planning to sit down together later this week. His recent meeting with relatives in some of the cases, who will testify today, is a welcome gesture, though there have recently been mixed signals as to whether the British

government is willing to undertake full, independent, public judicial inquiries into the crimes committed in these cases.

Equivocating on the issue of truth and justice for past crimes will only embolden those elements responsible for them from the resulting impunity. The time has come to focus truth's light on the murky relationships and collusion that existed between the security forces and paramilitary organizations in Northern Ireland and hold those responsible to account.

Finally, once again, we are all grateful to family members and others who have traveled from Ireland to be with us this afternoon. Their commitment to justice is moving and is a key factor building a brighter future for all of the people of Northern Ireland. The other factor, which we are here to work on, will be the British Government's willingness to deal more openly with the past.

I would like to now yield to my friend and colleague, Mr. Payne.

**HON. DONALD M. PAYNE (D-10) A MEMBER OF CONGRESS
FROM THE STATE OF NEW JERSEY**

Mr. PAYNE. Thank you very much. I will be very brief. I want to thank my colleague for allowing me to sit in on this very important hearing of the Helsinki Commission.

Let me congratulate him for his ascension to the Chair of this Commission. As you know, his record has been very clear as it relates to the issue of Northern Ireland, that he has had many, many hearings, as he's indicated. And there has to be—without justice it's difficult to have true peace. We used to say, no justice, no peace. And so we have to really search for peace in order to have true justice in the cases here, the Finucane, McCord, Teggart, McAirt, and the Winter cases are very important.

Let me just conclude by saying, here in the United States we had a number of civil rights problems in the late '40s and in the '50s and in the '60s. There were murders; there were many heinous acts. And, don't you know, our justice system in the United States continued to probe these issues, and people were brought to justice 50 years later.

Just 3 years ago, Matill case and other cases of people killed in the '50s were finally brought to justice. So, I don't think, as it's already been mentioned by the Chairman, that time stands in the way. The loss of a life is for eternity, and therefore I think that we must keep the lines open so that we can get to the bottom of the case.

And let me just say finally, in conclusion, that though it has nothing to do directly, we have to continue to keep the process moving forward in Northern Ireland. We've seen tremendous accomplishments during the past decade. Things have happened that we never thought would occur.

And I would hope that we—at another forum—and I'll talk to the Chairman of the Helsinki Commission—that the IFI fund for Ireland, which now is on the chopping board as we are tightening the strings on everything in our country, but I think that we need to continue to support what's happened in the past so that the International Fund for Ireland can continue to do the great work that its done. That's not the subject of this hearing, but I think it's—

it works in together. It's all together. And I will talk to the proper authorities to see if we can deal with that.

So, once again, thank you very much, Mr. Chairman.

Mr. SMITH. Thank you very much to my colleague for his statement and for underscoring the need for the International Fund for Ireland to be retained. We had a discussion this morning with Martin McGuinness and Peter Robinson regarding the necessity of that fund and how it has synergistically worked with other monies that are donated by the British and the Irish government and the tremendous good it has accomplished in bringing the communities together. So the point is extremely well taken.

I'd like to now introduce our witnesses today and thank them again for being here, beginning first with John Finucane, whose mother, Geraldine, is present as well with us this afternoon. Geraldine, thank you.

John was a child of 8 when loyalist gunmen forced their way into the family's home and murdered his father, Patrick Finucane, in cold blood, and wounding his mom, Geraldine. Of course, John Finucane—or Patrick Finucane, I should say, was a tremendous defense attorney that earned respect around the globe for his work for human rights, for insisting that all parties have a fair trial.

And, for that, having been threatened several times, unfortunately assassins took his life. And he was there—John was there, and Geraldine, like I said, was wounded. John has pursued a legal career himself. He's specializing in defense work. And, again, I thank him for being here.

Then we'll hear from John Teggart, who was born in Belfast, where he has lived all his life. When John was 11 years old, his father, Danny, was killed in Ballymurphy Massacre of 1971. For 12 years, he and the Ballymurphy Massacre Committee have campaigned for justice for all the 11 victims killed in that massacre, and I thank him for being here as well.

Then we'll hear from Ciarán McAirt, who is grandson to John and Kitty. Kitty was killed in the McGurk's Bar Massacre in early December 1971. His grandfather, John, was pulled, badly injured, from the rubble. Ciarán has campaigned with members of the families and others killed in the bombing in their search for truth about this heinous crime. He researches and manages a Web site as well. It's called the McGurkMassacre.com.

Also testifying will be an old friend of this Commission, as well as our Human Rights Committee—or panel on the Foreign Affairs Committee, Ms. Jane Winter, who has testified many times. She's been monitoring and researching the human rights dimension of the conflict in Northern Ireland since 1990.

Since 1995, she's been the Director of British-Irish Rights Watch, an independent human rights non-governmental organization whose services are available free of charge to anyone whose human rights have been violated because of a conflict, regardless of religious, political or community affiliations. In that capacity she has testified, as I indicated several times before, to the U.S. Congress.

And the Commission had invited Raymond McCord, Sr. to testify at today's hearing on the murder of his son, Raymond, Jr., by the loyalist paramilitary group in 1997. Unfortunately, his recovery from recent surgery prevented him from traveling. His written tes-

timony will be included in the hearing records. Most disturbing are his reports of ongoing threats against his life, as a result of his ongoing activism on his own case.

And, finally, I would note that Assistant Secretary of State Michael Posner, a fellow Commissioner on this Commission on Security and Cooperation in Europe, with a long history of engagement on the issues and cases before us today, had hoped to participate but was required to travel in connection with the developments in North Africa. But he has personally sent his best to each of our witnesses.

John, if you could begin.

JOHN FINUCANE, SON OF PATRICK FINUCANE, HUMAN RIGHTS LAWYER MURDERED BY LOYALIST PARAMILITARIES

Mr. FINUCANE. Mr. Chairman, Congressman Payne, thank you very much for the invitation to address this Commission again today on behalf of my family. We appreciate all the work that was done by this Committee in highlighting our cause.

As has been outlined, my name is John Finucane. I am the youngest son of Patrick Finucane, a defense attorney who was murdered in 1989 as our family sat down to have Sunday dinner in Belfast.

While the loss of a father in any circumstance is always very hard to come to terms with, as a child it was even more difficult by the fact that in the immediate aftermath of my father's killing, we had questions that needed to be asked of the authorities, as he had been threatened for some time by the RUC, via his clans, and sometimes directly in the months and years leading up to his murder.

This Commission, and many people in this room, will be fully aware as to what has come out in the intermittent years, but essentially from around 1989 to 2004, many strands of collusion were exposed through the work of our friends in America, groups here, nongovernmental organizations in England and in Ireland, and the work of government.

Essentially we knew that the RUC and the British army had agents involved in the murder of my father. They were not only aware that the act was to take place but it appears that they helped conspire for that act to take place successfully and covered it up subsequently.

And in 2004, as a result of peace talks between the British and Irish Governments, of which we had no input, a mechanism was announced by the British Government whereby a judge of international repute would look at the evidence in the case, and if he thought that an enquiry was merited, then the relevant government, the British Government, would initiate that inquiry.

It sounds simple. Unfortunately, it wasn't. The judge very firmly recommended an inquiry, and that was Judge Cory, who has been on the record in front of this Commission and since that time in support of our stance.

Essentially the government, the Labour government of the day, led by Tony Blair, said that, yes, there would be an inquiry, but it would have to be enacted under new legislation. That new legislation has already been referred to as the Inquiries Act.

And whilst the majority of the legislation my family and I did not have a problem with, the main bone of contention was the provision within the legislation to allow a Minister to issue a restriction notice. Now, without getting bogged down in the legalities, very simply it allows a Minister to play a trump card whenever a decision is made that the government does not like.

We felt this went to the very heart of the independence of any inquiry, and therefore we were not able to give it our approval. Since that time, we entered into a period of stalemate. It got to the stage whereby the Secretary of State refused to even speak with us. As they said in their correspondence, what's the point? We knew your position. Unless you change your position, we are not changing ours.

That's where things are. We had seen a draft restriction notice that they were going to use, and it was as draconian as one would have feared. However, last year saw arrival of a new British Government, a coalition government, and the shadow Secretary of State, Owen Patterson, then followed on and became the Secretary of State.

We were pleasantly surprised when he requested a meeting with us, as it was perhaps the first Secretary of State to ever ask to meet us to listen to us. And myself and my mother met with him towards the end of last year.

Following that meeting, in which we told him our position and we let him know what exactly it was we wanted and we expected, he announced a consultation period whereby he invited representatives from the family and any interested party to decide whether a public inquiry was still in the public interest.

Now, my initial frustration and—well, I was insulted as well at the language that was used initially, but following that announcement we entered into conversation with the Secretary of State's legal team whereby what they, what the Secretary of State thought was explained to us in a little bit more detail. And once that was done, it certainly diluted our frustrations.

And essentially, what we understand the British Government's position at this stage is that the consultation period has closed as of March the 11th. The Secretary will then take a number of weeks to decide whether it's in the public interest, and he will tell us prior to that decision privately before he makes that decision public.

It was made very clear to us that the Minister has an open mind, that there is no firm conviction that a restriction notice will be used, and any inquiry into my father's murder, if one is decided to be held. And examples of other controversial inquiries under the Inquiries Act whereby written protocols had been agreed between that inquiry on the British Government for the Minister not to invoke this part, to leave matters to the panel itself, they were presented to us, and certainly we find that encouraging.

So the position where we are at this minute is that we have had 22 years of hurdles and disappointments, so we will not be taking anything for granted until, firstly, the Minister announces that a public inquiry is very much in the public interest. And we would urge all our friends and supporters to remind the Minister—remind the Minister of that importance at every opportunity.

If and when the Minister makes the decision that is in the public interest, we will hopefully be getting down to talking about what type of inquiry can be settled that will finally put this matter to bed, that will finally have the ability to achieve the truth, which is something we have always campaigned for. And we have highlighted three main principles which we would want that inquiry to have.

We think, first, it needs to have a strong, independent panel that would have the ability and the experience to deal with the complex issues. Second, it would need to have the support of an equally experienced and strong legal team to facilitate the truth. And, third, we would need a guarantee from the British government that they will not invoke the power of the restriction notice to trump any inquiry and to make predetermined outcomes and to prevent an inquiry from being truly independent.

And I would always echo the comments of Judge Cory, who describes such as “Alice in Wonderland,” and I think that critique remains as damning and as pertinent today as it did whenever he gave that testimony to that Committee.

So, in conclusion, I think the benefits of an inquiry will be felt, not just by our family—and, to be fair, not just in society in Ireland, but I think it will be felt around the world. This is a case and it’s an issue, the issue of collusion between killers on our streets and the government of the day. I think that issue being dealt with in a transparent fashion will be felt all around the world and will cement a peace process.

I heard today that peace is not the absence of violence; it is the cementing of justice, and I think that is an excellent way of phrasing it. And until we have a truly transparent and independent examination of this issue, I think instability will always be in our society. And, unfortunately, we’re all aware that there are those in our society who seek to capitalize upon that instability, and I think that that needs to be fully removed.

Will it be easy? No. The right thing is very rarely easy. But is it something that is necessary? Yes, and I think it always remains necessary. Prime Minister Cameron deservedly received international credit for the humble and modest way in which he dealt with the publication of the Bloody Sunday report. But if his government is truly committed to securing a peace in my country, in my city, then I think this is something that needs to be dealt with.

Thank you, Mr. Chairman.

Mr. SMITH. Mr. Finucane, thank you very much for your testimony.

Mr. Teggart.

**JOHN TEGGART, SON OF DANNY TEGGART, VICTIM OF THE
1971 BALLYMURPHY MASSACRE**

Mr. TEGGART. Chairman Smith, Congressman Payne, I am deeply honored and profoundly grateful for the opportunity to appear before this Commission.

I am a member of the Ballymurphy Massacre Committee, the Committee that seeks justice about the British Army massacre of 11 of our loved ones in Ballymurphy, Belfast, on August 9, 10, and 11, 1971.

One of the persons murdered was my father, Danny Teggart, age 44. He was shot 14 times as he lay defenseless on the ground. He left behind 13 children. Next day at the barracks where my sister, Alice, went looking for our missing father, the parachute soldiers jeered and mocked her, cruelly singing a popular song at the time, "Where's Your Papa Gone?" Other bereaved families were shown similar disrespect by the soldiers and the judicial authorities.

My mother, Bella, has since died. Her only wish was justice for her husband. She would be so pleased that this hearing is taking place today.

Another of the victims was Joan Connolly, age 45, a mother of eight children. Mrs. Connolly was shot and initially blinded as she went to the aid of a wounded teenager, Noel Philips. She was then repeatedly shot and left to bleed out where she fell. Her daughter Briege Foyle is with me today. A local parish priest, Friar Hugh Mullan, was also gunned down while waving a white handkerchief, going to administer the Last Rights to a wounded man.

The massacre left a total of 57 children with the loss of a parent. I record with honor and respect the names of all the other victims in my written testimony, which also provides more evidence of the justice of our cause.

Nobody has ever been held accountable for this massacre. And it is most important to stress here that no British soldier was killed or wounded in the area where our families were slaughtered during these three terrible days. There has never been a proper investigation into the circumstances of the Ballymurphy Massacre. The police and the British army covered up and lied.

There was an agreement at the time between the police and the army that legally constituted police were not allowed to interview soldiers who murdered our loved ones. The investigation was instead carried out by the Royal Military Police.

The inquests into the death of our loved ones were also flawed. The British army denied the coroner was denied access to evidential material that would have enabled him to conduct an effective inquest. No eyewitness testimonies were taken. No military witnesses were interrogated. Their evidence was merely passed to the judge in a brown envelope.

And to make the situation even worse, the Parachute Regiment that committed the massacre went on to commit the Bloody Sunday in Derry on the 30th of January, 1972. Had the Parachute Regiment been called to account for murdering 11 people in Ballymurphy, then that regiment may have been stopped from murdering 14 people in Derry.

Today, as part of a long tradition, I turn to the U.S. Congress and to this Commission for support and help. I respectfully request my oral testimony to be submitted and documents read into the record.

Time and time again in Ireland's long struggle for justice, Irish people have turned to America for support because they knew the British establishment would never willingly grant justice. The Finucane family, Ray McCord, and the late Rosemary Nelson have all previously come before this Commission in the pursuit of justice.

Indeed, without the support of the United States, there would not be a peace process in Ireland today. So it is with gratitude and hope that I appear before you today, because the truth about what happened in Ballymurphy has yet to be set free.

The Ballymurphy Massacre families demand from the British government an international independent investigation into the deaths of our loved ones; an investigation that is properly resourced, independent of the Police Service of Northern Ireland or the British army; has the power of compelling documents, soldiers and witnesses; has access to RUC and military intelligence; providing findings and recommendations. Please refer to our document, “What is an International Independent Investigation” for more details.

I respectfully ask the U.S. Congress to put pressure on the British government to grant our reasonable demands. We will not accept a desktop review from the Police Service of Northern Ireland’s PSNI Historical Enquiries Team.

Again, Mr. Chairman and members of this Commission, Congressman Payne, thank you for your concern, and I am profoundly grateful.

Mr. SMITH. Thank you very much for your testimony and for traveling here. I would like to now ask Ciarán McAirt if you would present your testimony.

**CIARÁN MCAIRT, GRANDSON OF JOHN AND KITTY IRVINE,
McGURK’S BAR BOMBING VICTIM**

Mr. MCAIRT. Mr. Chairman, esteemed members, our families are grateful to this honorable Commission for allowing us to offer testimony to its hearing on “Northern Ireland: Why Justice in Individual Cases Matters.” We humbly request that our longer testimony be written into the record.

My name is Ciarán McAirt. I am a grandson of John and Kitty Irvine. Kitty was one of 15 civilians—women, men and children—who were slain in the McGurk’s Bar Massacre of 4th of December, 1971. Over a dozen injured were lucky to escape with their lives.

It was a bomb attack carried out by loyalist terrorists but blamed by the authorities on a republican bomb in transit. Therefore, the innocent victims were despoiled of life and their good name.

Successive administrations have veiled the full truth from us for two generations. Our families therefore have had to campaign inexorably, constitutionally and with great dignity now for nearly four decades to clear the names of our loved ones.

My grandparents were enjoying a quiet drink with old friends in a family-run public house called McGurk’s Bar in North Belfast. That night, as the regular customers chatted and laughed amongst themselves, upstairs the McGurk boys and a young 13-year-old friend, James Cromie, were playing raucously, as only children can do.

Mrs. McGurk arrived home with the McGurk’s only daughter, 14-year-old Maria. They were returning home from confession in nearby St. Patrick’s Church. A bomb ripped through this scene, bringing walls and roof down upon everyone. Those who were not crushed or slowly asphyxiated by masonry were horrifically burned when shattered gas mains burst into flames beneath the rubble.

The lifeless bodies of 15 innocent men, women, and children were dragged from the ruins. Such was the carnage of the McGurk's Bar Massacre. I record our families' names with great respect in my written testimony.

A young boy saw the bomb being planted in the outside hallway and the fuse lit by a terrorist, who then got into the car with two other men before skipping into the night. This young lad was able to give the police a vivid description of the car and the masked stranger. He warned a passerby that there was a bomb, and this man escaped with seconds to spare, testifying to the police of the day, the RUC, that this boy had saved his life.

Nevertheless, these witness statements and those of the survivors, and an admission by the loyalists themselves, and a whole gamut of evidence, was ignored by the RUC. Instead, without substance, without substantiation, the police placed on file that this was a bomb in transit. Our family members were not innocent; they were guilty by association, if not complicit in acts of terrorism.

Swiftly, the disinformation within this RUC duty officer's brief was then fed into the intelligence stream. It even became the basis for government briefings and speeches. It was leaked to the press and was fed into the public consciousness. It became a lie, therefore, that allowed the true culprits to go free.

I have provided written reference for all these archived finds made not by the authorities but by myself, the Pat Finucane Centre and the British Irish Rights Watch. This includes the minutes of a Joint Security Committee meeting when a chief constable, commander of the RUC at the time, and his head of Special Branch told the Northern Ireland Prime Minister and the general officer commanding the British army in the North that two of the victims were known IRA terrorists. Other archived evidence, though, has been redacted or withheld from us after targeted requests for information.

Against this backdrop, could we ever expect a fair investigation? A recently published report by the police ombudsman censures the RUC investigators for what it calls "investigative bias." Nevertheless, the present chief constable of the reformed Police Service of Northern Ireland denies such bias. He has disputed the central finding of the statutory body set up to investigate the police complaints.

Yet again, the massacre of our loved ones has been politicized by a chief constable at a time when our community should have faith in a reformed police force's ability to recognize and learn from the failings of the past.

This is why, in Northern Ireland, justice in individual cases matters. It is not simply about closure for fellow human beings. This is about historical and moral rectitude. History informs the present, and from it we learn our mores as a society.

That is why I humbly beseech you to use whatever influence you may have to ensure that Britain, your great partner, releases all the other information that was kept from us regarding the massacre of our loved ones in the McGurk's Bar on 4th of December, 1971. Otherwise, I fear the present authorities may prove that they too are condemned to repeat the mistakes of the past.

Thank you very much, Mr. Chairman, Committee members.

Mr. SMITH. Thank you very much, Mr. McAirt. Ms. Winter?

JANE WINTER, DIRECTOR, BRITISH IRISH RIGHTS WATCH

Ms. WINTER. Thank you, Mr. Chairman.

British Irish Rights Watch and our sister organization, the Committee on the Administration of Justice, on whose behalf I'm speaking as well today, are independent, award-winning, nongovernmental organizations with between us over 50 years' experience of human rights in Northern Ireland.

We are very grateful to this honorable Commission, and especially to Chairman Smith and to Representative Payne, both of whom have staunchly shown their concern and support over many, many years for human rights in Northern Ireland, for allowing us to submit evidence to its hearing on "Northern Ireland: Why Justice in Individual Cases Matters," and we request that our longer testimony be written into the record.

Mr. SMITH. Ms. Winter, without objection, yours and longer statements and submissions by all of our witnesses will be made a part of the record.

Ms. WINTER. Thank you, Mr. Chair.

The past in Northern Ireland cannot be ignored, and continues to shape the present and to determine the future. One of the reasons for this is that although there have been many victims on all sides of the community, many people do not know why their loved ones died or why they themselves were injured.

Many lies have been told, particularly about state collusion in killings. There is a great thirst for the truth, particularly as people who are beginning to emerge from the shadow of the conflict feel confident enough to ask questions about what happened and why no one has been held accountable in so many cases.

There have been many genuine attempts to reform Northern Ireland's institutions since 1998, but whilst outstanding cases remain unresolved, there is a danger that those reforms will be undermined. We have heard today about three of the tragic cases—and we also have heard of Raymond McCord, who is not able to be with us today—which span four decades and both sides of the community divide.

The relatives of the 11 victims killed by the British Army in Ballymurphy in August 1971 have not to this day received the effective investigation they are campaigning for and deserve. My organization has investigated two of those killings and is certain that those two victims were wholly innocent and unprovoked, and we are sure that the same will be found in the other 13 cases. Sorry, I beg your pardon—nine cases.

The families of the 15 victims who died in the McGurk's Bar bombing in December 1971, as we've just heard, were branded as IRA sympathizers harboring a bomb which exploded prematurely, when in fact they were the victims of loyalist violence.

In the face of clear evidence that the rumor was the bomb—sorry—that the rumor that the bomb was an IRA "own goal" originated with the RUC, the police ombudsman for Northern Ireland was forced to withdraw an earlier report exonerating the RUC, and he has now found that there was investigative bias in the police investigation into the bombing. Astonishingly, almost 40 years

later, the chief constable of the reformed Police Service of Northern Ireland seems to be unable to accept that finding.

John Finucane and his family have been campaigning for 22 years for an independent inquiry into the murder in 1989 of Belfast lawyer Patrick Finucane. Despite compelling evidence that the police, the army, and the intelligence service were all implicated in his murder by loyalists, an inquiry has yet to be held. And, as we have heard, there are still talks going on about the modalities for such an inquiry.

Raymond McCord has fought an almost-singlehanded campaign to uncover the truth about the murder of his son Raymond McCord Jr. in 1997, which has resulted in the unmasking of wholesale collusion over many years between RUC Special Branch and the loyalist group, the Ulster Volunteer Force. A report by the former police ombudsman has led to the largest police investigation ever known in Northern Ireland.

However, the PSNI are now in charge of this investigation again. And that means that they will not be investigating the issue of collusion, which would have to be considered by the police ombudsman. However, if the police are not looking for collusion, who will find it?

These are four landmark cases, all of which are crying out for justice. But they are four among many. What emerges very clearly from consideration of just four cases is that Northern Ireland is still experiencing great difficulty in dealing with its past and that the past must be addressed if Northern Ireland is to be able to shake off the shackles of the conflict and move into a safe and secure future.

In our longer written testimony, we consider mechanisms that exist today for dealing with the past: the historical enquiries team, a unit of the police service, the police ombudsman, inquests, and inquiries. All have their problems and limitations. The previous U.K. administration failed to implement the recommendations of the consultative group on the past, which included a legacy Commission to deal with all cases arising from the conflict.

The present Secretary of State for Northern Ireland has made some rather strange proposals for dealing with the past. For example, he has suggested that, quote, "historians rather than lawyers," unquote, should deal with the past and that a historical memory documentary center, such as has been established in Salamanca, Spain, in the post-Franco era, might be a way forward. Similarly, he has suggested that the historical enquiries team's files could be consigned to an archive like that compiled on the Stasi in Germany. Not only are these comparisons with the aftermath of totalitarian states rather surprising coming from a Minister in the U.K. Government but they clearly indicate that he regards the past as something that is over and can be filed away, which is far from being the case.

As the four cases today considered demonstrate so graphically and tragically, the past remains very much part of the present in Northern Ireland today. Unless an effective human rights compliance mechanism is found for dealing with all the unresolved individual cases arising from the conflict, that conflict will continue to cast its long shadow across Northern Ireland's future and make it

more difficult to achieve the peace and stability that Northern Ireland so badly needs and so greatly wants. We respectfully ask this honorable Commission to seek an assurance from the U.K. government that it will establish such a mechanism without further delay and in consultation with victims, human rights experts and others.

We thank this honorable Commission for your interest in Northern Ireland. Long may it continue.

Mr. SMITH. Ms. Winter, thank you very much for your testimony and for the very wise counsel you have provided both to the British Government, the Irish Government in Northern Ireland and to this Commission and Congress over these many years laying out in a very coherent way a way forward, which unfortunately has not been grasped in the years to date.

Let me ask just a couple of questions to start off. First, Mr. Finucane, you mentioned that there was initial optimism but it was diluted when Owen Patterson announced a consultation process to decide whether it remained in the public interest to have an inquiry at all. I would remind the British Government—and I will be meeting with the Secretary of State tomorrow afternoon—that this obligation is—you know, the U.K. Government, the British Government is a rule of law government. And when you sign a treaty, when you have specific responsibilities to which you freely enter into, that needs to be honored if your word is to be honored in any other area as well.

So I would hope that the—as you indicated in your final statement, Ms. Winter—this isn't a matter that ought to be subjected to debate. It ought to be implemented. And it ought to be implemented with a very competent—in a very competent way. So I am concerned when you hear—is it in the public interest? That's a no-brainer. It's a matter of rule of law. It's a matter of justice.

And frankly, knowing that there could well be some and probably many people—you know, how is that Christopher Patten called them, the bad apples—that could be somewhere in law enforcement still or in retirement. The sense of impunity that this gives them and others who look at that and say, past is prologue. If individuals who committed acts of collusion are not held to account, you can almost guarantee at some point, when there is some strain in the society, acts of collusion will be held—committed again, because it was who—as even Hitler said, when he talked about the Armenians—and I actually held a hearing on the Armenian genocide. And it was one of the most contentious hearings I've ever held. But even Hitler said, who remembers the Armenians? I mean, if there is no accountability, whether it be a limited number or a massive number of fatalities or killings, the seed of that passes on to the next generation who then commit acts of impunity.

So I also think it ought to be underscored that these are not what—as euphemistically sometimes called—cold cases; these are concealed cases. There is an archive. There is information available that simply has not been made public and/or law enforcement has not acted upon to hold those who have committed atrocities accountable. So I hope, you know—I do have a concern. And perhaps all of you might want to address the archiving of this information. How concerned are you that information has been deleted, shredded—memories of eyewitnesses may have faded. Hopefully they

have not. Or individuals have died, passed on who might have provided very useful insights for law enforcement and for a public inquiry. If you could answer that, I would appreciate that.

Let me also ask all of you—and John, you might want to start with this—the implication if the British Government invokes their ability to conceal, pursuant to the Enquiries Act. When that legislation was going through the House of Commons, my colleagues and I wrote letters. We went through line by line and pointed out what a farce it was because we knew why that legislation was in the process of being enacted—to preclude information to all of you. If you could just speak to that so it's on the record very, very concisely but very comprehensively as well. What that would do if they were to invoke at some point in the process—now we have to invoke the Enquiries Act of 2005.

And finally, I understand that Rosemary Nelson's case will be delayed until after the May elections—your assessment of that development. As we all remember Rosemary Nelson came before this Commission and told us that she had been threatened, that her life had been threatened by the RUC. And less than—approximately a half year later, an infamous act was committed against her and she was killed by a car bomb. So if you could speak to that issue as well—why the delay and what you expect to come out of that.

Mr. FINUCANE. OK. Thank you, Mr. Chairman. I'll deal with your second question first. The possibility that the Enquiries Act will be repealed and new legislation will come in—we understand that there is zero chance of that happening. That was—that position has followed on with the new government. The only departure—and it is a very significant departure—is that the Tony Blair administration who were so insistent, one, that there would be the restriction notice; that power would be used. And then second, they went as far as to issue a draft restriction notice and they let us see that. And as I said in my testimony, it was as draconian as one could possibly have imagined it. It was the farce that Judge Corey described it.

Am I optimistic? I have to take it on the face of it what they're saying to us at this stage. If they are saying that once they get over the “whether” question, as they call it—whether it's in the public interest—if we get over that and it's in the positive, I don't see how they could come to a negative decision on that.

Mr. SMITH. But if you could yield on that—it is in their interest—for those of us here and I'm sure in Ireland and elsewhere are looking at the British Government's ability to keep its word. So it's certainly—I believe—in your interest and the interest of all the loved ones who have been left behind. But it's in the British Government's interest to finally come clean and cease its obfuscation of these various inquiries.

Mr. FINUCANE. Well, it's not just a moral obligation; I mean, there's a legal obligation as well. The promise to us to have an inquiry arose out of an intergovernmental peace agreement. And as you have rightly highlighted, their integrity on the international stage has always been on the line with this case. But if they renege on an agreement made with the Irish Government, I think that would certainly portray them in a bad light, to say the least.

We will have to wait and see whether they decide to go down the route of issuing a restriction notice. We have always said that we are up for an inquiry. We want to get into an inquiry. You've talked about witnesses and documents going missing. As a family, we're not getting any younger. And certainly, we want to get in and get involved with this as quickly as possible so the matter can be dealt with. And we hope that they come to the right decision.

The obligation is already there. And I echo your sentiments that it is correct. It's not a cold case. It is a concealed case. And certainly we hope that in the next few months, we can get in negotiations with regards to the makeup of an inquiry. We have always said, we don't expect every decision in an inquiry to go our way. But we want the decisions to be taken by a panel with integrity and with independence. And we don't see why the British government should shy away from that.

Mr. PAYNE. Yes, I just had a quick question where Mr. Teggart, you mentioned that you would not accept a desktop review by the police service of Northern Ireland's historic enquiry team, that the families of the massacre deserve better. Could you elaborate on that for a second? And the—I think you mentioned five points you thought were important for an inquiry to be substantial. And that's all—I did have—well, I'll just leave it at that. I appreciate the Chairman yielding.

Mr. TEGGART. OK, thanks Congressman. I'd be happy. The historical enquiries team was set up by the British Government. It was set up by the actual combatants that murdered the 13—the 11 in Ballymurphy. The historic enquiries team are also answerable to the Police Service of Northern Ireland, the PSNI. When I say about a desktop job, a desktop operation, that's exactly what it is.

And this here report, which is into the death of Father Mullan, that is a final report into the death of the priest. It says there's no possible chance of any more information. They don't conclude about the army bullet that was lodged in the head of Frank Quinn that was also shot just yards from Father Mullan. They don't conclude 150 witnesses that the families themselves, I would like investigated. We walked to the doors and asked, and we got 150 first-hand witnesses into the occurrence of what happened at Ballymurphy. That's what we mean by a desktop investigation, a desktop investigation with totally the absence—don't source any witnesses.

And the other points where it says about the independence—it needs to be headed by an international figure. No former combatants, RUC or British Army personnel should be involved in the investigation. No chain of command to the PSNI, Police Service of Northern Ireland, or the HET. And that's basically what—just some of the principles of an independent investigation.

Mr. PAYNE. Thank you very much. I agree, certainly agree with the Chairman mentioning what Hitler mentioned about the Armenians. And if we had confronted the genocide in 1915, perhaps the Holocaust would not have occurred and genocide in Rwanda and on and on. And as you indicated, had we investigated the paratroopers early on, then perhaps Bloody Sunday would not have occurred. And so we can learn a lot from history.

I also have to—as it's been mentioned about Rosemary Nelson—I was at those hearings when she testified. And I was given the honor of presenting to her husband an honorary doctorate degree from my alma mater, Seton Hall University posthumously to her husband on behalf of the work that she had done. At Seton Hall in the early '50s, I learned about the problems of the north of Ireland and that's what made me committed then to take an interest and visit Drumcree and stay on Garvaghy Road and be in West Belfast a number of years during the marching season. So we've seen a lot of progress. But it's not over and we have to keep the pressure on.

Thank you again, Mr. Chairman.

Mr. TEGGART. Could I just comment on some of the things that Congressman Smith has brought up? And when you brought up Cameron, I'd apologize for some bad apples of—and Bloody Sunday. Bloody Sunday happened within 20 minutes. And Ballymurphy was over 3 days. And the bad apples in Ballymurphy turned out to be a whole orchard. Just some of the stuff that archive evidence. The families themselves have archived most of our evidence. It's only the lies and the mistrust of British Government would prevent us an investigation.

And I think that's it, Congressman Smith, yes.

Mr. MCAIRT. If I could go back to the Good Friday Agreement, I think part of the reason why we have come over here is that we see that the full agreement of the Good Friday Agreement hasn't been implemented. And yet, we see the Good Friday Agreement as an international agreement, not only between Ireland and Britain and Northern Ireland but also with partners in America.

And it's ominous, though, that we have had to travel over here to engage with the great and good upper echelons of the political elite in America to try and find justice for our families back home. That's the sort of impasse that we have reached even after two generations—and John's one generation.

Sometimes I wonder whether there is a political wealth in Great Britain to face up not only to—how to deal with the past but, in effect, how to deal with the truth. The mechanisms that we have in Northern Ireland at this moment in time are far from good, far from perfect. In fact, they're underresourced. But they're underresourced by a political power that was—has a lot of questions to answer to as well.

You also mentioned, Mr. Chairman, about our concern for the loss of evidence. And again, that is one of the main reasons why I, myself, have come over here. Because not only do I see our campaign as a struggle of memory against forgetting but there's also a limitation on the amount of time that we can actually access this information. Not only am I faced with the mortality of our own elderly campaigners but, as the years go on, we have less and less powers to access that information.

And as you know far well, the powers under the Freedom of Information Act can stop us from getting that information at any time. Ours is an ongoing battle, then, to access information, so from our request for information, I can tell you personally that it's an uphill battle. And as the years go on, it gets harder and harder.

Ms. WINTER. Mr. Chairman, both you and Representative Payne stressed the fact that there is no statute of limitations on murder and that a murder is, in a sense, eternal, and requires justice for eternity. And that is absolutely true but it is also true that time is not on the side of many of the cases that we have been talking about today and other cases as well.

We certainly have concern about the loss of documents, the loss of memory, the death of key witnesses. Many of the elderly members of the Bloody Sunday campaign died without seeing the outcome of the Bloody Sunday inquiry. In the Finucane case, many key witnesses are already dead. And Ballymurphy and McGurk's—we're both talking about the 1970s. People have already passed on and others, you know, are living in uncertainty as to whether they will ever learn the truth about what happened.

In terms of records, it is interesting that the United Kingdom, being a democracy, does keep records for a considerable period of time. That being said, some very key documents in the Bloody Sunday inquiry were missing without trace. And other documents have been very difficult to find in these other cases, although sometimes, with diligence—and certainly, Ciarán McAirt has shown huge diligence in obtaining documents in relation to McGurk's Bar bombing.

And other NGOs such as the Pat Finucane Center have spent days in our public record office, seeking out documents on all sorts of cases. And many of them are there to be found but what is worrying is that the police ombudsman and the historical inquiries team have very often not found those documents for themselves. It has been family members and NGOs who have done the research. And that's a worrying thought—that even though the documents are there, perhaps people are not looking for them as diligently as they should.

On the inquiries act, we very much share the concerns that you voiced at the outset of this hearing. It is not right that a Secretary of State whose department may have been complicit in a death should have control over what happens as an inquiry; over what witnesses are called, over what evidence is heard, over what documents are seen.

We would be pleased to see an inquiry in the Finucane case after all these years and we would hope that any assurance that there will be no ministerial interference would be a good promise which would be kept, but it would probably be a first, so we're in unknown territory here. And even if such an inquiry is held under those terms, very close scrutiny will be required.

But having said that, the prior question, as John Finucane has pointed out, is that—and really, it's an insult to the intelligence—whether it still remains in the public interest to hold such an inquiry. Self-evidently, it does, and we hope that everybody we've met here on the Hill will be making that point to the Secretary of State in no uncertain terms.

I think also something that the Secretary of State has really not thought about—and this refers not just to the Finucane case but to Ballymurphy, to McGurk's and many other cases, I don't think that he has seriously considered the consequences of not holding inquiries in these cases.

The McGurk's case, in particular, has really dented public confidence in the police ombudsman, who first did a report that did not support their case, and then after pressure and new evidence was put to him, changed his mind and produced a better report. And then the chief constable who has really no baggage in relation to the PSNI and the RUC—he's only been in post for 2 years—he doesn't go back to the 1970s, and yet, he defended the indefensible on the part of the RUC.

So there are real concerns there about the consequences of not acting and not speaking the truth after all of these years. It really does resonate in the present and do damage when that happens. So I think it's important that the Secretary of State is made to understand that there are consequences to not doing the right thing.

You asked about Rosemary Nelson. I don't think that the delay in the publication of her report is sinister. I think it is—all of the inquiries that have been held in Northern Ireland and to the Robert Hamill case, the Billy Wright case and the Rosemary Nelson have all taken a very long time. It's taken a long time to write the reports.

Unfortunately, the government insists on vetting the reports, even though they have been produced by very, very capable, independent legal panels and teams to ensure that they do not infringe national security or endanger the right to life. And that adds to the delay. But I think, in Rosemary Nelson's case, it's simply a matter, really, of timing, in that with the elections coming up in May, if the report would be published in the runup to that, it would sink without trace, whereas at least it will get some proper attention if it's published after the election. I don't think that there's any political pressure involved there. I think it is actually some compassion towards the families—the family, that they do get the attention that they deserve.

Having said that, we are not sure what to expect from the Rosemary Nelson report. Just as the Bloody Sunday report, which was very, very welcome in exonerating the victims fell short of holding those responsible for Bloody Sunday to account, we are worried that the report on Rosemary Nelson's death may not get to the bottom of what really happened.

The inquiry itself has already said that it will abandon some lines of inquiry that it had identified at the outset, including the very important one of whether or not she was threatened by police officers before she died. We know that she was threatened; we've seen the evidence. But they felt that there was too much conflicting evidence for them to really come to a conclusion about that, and so that is a real concern for us. And we very much hope that her family is not left with a report which leaves them with feelings of regret. We can only wait and hope that the report will vindicate her, as it should.

Mr. SMITH. Just finally, Raymond McCord, in his written submission, indicated that there were some threats to him. Could you maybe perhaps comment on that?

Ms. WINTER. Yes, I mean, that is a very worrying situation because Raymond is a very brave man who has, as I say, almost singlehandedly brought attention to his case and brought about an enormous police investigation because what the former police om-

budsman, and now Baroness Nuala O'Loan uncovered was a catalog of collusion between special branch and the UVF, going over a period of at least 12 years and involving at least 20 murders, possibly many more, and many attempted murders. It was a really appalling situation.

And for one man to have been responsible for exposing such huge corruption and collusion obviously puts him at risk and makes him very, very unpopular. And I think we should pay tribute to his courage in continuing to campaign despite the fact that he continues to receive threats, and has, indeed, throughout his campaign been threatened.

Raymond tends to kind of treat it as part of—you know, coming with the job. But those of us who are watching are fearful and concerned for his safety.

Mr. SMITH. Tomorrow, when I meet with Secretary of State Paterson, I will give him each of your testimonies, tell him that both the Foreign Affairs Human Rights Committee, which I Chair, and the Commission on Security and Cooperation in Europe is going to accelerate its focus. We've done it in the past. There was somewhat of a hiatus, which I won't get into as to why, but back as Chairman now, I can assure you that we're going to use every resource we have to keep this issue front and center with our friends in the British Government to let them know that the grandfathering of injustice, of impunity, of collusion is not—is intolerable.

And, you know, I'm one of those who believes that if you, as the pope has said so well, if you want peace, work for justice. And there needs to be justice in each of your cases and people held to account, and information made public as quickly as possible for all the reasons that have been so eloquently cited by each of our very distinguished witnesses.

So I would ask you, you know, in addition to your testimonies, is there anything you would like to add?

And finally, as we all know, you know, the peace—the sustainability of peace does rest on a sense of justice. And we know that problems that continue to flair—of course it was a genocide—between the Armenians and the Turks, in part, continues because of a—the inability, particularly of Ankara, to recognize what—for all of us who have painstakingly studied the occurrences, or, the events that happened then, and they just say it didn't happen. They're deniers. And we wouldn't want the British government to continue to live in denial of these terrible acts of collusion that led to murders and assassination.

So it's—anything you would like to add before we conclude the hearing?

Mr. TEGGART. I'd like to add, when you're speaking to Secretary of State Owen Paterson, just that he's fully aware that the Ballymurphy families at no time, even for 40 years, was there any police involvement and any investigation at all. He has to understand that. He has to—and for him to act on that there.

Mr. SMITH. Thank you.

Mr. TEGGART. Thank you.

Mr. FINUCANE. I think I would just like to, again, thank you personally, Mr. Chairman, for your continued involvement and help.

Unfortunately, it shouldn't be the case, but it is the case, that we have to travel this far to get significant movement on our case, and we appreciate both of your help and the help of all your colleagues here.

I think this hearing speaks for itself. You described it as a "no-brainer." The past is still very much relevant. And unfortunately, it has the ability if not dealt with correctly to really destabilize our present society.

Mr. MCAIRT. I was just going to reiterate what John was saying, that if you could emphasize to Mr. Paterson that this Commission supports our views, that echoes of the past resonate in the present, and our communities that—as can be seen from the recent dissident balance, can be on a knife edge if these matters aren't dealt with.

Ms. WINTER. I would just like to thank you very much, Mr. Chairman, for your declaration of accelerated and continued support because American assistance has always helped to focus the mind of the U.K. government when it comes to these human rights issues, and to request that you consider having further hearings on Northern Ireland whether in this forum or under the auspices of the Foreign Affairs Committee because it is this kind of hearing which does bring home to our government that the world is watching them and that there are still things that need fixing in Northern Ireland. Thank you very much.

Mr. SMITH. Let me be very clear: There will be follow-up hearings and we await a decision by Secretary of State Paterson with regards to all of your inquiries. And so I thank you for saying that but I want to assure you this is the first in a series of hearings.

Ms. WINTER. Thank you.

Mr. SMITH. Thank you, and the hearing is adjourned. And thank you all.

[Whereupon, at 3 p.m., the hearing was adjourned.]

APPENDICES**PREPARED STATEMENT OF HON. BENJAMIN L. CARDIN, CO-CHAIRMAN, COMMISSION ON SECURITY AND COOPERATION IN EUROPE**

A fundamental tenet of the Helsinki Process is that “no one will be above the law,” a principle that serves as the bedrock of democratic society. The leaders of all OSCE participating States, including the United Kingdom, affirmed this in the 1990 Charter of Paris, stressing the importance of accountability along with “the obligation of public authorities to comply with the law and justice administered impartially.” These concerns go to the very heart of cases under consideration at today’s hearing. While some predate the 1975 Helsinki Final Act, this does not exonerate those in authority today from pursuing the truth wherever it may lead. The rule of law requires nothing less.

I appreciate the willingness of family members to share their stories with us, painful yet necessary if truth and justice are to prevail. Your presence helps keep these murder cases in the spotlight to the chagrin of those who would have them swept under the carpet. Reckoning with past human rights violations must be an integral part of any process aimed at promoting genuine and lasting peace and reconciliation in Northern Ireland.

PREPARED STATEMENT OF JOHN FINUCANE, SON OF PATRICK FINUCANE, HUMAN RIGHTS LAWYER MURDERED BY LOYALIST PARAMILITARIES

Mr. Chairman, honorable members of Congress, I am once again grateful and privileged to be invited to address the US Helsinki Commission concerning the murder of my father, Belfast human rights lawyer Patrick Finucane.

I was 8 years old when loyalist gunmen broke into my home as my family and I enjoyed Sunday dinner together, and killed my father and wounded my mother. The brutality of the incident will never be forgotten, but what followed in the months and years thereafter elevated the act onto an international stage.

For over 22 years my family and our supporters have campaigned for the truth. We have asked questions of the British government's role in my father's killing, and as more evidence emerged, more questions were necessary.

This Commission will be fully aware that anyone who has concerned themselves with human rights in the north of Ireland has looked suspiciously at the government's role in the case of my father. I do not wish to rehearse what we have learned over the past 22 years, suffice to say that a credible and transparent examination of the case remains as important today as it ever has.

Whilst we were pleased with Tony Blair's administration announcing in 2004 that an inquiry needed to be held and would be, we despaired at the draconian legislation that we were told must be invoked to deal with it. The Inquiries Act 2005, under which any statutory based inquiry would have to be held, permits a government minister to 'trump' the wishes of the Inquiry upon such issues as disclosure. In a letter to this commission, retired Canadian Supreme Court Justice Cory described the legislation as an 'Alice in Wonderland' situation. His articulate and damning critique of this particular aspect of the law remains pertinent and appropriate.

In the stalemate that followed with the Labour government we were not hopeful of ever getting a meaningful inquiry. They confirmed the controversial Restriction Notice would be used and the draft version of this was as restrictive and farcical as we had feared. Given our opposition, there was no further engagement with us and all work building for an inquiry was halted.

However, in 2010, with the arrival of a new Secretary of State Owen Patterson, we were pleasantly surprised that he requested a meeting with us to hear for himself our concerns and current position. At this meeting he listened carefully and stressed that he wanted to move this issue forward in a way that would allow an inquiry to proceed with the family's involvement.

This initial optimism was diluted somewhat when he announced a consultation process to decide whether it remained in the public interest to have an inquiry at all. Whilst we initially found this bordering on insulting, we have met with the NIO's legal team on two occasions and sent our submissions to them. I have entered a copy of these for the official record today. We now await the Minister's announcement.

As the Commission will be fully aware, a public inquiry is a mechanism of last resort designed to reassure the public when

something has gone badly wrong with a government agency. I can think of nothing graver than accusing a government's police, army, intelligence services and political hierarchy of conspiring, executing and covering up the murder of my father and countless others. 22 years later and the issue remains as controversial as ever and rightfully attracts international attention.

There exists in Ireland today, those who seek to encourage and capitalise upon instability. Whilst the Good Friday Agreement has brought about tremendous change to the city and country I live in, the past always finds a way of dominating our present lives. The case of Patrick Finucane represents the worst of our past. Failing to deal with this case not only undermines public faith in the agencies of the state, but prevents our society from truly making a break from the past.

Prime Minister Cameron rightfully earned praise for the manner in which he dealt with the publication of the Bloody Sunday report. If he wants to show the world his administration is serious in securing peace then it must set up a fully independent and credible public inquiry without delay.

Thank you once again.

**PREPARED STATEMENT OF CIARÁN McAIIRT, GRANDSON OF
JOHN AND KITTY IRVINE, McGURK'S BAR BOMBING VICTIM**

ON BEHALF OF THOSE WHO WERE KILLED OR INJURED IN THE
MCGURK'S BAR MASSACRE 4TH DECEMBER 1971

The families are grateful to this honourable Commission for allowing us to submit written evidence to its hearing on "Northern Ireland: Why Justice in Individual Cases Matters". We humbly request that this longer testimony be written into the record.

My name is Ciarán MacAirt and I am the grandson of John and Kathleen Irvine.

On the 4th December 1971, my grandparents were enjoying a quiet drink with old friends, Edward and Sarah Keenan, in a snug of a family-run bar in north Belfast. The chat was lively as Edward had just received his retirement money after lifelong work in the docks. Christmas was just three weeks away and the old couple had big surprises planned for their family.

McGurk's Bar was a cosy establishment, passed from father to son, which was frequented by those members of the north Belfast community who were more interested in a punt or a pint rather than the sectarian politics of the day. Indeed, Patrick and Philomena McGurk, the owners of the pub, were renowned for their intolerance of bigotry and prejudice. The clientele naturally reflected this. As the family home was in the rooms upstairs, Mr. And Mrs. McGurk had created an environment that was not only fitting for a well-run pub, but also one that was appropriate for the raising of their children.

Looking across the bar and into the main lounge, Kathleen, or Kitty as her family and friends called her, recognised every single one of the customers who sat around talking or reading a paper. She smiled and nodded acknowledgement to anyone whose eyes she happened to meet. Thomas Kane, Robert Spotswood and James Smyth had taken up their usual seats along the bar. Further along, Thomas McLaughlin, his uncle and two of their friends were too busy chatting and laughing to notice. Behind them, Philip Garry, who even at 73 still kept himself busy as a school-crossing patrolman, was having a quiet pint. Near to him Francis Bradley and David Milligan relaxed after labouring week-long in the docks. In the corner she could not see, Edward Kane was entertaining his friend, Roderick McCorley, and 80 year-old Mr. Griffin with lively chat over a quick drink before heading home to his young family.

Upstairs, at that time, the McGurk boys and their friends, including 13 year-old James Cromie, were having a raucous game of table football as their uncle, John Colton, got ready to help his brother-in-law in the bar below.

Time was rushing headlong towards the single moment that each one of those who were left behind would play over and over when they locked themselves away in their minds. Upstairs Mr. McGurk's wife, Philomena, and only daughter, Maria, unbeknownst to everybody below, were just coming home from confession at St. Patrick's church. Mr. McGurk was pouring a pint of Guinness for another customer. In the snug, Johnny took a sup of his stout as he listened with glee to the animated chat just as Kitty, his wife, the mother of his children, happened to catch his eye and smile

THE BOMB ATTACK

An eight year old boy, Joseph McClory, had been walking up Great George's Street towards North Queen Street on his way home from a paper round. He noticed a car, with three men skulking within, parked nearby McGurk's Bar. Suspicious, he glanced over and recorded that the vehicle had a "wee Union Jack stuck in the back window",¹ so observant was he. As he was crossing at the junction with North Queen Street, towards the pub, a man had gotten out of the car carrying a box.² This was the shadowy figure, clad in a dark overcoat and wearing a mask, whom Joseph saw leave down a "parcel" and light a fuse before running back to the waiting car. The young lad even saved the life of a passerby who was about to walk past the bar. He shouted to him that there was a bomb and the man ran away with only seconds to spare. The bombers bore as little concern for this young child they passed on the pavement as they would have a dog on the street.

The 30-50 lbs of gelignite ripped through the small pub and family home, bringing its walls and roof down upon everyone. Those who were not crushed or slowly asphyxiated by masonry were horrifically burned when shattered gas mains burst into flames beneath the rubble. In the immediate aftermath of the explosion, disregarding their own safety, the families in the area emptied onto the road and began clawing at the debris with their bare hands, desperately struggling to save some of their neighbours. Only for their feverish toil that night and the labours of the emergency services another dozen at least would have perished. Eventually, though, the lifeless bodies of fifteen innocent men, women and children were dragged from the ruins.

Such was the carnage of the McGurk's Bar Massacre.

THE VICTIMS

James Francis Cromie (13 years old)—INNOCENT
 Maria McGurk (14 years old)—INNOCENT
 Edward Laurence Kane (29 years old)—INNOCENT
 Robert Charles Spotswood (38 years old)—INNOCENT
 Elizabeth Philomena McGurk (46 years old)—INNOCENT
 Thomas Kane (48 years old)—INNOCENT
 John Colton (49 years old)—INNOCENT
 David Milligan (53 years old)—INNOCENT
 Kathleen Irvine (53 years old)—INNOCENT
 Thomas McLaughlin (55 years old)—INNOCENT
 Sarah Keenan (58 years old)—INNOCENT
 James Patrick Smyth (58 years old)—INNOCENT
 Francis Bradley (63 years old)—INNOCENT
 Edward Keenan (69 years old)—INNOCENT
 Phillip Garry (73 years old)—INNOCENT
 All those who were injured ûINNOCENT
 The victims' only crime was their faith.

¹From the witness statement of Joseph McClory.

²We know from the witness statement of the one jailed bomber that they had noticed this young paper boy crossing the road near to them.

THE BOMBERS

Loyalist terrorists, members of the Ulster Volunteer Force (U.V.F.), had planted the no-warning bomb on the doorstep of the family-run pub. Allowed to escape unmolested into the night and into the murky history of “the Troubles”, they left in their wake a massacre that was then the single greatest loss of civilian life since World War II. Nevertheless, those people who perished that night in McGurk’s were to become the forgotten victims of a very dirty war.

THE “OWN-GOAL”, “BOMB-IN-TRANSIT” DISINFORMATION

Extemplo magnas it Fama per urbes
Fama malum qua non aliud uelocius ullum

Vergil’s Aeneid, Liber IV, lines 173–4

Forthwith Rumour races through the great cities . . .
Rumour—nothing is swifter than this evil.

An “investigative bias”,³ a Royal Ulster Constabulary (RUC, the police force at the time) predisposition to believe that the bomb was in-transit to another target, allowed the true perpetrators to go free until one confessed of his own volition many years later. Without substance or evidential substantiation, against witness testimony and an admission from the Loyalist terrorists themselves, this tenuous own-goal theory, in effect, criminalized the innocent victims of the massacre. It inferred that they were guilty by association, if not complicit in acts of terrorism.

From where, though, did such disinformation emanate?

We have proved that the first instance of the lie is found, without evidence, in an RUC Duty Officers’ Brief written a few hours after the atrocity and before all of our loved ones had been identified. It was dated the following day, 5th December 1971, at 8 a.m., less than 12 hours after the atrocity and was able to name only eleven of the fifteen dead. Lodged in the Ministry of Home Affairs, the bomb-in-transit theory, the IRA own-goal, is recorded:

RUC DUTY OFFICERS’ REPORT: ⁴ 8 A.M. 5TH DECEMBER 1971

- At 8.45 p.m. on Saturday, 4th December, 1971, an explosion occurred at McGurk’s Licensed Premises, 83 Great George’s Street.⁵ The charge was estimated at 50 lbs completely demolished the two storey building. Just before the explosion a man entered the licensed premises and left down a suitcase, presumably to be picked up by a known member of the Provisional I.R.A. The bomb was intended for use on other premises. Before the ‘pick-up’ was made the bomb exploded.

This is at odds with the expert testimony of a British Army Ammunition Technical Officer (ATO), who happened upon the scene a few minutes after the explosion, in a secret briefing to the General Officer Commanding, Lt. General Sir Harry Tuzo. It too was dated the following day, 5th December 1971.

³Police Ombudsman of Northern Ireland in his report into the RUC’s investigation, published 21st February 2011

⁴Uncovered by the British Irish Rights Watch in 2009

⁵Sic: the address was 81–83 North Queen Street

BRITISH ARMY: DIRECTOR OF OPERATIONS BRIEF:⁶ 5TH DECEMBER 1971

- A bomb believed to have been planted outside the bar was estimated by the A.T.O. to be 30/50lb of HE

Nevertheless, the baseless lie was issued to the press. Amongst many heinous reports from the days following the attack, two are recorded below.

MEDIA: THE TIMES' JOHN CHARTRES, 5TH DECEMBER 1971

- Police and Army Intelligence Officers believe that an explosion in a Belfast bar last night was caused by an IRA plan that went wrong

[The] Army believe bomb was in transit

MEDIA: NEWSLETTER 6TH DECEMBER 1971

- The RUC is of the opinion that the bomb was brought into the bar earlier in the night and that a Provisional IRA man was to have set it off somewhere in the city later

The RUC last night rejected reports put about by Republican sources that the bomb was left outside the bar by the "UVF"

The Northern Ireland Prime Minister, Brian Faulkner, flew to London to meet with the British Home Secretary, Reginald Maudling on 6th December 1971, in what would have been crunch talks on the security situation. Not only do these secret minutes⁷ show that the RUC had briefed government directly, they also depict how the disinformation wound its way to Whitehall. Indeed, with blatant disregard for political intervention in a police investigation, Mr. Faulkner admits he had asked the RUC to dig-the-dirt on those who were killed or injured.

- Mr Faulkner said that Mr. McGurk, the proprietor of the pub which was blown up at the weekend, had been interviewed by police in hospital and had said that there were no strangers in the bar on the night of the explosion. The army also discovered that the bomb went off on the ground floor. Both point strongly to the likelihood that the bomb was carried by the IRA rather than Protestant extremists. Mr. Faulkner had asked the RUC to find out whether anything was known about the associations of the people who were killed or injured.

Proof again that the RUC had briefed government can be found in the text of a speech made by John Taylor, Minister of State for Home Affairs, in Stormont on the 7th December 1971.

- The premises are at 83 Great George's Street⁸ The plain fact is that the evidence of the forensic experts supports the theory that the explosion took place within the confines of the walls of the building

Mr. Taylor, now Lord Kilclooney, did not, nevertheless, make himself amenable to questioning by the Office of the Police Ombudsman nor the Historical Enquiries Team in their latter day investigations, even though he is supposed to be a public servant. In fact, he has never even apologized to the families for making such hurtful comments whilst in Government.

⁶Uncovered by the author in 2009

⁷Uncovered by the Pat Finucane Centre in 2010

⁸Sic—the same address as in RUC Duty Officers' Report above

Even though the evidence pointed directly to a Loyalist attack on innocent civilians, the own-goal disinformation then found its way into the British Intelligence stream. A Headquarters Northern Ireland Intelligence Summary (HQNI INTSUM) was disseminated throughout the British Army and RUC in Northern Ireland. A Director of Intelligence and his team managed this information stream before directing it towards Whitehall within its wider distribution list. By his own admission⁹ to Lord Saville's Inquiry into Bloody Sunday, the Director of Intelligence was an MI5 operative who led a department of other Security Service agents and Military Intelligence Officers.

BRITISH ARMY/MI5: HEADQUARTERS NORTHERN IRELAND
INTELLIGENCE SUMMARY (HQNI INTSUM):¹⁰ 9TH DECEMBER 1971

- Forensic and EOD¹¹ reports tend to indicate that the explosion was caused accidentally inside the public house by premature detonation amongst a group which contained an identified IRA victim. The British Ministry of Defence (MoD) then encouraged the Minister of State for Defence to publicize this lie in the British Parliament:

BRITISH MOD: CURRENT SITUATION REPORT,¹² 14TH DECEMBER 1971

- The forensic evidence now available shows quite clearly that five of the victims were killed by blast—indicating that the explosion must have been inside the bar and raising the very strong presumption that it was caused by the accidental detonation of a bomb being carried by one of the customers—as has seemed likely all along. The Minister of State for Defence is being invited to consider whether to make this point public in a written answer. In the view of Headquarters Northern Ireland it is important to put this point on record, in order to discourage continuing speculation about who was responsible for the explosion.

Once more, this disinformation was drip-fed through the Intelligence system, this time within Brigade Intelligence Summaries. “Confirmation” was given that it was indeed a bomb-in-transit. Again, the innocent victims were criminalized without any evidentiary fact whatsoever. Who were the authorities trying to blame? Young Maria McGurk (14 years of age) who had just returned home from confession? Old Philip Garry (73 years of age) who was enjoying a quiet drink? My grandmother, Kitty? The lies were insidious and smeared all of the victims:

BRITISH ARMY (WITH RUC SUPPLEMENTARY INTELLIGENCE REDACTED):
BRIGADE INTELLIGENCE SUMMARIES:¹³ 8TH—15TH DECEMBER 1971

- Following the McGurk's Bar incident, it has been confirmed that it was a bomb that was destined for another target, but exploded prematurely

⁹The witness statement of the Director of Intelligence (“David”) to the Saville Inquiry, dated 17th February 2000

¹⁰Uncovered by the author in 2010

¹¹Explosive Ordnance Disposal

¹²Uncovered by the Pat Finucane Centre

¹³Uncovered by the author in 2010

The intransigence of the authorities is best exemplified in their withholding of archive evidence which has recently proved critical to our campaign. Research in the Public Records Office Northern Ireland (PRONI) allowed the author to target documents recording the minutes of a Joint security Committee meeting held on the 16th December 1971. The archives had never been accessed before and had to be collated and numbered before being made public. Nevertheless, before I was allowed access to them, a National Security bar (Section 24) under the Freedom of Information Act was placed on them. Thankfully, due to the humanity and industry of the staff, I was alerted to the fact that a particular document included information that was vital to our research. As I was disallowed from accessing the information, I had to direct the Police Ombudsman to the archive which he himself admitted was “critical”¹⁴ evidence for his investigation. It proved beyond doubt that the RUC had briefed the Northern Ireland Government that the McGurk’s Bar Massacre was the result of an IRA own-goal. Indeed, as is recorded in the Police Ombudsman’s report, a Chief Constable, the commander of the whole RUC police force, and his head of Special Branch told the Northern Ireland Prime Minister, Brian Faulkner, the Minister of State for Home Affairs, John Taylor, and the General Officer Commanding of the British Army in the North, Lt. General Sir Harry Tuzo, that two of the dead were terrorists:

RUC SPECIAL BRANCH REPORT TO CABINET AND BRITISH ARMY: JOINT SECURITY COMMITTEE MINUTES, 16TH DECEMBER 1971

- Circumstantial evidence indicates that this was a premature detonation and two of those killed were known IRA members, at least one of whom had been associated with bombing activities. Intelligence indicates that the bomb was destined for use elsewhere in the city

Below is how the disinformation was managed by the local British Army regiment in the run-up to Christmas. Foot patrols posted a propaganda leaflet in through the letterboxes of houses in the vicinity of the atrocity, including the homes of many of the victims.

BRITISH ARMY PROPAGANDA LEAFLET¹⁵ DROP FROM THE COMMANDING OFFICER OF 2ND BATTALION ROYAL REGIMENT FUSILIERS, LT. COL. JEREMY REILLY, 23RD DECEMBER 1971

- We can look forward To a period in which you will not lose your friends in a repetition of the ‘Provos’ accident in the McGurk’s Bar Again, the lie found its way into the national press:

MEDIA: THE GUARDIAN, 24TH DECEMBER 1971

- The security men are now convinced that the bar was a transfer point in the IRA chain between the makers and the planters of the bomb

By the time that MO4, the department of the MoD responsible for military operations in Northern Ireland, had written its report for

¹⁴ Interview with the Police Ombudsman, BBC Spotlight, aired on 8th March 2011

¹⁵ Made available to the author by local historian, Joe Baker, and accessible on our campaign website

the month of December 1971, the branch was “fairly certain” that the atrocity was the result of an IRA own-goal:

BRITISH ARMY: MO4 MONTHLY REPORT¹⁶ FOR DECEMBER 1971, DATED
10TH JANUARY 1972

• On 4 December McGurk’s Bar in the Glenravel area was destroyed by an explosion in which 15 people died and 13 were injured . . . IRA propoganda tried to blame the SAS and Empire Loyalists. It is fairly certain that the bomb was being handed over by the “makers” to the “planters”.

This is how an unsubstantiated RUC Duty Officers’ Report was fed into the intelligence stream, the media and the public consciousness at a time when we were burying and mourning the loss of our loved ones. This is how their good name and their innocence were despoiled.

Against such a backdrop, including the conclusive briefing of the Chief Constable and the head of Special Branch to Government and the General Officer Commanding, can we imagine there was no “investigative bias”? The present Chief Constable of the reformed Police Service of Northern Ireland (PSNI) believes there was no such police predisposition to believe the falsehood that the bomb was an own-goal even though the full weight of evidence indicated that it was a Loyalist terrorist attack on innocent civilians. After campaigning constitutionally and with great dignity for nearly four decades, we should have celebrated the vindication of our loved ones with the publication of the Police Ombudsman’s report. Nevertheless, with its release, Chief Constable Matt Baggott disputed the central finding of the statutory body set up to investigate police complaints. Yet again, the massacre of our loved ones was politicized by a Chief Constable at a time when our communities should have faith in a reformed police force’s ability to recognize and learn from the failings of the past.

This is why in Northern Ireland justice in individual cases matters. It is not simply about closure for fellow human beings. This is about historical and moral rectitude. History informs the present and from it we learn our mores as a society. That is why I ask you to use whatever influence you may have to ensure that Britain, your NATO partner, releases all the information it has kept from us regarding the massacre of our loved ones in McGurk’s Bar on 4th December 1971. Otherwise, the present authorities may prove that they are condemned to repeat the mistakes of the past.
Ciarán MacAirt, grandson of John and Kitty Irvine—12th March 2011

¹⁶Uncovered by the author in 2011

JANE WINTER, DIRECTOR, BRITISH IRISH RIGHTS WATCH

INTRODUCTION

British Irish RIGHTS WATCH (BIRW) is an independent non-governmental organisation that has been monitoring the human rights dimension of the conflict, and the peace process, in Northern Ireland since 1990. Our vision is of a Northern Ireland in which respect for human rights is integral to all its institutions and experienced by all who live there. Our mission is to secure respect for human rights in Northern Ireland and to disseminate the human rights lessons learned from the Northern Ireland conflict in order to promote peace, reconciliation and the prevention of conflict. BIRW's services are available, free of charge, to anyone whose human rights have been violated because of the conflict, regardless of religious, political or community affiliations. BIRW take no position on the eventual constitutional outcome of the conflict. In 2007 BIRW won the Beacon Award for Northern Ireland. In 2008 we were awarded the Irish World Damien Gaffney Award, and in 2009 we became the first-ever recipients of the new Parliamentary Assembly of the Council of Europe's Human Rights Prize.

We make this submission on our own behalf and that of our sister organisation, the Committee on the Administration of Justice (CAJ). CAJ was established in 1981 and is an independent non-governmental organisation affiliated to the International Federation of Human Rights. CAJ takes no position on the constitutional status of Northern Ireland and is firmly opposed to the use of violence for political ends. Its membership is drawn from across the community. CAJ seeks to ensure the highest standards in the administration of justice in Northern Ireland by ensuring that the Government complies with its responsibilities in international human rights law. In 1992 CAJ won the Reebok Human Rights Award, and in 1998 they were awarded the Council of Europe Human Rights Prize.

We are grateful to this honourable Commission for allowing us to submit written evidence to its hearing on "Northern Ireland: Why Justice in Individual Cases Matters".

WHY DEALING WITH THE PAST MATTERS IN INDIVIDUAL CASES IN
NORTHERN IRELAND

The conflict in Northern Ireland, which began in 1969 and officially ended with the Belfast/Good Friday Agreement of 1998, is still creating after shocks as Northern Ireland makes the painful transition from conflict to peace. The past is not a foreign country for Northern Ireland. It cannot be ignored and continues to shape the present and to determine the future. One of the reasons for this is that, although there have been many victims on all sides of the community, many people do not know why their loved one died or they themselves were injured. Many lies have been told, particularly about state collusion in killings. There is a great thirst for the truth, particularly as people begin to emerge from the shadow of the conflict and feel confident enough to ask questions about what happened and why no-one has been held accountable in so many cases.

While there are some in Northern Ireland who believe that a line can be drawn under the past and that people should just move on, no-one who has studied the issue—especially the Consultative Group on the Past,¹ set up by the government specifically to examine how Northern Ireland should deal with the past—believes that the past can be swept under the carpet. To do so would be to fail to learn the lessons from the past and to fail to build institutions and create a culture in which any repetition of past violence would become impossible.

There have been many genuine attempts to reform Northern Ireland's institutions since 1998, but while outstanding cases remain unresolved then there is a danger that those reforms will be undermined.

We have heard today about four of those cases, which span four decades and both sides of the sectarian divide.

The relatives of the eleven victims killed by the British army in Ballymurphy in August 1971 have not to this day received the effective investigation they are campaigning for and deserve. BIRW has investigated two of those killings and is certain that those two victims were wholly innocent and unprovoked, and we are sure that the same will be found in the other 13 cases.

The families of the fifteen victims who died in the McGurk's Bar bombing in December 1971 were branded as IRA sympathisers harbouring a bomb which exploded prematurely, when in fact they were the victims of loyalist violence. In the face of clear evidence that the rumour that the bomb was an IRA "own goal" originated in the RUC, the Police Ombudsman for Northern Ireland was forced to withdraw an earlier report exonerating the RUC, and he has now found that there was investigative bias in the police investigation into the bombing. Astonishingly, almost 40 years later, the Chief Constable of the reformed Police Service of Northern Ireland, seems to be unable to accept that finding.

John Finucane and his family have been campaigning for 22 years for an independent inquiry into the murder in 1989 of Belfast lawyer Patrick Finucane. Despite compelling evidence that the police, the army, and the intelligence service were all implicated in his murder by loyalists, an inquiry has yet to be held.

Raymond McCord has fought an almost-single handed campaign to uncover the truth about the murder of his son, Raymond McCord Jnr, in 1997, which has resulted in the unmasking of wholesale collusion over many years between RUC Special Branch and the loyalist group the Ulster Volunteer Force. A report by the former Police Ombudsman has led to the largest police investigation ever known in Northern Ireland. However, the PSNI are now in charge of this investigation again, and that means that they will not be investigating the issue of collusion, which would have to be considered by the Police Ombudsman. However, if the police are not looking for collusion, who will find it?

These are four landmark cases, all of which are crying out for justice, but they are four among many. What emerges very clearly from consideration of just four cases is that Northern Ireland is still experiencing great difficulty in dealing with its past, and that

¹Report of the Consultative Group on the Past, Belfast, 2009

the past must be addressed if Northern Ireland is to be able to shake off the shackles of the conflict and move into a safe and secure future.

EXISTING MECHANISMS FOR DEALING WITH THE PAST

There are currently four mechanisms for dealing with the past in Northern Ireland: the Historical Enquiries Team, the Police Ombudsman for Northern Ireland, inquests, and public inquiries. Each operate under different rules and have their limitations.

THE HISTORICAL ENQUIRIES TEAM (HET)

The HET was created by the then Chief Constable of the Police Service of Northern Ireland (PSNI), Sir Hugh Orde, in September 2005 and officially commenced work in January 2006. Its purpose is to re-examine every conflict related death from 1968 to 1998 (when the Good Friday peace accord was signed). The HET contains both seconded officers from England and former PSNI and RUC officers, all of whom are retired; the unit reports directly to the Chief Constable. The approach taken was to examine each case in chronological order. However, where cases were linked, or on humanitarian grounds such as the ill-health of the next-of-kin, cases could be taken out of sequence.

The HET is examining a total of 2,557 deaths, involving 3,257 victims. It is currently less than half way through its task, with 1,031 cases investigated and 1,526 yet to be investigated. Seventy two people have been arrested² on foot of HET investigations in 8 cases.³ Some people in Northern Ireland, have refused to engage with the HET due to the perceived lack of independence of the unit since it reports to the Chief Constable, and concerns about the police investigating the police. A fairly recent but worrying development has been that, if the HET turns up any new evidential opportunities, the case is handed back to the C2 (Serious and Organised Crimes) division of the PSNI for investigation. This change has further undermined confidence in the HET's independence. Another concern has been the use of the Serious Organised Crime and Police Act 2005, which is being heavily relied upon in Operation Stafford (Raymond McCord's case). Under that Act a system has been devised to legalise and sanitise the use of "supergrasses" to give evidence against multiple defendants. The use of supergrasses in the past in Northern Ireland led to the collapse of many trials and brought the courts into disrepute.

The HET has come under criticism for a number of reasons. The HET's officers often misunderstand the Northern Ireland context or fail to communicate appropriately with families. Research by the University of Ulster highlighted the "gate-keeping" of intelligence by former RUC officers which led to concerns that the truth was being inhibited. The time taken to carry out investigations is often much longer than anticipated, leading to disappointment and disengagement from families. This has also been our experience in the cases and families we have supported. Finally, the HET has faced

² 65 of these arrests related to Operation Stafford (Raymond McCord's case)

³ Statistics as at 8th March 2011, supplied by the HET. A further 50 cases are nearing completion

patchy and uncertain funding which has required re-structuring, staffing cuts and uncertainty about the future. We also do not consider the HET to be human rights compliant due to its lack of independence. However it is at present the only real opportunity for families to discover what happened to their loved one.

THE POLICE OMBUDSMAN

The Office of the Police Ombudsman (PONI) was created by the Police (Northern Ireland) Act 1998. The Police Ombudsman is accountable to the Northern Ireland Assembly, through the Minister for Justice. PONI was established to provide an independent and impartial complaints service open to all in Northern Ireland seeking to complain about the Police Service of Northern Ireland (PSNI) and its predecessor the Royal Ulster Constabulary (RUC). This mechanism has been used by families who lost loved ones in the conflict to investigate their deaths as the PONI can look at both contemporary and historical complaints. Unfortunately, the PONI can only examine the aspects of the death insofar as they relate to the conduct of police officers. However, considering the nature of the conflict, issues such as whether the police were aware of a threat against an individual, the use of informers by police and the paucity of police investigations often mean that families find out a great deal about a death.

There have been two particularly significant investigations by the PONI. The first was into allegations into the 1998 Omagh bomb⁴ and the second into the role of a police informant who was involved in over ten murders and numerous other criminal acts.⁵ Although both these cases were controversial the PONI was seen, for the most part, to be acting in an impartial and independent manner over contentious issues.

Recently, PONI has created some confusion by dealing inconsistently with the definition of collusion. In his report into the IRA bombings of Claudy in 1972,⁶ he adopted a definition which was previously employed by Judge Cory⁷ and by Lord Stevens,⁸ and which have commanded wide acceptance. However, in his report into the McGurk's bar bombing⁹ he adopted a narrower definition, creating the unfortunate impression that there is one definition of collusion for IRA victims and another for victims of the UVF.

The PONI has been criticised for the length of time its investigations take to be completed, its failure to communicate with families and the diversion of resources away from historical cases. The PONI has highlighted the strain these historical cases place on the office and cuts in PONI's budget do not suggest that this situation will improve. The current Police Ombudsman, Al Hutchinson, has

⁴Police Ombudsman Public Statement on Matters arising from the Omagh bombing Police Ombudsman for Northern Ireland, 2001

⁵Statement by the Police Ombudsman for Northern Ireland on her investigation into the circumstances surrounding the death of Raymond McCord Junior and related matters, January 2007

⁶Public statement by the Police Ombudsman under Section 62 of the Police (Northern Ireland) Act 1998, Relating to the RUC investigation of the alleged involvement of the late Father James Chesney in the bombing of Claudy on 31 July 1972, PONI, August 2010

⁷Whose inquiries led to the setting up of the Wright, Hamill and Nelson Inquiries

⁸Who conducted investigations into collusion in Northern Ireland and into the Finucane case

⁹Public statement by the Police Ombudsman under Section 62 of the Police (Northern Ireland) Act 1998, Relating to the complaint by the relatives of the victims of the bombing of McGurk's Bar, Belfast, on 4 December, 1971, PONI, February 2011

said that he can only afford to investigate two historical cases a year. With a caseload of over 70 such cases, this will take decades.

INQUESTS

An inquest is quite unlike other civil or criminal proceedings; it is not a trial. The Coroner cannot determine criminal or civil liability or apportion guilt or blame. He or she can only determine the identity of the deceased and how, when, where, and in what circumstances he or she died. In many cases, these are matters already known to the family of their loved one, but sometimes significant new information can emerge at an inquest, despite its limited remit. For many years the term “in what circumstances” was interpreted as meaning literally “by what means” a person died (for example, from gunshot wounds). Following successful legal challenges, the term is now interpreted as meaning “in what broad circumstances”. Technically, the broader definition only applies to deaths that occurred after the Human Rights Act 1998 came into force in October 2000, but in practice Northern Ireland coroners are tending to apply the wider definition to historical cases as well.

Coroners themselves decide who will be called to give evidence as witnesses and they examine the witnesses themselves, although “properly interested people” or their legal representatives are also permitted to put questions to witnesses within the limited scope of the inquest’s remit described above. Persons with a “proper interest” include: relatives of the deceased; solicitors acting for the next of kin; anyone who may, in some way, be responsible for the death; others at some special risk or appearing to the Coroner to have a proper interest.

Coroners usually sit with a jury in contentious cases, but they are not permitted to come to verdicts, they can only make findings about who the deceased was and how, when, where and in what circumstances they met their death.

Legal aid¹⁰ is not normally available for inquests, although the Attorney General for Northern Ireland has discretion to make such financial assistance available in exceptional cases. The lack of legal aid means that families often find themselves without any legal representation, while all other parties have lawyers. Human rights groups argue that, if inquests are to stand any chance of gaining public confidence, “interested parties” must be able to take part in an informed and open way on an equal footing with everyone else. Obviously, this can only be achieved if all potentially relevant material is fully disclosed. While these rights are not guaranteed in law, Coroners now generally agree that effective participation by families requires wide disclosure.

Nevertheless, past experience shows that material may be redacted, particularly if it may later be the subject of a Public Interest Immunity (PII) certificate. Such a certificate is made on the application of an interested person (usually the police) by the Secretary of State for Northern Ireland. The application is heard by a court, and, if granted, it permits the applicant not to disclose evidence where this is considered contrary to the public interest. Such certificates reduce transparency and create the suspicion that the

¹⁰ Financial assistance paid for by the state

interests of the state, rather than those of the public, are being protected. We believe that PII certificates can seriously undermine the ability of inquests to make meaningful enquiries.

It is clearly important that all witnesses with any significant evidence should appear at inquests. While there have been some welcome changes in compelling such witnesses to appear, they may still refuse to answer questions, even if they directly relate to the circumstances surrounding the death, on the ground that they have the right to remain silent. Witnesses are also allowed to refuse to answer questions if, by doing so, they would incriminate themselves.

Many inquests, however, have been opened and left uncompleted. Some inquests into conflict-related deaths have yet to be resolved many years after the death occurred, and have led to lengthy legal proceedings, including judicial reviews, and referrals to the Supreme Court¹¹ and the European Court of Human Rights. In some cases, an inquest is never held. For example, there has never been an inquest in Rosemary Nelson's case.

Recently, the Attorney General has exercised a discretion that allows him to order a new inquest, even if there was already one completed, although there must be new evidence before he will consider doing this.

Inquests are no panacea for anyone seeking the truth about the death of a loved one. They may leave families with even more questions and so fail to address their trauma and distress, but at their best they do provide a forum for establishing the facts.

INQUIRIES

There are many cases in Northern Ireland that deserve an inquiry, but very few people are fortunate enough to get one, and the UK's coalition government has sent very strong signals that there will be no more lengthy and costly inquiries.

It should be borne in mind that Inquiries are a remedy of last resort—they only happen when the system has failed. This inevitably circumscribes what an inquiry can achieve by way of a remedy.

It is often said that inquiries are inquisitorial, rather than adopting the adversarial approach of a court. However, in reality, they all start from the same premise, which is that something has gone badly wrong that needs examination. Any person or institution who is likely to be responsible for things having gone wrong is entitled to be represented and to defend themselves, which in practice means that they will seek to blame someone else and/or will attack anyone who criticises them, which immediately creates an adversarial atmosphere. Although victims may be represented by more than one lawyer, generally speaking they have only one voice, which can easily get drowned out by all the other interested parties.

The lesson from the four recent inquiries in Northern Ireland (Bloody Sunday, Billy Wright, Rosemary Nelson and Robert Hamill) is that no two inquiries are the same.

¹¹ Formerly the House of Lords

So far, the two inquiries that have reported have been disappointing. The Bloody Sunday Inquiry exonerated the victims, which elicited a public and handsome apology from the Prime Minister, David Cameron, but failed to call the senior army officers or the politicians to account. The Billy Wright Inquiry narrowed the definition of collusion and then found that there had been none, despite finding no less than fifteen acts or omissions on the part of civil servants which facilitated or assisted the murder. At least the Billy Wright Inquiry made a positive recommendation, which is that there should be a complete overhaul of the Northern Ireland prison service. The Bloody Sunday Inquiry made no recommendations at all!

CAJ and BIRW have had a joint observation project at the Hamill, Nelson and Wright Inquiries. What that has taught us is how idiosyncratic inquiries are; there is no read-across or learning from one another. The Billy Wright Inquiry has been the least transparent and the least aware that one of the key functions of an inquiry is to allay public fears and suspicions. The Rosemary Nelson Inquiry adopted an unusual procedure of channelling all questions to witnesses through Counsel to the Inquiry, who played “good cop, bad cop” throughout. This approach was most disconcerting for witnesses and far from transparent. The Robert Hamill Inquiry was the most transparent and granted “observer status” to CAJ and BIRW, who were invited to make closing submissions to the Inquiry even though we were not a party to the Inquiry.

All three inquiries were different from each other, and different again from the Bloody Sunday Inquiry. The reason for this is that the person who has most influence over an inquiry is the person appointed to be Counsel to the Inquiry, and he (none of them was a woman) makes numerous macro and micro decisions which affect the conduct of the inquiry. The Chair also stamps his (there were no female chairs, either) personality on an inquiry, and can influence its direction by interpreting the terms of reference widely or narrowly.

We are still waiting for the reports in the Nelson and Hamill Inquiries, but we are not altogether optimistic that they are going to satisfy all the families’ or the NGOs’ concerns. The Robert Hamill Inquiry did not seem receptive to our joint closing submissions, which emphasised those elements of the case which suggested collusion. The Rosemary Nelson Inquiry has said that it will not be looking at whether RUC officers threatened her before her death because there is so much conflicting evidence on the issue.

The Hamill and Wright Inquiries converted from the Police and Prison Acts to the Inquiries Act 2005. Their principle reason for doing so was that the Inquiries Act gave them greater powers to compel disclosure and the attendance of witnesses. BIRW and CAJ are opposed to the Inquiries Act because it removes powers from an independent Chair and gives them to the relevant Secretary of State. Where that Secretary of State or his or her department is a party to the inquiry, the independence of the inquiry can be seriously damaged, because the Secretary of State has the power to decide, among other things, what evidence is disclosed and whether hearings are held in public, and even has the power to shut an in-

quiry down altogether. In practice, these issues did not arise in the Hamill and Wright inquiries, but they would certainly create enormous problems in any inquiry into, for example, Pat Finucane's murder

Ultimately inquiries are only as good as their reports. So far, the evidence suggests that, judged by their reports, inquiries are hit-and-miss affairs. One of the problems with inquiries is that they only happen after everything that can go wrong has gone wrong, so it is a huge task to put things right at that stage.

It has long been our view that what is required is a human rights-compliant mechanism which can establish the facts, hold those responsible to account, and protect the valid public interest, as opposed to politicians' interest, in covering up incompetence and wrong-doing.

THE GOVERNMENT'S STANCE ON DEALING WITH THE PAST

In 2007 the government established the Consultative Group on the Past. They were inundated with submissions and requests for meetings; there was clearly an appetite on all sides of the community for scrutinising Northern Ireland's painful past, coming to terms with it, and moving on. The Group produced a thoughtful and thought-provoking report in 2009.¹² They rejected the notion that there can be a hierarchy of victimhood (that some victims are more deserving of sympathy than others), pointing out that it is survivors who deserve our equal support, because the loss of a loved one is equally painful whatever the circumstances. In that spirit, they recommended a one-off recognition payment of £12,000 to the family of everyone who had lost someone in the conflict. This recommendation sparked immediate controversy on all sides of the community. Many confused the proposal with compensation, and regarded the amount of £12,000 as derisory. Others could not equate the suffering of the widow of, for example, a soldier with that of the widow of a paramilitary killed by the army. Others still welcomed the payment, seeing it as being of practical benefit in, for instance, sending a child to university. Many, including the NGOs, wondered why the payment was limited to the families of those who had died, and did not include the wounded, many of whom have long-term unmet needs.

So controversial was the recognition payment idea that unionist political parties rejected the rest of the report, thus doing their constituents a great disservice by throwing the baby out with the bathwater. We know from our contact with members of the Protestant/unionist/loyalist community that, whatever their opinion of the recognition payment proposal, many of them would like to see some mechanism for dealing with the past, as would their Catholic/nationalist/republican counterparts (many of whom also rejected the recognition payment idea).

Chief among the Group's recommendations was a Legacy Commission, which would seek to ascertain the truth about every death brought about by the conflict and to help to achieve reconciliation. We do not agree with all the details of these proposals, but it was

¹²Report of the Consultative Group on the Past, 2009

an idea that could and should be developed into something workable and human rights compliant

The previous government allowed the recommendations of the Consultative Group on the Past to run into the sand, simply publishing a compilation of responses to its tardy consultation on the Group's report. The present coalition government has failed to take up the reins, merely promising a further round of consultations with those who have already voiced their views.

The present Secretary of State for Northern Ireland has made some rather strange proposals for dealing with the past. For example, he has suggested that "historians rather than lawyers" should deal with the past, and that a Historical Memory Documentary Centre such as that established in Salamanca, Spain, in the post-Franco era, might be a way forward.¹³ Similarly, he has suggested that the HET's files could be consigned to an archive like that compiled on the Stasi in Germany.¹⁴ Not only are these comparisons with the aftermath of totalitarian states rather surprising coming from a minister in the UK government, but they clearly indicate that he regards the past as something that is over and can be filed away, which is far from being the case.

CONCLUSION

As the four cases considered today so graphically and tragically illustrate, the past remains very much part of the present in Northern Ireland today. Unless an effective, human rights-compliant mechanism is found for dealing with all the unresolved individual cases arising from the conflict, that conflict will continue to cast its long shadow across Northern Ireland's future and make it more difficult to achieve the peace and stability that Northern Ireland so badly needs and so greatly wants.

We respectfully request this honourable Commission to seek an assurance from the UK government that it will establish such a mechanism without further delay and in consultation with victims, human rights experts and others.

We thank this honourable Commission for your interest in Northern Ireland; long may it continue.

¹³Historians may be best at dealing with Troubles: Owen Paterson, Belfast Telegraph, 17 November 2010

¹⁴Northern Ireland cold case files "could form Stasi-like archive", Belfast Telegraph, 14 February 2011

WRITTEN MATERIAL SUBMITTED FOR THE RECORD BY RAYMOND McCORD, SR., FATHER OF RAYMOND McCORD, JR., MURDERED BY LOYALIST PARAMILITARIES

My son Raymond Christopher McCord aged 22 years was brutally murdered on 9th November 1997. (See Timeline, Appendix 1). The killers were members of a Protestant paramilitary group, the Ulster Volunteer Force (UVF).

Mark Haddock, a senior UVF man gave the order for Raymond Junior's murder. Haddock was the leader of Mount Vernon UVF and was later to be exposed as a long-time police Special Branch informant, who had been paid at least £80,000 (\$120,000) while involved in up to 20 murders.

This killer was part of the British Security Force's intelligence services for at least 12 years. During that time, we are asked to believe his police handlers did not know that he was involved in many murders. Nuala O'Loan, the then Police Ombudsman for Northern Ireland, in her report of the police "investigation" into my son's murder revealed that Haddock:

1. Was a senior member of the UVF in North Belfast;
2. Progressed through the ranks of the UVF while committing murders
3. Was never a registered CID informant (CID is the Criminal Investigation Department);
4. Was recruited through his "long standing friendship" with a police officer;
5. Provided intelligence to Detective Constable McIlwrath and Detective Sergeant Brown, prior to his formal registration as an informant;
6. Became an informant in 1991 for Special Branch;
7. Was the subject in excess of 500 pieces of intelligence provided by others over 12 years;
8. Was allegedly, involved in 10 individual murders;
9. Was allegedly, involved in the attempted murder of 10 individuals;
10. Was allegedly, involved in other serious crime including:
 - a. targeting an individual for murder in 1994;
 - b. a bomb attack in Monaghan (Republic of Ireland) in 1997;
 - c. punishment attacks, drug dealings and attempting to pervert the course of justice; and directing terrorism
11. Was never given participating "informant status" by the Royal Ulster Constabulary (RUC) / Police Service of Northern Ireland (PSNI).

This is a very small part of the report but it gives an indication of how Haddock behaved and also how the Special Branch gave him a license to kill or whatever he felt like doing.

Nor was Haddock the only senior UVF man working for the Security Forces of Great Britain: the Supreme Commander, John "Bunter" Graham has been an agent of the State for years. He is the man who controls, and has run, the UVF for years. This is the man who has ordered the murder of many many victims, both Protestant and Catholic. He is the boss of all the bosses in the UVF.

The list goes on. Many of the leading UVF men were in fact Special Branch informants, who were also involved in murders, drug

dealing, beatings and extortions. How many innocent lives have been sacrificed so as not to expose these informers? Civilians, policemen, and soldiers: all sacrificed for what the Special Branch called “the bigger picture”. These officers and their superiors were in collusion with all the paramilitary groups. Police are supposed to protect life and serve the people. In Northern Ireland we had policemen who did the opposite! What government or police force would take no action on officers, up to the rank of Assistant Chief Constable, who refuse to cooperate in investigations into murders, attempted murders, drug dealing, extortion, etc?

Police officers made statements to Nuala O’Loan’s office revealing that during interviews with Mark Haddock, they were to make sure that he didn’t admit to murder or other serious crimes. In addition, there are instances where they were told not to take notes and to “baby sit” him through interviews.

Recently Haddock was charged with the murder of Mr. English. Yet, after the murder in 2000, Haddock was found to have in his possession the address and car registration of Mr. English. He was charged with having information likely to be of use to terrorists. But Haddock’s senior handler, Detective Sergeant Phil Scott, prepared a confidential document that was forwarded to the Director of Public Prosecution. This provided a favorable account of Haddock’s history as an informant and stated, “The recent arrest was due to unavoidable and unfortunate circumstances which were not under his control. There were no sinister motives behind the possession of the vehicle registration number. I am of the opinion that the informant will be of great value in the future, and that he is aware that it was unavoidable circumstances which have resulted in his present circumstances.” Detective Sergeant Scott does not mention that Haddock had been arrested because he was a suspect in the murder of Mr Tommy English. He fails to state that Haddock was the prime organiser and mover in the murder.

The O’Loan Report shockingly reveals that Detective Sergeant Scott admitted, handing over a bomb to Haddock that was used in Monaghan to attack Sinn Fein offices. How often this happened—only Special Branch knows! They even increased Haddock’s wages from £100 a month to £160, weeks after his first murder of Sharon McKenna: a murder to which he admitted to his handlers. A pay-raise of 60% for committing a murder! On top of that, his handlers gave Haddock money to go on holiday shortly after the murder, until the “heat died down”.

In the case of my own son Raymond’s murder, the RUC received information relating to who ordered it (i.e. Haddock), yet waited 14 weeks before they questioned Haddock. Two days after the murder, Willie Young, who had been out on a weekend parole, was named as one of the killers by an informant. Yet police did not interview him until another 8 days (19th November 1997) even though he had returned to prison and was easily accessible. Two days previously, the police went to the Maze Prison to question him and according to the police they were refused by the Prison authorities to interview Young—an allegation that the Prison Service denies. Who made the decision that Young was not to be questioned? These questions must be asked:

1. Why did the RUC wait 8 days after receiving this information before they interviewed Young?

2. Why did they wait 14 weeks before they interviewed Haddock?

3. Also, why did they spend only one day questioning Haddock, bearing in mind that they had received more information that Haddock had ordered the murder; and that Willie Young, John Bond and Stephen Logue had carried it out?

In 1998 RUC Chief Constable, Ronnie Flanagan, met with my MP (Member of Parliament) Nigel Dodds and me. Flanagan stated, "Murderers do not work for the RUC". However, we have seen and heard through Nuala O'Loan's office that Haddock is suspected of a number of murders. It is irrelevant whether or not Haddock carried out the murders himself because he was the boss of the unit carrying them out. Moreover, the police kept him as an agent for 12 years. Let us not forget that he admitted to his handlers, the murder of Sharon McKenna and wasn't charged.

Did Ronnie Flanagan, as a former head of Special Branch and at that time the Chief Constable, not know that Haddock was an informer, a senior UVF man, a terrorist, a killer, a drug dealer and someone on whom other informants were providing information in regard to his crimes? Informants provided Five hundred pieces of information alone on him. Did he not know that Haddock was a major suspect in many murders? Why did he continue to allow Special Branch to keep him on as a paid Special branch informer? How many more "Mark Haddocks" were there working for the police? How can Ronnie Flanagan wash his hands of all this and pretend he did not know? In 2000 I sent a letter on my son's case to the Stevens team (the British Government team appointed to investigate collusion between the security forces and Protestant paramilitaries). They explained they could not deal with it under the terms of reference of their brief. So they passed the letter on, hand-delivered it to the RUC—giving it personally to Ronnie Flanagan's "Command Secretariat".

Flanagan denied ever receiving the letter. However, nine years later the Stevens Team gave me a copy of the letter of receipt, which Chief Superintendent Sillery had signed, thereby proving they had received my letter. On the signed receipt it states the letter would be given to Assistant Chief Constable White, who was in charge of the Special Branch, for "appropriate action". No action was taken. And no reason has ever been given except Sir Ronnie stating that he was not aware of the letter. I have made an official complaint to the Police Ombudsman regarding Ronnie Flanagan, but again he has refused to cooperate and 2 years down the line he will not make himself available for interview.

As a result of The O'Loan Report, Operation Ballast, the British Government has made changes to the way that informants are handled. But they have yet to publicly admit collusion. I believe one of the most important aspects of this case is for the British Government to hold up their hands, come clean, and tell the truth. They did collude with terrorist organizations and should now apologize and compensate the victim's families. They are no different than Muammar Gaddafi's government blowing up a jet with nearly 300 people on it. Gaddafi's was one revolting act of terrorism: the

terrorists in NI committed thousands of acts of terrorism—many committed by police agents.

For almost 13 years, I have fought to get justice for Raymond Jr. I have been falsely arrested, hounded and intimidated by certain sections of the RUC/PSNI. I must add, not all policemen were bad. The UVF has made many attempts to kill me including a planned car bomb attack. All because I was telling the truth about what had happened to Raymond Jr; who had carried it out; who ordered it; and the Special Branch connection to it all. I live under the threat of death every day.

My son's headstone was smashed on 3 occasions, and even though I gave the names of the UVF men who had caused the damage to the police, no one was ever arrested or questioned. Yet, when UVF men or their friends made a complaint about me, the police did not hesitate to arrest me. In fact, on one occasion when Raymond's headstone was smashed, the RUC/PSNI arrested me for no reason and locked me up in a cell after I made a complaint. On another occasion I was in a graveyard, and a special unit of the PSNI arrested me and locked me up from Monday to Wednesday in an interrogation center. No charges were brought against me. I believe that they were using scare tactics and wanted to shut me up: but they didn't work. Sir Ronnie Flanagan was Chief Constable at that time. I've had to live behind bulletproof windows and move home several times due to threats on my life. Until recently, when Haddock and his mob were arrested and charged with murder and other serious crimes, the PSNI were regular visitors to my home to warn me that the UVF were planning another attempt to kill me.

A new police unit, known as the "Historical Enquiry Team" (HET), has been set up with no intervention allowed by the Special Branch; and, hopefully, now people will have a chance of justice. The HET have accomplished more in the past 18 months against Haddock's old mob than the RUC/PSNI did over many years. They have demonstrated that progress can be achieved. About 14 UVF men have been charged with murder, attempted murder and membership in the UVF.

Nuala O'Loan's report vindicated me and my allegations. Still Unionist politicians like Jeffrey Donaldson, Ian Paisley Jr and Lord McGuinness dismissed the Report as lacking in proof. My son brutally murdered and not one unionist politician sent a sympathy card or attended the funeral. Had the IRA murdered Raymond these same politicians would have been lining up to carry his coffin. However, people like Gerry Adams, Mark Durkan, Lady Silvia Herman, Bernie Ahern and Pat Rabbite TD have given me their support. I am deeply grateful for the absolutely essential reporting of the Sunday World and in particular to John Cassidy, Richard Sullivan and Jim McDowell in not allowing Raymond's case and the scandal of collusion to be covered up.

There are many decent people such as Nuala O'Loan; Geraldine Finnucane; Jane Winters; Lord Stevens; Dave Cox, (HET Commander); Paul McIlwaine; and Catherine McCartney, to name but a few, who can clearly see the hidden hand of the State in the sordid business we call collusion. I hope the Committee recognizes the

efforts of Father Sean McManus, and the help that he has given to me in Raymond Junior's case.

When I was on Capitol Hill in May, the Northern Ireland Bureau in Washington arranged for me to visit the British Embassy to speak with Nic Hailey, the spokesman for justice and policing in Northern Ireland.

Mr. Hailey never answered one question, never offered any explanation, and never uttered the slightest hope that I might get justice for my son.

Why is there such a conspiracy of silence surrounding Raymond's murder? My son was an innocent 22-year-old, a loving son and brother, who was not a threat to any person or any State. Why has Mark Haddock had so much influence? How can he so shamefully blackmail the British Government and their security forces? What and who gives this murderer so much power? The answer is collusion: it effectively gives killers the power to control their government. Haddock's first murder was in 1993, which he admitted to two Royal Ulster Constabulary (RUC) detectives the day after the murder. But instead of being arrested he was given money to go on a foreign holiday and continued to work as an agent and a killer for another 10 years or more.

Here are the questions which are central to my son's case and which the British Embassy refused to answer:

1. Why has no one been charged with Raymond's murder?
2. Why was Haddock allowed to kill for so long and get paid for it?
3. Why no action against present or former RUC/PSNI officers who refused to be interviewed or to cooperate with the Ombudsman's investigation.
4. Why were police officers allowed to get away with admitting to "coaching and baby sitting" suspects in sham interviews to ensure the suspects would not admit to murder? (Please see Appendix 3 for a record of my lobbying efforts with Fr. Mc Manus).

In sharp contrast to the British Embassy, Members of Congress and Irish-Americans gave me a warm and wonderful welcome on my May visit. And my family and I were absolutely thrilled and uplifted to receive a most gracious letter from Secretary of State, Hillary Clinton.

I hope that your Committee will put pressure on the British Government in a way that only representatives of the American government can. I am confident that my appeals to America will not be in vain. And I make my appeals not just on behalf of my son, Raymond Jr. but also on behalf of the many voiceless victims of State collusion.

I have stayed within the law in my quest for truth and justice. This Testimony is for Raymond Jr; his brothers, my other sons, Gareth and Glenn; and Raymond's mum, Vivienne.

Once again, I am deeply grateful to Chairman Smith and this Committee for the opportunity to testify.

Thank you from the bottom of my Belfast heart.

RAYMOND McCORD

APPENDIX 1. THE MURDER OF RAYMOND MC CORD JR.

A TIMELINE By His Father, Raymond Mc Cord Sr. Issued on Capitol Hill—Visit, May 11, 2009

November 9, 1997. Raymond Jr. murdered by the UVF (Ulster Volunteer Force) on the orders of Mark Haddock—a long time paid government agent and police informer. Raymond's face was so badly beaten that we could not have an open casket viewing at his wake.

1998

My local MP accompanied me at a meeting with Ronnie Flanagan, Chief Constable of the RUC (Royal Ulster Constabulary) and former head of the Special Branch. He told me, "Murderers do not work for the RUC". A patently false statement.

AUGUST 1999

I received constant harassment and arrests. I was once arrested in a cemetery on a Monday and held to Wednesday. Three months previously I had made a complaint to the police about Mark Haddock's threat to kill me. Haddock was arrested and charged but released. The charges were dropped on the orders of the Public Prosecution Service even though the Public Prosecution Service had not received the police file.

Throughout my campaign for the truth, I received no real support from Unionist politicians, with the exception of Lady Sylvia Hermon, MP, of the Ulster Unionist Party. Gerry Adams, president of Sinn Fein and Mark Durkan, SDLP leader were the only two political leaders who helped.

The Unionist politicians were in denial, refusing to admit collusion, and they simply wanted me to go away.

2000

Sent letter on my son's case to the Stevens team (the British Government team appointed to investigate collusion between the security forces and Protestant paramilitaries). They explained they could not deal with it under the terms of reference of their brief. They passed the letter on, hand-delivered it to the RUC—giving it personally to Ronnie Flanagan's "Command Secretariat". Flanagan denied ever receiving the letter. However, nine years later the Stevens Team gave me a copy of the letter of receipt, which Chief Superintendent Sillery had signed, thereby proving they had received my letter.

On the signed receipt it states the letter would be given to Assistant Chief Constable White, who was in charge of the Special Branch, for "appropriate action". No action was taken. Four weeks after my letter had been submitted, Haddock's murder team killed two more Protestants. Again, Assistant Chief Constable White—a fact the Stevens Team will confirm, took no action against him. White later would refuse to cooperate with the O'Loan investigation.

To summarize Sir Ronnie Flanagan's role: While Flanagan was Head of the Special Branch and Chief Constable of the RUC, he employed Haddock as a paid agent and informer who was free to kill at will, and did so many times.

Even under Flanagan's successor, the current Chief constable, Sir Hugh Orde, Haddock was retained as paid police agent for over a year.

2002

I went to the Police Ombudsman, Nuala O'Loan, to register a complaint against the negligence and collusion of the RUC/PSNI. January 2007.

The O'Loan Report, Operation Ballast, vindicates and proves my accusations of negligence and collusion.

The Report states "Informant1 [Mark Haddock] was a "protected species", despite being implicated in 16 murders, 10 attempted murders, 23 paramilitary-style shootings and beatings, drug-dealing, extortion, arson and intimidation.

The Ombudsman declared there was a "pattern of work by certain officers within the Special Branch designed to ensure that [Haddock] and his associates were protected from the law".

The Report also states that the police conducted "sham interviews", the better to protect the killers. The Report found that junior police officers were ordered by their superiors not to take notes during interviews with Haddock. (Indeed, prior to the Report, one police officer confided to me that he was too scared to conduct a proper investigation lest his career should suffer).

Prime Minister Tony Blair accepted the Report, but refused to meet with me. Even the brave Nuala O' Loan could not take my son's case any further so I was forced to turn to America for help. I met Fr. Mc Manus, president of the Capitol Hill-based Irish National Caucus, in 2007 in Washington and asked him to take on my son's case. I met him again in 2008 in Northern Ireland when he was home on vacation in Fermanagh. He agreed to sponsor a special lobbying effort and to bring me to Capitol Hill.

TOO LONG

It took a while to organize, a variety of things having happened, not the least of which was the Presidential campaign and election. Finally I had the chance to come to Capitol Hill for two-weeks to make my case for a Congressional Hearing on my son's case.

While on Capitol Hill someone asked, "But why now? Why so late?" Well that is unfortunately the way it is for Northern Ireland victims—it has always taken too long to get one's voice heard because those in power seek to silence us and marginalize us.

Hopefully, the US Congress will hear my voice and take up my cause.

My heart is gladdened by the Congressional empathy and support I have received and I am heartened by the fact my cause has been embraced by all Irish-American organizations. I am especially grateful to the Irish National Caucus and Fr. Mc Manus .

The investigation is taken off the HET and handed back to the PSNI ,the ones who colluded with Haddock and the UVF,on the orders of Chief Constable Baggott. Who has also refused to meet me.

2. Paper trail.

3. Record of Lobby Efforts.

Priest and victims' campaigner to lobby US politicians By Barry McCaffrey

Irish News. Tuesday, April 14, 2009 Irishnews.com

A lifelong loyalist and a nationalist priest have formed an alliance to lobby senior politicians in the US.

Victims' campaigner Raymond McCord has accepted an invitation from Irish National Caucus president Fr Sean McManus to visit the US next month. Mr McCord, whose son Raymond jnr was beaten to death by the Mount Vernon UVF in 1997, will meet senior Democrat and Republican politicians in New York and Washington.

"There was a time when it would have been impossible for Raymond McCord snr to have believed that a campaigner for the rights of mistreated Catholics in Northern Ireland on Capitol Hill would become his best ally in seeking justice for his own murdered Protestant son," Fr McManus said.

"I have been touched by Raymond's profound love for his son and deeply impressed by his bravery and fearless integrity."

Mr McCord said he also saw the irony in the new partnership. "All my life I have been a staunch loyalist Protestant who believes in the union between Great Britain and Northern Ireland. "I used to dismiss claims of Catholic mistreatment as mere republican propaganda. "I could not believe that my British government and my police could be guilty of political assassinations, brutality and deadly cover-ups until it all happened to my own beloved son.

"I can only turn for justice to Fr McManus and his many friends in Congress. "He has assured me that the US Congress will fight for my rights as hard as they have fought for the rights of Catholics in Northern Ireland."

RAYMOND MC CORD SR. PROTESTANT LOYALIST BETRAYED BY BRITISH STATE BEFRIENDED BY IRISH PRIEST ON CAPITOL HILL

CAPITOL HILL. MAY 5, 2009—There was a time it would have been impossible for Raymond Mc Cord Sr. to have believed it: that a veteran campaigner on Capitol Hill for the rights of mistreated Catholics in Northern Ireland would become his best ally in seeking justice for his own murdered Protestant son.

But from May 4 to May 14, 2009 Fr. Sean Mc Manus, president of the Capitol Hill-based Irish National Caucus, and Raymond Mc Cord Sr. of Belfast will be pounding the halls of Congress and singing from the same hymn-sheet—a human rights sheet that is neither Protestant nor Catholic. "Despite the tragic divisions in Northern Ireland, there is still a strong Ulster bond, which asserts itself when the Protestant and the Catholic each experiences British injustice", explains Fr. Mc Manus. "Raymond's son, Raymond Jr.,

was brutally murdered by a Loyalist Protestant paramilitary group in 1997 (the first betrayal) and the leader of the gang was protected in a sinister cover-up because he was a British Government agent and police informer (the second betrayal)".

Raymond, Sr. adds: " All my life I have been a staunch Loyalist Protestant who believes in the Union between Great Britain and Northern Ireland. I used to dismiss claims of Catholic mistreatment as mere Republican propaganda. I could not believe that MY British Government and MY police could be guilty of political assassinations, brutality and deadly cover-ups. Until it all happened to my own beloved son. Since Raymond Jr. was murdered, I have encountered stonewalling and obstruction from the British Government and Northern Ireland police. I can only turn for justice to Fr. Mc Manus and his many friends in Congress. He has assured me that the US Congress will fight for my rights as hard as they have fought for the rights of Catholics in Northern Ireland". Fr. Mc Manus added: " I have been touched by Raymond's profound love for his son and deeply impressed by his bravery and fearless integrity. I can pay him no higher respect when I call him, " The Protestant Pat Finucane of Northern Ireland". END.

MCCORD GETS WARM WELCOME DURING WASHINGTON VISIT

BY JIM DEE BELFAST TELEGRAPH, WEDNESDAY, MAY 6 2009

AFTER a day of lobbying top Washington politicians over his campaign for an independent inquiry into his son's 1997 murder by the UVF, Raymond McCord has spoken of how he was struck "by the depth of encouragement and support he's found on Capital Hill".

"Coming from Belfast, and the unionist community, no Protestant could have been made more welcome on Capital Hill than I was today," Mr McCord told the Belfast Telegraph.

"They were so eager to hear about Raymond's case," added Mr McCord, who is making his second trip in as many years to drum up support for an independent inquiry into his son's murder

"And the good thing about it is that they're going to treat Raymond's case the same way that they treated the Pat Finucane case," he added. "What they were saying to me was that people from the unionist community should be afforded the same treatment.

"Mr McCord yesterday met with Congressman Richard Neal, a Massachusetts Democrat who heads the Friends of Ireland grouping in Congress, as well as New York Congressman Gary Ackerman.

"Fr Sean McManus, a Fermanagh-born priest who leads the Irish National Caucus lobbying group in Washington, told the Telegraph that McCord was "one of the most successful lobbyists I've ever seen in action. This hardy man from Belfast was very effective."

"Congressman Neal has long been viewed as sympathetic to Irish nationalism, and Sinn Fein in particular. But Mr McCord said that the Massachusetts lawmaker was more sympathetic to his case than many unionist politicians back home.

“If Ritchie Neal or Fr Sean were from the unionist community, they couldn’t have treated me any better,” said Mr McCord. “And the unionist politicians back home should hang their heads in shame that I have to come to America again to pursue justice.”

During the next ten days, in addition to travelling to New York city to meet with insurance industry billionaire and peace-process-backer Bill Flynn, Mr McCord will hold meetings with leading Irish-Americans.

PRIEST, PROTESTANT CAPTIVATE CAPITOL HILL CONGRESS COMPELLED
BY NARRATIVE

CAPITOL HILL. THURSDAY, MAY 7, 2009—For almost 40 years Members of Congress have listened to Fr. Sean Mc Manus, president of the Capitol Hillbased Irish National Caucus, detail the mistreatment of Northern Ireland Catholics by the British Army and police. They were listening to him again this week as he raised the case of the young 22- year-old Belfastman who was murdered in 1997. But this time Fr. Mc Manus was speaking about a murdered Protestant, Raymond Mc Cord, Jr. and he had flown in from Belfast his own expert witness : the father of the murdered man—the formidable and compelling Raymond Mc Cord, Sr.

Mr. Mc Cord Sr. is on a two-week lobbying campaign of Capitol Hill, sponsored by the Irish National Caucus. Mr. Mc Cord said “ For 12 years I have struggled to bring to justice the man who ordered my son’s murder. That man, Mark Haddock, has been protected because he was a government agent and a police informer and the British Government has covered-up the crime and has stonewalled and obstructed me every step of the way. I have turned to Fr. Mc Manus and his many friends in Congress for help to put pressure on the British Government”.

And Members of Congress are listening. The sight of a veteran campaigner like Fr. Mc Manus escorting a Protestant Loyalist around Congress is powerful stuff.

Mr. Mc Cord explained what he hoped to accomplish: “ I am asking Members of Congress for three things : 1. To co-sign a “ Dear Colleague Letter” to British Prime Minister urging him to personally meet with Raymond Mc Cord Sr. 2. To encourage a Congressional Hearing before the House Human Rights Subcommittee, Chaired by Rep. Bill Delahunt (D-MA). 3. To encourage a Congressional Resolution calling on the British Government to hold an Independent Public Inquiry into the murder of Raymond Mc Cord Jr. and subsequent cover-up”.

CONGRESSMAN BILL DELAHUNT

After a very successful week of lobbying, Mr. Mc Cord met with Congressman Delahunt on Thursday, May 7 at 10:00 AM. “ I was deeply touched by the Congressman’s warmth and friendliness, and by his complete empathy for my son’s case. He is a lovely man and I am very hopeful he will hold a Hearing on my son’s case”.

In reference to a possible Congressional Hearing, Mr. Mc Cord added: “ It is my hope that former RUC Chief Constable, Sir Ronnie Flanagan , would cooperate with the Congressional Hearing, if scheduled, because he was in charge of the police when the man who ordered the murder of my son was a long-time police agent”.

MC CORD AT BRITISH EMBASSY DEEP DISAPPOINTMENT

CAPITOL HILL. THURSDAY, MAY 14, 2009—After two weeks of an incredibly successful lobbying blitz of Capitol Hill, Raymond Mc Cord was handed his only disappointment. Whereas Congressional office listened to him with openness, empathy and solidarity, the British Embassy listened to him in virtual silence. Because justice and policing have not been devolved (handed back to the Northern Ireland government) the Northern Ireland Bureau which treated Mr. Mc Cord very nicely—had to refer Mc Cord to the British Embassy to Nic Hailey who deals with those issues for The Embassy. Accordingly, Mr. Mc Cord, by himself, met Mr. Healey at 2:15 PM on Wednesday, May 13 at The Embassy.

“Because I was meeting with the duly authorized person—and not with some public relations person—I was hopeful I would get some real answers on justice and policing as it relates to my son’s murder”, he said. “I was low-keyed and respectful but Mr. Hailey never answered one question. He never even tried, maintaining almost virtual silence throughout the hour meeting. And when he did speak it was to ask: whom are you meeting on Capitol Hill, do you think you are having any impact, and when are you going home?”

Mc Cord, clearly expressing his dissatisfaction, explained: “See here, I am an Ulsterman, a British citizen. The British Government and the Northern Ireland police collude in the brutal murder of my son, Raymond Jr. I am given a fantastic reception on Capitol Hill. Then I go to my own Embassy in Washington, and I get nothing, absolutely nothing. It is so disappointing to this proud Ulsterman. Hailey’s treatment of me is exactly what I get from his colleagues in the Northern Ireland Office in Belfast”.

But then, with the rugged tenacity for which he is famous, Mc Cord said: “My treatment at the British Embassy illustrates and vindicates the need for my visit to Capitol Hill. It confirms my conviction that Congressional pressure in my son’s case is my only hope

END

MORE CHRISTIAN CHARITY ON CAPITOL HILL THAN IN NORTHERN IRELAND CHURCHES—MC CORD DECLARES

CAPITOL HILL. MAY 13, 2009—“In 12 minutes on Capitol Hill I received more true Christian charity than I did in 12 years from the churches in Northern Ireland”.

That was the striking declaration of the man who has fought for 12 years for justice for his murdered son, Raymond Mc Cord Jr. all the time being ignored by church leaders, ministers and priests in Northern Ireland. Raymond Mc Cord Sr. was speaking from the offices of the Capitol Hill-based Irish National Caucus, which sponsored his two-week lobbying -blitz of the U.S. Congress.

Mr. Mc Cord Sr. was deeply moved by the empathy he received from the Congress for the case of his 22-year-old son who was murdered near Belfast in 1997. Because the man who ordered the murder was a government agent and police informer he has been protected from the law and his crime covered up.

“Why didn’t religious leaders, especially in my own Protestant Loyalist community, show me the same empathy and compassion

I received from Jewish, Protestant and Catholic Members of Congress and their staff? Why did I have to go 3,000 miles to seek justice, mercy and kindness, which the Bible says is the hallmark of true religion?”, he asked.

Anyone who knows Mr. Mc Cord knows he’s no softie. He is one of the hardest of hard men, considered by some to be one of the best bare-knuckle fighter in Belfast for many years

He has waged an extraordinary one-man battle to get justice for his son in the face of constant threats and danger to his life. Nothing has deterred this man’s devotion to his murdered son. Yet he was clearly touched by his visit to Capitol Hill.

He explained: “No church minister ever showed solidarity with my family—they were scared of the Protestant paramilitaries, the police and the British Government. They did not want to take on the establishment. Had it not been for the brave Nuala O’ Loan, former Police Ombudsman, my son’s case would have perished. But even she could only take the case so far. That is why I had to turn to America and to Fr. Sean Mc Manus, President of the Irish National Caucus, and his many friends in the US Congress”. The US Congress needs to keep the pressure on the British government in regards for justice for young Raymond. The Chief Constable should never have taken the case off the HET. Is he afraid the HET would uncover evidence against the corrupt police officers? Another wall has been built to stop justice.

I am delighted of Congressman Smiths involvement as in the past he clearly showed his support for in our quest for truth and justice .,and thank all those decent people for their support. There is no such thing as a nationalist victim or a unionist victim, we don’t need labels as we are all equal as victims.



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