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A Trust Betrayed

A SUBMISSION BY

JUSTICE FOR THE FORGOTTEN

ON THE MATTER OF A PUBLIC INQUIRY

INTO THE

DUBLIN AND MONAGHAN BOMBINGS
of the
17TH OF MAY 1974

THE STATE RESPONSE THERETO

AND ANY MATTERS CONNECTED THEREWITH

19th November 1999

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"An unforgivable act"

An Taoiseach Liam Cosgrave T.D. on RTE at 10.00pm on the 17th of May 1974

On Friday the 17th of May 1974 at 5.30pm a series of no-warning car bombs exploded in Parnell Street, Talbot Street and South Leinster Street in Dublin city centre. An hour and a half later at 6.58pm a fourth no-warning car bomb exploded in North Street, Monaghan Town. As a result of the bombings 33 people lost their lives and hundreds more were injured. Among the dead the following were to be counted.

Parnell Street

Marie **Butler**
John **Dargle**
Patrick **Fay**
Antonio **Magliocco**
John **O'Brien**
Anna **O'Brien**
Jacqueline **O'Brien**
Anne Marie **O'Brien**
Edward **O'Neill**
Breda **Turner**

Talbot Street

Josie **Bradley**
Anne **Byrne**
Simone **Chetrit**
Concepta **Dempsey**
Colette **Doherty** (with child)
Elizabeth **Fitzgerald**
Breda **Grace**
May **McKenna**
Anne **Marren**
Dorothy **Morris**
Marie **Phelan**
Siobhan **Roice**
Maureen **Shields**
John **Walsh**

South Leinster Street

Anna **Massey**
Christine **O'Loughlin**

North Street, Monaghan

Patrick **Askin**
Thomas **Campbell**
Thomas **Croarkin**
Archie **Harper**
Peggy **White**
Jack **Travers**
George **Williamson**

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Relatives of the dead together with surviving victims have for many years questioned what happened on that Friday evening - no one charged, no one prosecuted, no explanations and no answers.

The relatives and the injured have been asked to believe that this outrage was:

- *a conventional terrorist incident*
- *a terrorist atrocity not out of the ordinary*

In essence an event that calls for no searching questions and no special inquiry.

Over the years the relatives and the injured have questioned this convention, to them and to many others this was an event out of the ordinary. What happened in Dublin and Monaghan on the 17th of May 1974 was exceptional.

Ten Deadly Hours
Friday 17th May 1974

09.00 Taxi Hijacked	- Woburn Street, Belfast
09.00 Car Stolen	- Duncrue Road, Belfast
10.00 Car Hijacked	- Torrens Road, Belfast
16.00 Car Stolen	- West Street, Portadown
16.00 Rendezvous	- cars on the outskirts of Dublin
17.30 Car Bomb Explodes	- Parnell Street, Dublin
17.30 Car Bomb Explodes	- Talbot Street
17.30 Car Bomb Explodes	- South Leinster Street, Dublin
18.58 Car Bomb Explodes	- North Street, Monaghan Town

Within a period of 10 hours on the 17th of May 1974 four cross border no-warning bombing operations were initiated and followed through to completion. Barely 8 hours passed between the theft of cars in Belfast and there synchronized detonation in Dublin.

> Cars stolen and hijacked. Owners held and later released. Cars first driven from Belfast to an Armagh farmyard and then across the border and on to Dublin. Cars laden with explosives, bombs primed and driven to city centre. Drivers depart. Bombs explode with maximum efficiency. Car stolen in Portadown and driven to Armagh farmyard. Car laden with explosives and driven across the border to Monaghan Town. Bomb primed, drivers depart, bomb explodes.

This was an operation that required skill, planning and resources. It involved the co-ordination on one day of a range of activities and operatives in diverse locations.

This was a terrorist operation that involved two jurisdictions and called for a comprehensive and combined investigation by the law enforcement agencies North and South.

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The unforgivable becomes the forgettable.

Saturday the 18th of May 1974 involved visits to morgues and identification of the remains of loved ones. Funerals followed on the Tuesday and Wednesday. The following week the Coroners Court sat in Dublin City. Kind words were spoken, words of outrage, words of thanks to doctors, nurses, ambulance men and others. The Dublin inquests were adjourned on the application of Mr. Peter Sutherland, Barrister at Law, on behalf of the Gardai pending on-going Garda inquiries. Those inquests have never been resumed. Not even 14 days had passed.

The relatives of the dead and the living injured had no communal bond. They were people from different places, backgrounds and walks of life caught in the fall out of a city explosion. They came from different countries and counties. They had no gathering point, no point of common passage. They had no leaders, no common politics, no common identity. Their loved ones had no common purpose in being where they were when the bombs exploded.

In their own homes they were left to cope, to ponder, to question and to wait for answers from people who didn't hear or even recognize the question.

For some of the relatives there was the matter of claiming compensation from the Criminal Injuries Tribunal. In the main the claims had been dealt with by the close of 1974. Some relatives protested at the level of compensation for victims. Others pursued their public representatives and sought answers. It was years before an annual mass came to be organized. Years passed before a memorial was to be built. In all those years there were to be no official communications, no contact from Gardaí, no reports.

It was not until 1991 that matters took a significant turn when a team of journalists from Yorkshire TV in England began to investigate the bombings for the "First Tuesday" ITV documentary series. This team was to spend a protracted period over 2 years investigating the bombings. They travelled North and South and conducted numerous interviews. They were given unprecedented access to the content of Garda files by the then Garda Commissioner.

The programme that was broadcast "Hidden Hand – The Forgotten Massacre" is to this date the most comprehensive and reliable commentary on what occurred. In so far as the programme makers expressed opinions those opinions were not based on mere conjecture or speculation.

In the course of the making of the programme the programme producers brought the relatives and injured together. For the first time they found and were given explanations. For the first time they found their own voice.

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"Hidden Hand - The Forgotten Massacre"
Yorkshire TV ~ First Tuesday ~ 6th of July 1993

On the 6th of July 1993 "Hidden Hand – The Forgotten Massacre" was broadcast on the ITV network. The following disclosures were made.

On Suspects

- Three men spotted attempting to steal a car in Portadown were known loyalist terrorists.
- Witnesses to the bomb cars were shown official police photos, resulting in a list of suspects – 8 faces and 8 names.
- Eye witnesses identified two of the drivers.
- Within weeks the Gardaí had a list of 20 suspects.
- The Royal Ulster Constabulary had a similar list of suspects.

On Connections

- The suspects were all connected with the Ulster Volunteer Force (UVF).
- The suspects included former and serving members of the Ulster Defence Regiment.
- The main suspects were from the Portadown and Lurgan areas of Mid Ulster.

On the Garda Inquiry

- Within weeks the Gardaí knew how and by whom the bombings were carried out.
- The Gardaí investigation was hampered in the North.
- The Gardaí found themselves powerless to pursue the inquiry.
- The Irish Government did not intervene to assist.
- The Garda inquiry was wound down after three months.

On the RUC

- RUC HQ did not request RUC Officers to arrest and interview known suspects.
- There was no major determination and no follow through.
- The assistance of Military Intelligence Officers in relevant areas was not sought.
- There was no action focused on the Portadown area.

On State Complicity

- The UVF, acting alone, did not have the capacity to carry out these bombings
- The bombings bore the hall marks of a sophisticated and technical operation

On State Knowledge

- British Military Intelligence had infiltrated the UVF in Portadown.
- British Military at that time was willing to allow the UVF carry out atrocities.
- Three of the suspects were being "run" by British Military for covert operations.

On denials

- A year later the Irish Parliament was told that the Gardaí had no positive information with which to identify the bombers.

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Questions Unanswered

From the making of the programme sprang a group of relatives and victims who were no longer willing to remain silent and who wanted answers. All they now knew of the events of the 17th of May 1974 defied acceptance of the status quo, namely that the bombings were "a conventional terrorist atrocity".

The relatives came to question:-

- the actions of this State in pursuing those responsible,
- the integrity of RUC investigations
- the complicity of state forces in the North in the bombings
- the possibility that known suspects were not pursued

In any other country the content and scope of the First Tuesday Documentary would of itself have led to a public inquiry.

On the 7th of July 1993, the day following the YTV broadcast, Deputies Gay Mitchell T.D and John Bruton T.D moved a private members motion in Dáil Éireann to have the House appoint a Select Committee to inquire into the murderous bombings in Dublin and Monaghan in 1974. The Taoiseach, Albert Reynolds T.D indicated in reply to Austin Currie T.D. that he did not propose to make any statement at this stage and added that:

> "The Department of Justice and the Garda Síochána are examining all the allegations made".

Later that night in Dáil Éireann Deputies Eamon Gilmore T.D. & Tony Gregory T.D. pressed the Minister for Justice, Máire Geoghegan-Quinn, TD. on the need for a public inquiry. The Minister in her reply indicated that Gardaí were considering the content of the YTV programme and that the Garda Commissioner was heading up the investigation following the previous night's programme and would report to her that week. No commitment was given to hold an inquiry. Indeed the Minister indicated:

> " the proper and most appropriate form of inquiry in this instance is the police investigation which is already underway".

On the 19th of April 1994 Minister Geoghegan-Quinn gave a commitment in Dáil Éireann that a comprehensive public statement on the YTV programme would be given in due course. That commitment was re-iterated by her in Dáil Éireann in reply to a question by Trevor Sargent T.D on the 31st of May 1994 in the following terms:-

> "I have undertaken to inform the relatives .... of my evaluation of the Garda assessment of the contents of the YTV programme before issuing a public statement on the matter..... everything possible is being done to fulfil that undertaking as a matter of urgency."

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On the 25th of October 1994 the Minister was again questioned by Deputies Molloy, Mitchell, Gilmore, Higgins, Currie and Callely. The Minister's response included the following:

> " Unfortunately, the investigation is, at this remove, of its nature, a complex affair. That and my concern to ensure that all avenues of investigation have been followed up has meant that the matter could not be brought to a speedier conclusion. My examination of the Garda reports to which I have already referred is continuing. That examination will form the basis for the public statement which I have previously undertaken to give..... My intention is that the public statement will be as comprehensive as possible... It will need the most careful preparation and I, therefore, intend to consult with both the Garda authorities and the DPP before finalising its terms..."

On the 8th of February 1995 the new Minister for Justice Nora Owen T.D., was questioned in the Dáil by Deputies Molloy, Sargent, Gregory, D. Ahern and Killeen as to whether the investigation in to the YTV documentary had been completed and whether she would establish a judicial public inquiry. In reply to the Dáil questions, she confirmed her intention to bring the matter to a conclusion and to make a statement as quickly as possible. She assured the House that she would honour the commitments made by the former Minister.

On the 26th of April 1995 the Minister in reply to a question from Deputy Michael McDowell T.D. indicated that she would be in a position to fulfil the commitment shortly.

On the 17th of May 1995, the 21st anniversary of the bombings, a group of relatives and victims were invited to meet the Minister for Justice Nora Owen T.D. That same day the Government Information Office on behalf of the Minister issued a statement purporting to respond to the issues raised in the First Tuesday Documentary nearly two years earlier.

This statement was fatally flawed and misleading. The statement set out how the Gardaí had, following the broadcast, interviewed the programme makers and some of the participants to see if there was any fresh evidence.

However the YTV programme was not about whether evidence could now be gathered to pursue a conviction. The real issue raised by the programme was how the opportunity to pursue convictions had been compromised in 1974. In essence, the investigation conducted by the Department of Justice, was limited to an assessment of any alleged new evidence relevant to procuring a conviction. The Departments investigation completely ignored the issues raised in the documentary of public concern and touching public accountability.

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The statement issued in the Minister's name and on behalf of the Department of Justice sought implicitly and explicitly to disparage the programme makers. It sought to deceive the relatives into believing that the issues raised had been examined and addressed by the Department of Justice, the Gardaí and the Director of Public Prosecutions.

A close examination of the statement issued reveals that the issues of public concern and public disquiet raised by the programme were never seriously or openly addressed. The issues of substance were ignored and a cosmetic exercise engaged in. It constituted, not a rebuttal of concerns, but a denial.

This statement made it impossible for the relatives to have any future confidence in anything other than a sworn public inquiry. It was clear that the Department of Justice did not want these issues addressed in any manner.

On the following day, the 18th of May 1995, RTE broadcast a Primetime Documentary "Friendly Forces?". This documentary reinforced, confirmed and added to the concerns first raised by the YTV programme of July 1993.

The matter was to be pursued further in Dáil Éireann. On the 8th of June 1995 Deputies Gregory and Harney put questions to the Minister. On the 13th of October 1995 Deputy Callely again pursued the matter. On the 15th of May 1996 Deputies Harney and McDowell asked Minister Owen whether she would make a statement on the Prime Time Programme and confirm whether the Department considered the matter closed. The Minister simply replied that

> "I informed the relatives by way of letter dated 29th February 1996 that the Garda authorities were satisfied from their assessment of the Prime Time broadcast of May 1995 that no new evidence or witness had been identified which would provide a basis for further Garda investigations".

On the 25th of February 1997 Deputy Flaherty asked the Minister in the Dáil whether relevant Garda files would be made available to the relatives. The matter was also raised by Deputy Lenihan on the 8th of April 1997. On both occasions Minister Owen replied:

> " The Garda authorities also informed me that it is not proposed to make the Garda investigation file available as it would be contrary to long standing practice to make files of this kind available to any parties."

This assertion conflicts with the assistance previously afforded to British Journalists.

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No One Wants to Know

In February 1996 the committee of "Justice for the Forgotten" formally instructed solicitors to conduct a review of the programme and to pursue on behalf of the relatives and victims all possible avenues of legal redress.

On the 23rd of February 1996 the Solicitor, for the relatives and injured, wrote to the Garda Commissioner in the following terms:

> "In these circumstances we formally request that An Garda Síochána might make available to us, as our Clients legal advisers and on a confidential and privileged basis, access to such information and material within the possession power or procurement of An Garda Síochána pertinent to such intended Civil Proceedings
>
> Please indicate whether such facility can be afforded at an early date in this wholly exceptional case"

On the 12th of March 1996 the Assistant Commissioner responded in the following terms:

> "Your request has been carefully considered by the Garda Authorities in this case. The position, however, remains that it is of paramount importance for the effectiveness of the Garda Síochána that information gathered in the course of a criminal or other investigation must remain confidential. The Garda Authorities regret that they are unable to accede to your request in this case."

On the 15th of April 1996 the Solicitor again wrote to the Commissioner with a series of 10 questions seeking clarification as follows:

> "We would be most appreciative if you could clarify the following:-
>
> 1. Did the Garda Síochána construct a list of suspects based on interviews with eye witnesses who identified individuals who were linked to the bomb vehicles on the day in question?
> 2. Was the list passed to the Royal Ulster Constabulary?
> 3. Did the Garda Síochána recommend that any of the said suspects be charged?
> 4. Did the Garda Síochána seek to have any of the suspects extradited?
> 5. Was the Garda Síochána report sent to the Director of Public Prosecutions?
> 6. To the knowledge of the Garda Síochána were any of the identified suspects arrested by the Royal Ulster Constabulary?
> 7. To the knowledge of the Garda Síochána were any of the identified suspects questioned by the Royal Ulster Constabulary?
> 8. To the knowledge of the Garda Síochána did the Royal Ulster Constabulary initiate a murder inquiry into these affairs?

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9. Did the Garda Síochána indicate to the Royal Ulster Constabulary that witnesses were available to travel to the North for the purpose of identity parades.
10. Did the Garda Síochána receive a final or concluding report from the Royal Ulster Constabulary?

Any further information as to the nature, scope and extent of the Garda investigation which you might feel relevant would be most appreciated by our Client."

Again, on the 30th of April 1996, the Assistant Commissioner replied in the following terms:

"Your request has been carefully considered by the Garda Authorities in this case. The position, however, remains that it is of paramount importance for the effectiveness of the Garda Síochána that information gathered in the course of a criminal or other investigation must remain confidential. The Garda Authorities regret that they are unable to accede to your request in this case."

On the 15th of May 1996 the Solicitor again wrote the Garda Commissioner repeating the request of the 15th of April 1996 confirming:

" We have sought particulars as to what steps have been taken in the investigation and we have not sought any substantive information touching the identity of any persons involved either in the investigation or those suspected of having been involved in the commission of the crime."

This letter was not replied to.

On the 16th and 17th of September 1996 the Solicitor again wrote to the Garda Commissioner indicating that complaints against the United Kingdom had been lodged with the European Commission of Human Rights by a number of named clients. The complaints alleged that the RUC had breached Article 2 of the Convention in failing to conduct a proper investigation into matters connected with the outrage. The letter went on to request:

"The purpose of this letter is to seek confirmation that you are willing to place the files and records of the Garda Síochána investigation into the Dublin and Monaghan Bombings at the disposal of the Commission of Human Rights for the purpose of a commission enquiry."

On the 23rd of September 1996 the Commissioner's Office replied:

"Material on Garda Investigation files is confidential.

In the circumstances the Commissioner cannot agree to the release of the material which you sought."

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The response of the Garda Commissioner to the various requests made on behalf of the relatives and victims was in sharp contract to the assistance previously afforded to Yorkshire TV as stated in their documentary in the following terms:

> "The Irish Police – the Garda Síochána - carried out the official investigation into the bombings, the biggest murder hunt in their history. Most unusually in a terrorist case the Gardaí have co-operated in our investigation. In a series of briefings the Gardaí revealed the contents of many classified files, eye-witness statements, forensic reports and released official photographs."

Mr Patrick Doyle, now deceased, took a case to the High Court and to the Supreme Court seeking discovery of the Garda files in aid of his complaint to the European Commission on Human Rights. The Garda Commissioner opposed the application. The courts held that they had no jurisdiction to compel the Garda Commissioner to make the discovery sought on such an application.

The admissibility of the applications before the European Commission on Human Rights were considered by the European Court of Human Rights. On the 6th of July 1999 the European Court of Human Rights held that:-

> "The applications had not been lodged within the six-month period prescribed by Article 35.1 of the Convention and must therefore be declared inadmissible in accordance with Article 35.4".

The rationale adopted by the Court was as follows:-

> "The Court considers that shortly after this event (the bombings) it must have been clear to the Applicant that the United Kingdom authorities were not prepared to conduct a formal murder inquiry. In any event, the applicant must have become aware of the alleged failure of the United Kingdom authorities to co-operate in the Irish authorities' inquiry at the latest on 6 July 1993 when the relevant programme was broadcast on ITV. However, the applicant lodged his complaint before the Convention organs only on 27 May 1996, which is more than six months later."

The applications to the Court were declared inadmissible.

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Following further investigations by the Solicitor it transpired that the Inquests into the Dublin deaths, which had been adjourned on the application of the Garda Síochána on the 27th of May 1974, had never been resumed.

Instructions were received to apply to the Dublin City Coroner to resume these inquests.

On the 16th of April 1999 the Solicitor wrote to the Dublin City Coroner seeking to have the matter mentioned before him, in the following terms:

> "We are instructed to request that you list the inquest in this case for mention as soon as possible on a convenient day."

On the 26th of April 1999 the Coroner replied as follows:

> " My understanding is that the files in relation to these inquiries were before the previous coroner (now deceased) for a period of 16 years. On my assuming office in 1991, the files were deactivated and in the archives. I am unaware what decisions were made in the matter or under what section of the 1962 Act these inquests were adjourned. In addition, when a coroner ceases to hold office, his files devolve to the County Registrar, by operation of law.
>
> Having considered the matter it is clear to me that I have no jurisdiction to relist these cases."

On the 5th of October 1999 the Solicitor again wrote to the Coroner enclosing a 1974 press cutting reporting that the inquests had been adjourned on the application of the Garda Síochána and confirming that the County Registrar's Office had indicated that they did not hold the previous Coroner's files. On the basis that the adjournment of the inquests under Section 25(1) of the Act was verifiable the Coroner was requested to resume the inquests.

On the 21st of October 1999 the Solicitor sent a reminder to the Coroner.

On the 26th of October 1999 the Solicitor again wrote to the Coroner seeking clarification of a telephone conversation with the Coroner's office manager, as follows:

> " When I enquired as to whether you would be replying to my letter of the 5th inst. I was informed by him [the Office Manger] that the position you had taken was that you would not be proceeding with the Inquests with respect to the above named deceased nor indeed any of the inquests of those killed in the bombings in Dublin on the 17th of May 1974 unless directed so to do by the Department of Justice"

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The Dublin City Coroner replied to this letter on the 1st of November 1999 in the following terms:

> "I would appreciate some clarification as to why no representations were made to the previous coroner when those files were before him for seventeen years. In so far as I am concerned the files were dormant when I took office. As I have already indicated, I do not know what decisions were made nor do I have any information in relation to what happened at that time.
>
> My concern as to jurisdiction to reopen these cases remains. However, in view of your recent representations I propose to take legal advice and I shall revert to you in early course."

At each and every turn the Relatives have met with resistance, obstruction and denial. Even the most innocent request to a state body is met with resistance. On the 16th of September 1999 the Committee Secretary wrote to RTE seeking details of material relating to the Dublin and Monaghan bombings in their Audio Archive and the cost of obtaining copies of same. That letter met with the following reply from the RTE Solicitor's Office:

> "While not intending any disrespect or wishing to cause any inconvenience to your Committee, we trust you will understand when we say that RTE believes that the most fair, reasonable and effective way of making such material available would be through whatever Inquiry is established by the Government in this matter."

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FURTHER DISCLOSURES

The validity of the concerns held by the relatives in relation to the adequacy of the investigation and the complicity of state forces in the bombings has been confirmed by further disclosures.

Recently, Mr. Don Mullan, an investigative journalist with a special interest in this issue, interviewed Dr Donovan, the Head of the State Forensic Laboratory. In the course of that interview it transpired that only bomb debris from Parnell Street had been sent to the State Laboratory. For reasons not known or understood by Dr. Donovan, the bomb debris from bombsites was sent for forensic testing to the Northern Ireland Forensic Laboratory. The State Forensic Laboratory was never furnished with the results of the other tests.

From Mr. Mullan's investigations it appears:-

- That the sending of samples to Northern Ireland was unduly delayed with the result that the investigative value and evidential integrity of samples were compromised.
- That the State Laboratory did not request the assistance of the Northern Ireland laboratory.
- That neither matters of urgency, absence of facilities or skill, or lack of capacity required that forensic testing should take place in Northern Ireland.
- That in a criminal investigation of such magnitude the decision not to adopt a unified approach to the forensic testing was extraordinary.

Mr Mullan wrote to the Garda Commissioner asking if they could establish a chain of custody for the bomb debris and whether the debris was in their possession. The Commissioner's Office replied that such information remained confidential and could not be released.

During the course of this year a copy of statement of Mr John Weir, a former RUC Constable, was received. Mr Weir, served in a Special Patrol Group based in Armagh between 1972 &1974. The RUC Special Patrol Groups comprised 5 units of 30 men billeted army style in a number of locations in Northern Ireland. Mr. Weir was convicted of murder in 1980 and was released from prison in 1992.

Mr. Weir's statement confirms:

- the identity of suspects referred to in the Yorkshire TV programme
- that some of those suspects were members of the UDR and the RUC Reserve and continued to serve in those forces on a full time and part time basis after the bombings
- that the identity of the suspects was known to both the RUC and Army Intelligence
- that none of these suspects was arrested and detained for interview
- that the bombing was part of a series of incidents involving the same suspects

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THE REPORT OF THE VICTIMS' COMMISSION

Pursuant to the terms of the Good Friday Agreement the Government appointed Mr. John Wilson as Victims' Commissioner. In December of 1998 a detailed submission was sent to the Victims' Commission on behalf of Justice for the Forgotten. The submission canvassed support for a Truth Commission but in the absence of sufficient support for same sought the establishment of a Public Inquiry.

The Submission concluded as follows:

> *"Conclusion*
>
> *4.1 The victims and relatives of the Dublin & Monaghan bombings, while sharing a common desire for a Truth Commission, believe that a sworn public tribunal of inquiry is the only existing mechanism that can address their substantive needs in the absence of a formally constituted Truth Commission.*
>
> *4.2 Accordingly the victims and relatives, on whose behalf this submission is made, seek the endorsement and recommendation of the Victims Commissioner for a Tribunal of Inquiry."*

In addition a paper commissioned from Professor Dermot Walsh of the Centre for Criminal Justice of the University of Limerick was submitted to the Victims' Commission. Professor Walsh has previously submitted material which was considered by the Government in arriving at its conclusion that a new Public Inquiry was required into the events of Bloody Sunday.

Professor Walsh's paper was entitled "The Capacity of Legal, Administrative and Political Mechanisms to Call the Garda Síochána to Account for its Investigation into the Dublin and Monaghan Bombings" and concluded:

> *"If an inquiry is to overcome the accountability shortcomings of the standard accountability mechanisms and serve the needs of the victims of the Dublin and Monaghan bombings it is essential that it should be a public judicial inquiry with full powers to call for persons, papers and records."*

In August 1999 the Victims' Commissioner published his Report. In his report he recommended a private inquiry headed by a former Supreme Court Judge. He further recommended that the report of such an inquiry be published. The Commissioners recommendation for a Private Inquiry was greeted with considerable surprise, dismay and concern by Justice for the Forgotten. The issue of a private inquiry had not been canvassed by or discussed with the relatives. A private inquiry did not appear capable of addressing the relatives' concerns and did not reflect the gravity, nature and extent of the matters sought to be enquired into.

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TERMS OF REFERENCE OF A PUBLIC INQUIRY

In its submission to the Victims' Commission, Justice for the Forgotten, submitted the following draft terms:

> ***"The establishment of a Tribunal of Inquiry to inquire into the following matters:-***
>
> ***(i) the facts, circumstances and causes of the Dublin and Monaghan bombings of the 17th of May 1974,***
>
> ***(ii) the nature, extent and adequacy of the investigations conducted by the Garda Siochana,***
>
> ***(iii) the extent to which the investigation by the Garda Siochana may have been impeded or frustrated,***
>
> ***(iv) any matters connected with or relevant to the matters aforesaid."***

In a case such as this there is considerable scope as to how terms of reference might be drafted. The terms submitted are not the terms recommended by the Victims' Commissioner for a private inquiry. In essence, the appropriate terms chosen should embrace a consideration of a rang e of relevant matters.

We submit that the following are a range of matters which are relevant to a Public Tribunal of Inquiry:

(a) A legal analysis and review of:

The criminal offences arising from the murders in Dublin and Monaghan and associated events in Northern Ireland and the range of charges that could have been the subject matter of prosecutions in both this jurisdiction and Northern Ireland.

The legal obligations of the Garda Síochána and the Royal Ulster Constabulary to conduct criminal investigations into matters associated with the Dublin and Monaghan bombings, whether pursuant to relevant Domestic Law or International Treaty.

The legal advice received by the Garda Síochána in relation to the above matters.

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(b) A review of relevant matters which preceded the bombings, including:

The security arrangements along the border at that time.

The nature of the security alert issued to Dublin traders on the 16th of May 1974.

The arrangements between the Gardaí and the RUC for the exchange of details of stolen cars and the system of internal communications concerning same within the Garda Síochána.

The nature of security intelligence being gathered at that time.

The nature of security intelligence being exchanged across the border at that time.

(c) A Review of the Criminal Investigation, including:

An examination of the methodology and management of
the Garda investigations.
the forensic investigations
the ordnance investigations

An examination of the nature and extent of evidence gathered
in this State
in Northern Ireland

A profile of suspects identified including
geographic base
political affiliation
connection with security services.

An assessment of the nature and extent of inquiries conducted in relation to identified suspects residing in Northern Ireland, including:-

The extent to which the powers available under the Northern Ireland (Emergency Provisions) Act 1973 were utilised by the RUC.

The extent to which the powers later available under the Prevention of Terrorism (Temporary Provisions) Act 1974 were utilised within the United Kingdom.

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(d) A Review of Matters arising from the Garda Investigation, including:

A review of Garda Investigation Reports, including preliminary, progress and final reports, prepared for and or submitted to any Department of State or to the Government or any member thereof.

A review of any Security Reports or Assessments prepared for and or submitted to any Department of State or to the Government or any member thereof.

An examination of allegations that the Garda Inquiry was impeded and or frustrated by inactivity on the part of the RUC.

A review of the response by any Department of State and/or Government or any member thereof concerning any alleged difficulties in progressing the inquiry.

(e) A Review of the treatment of issues relevant to the Dublin and Monaghan bombings in recent years, including:

An examination of the nature and extent of the review conducted by the Department of Justice into the matters raised by the Hidden Hand Documentary.

An examination of the issues raised by the "Hidden Hand" and "Friendly Forces?" documentaries concerning the Dublin and Monaghan Bombings.

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CONCLUSION

It is the view of the relatives and victims that the only appropriate forum through which the issues of pubic disquiet can be effectively addressed is a Public Tribunal of Inquiry with statutory powers.

A private inquiry conflicts with the approach taken by the Government in relation to Bloody Sunday and the murder of Pat Finucane.

In the case of Bloody Sunday, new material was essential if a case was to be made in favour of a new independent inquiry where an inquiry had already taken place many years earlier.

In the case of Pat Finucane, the Government relied on a report prepared by British Irish Rights Watch in coming to its conclusion that the case for a public inquiry was compelling. The British-Irish Rights Watch report was based on two sources of information, one public and one confidential. The report was in part the result of investigative journalism and in part the product of journalistic access to confidential contacts and sources.

In many instances, events of themselves have proved sufficient cause for a public inquiry. Indeed, in the case of Bloody Sunday, the very involvement of state forces in the killing was sufficient to warrant the original public inquiry. In our own jurisdiction the Stardust Inquiry was established within days of that tragic fire. In other instances, the event of itself does not immediately call for a public inquiry. It requires some additional credible revelation to bring the matter within the scope of concern warranting a public inquiry.

In the case of Dublin and Monaghan, the criteria for a public inquiry are met by the revelations contained in the "Hidden Hand" documentary and reinforced by further revelations referred to in this submission. It is clear that as far back as 1993 and 1994 the Department of Justice failed to submit the "Hidden Hand" documentary to a bona fide assessment, similar to that later applied by the Department of Foreign Affairs to the British Irish Rights Watch Report.

Quite apart from the loss of loved ones, there has been an enormous loss of faith in the institutions of this State by law abiding and upright citizens, who, through official actions, omissions, and denials have been subjected to additional hurt. In a profound sense their experience has been one of a trust betrayed. Our collective responsibility must be to rebuild that trust through an open and transparent process, namely a process of Public Inquiry.

The Dublin and Monaghan Bombings Case discloses matters of urgent public importance requiring examination by a Public Tribunal of Inquiry.

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