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**Special
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Northern
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Background

The flawed case against Hoey

The only evidence against Sean Hoey was forensic and, according to his legal team, even that was flimsy and inadequate, writes Henry McDonald, Ireland correspondent

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Newspaper front pages the day after Omagh. Photograph: AP

Sean Hoey faced a separate charge for each of the 56 days he appeared in court on trial for the Omagh bomb massacre in which 29 men, women and children died.

But the only evidence that was ranged against the 38-year-old South Armagh electrician was forensic and, according to his legal team, even that was flimsy and inadequate.

In the end, it was this flaw in the prosecution's case that

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lead to Hoey being cleared of any involvement in the Real IRA bombing in August 1998, the single biggest atrocity of the Troubles.

In the absence of eyewitness accounts or intelligence-based evidence, the prosecution relied on a new forensic technique known as low copy number DNA (LCN DNA), which involves using just a few samples with a only a few cells to obtain a DNA profile of a suspect.

However, during the trial, expert after expert attacked this process. One UK forensic scientist, Professor Allan Jamieson, told Belfast high court that LCN DNA was unreliable and test results were open to interpretation.

The court heard that the molecules used in LCN DNA were the size of a millionth of a grain of salt.

The defence's successful and skilful assault on the forensic method may be of some assistance to the parents of missing toddler Madeleine McCann. Their legal team will be watching closely to see if LCN DNA as an evidential process is seriously undermined by the Omagh case. The couple became labelled as suspects because of minute traces of their daughter's DNA were allegedly found in a car they had rented after her disappearance.

The Guardian has discovered this week that Hoey's legal team was about to bring forward a report compiled for the Chief Constables' Association in the UK which also criticised LCN DNA as unreliable. Had the judgment gone against their client, Hoey's lawyers were preparing an immediate appeal, a major plank of which would have been the chief constables' scepticism regarding the use of the analysis as a means of securing prosecution.

There were other strands to the prosecution case, such as fibre evidence, which they claimed pointed to connections between Hoey's home and a number of Real IRA bombings in 1998. The crown also alleged there had been similarities between the bomb timers used in a number of those Real IRA attacks. These bombings had been synchronised to destabilise Northern Ireland and undermine any chance of a political settlement in that year.

As Hoey prepares to spend Christmas with his name cleared of any role in the bombing, the families of the Omagh victims are left wondering if anyone will ever be charged directly in connection with the car bomb attack on the County Tyrone market town.

Michael Gallagher, whose son Aidan was one of the victims, remains despondent.

He said this week: "I firmly believe that this closes the final chapter on the Omagh bomb investigation. No one will, in my opinion, ever be charged in relation to the massacre. We have no faith left in believing otherwise."

Gallagher, one of the most vocal campaigners for the Omagh victims, said he believed there would be no more breakthroughs in the inquiry. His disillusionment with the entire justice system has been a long, painful drawn out process.

No one has been prosecuted on the basis of intelligence or eyewitness evidence because, Gallagher claims, any such trial would expose a range of informers working for the British and Irish state inside dissident republican paramilitary groups.

He said: "We have to face facts, hard facts that the victims of the Omagh bomb will receive no justice. It's depressing but true and part of the reason for that is the presence of so many informers in this plot."

On both sides of the Irish border, whistleblowers did come forward with disturbing information regarding the Omagh bomb.

In Northern Ireland, the agent known as Kevin Fulton, a former British soldier who infiltrated the IRA for the British state revealed that he had passed information on to the police in the summer of 1998 that dissidents were planning an imminent attack. His warning was not pursued.

Fulton later claimed that a former Provisional IRA gunman

from Newry, who had crossed over into the Real IRA, had been a long-term British agent. Fulton also alleged that the security forces in Northern Ireland did not want their asset exposed by charging him with helping to build the Omagh bomb. His allegations formed part of the Northern Ireland police ombudsman's devastating report which seriously criticised the Royal Ulster Constabulary's handling of the inquiry.

The Guardian can reveal that the Newry man identified by Fulton, and whose details were handed over to the ombudsman, has never been arrested or questioned in relation to Omagh.

Fulton, who was never called to give evidence by either side in the Hoey trial, said he was not surprised at the verdict or the failure of the Omagh bomb inquiry team to put anyone behind bars for the atrocity.

"In the end, Omagh fell victim to the 'dirty war'. There were intelligence assets that had to be protected no matter what," the ex-soldier and former IRA technical officer said this week.

Across the border, Garda sergeant John White risked the ire of colleagues and senior officers for insisting that he too had passed on information from another informant that an attack was imminent in the week leading up to the Omagh bomb.

White claimed that on July 25 1998, he went to a senior officer in the Garda and reported that a convicted car thief, Paddy Dixon, had told him there was going to be a Real IRA bomb attack within two weeks inside Northern Ireland.

At the time, Dixon was one of White's informers working inside the Real IRA. White said he was prepared to stand up at any future public inquiry and tell the world what he had learned from Dixon in the fortnight before the Omagh atrocity. Dixon now lives abroad under a Garda witness protection programme.

The despondency among victims' families is all a far cry

from the international anger and global focus on Omagh in the days and weeks after the massacre.

The British and Irish prime ministers, Tony Blair and Bertie Ahern, travelled to the town shortly after the explosion, pledging to "hunt down" those responsible.

Although several of the Omagh families are still pursuing civil actions in Belfast high court against a number of people they claim were behind the mass murder, legal sources and those close to some of the victims admit they only have outside chances of any success.

But perhaps for those left to grieve for the Omagh victims, the most depressing fact of all is that the organisation that planned and executed the bomb attack has rallied and currently poses a renewed terrorist threat to police officers, especially Catholic ones, within Northern Ireland.

The Real IRA is still able to find fresh recruits, even if it does not enjoy any electoral mandate.

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