

# Omagh bombing trial: Hoey cleared, but little else clarified

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Eleven months after his trial concluded, Sean Hoey, an electrician from South Armagh, Northern Ireland, was acquitted of all charges connecting him to the March 24, 1998 bombing of Omagh. Arrested in 2003 during a huge police operation involving 200 officers, Hoey is now a free man.

The Real IRA atrocity, which caused the worst single loss of life in Northern Ireland's decades-long conflict, killed 29 people and injured hundreds more. The centre of the small and picturesque, predominantly Catholic, Tyrone town was destroyed in an attack intended to break up the 1998 Good Friday Agreement, which paved the way for Sinn Fein joining the devolved executive in Northern Ireland alongside its former pro-British protestant Unionist opponents.

Hoey, one of the last to be tried under the juryless Diplock court system, had been accused of 58 charges relating to the murder of the Omagh victims. The prosecution sought to prove to Justice Weir that Hoey had built a series of bombs, including the Omagh device, all of which were deployed in 1998-99.

Weir's verdict was a long time coming, indicative of the enormous sensitivities around the Omagh attack. The case against Hoey was completed by January 2007 and a verdict was expected within weeks. In the event, it took almost a year and was announced just before Christmas to minimise its political impact.

Nevertheless, when it arrived the verdict was damning.

The case against Hoey rested on three strands. Firstly, that a series of bomb timers, TPUs (timer power units), used in 11 of a series of 13 bomb and mortar attacks, were manufactured by one person.

Secondly, fibres recovered from some of the TPUs, and likely from gloves used by their maker, were similar to fibres found in a mobile home used by Hoey.

Thirdly, use of "Low Copy Number" (LCN) DNA testing, a recent technique not generally accepted and which relies on retrieving only a few sample tissue cells, suggested Hoey had been in contact with two of the TPUs. Press coverage of the verdict focussed almost exclusively on this aspect of Weir's comments.

Weir rejected all three evidential strands. It could not be proved, despite detailed examination of their construction, that the TPUs were all made by the same person. The judge noted that despite similarities in the devices' construction, the forensic officer giving evidence "was not an electrical engineer and had no knowledge of soldering." In Omagh, a complete timer was not recovered in any case.

Various types of fibres were recovered from the glue holding the timers together. However, one forensic officer considered that only one device, used at Lisburn, had provided fibres similar to fibres found in Hoey's mobile home. Another officer disagreed with this. The judge noted that, in any case, the vehicle was not searched until five years after the explosion. No garment was identified in Hoey's possession that could have provided the fibres.

Strand three generated the most criticism. Weir noted that for LCN DNA testing to have validity, there must be an extremely high level of confidence in the integrity and lack of contamination of the forensic material, from the point of seizure to their presentation in court. It should be backed up by a robust records system.

According to the prosecution, four devices gave LCN DNA traces from Hoey. But, one device recovered from Lisburn was repeatedly handled. Tape was added to it under unexplained circumstances. Another device was handled, no thought was given to DNA testing at the time, its label was altered and loose wires were taped to the device. Another device had no record at all of when it was seized.

Weir identified a "most disturbing" situation when the defence presented photographs involving two police officers. Both claimed to have been handling forensic material with gloves. Photographs showed the opposite. Weir described this as "deliberate and calculated deception in which others concerned in the investigation and preparation of this case ... may also have played a part."

Weir noted that the handling of forensic exhibits at Newry, where one of the timers was found, by the then Royal Ulster Constabulary (RUC), now the Police Service of Northern Ireland (PSNI), was "thoroughly disorganised." Weir complained of numerous examples during the trial when forensic items were loose, had no labels or incorrect labels and had no record of when they were collected. One storage room was described as a "complete mess." Bags could "spring a leak." Some items that the police had intended to use as evidence were never found.

It also emerged that the Forensic Service of Northern Ireland (FSNI) lost its UK forensic accreditation in 2001. In a review of 1,200 cases handled by the FSNI between 2001 and 2003, errors were found in 455 cases.

The head of the FSNI emailed the organisation's lead scientist in 2001: "I was shown the bit of TPU box out in Explosives. I don't remember touching anything but who knows. Lots of other people were shown these things."

Weir concluded for these reasons that the prosecution case “cannot satisfy me either beyond a reasonable doubt or to any other acceptable standard.”

Hoey’s release echoes that of his relative, Colm Murphy, whose conviction in Dublin for “conspiracy to cause an explosion” at Omagh was quashed because the Republic of Ireland’s police, the Garda, were found to have altered interview notes. Murphy, the only other person to have been charged with the Omagh killings, is currently facing a retrial.

Weir’s verdict, although devastating to the prosecution case, left out as much as it said. The judge made no reference to what has been clear for years—that British and Irish security and intelligence forces had foreknowledge of a planned attack and that a number of informants were involved in various stages of the Real IRA operation against Omagh.

Weir made no mention of any alleged activities by the security services at all, despite significant evidence having been presented by a former FBI spy in the Real IRA, David Rupert. Rupert, who previously gave evidence in the Dublin trial of Real IRA leader Michael McEvitt and was central to his conviction, supplied over 2,000 pages of evidence to the court, covering information on over 100 people in America and Ireland allegedly involved in supplying materials of one form or another to the Real IRA.

Rupert, who supplied information to both the FBI and British security services, stated that he had been an FBI agent in the Real IRA since “about 1997”—earlier than was previously thought. He said that Hoey’s name had never been mentioned in discussions with the spy agencies as being associated with illegal Republican groups in any way. He did, however, mention three individuals, named in court only as G1, G2, and G3, who were allegedly involved in bomb design and technical aspects of preparing an attack.

Neither did Weir make any mention of a controversy at the early stages of the trial, when Hoey’s defence sought to call former British agent, Kevin Fulton, as a defence witness. Fulton, one of a number of aggrieved former spies who are using their knowledge of the dirty war conducted by Britain in Northern Ireland to try to win pension rights for themselves, claims he met someone known to him as a British agent shortly before the Omagh attack. Fulton says this person was covered in dust and smelled of bomb-making chemicals.

Fulton’s statements were central to the 2001 investigation launched by Northern Ireland’s Police Ombudsman, the now retired Nuala O’Loan, whose report identified the British agent met by Fulton as a firm suspect, and another four as having likely been involved in some way. The agent was later named as a Patrick Joseph Blair using parliamentary privilege in Westminster.

Some months prior to the case opening, an article in the February 26, 2006 edition of the *Sunday Times* by longstanding Northern Ireland correspondent Liam Clarke reported that Sam Kinkaid, then head of the PSNI’s Crime Operations Department, successor to the RUC’s Special Branch, confirmed to victims’ relatives that MI5 and the Garda knew of a planned attack on either Omagh or Derry as much as five months in advance of the eventual explosion.

Kinkaid, in his last day in office, read a remarkable prepared

statement to the relatives alleging that information from the same David Rupert identified Omagh as a possible target as early as April 1998. Kinkaid was backed by his successor Peter Sheridan and the two leading officers in the PSNI’s Omagh investigation. Kinkaid then claimed that information on this was not passed on to Special Branch.

Kevin Fulton—and this was noted in O’Loan’s report—has also claimed that he contacted RUC Special Branch no less than five times prior to Omagh regarding possible attacks.

Clarke’s article also noted that the PSNI told Omagh relatives that four bombs were allowed to reach their target to protect the identity of the Dublin car thief—and informer—Paddy Dixon, who stole cars to order for the Real IRA. Dixon was paid for his trouble, and was later given a false British ID.

Kinkaid’s 2006 claims, which received very little press coverage at the time, along with Weir’s verdict, and the omissions from it, can only be understood in the context of the rapid political changes in Northern Ireland.

With Sinn Fein now in government in Stormont, alongside the Democratic Unionist Party since May 2007, it is essential for the reformed Northern Ireland state apparatus to distance itself from its role in “the Troubles.” What cannot be allowed is any serious investigation of the numerous unanswered questions surrounding the role of the hundreds of state informants in all the paramilitary organisations, and their relations with the British government and military as this would destroy the credibility of all the political parties, Republican and Unionist, and of the claims of a reformed security apparatus. MI5 has been placed in charge of Northern Ireland’s “national security.”

PSNI Chief constable Hugh Orde shrugged his shoulders at the Hoey verdict, stating that a new Omagh trial was unlikely unless new witnesses came forward: “Realistically speaking, without that, prosecution is highly unlikely.”

In April 2007, Sinn Fein nominated its first members onto the policing boards for Northern Ireland. The policing board is currently debating introducing tasers into the arsenal of PSNI armed response units. Accelerated involvement of Sinn Fein members in local policing boards is anticipated in 2008.



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