

Finucane review shows links between British intelligence and loyalist death squads in Northern Ireland

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In February 1989, Patrick Finucane, a civil rights lawyer working in Northern Ireland, was assassinated by members of a far-right loyalist death squad with close ties to the British state. One of the trigger men, Ken Barrett, was subsequently recruited as a British agent. One of the weapons used to kill Finucane, a 9mm Browning, was provided by William Stobie, a British agent. Intelligence on Finucane's activities and whereabouts was provided by Brian Nelson, the most important British agent in any loyalist organisation.

Finucane, who had been repeatedly threatened by loyalists, was killed because of his prominent role in the legal defence of members of the Irish Republican Army (IRA). His murder came less than a month after a Home Office minister in the Conservative government, Douglas Hogg, complained in Westminster during a debate on renewal of the Prevention of Terrorism Act, "There are in Northern Ireland a number of solicitors who are unduly sympathetic to the cause of the IRA."

Hogg was warned by Social Democratic and Labour Party MP Seamus Mallon, "I have no doubt that there are lawyers walking or driving on the roads of Northern Ireland who have become targets for assassins as a result of the statement that has been made tonight."

Hogg rejected the warning and insisted again in the debate, "I am advised as a minister that those are the facts. I believe them to be true and I state them as facts on advice that I have received."

In the intervening 24 years, successive British governments, Labour and Tory, have worked to prevent a full public investigation of the relationship between Hogg's remarks, the British military infiltration and direction of loyalist paramilitary groups, and Finucane's death. Of the thousands of deaths and atrocities during the British "dirty war" in Northern Ireland, the Finucane killing is the most contested because it threatens to reveal the extent to which the use of state agents to execute British citizens was directed from the very top.

In 2004, as part of the efforts to revive the then-suspended Stormont assembly, the British government temporarily conceded the possibility of a public inquiry as part of negotiations with Sinn Fein and the loyalist Democratic Unionist Party. It was made clear that any inquiry would be compatible with the "requirements of national security", a euphemism for not embarrassing members of the British Army and Security Service (MI5). The Blair government altered the rules of public inquiries to ensure control over an inquiry's conduct.

In 2011, the Conservative-led Cameron government reneged on the promises made to the Finucane family, Sinn Fein and the Irish government, and announced that instead of an inquiry, with live questioning of witnesses under oath, there would be a "review" of the

paper evidence. Sir Desmond de Silva, a leading defence lawyer, former United Nations prosecutor, member of the Privy Council, and Freeman of the City of London, was duly appointed.

De Silva's report is a review of the documentary record of a number of previous inquiries into British state collusion in the Finucane killing. In particular, de Silva was given access to the vast holdings assembled by former Metropolitan Police Commissioner Sir John Stevens' three confidential inquiries. He was also given access to the archives of the Ministry of Defence, MI5, the Home Office, Cabinet Office and any other state agency he deemed relevant. The vast majority of individuals mentioned in the report are identified only by number.

From the outset, de Silva makes clear that his intention is to defend the practices out of which the Finucane killing emerged. "I believe that the intelligence-led security response to the Troubles did play a significant role in constraining all terrorist organisations, to the extent that they were forced to realise that their aims were not achievable by violence," he writes.

His concern is to present the Finucane killing as a mistake, the result of inadequate supervision of an otherwise legitimate operation. He states, "In my view, the running of effective agents in Northern Ireland was such a fraught and difficult task that it manifestly required the support of a clear legal and policy framework. I have established, though, that there was no adequate framework in Northern Ireland in the late 1980s. Accordingly, each of the three agencies running agents—the Royal Ulster Constabulary Special Branch (RUC SB), the Force Research Unit (FRU) and the Security Service (MI5)—operated under their own separate regimes."

De Silva's view is that the Finucane assassination arose from this lack of accountability and legal clarity. Despite the fact that his review was established on the basis of accepting that collusion had taken place, there was, he insists, no "over-arching State conspiracy to murder Patrick Finucane".

His own report makes clear that there was such a state conspiracy to kill leading republicans, to which Finucane fell victim, a fact of which the British government was fully aware. De Silva adds considerable detail to what is already known, thanks mainly to the work of a small number of investigative journalists, rights organisations and the tireless campaigning by Finucane's family and supporters. Some items stand out, particularly on the activities of Brian Nelson, but the entire report requires careful examination.

According to De Silva, Nelson was first recruited by the FRU in 1984. A former soldier, he had joined the Ulster Defence Association (UDA) in 1972. In 1974, he was jailed for kidnapping, beating and

electrocuting a partially sighted man, Gerald Higgins. In 1984, he offered his services to the FRU as an informer within the UDA. In 1985, he was centrally involved in an attempt to murder a leading republican, only identified in de Silva's report as T/27.

T/27 was shot three times in front of his house in 1985.

Nelson left Britain to work in Germany for a period, but the FRU and MI5 took the lead in enticing him back to Northern Ireland. An internal MI5 report describes him as of "much higher calibre than the average gouger" and considers that he would make an "excellent" agent. Both MI5 and the FRU appear to have fallen over each other in their efforts to bring Nelson back to Belfast. In the event, he was offered £7,200 to buy a house, a taxi and a £200 a month salary by the FRU. The rationale for recruiting Nelson was that he would allow better targeting of leading IRA members by loyalist gangs considered incapable of getting near "hard" targets.

Nelson was duly re-inserted in the West Belfast UDA as their intelligence officer and provided with up-to-date intelligence on leading members of the IRA and other republican organisations by the FRU. Over the next two years, under detailed supervision by the FRU, Nelson maintained and disseminated large amounts of intelligence to the UDA and the Ulster Volunteer Force (UVF), which was then used to target and kill republican opponents of the British government. De Silva presents information on a number of these, including the targeting of Sinn Fein's Belfast City Councillor Alex Maskey and the 1988 murder of Terence McDaid, mistaken for his brother Declan.

De Silva concludes: "I am satisfied that Nelson played some part in at least four murders, ten attempted murders and numerous conspiracies to murder. I also believe that Nelson's collation and widespread dissemination of targeting material is likely to have had a broader and more deadly impact than is difficult to quantify."

Overall, de Silva concludes that there were 270 instances of information being provided to loyalist paramilitaries between 1987 and 1989, either in the form of documentation or verbal targeting details such as vehicle registration checks. This includes 500 Royal Ulster Constabulary "P" files on known republicans, which Nelson handed over to the FRU to ensure they were up to date. He notes a 1986 MI5 assessment that 85 percent of loyalist intelligence came directly from the security forces. De Silva also considers as "likely to be founded in truth" the view that that a "high level" RUC member was assisting loyalist efforts to acquire arms.

The report allows an insight into the multiple layers of pretext, dissembling and deniability utilised by the British government and its Northern Ireland representatives. For example, one of the RUC Special Branch's key defences over Finucane was to claim that it was never supplied with reliable information by the FRU, and could therefore take no action to "save lives". The other side of the same pretext was the FRU claim that "saving lives" was the responsibility of the RUC Special Branch. De Silva makes clear that, in fact, the RUC Special Branch was provided with clear information by the FRU on numerous occasions, that the RUC did nothing with it, and that the FRU were well aware of this.

De Silva concedes, "On occasions, the actions of the FRU handlers are consistent only with the interpretation that they wished to facilitate Nelson's aim of targeting particular republicans with a view to the UDA attacking them."

De Silva also takes up the rogue unit scenario, used by the RUC to point the finger back at the FRU. He notes that A/05—the FRU's commanding officer, known to the world as Brigadier Gordon Kerr—was clearly held in high regard at the time of his supervision of

the Nelson operation and after Nelson's 1992 arrest and conviction for murder. He writes: "He [A/05] was subsequently promoted and received honours relating to his time in command of the FRU and his later work. It is unlikely, in my view, that A/05's subsequent career path would have followed this trajectory if the Army and the MoD had regarded him as a maverick operating outside of, or in breach of, Army Directives set by the military chain of command."

Kerr subsequently played a role in the British Army in Iraq.

On the extent of government knowledge and supervision, de Silva treads most carefully. He acknowledges that "leaks were so serious in their nature that Government Minister should have received regular briefings on the issue."

In fact, briefings were made. De Silva points to MI5 records showing that reports on links between loyalists and the RUC were given to Northern Ireland Secretary Douglas Hurd in 1984 and 1985. His successor, Tom King, in office between 1985 and 1989, was given a report showing that the flow of intelligence from the security forces to the UDA had increased since the 1985 Anglo-Irish Agreement. But de Silva claims he has found no documentary evidence beyond this, and that by 1989 ministers were "essentially unaware" of the level of leaks.

This is absurd. We are expected to believe that Hurd and King suffered from amnesia and that none of this information was communicated to the rest of the British cabinet.

De Silva traces the origins of Douglas Hogg's 1989 comments and their relationship to Finucane's killing. In late 1988, Hogg, then a junior Home Office minister, visited Northern Ireland to be briefed by the RUC. His secretary's notes recount, "The RUC referred to the difficulties caused by the half dozen or so solicitors who are effectively in the pockets of terrorists, and who made good use of their right to insist on access to documents."

The RUC later provided more detailed briefs to Hogg on Finucane and another lawyer, Oliver Kelly. Hogg's comments, therefore, were based on advice from RUC, backed up by the Metropolitan Police. Like Finucane, Kelly had previously been targeted by the UDA.

De Silva insists that Hogg and the Home Office have left no documentary record of any intention to finger Finucane for execution, but the effect of his comments was to do precisely that. A West Belfast UDA operation was already in motion, following suggestions from RUC officers, using intelligence supplied by Nelson and a gun from an Ulster Defence Regiment armoury, and backed up by a Security Service propaganda campaign to "unnerve" lawyers working on behalf of republicans. Hogg's comments, un-retracted despite Mallon's clear and immediate warning, gave the UDA an unambiguous green light. To date, only Ken Barrett has ever been convicted of Finucane's murder. Both William Stobie and Brian Nelson are dead. Stobie was assassinated after he too called for full public inquiry into the killing.



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