

UK: Birmingham Six investigator Chris Mullin defeats legal threat from West Midlands Police

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A senior Old Bailey judge ruled last month that Chris Mullin, the investigative journalist who exposed the frame-up and torture of the Birmingham Six, falsely accused of the 1974 Birmingham pub bombings, will not have to hand over source material to the West Midlands Police (WMP).

Mullin was contesting a Production Order under the Terrorism Act 2000 demanding he hand over material given to him in confidence decades ago, which was central to the eventual release and exoneration of the six innocent Irish workers. The order, which could have resulted in Mullin, a former Labour government minister, going to jail, was a blatant attack on journalism and democratic rights.

In a written ruling, Judge Mark Lucraft, considered that Mullin did have evidence in his possession with “reasonable grounds” to consider would be of “substantial value” to WMP. However, Lucraft wrote there was not an “overriding public interest” that might displace Mullin’s rights as a journalist to protect his sources.

Speaking after the ruling, Mullin noted, “My actions in this case were overwhelmingly in the public interest. They led to the release of six innocent men after 17 years in prison, the winding up of the notorious West Midlands Serious Crimes Squad and the quashing of a further 30 or so wrongful convictions. This case also resulted in the setting up a Royal Commission which, among other reforms, led to the setting up of the Criminal Cases Review Commission and the quashing of another 500 or more wrongful convictions.”

Mullin also made clear that he had co-operated with the police investigation as much as he could, to the extent that the journalist principle of protecting sources was not compromised. He had provided notes to the police of his interviews, only redacting those which identified sources who were still alive.

In 2019, Mullin named two of the four men he believed were responsible for the bombing in an article for the *London Review of Books*. These were James Francis Gavin, who died in 2002, and Michael Murray who died in 1999. Mullin wrote, “I no longer have any compunction about identifying two of the men involved, who are now dead ... but the man described in my book [*Error of Judgement: The Truth*] as the ‘young planter’ is

still alive, and I will not name him.”

The pub bombings

In November 1974, the Provisional Irish Republican Army (IRA) exploded two bombs in Birmingham, England in pursuit of their campaign to expel the British Army from Northern Ireland. The bombs were aimed at prominent locations in the city, the famous Rotunda and the Tax Office in New Street and were left in public houses in the same buildings. Warnings were given to police but were unclear and not given early enough. As a result 21 people, mostly young, were killed and 182 injured. A third bomb was defused.

A case study in the bankruptcy of terrorist methods, the attacks came amid profound class tensions in Britain which only months previously had seen Edward Heath’s Conservative Party government driven from office by the working class. The attacks assisted in dividing the working class, alienating and disgusting broad sections of workers in England, many of whom might otherwise have been sympathetic to opponents of British rule in Ireland, and triggered factory walkouts. The new Labour government seized on the atrocity to pass the draconian Prevention of Terrorism Act 1974 which proscribed the IRA, among others.

Innocent men tortured and jailed

The Birmingham Six, Hugh Callaghan, Patrick Joseph Hill, Gerard Hunter, Richard McKenny, William Power and John Walker were born in Northern Ireland but lived in the city. All six were en route to the funeral in Ireland of IRA member James McDade, who had blown himself up planting a bomb at a telephone exchange when they were arrested by Special

Branch.

As recounted in Mullin's 1986 book about the Birmingham bombings, *Error of Judgement: The Truth*, the six innocent men were arrested, beaten, tortured, threatened with being killed for days by both police and prison officers. False and contradictory confessions were extracted from four of them, while scientific evidence, later discredited, was used to claim some had explosive residue on their hands. In an atmosphere of anger and hysteria, the six, protesting their innocence, were convicted August 1975 and each sentenced to 21 life sentences. The six mounted an initial appeal against their convictions and took legal action against the assaults on them by the authorities, all of which were rejected, as were concerns raised over the forensic evidence.

Mullin's team, working for ITV's *World in Action* found, based on the work of distinguished forensic scientists that perfectly innocent explanations could be found for the alleged explosive residue found by Dr. Frank Skuse of the North West Forensic Laboratories. Playing cards could return a positive result for the presence of nitro-glycerine using the Greiss technique employed by Skuse.

Error of Judgement gave an account of the local IRA operation in Birmingham. It placed it in the context of escalated IRA activity in England, following Bloody Sunday on January 30, 1972, when the British Army's Parachute Regiment shot down peaceful civil rights demonstrators in Derry, Northern Ireland. The first bomb attack, on the HQ of the Parachute Regiment in Aldershot took place a month later. A succession of bombing and incendiary attacks followed.

Mullin's interviews

Mullin was able to interview, after providing guarantees of anonymity, members of the IRA including some who had had a role in the Birmingham pub bombings. He interviewed one of those who, having first denied it, admitted to having planted the bombs. Specific details of the bags carrying the bombs, and where the devices were located in both pubs dramatically contrasted with the confessions beaten out of the arrested men. Even then, another appeal in 1987 was thrown out.

It took a further documentary interviewing one of the bomb planters, giving specific details of the pub interiors, as well as the ongoing collapse of similar frame-ups against the Guildford Four, the Maguire Seven and massive worldwide public outrage before the Home Office conceded another inquiry which identified police notebooks revealing the confessions were false. The Birmingham Six were finally released March 14, 1991, after more than 16 years in prison. Their sentences were formally overturned seven years later.

The relatives of the bombings' victims waged a determined

effort over decades to establish how their loved ones died. Inquests into the Birmingham deaths were not announced until 2016. Hearings did not finally open until 2019, 45 years after the bombings. The inquests were opposed by West Midlands Police.

Limitations placed on the inquest ruled that both the question of perpetrators and of any possible role played by agents or informers were out of bounds. While large volumes of documentation were handed over, crucial material was not. According to Christopher Stanley, a lawyer at KRW Law representing the families, these included files from the British government's Joint Intelligence Committee, and which were reported in the *Guardian* as containing "movements of the IRA", which had mysteriously gone missing.

Files were also requested from the Home Office, the Ministry of Defence, the Foreign Office among others. Only an affidavit was offered from the government Legal Department assuring that none of these bodies held relevant material. No explanation was offered of what searches were carried out. Neither was any material offered to explain which policies and practices had been set in motion in response to the IRA campaign. Yet, in Birmingham alone, there had been at least 20 bombing and incendiary incidents before November 21, 1974.

Following this official stonewalling, no evidence was presented on which WMP could be found at fault by the inquest jury, despite an anonymous Witness "O", giving, with approval from the IRA, the names of four of five attackers. The inquest jury returned a verdict of unlawful killing.

Stanley noted that before, during and after the collapse of the frame-up of the six men, WMP had at no time undertaken a serious investigation to identify the attackers or the circumstances around the attacks. Just about the only line of inquiry being followed by WMP was, after the inquest, to demand Mullin hand over unredacted notes of his interviews.

There are a series of ongoing investigations into Northern Ireland's "Troubles", many of which continue to shed light on the role of British government agents and informants within and around Irish republican and pro-British loyalists paramilitary organisations. In that light, the judge's decision, far from arising from concern for democratic rights and journalism from the same judiciary which has incarcerated WikiLeaks founder and journalist Julian Assange for over a decade, amounts to a consideration that sleeping dogs should be let lie.



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