

PUBLIC INQUIRY



— Into the —
Murder of
Paul Thompson

*An inquiry organized by the
Springfield Park Residents Association
September 17th and 19th, 1994*

REPORT ON THE INQUIRY
INTO THE
MURDER OF PAUL THOMPSON
AND THE
WOUNDING OF PATRICK ELLEY
IN BELFAST ON APRIL 27, 1994.

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*Special Thanks to Ancient Order of Hibernians in America
and the Irish American Unity Conference.*



Paul Thompson
Murdered April 27, 1994



Patrick Elley
Shot and wounded April 27, 1994.
Later his home was bombed to punish him for
testifying.

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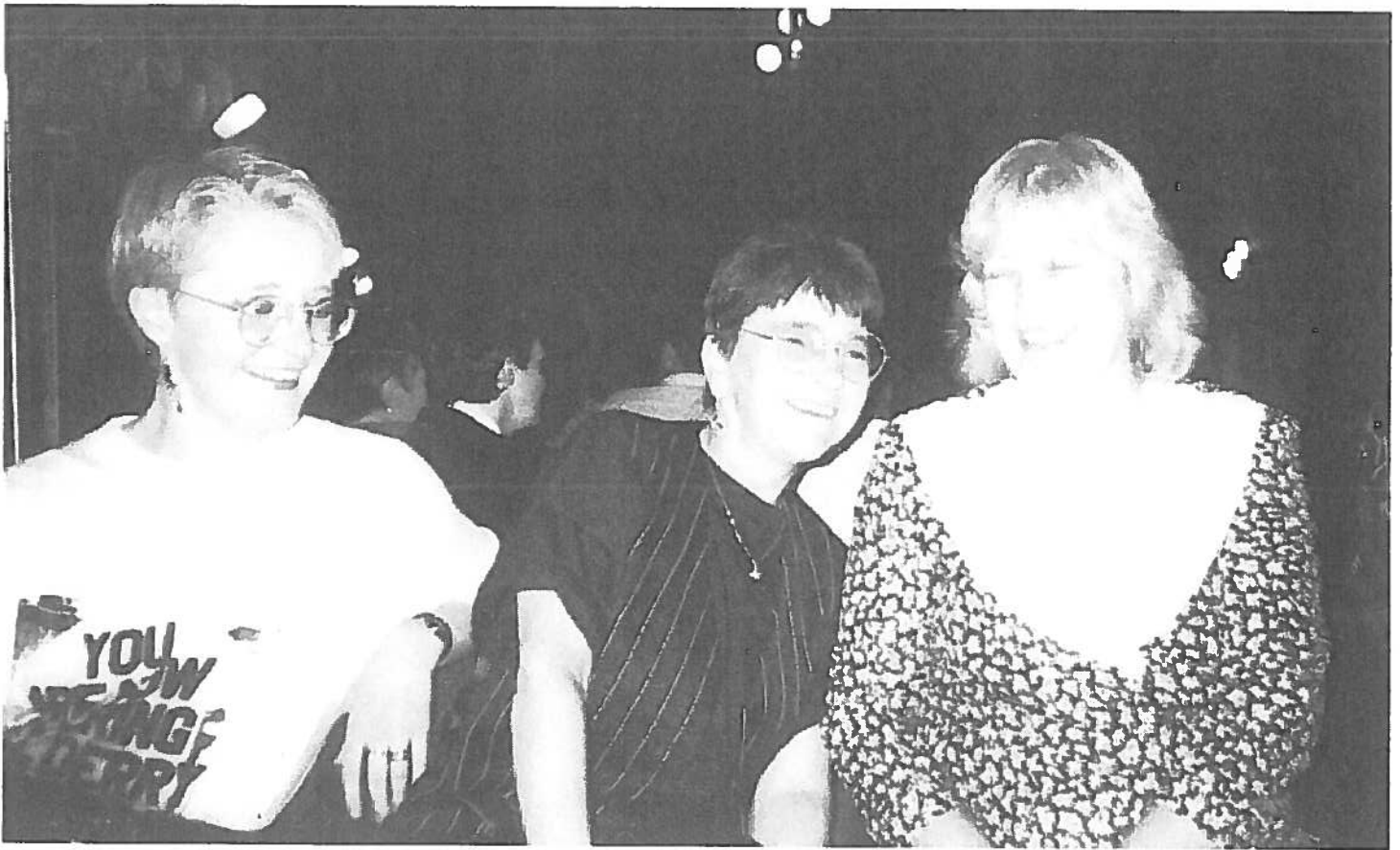
Fr. Desmond Wilson (R)

It is disturbing that citizens have to call their own Inquiry



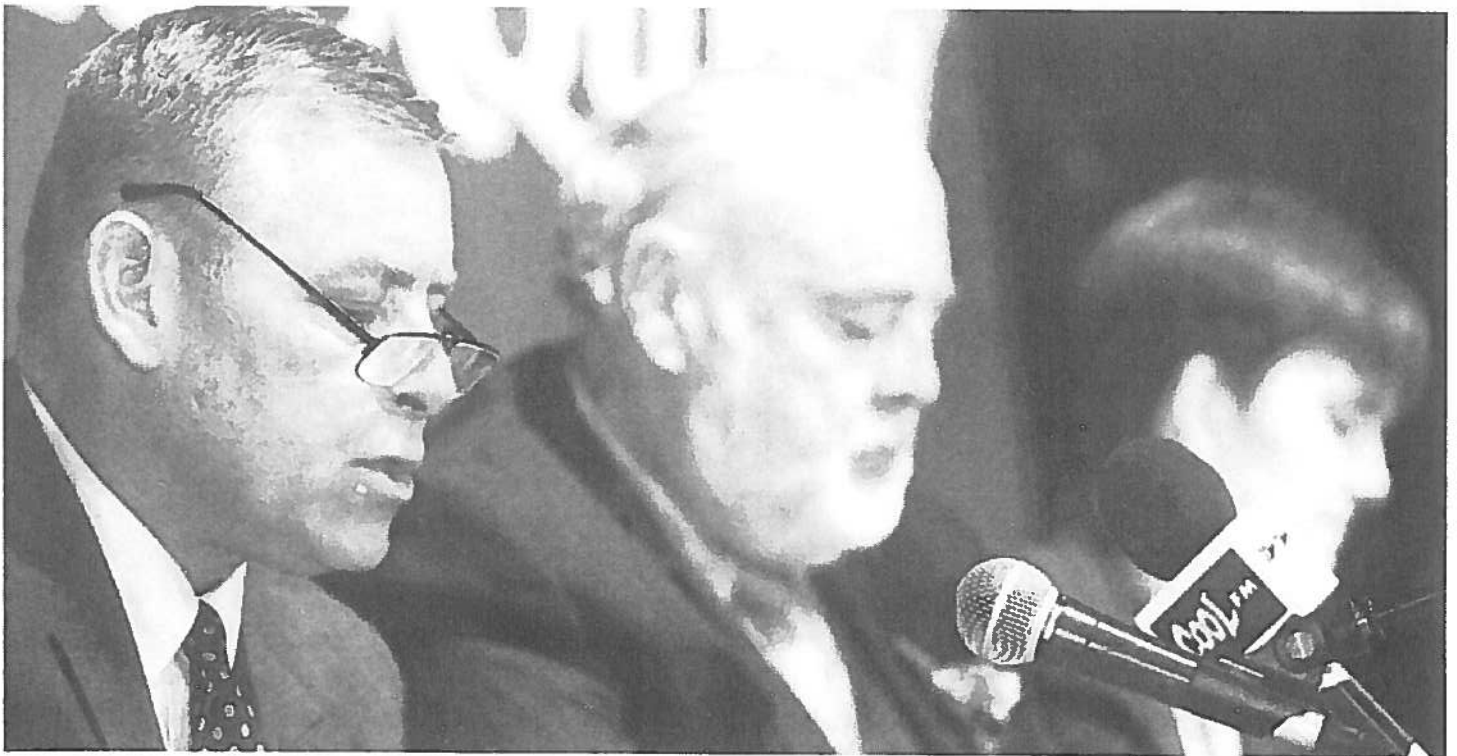
Fr. Desmond Wilson and Noelle Ryan Coordinator of Springfield Community House (c)

They have provided the only place of training for Irish youth in Belfast. Their cooperation and efforts made this inquiry possible.



Lorraine Halpenny (L) Brenda Murphy (c)

They would not let Paul Thompson's murder be forgotten as another statistic. They had to call this Inquiry to the outside world about life and death in Belfast.



Caitriona Ruane (R) with two jurists

She led the publicity team to begin and complete the Inquiry. She believes that "Reconciliation is about bringing everything out in the open, dealing with it, acknowledging the pain and suffering that has happened and when people are ready, moving on."

PART A - WHY WE CALLED FOR A PUBLIC INQUIRY

FR. DESMOND WILSON

STATEMENT

When Paul Thompson was shot dead in Springfield Park, West Belfast, local residents, including one in whose arms he died, asked for a full inquiry by the Government into what happened.

The request was refused.

What the residents wanted investigated was not only who the assassins were and how they breached a security barrier to get into Springfield Park, but why so many demands they had made for help from the authorities were ignored for so long. Many important questions needed to be answered not only about the dangerous situation in this area which had been under attack so often, but also about the attitude of public authorities towards its residents.

When a Government Inquiry was refused that did not end the matter.

The Residents of Springfield Park decided to hold their own Public Inquiry.

It was not the first time citizens in Belfast and elsewhere had held Public Inquiries of their own. Faced with the consistent refusal of public authorities to hold inquiries in public into matters for which they had responsibility, groups of citizens have been holding public inquiries of their own since the late nineteenth seventies. These have been about Education, Employment, the deaths of citizens at the hands of the authorities and other matters. The Springfield Park Inquiry was the democratic response of citizens to their need for exact information on a matter of public and private importance.

When the Residents of the Park announced their intention to hold this Public Inquiry prominent legal experts immediately offered their help. Soon a team had been formed consisting of Judge Andrew Somers (USA), Chairman, Ms. Garreth Peirce (Britain) Co-Chairing, Judge Dan Coburn (USA), Rick O Meara (USA) Attorney, Ray Murphy (Ireland) Doctor of Law, Tom Fox (USA), Attorney, Angela Ritchie (Ireland) of Madden and Finucane, Solicitors.

The Tribunal heard evidence on September 17th and 18th 1995.

The following Report gives the facts and conclusions emerging from this Public Inquiry.

The Report is encouraging in one respect and gravely disturbing in another. It is encouraging that groups of citizens in West Belfast and other areas, including those with very few resources of their own to call upon, have the determination and the self-confidence to mount such an Inquiry with such expertise.

It is disturbing that they should have to do it.

The full resources of the state should be at the disposal of all citizens who want to know the truth about any aspect of their lives. To these resources to which they have a right, there should be added the resources of all voluntary bodies to which they may belong, churches being among the most prominent and well resourced. Knowledge is the citizens' right, especially knowledge about our own lives and what is happening to us.

Both state and voluntary bodies should have been hastening to set up the necessary inquiries into what proved to be one of the most painful, tragic and disturbing events in the long painful history of West Belfast.

All of us who lived close to these events and saw the needless tragedy of them offer profound sympathy to the family, relatives and friends of Paul 'Topper' Thompson and to Patrick Elley who was injured in the same shooting.

Our thanks and congratulations go to those who organised this inquiry—leaving themselves open to attack as they did so—and to those who gave their time and expertise to conduct and report on it.

The gratitude of all our citizens who value human rights and dignity goes also to those organisations and persons, neighbours in the district and friends abroad, who so generously covered the costs involved.

It is to be hoped that the need for such a Public Inquiry will never occur again. But also that the expertise gained by citizens themselves and made available to them by others will always be ready to hand to create whatever Inquiries they need, as independent and efficient as this one.

SIGNED Fr. Desmond Wilson

11th October 1994

**A PRESS CONFERENCE WILL BE HELD ON WEDNESDAY,
12TH OCTOBER AT 12 NOON IN CONWAY MILL,
CONWAY STREET, BELFAST.**

On 27th April residents of Springfield Park saw two men removing sections of the so-called 'security-fence'. The RUC and NIO were notified immediately about these concerns. Despite assurances that the matter would be investigated, nothing was done. The Residents Association immediately published a leaflet to warn local people of the threat. That night, Paul Thompson was murdered by the UFF. Patrick Elley was injured in the same attack.

On 17th and 18th September an Inquiry was initiated to investigate the circumstances of this incident. **Almost one month later, one of the organisers was physically attacked in the centre of Belfast and there has been a further attempt on Patrick Elley's life.**

The press conference will hear details of the above incidents and the community's decision to appeal to the European Commission, US Congress, Amnesty International and the Irish Government.

For further information contact Caitriona Ruane at Belfast 626678.

**BRENDA MURPHY AND LORRAINE HALPENNY
PAUL THOMPSON PUBLIC INQUIRY LETTER
ORGANIZED BY SPRINGFIELD PARK RESIDENTS**

STATEMENT

On behalf of the residents of Springfield Park, I would like to thank certain groups and individuals, with out whom the Public Inquiry into the murder of Paul Thompson and wounding of Patrick Elley, would never have taken place. The Irish American Trinity Conference, The Ancient Order of Hibernians U.S.A. Judge Andrew Somers, Judge Dan Coburn, Attorney Rick O Meara, Counsel Tom Fox and Dan O' Kennedy. These American friends, whose generosity, time and money, made it all possible. Angela Ritchie, Solicitor, Madden & Finucane, Gareth Peirce, Solicitor (London, England) and Ray Murphy, Dr of Law, University Galway Ireland.

A very special thank you, closer to home, to Noelle Ryan and Father Desmond Wilson, for advice, support, use of their equipment and for just being there. Special thanks also to Stephen Mullan for all his great work, and to Ciaran Cahill for his brilliant photography. Thank you to Catriona Ruanne, C.R.D. who gave of her time and expertise unstintingly, we are extremely grateful to Catriona. Thank you also to Siobhan O' Hanlon. Special thank yous must go to individual residents of Springfield Park. They are Colette Magee, Christine and

Pat Hall, Denise Mc Mahon, Magdalene Gallagher and Kevin Mc Quillan. Thank you to, Brenda Kelly (Moyard Park) Brenda Hyland (Newbarnsley) Tommy Holland, Mary Torney (Springfield Road) Mary and Kevin Nolan and members of the Nolan family, all the workers in Springhill community house and Springhill Development Agency, the creche workers, Lorraine and Brenda Murphy, Ciara Gallagher and Eilish Kelly.

Thank you to the youngest member of our team, Bridie Murphy, for all her hard work and patience.

And to all those people, too numerous to mention individually, we thank you all.

Our most heartfelt thanks and sympathy must go to the Thompson family who supported and gave evidence at the Inquiry despite their most grievous loss. The dignity of Eugene Thompson, will always be remembered.

Patrick Elley, who was wounded in the murder attack, also gave evidence with dignity and bravery. After giving this evidence, a loyalist murder gang attempted to kill his family and himself. We thank Patrick and his family for their courage and perseverance.

SIGNED Brenda Murphy & Lorraine Halpenny.
Public Inquiry organizers.

CAITRIONA RUANE
PAUL THOMPSON PUBLIC INQUIRY
P.R.O. FOR THE INQUIRY

STATEMENT

My first meeting with the Thompson family and Springfield Park Residents Association took place in Brenda Murphy's living room. I was invited because they wanted to pick my brains about how we organised the Cullyhanna Inquiry. I went into that living room determined to help but not to get involved in the organising of an inquiry, because I was overburdened with work. I listened to the family and friends of Paul Thompson, about how he was killed and how the RUC failed to do the most basic investigations into the shootings. I heard about the numerous attacks on residents in this small area and felt a real sense of fear listening to them. I listened to the children playing in the street outside as we talked and felt outraged at what these people were suffering. They brought me to the spot where Paul was killed and asked would I help in organising the inquiry. What could I say? I was moved by their courage and determination. I said yes, whatever I could do.

We began work immediately, contacting jurists, printing leaflets, inviting observers, preparing banners, working with solicitors and human rights groups. We booked venues. It was eerie, no one wanted the inquiry to be held in their premises because they were afraid of a follow up attack. Conway Mill welcomed us with open arms. The residents association organised fundraising dances during the West Belfast Festival.

Everyone played their role in whatever way they could. It was a tribute to Paul and the many friends he had throughout West Belfast.

This is the report of that inquiry, a report that is very critical of the RUC and justifiably so. For generations communities like West Belfast have not had proper policing, they have always been policed by a sectarian police force operating under emergency legislation.

The RUC is 92% protestant and 8% catholic. However, an even more telling statistic is that they are 100% unionist. Seamus Mallon rightly points out that the question is not how many catholics are in the police force, but how many nationalists feel they can join a force that is perceived as the 'armed wing of unionism'.

At a recent meeting, in November 1994, chaired by David Cook, chairperson of the Police Authority of Northern Ireland, a woman introduced herself to me by saying "I'm a catholic and I'm on the Police Authority but I'm not political". I kindly but firmly let her know that the Police Authority is no more acceptable to the nationalist community because of these facts.

The major problems we have here is that the RUC do not see themselves as part of the problem. They appear to think that now we can move from military style policing in a conflict to 'normal' policing. They proudly point to a community attitudes survey that 65% of catholics reported that the police dealt fairly with everyone and try to gloss over the fact that neither Sinn Fein or the SDLP sit on the Police Authority - or "toothless Quango" as Seamus Mallon calls it. They reject out of hand any suggestions made of structural changes to the RUC and argue that only the British Government can lead the debate on policing. They rubbish criticisms coming from Loyalists, Republicans, Church groups, human rights groups, academics and communities as according to Blair Wallace, Deputy Chief Constable "these people are politically motivated, unrepresentative, dubious barometers of public opinion and of being the sort of people who spoke loudest at meetings". They insinuate that anyone calling for a new or reformed police service disregards or in some way minimizes the suffering of families of RUC men and women killed or injured.

In the North of Ireland we need a new police service or services that is accountable, representative and responsive to the communities it serves. We need an independent effective complaints system where the law is applied equally to police officers as it is to civilians. We need the immediate lifting of all emergency legislation. CAJ in a recent submission to the Joint Oireachtas Committee on Foreign Affairs, called for a wide ranging review of policing in Northern Ireland. They say it should be independent, have an international dimension, draw on international human rights experience and should report to the British and Irish Governments and all parties to the negotiations.

In conjunction with this they call for a wide ranging consultation with local communities and that the army and secret units should play no more further part in policing.

It is worth looking at international examples of the creation of new police services in South Africa, El Salvador and Palestine. In each of these countries there has been serious problems with the creation of a new police service and already serious human rights abuses have occurred. Nonetheless there are lessons for us here in the North of Ireland. The lessons from El Salvador alone indicate the following:

- a) An inclusive political settlement that has the support and agreement of all groups within society is essential. If the settlement is not accepted, then a police service answerable to the new structure will not be acceptable.
- b) International monitoring in the interim period should be put in place, especially where the old police force is still on the streets. We need to look to the UN, the CSCE and other international options.
- c) A new police service needs to be created that is accountable, democratic, representative and responsive. Reform of the old police force, which was involved in human rights abuses is a recipe for disaster.
- d) Training of new police service is essential, this training should provide human rights awareness. In El Salvador the National Academy for Public Security was established to facilitate this.
- e) Radical reforms of the judiciary and legal system is essential otherwise the best conceived police service in the world will founder. During negotiations there is a tendency to form a new policing and military structures and to underplay the importance of Judicial reform.
- f) Human rights work by local Non-Governmental Organisations should continue and increase. Funding for human rights groups should be part of the new investment programme. Part of this funding should also be made available to re-insert combatants from a guerrilla movement and ex-army and police into society.

We are being told that we must forget the past and look to the future. Many people tell us it is divisive to bring up old wounds. We should just forget. I think one of the greatest lessons we can learn from El Salvador or anywhere else for that matter, if we bury the past deep inside us without dealing with it, without hearing people say "we're so sorry for what happened to your child" be he or she an IRA volunteer, an RUC officer, an informer, a British Soldier or a Loyalist, we can forget about true reconciliation.

Reconciliation is about bringing everything out into the open, dealing with it, acknowledging the pain and suffering that has happened and then when people are ready, moving on.

We have heard expressions of regret about suffering caused from the IRA, the UVF and the UFF. To date the British Government have never acknowledged that they have inflicted hurt and pain, that they too have been responsible for many deaths in this conflict. We need genuine discussions on new policing arrangements. Then and only then can this peace process move forward with everyone accepting responsibility for their actions. We need to be imaginative and creative and see how other societies throughout the world deal with this complex issue. None of us have all the answers but together we can and must create a police service, a legal system and a political solution that has all our support. The RUC and the Army are part of the problem until they and, equally importantly, the British Government recognise this there is no possibility of a lasting peace.

The people of Springfield Park deserve a police service that is responsive to them, that protects them and that enables them to live a safe and fulfilled life. I hope that this Inquiry and report have played a part in ensuring that the children playing on that street on the evening we planned the Inquiry will grow up in a different, safer environment.

Caitriona Ruane
Belfast
12/12/94

PART B - THE RESIDENTS SPEAK

RESIDENTS STATEMENTS

STATEMENT FROM BRENDA MURPHY

ON THE SHOOTING OF PAUL THOMPSON. 27TH APRIL 1994.

My daughter Lorraine had just arrived home at roughly 11-15p.m. on the 27th April. She was standing at my front door talking to two men who had stopped in a car at my driveway. I told her to hurry up and come indoors, as I had been worried all that day about an attack by Loyalists on the street. I had seen two men cutting through the fencing earlier and was feeling nervous. The men she was talking to were Patrick Elley, a neighbour of mine and Paul Thompson.

Patrick Elley walked up the driveway of the house next to mine and handed in a school bag to his daughter Leanne. He had returned to his car and drove up five houses from mine, to turn his car, as my street is a cul-de-sac. My door had just been closed when a heavy burst of gunfire could be heard. I ran out immediately and gunfire continued. I could see Patrick Elley run into the driveway of Marguerite's, a neighbour of mine. Patrick was screaming "I've been hit, I've been hit" I ran to the car. The drivers door was lying open. Paul Thompson was sitting in the passenger seat, his body was slumping down towards the drivers seat. I slipped into the drivers seat and put my arm around him. At that point another shot was fired. I pulled Paul's body down onto my knees and tried to hunch down beneath the dashboard. I glanced out the front windscreen of the car and saw a man run off in the direction of the fence that runs along the field at the top of my street. I waited a few moments then sat up.

I could hear a gurgling sound, a sort of bubbling sound every time Paul took a breath. I pushed him up as straight as I could and started to talk to him. I felt through his hair to see if he had been hit in the head. I said "Paul son, this is Brenda Murphy, can you hear me, where are you hit"? He tried to answer but he had difficulty. I said again "come on son, you know me don't you". He said "Ma Ma" twice, then became incoherent. I put my hands down inside the zip up jacket he was wearing and could feel blood coming from his chest. I felt around towards his back and felt a lot more blood. His breathing was becoming more laboured, then he started to choke. Pat Hall had arrived just a few moments before. I said "Pat, he's choking, help me clear his mouth." I tilted Paul's head forward, Pat put his hands into Paul's mouth to clear it. Paul vomited at this point. His breathing was becoming very difficult, there was like a rattle in his throat. I believed he was dying, so I put my arms around him, his head on my shoulder and whispered the Act of Contrition into his

ear. His breathing stopped, I couldn't find a pulse. At this stage a nurse arrived.

She opened the passenger door of the car. I told her I couldn't find a pulse. We sat Paul upright, someone asked the soldiers to shine a light into the car, so the nurse could see what she was doing. Until then I had no idea the police or army had arrived as they had not come over to help me with Paul. The nurse asked for Paul to be lifted from the car so as she could attend to him properly. He was removed from the car and layed out on the street. A young British soldier came over, he started to pump at Paul's heart while the nurse, who had by this time opened Paul's jacket, and located all his wounds, began to give him mouth to mouth resuscitation. At that stage a medic arrived and took the place of the soldier. I knew Paul was dead and walked away.

There were police standing around. A policeman came over to me and asked "Can you tell me anything about what happened here." I said, "Can you tell me why that wee fella is lying there dead? Because I rang the police today and told them that the fence had been cut through and they have done absolutely nothing about it." He told me he would send someone over to take a statement from me. A neighbour brought me into her house and started to wash the blood from my hands and face.

A C.I.D. man came and started to make a statement from me about the shooting. I told him everything I knew and asked him why the police had not responded to my phone call for help that I had made earlier that day, warning about the breach in the fence. He left the house and returned with another officer, who told me he was Superintendent Cully. Cully said "you have told my officer that you phoned the R.U.C. today about men cutting through the fence, are you sure you made that call." I told him, "Of course I am sure, I spoke to sergeant Sheldon, at Grovenor road R.U.C. station. He told me he would ring me back, but he has done nothing, obviously, otherwise that wee boy would not be lying out on that street, dead." He (Cully) said "I'll have to check this out." I told him to check all he liked. He then took one of the leaflets that I had got printed up and put round the doors of my neighbours, warning them to be vigilant, as there was access into the area. Different policemen came and questioned me during the night. They all asked about the phone call. The emphasis was on the phone call and not the murder.

LORRAINE HALPENNY - TO WHOM IT MAY CONCERN

FIRST STATEMENT.

My name is Lorraine Halpenny. On the 27th April 1994, I was at the home of Brenda Murphy, 93 Springfield Park, Belfast. On the morning of the 27th April 1994, Brenda, myself and other neighbours noticed what we thought were workmen in the field of the old Farset city farm site, between Springfield Park and Springmartin. We thought that work on the long awaited security wall was about to begin at last. What did concern us however, was the fact that the two gates leading from Springmartin into our area were wide open, allowing access to the fencing that had been breached so often in the past by loyalist paramilitaries.

I went into Brenda Murphys' house where she rang the N.I.O. civil rep., a mister George Harkness. She encountered an answering machine, but left a message, inquiring what the workmen were doing and telling him that she was worried about access to the area through the open gates at Springmartin road. At this time we were not unduly alarmed, we were merely concerned that the gates be closed and that the workmen were indeed what they seemed.

Later on that day, Brenda went out to look for her daughter Bridie and when she returned she told me she was very worried as she had seen three men, two of whom were interfering in some way, with the fencing between us and Springmartin, the third man was standing a fair bit away from these two men, but she still felt that he was with them. I was afraid to go out and look in case they were armed or something. I told her to calm down and made her a cup of tea and we talked over about what we should do. She decided to go out and have another look to see if the men were still there. She came running back very agitated and told me that the fencing was definitely breached, that it did not look right.

This time I went out with her and we were joined by Magdalene Gallagher, a neighbour. We were all in agreement that definitely the fence had been breached and that something wrong was taking place. Brenda said "I am going to call the police". I went into her house with her. Her telephone was behind the door and close to the foot of the stairs. She asked me to hand me the telephone book which she kept on the window sill. I handed her the book and sat down on the stairs while she phoned the police. She asked to be put through to Governor road R.U.C. station, than she asked if she could speak to a sergeant Sheldon. I heard her ask sergeant Sheldon if he remembered her from a meeting

she had had with the police and N.I.O. after a murder bid on another family in the street called Mc Kenna. She told him that she was very worried, that she had rang the N.I.O. and left a message on their answering machine to find out who the workmen were in the field, what they were doing and that she was concerned that the two gates from Springmartin had been left open. She told Sheldon that they had not rang her back and now she was even more worried as the fence had been tampered with and was definitely breached. She told him she was frightened that something awful would happen and would he do something about it, as he knew how dangerous a breach in the fence could be. She must have asked him at least three times to please do something. She then gave him her telephone number and said that someone would be at her home all day. I could not hear what sergeant Sheldon was saying to Brenda but from her half of the conversation I was in no doubt that she was asking for police help to protect the area.

I know she also rang the local MP Joe Hendron. Brenda's daughter Bridie was knocked down by a car that afternoon and I stayed at Brenda's home with her eldest daughter Lorraine, in case the police rang back and so I could take their message. No message came, there were no phone calls from the police. Brenda was so concerned when she returned from the hospital, and discovered that the police had not phoned back, that she rang the local community house and got them to print small leaflets warning residents to be vigilant as there was access into the area. I helped her to deliver these leaflets to every house in the street. We told the residents that the police had been informed and that we were sure that they would be watching, but asked them to be very careful.

Between 11-15pm and 11-30pm that night a young man, Paul Thompson was murdered and another man, Patrick Elley, was wounded. The police had obviously done nothing and were not even watching the street. The police can twist this any way they want, but I heard what Brenda Murphy said to the police and she left no doubt that she felt the area was in danger. I will not speak to the police about this matter except through a solicitor or in a court of law as I am so disgusted by their behaviour and their total lack of response to Brenda's call.

**STATEMENT FROM LORRAINE HALPENNY
ON THE PAUL THOMPSON MURDER. 27TH APRIL 1994.
SECOND STATEMENT.**

Brenda Murphy's daughter Lorraine had just came into the hall and before the door was closed I noticed a car at Brenda's driveway. I asked is that Packy Elley's car? Lorraine said that it was and that Topper, (Paul Thompson) whose disco she used to attend had been joking with her as she had turned to come in her front gate. She had just finished telling me this and had reached the kitchen, I was about to go upstairs. Then I heard a long loud burst of gunfire very close by.

I screamed "get down" and ran up stairs to see if Brenda's youngest wee girl was alright. Before I got to the top of the stairs I heard Packy Elley screaming. I ran into the bathroom and opened the window and screamed "Packy get down, are you alright". I then realised he was screaming "Leanne" (his daughter's name). I started to run down stairs and seen the front door open and Brenda Murphy running down the street. I screamed "Brenda get down they must still be out there" and as I said it I ran after her. Then Leanne appeared in the drive screaming and crying "my daddys shot". I said something to her and pulled her in and told Lorraine to look after her and ran up the street.

Packy was on a wall screaming for Leanne, saying "where is Leanne" over and over. I said "Packy, she is alright, she is in Brenda Murphy's house". I then ran towards the car and when I got there Brenda Murphy was crouched down beside Paul Thompson, who was slumped across the drivers side of the car. I remember asking if Paul was alive. Then I remember Brenda Murphy saying "go and get an ambulance". I went to her house to phone an ambulance, a neighbour, Seamus Gallagher, had came in behind me. I was shaking and couldn't use the phone because of this, I handed the phone to Seamus and he rang the ambulance.

I ran back to the car where Brenda Murphy was crouching in under the steering wheel with her arms around Paul Thompson. She was saying "Paul, Paul can you here me, it's Brenda Murphy, You are going to be all right Paul." She kept saying things like this over and over. I stooped down and said his name a few times also, in the hope that he would hear me and maybe respond to our voices. I was aware that there were other people gathering around and then

the police and army came. I began to really panic because the ambulance had not arrived and I was afraid Paul would die because of their delay. I walked a step or two toward the police and said "can you not get the ambulance to speed up".

I went back to Brenda and Paul. Brenda Murphy and Pat Hall were calling Paul's name and saying things like "come on Topper you'll be alright". We were saying that we needed a light as it was too dark to see where Paul was hurt. Then a British soldier crouched down beside the car and was trying to get a light working, which seemed to be attached to his rifle. I remember a policeman stepping in front of me and saying "move back". People had begun to gather round the car. I was not doing anything useful and thought it would be best to make more room. Just before I left, I seen a neighbor arrive and climb in the passenger seat side of the car. I think it was at this point I walked away, back down the street, passing people who were rushing towards the car where Paul Thompson was. Everything seemed to be happening in slow motion to me, I couldn't believe what had happened and I was probably in shock.

STATEMENT FROM MRS CHRISTINE HALL CONCERNING THE MURDER OF PAUL THOMPSON AND THE WOUNDING OF PATRICK ELLEY ON THE 27 OF APRIL 1994

I was sitting in my home with my husband Pat, who was watching football on TV. It was between 11 and 11 30 pm, when I heard heavy bursts of gun fire. I shouted to my husband 'Pat, there's shooting up the backs', [meaning up the street]. I thought it was at Magdalene Gallagher's house which is directly behind mine that was under attack. I told my husband 'quickly you go out the back door and I will go out the front door. He went out the back door and took the short cut across the gardens, to the top end of Springfield Park where the sound of shooting was coming from. When I got there someone was squealing ['I've been shoot I've been shoot] I then started to shout at the top of my voice 'Everybody come out there's been someone shoot'. Because I knew in my heart it was serious and that someone was really hurt.

At that two fellas came running from Springfield Close and, another man who lives in a house directly in front of mine came out as well. Together the four of us ran up the street, and round towards the shooting. When we arrived at the top of the street I could see a car parked with the windows shot in. Patrick Elley was in a garden; he had been shot in the leg. My husband was over at the car. He was trying to assist Brenda Murphy with a severely wounded man Brenda Murphy was holding in her arms. I knew the young man; his name was PAUL THOMPSON.

I went over to the car, where Brenda and my husband were trying to help him. Brenda told me she thought he was dying. I was very upset and to tell the truth I was glad to see the police arrive. I thought Thank God this young man will be assisted by them, right away; they'll help him. I was really taken aback, shocked when they just walked over to the car looked in and walked away again. Pat and Brenda were left trying to help this young man, in the dark without any medical knowledge.

I walked over and said to the policeman 'for God's sake, you people are trained in first aid. Please do something to help this man please'. They just stood there and ignored me. I then said if you are not going to help this young man go across the field and you will catch the ones that did the shooting. They walked away from me, just a few yards into the small field, shone a flash lamp around the ground in front

of them. They made no attempt to cross the fencing or to pursue the killers in any way. A young British soldier came forward about this point shone his flash lamp into the car. Paul Thompson was still in the car with Brenda Murphy and a nurse who lives down the street who had arrived at the scene. Paul was lifted out onto the street and laid there. At this point Paul was dead. The Nurse gave mouth to mouth while the young soldier pumped his heart. But it was too late.

All during the whole awful affair the R.U.C. stood around. They did not try to help either with attending to Paul Thompson's wounds, nor did they try to pursue his killers. I have absolutely no faith in the R.U.C. after this. I was appalled at their whole casual behaviour, which was callous in the extreme. I knew the police had been told earlier in the day that the fence into our street had been breached and that something like this was likely to happen, because I had received a leaflet put out by Brenda Murphy warning everyone in the street to be vigilant. It was obvious they had ignored her call to them on the matter. But to actually see them stand around and let a young man die without even attempting to help him was appalling. I will never forget it.

STATEMENT OF PATRICK HALL ABOUT THE SHOOTING OF PAUL THOMPSON ON 27TH APRIL 1994.

I was sitting at home watching the football match. My wife Chris was tidying up, messing about. It was somewhere between eleven and eleven thirty p.m. We could hear heavy bursts of shooting. My wife said, "quick Pat, it's up the back." I pulled on my boots and went across the back garden, up to the top of the street where the shooting was coming from. I could hear the shooting and Patrick Elley screaming. I didn't know it was Patrick Elley at that point. I could just hear him squealing. When I got as far as him, he was in the driveway of a neighbour, called Marguerite. He (Patrick Elley) shouted to me "Get down, get down, they are still there."

I didn't know what to think or what exactly was happening. Patrick Elley screamed again, "I'm hit, I'm hit, get down get down." I ran over to him, I could hear Patsy Ward's voice further down the street and Patrick Elley shouted to him "get an ambulance, get an ambulance," then he (Patrick Elley) said to me "There's someone in the car, there's someone in the car." I didn't know what to do, so I ran towards the car. But I found Brenda Murphy was already there before me. She had Topper (Paul Thompson) in her arms, nursing him.

Packy (Patrick Elley) started running back and forward then, to the car. More and more people had started to arrive on the scene then and come out of their houses. I never seen any of the gunmen, it happened really fast. I helped Brenda with Topper (Paul Thompson) as best I could, we both did what we could. We knew he was seriously injured. The police arrived, but they didn't try to help us to give him First Aid or anything. Definitely at no time did the police try to help Topper (Paul Thompson). After a while, a British soldier came over. They lifted Paul (Topper) Thompson from the car and lay him on the street. A nurse, gave him (Paul Thompson) mouth to mouth resuscitation and the soldier pumped at his heart. The police stood around and watched the proceedings and not once did they try to assist. The only thing they wanted to know, was if the car he (Paul Thompson) was shot in, was a taxi. They didn't tell me to get out of the way while they helped him. I didn't know what to do and Brenda was nursing him (Paul Thompson). The police never asked us for a statement nor did they approach us afterwards, neither myself nor my wife.

STATEMENT BY REV. FR. G. MC CLOSKEY. CORPUS CHRISTI PARISH. ABOUT PAUL THOMPSON MURDER AND SECURITY IN SPRINGFIELD PARK.

As a resident of Springfield Park for nearly five years, I am well aware of the problems of living beside the inter-face with Springmartin. There have always been fears in Springfield Park about the possibility of loyalist attack. These fears are especially prevalent at night. Families are on their guard; parents ensure their children are in before dark; they are on the alert themselves especially if their backs or fronts border the peace fence. My back garden backs onto the inter-face. I am always tense in the dark evenings or at night getting out of my car and into the house. I always breath a sigh of relief once in. Such is the lot of many of the residents of this area.

As a priest I have been in close contact with many of my parishioners who live here. The people here are spirited and courageous. They want what is best for their families, they want peace, they want their just rights. One of those rights is simply the right to live without fear of violent attack. As such, we have campaigned over the last three years for satisfactory measures to be taken to ensure that access routes for loyalist terrorists are blocked from every possible quarter — simply so that — to mount an attack on us would be extremely difficult and so that our fears could be kept to an absolute minimum.

Thus an ad-hoc residents committee was formed with this chief purpose in mind. We wanted, from the outset, as much protection as possible — both physical in the form of walls, security lights, ramps etc., and from a personal point of view, in the form of security forces presence. In both these latter quests, our mission was difficult. We met on many occasions with high ranking members of the R.U.C. local divisional unit and N.I.O. personnel. These meetings usually took place after serious incidents in the Park when people where extremely lucky to escape from gun attacks. Each time we met, token measures to appease our fears were taken, such as the supply of razor wire to the corrugated fence, or ramps on our streets.

Our chief aim however was a purpose built security wall and better vigilance by the security forces. Each time we requested this we were fobbed off. "A wall"? "Well Maybe" they told us. But there was never a definite commitment. "Better vigilance by the security forces"? "Well the threat of Republican paramilitaries against this". This is what we were told. Our worst fears were realised with the tragic murder of Paul Thompson. What made it even more poignant and tragic was the fact that his murder could have been avoided. The report by Brenda Murphy of an incursion in the peace line, to the R.U.C. community relations branch at Grosvenor road and to N.I.O. relevant officials, fell on deaf ears. Nobody seemed interested in our plight. The fact that Paul was gunned down that night with the R.U.C. and N.I.O. knowing that we were at great risk from an attack, is a scandal that will never go away.

OTHER INCIDENTS

STATEMENT FROM MRS. MARIE CONLON ON TWO ATTACKS ON HER HOME; ONE ON THE 1ST MAY 1992, THE OTHER ON THE 4TH SEPTEMBER 1994.

The first attack on my family and home happened on a Sunday, May 1st 1992. It was a lovely warm day and my sons and myself were sitting in my back garden sunbathing. My five year old daughter Rebecca was playing. About a dozen youths of about 18 years of age came over the fencing from Springmartin Road. These youths attacked us with bricks, stones and sticks. My windows were broken, my son was beaten on the back with bricks and so was his friend. Another lad who was sitting playing his guitar and used it to shield his face had it smashed. Neighbours came out to help. The attack seemed to last for a very long time. The police finally came but the neighbours had driven the loyalist mob back across the fencing by the time they arrived. My sons and their friend were sitting doing their homework at the kitchen table in my home on September 4th 1994. A loyalist gunman came to the window and opened fire on the boys. Patrick Brady, a fifteen year old lad, was hit in the spine by one of the bullets. My two sons and their other friends tried to drag Patrick to safety into the hallway. As they did so the loyalist gunman, who could see quite clearly that these were only young boys, opened fire on them as well. Bullets embedded themselves in my walls, floors and cupboards as the gunman fired after the boys. It was awful to hear the boys screaming. I thought a bomb had gone off, the noise was so loud.

Young Patrick Brady could not have the bullet removed from his spine. He was away to the hospital in the ambulance a long while before the police arrived, even though the police were called immediately the shooting started.

STATEMENT FROM ROSELEEN DONNELLY ABOUT THE KEMPTON SHOOTING ON THE 19 SEPTEMBER 1993

I remember that night well, myself and Hugh [partner] had just got into bed. It was after 10.30pm. we heard very heavy shooting and we went to the bedroom window to see what was going on. A few seconds later a car turned into the street. It stopped in the middle of the road. At that point four armed men got out of the car, and ran up the drive of a neighbour's house. (Colette Magee's). I thought they were going to kill her. I went downstairs and phoned the police. I didn't know what else to do. I went back up the stairs again. I couldn't understand what the gunmen were doing as there was no more shooting. Five minutes passed and there was no sign of the police.

Then I noticed two men on the wall [Peace Line] just facing Colette Magee's house. They lowered a ladder over the wall, then the gunmen came from Colette's drive and walked over the field to where the ladder was. They then climbed the ladder and made their escape. When we knew they were away for definite we went to the front door. Lorraine Halpenny and Brenda Murphy our next door neighbours were running up to Colette Magee house. To see if she was all right, someone asked 'Rosie did you ring the police'. I said we had, the police did not arrive for at least another ten minutes.

**STATEMENT FROM MRS.
PAULINE KEMPTON ON THE
MURDER ATTEMPT ON HER
FAMILY ON 19TH SEPT. 1993.**

My name is Mrs. James Kempton. I am separated from my husband and live with my children in Springfield Park. On that Sunday night I had gone to my bed early as I had to get up early for work the following morning. I was alone in the house with my fifteen year old son. About twenty minutes to eleven p.m. I heard a car pull up outside my home. My son was sitting on my bed having a conversation with me.

We heard the footsteps run up our driveway. Then something crashed against the door. Then the bullets came into the bedroom through the window. My son dragged me from by bed and onto the bedroom floor. We lay there as the shooting seemed to go on forever. When it finally stopped and we heard the gunmen drive away I screamed out my window for help. A neighbour shouted she had already rung the R.U.C.

At this point I would like to explain my home is only 20 houses up from a major joint R.U.C./British Army Base. It sits at the entrance to my street, Springfield Park and my street is a cul-de-sac. My son and myself waited terrified to move on the police coming. It was after eleven o'clock when they eventually arrived although it is only 500 yards from my home to the R.U.C. base. Over 35 high velocity shots from a high powered rifle had been fired into my home. Apart from the police arriving and looking and counting the bullet holes in my bedroom and asking me what happened, they have never been back to me about the murder bid. No explanation was ever given and the police did not seem to be concerned in any way about what had happened. It seemed to be par for the course to them.

I live in constant terror of an other attack. I have absolutely no confidence in the police to protect my family or myself as I am only one of many families who have had this happen except we were lucky no one was injured. When these Loyalist gunmen left my home they drove to the top of the street, abandoned their car, then sat for a considerable amount of minutes in a woman's garden while they waited for a ladder to be lowered to them over the peace wall. They then strolled across, climbed it and had time to take the ladder with them and still the police had not appeared on the scene. This demonstrates how slowly the police respond to any calls from the people in this street. I believe they have a total disregard for the safety of the people who live here. I live in total fear and this fear is not relieved in anyway by knowing a Police station is on my corner. I believe sincerely the Police wanted these men to escape. They did nothing to make me think otherwise.

**STATEMENT FROM GERARD
MC KENNA ON MURDER
ATTEMPT ON HIS FAMILY ON
28TH JULY 1992 AT ONE A.M.**

I was asleep and was wakened by loud banging on my door. My wife was asleep in the bed beside me and my two young daughters, Debbie, six, and Christina, four, were asleep in the bedroom next door. I just knew instinctively that it was a loyalist murder squad as they had been attacking the families in the street on a regular basis. I woke my wife, grabbed a heavy chest of drawers and put them against the bedroom door, to act as a kind of barricade.

I screamed at my wife, Lorraine, to help me push the bed across to block the door as well. She was in shock I think. Looking down, through the window of our bedroom, she said, 'Oh my God, Gerard, there are two gunmen in our front garden, breaking the front door down.' I could hear the front door give way and heard them run up the stairs. I jammed the bed against the chest of drawers that I had already placed against the bed room door. I could hear the gunmen enter my children's bedroom and so could my wife. She screamed and tried to push the bed away to get out to them. I had to force her to the ground and physically hold her there. Then the shooting began. They fired long bursts of gunfire into the bedroom and they were pushing at the bedroom door.

Then it went deadly quiet, but we were afraid to move. Then my wife started screaming for help. I went and rang the police. Brenda Murphy and Lorraine Halpenny arrived and took our children to Brenda's house. They had already rang the police but when they failed to appear, they rang again. We waited and waited, but still the police did not come. At twenty minutes past one, the police finally arrived. The gunmen, who were on foot, having gained access to our street by cutting a hole in the fence and leaving by the same route, were probably miles away.

My wife was taken to hospital and treated for severe shock. She refused to ever live in the house again, it was just too dangerous to live to close to a fence that can be cut through so easily and with police, who take so long in coming, after all the police station is only on the corner of the street. The life of my family has been totally changed by this random attack. We had to move to inferior housing and my wife has never been the same. She is nervous, she cries a lot and is on medication. We loved our house in Springfield Park, we had good neighbours, but it's just too dangerous to live there. You are totally vulnerable and the police all but ignore you.

STATEMENT FROM MRS. ANNE BRADY ABOUT THE SHOOTING OF HER SON PATRICK BRADY ON SEPTEMBER 4TH 1992.

My son Patrick was round doing his math homework, with three of his friends at the home of Mrs. Conlon. As he sat at her kitchen table, bent over his books, a loyalist gunman came to the window and fired in on the them. My son was hit in the spine where the bullet lodged. Surgeons were unable to remove it without causing more damage, so it is still in his body. His young friends dragged my son by the legs, by crawling over to him on their hands and knees, as the gunman continues to fire on them. When I arrived at the Conlon home (I was in the bath when I got the phone call saying Patrick was shot) the police had still not arrived. My son is lucky to be alive, so are the other boys. But the police just seem to take their time when it comes to responding to any calls for help from this community. It's disgraceful.

STATEMENT OF KEVIN MC QUILLAN, 1 SPRINGFIELD PARK, BELFAST. INCIDENT NUMBER ONE. MARCH 9TH 1987. FIRST STATEMENT

On the evening concerned, I was at home with my family and some friends who were staying with us. As my wife was out for the evening, I placed our youngest daughter Siobhan (who was 11 months old at the time) into her cot in our bedroom. Later, along with the remaining children Sinead (two years old) and Michael (five years old) I went into the bedroom to watch television, and get the children to sleep. I fell asleep also, only to be wakened sometime later by shouting and the noise of loud sharp cracks (these turned out to be gunshots).

Still drowsy from sleep I lifted Michael (who had went asleep across my chest) and went to my bedroom door to investigate. There were no lights on either in my room or the hall, so as I opened the door and entered the hall . I opened the door and entered the hall. I could not see anything, It was obvious that one of the two men who had entered my home, had become accustomed to the dark as he was able to

identify me by greeting me with" Al right Bap"(my nickname) Whereupon he shot me at point blank range to the head. I stumbled, or was thrown back into my room and as I fell I remember throwing Michael onto my bed. I was shot once more in the back as I fell. On route to the floor I pulled the television over and it landed on top of me.

The gunman who had followed me into the room stood over me and fired two more shots towards my head. I felt the heat of them as they passed by and into the floor. All the while I felt that I was going to die and yet everything seemed so peaceful. Not knowing what was going on or if the gunmen were still at large I lay on the floor. Then lights began to come on and shouting and screaming were mixed with the terrified cries of the children, I pushed the television off me and went into the hall. The hall was very cloudy and stank of gunfire. On the floor, at the front door, was my younger brother Eamon. He had sustained a gun wound to the base of his skull at the back of his head. This had exited through his face, under his left cheekbone at the jaw. The wound was gaping and a lot of thick clotted blood and head matter was around the floor, door and walls. I felt his wrist and could not feel a pulse. As I leaned over him blood was running into my eyes and I stood up and asked had an ambulance been phoned. There seemed to be some difficulty in getting through. So we moved Eamon from the door and I made my way the 30 yards across from my home to the British army/R.U.C. station at New Barnsley.

I demanded that they phone an ambulance and I was taken by civilian ambulance to the Royal Victoria hospital where he was treated and eventually released. As a result of his injuries Eamon was left severely paralysed down his right side. I think that it is important to state here that my home is fronted at a distance of no more than 30 yards by the New Barnsley station. My home is constantly monitored (as a matter of course) by 4 sangars and a bank of high resolution cameras. Yet no-one was, or has been apprehended, questioned, or charged by the British authorities in connection with this crime.

**STATEMENT OF KEVIN MCQUILLAN. INCIDENT NO. 2. EVENING OF
NOVEMBER 19TH 1991.
SECOND STATEMENT.**

I work in the Royal Victoria Hospital, Belfast as a Nursing Auxiliary. On the evening of 19th November I finished work at approximately 5.15pm and made my way home. After having my supper and watching the News, I lay down on the settee. My two daughters clambered onto my chest and the three of us watched television. At home at the time was the rest of my family, including my brother Eamon.

At approximately 7.10pm the intercom buzzed and Eamon answered it. It was a friend of my step-daughter, Eileen, who was admitted by Eamon. As he was leaving he shouted that he was going to wait on the front porch for his friend Hugh to collect him, and for someone to put the drop-bars on. I heard the front door shut and almost immediately a burst of automatic gunfire which I literally 'felt' striking the house.

At first I thought that loyalists had opened fire into the kitchen (which is at the rear of our home and looks out over the back garden, which in turn runs to the palisade fencing that acts as a 'peaceline' between loyalist Springmartin and Catholic Springfield Park.) Joan and the three children lay on the living-room floor and I ran up the hall past my sister Una who was emerging from her bedroom. Upon entering the kitchen I found Eileen and her friends in a state of hysterics but otherwise unharmed. I knew the house had been the target of the attack and as I tried to ascertain where, I heard Eamon crying at the front door. I asked Eamon who was out there with him; he was moaning and saying that he had been shot again, and that they, the gunmen, had ran up the back (garden).

I opened the door and jumped over Eamon. At this time I looked around and heard people running through the very long grass behind our home. As I looked across at the RUC Barracks two policemen were standing at the gates looking over. I shouted that my brother had been shot and that if they ran they could catch the gunmen. They waved their arms across at me (similar to the motion to stop an oncoming vehicle in an emergency) to indicate that they wouldn't be coming and one of them was on his radio, before disappearing into the barracks.

As I tended to Eamon I immediately noticed that

the first two fingers of his right hand had been blown off and remained attached solely by two strings of flesh. He had also been shot in the groin and there was generally a lot of blood around. Fr. McCloskey, who lives a few doors up from us arrived very quickly and religiously administered to him. An ambulance arrived after about 4 - 5 minutes and I accompanied Eamon initially to the Royal Victoria Hospital, then to the Ulster Hospital in Dundonald.

In the Ulster Hospital at approx. 3.00am the RUC officially cautioned me that loyalist paramilitaries were aware of my presence and that I should leave the Hospital. Upon returning home I learned that it had taken approx. 1 hour for the RUC to respond to the shooting and appear at our home. To date no one has been questioned or charged with this offense. At 10.00pm the Ulster Freedom Fighters claimed responsibility for the attack and named me as the intended target.

AFTERMATH

STATEMENT FROM BRENDA MURPHY

12 OCTOBER 1994
BRENDA MURPHY

On Monday 25/9/94 at around 5.30pm I had been shopping in downtown Belfast for decorating materials. I was walking along Gresham St. when two women stopped me. I had seen both these women in the shop I had been in but thought nothing more about them until they stopped me. The biggest one of these women said to me "you're that woman who's always on T.V." I told her that I was sorry but she was mistaken. I tried to walk away from them but they followed me. They kept saying you are your wee woman. At that point one of these women stood in front of me and one stood behind. The one in front of me said "you're that specky Fenian bastard that was on the T.V." She then punched me in the chest. I dropped my shopping on the ground and jumped on the woman in front of me who then fell to the ground with me on top of her, she tried to hit me but I held on to her and defended myself as best as I could given the circumstances.

At the same time the woman behind me was kicking and scratching my back and neck, pulling my hair and clothing all the while calling me a Fenian bastard and that she was going to kill me. Two men who had witnessed the whole incident came to my assistance, the woman who had attacked me from behind ran off towards a Loyalist controlled taxi stand. The two men were extremely fearful for both their lives and mine as these taxis have been used in several sectarian murders where Catholics have been murdered after being attacked in the street in just this manner.

They ran with to a local Catholic owned bar where we took refuge until I was able to contact family members and friends to come and pick us up. I was badly bruised all over my body with deep scratches some of which had been inflicted with a metal object. I informed my solicitor of the attack but did not inform the R.U.C. because of my deep distrust of them. The T.V. appearance these women referred to was the public inquiry into the murder of Paul Thompson and the previous murder attempts on other residents of Springfield Park.

Less than a week later Patrick Elley the man who was wounded in the same attack in which Paul Thompson was murdered was targeted by the U.F.F. the same Loyalist terror group which carried out Paul Thompson's murder. The reason they gave for targeting him again was because he had given evidence at the same public enquiry. This man is now living in fear for his life as are all other witnesses who attended and gave evidence at this enquiry. As the R.U.C. are unwilling to protect any of these witnesses.

We feel we have been left wide open to Loyalist attacks and appeal to all just minded people in our own country and abroad to draw this to the attention of their relevant government departments and highlight this situation as much as possible.

At this point in time whatever type of (normality) we had experienced before has gone and we just wonder who is next.

Last Tuesday, 5 October neighbours told Patrick Elley that a bomb had been left in the driveway of his father in-law's home in Dermothill. Patrick contacted me and I immediately phoned Superintendent Cully of Grosvenor Road RUC Station who arrived at my home 5 or 10 minutes later. They questioned Patrick about the bomb and its whereabouts. Patrick knows nothing about it. The RUC left and later informed Mrs Elley at the Dermothill address that the UFF had admitted responsibility for the bomb

At 4 pm on Wednesday, 6 October a phone call, allegedly from an Irish News journalist, was made to Patrick brother's house enquiring about where Patrick was staying. The 14 year old boy who took the call told the "journalist" Patrick's address. The RUC has since confirmed that there was no call placed from the Irish News and that they believed it was the UFF.

The family are concerned that the only way the UFF might have obtained the address of Patrick's father in law is by the fact that his car was registered to that address. The RUC and the Elley family were the only people who knew this.

When I was speaking to the RUC they suggested that the reason for the attack was the Public Inquiry as it had focused a lot of attention on the people of Springfield Park and Patrick Elley and we "would be as well to let things die down".

How can we now have faith in this police force to protect us?

At the end of the Paul Thompson Public Inquiry we said that we would be monitoring the situation. Four weeks later another attempt has been made on Patrick Elley's life. All our lives are in constant danger and the only statements we hear from British government ministers are about pulling down walls. Last week the RUC told me that the area was "wide open".

As I said on 19 September, we are concerned that this new wall is to be the perimeter fence of a new RUC barracks. We do not need more military installations in our area. It is unfortunate that we need this wall which will divide our communities but the safety of our families is paramount. Our hope is that our children can grow up in a community without walls.

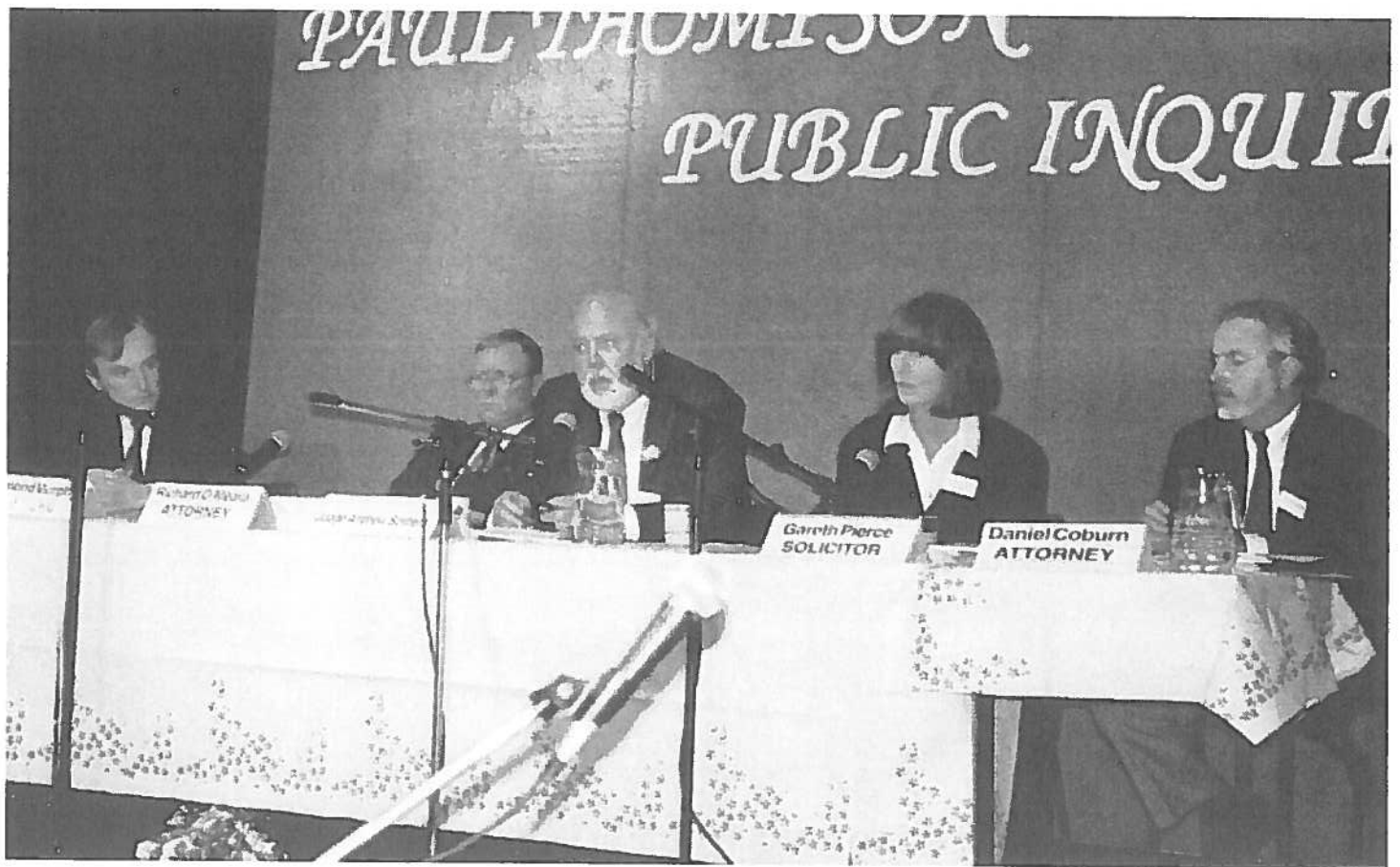
STATEMENT OF BERNADETTE ELLEY.

On Tuesday night my daddy phoned me about 11 o'clock just to ask was I o.k. This is the way we keep in touch. We ring one another each night when I come in from work just to check on each other. Then he said to me 'I don't want to worry you but I think I should tell you there was a bomb put outside the house'. I thought he meant out on the street. I didn't know it was on his own property. There had been a van bomb left about 3 doors away about 3 weeks beforehand. So I just asked him was he o.k., was everything all right. He said 'Go and get a cup of tea, get yourself up to bed and don't be worrying and I'll see you to-morrow'. I took it everything was o.k. That was the phone call.

On Wednesday about 3 o'clock my husband collected me from work. He said to me 'Did you hear about that bomb being outside your daddy's house?' I said I did and asked how he knew. He said local people had told him; but the reason I hadn't told him was I didn't want him to worry due to what had happened to him previously.

At about 3.30pm I went to my daddy's house and the CID were questioning him at that moment and I was told exactly what happened. I asked who planted the bomb; was it our own crowd trying to blow soldiers up or was it Protestants that did it. He answered and said that the UFF had just claimed responsibility for it and I asked was that the same crowd who had shot Paul Thompson dead and wounded my husband and he said 'most likely'. So I said was it Pakie they were after again and he said 'yes, most likely'.

PART C - THE INQUIRY



JURISTS

Chairman

Hon. Andrew L. Somers, Jr.
Wisconsin, USA

Jurist

Hon. Daniel R. Coburn
New Jersey, USA

Inquiry Counsel

Angela Ritchie,
Solicitor
Belfast, Ireland

Co-Chairperson

Solicitor Gareth Peirce
London, England

Jurist

Richard O'Meara
Attorney
New Jersey, USA

Inquiry Coordinators

Brenda Murphy
Lorraine Halpenny
Belfast, Ireland

Jurist

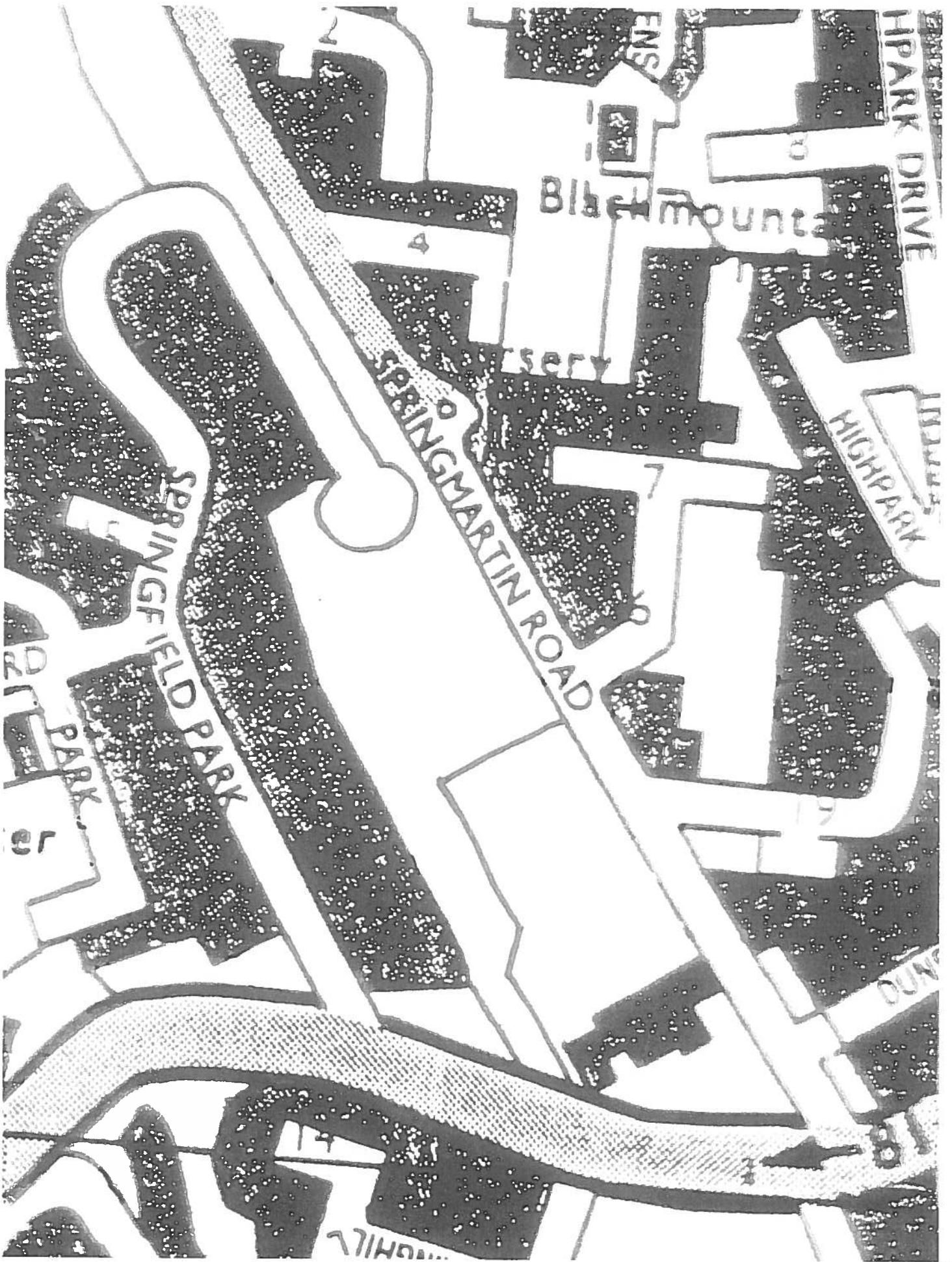
Dr. Ray Murphy
Galway, Ireland

Inquiry Counsel

Tom Fox,
Attorney
Albany, New York

**TERMS OF REFERENCE FOR PUBLIC INQUIRY
INTO THE SHOOTING DEAD OF PAUL THOMPSON
AT SPRINGFIELD PARK ON 27 APRIL, 1994.**

1. To examine the facts and circumstances the killing of Paul Thompson and the wounding of Mr. X by unidentified persons at 11:30 p.m. on the 27th April 1994 on the Springfield Park and all the circumstances or events predating the said killing and wounding which appear to be relevant or connected therewith.
2. To examine what the RUC did insofar as local people know and to compare that with standard International practice.
3. To examine the official response subsequent to the incident including the internal investigation by the RUC and the Northern Ireland Office and the later decision to build the wall.
4. To examine the official reaction as reported by local people of the ICPC's supervision of the police investigation.
5. To examine the official procedures to be adopted in interface situation in the light of domestic and international standards.
6. To recommend, if deemed necessary, what actions, safeguards or modifications in security policy ought to be undertaken following the death of Paul Thompson and the heightened security awareness of local residents.
7. To examine the consultation process used by the Northern Ireland Office and the Police Authority in deferring the building of a wall.



BACKGROUND TO PRELIMINARY FINDINGS

PAUL THOMPSON PUBLIC INQUIRY

CONWAY MILL 17 - 18 SEPTEMBER 1994

For the past two days we have considered the facts and circumstances surrounding the fatal shooting of Paul Thompson and the wounding of Patrick Elley. We were invited to perform this task by the Springfield Park Residents Association as lawyers from different jurisdictions who had no prior knowledge of the subject matter of the Inquiry.

We have heard oral evidence from 15 witnesses most of whom were present on the night of the shooting and could give direct or indirect evidence of it, as well as the preceding day's events. All these witnesses, and others, also gave evidence of prior incidents which bore upon the events of April 27, 1994. In addition, we received into evidence statements of international norms, treaties and conventions, both as to minimum obligations of police forces and as to the rights of individual citizens. The RUC and the NIO were invited to participate but did not do so.

The primary evidence as to the shooting was this:

1. The gunmen waited for a taxi in which were Patrick Elley and Paul Thompson at the end of a cul-de-sac, namely Springfield Park at which point these two innocent and decent men were shot in cold blood.
2. The taxi had been called to an address to which its company was regularly called, the call however was to genuine, but a deliberate decoy.
3. The gunmen arrived at and escaped from the scene of the shooting through a breach in a wall known as the "Peace Wall" dividing the Springfield Park from an adjacent estate. The Springfield Park community is entirely Catholic. The adjacent estate is Protestant.
4. The RUC officers arrived at the scene after a few minutes. No one was arrested.
5. We were able to find more evidence through different witnesses. These disturbing evidences being entirely credible are as follows:
 1. The residents of Springfield Park have for many years lived in a situation of exceptional danger. In Belfast, and we therefore assume in Northern Ireland as a whole, the residents of this street are and remain at a level of individual risk that is unprecedented. One in every 9 households has been the victim of a serious attack. Gun (and less frequently bomb) attacks are anticipated on a daily and cease fire, with the latest attack occurring on the Tuesday before we started this inquiry.
 2. The mentioned attacks follow an identical pattern. They occur at night. They emanate from the adjacent community of Springmartin. They involve the use to guns and each attack is clearly intended to produce fatalities. Each attack depends upon the incursion to and escape from Springfield Park by way of a no-man's land divided by a security wall. This wall is carried out with complete confidence as to their successful escape by the perpetrators.
 3. Springfield Park is overlooked by a substantial barracks, equipped with watch towers, video cameras scanning road itself and the dividing wall, known as the "Peace Wall" are within view and within less than one minute's traveling time at this furthest point from the barracks.

4. In neither this attack nor any of the previous numerous attacks, have RUC officers been present and appeared to be in urgent pursuit of the perpetrators, nor has any perpetrator or suspect ever been arrested.
5. The following significant points, justifies the occurrence of this incident:
 - A. We understand that the RUC may have been aware for up to 2 weeks prior to the shooting that calls to and from the taxi firm (employing only Catholics) were being monitored by Loyalists, and yet no warning was given to the taxi firm.
 - B. The dividing wall was clearly being breached during the day, within the view of both the residents and the RUC station.
 - C. The spokesperson of the Resident's Association telephoned the police to point out the urgent and immediate necessity of taking steps to provide protection;
 - D. Similar calls were made to the NIO section with the responsibility for security, and to the local MP.
 - E. Despite these clear warnings, and the known exceptional likelihood that such a breach could lead to a fatal attack upon unarmed civilians. No police presence, action or investigation took place.

We heard evidence which, again, we accept, that all of the residents are affected in their daily lives to a dramatic degree by fear of immediate attack. This produces a high degree of continuous anxiety which by evening translates into a series of preventative steps to provide minimal security.

We note that a High Court Judge in a parallel consideration of the position of one of these residents indicated his view to be confined to a situation of danger from immediate attack constitutes a violation of fundamental human rights.

No one believes that the local police station of force is concerned to or willing to provide security. Also there have been no energetic investigation in the wake of such attacks, since the attackers have achieved total confidence in their community.

The residents of Springfield Park itself have conducted themselves in a completely law abiding manner. There have been no incident aimed at the police or the security services which has emanated from this street within the last 10 years.

On the basis of these primary facts, we write our future report, in the knowledge that a serious question is posed as to whether the residents of Springfield Park enjoy either guarantees of individual human rights required by international law, or in any way the service of the police force complying with minimum standards required by international conventions.

Subject to review of the entire transcript of the proceedings and other submissions, including standard reviews by Fordham University School of Law and Notre Dame School of Law, the Board finds that the following facts and conclusions have been established by a preponderance of the credible evidence:

1. The RUC had a sworn duty to protect and defend the residents of Springfield Park from criminal as well as other crimes of violence:

2. In April 1994, the RUC had actual as well as constructive notice of the ability and intention of loyalist paramilitaries to conduct random attacks against residents of Springfield Park.
3. In April 1994, the RUC was aware of the inadequacy of security arrangements for the protection of residents of Springfield Park and took no action to properly secure the area from criminal attacks.
4. Changes in security arrangements in order to ensure proper security should have included, at a minimum, patrolling of the interface between Springfield Park and Springmartin, creation of a secure interface (wall) consistent with the construction standards used elsewhere in the city, notification to taxi cab drivers, such as Patrick Elley, that cab radio transmissions were known to be mentioned by loyalist paramilitaries and made aware of a police presence along the interface while it was being repaired.
5. The RUC's failure to take any action consistent with its responsibility to protect and defend the residents of Springfield Park contributed substantially to the ability of loyalist paramilitaries to breach the interface, set up and ambush, lure Patrick Elley to the ambush scene, accomplish the ambush and escape through the breached wall. Failure to vigorously investigate the crime may well have contributed to the inability of the government to prosecute the paramilitaries included and thus deter future acts of violence.

The death of Paul Thompson and the severe wounding of Patrick Elley are crimes that could and should have been avoided. The wholesale abrogation of its responsibilities by the RUC to those it is charged to protect and defend substantially contributed to this tragic event.

Gareth Peirce

Judge Andrew Somers

Daniel Coburn

Dr. Ray Murphy

Richard O'Meara



Chairpeople Judge Somers and Solicitor Gareth Peirce

In 1976 an investigation was made of the RUC by the European Commission of Human Rights who were assured by the British Government that urgent consideration was being given to the implementation of a Bill of Rights and the establishment of an effective independent police complaints body. Almost twenty years later there is no sign of either.

By The Honorable Andrew L. Somers, Jr.

DECISION

SUMMARY

I have reviewed the evidence as presented to our inquiry and have concluded that the death of Paul Thompson and the wounding of Patrick Elly could have easily been prevented by a minimum of police vigilance. I have also concluded that the shootings that took place on April 27, 1994 were part of a pattern of violent abuse focused upon the Catholic Nationalist community in West Belfast and that the police conduct in this case and others reflects permissive and cooperative conduct, which has aided Loyalist murder gangs in their intimidation of the Catholic community. Such conduct, in my opinion, constitutes collusion in the murder conspiracy.

FACTS

The Springfield Park community is a section of West Belfast, Northern Ireland. It consists of Irish Nationalist-Catholic people who are separated from their Loyalist-Protestant neighbors by a "peace wall." The peace wall separates the Springmartin area from the Springfield area; but it has been breached many times by Loyalist gunmen who have shot, killed, and/or wounded many of the Springfield Park residents. There have been no attacks on the Springmartin residents by people on the Nationalist side. There is a police station which is situated less than a hundred yards from the beginning of the Springfield Park community. This police station is a fortress-like structure with electronic listening and searchlight devices and is the duty place for battle-equipped police and army personnel and their tank-like vehicles.

The area is thoroughly covered night and day by helicopters, spotter airplanes, and military personnel. The Springfield police station has never been attacked by any armed force from the Springfield Park area. The

police who command the station at Springfield Park are members of the Royal Ulster Constabulary (RUC). They have been assisted in their police duties by the British Army since 1969.

The RUC has stated that its primary aims and duties are to:

1. Prevent crime
2. Maintain a peaceful community
3. Protect the public and their property
4. Enforce the law

The British Army was ordered to assist the RUC in policing Northern Ireland after riots in Belfast and Derry in 1969, when the Loyalists were permitted to beat the defenseless Catholics and to burn their homes. During this riotous time, the RUC did nothing to protect the Catholic community and, in some cases, joined in with the Loyalists in administering the assaults. A government official referred to the RUC at that time as, "The most discredited force in the whole of our modern history. . ."

On April 27, 1994, Brenda Murphy observed two men apparently cutting a part of the peace wall which divided her community from Springmartin. Brenda Murphy had lived through violent attacks on her neighbors and immediately became alarmed. There were some work men nearby engaged in some repair work near a door in the wall, who did not appear concerned by the efforts of the two cutting a hole in the wall. Brenda Murphy immediately began calling all official agencies. She called the RUC and reached an answering machine, and she left a message of alarm. She called the Northern Ireland Office and reached another answering machine; and, again, she left her message. She then called her member of Parliament and, again, left a message on the answering machine. Neither the NIO nor the M.P. ever returned her calls. She did hear from a Sergeant Sheldon, who was designated by the RUC as the Community Relations Officer. The sergeant advised Brenda Murphy that the police (RUC) were keeping the area under surveillance, and he would investigate. He never called back. Brenda Murphy went a step further and prepared leaflets which she delivered to every residence in the Springfield community warning them of danger.

On April 27, at eleven o'clock in the evening, Paul Thompson and Patrick Elly were shot by Loyalist gunmen who had breached the peace wall. Paul Thompson died as a result of his wounds, and Patrick sustained injuries which were not fatal. Patrick Elly was a taxicab driver who had been deceptively called to a Springfield address and arrived with Paul Thompson in his cab. Upon his arrival, the gunmen attacked with rifles. The police did not prevent the attack; and when they arrived ten minutes after the shootings, they made no effort to pursue the attackers. The police stood by as Brenda Murphy and a nurse tried to tend Paul Thompson's wounds. No policeman either assisted or attempted to provide medical aid. Oddly enough, the police did not attend to the crime scene by looking for evidence or use any of their searchlights to follow the gunmen. The police appeared wearing cloth hats, as opposed to the battle helmets usually worn if a fire-fight is anticipated. Later, the police questioned Brenda Murphy—not about the attack or assailants—but about her telephone call.

This was not the first attack on the Springfield residents. Indeed, shots were fired at the community just days before our hearing, perhaps as a warning to all. In the past three years, there were eleven shooting attacks. One house was attacked three times....One on July 28, 1992 at one o'clock in the morning, when two men attacked the area and stayed for twenty minutes, until a ladder came over the peace wall for their escape .

Although they were called twice and were only yards away, it took the police more than twenty minutes to appear; and, again, they were too late to capture the gunmen.

The last case I shall mention is that of Kevin McQuillan whose home was attacked three times by Loyalists. On March 9, 1987, he and his brother were gunshot. Kevin McQuillan, wounded and bleeding, struggled to go the thirty yards from his home to the RUC barracks. He was asked by two RUC men as to²⁹ what he wanted. He then collapsed and was taken to the hospital. After the shooting, the police raided Mr.

McQuillan's home and went through his personal effects. He has never been informed of any follow-up investigation of the shootings.

As a result of his wounds, Mr. McQuillan's brother, Eamon, is paralyzed. Mr. McQuillan was, again, attacked by a bombing and then a shooting in which his brother was again shot. His house is a few yards from the RUC police station; and on all three occasions, he received no police assistance, and no one has been prosecuted for the attacks .

After our hearing, Brenda Murphy was physically beaten on a Belfast street by Loyalists who recognized her as a witness at the inquiry. Patrick Elly's home was bombed. He had kept his address secret, but his daughter was questioned by the police (RUC) and gave them the address. Two days later, he was the subject of the bombing attack.

SUPPLEMENTAL FACTS

No case can be viewed in a vacuum, especially in this area of the world. Not only is a knowledge of the historical struggle necessary to understand the positions of Loyalist (Protestant) and Nationalist (Catholic) people important; but it is also important to review other relevant incidents of police conduct, in order to gain an appreciation of the helpless feeling of the Nationalist people. I will briefly list some of the other factors which assisted me in my decision.

1. The Brian Nelson case, which revealed that Nelson was a double agent between the security forces and the Loyalist gunmen. Nelson was permitted to plead guilty and receive a light sentence for murder conspiracy before too many facts were revealed as to his conduct.
2. In light of public knowledge that security files of Nationalist suspects had been lost or found in public areas, the British Government commissioned Constable Stevens to investigate the circumstances surrounding the loss of these files, which were comprised of pictures, personal travel habits, and sketches of home interiors. Although Constable Stevens completed his inquiry and found that fifty-nine people were involved with the releasing of these documents to outlaw Loyalist groups, only three military people were prosecuted: Nelson and two Ulster Defense Regiment soldiers. The rest of the fifty-nine people were civilians, and thirty-two of them were members of Loyalist organizations. All in all, there were over two hundred and fifty names of suspects which had been leaked to the media and copies posted publicly on Belfast street walls. The Stevens' report was sealed by the British Government, and no effort has been made to answer questions of "collusion" between the British security forces and the Loyalist death squads.
3. Constable John Stalker was commissioned to investigate whether the police (RUC) had a "shoot to kill" policy in Northern Ireland and whether there was a select group of police officers, known as the "Inner Circle," dedicated to killing IRA members and supporters. Constable Stalker was fired before he could complete his inquiry; and his successor's Constable Sampson report has been sealed and never publicly disclosed.
4. There have been many cases of Irish people raided by the police (RUC) who seized legal weapons from them, and then they were attacked shortly thereafter by gunmen. There are other cases in which the police gave death threats or showed a willingness on their part to subject Irish people to danger.

INDIVIDUAL CASE HISTORIES

PATRICK AND DIARMUID SHIELDS

January 1993

A shotgun was seized by the police from their farmhouse. The security forces sketched the entire interior of the house. Loyalist gunmen came, shot the two sons, and went directly to the father's room and shot him.

EUGENE MARTIN

February 1993

The police (RUC) seized his hunting rifle; and soon afterwards, he was attacked by unknown gunmen.

MICHAEL AND FRANCES CARAHER

January 1994

These two brothers of Fergal Caraher, who, himself, had been killed by soldiers, were arrested by the security forces and then released without charges. They were both told by police that the Loyalists would kill them and their families.

PATRICK FINUCANE

February 1989

Solicitor Finucane was murdered in front of his family on February 12, 1989. He was Northern Ireland's leading defense lawyer and had no ties to any paramilitary group. Prior to his murder, the police (RUC) routinely told his clients that Finucane was "an IRA man in a suit.... another Provie (IRA) on the payroll" and other derisive comments.

Although it was apparent that the security force knew Solicitor Finucane was a target, no steps were taken to warn him or protect him. There was substantial evidence linking Brian Nelson to the death of Solicitor Finucane. The RUC claims they know who killed Patrick Finucane; but to this date, no one has been prosecuted, and the police never even interviewed his widow who was an eyewitness.

BARRA McGRORY

February 1992

Mr. McGrory is a solicitor in Belfast. On two occasions, he was informed by clients who were told by the police that he and they would be killed. Shortly afterward, both clients (Conor McGuire and Martin O'Prey) were murdered.

KEVIN WINTERS

November 1990

Mr. Winters is a solicitor with the firm of Madden and Finucane. One of the firm's clients, John Pierce, was told by the police, "Kevin Winters is not such a problem that it can't be sorted out like Pat Finucane" and

“Should he (Winters) rise above himself, we’ll leave him with his fucking mate” (referring to the murdered Patrick Finucane).

LEGAL ISSUES

I thank my colleagues for their research and explanation of English law, as well as international law. I have not viewed this case as to civil liability of the state (government) for violating its duty to protect its citizens. I have, instead, viewed this as a criminal matter, in as much as the killing of one man and the attempted killing of another is a criminal matter under anyone’s flag. Early on, I rejected the consideration of misconduct in office as applied to the police (RUC).

Since arrest and detection are considered “discretionary acts, it would be difficult to pursue such a charge against the RUC officers on duty April 27, 1994. However, when one views the Law of Conspiracy, in light of the given facts of this case, much falls into place. A criminal conspiracy has been defined as an agreement of two or more people to commit an illegal act.” If one combines with others to accomplish an illegal purpose, he is criminally liable for everything done by his confederates incidental to the execution of the common design.

One who assists a felon in committing the crime or in escaping may be viewed as an accessory before the fact or after the fact. Even non-activity may be sufficient to constitute aiding and abetting, if the defendant had a duty to act. Lastly, no public officer, however high his position, is above the law. All may be punished for criminal acts.

CONCLUSIONS

Based upon this record and the facts cited herein, I have no difficulty in finding that there is sufficient and reasonable evidence that there is a continuing conspiracy existing between the Royal Ulster Constabulary and the Loyalist death squads in Northern Ireland. It is difficult to indict an entire police department. We need names, places, and specific events. I have listed only a few of the incidents which indicate collusion.

Liberty, Amnesty International, and the Helsinki Committee have set forth recommendations that the issue of collusion be investigated by the government. The Lawyers Committee for Human Rights, in their purview of the criminal justice system in Northern Ireland, went further and set forth detailed evidence of collusion between the security forces and Loyalists, focusing on the murder of Patrick Finucane, Esquire. They concluded that “RUC complicity may not only have taken the form of knowing acquiescence but of actual instigation. In the event that the British Government overlooked these investigative bodies and still does not see a problem, the English newspaper, The Independent, stated, “There is no doubt that members of the security forces have on occasion given names to Loyalist paramilitary groups and that murders have been committed on the basis of that information.”

I agree with the remarks made by Dr. Claire Palley to a United Nations subcommittee. She stated that the United Kingdom should “set up an independent public inquiry into the death of Mr. Finucane” and “suspicions of official collusion in Mr. Finucane’s murder must be put to rest.” This inquiry should be broadened to review all allegations of collusion.

The United Kingdom is a democracy with a highly developed system of justice, which has been adopted as a model by other countries over the entire world. Its citizens have the right to expect the highest standards of protection of their most fundamental human right: the right to life. A government has a duty to protect people whose security is particularly vulnerable. In my opinion, the United Kingdom has abrogated its duties and failed to protect the Irish people in Northern Ireland. The United Kingdom has established the Royal Ulster Constabulary as the police force in Northern Ireland. The RUC’s record from 1969 to present has been a dismal one, and its conduct sways between total neglect to active brutality. As a police force, they have given a new meaning to the word, otiose. Their conduct, as reflected in the murders of Paul Thompson, Patrick Finucane, and others, as well as the attempted murder of Patrick Elly, shows a callous contempt for human life not worthy of a police service.

RECOMMENDATIONS

1. The united Kingdom set up an independent **investigative** body with subpoena powers and the ability to prosecute those under indictment in a criminal court. This body should be composed of international figures and should have full power to investigate, publish, and prosecute all criminal acts of governmental misconduct, including any collusive acts and any select death squads within the security forces.

In setting up such a commission, the United Kingdom would be well advised to follow the guidelines of the "Goldstone Commission," established in South Africa in 1991. This commission had wide investigatory powers to subpoena and compel people to answer questions under oath. It would benefit England to take the advice of the New York Times, dated November 21, 1994, in an editorial entitled, "Time for A Global Criminal Court." "Next year will be the 50th anniversary of the opening of the Nuremberg Trials. It would be a fitting time to begin in earnest an agreement by all nations to subject themselves to minimal standards of human behavior."

2. The Royal Ulster Constabulary should be abolished. It never fulfilled any of its promises. Any attempts at renewal of a structure so corrupt would be useless. A new nonsectarian police department should be created with concern for minority involvement.
3. A prompt investigation should be instituted into Paul Thompson's death by an outside investigative team. The results of the investigation should be made public.
4. The police should immediately begin full patrol of all areas of separation of Irish from Loyalist neighborhoods. Now that the cease-fire is in effect, this should not be too difficult. They should designate an officer to serve as a Community Relations Officer, whose duties shall be to inform the community of all police concerns and to convey community information to the police.
5. The police should be advised by the government that its primary duty is to serve and protect the entire community. The police are not there to assist or become part of the military. The military was sent because the police did not know how to police. Instead of treating the Irish as enemies to be suppressed they would do well to remember the words of Thomas Paine: "He that would make his own liberty secure must guard even his enemy from oppression; for if he violates this duty, he establishes a precedent that will reach to himself."

To this, I say, "Amen. "

The Honorable Andrew L. Somers, Jr.
Chairman, Thompson Inquiry

SOLICITOR GARETH PEIRCE
REPORT INTO THE FATAL SHOOTING OF PAUL THOMPSON AND
THE WOUNDING OF PATRICK ELLEY

INTRODUCTION

On the 19th September a joint statement of preliminary findings was agreed to and published by four members of the Panel of Inquiry of whom I was one. My views have not altered since that time and I therefore adopt those findings as a starting point.

In the light of the fast changing political events since we were first asked to participate in the Inquiry, and in an attempt to note findings that have some relevance to the present and future as well as the past, I set out the following further views.

I am concerned to emphasise that many aspects of the serious situation revealed by the events of 27th April, are not necessarily fundamentally altered or addressed by the mere existence of the cease-fire now in place.

At the time that the Inquiry was first planned, the armed conflict in the North of Ireland was actively continuing; by the time the Inquiry met on the 17th September 1994, there had been a declaration of a cease-fire by the IRA. We learned during the Inquiry, that, nevertheless, armed attacks by Loyalists were still continuing upon residents of the street. Two weeks after the Inquiry concluded, members of the Panel were contacted as a matter of urgency by the residents, when two of the main participants in the Inquiry had been subject to further attack; a member of the family of one had been arrested and his current whereabouts obtained from her; on the following day an explosive device had been left at the door of the premises where he was staying. He was further informed that he was now designated a "target". The second of the residents had been set upon by unarmed assailants and seriously beaten. At the time of writing this final report in October 1994, there has been declared a Loyalist cease-fire and yet, notwithstanding this, further contact with the residents indicates that unarmed attacks upon members of the Catholic community at large in Belfast still, however, continue so that the residents have little increased feeling of safety.

Summary of factual findings

The evidence presented to us was clear, that on 27th April 1994, the police, the residents of Springfield Park and their attackers all knew that there would be an attack upon that street on that night. The mutual experience of all parties indicated that such an attack would be by gun and would be intended to kill, that it would take place at night, that it would be mounted via a small section of a barrier between the Springmartin Estate and Springfield Park Road (which was overtly and defiantly breached during the course of daylight hours) and that it would be successful.

In my view this attack cannot be simply described or glossed over as a "random sectarian attack". It was not random; it was specifically directed at the vulnerable residents of a small street, the mouth of which is dominated by a substantial barracks with watch-towers, surveillance equipment and significant numbers of personnel. There had been ten similar attacks in the past two years, seven of which had been through identical breaches in the barrier. Their success had been guaranteed by the consistent failure of the Royal Ulster Constabulary to provide an effective deterrent patrol on the Springmartin side of the road (a side from which there could be on any view no danger to the police), inexplicable delays in responding to emergency calls (even in one case where a gun attack was carried out on the street, a car driven round the street and a second attack taking place before escape by ladder over the wall). These failures allowed for 100% success and escape on each occasion for the assailants. Furthermore the Northern Ireland office had, for years, failed to

provide a secure and easily erected wall until in the Autumn of 1994, when the erection of such a wall coincided with the provision of a perimeter wall for a new police barracks.

Standards required of police forces

Police forces world-wide have been made subject to international minimum standards. The reasons for this are obvious. Of all governmental authorities, police officers both individually and collectively, possess the most significant potential power; they have absolute power over the liberty of the individual citizen; they can detain, arrest, interrogate and incarcerate, can inflict injury, can initiate prosecution and can draw upon resources not similarly available to any other arm of government. Equally, by consistently failing to prosecute or investigate serious offenses, police can give a green light to the commission of those offenses; and by employing only the members of one part of the community they are meant to serve, police forces can ensure that the wide discretion that surrounds the performance of many of their duties is conducted in a discriminatory way both consciously and unconsciously. Members of all uniformed forces are susceptible in any event to entrenched attitudes and cultures which individual officers may find it impossible to resist. Where those attitudes are entrenched by reason of exclusive and discriminatory recruitment of personnel, there is little or no potential for change.

Police can demonstrate by deeds as much as by words, a willingness to see as crimes only those that are committed by members of a community from which they themselves do not come. They can in addition, go far beyond passive failure, and actively give information or assistance to the commission of crime, as well as fail to investigate or condemn crimes committed by citizens from their own community.

Where there is such unparalleled discretion in the exercise of its day to day tasks by any profession, one needs to look outside national bodies to discover the standards to which that profession is expected to conform:

- a) The United Nations Code of Conduct for Law Enforcement Officials requires them to “respect and protect human dignity and maintain and uphold the human rights of all persons”. The Code directs that police should be directed nationally as to the rights of citizens that are of particular relevance regionally or nationally.
- b) They should “at all times fulfill the duty imposed upon them by law, by serving the community and protecting all persons against illegal acts” - “intended to include particularly services of assistance to persons who by reason of personal, economic, social or other emergencies, are in need of immediate aid”.
- c) Responsibilities imposed upon members of the International Association of Chiefs of Police, include 36 specific categories in the Association’s Codes of Ethics and Codes of Practice, which include safe guarding lives and property, protecting the innocent and the weak against oppression, protecting the peaceful against violence, protecting the rights of all to equality, and to perform all duties impartially. They are required to “inspire confidence and respect for the position of public trust”.

The rights of the residents of Springfield Park

In addition to the above rights that law enforcement officers are enjoined by the United Nations to respect, the residents of Springfield Park possess individually, enshrined in international law, their own rights and expectations. Each resident is guaranteed by the United Nations and by the European Covenant on Human Rights, a right to life, a right to freedom from inhuman and degrading treatment, a respect for family life, a freedom from discriminatory application of these rights, and a domestic remedy should any of these rights be violated.

A guarantee of a right to life does not, clearly, demand that each citizen be provided with an individual bodyguard; nevertheless it does demand that a police force is tasked with a positive duty to save and preserve life, and prevent attacks. The right to freedom from inhuman and degrading treatment has been held in a recent case, to mean that no person should be confined to a situation where he or she is in imminent fear of attack.

In concrete terms therefore, the residents of Springfield Park, falling entirely within that definition, have been subjected to treatment prohibited by international law, and have been failed by the police force appointed to protect them in a manner that appears to violate so consistently minimum standards as to demand that their complaint be addressed by those international bodies tasked with the upholding of individual rights, (in particular the European Commission of Human Rights, the United Nations Committee on Human Rights, any body convened to further the peace process in the North of Ireland, and the International Association of Police Chiefs, of which we understand the RUC enjoys membership). They have furthermore been failed in the provision of basic protection by the Northern Ireland office which failed to erect a safe wall in the face of its urgent requirement, and failed to respond to an urgent request for help on 27th April.

The wider implications of the events of 27th April 1994

As I have indicated above, I will not repeat the factual findings made by the Panel that relate to 27th April. I, as my colleagues on the Panel, found the facts straightforwardly presented by 15 witnesses, predominantly eye-witnesses to the events of the 27th April, and found them to be both credible and shocking beyond belief. Although each of us had had some prior knowledge through the press of what are referred to as “sectarian attacks”, we were unaware of the scale and implications of attacks such as those as had been inflicted upon Springfield Park, namely 10 murderous attacks upon the residents of a small street, in less than two years, of the identical and predictable nature of these attacks, and of the fact that these attacks were, in our view, entirely preventable, in that they occurred repeatedly upon what in theory should have been the safest street in Belfast, namely a horseshoe cul-de-sac at the mouth of which is a substantial barracks, and at the other side of which, is a protective wall which could and should be inviolable. I, as my colleagues, had no hesitation in finding that the pattern of attacks upon Springfield Park could only mean at its very lowest, that local police were indifferent to the mounting of these attacks by loyalist assailants based in the adjacent estate of Springmartin. On the day in question, 27th April 1994, the residents of Springfield Park had, without any resources:

- a) Noted that a permanent sealed gate had been opened;
- b) Noted that a security fence was being cut open in a leisurely way by two men, undisguised and within clear view;
- c) Informed a senior police officer personally who had detailed knowledge of the nature of previous fatal attacks by identical means, and requested urgent protection.
- d) Printed a leaflet and distributed it to all residents within hours warning them to take security measures;
- e) Informed the Northern Ireland officer with responsibility for local security; and
- f) Informed the local Member of Parliament.

The police, with significant resources had, in contrast, done nothing. Here was an extended opportunity to:

- a) Make pre-emptive arrests as the perpetrators were, in daylight, cutting the security fence in an unhurried way;
- b) Put a deterrent and pre-emptive police and military presence at the wall on the Springmartin side until breaches were secured;
- c) Answer the residents’ calls for help promptly, professionally, reassuringly and effectively; and
- d) Take action upon what could have and must have been seen and heard from their monitoring towers, and logged by surveillance, radios and personnel.

The failure of one individual police officer to take any action, who was personally notified on 27th April of the emergency, although extraordinary, in no way explains the extended pattern of non-intervention that has been the behaviour of their local police towards the residents of Springfield Park as long as each can

remember. I do not find it possible to minimise the failings of one day and describe them as merely unfortunate coincidental omissions for these reasons;

1. The nature and occurrence of previous attacks (at the same time, place and using the same modus operandi) ensured that the local barracks must have regarded any warning signs such as these noticed and notified on the day, as hailing an imminent fatality. It is inconceivable that any other duties required of officers on duty on 27th April, could have or should have taken higher priority than the prevention of anticipated and predictable assassinations.
2. The failure of the police to warn a local Catholic taxi company of their discovery two weeks earlier that messages were being monitored by loyalist paramilitaries. Patrick Elley and Paul Thompson, had they known this, would not have responded to any call without verifying its bona fides first. As it was, they were lured into a fatal trap.
3. The very geography of the street; previous assailants in previous attacks had been able to drive into the street, at the mouth of which is a substantial barracks, to park in the street, to conduct assassination attempts by shooting, and in an unhurried way, to conduct further attacks and then scale walls with ladders, within seconds of the barracks itself.
4. Attackers had carried out a repeated combination of shootings and one bombing on one house at the mouth of the street within 90 feet of the police station, and within view of that station at all times. The attacks had been perpetrated not only by entry to the house, but also outside the house upon one individual who suffered two attacks in its driveway outside its front door and within direct view of the barracks, 30 yards away.
5. The indifference to a dying man, Paul Thompson, and the failure to give medical assistance or comfort to him or the unarmed residents who had gone to his immediate aid, regardless of their own safety. This of all the evidence, was the most chilling.

All of the above combine to present a picture of total acquired confidence on the part of the attackers that they would be free from the possibility of arrest or prosecution. Either there was actual knowledge within the police station by more than one person of ongoing attacks, such as to amount to cooperation with those attacks, or there was such indifference to the basic needs of the residents of the street as to constitute wilful neglect of every professional duty enjoined by national and international standards.

Any proper investigation would require knowing the time and place of duty of every member of the barracks throughout that day, 27th April, inspection of radio messages, inspection of collation of information including that relating to the monitoring of the taxi company's calls, and a confiscation of surveillance notes, videos and personal logs of all personnel on duty. All of this, we clearly could not achieve. The police in any event had not chosen to attend the residents' Inquiry nor had the Northern Ireland office.

However, other evidence given by the residents was clearly relevant to any consideration of wider issues. These answers were given (often in surprise at being asked what, to the residents, were questions so obvious that they needed no asking);

- a) No resident knows any member of the police force (other than the named officer to whom the call was made on 27th April, whose job it was to liaise with the community; the residents informed us that this liaison involved only token meetings after fatal incidents).
- b) No residents know of any Catholic employed in the police force (one witness, a local councillor, knew of one Catholic so employed in a different police district) and yet Catholics represent approximately 43% of the population of the North of Ireland.
- c) No resident could envisage a member of the police force being appointed from their community, or

envisage policing of even the most basic nature being provided to their community. Their experience, and their expectations were that the police neither existed for them nor were willing to investigate offenses carried out against them. (A local councillor indicated that in non-Catholic districts, the expectation of the provision of “normal” policing was infinitely higher and indeed did happen).

- d) No communication has been given to the bereaved or injured victims of this shooting as to either any investigation of its perpetrators or as to the failures of the police to prevent it.
- e) Conversely, on this occasion and on previous occasions described in evidence, the victims and their families have been both in the immediate aftermath of an attack and thereafter, questioned as if they have committed a crime, their houses searched and in one case arrested, and in another threatened with arrest and charge.
- f) A local councillor who attended the police station in the wake of the events of 27th April, had stones thrown at him within the yard of the barracks itself by uniformed personnel. No inhibition appears to affect expression of hostile attitudes by local police towards the residents or representatives of Springfield Park.

The Panel enquired closely as to whether there was anything in the past history of this street that could lead the police to be so apprehensive of their own safety when in the street as to be unwilling to have any normal dealings with its residents. The evidence we were given was to the contrary. For at least the past ten years, and during the memory of all the witnesses who gave evidence, there have been no illegal acts committed by the residents; in particular no attacks mounted from Springfield Park either towards the barracks or towards the nearby estate of Springmartin. The residents have a collective history of peaceful and law abiding behaviour. They have however, enjoyed an unparalleled history of unlawful and terrifying attacks by others upon them.

Recommendations based on these facts

Any meaningful recommendations that can be suggested must be of a fundamental nature and must look to other findings and experiences. In particular, one takes note of the historical recollections of witnesses to the Inquiry who reminded us that 25 years ago unprovoked attacks upon the Catholic community were either assisted by or unprevented by law enforcement agencies, and were the direct cause of the following quarter century of conflict. Clearly no permanent peace can be achieved as long as the same situation prevails.

One looks at the investigation into the Royal Ulster Constabulary conducted by the European Commission of Human Rights in 1976, an inter-governmental complaint having been initiated against the United Kingdom by the Irish Government. Whilst making findings in 1976 that the RUC was involved in the infliction of inhuman and degrading treatment during interrogations, the European Commission was nevertheless reassured by the United Kingdom Government in that year that urgent consideration was being given to the implementation of a Bill of Rights and the establishment of an effective independent police complaints body. Almost twenty years later there is no sign of either. Had either of these promises been fulfilled and made effective, the events of 27th April need not have happened.

One should not however, be, side-tracked by the necessity of the provision of a “complaints” procedure. However searching independent investigations into the police might be, these inevitably happen after the event. Of course investigations into police crimes and police negligence should be conducted by personnel who are separate from the police force. However this does nothing to address the composition and mind-set of the police force itself. One recalls the findings of the Kerner Commission of Inquiry which investigated the causes of urban riots that swept the United States in the Summer of 1968. The data uncovered by that Inquiry compelled Lyndon Johnson to accept publicly that the United States was “a racist nation”. The repeated and sustained findings in that investigation, that the police in each US city were drawn entirely or almost entirely from the white population and had become, and were perceived as having become, the oppressors of the black population, led to a demand that police forces be dismantled and reconstituted to reflect the composition, the

ethos, and the culture of the whole of the community, and not merely half. Similar experiences found by the Goldstone Commission in South Africa were put before our Panel of enquiry.

It is impossible to accept that the fundamental responsibilities of international obligations of police forces set out above, and the human rights entitlements of the residents of Springfield Park, can be met without urgent, serious and substantial attempts made in the North of Ireland to achieve such a transformation within its arrangements for policing. It is impossible to consider that what had happened to the residents of Springfield Park is merely a unique aberration in the midst of an otherwise satisfactory situation. The members of the Panel have already suggested informally on a preliminary basis, that the facts presented during the Inquiry deserve raising with the United Nations Committee on Human Rights, with the European Commission of Human Rights, with the Irish Government and any body convened to further the peace process, and with the International Association of Police Chiefs. We have also noted that there has already been a finding within the United Kingdom by a High Court Judge in relation to a separate court case involving one of the residents, that to be confined in a situation where there is an ongoing and sustained fear of death or serious injury, constitutes inhuman and degrading treatment as prohibited by international law. Given that it is clear that this is the ongoing predicament of all 140 residents and is the reality of life for them, I would respectfully suggest that this should be drawn to the urgent attention of all these bodies.

Lastly, one notes there have been recent newspaper reports that European members of Parliament have encouraged the dismantling of the "peace walls". This proposal appears so remote from the urgent need and realities of life of the residents of Springfield Park, that I would further suggest that at least one European member of Parliament be appointed as a rapporteur to investigate and report on the failures listed above.

Postscript

I am conscious that the members of the Panel are invited on the basis that each has a legal background. I consider, however, that it is not possible to suggest any legal solutions to the sad circumstances of this Inquiry that depend upon local domestic law. We were advised by the solicitor to the Inquiry that no civil action for negligence against the RUC was likely to be able to be mounted, restrictions on such actions having been established by earlier legal precedent. Nor, in the absence of a wholly altered environment would any prosecution ever realistically occur, either for gross negligence by police officers, or for the unlawful killings and woundings themselves by the perpetrators. It is in part for these reasons, but in part because the law itself is not adequate to address a situation that requires fundamental political and social change, that my report has emphasised the basic rights that are accepted by the international community at large, in the hope that the residents of Springfield Park may be able to look beyond their own present boundaries for the assistance that they clearly deserve and urgently require.

Gareth Peirce
October 1994



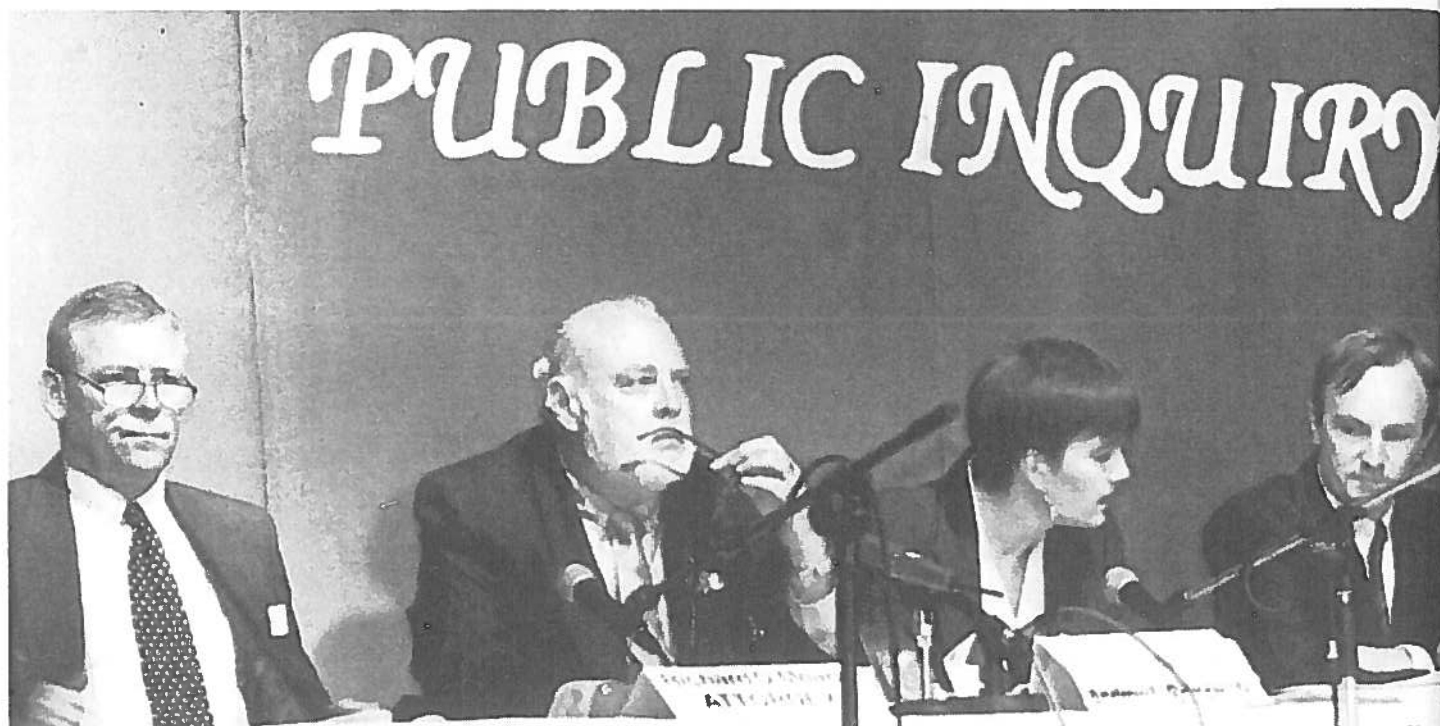
Jurists Murphy (left) and O'Meara (right)

The RUC's conduct and failure to respond was a grave dereliction of duty and culpable in the sense that it was without reasonable excuse or justification.



*Attorney Tom Fox and Angela Ritchie
Prepared the Inquiry Case.*

The jurist's decisions are printed and edited for brevity. Foot notes and some parts which were repetitive have been omitted. Any one wishing a copy of the full decisions or add it on all copies of the report may obtain them by writing the Chairman: Hon. Andrew L. Somers Jr. USA 4467 Crescent Rd, Fitchburg, Wisconsin USA 53711. Telephone: 608-276-8397



Jurists O'Meara, Somers, Publicity Coordinator Ruane and Jurist Murphy

The RUC shows a "all out contempt for human life not worthy of a police service"

FINDINGS OF RAY MURPHY - REPUBLIC OF IRELAND

INTRODUCTION

In an unofficial Inquiry of this kind it is all too easy to arrive at findings of a bland and general nature without adequate research on at least some of the specific legal issues at stake. I do not propose to restate the facts; these were outlined in the preliminary findings of the Inquiry. I have endeavoured to examine some of the major legal issues involved and arrive at my conclusions accordingly. The Inquiry was not like a trial where both sides presented legal arguments relevant to the issues arising. This made the task of examining the laws applicable in Northern Ireland somewhat problematic. The RUC and Northern Ireland Office were invited and declined to participate in the Inquiry. This was a serious disadvantage to its deliberations which also took from its probative value. Nonetheless, the inquisitorial nature of the Inquiry did, I believe, establish the truth regarding the events surrounding the killing of Paul Thompson and the injury of Patrick Elley. The evidence adduced and the testimony of witnesses was compelling. I was very impressed by the courage and tenacity of all the "victims" of the conflict who came forward and gave evidence at the Inquiry. Words will never adequately express the suffering and alienation endured by these people for so long. I hope that the report of the Inquiry will be of some benefit in highlighting the injustices of their situation and that the findings will assist those seeking legal remedies on their behalf.

CRIMINAL LIABILITY

In the course of the Inquiry, evidence was given that the RUC were informed of the breach in the interface, and that they were aware of the fact that Loyalist paramilitaries were monitoring the radio messages of the taxi company for which Patrick Elley worked. I found the evidence given in this regard truthful and compelling.

This raises the question whether the officer, or officers, who failed to respond could be held guilty of any offence?

At the outset it is essential to outline two important matters, the first is that a police constable is a public officer, and secondly, that there does exist at common law an offence of misconduct in a public office. I find authority for this conclusion in the judgment of Lord Widgery C.J. in R. v Dytham (1979)3 All ER 641, (1979) QB 722; where a constable was convicted of wilful neglect of duty because, being present at the scene of a violent assault resulting in the death of a victim, he had taken no steps to intervene. This case is authority for the proposition that a police officer may be guilty of a criminal offence if s/he wilfully fails to perform a duty which s/he is bound to perform by common law or by statute. Furthermore, at common law police officers owe to the general public a duty to enforce the criminal law; see R v Metropolitan Police Commissioner, ex parte Blackburn (1968) 1 All ER 763, (1968) 2 QB 118.

The ingredients of this offence, and their applicability to the present case, are not without certain problems. *Stephen's Digest of the Criminal Law*, 9th ed. (1950), p.114, art.145 contains the following useful extract:

"Every public officer commits a misdemeanor who wilfully neglects to perform any duty which he is bound either by common law or by statute to perform provided that the discharge of such duty is not attended with greater danger than a man of ordinary firmness and activity may be expected to encounter".

In his judgment in Dytham, Lord Widgery C.J. found that the neglect must be wilful and not merely inadvertent: and it must be culpable. In this way, not every failure to discharge a duty which devolved on a person as holder of a public office gives rise to the common law offence of misconduct in that office. In the present case the break in the interface presented a real and immediate threat to the lives of the residents of the Springfield Park area. There had been numerous similar attacks in recent years and this placed a heavy onus on the RUC to respond immediately. They did not do so. Paul Thompson was killed and Patrick Elley was injured by gunmen who lay in wait and lured them to the ambush area. Evidence was given at the Inquiry that the security forces have not come under attack in the area in recent years. While I accept this fact, I also believe that the security forces have legitimate fears operating in any nationalist area of West Belfast. Numerous attacks have taken place on security forces in West Belfast since the start of the so-called "*troubles*". When responding to any call out in such areas, the RUC had to be extremely cautious and they did have reasonable grounds to perceive a threat to their lives and safety.

This poses the question whether the overall security considerations precluded some kind of response, or justified the complete failure of the RUC to protect the lives of Paul Thompson and Patrick Elley? What should, or could, they have done in the circumstances? In answering these questions cognisance must be taken of the very real threat posed to the residents of the area and a different, yet similar potential threat to the RUC operating there. Despite this latter threat, I believe the RUC could have responded to the situation created in a manner which would not have exposed them to too great a risk. They could have deployed on the Springmartin Estate side of the interface and maintained a presence there until the breach was repaired. They could also have carried out some immediate repairs to ensure the gap created could not be used for access to or egress from the Springfield Park area. In addition, having first secured the area on the nationalist side for their own safety, some kind of military/police presence was warranted at or near the breach in the interface. None of this took place, and I am unable to determine if any of the cameras or other "*high-tech*" surveillance equipment in the barracks nearby was put to use to reduce the threat posed by the breach. I accept in full the evidence of one resident that she contacted a named RUC officer and apprised him of the situation. I do not know the operational constraints on the RUC that day, or whether the named officer informed his superiors or delegated the task of providing security to some other officer or officers. In any event, the RUC did not respond and thereby contributed substantially to the death of Paul Thompson and the injury of Patrick Elley. Furthermore, their failure to inform the taxi company of the monitoring was inexcusable. Given the history of attacks in the area and the threat posed to local residents, I consider the neglect of the RUC concerned to have been *prima facie* wilful and not merely inadvertent. Their conduct and failure to respond was a grave dereliction of duty, and culpable in the sense that it was without reasonable excuse or justification.

CIVIL LIABILITY

A further issue which must be considered is whether the response of the RUC and the Northern Ireland Office (NIO) gives rise to any civil liability. This issue, i.e. the question of police negligence and duty of care has arisen in a number of recent cases. In the House of Lords decision in *Hill v Chief Constable of West Yorkshire* (1988) 2 All ER 238; (1989) AC 53, the alleged negligence of the police consisted in a failure to discover the identity of Peter Sutcliffe, the so-called "Yorkshire Ripper". The facts were that between 1969 and 1980 a series of 13 murders and 8 attempted murders were committed by Sutcliffe. All his victims were young women and the modus operandi in each case was the same. The mother of his last victim brought an action claiming damages against the Chief Constable in whose area most of the offenses had taken place. She contended that the circumstances of the earlier murders and attacks were so similar that it was reasonable to infer that they had been committed by the same person, that it was foreseeable that unless apprehended that person would commit further offenses of the same type, that it was the duty of the police to use their best endeavours and exercise all reasonable care and skill in apprehending him and that they had been in breach of that duty in the manner in which they had carried out their investigation, thereby failing to detect Sutcliffe before he murdered her daughter. The question arose whether the police, in the course of carrying out their function of suppressing crime, owed a duty of care to a member of the public who suffered injury through the activities of a criminal.

The court held that in the absence of any special characteristic or ingredient over and above reasonable foreseeability of likely harm which would establish proximity of relationship between the victim of a crime and the police, the police did not owe a general duty of care to individual members of the public to identify and apprehend an unknown criminal, even though it was reasonably foreseeable that harm was likely to be caused to a member of the public if the criminal was not detected and apprehended. Furthermore, even if such a duty did exist public policy required that the police should not be liable in such circumstances. In the course of his judgment in the case, Lord Keith examined the extent and nature of the police liability in negligence. He said the question of law which had to be determined was:

*"whether the individual members of a police force, in the course of carrying out their functions of controlling and keeping down the incidence of crime, owe a duty of care to individual members of the public who may suffer injury to person or property through the activities of criminals, such as to result in liability in damages, on the ground of negligence, to anyone who suffers such injury by reason of breach of that duty. There is no question that a police officer, like anyone else, may be liable in tort to a person who is injured as a direct result of his acts or omissions. So he may be liable in damages for assault, unlawful arrest, wrongful imprisonment and malicious prosecution, and also for negligence. Instances where liability for negligence has been established are *Knightley v Johns* (1982) 1 All ER 851, (1982) 1 WLR 249 and *Rigby v Chief Constable of Northamptonshire* (1985) 2 All ER 985, (1985) 1 WLR 1242.....A Chief officer of police has a wide discretion as to the manner in which the duty is discharged. It is for him to decide how available resources should be deployed, whether particular lines of inquiry should or should not be followed and even whether or not certain crimes should be prosecuted. It is only if his decision on such matters is such as no reasonable chief officer of police would arrive at that someone with an interest to do so may be in a position to have recourse to judicial review. So the common law, while laying on chief officers of police an obligation to enforce the law, makes no specific requirements as to the manner in which the obligation is to be discharged. That is not a situation where there can readily be inferred an intention of the common law to create a duty towards individual members of the public."*

After referring to legal argument, Lord Keith continued ((1988) 2 All ER 238 at 241, (1989) AC 53 at 60):

*"The foundation of the duty of care was said to be reasonable foreseeability of harm to potential future victims if Sutcliffe were not promptly apprehended. Lord Atkin's classic propositions in *Donoghue (or**

McAlister v Stevenson” (1932) AC 562 at 580, (1932) All ER Rep 1 at 11 “were prayed in aid, as was Lord Wilberforce’s well-known two stage test of liability in negligence in *Anns v Merton London Borough* (1977) 2 All ER 492 at 498, (1978) AC 728 at 751-752. It has been said almost too frequently to require repetition that foreseeability of likely harm is not in itself a sufficient test of liability in negligence. Some further ingredient is invariably needed to establish the requisite proximity of relationship between plaintiff and defendant, and all the circumstances of the case must be carefully considered and analyzed in order to ascertain whether such an ingredient is present.”

He distinguished the case on the facts from the decision of the House of Lords in *Home Office v Dorset Yacht Club Ltd.* (1970) 2 All ER 294; (1970) AC 1004. I believe the decision in that case is relevant to this enquiry. One of the features of the case was very similar to the facts surrounding the shooting of Paul Thompson and Patrick Elley. The injury/damage sustained in both cases was a direct consequence of an independent act of a third party, which was interposed between the alleged negligent conduct of the police and prison offices concerned and the injury/damage suffered.

In the *Hill* case, Lord Keith found that the alleged negligence of the police consisted in a failure to discover Sutcliffe’s identity. He said that Miss Hill could not be regarded as a person at special risk simply because she was young and female. Where the class of potential victims of a particular habitual criminal is a large one the precise size of it cannot in principle affect the issue. All householders are potential victims of a habitual burglar, and all females those of an habitual rapist. He concluded that although there existed reasonable foreseeability of likely harm to such as Miss Hill if Sutcliffe were not identified and apprehended, there was absent from the case any such ingredient or additional characteristic as led to the liability of the Home Office in *Dorset Yacht* case. The circumstances of the case were therefore not capable of establishing a duty of care owed towards Miss Hill by the police.

In the present case I consider that the RUC did owe a special duty of care to the residents of the Springfield Park area. There had been numerous attacks on the residents in recent years, the police barracks is situated in the area, and it was reasonably foreseeable that an attack would take place through any gap made in the interface. The homes in this area were, and remain, extremely vulnerable to random sectarian attack. This fact is difficult to appreciate without first hand evidence from the local residents and a visit to the area. I am satisfied the RUC and NIO were aware of this situation. All of these factors combine to create a special duty of care on the RUC, and a special relationship of proximity to local people such as Paul Thompson and Patrick Elley. The RUC and NIO did not operate reasonable care and skill in protecting the local people. Their failure to respond and inaction amounted to wilful negligence. The law does not distinguish between acts or omissions in such cases (*Clough v Bussan* (West Yorkshire Police Authority, third party) (1990) 1 All ER 431). Although the two victims were probably shot by Loyalist paramilitaries, the negligence of the RUC was a causal link in the chain of events leading to the death of Paul Thompson and the injury of Patrick Elley. The special facts in this case combined to give it the particular characteristic or ingredient necessary over and above reasonable foreseeability of an attack which establishes proximity of relationships between the victims and the RUC.

INTERNATIONAL HUMANITARIAN LAW

Numerous witnesses to the shooting gave evidence to the effect that the RUC, by their inaction, refused to render first aid to Paul Thompson at the scene of the shooting. This was despite being requested and called upon to do so. They also failed to give any assistance in moving him from the car in which he was shot. Eventually, a British soldier rendered what assistance he could, and applied his personal issue field dressing to the wounds of Paul Thompson. In the context of the overall circumstances surrounding the killing of Paul Thompson, the refusal to render any medical or other assistance may not seem very important. It is probably unlikely that it would have saved or prolonged his life to any significant extent, and I make no finding in this regard as no medical evidence was adduced at the Inquiry. However, this aspect of the shooting does raise other important issues.

Paul Thompson was the innocent victim of an internal conflict. In times of internal violence and public emergency, human rights are put at significant risk. States can, and do, proclaim public emergencies; they then use such declarations to derogate from many, if not all, of the provisions of human rights conventions to which they have adhered. Similarly, it may be argued that the level of internal violence in Northern Ireland falls short of that required for international humanitarian law, commonly referred to as the laws of war, in particular the relevant Geneva Conventions of 1949 and the Additional Protocols of 1977, to apply. Nevertheless, it is such internal conflict situations that the norms of behaviour of security forces may come under most threat.

International humanitarian law has as a central concern all victims of armed conflict. While the four Geneva Conventions of 1949 are generally associated with international armed conflicts, they also codify certain inalienable rights which form part of customary international law and may even be considered to be peremptory norms of international law (*jus-cogens*). These rights and rules are binding upon the entire community of states. In this way, international obligations also exist for essentially internal affairs which govern the relationship between a government and its citizens, and are close to human rights law which also protect the individual as regards his/her own authorities. However, the major difference is that humanitarian law governs situations where a government is opposed, not only to individuals, but to groups.

All of the four Geneva Conventions of 1949 governing international armed conflict contain a common article, Article 3, which deals with internal armed conflicts. It requires that civilians be treated humanely, without regard to religion, race or other criteria. It is binding on all parties to an internal conflict, government and opposition forces. The substance of the law contained in Article 3 is the same as that applicable in international armed conflicts but on a much simpler and more general level. The following is an extract of the relevant provisions from Article 3 (*italics added*):

Article 3 - Conflicts not of an international character

“In the case of armed conflict not of an international character occurring in the territory of one of the High Contracting Parties, each Party to the conflict shall be bound to apply, as a minimum, the following provisions:

(1) *Persons taking no active part in the hostilities . . . shall in all circumstances be treated humanely, without any adverse distinction founded on race, colour, religion or faith, sex, birth or wealth, or any other similar criteria.*

To this end the following acts are and shall remain prohibited at any time and in any place whatsoever with respect to the above mentioned persons:

- (a) violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture;
- (b) taking of hostages;
- (c) outrages upon personal dignity, in particular humiliating and degrading treatment;
- (d) the passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court, affording all the judicial guarantees which are recognized as indispensable by civilized peoples.

(2) *The wounded and sick shall be collected and cared for.”*

The question of what is the scope of application of the rules governing non-international armed conflict, and whether Article 3 applies to the conflict in Northern Ireland is not settled. Common Article 3 does not contain a definition of non-international armed conflict. To borrow the phrase of one of the delegates to the Diplomatic Conference of Geneva of 1949, Article 3 is like a Convention in miniature. Its terms are simple and clear and it at least ensures the application of the rules of humanity which are recognised as essential by civilized nations. It also has the additional advantage of being applicable automatically without any condition with regard to reciprocity. Its observance does not depend upon preliminary discussions on the nature of the

with regard to reciprocity. Its observance does not depend upon preliminary discussions on the nature of the conflict. While it merely provides for the application of the principles of the Convention and not for the application of specific provisions, it does define those principles and lays down certain mandatory rules. Furthermore, these rules are to be applied as a minimum. This compulsory minimum standard of behaviour must be maintained, and whenever possible exceeded.

In the judgment of the International Court of Justice in the Corfu Channel Case (Merits) I.C.J. Reports 1949, p.4, the Court referred to certain general and well recognised principles, namely: elementary considerations of humanity. International humanitarian law is highly codified for a somewhat restricted field of application and has a core of fundamental rights to be observed in all forms of armed conflict. These rights are stated in Article 3 common to the Four Geneva Conventions and applicable to non-international armed conflicts. It has been generally recognized that the substance of Article 3, based on customary law, is part of jus cogens, and therefore binding on all states. Consequently, the obligations stated in Article 3 transcend that article's field of application; they are valid for all forms of armed conflict. The International Court of Justice confirmed this in its judgment in Nicaragua v The United States of America (Merits) I.C.J. Reports 1986 p.114. This case concerned military and paramilitary activities in and against Nicaragua and the Court found that the rules defined in Common Article 3:

“also constitute a minimum yardstick, in addition to the more elaborate rules which are also to apply to international conflicts; and that they are rules which ... reflect that the Court in 1949 called ‘elementary considerations of humanity’”.

The International Committee of the Red Cross, citing this decision, stated that *“the general rule of international humanitarian law is therefore seen as a standard of behaviour expressing a general, basic principle of conduct which underlies all international humanitarian law”.*

Common Article 3 provides that persons such as Paul Thompson be treated humanely, and that when wounded or sick they shall be collected and cared for. It is very difficult to give a precise definition of humane treatment, however, it is much less difficult to enumerate matters which fall short of such treatment. Furthermore, the reference to caring for the sick and wounded expresses a categorical imperative which cannot be restricted and needs no explanation. It is concise and forceful, and reaffirms, in general form, a fundamental principle of humanitarian law. There are questions left unanswered regarding the conduct of the RUC at the scene, because they declined to participate in the Inquiry. Did they fear their own personal health and safety, or were there other compelling reasons for their conduct? I cannot place myself in the minds of the RUC officers concerned. I must make a finding on the basis of the evidence of the Inquiry. This indicates that they were not preoccupied with security or other concerns when they arrived on the scene, and assistance was sought and effectively refused. In this way, the RUC officers concerned deliberately flouted a basic norm of humanitarian conduct by refusing to render assistance to the critically wounded Paul Thompson.

THE EUROPEAN CONVENTION ON HUMAN RIGHTS AND THE UN COVENANT ON CIVIL AND POLITICAL RIGHTS

CONVENTION FOR THE PROTECTION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS

Article 1

The High Contracting Parties shall secure to everyone within their jurisdiction the rights and freedoms defined in Section I of this convention.

SECTION I

Article 2

Everyone's right to life shall be protected by law. No one shall be deprived of his life intentionally save in the execution of a sentence of a court following his conviction of a crime for which this penalty is provided by law.

Article 26

The Commission may only deal with the matter after all domestic remedies have been exhausted, according to the generally recognised rules of international law, and within a period of six months from the date on which the final decision was taken.

INTERNATIONAL COVENANT ON CIVIC AND POLITICAL RIGHTS

Article 6

1. Every human being has an inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.

Article 2 of the European Convention and Article 6 of the UN Covenant on Civil and Political Rights state that every person's right to life shall be protected by law. The Court of Human Rights and the Commission on Human Rights have accepted in a number of cases that this places a responsibility on a government for the protection of the right to life within its jurisdiction. There are a number of cases in which the Commission considered issues broadly similar to those arising in the Inquiry. For these reasons I have decided to emphasise the European human rights implications of the case in my findings. I am of the opinion that, *prima facie*, there has been a breach of Article 6 of the UN Covenant which should be investigated. However, I also believe that the European Convention provides more effective protection and remedies to "victims" in the circumstances which arise in the present case.

The legal reasoning and jurisprudence of the Commission and Court of Human Rights is clear and easy to follow. I believe that for the reasons already outlined hithertofore, the Government of the United Kingdom failed to protect Paul Thompson and Patrick Elley as required by Article 1 and Article 2 of the Convention. As I conclude, the Loyalist paramilitaries have announced a ceasefire, this fundamentally alters the nature of the case. I do not believe that it can now be argued successfully that this breach is ongoing and that therefore the six month rule does not apply.

CONCLUSIONS AND RECOMMENDATIONS

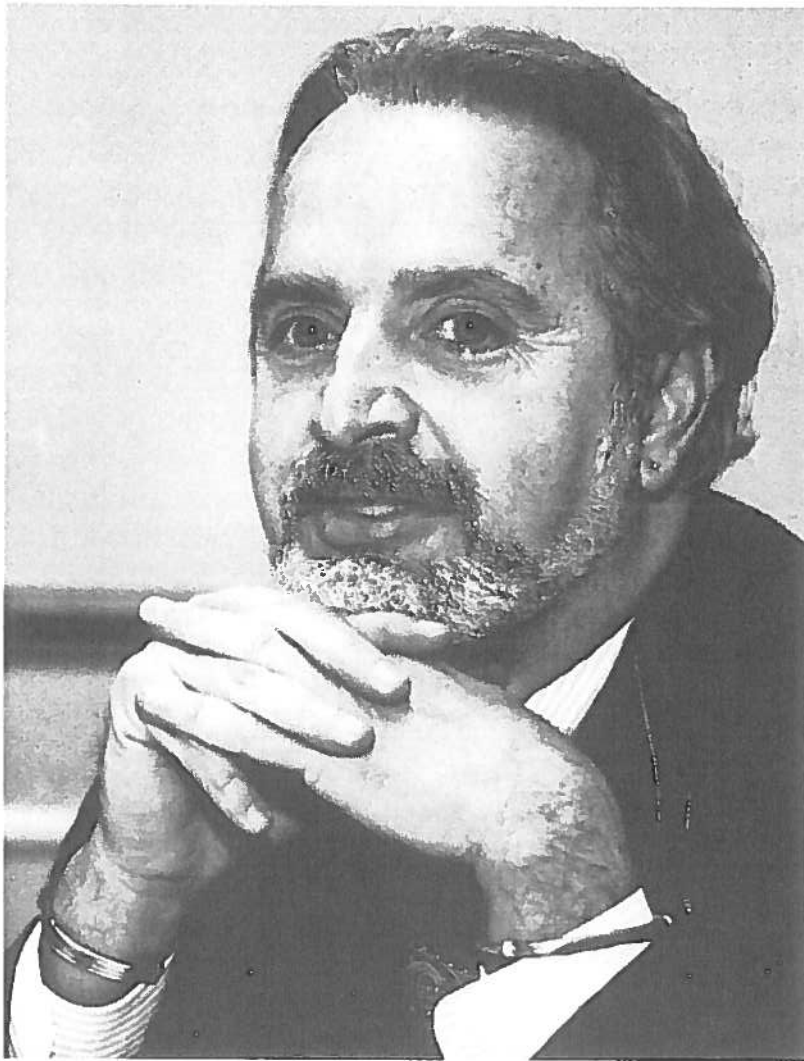
The Committee on the Administration of Justice, an independent Northern Ireland civil liberties organisation, made a submission to the Inquiry which will be appended to the final Report. I do not intend to repeat the points made in this submission, except to say that I concur with the views and recommendations expressed therein. The following is a summary of my main conclusions:

- the evidence before the Inquiry established a *prima facie* case of criminal liability in the wilful negligence of the RUC to protect the lives of Paul Thompson and Patrick Elley;
- in the special circumstances of the present case, the RUC and NIO did owe a duty of care to the residents of the Springfield Park area. The failure of the police to respond to the real and immediate threat posed by the breach in the interface was a causal link in the chain of events which led to the killing of Paul Thompson and the injury of Patrick Elley;
- when the RUC officers arrived at the scene of the ambush, they failed to render any medical or other assistance to the wounded victims contrary to the basic norms of international law enshrined in Common Article 3 of the Geneva Conventions;
- the RUC and NIO failed to protect the lives of Paul Thompson and Patrick Elley contrary to the

provisions of the European Convention on Human rights and the International Covenant on Civil and Political Rights;

- the immediate next-of-kin of Paul Thompson, and Patrick Elley himself, should consider what domestic remedies, if any, are open to them. In any event, an application would be lodged immediately with the Commission on Human Rights in order to avoid any potential difficulties re. Article 26 and the six month rule. However, the likelihood is that any application at present would fail on the basis of the non-exhaustion rule, but that would not prevent the applicant lodging a further application at a later stage, once the domestic remedies had been exhausted. This is provided that effective domestic remedies do in fact exist, as required by Article 13 of the Convention;
- an independent investigation must take place into the practice and procedure of the RUC in this whole affair. The Committee on the Administration of Justice have published a number of studies on police complaints procedures and the inadequacies in the present system. This unofficial Inquiry would not be necessary but for these deficiencies. The need for an independent complaints procedure is all the more pressing with the permanent cessation of violence by the major paramilitary organisations. The people of Springfield Park are probably representative of nationalists in other areas of Northern Ireland. They want an effective and acceptable police presence in their area. This has not been provided to date. Furthermore, unless radical changes take place, this will not happen in the future;
- it is recommended that an Independent Authority or Commission be established to investigate all matters relating to the maintenance of public order and policing. A model which could be adopted to investigate all forms of public violence and matters related thereto, is that of the so-called "*Goldstone Commission*", established in South Africa under the Prevention of Public Violence and Intimidation Act, 1991. This Commission had wide ranging powers of discovery and subpoena to investigate matters under oath/affirmation. Persons questioned were deemed to be competent and compellable to answer all questions, even of an incriminatory nature;
- failure of the RUC to investigate thoroughly the death of Paul Thompson and the injury of Patrick Elley fell well short of the general standards of behaviour and minimal procedures for policing enshrined in the UN Code of Conduct for Law Enforcement Officials (adopted by the UN General Assembly on 17 December 1979) and the Declaration on the Police (Resolution 690 (1979) of the Parliamentary Assembly of the Council of Europe);
- None of this would have happened if the NIO had built a more permanent and secure structure between the Springfield Park and Springmartin estates. Taking into account the number of attacks on residents in the Springfield Park area, this failure by the NIO contributed significantly to the death of Paul Thompson and the injury of Patrick Elley, and also to the threat of random sectarian attack that all the residents of the estate have endured for so long. One of the reasons cited for the failure of the NIO to build a more secure wall was the planned building of another barracks. The purpose of another barracks in the area must be questioned when the security forces have been so ineffective in preventing attacks on residents there. Despite the welcome cessation of violence announced by Loyalist paramilitaries, there is still an urgent need to build and maintain an adequate security wall in this area. Unfortunately, the threat of random sectarian attack on this vulnerable community will continue to exist in the foreseeable future.
- The level of alienation among the people of Springfield Park evident during the Inquiry was alarming. They, and others in similar areas, must be brought into the political process and be given a real say in their own affairs. This is the responsibility of those people currently in positions of authority and power. In this regard, there is an urgent need to consider ways to recruit people from areas of West Belfast and elsewhere to begin policing their own communities. In order to make this possible, it will probably be necessary to disband the RUC force as currently constituted.

Ray Murphy B.A., LL.B., B.L., M.Litt., D.A.L.
Faculty of Law,
U.C.G.



Daniel Coburn, Jurist, Retired New Jersey Judge

"The RUC has engaged in a course of complicity and collusion with terrorists."

GENERAL DISCUSSION OF ISSUES PRESENTED

Initially it is critical to this examination that the contention of the residents be given primary consideration. That contention is plain and simply that the RUC is in collusion with the terrorists in the reign of terror preceding and surrounding the incident in question.

Implicit in any organized and legitimate system of justice is that there always must be a process available for a victim to file a complaint against the assailant as to the commission of the underlying crime. While in the overwhelming majority of cases the complaint is filed with the law enforcement authorities, this process becomes stymied when the allegation is that the law enforcement authority

itself is the law breaker or is working in concert with the law breaker. The background of the last two decades establishes a substantial basis for the residents' assertions that there is no avenue for filing a complaint against the RUC available to them. In effect this Panel of Inquiry is the only realistic vehicle for the complaint to be examined.

The other panelists have independently examined the various issues presented and many of the conclusions they have arrived at are the underpinnings of this analysis. However, unlike their respective analyses, their departure point was from ground zero working itself towards a destination.

The focus of this particular inquiry will pick up from where the other panelists ended and will examine the allegation of collusion as complained of by the residents and whether there is any legal and factual foundation for such an extraordinary complaint.

Within the context of this investigation it must be recognized that the RUC has in reality stripped the residents of a forum to air their multitude of grievances. In fact, it requires a murder in order to bring about enough energy and resources to establish a Panel of Inquiry such as the present one.

The residents of Springfield Park are neither skilled in the law nor highly educated in a formal sense. To the contrary, while they are bright and well-spoken, every indication is that they are a cross-section of the working and middle class citizenry of their locale. Thus in viewing the word "collusion", the layperson's definition of a "secret agreement or cooperation especially for an illegal or deceitful purpose" will suffice to identify the offense and conduct complained of. Webster's Collegiate Dictionary (1987).

STATEMENT OF APPLICABLE LAW

Surprisingly, there is very little practical difference in the general tenets of criminal law concerning this type of charge between the law in the United States, England and Ireland. As a result, the comprehensive legal underpinnings set forth in co-panelist Law Professor Murphy's scholarly opinion, as well as the multi-national historical and legislative background of commission report materials in the other co-panelists' comprehensive opinions will be relied upon referentially herein. It is within that general perspective that the variations on the relevant legal theories underscoring the residents' charge of "collusion" will be evaluated and discussed. They are as follows:

Accessory after the fact at Common Law

At Common Law, an "accessory after the fact" is a person who, knowing that a felony such as murder has been committed, renders aid to the felon in order to protect him, hinder his apprehension, or facilitate his escape. It is not necessary that such an accessory be actually present when the felony is committed. In addition, under normal circumstances, a person is not necessarily an accessory after the fact simply by failing to apprehend the felon.

Accessory before the fact at Common Law

In pertinent part, at Common Law an "accessory before the fact" is a person who aids, abets, or otherwise encourages another to commit a crime, but is not present when the crime is committed. Mere knowledge of the proposed commission of the crime, without more, is not sufficient to support a claim of this charge.

Statutory accessories

The Common Law distinctions between "principals" and "accessories" have been basically abolished by reason of the passage of modern day statutes. In one form or another most of these statutes now provide, in pertinent part, that a person is an "accomplice" of another person in the commission of an offense if, with the purpose of promoting or facilitating the commission of an offense, and having a legal duty to prevent the commission of the offense, fails to make proper effort to do so.

In like vein, the Common Law accessory after the fact category has been statutorily expanded to include "obstructors of justice", i.e., a person who, with purpose to hinder the apprehension, prosecution, conviction or punishment of another for an offense, prevents or obstructs anyone from performing an act which might aid in the discovery, apprehension, or identification of the offender, or conceals or otherwise suppresses the discovery of any fact, information or other thing related to the crime which might aid in the discovery, apprehension or identification of the offender.

It should be noted that a person can be guilty as an accessory even though he has no direct communication with the person perpetrating the crime and even if he does not know the actor's identity.

In addition, corporations and other legal entities that did not exist in the criminal law realm at Common Law, can now be held criminally responsible under current statutes.

Finally, in applying these basic principles to the facts presented in this matter, the general concept of "collusion" charged by the residents may support a charge of a mixture of principles and theories of law depending upon which particular facet of RUC action or inaction is examined. Because of the investigative and semi-accusatory function of the Panel of Inquiry in this instance, the requisite of exactitude in specifying each theory of culpability on the part of the RUC as it relates to a specific factual scenario is not necessary.

ANALYSIS AND APPLICATION OF THE LAW TO THE FACTS

There are two general issues for discussion in this specific Inquiry. First, what is the obligation of law enforcement in general, and the RUC in particular, to take affirmative action to protect defenseless citizens from the inevitability of terrorist attacks? Second, and perhaps more importantly, what level of criminal responsibility can be attributed to the RUC for the murder of Paul Thompson and the wounding of Patrick Elley?

First: Any first year law student knows that answers without reasons are valueless. In this particular instance there is no necessity for a determination to be made as to why the RUC has embarked on the course of conduct that is apparent. In other words, the true genesis of the mens rea, the "evil mind", is not a requisite element of proof.

By way of example, one potential sinister explanation, of course, is that it is financially advantageous to RUC personnel that "the Troubles" continue. Crime is big business world-wide and Belfast is no different. The RUC in many respects is one of the highest paid law enforcement agencies in the world with an annual income of approximately \$45,000.00 and higher. Clearly the reason for this exorbitant salary, in a locale where unemployment is rampant and reliance on outside funding is necessary for the area to survive, is the seemingly eternal strife between the warring factions. Should the potential cease fire now in process between the various political and religious factions continue and temper the tradition of violence, ultimately resulting in an evacuation of British troops and elimination of British financial support, there is no doubt that the overtime wages being enjoyed by the RUC could abate, the job intensity subside and the entire law enforcement workforce decrease. All of this would certainly lead to the economic reality of lower wages, decreased department size and elimination or reduction in overtime pay. It is hardly suggested that such sinful motivation is applicable in the present situation insofar as the RUC is concerned, but certainly financial self-interest should never be discounted.

Another potential theory for the RUC's conduct is espoused in John D. Brewer's recent study, Inside the RUC, Clarendon Press, Oxford (1991), where he opines that a major problem in policing an ethnically or religiously divided society is that it results in selective enforcement of the law in favor of the dominant group which results in both a relaxed attitude by law enforcement authorities towards illegal activity by the dominant group especially when that violence is directed towards the subordinate group rather than towards the law enforcement authority itself. One must be ever mindful of the fact in Northern Ireland that although the Catholic minority is about 40+% of the overall population, they comprise about 3% of the RUC.

One final theory to consider is that both sides of the struggle have little, if any, real concern for the rule of law and order. When left to their own devices, both sides seemingly attack each other and, from the RUC's perspective, it may make more sense to allow the warring factions to continue to eliminate each other than for the RUC to immerse itself in the affray.

Whatever the true answer, unlike first year law students, it is not within the charge of this Panel to resolve political, economic or even religious issues and the foregoing attempt at same is for illustrative purposes only. Perhaps with the passage of time and some luck, the present efforts at conciliation may eventually make such conjecture moot.

Second: The purpose of law enforcement is exactly what it states: To enforce the laws equally, justly and impartially. In theory, practice, and by definition, the police are to serve as antagonists against law breakers and protagonists in support of law abiders. Within that conceptual framework, the question is: Who are the law abiders and who are the law breakers in this case? The answer is beyond dispute that the residents have not

committed one illegal act of any sort in the last two decades. On the other hand, the terrorists have committed hundreds of acts of serious assaults, murders, bombings and arsons against the tiny pocket of defenseless Catholics. With this in mind, the obvious question is why have there been no arrests of a terrorist suspect by the RUC in this entire period?

This question is not based on a distortion of perception versus reality. Nor is it a deception caused by smoke and mirrors. This is the truth as to bullets, bombs and blood. It concerns suffering and survival. The answer is surely not lack of personnel, equipment, law enforcement investigative training and skills, on the part of the heavily-manned RUC station located a literal stone's throw from the corridor of carnage known as Springfield Park.

To the contrary, the facts presented establish that the RUC's first course of action is to simply not respond to the scene of violence. The residents are dealt with as law enforcement lepers with the same medieval and cruel mentality of exclusion. Testimony showed that the RUC witnessed serious acts of violence occurring in its presence and stood by as though blind and catatonic. Other witnesses testified as to the RUC's impeding medical help for the victims of this incident. Many testified as to a tradition of snail's pace response time to violent and mortal incidents. Finally, a history was given as to the RUC allowing terrorist attackers to escape in a casual and flaunting manner.

Thus, the RUC's failure to prevent these attacks and refusal to investigate has become the fuel that powers the terrorists' killing machine and has stimulated its growth. In some respects, an argument can be made that the RUC is far more dangerous and evil than the terrorists because, no matter what distorted and dastardly motivation the terrorists may have to kill the residents, it is a logical part of their insane mission. The RUC, on the other hand, by violating its duty of upholding the law, enhances the scope and intensity of the attacks.

In every civilized society it is recognized that, insofar as law enforcement function is concerned, failing to prevent a crime from occurring is a neglect of duty. Failing to warn intended victims of threats against them is a neglect of duty. Failing to apprehend is a neglect of duty. Failing to respond to the scene of criminal activity is a neglect of duty. Failing to investigate is a neglect of duty. And, most of all, it is more than just neglect and/or dereliction of duty. Plain and simply, it is a total abrogation of a human duty to others which we all have to protect the weak, keep the peace and seek out predators.

Critical to this analysis is that the arrest of a terrorist would lead to a trial and that would open the doors to public scrutiny of what has occurred. Thus, the risk to the RUC is that by doing its job, it could thereby result in losing its job. And perhaps worse, if the offender's testimony widened the scope of the issue to include RUC involvement.

Any instance, standing alone, could very well be explained. The law does not require perfection, nor should it. The law does require an effort to be made. Neglect is normally passive and difficult to detect. The telltale signs are patterns of actions or inaction, unexplained events where a simple explanation could be reasonably expected, and a viable system of accountability.

One obvious motivation for such neglect can be easily imagined and described. If terrorist attacks continue, the residents will be killed or maimed and, of necessity, be forced to move. No Catholics, no targets. No targets, no attacks. No attacks, no risk for the RUC of being injured by the terrorists.

The RUC has been engaged in a well-documented conspiracy of silence for decades as to any investigations of terrorist crimes against the residents. It has declined to respond as to whether an investigation has even occurred. There is no oversight body to monitor its operations. It has isolated itself from residents' complaints.

It is beyond service of legal process and would not participate in this Panel of Inquiry. It is a system unto itself, protected by itself, governed by itself, and isolated from any form of redress.

If Cervantes is correct that "the proof of the pudding is in the eating", then the history and statistics mentioned throughout this opinion establish the RUC's culpability. Its actions or inactions are protected by secrecy and immune from public scrutiny. Any efforts to protect the residents from terroristic attack have been superficial at best, non-existent at worst.

Circumstantial evidence is an important means of establishing a fact in issue. It points arrows in the direction of truth even when no direct proof can be found. In this case the pattern of inaction can be viewed in two ways. Direct proof of that inaction as a dereliction of duty, as well as circumstantial proof that the terrorist activities were approved. In either instance, the finger of guilt points at the RUC. In the same manner as the RUC uses failure to deny criminal allegations against a suspect as evidence of guilt, the RUC's failure to deny the charge of collusion is applicable.

RANDOM THOUGHTS

In light of the fact that others may review this opinion from a different perspective or may highlight other points pro and con in an effort to formulate their own independent conclusions, this panelist submits a random unstructured potpourri of thoughts and/or issues raised by these proceedings accompanied by a brief analysis of how each could somehow conceivably fit into the overall picture. In no particular order of significance or chronology, they are as follows:

- a. After initially denying that the residents had called to warn of the possibility of men coming through the wall, the RUC later reluctantly admitted that the residents' calls had in fact occurred. One permissible and rather compelling interpretation of these denials could be the attempted secretion of harmful evidence of prior notice by the RUC as proof of its "consciousness of guilt" in failing to take preventative measures.
- b. The only realistic function the RUC's "Community Relations Officer" has served concerning the residents complaints is to fill out required forms after a Catholic's killing and make arrangements for the bodies to be taken to the coroner. This could imply that improving community relations was not desired by the RUC and poor relations was preferred as being in the RUC's best interests because it would limit access by the residents to an organized and official vehicle for asserting their complaints and requesting assistance.
- c. RUC helicopters were on continuous stand-by within a short distance from Springfield Park and could be in the air in less than a minute. According to everyone, the sole time such helicopters were ever utilized would be when there was a threat of IRA violence or bombs. They were never utilized as an investigation or apprehension measure if a Catholic was the victim. One very plausible inference supporting an allegation of collusion based on this situation could be that there was no interest on the RUC's part in apprehending Protestant terrorists.
- d. The last Catholic counter-attack recorded was in 1986 when a group of young boys threw rocks over the wall towards Springmartin following a murder by the terrorists. This would establish that the RUC had no fear of preventing Catholic criminal activity, that there was a clear inability of the Catholics to defend themselves, and to heighten and focus the need for RUC protection of the residents from the terrorists which was never forthcoming.

- e. In 1981 terrorists sat on the wall in broad daylight shooting at Springfield Park children playing. This resulted in a non-resident IRA counter-attack, some of the IRA being arrested, and eventually tried and sentenced to lengthy prison terms for the attempted murder of the terrorist shooters. The terrorists were never arrested, no investigation of their criminal conduct was ever undertaken by the RUC and the shooters are still residents of Springmartin. This scenario would certainly appear to be strong evidence of selective enforcement of investigative powers and the law, which in many cases is associated with an interest by particular law enforcement authorities in protecting rather than prosecuting the other set of equally guilty criminals for reasons beneficial to the best interests of the law enforcement authorities.
- f. The RUC knew that the terrorists were monitoring the taxi calls of the Catholic cab company for two weeks before the murder and failed to notify the cab company of this. The terrorists were obviously monitoring the calls for a criminal purpose. Such suppression of danger by a law enforcement agency is violative of its duty to prevent crimes and notify potential victims that they are at risk, as well as being certainly indicative of a conscious and knowing effort by the RUC to allow the unknown criminal activity to occur rather than to prevent it.
- g. The residents are under such constant threat of attack that they are compelled to publish "leaflets of safety" and have established telephone relay systems to quickly call everyone in times of danger. This is certainly indicative of the tenants' inability to rely on the RUC for protection and verifies the long-standing pattern of total lack of concern for the residents' safety and well-being by the RUC.
- h. The fact that the RUC continuously videotapes IRA and Catholic activity to use as visual proof at their trials if any criminal event occurs and yet claims to have no videotapes of terrorists attacks would seem to justify a charge of willful suppression of inculpatory evidence by the RUC of its failure to prevent crime against the residents and similar failure to apprehend the terrorists, which justify and permit an inference of guilt against the RUC.

CONCLUSION

It must be stressed that this inquiry is not focused on who is right and who is wrong in the conflict in Northern Ireland. That is a determination which will be hopefully be resolved in the political, social and religious arenas rather than in the streets, prisons and morgues. The issue is quite simply what responsibility, if any, may reasonably be attributed to the RUC and some of its members, jointly, severally or in the alternative, for the events leading up to and surrounding the murder of Paul Thompson and the serious wounding of Patrick Elley on the date in question.

A careful and objective review of the operative facts, the logical and reasonable inferences that can be drawn therefrom, and the pertinent legal principles justify and conclusively establish the following determinations:

- (1) Despite several warnings of expected terrorist these warnings in patent violation of its joint duties to protect the residents and apprehend criminals;
- (2) As a direct and proximate result of ignoring and/or disregarding these warnings, the crimes in question, which could have been prevented, occurred;
- (3) That this horrific and fatal incident could have been totally avoided with a minimum of effort at preventive measures by the RUC;

- (4) That a clear and convincing pattern by the RUC of failing to respond to similar and frequent notices of life-threatening situations as they relate to the specific residents in question, and Catholics in general, has been established beyond a reasonable doubt;
- (5) That this failure to respond by the RUC has not only resulted in the wholesale slaughter and maiming of the defenseless residents of Springfield Park by terrorists, but has been a clear, intentional and predictable catalyst and invitation to an increase in an escalating range of terrorist activity towards these residents;
- (6) That this pattern of non responsive behavior by the RUC to the warnings and attempting in any way to prevent such crimes from ever occurring, as well as attempting to apprehend the terrorists, violates all minimum professional, ethical and legal standards of law enforcement responsibility and conduct of the RUC as an organization designed, paid and legally obligated to protect the innocent and to apprehend the guilty;
- (7) That the evidence presented establishes a reasonable basis to conclude that the RUC's long-term inactivity in these fatal situations far exceeds any possible minimum level of benign neglect of duty;
- (8) That the RUC, one of the world's highest paid, most professionally equipped law enforcement agencies, has consciously engaged in a well-organized course of action or inaction towards the residents of Springfield Park to such an extent as to deprive them of their basic human right to be safe in their own homes and neighborhood, and has done so to such a degree as to constitute malignant neglect of duty at a minimum, and active malfeasance as a probability;
- (9) That a reasonable basis exists to conclude that the RUC's action or inaction clearly and unequivocally establishes a systematic and deadly pattern of improper and illegal conduct sufficient to support a charge of complicity and collusion in the foreseeable and virtually predictable acts of violence committed in this case against the victims in this case.

On the basis of the foregoing analysis of the applicable findings of fact and principles of law, it is respectfully submitted that more than sufficient credible evidence has been presented to establish beyond any reasonable doubt that the RUC, by its actions and inactions, has engaged in a course of conduct that rises to the level of complicity and collusion with the terrorists involved in this case, and has ultimately and inevitably led to the foreseeable reign of terror foisted upon the Catholic residents of Springfield Park by unknown terrorists resulting in the eventual and ultimate murder of Paul Thompson and the severe wounding of Patrick Elley.

Dated: 20th February 1995
Signed: Daniel R. Coburn, Esq.
20 Park Place
Morristown, New Jersey 07960
U.S.A.
MEMBER OF THE PANEL OF INQUIRY



**PAUL THOMPSON
PUBLIC INQUIRY**

CONWAY MILLS

17-18 SEPTEMBER 1994

**FINDINGS OF
RICHARD M. O'MEARA, ESQ.**

During the weekend of September 17-18, 1994, this Inquirer was invited by the Springfield Park Residents Association, Belfast, Northern Ireland, to sit with four other lawyers from various jurisdictions on a Board of Inquiry to hear testimony and review other evidence surrounding the fatal shooting of Springfield Park resident, Paul Thompson, and the wounding of Patrick Elley. The inquiry also focused on the conduct of the Northern Ireland Security Forces; their prior knowledge of certain facts which, if acted upon, might have prevented this incident; and the efforts the Springfield Park residents to obtain reasonable police and security services from those forces sworn to protect them. Creation of the Board grew out of a deep-seated frustration residents felt with the Royal Ulster Constabulary (RUC). Its routine failure to respond to requests for creation of a secure interface between Springfield Park and Spring

Attorney Richard M. O'Meara

"Policemen must protect and defend all the citizens; security forces must secure all from violence and mayhem. To do less is illegal, unprofessional and ultimately destructive of any eventual political solution."

Martin; its failure to respond on the day of the incident to information indicating that the interface had been breached; and its failure to investigate the ambush scene or otherwise take steps to capture the perpetrators and bring them to justice comprise only a partial list of long standing complaints regarding RUC actions and omissions which have contributed to a level of violence and tension in this community rarely experienced in civilized nations. In all candor, this inquirer experienced a small example of this frustration when it was learned that no investigation of the incident had occurred (or at least had not been published) in the five months preceding the inquiry, no coroner's inquest had been scheduled, and no RUC or North Ireland Office (NIO) representative had accepted an invitation to appear or otherwise give evidence at the inquiry. In essence, issues regarding the death and wounding of citizens; the continued vulnerability of Springfield Park families to murder and mayhem at the hands of loyalists paramilitaries from Springmartin; and a refusing of the RUC and other governmental agencies to investigate and protect, had apparently been ignored. The business of the inquiry, then, seemed particularly immediate given the vacuum created by the failure of governmental agencies to respond in a meaningful way to this event.

POLICE STANDARDS AND CONDUCT

The factual record presented leads this Inquirer to the conclusion that there has been, for whatever reason, a wholesale abrogation by the RUC of its routine policy responsibility in the Springfield Park community. Without testimony from RUC representatives, it was impossible to determine why this is so without engaging in speculation. The fact that it is so, however, is clear. Security responsibilities, on the other hand, are given lip service. While no attempt has been made to properly secure the interface, act on intelligence regarding loyalist paramilitary activities, patrol the community, aggressively investigate and pursue perpetrators or otherwise deter ambushes such as the one addressed herein, complaints are taken and security forces do respond to the scene eventually. The fact that loyalist paramilitaries attack with impunity in this area underscores the inadequacy of these responses. Indeed, the level of violence and the length of time it has been permitted to continue betray the bankruptcy of the United Kingdom's security program in the area.

Conclusion

This Inquirer is mindful of the enhanced political climate in Northern Ireland. As this opinion is written, the IRA cease-fire has been in effect for over a month and on this date (October 13, 1994), loyalist paramilitaries have announced their own cease-fire. And yet, Paul Thompson is dead, Patrick Elley remains permanently disabled and there is still a hole in the wall between Springmartine and Springfield Park. Those who swear to protect the citizenry must be the first to put aside sectarian differences, ethnic stereotypes and unprofessional conduct. Policemen must protect and defend all the citizens; security forces must secure all from violence and mayhem. To do less is illegal, unprofessional and ultimately destructive of any eventual political solution.

RICHARD M. O'MEARA
Member, Springfield Park
Board of Inquiry
October 13, 1994.



PART D - SUBMISSIONS

Springfield Park Public Inquiry

18th September 1994

Submission from the Committee on the Administration of Justice

1. Introduction

The Committee on the Administration of Justice (CAJ) is an independent civil liberties organization working for the highest standards in the administration of justice in Northern Ireland. CAJ monitors the relationship between the state and citizens in all aspects of that relationship. In relation to the current inquiry, CAJ sees its role as being to comment on the unsatisfactory nature of policing generally in Northern Ireland and the need for public debate as to how policing should develop in the future. CAJ has tried to inform local debate by alerting people to the existence of a sizeable body of international human rights standards which are applicable to the working of the state.

In particular, we would draw the inquiry's attention to the:

- Preamble to the UN Code of conduct for Law Enforcement Officials, adopted by General Assembly resolution 34/169 of 17 December 1979; and the
- Declaration on the Police, Resolution 690 (1979) of the Parliamentary Assembly of the Council of Europe.

Both these documents (copies attached) we believe, can assist the inquiry in identifying those problems which require attention in the current case and more generally.

CAJ will not comment on specifics of the case. Rather we make some general comments highlighting issues which we have covered in attached publications.

2. Need for independent investigations

CAJ perfectly understands that local people are unhappy at the response of the Independent Commission for Police Complaints. The major problem with the ICPC has been that it cannot carry out the actual investigation but merely supervises the police investigation. The best indicator of the ICPC's lack of success is the fact that, in the 6 years of its existence, not one of the complaints arising out of detention in the interrogation centres has been substantiated.

CAJ has produced a number of publications about the issue of police complaints (Cf. Pamphlets No 16 and 23, attached). An effective system for dealing with complaints is one of the most important ways in which the police can demonstrate a willingness to be open and keep its house in order.

Our experience is that there is virtually universal dissatisfaction with the current system for dealing with complaints. There is a well-founded disbelief that the ICPC can get to the bottom of contested incidents.

For many years, CAJ has called on the government to institute a system of independent investigation into complaints against the police. At present, the Complaints and Discipline Branch of the RUC investigates complaints against the RUC. In certain circumstances, the ICPC will supervise the investigation. What is required is a system whereby the investigation into the complaints is carried out by a body clearly independent from the police. CAJ's most recent pamphlet examines international examples where independent systems do exist and urges the government to work out a more effective way of tackling this important issue.

It is largely because of public dissatisfaction with official procedures for investigating complaints against law enforcement officials that we have had the phenomenon of public inquiries such as the current one. The Cullyhanna Inquiry into the killing of Fergal Caraher by members of the British Parachute Regiment in December 1990 is probably the best known example of this process.

3. Police accountability

One of the most difficult issues in Northern Ireland is what appropriate mechanisms might be put in place to make policing more accountable to the community. A satisfactory arrangement has never existed. Currently, there is a tripartite arrangement involving the RUC Chief Constable, the Secretary of State and the Police Authority. The Authority is made up of government appointees and has not been able to secure widespread public confidence (Cf. CAJ pamphlet No 11, Police Accountability in Northern Ireland).

In any case, the Chief Constable has complete control over operational matters and appears answerable to no-one. The only control on his decision making appears to be his own judgement. This is an unsatisfactory arrangement.

Instead of attempting to increase democratic accountability, the government has recently proposed reducing the Police Authority's role in policing (Cf. Policing in the Community - Response by the CAJ, May 1994).

4. Representativeness of Police

The RUC is not representative of the whole community in Northern Ireland. It remains 93% Protestant in a community that is 43% Catholic. This is a recipe for instability. It may be that this issue will only finally resolved in the context of a political settlement.

But a key requirement for the next period is that there be informed public debate concerning how professional and representative policing is achieved.

5. International Standards

International standards generally do not provide detail in terms of police procedures. Rather, as and when appropriate, sets of principles are drafted which should inform police practice. Thus there are Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions and another set on the Use Of Force By Law Enforcement Officials.

The most helpful international standards in terms of the current inquiry appear to be the UN Code of Conduct for Law Enforcement Officials (adopted by the UN General Assembly on 17 December 1979) and the **Declaration on the Police** (Resolution 690 (1979) of the Parliamentary Assembly of the Council of Europe). The preamble to the UN document identifies a number of factors which should inform police conduct as well as structure:

- *“Every Law enforcement agency should be representative of and responsive and accountable to the community as a whole.”*
- *“Effective maintenance of ethical standards among law enforcement officials depends on the existence of a well-conceived, popularly accepted and humane system of laws.”*
- *“. . . The conduct of every functionary within the system has an impact on the entire system.”*
- *“The actions of law enforcement officials should be responsive to public scrutiny, whether exercised by a review board, a ministry, a procuracy, the judiciary, an ombudsman, a citizen's committee or any combination thereof. . .”*

The European Parliament resolution on the police similarly identifies a number of points which may be of interest to the inquiry. In particular, in Part A. 10 it says: “ *There shall be clear chain of command. It should always be possible to determine which superior may be ultimately responsible for acts or omissions of a police officer*” (emphasis added).

Part A 11 further provides:

“*Legislation must provide for a system of legal guarantees and remedies against damage resulting from police activities.*”

The positioning of A.11 immediately following A.10 would appear to suggest that “activities” includes “omissions.”

6. The example of the Goldstone Commission

The final element of this submission is an examination of the powers of the Goldstone Commission as a model of fact-finding. This was established as part of the process whereby the outgoing National Party government in South Africa attempted to display its bona fides during the negotiating process in South Africa.

The Commission was established to enquire into incidents of public violence and make recommendations designed to prevent their re-occurrence.

An examination of the powers of the Goldstone Commission (see attached) may give this inquiry into the murder of Paul Thompson an indication of what is necessary and possible in terms of official fact-finding.

7. Enclosures

1. CAJ pamphlet No 16, **Cause for Complaint: the system for dealing with complaints against the police in Northern Ireland**, May 1990.
2. CAJ pamphlet No 23, **A fresh look at complaints against the police**, Dec 1993.
3. CAJ pamphlet No 11, **Police Accountability in Northern Ireland**, Sept 1988.
4. **Policing in the Community - Response by CAJ** (to government proposals on police accountability), May 1994.
5. **Code of Conduct for law Enforcement Officials**, adopted by UN General Assembly resolution 34/169 of 17 December 1979.
6. **Declaration on the Police**, Resolution 690 (1979) of the Parliamentary Assembly of the Council of Europe.
7. Relevant excerpts of South African **Prevention of Public Violence and Intimidation Act, No 139 of 1991**, setting up the Goldstone Commission of Inquiry.

APPENDIX

Resolution 690 (1979) of the Parliamentary Assembly of the Council of Europe: Declaration on the Police

The Assembly,

1. Considering that the full exercise of human rights and fundamental freedoms, guaranteed by the European Convention on Human Rights and other national and international instruments, has as a necessary basis the existence of a peaceful society which enjoys the advantages of order and public safety;
2. Considering that, in this respect, police play a vital role in all the member states, that they are frequently called upon to intervene in conditions which are dangerous for their members, and that their duties are made yet more difficult if the rules of conduct of their members are not sufficiently precisely defined;
3. Being of the opinion that it is inappropriate for those who have committed violations of human rights whilst members of police forces, or those who have belonged to any police force that has been disbanded on account of inhumane practices, to be employed as policemen;
4. Being of the opinion that the European system for the protection of human rights would be improved if there were generally accepted rules concerning the professional ethics of the police which take account of the principles of human rights and fundamental freedoms;
5. Considering that it is desirable that police officers have the active moral and physical support of the community they are serving;
6. Considering that police officers should enjoy status and rights comparable to those of members of the civil service;
7. Believing that it may be desirable to lay down guidelines for the behaviour of police officers in case of war and other emergency situations, and in the event of occupation by a foreign power,
8. Adopts the following Declaration on the Police, which forms an integral part of this resolution;
9. Instructs its Committee on Parliamentary and Public Relations and its Legal Affairs Committee as well as the Secretary General of the Council of Europe to give maximum publicity to the declaration.

APPENDIX

Declaration on the Police

A. Ethics

1. A police officer shall fulfill the duties the law imposes upon him by protecting his fellow citizens and the community against violent, predatory and other harmful acts, as defined by law.
2. A police officer shall act with integrity, impartiality and dignity. In particular he shall refrain from and vigorously oppose all acts of corruption.
3. Summary executions, torture and other forms of inhuman or degrading treatment or punishment remain prohibited in all circumstances. A police officer is under an obligation to disobey or disregard any order or instruction involving such measures.
4. A police officer shall carry out orders properly issued by his hierarchical superior, but he shall refrain from carrying out any order he knows, or ought to know, is unlawful.
5. A police officer must oppose violations of the law. If immediate or irreparable and serious harm should result from permitting the violation to take place he shall take immediate action, to the best of his ability.
6. If no immediate or irreparable and serious harm is threatened, he must endeavour to avert the consequences of this violation, or its repetition, by reporting the matter to his superiors. If no results are obtained in that way he may report to higher authority.

7. No criminal or disciplinary action shall be taken against a police officer who has refused to carry out an unlawful order.
8. A police officer shall not co-operate in the tracing, arresting, guarding or conveying of persons who, while not being suspected of having committed an illegal act, are searched for, detained or prosecuted because of their race, religion or political belief.
9. A police officer shall be personally liable for his own acts and for acts of commission or omission he has ordered and which are unlawful.
10. There shall be a clear chain of command. It should always be possible to determine which superior may be ultimately responsible for acts or omissions of a police officer.
11. Legislation must provide for a system of legal guarantees and remedies against any damage resulting from police activities.
12. In performing his duties, a police officer shall use all necessary determination to achieve an aim which is legally required or allowed, but he may never use more force than is reasonable.
13. Police officers shall receive clear and precise instructions as to the manner and circumstances in which they should make use of arms
14. A police officer having the custody of a person needing medical attention shall secure such attention by medical personnel and, if necessary, take measures for the preservation of the life and health of this person. He shall follow the instructions of doctors and other competent medical workers when they place a detainee under medical care.
15. A police officer shall keep secret all matters of a confidential nature coming to his attention, unless the performance of duty or legal provisions require otherwise.
16. A police officer who complies with the provisions of this declaration is entitled to the active moral and physical support of the community he is serving.

B. Status

1. Police forces are public services created by law, which shall have the responsibility of maintaining and enforcing the law.
2. Any citizen may join the police forces if he satisfies the relevant conditions.
3. A police officer shall receive thorough general training, professional training and in-service training, as well as appropriate instruction in social problems, democratic freedoms, human rights and in particular the European Convention on Human Rights.
4. The professional, psychological and material conditions under which a police officer must perform his duties shall be such as to protect his integrity, impartiality and dignity.
5. A police officer is entitled to a fair remuneration, and special factors are to be taken into account, such as greater risks and responsibilities and more irregular working schedules.
6. Police officers shall have the choice of whether to set up professional organisations, join them and play an active part therein. They may also play an active part in other organizations.
7. A police professional organization, provided it is representative shall have the right:
 - to take part in negotiations concerning the professional status of police officers;
 - to be consulted on the administration of police units;
 - to initiate legal proceedings for the benefit of a group of police officers or on behalf of a particular police officer.
8. Membership of a police professional organization and playing an active part therein shall not be detrimental to any police officer.
9. In case of disciplinary or penal proceedings taken against him, a police officer has the right to be heard and to be defended by a lawyer. The decision shall be taken within a reasonable time. He shall also be able to avail himself of the assistance of a professional organization to which he belongs.
10. A police officer against whom a disciplinary measure has been taken or penal sanction imposed shall have the right of appeal to an independent and impartial body or court.

11. The rights of a police officer before courts or tribunals shall be the same as those of any other citizen.

C. War and other emergency situations—occupation by a foreign power

1. A police officer shall continue to perform his tasks of protecting persons and property during war and enemy occupation in the interests of the civilian population. For that reason he shall not have the status of combatant, and the provisions of the Third Geneva Convention of 12 August 1949, relative to the treatment of prisoners of war, shall not apply.
2. The provisions of the Fourth Geneva Convention of 12 August 1949, relative to the protection of civilian persons in time of war, apply to the civilian police.
3. The occupying power shall not order police officers to perform tasks other than those mentioned in Article 1 of this chapter.
4. During occupation a police officer shall not:
 - take part in measures against members of resistance movements;
 - take part in applying measures designed to employ the population for military purposes and for guarding military installations.
5. If a police officer resigns during enemy occupation because he is forced to execute illegitimate orders of the occupying power which are contrary to the interests of the civilian population, such as those listed above, and because he sees no other way out, he shall be reintegrated into the police force as soon as the occupation is over without losing any of the rights or benefits he would have enjoyed if he had stayed in the police force.
6. Neither during nor after the occupation may any penal or disciplinary sanction be imposed on a police officer for having executed in good faith an order of an authority regarded as competent, where the execution of such an order was normally the duty of the police force.
7. The occupying power shall not take any disciplinary or judicial action against police officers by reason of the execution, prior to the occupation, of orders given by the competent authorities.

POLICING IN THE COMMUNITY - RESPONSE BY THE C.A.J.

The Committee on the Administration of Justice (CAJ) welcomes the acknowledgment in the consultation document that the present arrangements for policing in Northern Ireland suffer from a number of shortcomings and in particular that the role envisaged by Lord Hunt for the Police Authority - expressing the concerns and needs of the community to the police and holding them to account has been obscured. The CAJ itself identified various shortcomings in the area of police accountability as early as September 1988. It was in that month that it published a pamphlet entitled "Police Accountability in Northern Ireland", which makes 17 separate recommendations for improving the system. We said then that it is true for Northern Ireland as it is for England and Wales that:

"one very important point at which the present system needs to be reformed is that part of the law which defines, or fails to define satisfactorily, the powers and responsibilities of the central government, the police authority and the chief constable" (para. 34).

We are pleased to see that some of our ideas seem to have been taken on board in the Northern Ireland Office's consultation document. There is, for example, a noticeable similarity between our two sets of proposals regarding the responsibilities of the Police Authority. The consultation paper says that:

"The new structure will ensure that the new Police Authority has clear responsibilities and the means to give them effect. It will be tasked with representing the community to the RUC, identifying the community's priorities for policing within available resources, and holding the RUC to account for an efficient and effective delivery of these community objectives" (para.5.5).

Our pamphlet said that:

“Police authorities should be required to establish policing policies and priorities and see that they are carried out rather than to interest themselves in detail” (App 1, page 1).

We therefore broadly welcome the conclusion in the consultation paper that in Northern Ireland the Police Authority must be given a distinct statutory responsibility for identifying objectives for the police (para. 5.10). However in this regard the paper does give us cause for concern on two fronts.

First, the paper is very short on detail as to the scope of the Authority’s proposed powers in this context. From paras. 1.6, 5.4, 5.5 and 5.10 it seems that the Secretary of State will have responsibility for establishing and monitoring “overall” objectives for “Province-wide” policing, while the Authority will have responsibility for establishing and monitoring objectives for the provision of police services (whether or not on a “Province-wide basis”) identified by communities throughout Northern Ireland. It is unclear to us how exactly the community in Northern Ireland is to be given its say in what the policing objectives in Northern Ireland should be, whether on a “Province-wide” basis or more locally. We firmly believe that the community should have a say at all levels and in all areas. Furthermore we feel that it is essential that mechanisms should be put in place to ensure that the Authority is genuinely representative of the community it serves.

We do not think that para. 5.10 adequately explains the difference between these two roles or properly deals with situations where the objectives set by the Secretary of State and the Authority may conflict. Will the Authority be able to devise “Province-wide” policies even if these are opposed by the Secretary of State? In particular we do not approve of an arrangement whereby any differences between the Authority’s objectives and those of the Chief Constable will be resolved by the Secretary of State. We take the position that such differences should be resolved in favour of the Police Authority, since it is the body charged with representing the views of the community to the Chief Constable. It is certainly not enough to say that the Secretary of State will be required by law to give reasons for not being able to accept any objective proposed by the Police Authority, because it will be all too easy for the Secretary of State to hide behind virtually unchallengeable reasons such as national security or public order.

The second cause for concern is the complete exclusion of the Police Authority from any say in security policy objectives or related matters. We regard this to be a totally unacceptable suggestion, one which will in effect eviscerate the Police Authority completely. We do not think the proposal will achieve the desired goal of greater community support for the police. It seriously undermines the aim as stated in para. 1.6 of the consultation paper, namely to “ensure that the RUC is fully accountable to the community”. How is such accountability to materialise if the Authority can have no say in security policies? Para. 2.6 of the paper notes that “sections of the community have felt unable to give unqualified support to the police service” while para 4.4 states the government’s determination to put in place “structures which will command the support and confidence of all sections of Northern Ireland’s divided community”. Unfortunately we do not think the paper’s proposals will remove the misgivings of the important groupings it mentions who are at present unwilling fully to support the police or to accept appointment to the Authority. Any attempts which the Police Authority may wish to make to accommodate the community are, under the paper’s proposals, capable of being thwarted by the Chief Constable and the Secretary of State.

Such a stance would mean, would it not, that the Police Authority would not have any say in issues such as the employment of informers, the use of lethal force and plastic bullets, the policing of funerals, the controlling of marches, the setting up of vehicle checkpoints, the closing of roads, the deployment of undercover officers, the treatment of detainees, the recording of interviews or the handling of security information. We would politely suggest that if an interested observer were to discover that the new Authority can express no views on matters such as these then it is not worthy of either interest or respect.

If we have misunderstood the function of the Authority in this regard - if it would after all, have some effective or meaningful say in matters such as the ones mentioned - then it is incumbent on the government to spell this out more clearly. The consultation paper should have given a more precise indication of what is meant by "security policy objectives or related matters" (para. 5.5) and should have stated who is to take the decision that a certain issue falls in this category. Before lending our support to the new proposed arrangements we would need to be reassured that the new Authority is going to be a meaningful and worthwhile body with real and relevant powers. The consultation paper does not provide this reassurance.

If the Police Authority is to be unable to hold the Chief Constable accountable for security and related matters, the obvious question, unanswered by the paper, is who will do so?

These two major concerns lead us to conclude that, despite what is said in para. 1.1 of the consultation paper, the proposed new arrangements will not create a strengthened framework for policing but rather a weakened one. Nor will they meet the aims of providing a structure which will improve the effectiveness of the police service and ensure that it is accountable to the whole community. It seems that the arrangements will not "take account of the particular problems of a divided community" (para.1.1) since it is in relation to most of these problems that the Police Authority and the community will be barred from devising relevant policing objectives. The paper seeks, in para. 1.3, to endorse Lord Hunt's principle that the Police Authority should be a body "through which the wishes and fears of the community can be expressed": we would respectfully submit that if the proposed Police Authority is not to be given any say in security policy objectives it will plainly be unable to express the community's wishes and fears. What the paper is offering is a veneer of accountability rather than the real thing.

We also feel that the consultation paper does not give much cause for hope that better arrangements are to be put in place for garnering community priorities for policing objectives. We would argue that these new arrangements will need to be substantially more effective than the current arrangements in relation to Community Police Liaison Committees. We do not believe that these Committees are functioning at all well: they do not discuss general policing policies and do not attempt to set policing priorities in particular areas. We think it is essential that new legislation in this field should specify in some detail the composition, powers and duties of the CPLCs or their successor body. Moreover, as with the Police Authority, we do not accept that such Committees should be barred from discussing objectives concerning security policy. It would be naive and disingenuous to think that security policy is not a crucial issue for communities throughout Northern Ireland: communities expect to be able to make their views known as to the objectives which should be pursued and how this should be done.

The consultation paper emphasizes that the proposals do not affect the operational independence of the Chief Constable. The CAJ recognises the importance of this principle but insists that it must not be defined in such broad terms as to undermine completely the accountability mechanisms put in place for ensuring that the police satisfy the wishes of the people. We would like to see the new statutory framework containing more detailed guidance as to what is encompassed by the term operational independence: it is not unheard of for such guidance to be placed in a Schedule to legislation.

While we welcome the commitment, in para. 1.6 of the paper, to define in statutory terms the responsibilities and lines of accountability of the Secretary of State, the Police Authority and the Chief Constable, we trust that these definitions will be plain and detailed, not vague and general, and that they will result in a greater degree of accountability to the community. Of course accountability is not just about structures but also about effective practical measures. We believe the Chief Constable would agree that he and his officers should be primarily accountable to the law. The law is the product of democratic argument in Parliament or of objective discussion in a court: if either of those bodies produces a law which increases the accountability of the police the Chief Constable is duty-bound to abide by that law.

We would therefore urge the government to consider introducing new laws which would make the police more accountable in particular respects. One reform which is immediately required is to section 3 of the Criminal Law Act (NI) 1967, the provision which permits the police to use lethal force even when it is not necessary to do so. Another is to the system for dealing with complaints against the police, a matter about which we wrote to the Secretary of State in April 1994 by way of reaction to the Triennial Review Report of the Independent Commission for Police Complaints. A third reform which we think is urgently required is the introduction of audio-recording and video-recording for all interviews with detainees arrested under the emergency laws; they should also be entitled to be interviewed in the presence of their solicitor, as in England and Wales.

We approve whole-heartedly of the ideas (in para. 5.9) that the objective criteria applied to the appointment of persons seeking high office in the RUC should be publicized and that appointments should be made on a fixed-term basis. In our 1988 pamphlet we recommended (in para. 94) that the Chief Constable should be engaged by the Police Authority under a specific contract for services: in legal terms the chief constable should not be the employee of the Authority (this acknowledges his or her special legal status as a constable) but the Authority's independent contractor. We suggested then, and we stand by this proposal, that a detailed contract should be drawn up between the Authority and the Chief Constable specifying the duties of the latter. As we stated in 1988:

"The contract could easily be so drafted as to require the Chief Constable to have regard to supplementary guidelines and codes of practice when exceeding the Police Authority's policies" (para. 94).

Three further matters call for comment. First, we welcome the commitment in the consultation paper (in para. 5.5) to oblige the Police Authority to publish an annual report: the failure to produce such a report up to now has been a serious blemish on the accountability map. Second, with reference to para. 6.1, we favour retaining the title "Police Authority" rather than adopting "Police Commission". We believe that the former better represents the function of the kind of body which is necessary to secure public confidence; the test of the new body will not be in its name but in its powers, but we would want that body to have an image which reflects its true position. Third, with regard to para. 7.1, we very much prefer introducing these legislative changes by a Bill rather than by an Order in Council: the topic is too important to be processed in any other way and only the former procedure will give MPs and peers an opportunity to amend the draft law and to debate it thoroughly.

Finally, we are unclear as to why exactly the new accountability arrangements in Northern Ireland have to be so different from those being introduced for England and Wales by the Police and Magistrates' Courts Bill (paras. 4.1 and 4.2). We do not think that the points raised in para. 4.2 justify such a radical departure from the more democratic approach being adopted across the water.

We trust these comments are of use to the Northern Ireland Office in its deliberations and very much hope that when the final arrangements are made they will reflect our concerns.

Committee on the Administration of Justice
May 1994

33. Code of Conduct for Law Enforcement Officials

Adopted by General Assembly resolution 34/169 of 17 December 1979

The General Assembly,

Considering that the purposes proclaimed in the Charter of the United Nations include the achievement of

international co-operation in promoting and encouraging respect for human rights and for fundamental Freedoms for all without distinction as to race, sex, language or religion,

Recalling, in particular, the Universal Declaration of Human Rights and the International Covenants on Human Rights,

Recalling also the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted by the General Assembly in its resolution (3452) (XXX) of 9 December 1975

Mindful that the nature of the functions of law enforcement in the defense of public order and the manner in which those functions are exercised have a direct impact on the quality of life of individuals as well as of society as a whole

Conscious of the important task which law enforcement officials are performing diligently and with dignity, in compliance with the principles of human rights,

Aware that there are additional important principles and prerequisites for the humane performance of law enforcement functions, namely:

- (a) That, like all agencies of the criminal justice system, every law enforcement agency should be representative of and responsive and accountable to the community as a whole,
- (b) That the effective maintenance of ethical standards among law enforcement officials depends on the existence of a well-conceived, popularly accepted and humane system of laws,
- (c) That every law enforcement official is part of the criminal justice system, the aim of which is to prevent and control crime, and that the conduct of every functionary within the system has an impact on the entire system,
- (d) That every law enforcement agency, in fulfillment of the first premise of every profession, should be held to the duty of disciplining itself in complete conformity with the principles and standards herein provided and that the actions of law enforcement officials should be responsive to public scrutiny, whether exercised by a review board, a ministry, a procuracy, the judiciary, an ombudsman, a citizens' committee or any combination thereof, or any other reviewing agency,
- (e) That standards as such lack practical value unless their content and meaning, through education and training and through monitoring, become part of the creed of every law enforcement official, *Adopts* the Code of Conduct for Law Enforcement Officials set forth in the annex to the present resolution and decides to transmit it to Governments with the recommendation that favorable consideration should be given to its use within the framework of national legislation or practice as a body of principles for observance by law enforcement officials.

106th plenary meeting

17 December 1979

ANNEX

CODE OF CONDUCT FOR LAW ENFORCEMENT OFFICIALS

Article I

Law enforcement officials shall at all times fulfill the duty imposed upon them by law, by serving the community and by protecting all persons against illegal acts, consistent with the high degree of responsibility required by their profession.

Commentary:

- (a) The term “law enforcement officials” includes all officers of the law, whether appointed or elected, who exercise police powers, especially the powers of arrest or detention.
- (b) In countries where police powers are exercised by military authorities, whether uniformed or not, or by State security forces, the definition of law enforcement officials shall be regarded as including officers of such services.
- (c) Service to the community is intended to include particularly the rendition of services of assistance to those members of the community who by reason of personal, economic, social or other emergencies are in need of immediate aid.
- (d) This provision is intended to cover not only all violent, predatory and harmful acts, but extends to the full range of prohibitions under penal statutes. It extends to conduct by persons not capable of incurring criminal liability.

Article 2

In the performance of their duty, law enforcement officials shall respect and protect human dignity and maintain and uphold the human rights of all persons.

- (a) The human rights in question are identified and protected by national and international law. Among the relevant international instruments are the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the United Nations Declaration on the Elimination of All Forms of Racial Discrimination, the International Convention on the Elimination of All Forms of Racial Discrimination, the International Convention on the Suppression and Punishment of the Crime of Apartheid, the Convention on the Prevention and Punishment of the Crime of Genocide, the Standard Minimum Rules for the Treatment of Prisoners and the Vienna Convention on Consular Relations.
- (b) National commentaries to this provision should indicate regional or national provisions identifying and protecting these rights.

Article 3

Law enforcement officials may use force only when strictly necessary and to the extent required for the performance of their duty.

Commentary:

- (a) This provision emphasizes that the use of force by law enforcement officials should be exceptional; while it implies that law enforcement officials may be authorized to use force as is reasonably necessary under the circumstances for the prevention of crime or in effecting or assisting in the lawful arrest of offenders or suspected offenders, no force going beyond that may be used.
- (b) National law ordinarily restricts the use of force by law enforcement officials in accordance with a principle of proportionality. It is to be understood that such national principles of proportionality are to be respected in the interpretation of this provision. In no case should this provision be interpreted to authorize the use of force which is disproportionate to the

- Legitimate objective to be achieved.
- (c) The use of firearms is considered an extreme measure. Every effort should be made to exclude the use of firearms, especially against children. In general, firearms should not be used except when a suspected offender offers armed resistance or otherwise jeopardizes the lives of others and less extreme measures are not sufficient to restrain or apprehend the suspected offender. In every instance in which a firearm is discharged, a report should be made promptly to the competent authorities.

Article 4

Matters of a confidential nature in the possession of law enforcement officials shall be kept confidential, unless the performance or duty or the needs or justice strictly require otherwise.

Commentary:

By the nature of their duties, law enforcement officials obtain information which may relate to private lives or be potentially harmful to the interests, and especially the reputation, of others. Great care should be exercised in safeguarding and using such information, which should be disclosed only in the performance of duty or to serve the needs of justice. Any disclosure of such information for other purposes is wholly improper.

Article 5

No law enforcement official may inflict, instigate or tolerate any act of torture or other cruel, inhuman or degrading treatment or punishment, nor may any law enforcement official invoke superior orders or exceptional circumstances such as a state of war or a threat of war, a threat to national security, internal political instability or any other public emergency as a justification of torture or other cruel, inhuman or degrading treatment or punishment.

Commentary:

- (a) This prohibition derives from the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted by the General Assembly, according to which:
- “[Such an act is] an offense to human dignity and shall be condemned as a denial of the purposes of the Charter of the United Nations and as a violation of the human rights and fundamental freedoms proclaimed in the Universal Declaration of Human Rights {and other international human rights instruments}
- (b) The Declaration defines torture as follows: “. . . torture means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted by or at the instigation of a public official on a person for such purposes as obtaining from him or a third person information or confession, punishing him for an act he has committed or is suspected of having committed, or intimidating him or other persons. It does not include pain or suffering arising only from, inherent in or incidental to, lawful sanctions to the extent consistent with the Standard Minimum Rules for the Treatment of Prisoners”
- (c) The term “cruel, inhuman or degrading treatment or punishment” has not been defined by the General Assembly but should be interpreted so as to extend the widest possible protection against abuses, whether physical or mental.

Article 6

Law enforcement officials shall ensure the full protection of the health of persons in their custody and, in particular, shall take immediate action to secure medical attention whenever required.

Commentary:

- (a) “Medical attention”, which refers to services rendered by any medical personnel, including certified medical practitioners and paramedics, shall be secured when needed or requested.
- (b) While the medical personnel are likely to be attached to the law enforcement operation, law enforcement officials must take into account the judgement of such personnel when they recommend providing the person in custody with appropriate treatment through, or in consultation with, medical personnel from outside the law enforcement operation.
- (c) It is understood that law enforcement officials shall also secure medical attention for victims of violations of law or of accidents occurring in the course of violations of law.

Article 7

Law enforcement officials shall not commit any act of corruption They shall also rigorously oppose and combat all such acts.

Commentary:

- (a) Any act of corruption, in the same way as any other abuse of authority, is incompatible with the profession of law enforcement officials. The law must be enforced fully with respect to any law enforcement official who commits an act of corruption, as Governments cannot expect to enforce the law among their citizens if they cannot, or will not, enforce the law against their own agents and within their agencies
- (b) While the definition of corruption must be subject to national law, it should be understood to encompass the commission or omission of an act in the performance of or in connection with one’s duties, in response to gifts, promises or incentives demanded or accepted, or the wrongful receipt of these once the act has been committed or omitted.
- (c) The expression “act of corruption” referred to above should be understood to encompass attempted corruption.

Article 8

Law enforcement officials shall respect the law and the present Code They shall also, to the best of their capability, prevent and rigorously oppose any violations of them. Law enforcement officials who have reason to believe that a violation of the present Code has occurred or is about to occur shall report the matter to their superior authorities and, where necessary, to other appropriate) authorities or organs vested with reviewing or remedial power.

Commentary:

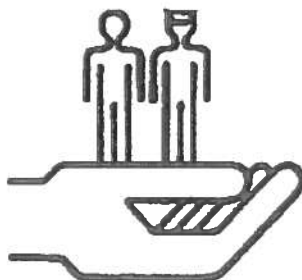
- (a) This Code shall be observed whenever it has been incorporated into national Legislation or practice If Legislation or practice contains stricter provisions than those of the present Code, those stricter provisions shall be observed
- (b) The article seeks to preserve the balance between the need for internal discipline of the agency on which public safety is largely dependent, on the one hand, and the need for dealing with violations of basic human rights, on the other Law enforcement officials shall report violations within the chain of command and take other lawful action outside the chain of command only

when no other remedies are available or effective. It is understood that law enforcement officials shall not suffer administrative or other penalties because they have reported that a violation of this Code has occurred or is about to occur.

- (c) The term “appropriate authorities or organs vested with reviewing or remedial power” refers to any authority or organ existing under national law, whether internal to the law enforcement agency or independent thereof, with statutory, customary or other power to review grievances and complaints arising out of violations within the purview of this Code.
- (d) In some countries, the mass media may be regarded as performing complaint review functions similar to those described in subparagraph (c) above. Law enforcement officials may, therefore, be justified if, as a last resort and in accordance with the laws and customs of their own countries and with the provisions of article 4 of the present Code, they bring violations to the attention of public opinion through the mass media.
- (e) Law enforcement officials who comply with the provisions of this Code deserve the respect, the full support and the co-operation of the community and of the law enforcement agency in which they serve, as well as the law enforcement profession.

PART E - THE BRITISH RESPONSE

Independent Commission for
Police Complaints for
Northern Ireland



Chairman: James Grew, CBE, JP,

Date 31 January 1995

Your Ref.

Our Ref. C1291/94 0

Mrs Brenda Murphy
93 Springfield Park
Belfast

Dear Mrs Murphy

I enclose, for your attention, being one of the crucial witnesses interviewed, a copy of the formal statement which the Commission has issued after receiving the report of the investigation into a formal complaint lodged by Dr Joe Hendron MP. While the Commission is satisfied that the investigation has been properly carried out, its role in the matter does not end here.

A copy of the investigation report has been sent to the Assistant Chief Constable of the Royal Ulster Constabulary who will express an opinion as to whether or not he considers there is sufficient evidence to warrant the preferring of a disciplinary charge(s) against any police officer and so advise the Commission.

At this point another Member who has not previously been concerned with the investigation will assess the papers and a decision will be made on whether or not to accept the Assistant Chief Constable's findings on the disciplinary aspects.

Yours sincerely

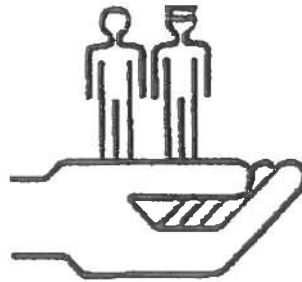
A handwritten signature in black ink, appearing to be 'C. Grew', written over a horizontal line.

Chief Executive

Enc

Chamber of Commerce House · 22 Great Victoria Street · Belfast BT2 7LP
Telephone: Belfast (0232) 244821 Fax: Belfast (0232) 248563

Independent Commission for
Police Complaints for
Northern Ireland



Chairman: James Grew, CBE, JP, DL

Date 31 January 1995

S T A T E M E N T

**IN ACCORDANCE WITH ARTICLE 9 PARAGRAPH (8) OF THE
POLICE (NORTHERN IRELAND) ORDER 1987 RELATING TO
A COMPLAINT AGAINST OFFICERS OF THE ROYAL ULSTER CONSTABULARY
BY DR JOE HENDRON, TWIN SPIRES CENTRE,
155 NORTHUMBERLAND STREET, BELFAST BT13 2JF**

On 9 June 1994 this matter was referred to the Independent Commission for Police Complaints under Article 7 of the Police (Northern Ireland) Order 1987 and the nature of the allegations made fell within the category of discretionary supervision under Article 9(3)(a) of the Order. The Commission confirmed it would supervise the investigation of this complaint and approved the appointment of the Investigating Officer proposed by the Royal Ulster Constabulary.

The investigation was monitored throughout by the Supervising Member who had regular consultations with the Investigating Officer and was present during all crucial police and witness interviews conducted. The Supervising Member also attended the scene of the peaceline at Springfield Park, Belfast, and personally reviewed relevant Royal Ulster Constabulary records pertaining to the conduct of police. Following careful consideration of all the interim papers submitted the Supervising Member directed the Investigating Officer to submit his final report which was received on 20 January 1995.

The report received by the Commission comprised a large number of separate items of documentation including statements taken from police officers concerned, together with related witness, photographic, mapping and associated evidential papers.

**THE INVESTIGATION OF THE COMPLAINT HAS
BEEN CONDUCTED TO THE SATISFACTION OF THE
INDEPENDENT COMMISSION FOR POLICE COMPLAINTS
FOR NORTHERN IRELAND**

A handwritten signature in dark ink, appearing to read 'James Grew', is written over a horizontal line. The signature is fluid and cursive.

Chamber of Commerce House · 22 Great Victoria Street · Belfast BT2 7LP
Telephone: Belfast (0232) 244821 Fax: Belfast (0232) 248568

