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John Ware: Justice slips between Ireland's north-south divide

The latest judgment on the Omagh bombing reveals serious mistakes made by police in both Northern Ireland and the Republic

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In his judgment signalling the final collapse of the nine-year Omagh bomb investigation, Mr Justice Weir used the judicial equivalent of a flame-thrower when he acquitted the alleged bomb-maker of all 58 charges. As one strand after another of the prosecution's case against Sean Hoey vapourised, it was hard to resist the darkly comical spectre of several Mr Beans running amok, in the Police Service of Northern Ireland and the province's Forensic Science Agency.

First there were the "lies" by two PSNI officers in concealing possible contamination of forensic evidence. But what really conjured up this chaotic image was the judge's description of the "seemingly thoughtless and slapdash approach of the police and scenes of crime officers" and their "cavalier disregard" for the integrity of evidence, with forensic scientists failing to wear gloves and masks.

The judge said there were "numerous examples" of the recording and storage of exhibits being "thoroughly disorganised", with missing labels or labels attached to the wrong items, and sometimes bags not properly sealed, even leaking. "More often than not" station registers weren't properly kept: if an exhibit went missing there was no way of knowing who had removed it or if it had been contaminated. Within the Forensic Service of Northern Ireland, so poor were the quality control systems that its own accreditation had once been temporarily suspended.

Little if any of this mess can reasonably be pinned on the officer who spent the past five and half years trying to get justice for the Omagh families. Yet in the gathering gloom of Belfast last Thursday afternoon it was this "peeler" – Detective Chief Superintendent Norman Baxter – who presented himself to the cameras. Baxter inherited the legacy of this slapdash culture in 2002 when the then Royal Ulster Constabulary was under Sir Ronnie Flanagan, since promoted to chief standard setter of 43 other constabularies in England, Wales and Northern Ireland in his role as head of Her Majesty's Inspectorate of Constabulary. Nor was it ultimately Baxter's decision, but that of lawyers in the Public Prosecution Service, to trust a new forensic technique so vulnerable to variation that it required the most exacting standards of protection against contamination for it to have evidential value.

Known as Low Copy Number DNA, this technique allows DNA profiles to be uncovered even when there is only a tiny amount of DNA present. LCN has yet to be validated by the international scientific community, sceptical of its accuracy. In court, even one of its inventors acknowledged that some of the results claimed by the prosecution were "valueless" and that LCN was a complex area with "shades of grey". The judge said he found it "extraordinary" that LCN was submitted as evidence.

Baxter has, I'm told, been broken by the verdict. He and other officers have done more than anyone to try to deliver on the promises of both British and Irish prime ministers in the aftermath of the bombing: that no stone would be

left unturned to put behind bars the murderers of 29 men, women and children.

But Baxter has always been severely handicapped. He took the job even though the Northern Ireland Police Ombudsman warned that the chances of locking anyone up for Omagh had been "significantly reduced" by the old RUC's "defective leadership, poor judgement and a lack of urgency". So it has proved. Had there been an "objective assessment of all available intelligence" firm suspects could have been produced within two days of the bombing, said the Ombudsman. Given that the Garda Siochana possessed much of this intelligence, they must share responsibility for losing the initiative from the start. The fact is that the bombing was hatched, planned and launched from the Republic.

One of the "firm suspects" was Seamus Daly, a builder who lives just south of the border near Castleblaney. His movements and phone calls point to him having been the hand-on manager of the outrage. On the day of the bombing in August 1998, records of calls to and from a mobile given to Mr Daly show it moving north from Castleblaney, crossing the border, and then into Omagh – at the time when witnesses saw the bomb car being parked. Shortly afterwards, the signals move south again, back into the Castleblaney area. This fits with the route taken by the getaway car. We know that Mr Daly was in possession of this mobile because soon after the bomb exploded it was used to ring an accountant with whom Mr Daly had dealings.

The bomb consisted of home-made explosives and is believed to have been assembled close to Mr Daly's home. Although intelligence pointed to Daly as a firm suspect within days, it wasn't until five weeks later that the Irish police seized gloves, a grinder, sugar bags and boxes from his property. Much later, when the PSNI requested access to this material for DNA testing, they were told it had been lost or destroyed. Garda sources say they did not consider them as having forensic value because the bags were damp and had been there some time. But the gloves in particular might have yielded fruitful evidence. The Garda refuse to discuss the matter further and insist they have co-operated with the PSNI.

There has been co-operation but, as one security source explained: "What's also been running through the inquiry is that the Republic works to an agenda. And it's not always clear what it is."

Indeed so. In February 2003, PSNI officers were poised to arrest Mr Daly as he crossed the border into Northern Ireland. Although the PSNI had briefed the Garda, inexplicably, the Garda scuppered their plan and instead arrested Daly on their side of the border without – apparently – informing their PSNI colleagues. They drove him to Dublin where he was charged with membership of the Real IRA to which he pleaded guilty. He served just three years.

Omagh has demonstrated a major failure of competence on both sides of the border. But when it comes to a test of will that "no stone would be left unturned", it is the Republic that has been found wanting.

The PSNI regarded the Daly incident as a lost opportunity. They thought they had enough then to "put this boy away for a long time". What is clear is that today Mr Daly and the dozen other Omagh suspects are free men, mostly living in the Republic. The truth about the errors on the northern side will probably emerge because recent institutions set up to oversee the PSNI are transparent. But in the Republic the relationship of the police to the state remains as much of an enigma as ever.

John Ware is a BBC reporter. His 'Panorama: Who Bombed Omagh?' in 2000 named four of the main suspects, including Seamus Daly

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