

Public Inquiries on Counterterrorism: An Independent Appraisal of New Zealand's Royal Commission of Inquiry into the Christchurch Terrorist Attack

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Abstract

Even though elected leaders of liberal democracies respond to major terrorist attacks by commissioning public inquiries, this type of investigatory oversight has not yet received the critical scholarly attention it deserves. We demonstrate that the Royal Commission of Inquiry into the Christchurch terrorist attack enabled two carefully chosen individuals of esteem to establish and expose relevant facts, capture institutional lessons, and find no one was to blame for failing to detect the plans and preparations for this attack, thereby reassuring an anxious public that New Zealand's current security dispensation is fundamentally fit for purpose. However, notwithstanding its prolonged duration, very broad engagement with public servants and members of the public, and the extensive length of its report, we argue that this public inquiry is not only a weak remedial intervention in New Zealand's counterterrorism effort, but that it also radically reframes its matters of concern to advance a policy agenda on social cohesion. We conclude that public inquiries on counterterrorism are no better than other types of oversight because all offer the gift of impunity to those with the greatest responsibility for managing contemporary security challenges.

Keywords: Counterterrorism; security professionals; investigative oversight; public inquiries; **de-securitisation**; impunity.

Introduction

Public inquiries are a well-established method for dealing with the most serious matters of public concern – that is, matters which usually involve multiple fatalities resulting from either human error or deliberate acts of political violence – though these inquiries take different forms depending upon the style of government and type of legal system that underpin the authority creating them.¹ Given the nature and significance of the matters investigated, public inquiries are sometimes designed to restore public confidence by establishing the facts of the matter and then exposing those facts to public scrutiny (Salmon 1966; Clarke 2000) or by capturing certain experiences and then reflecting on institutionalised lesson learned that could prevent or reduce the chances of a similar event happening in the future (Howe 1999; Elliot & McGuinness 2002). Public inquiries can, moreover, be used as a means of ensuring accountability or, perhaps more cynically, avoiding blame (Elliot & McGuinness 2002; Sulitzeanu-Kenan 2006 & 2007; Boudes & Larouche 2009; Topal 2009; Kenny & O Dochartaigh 2021; and Stark & Yates 2021).

It is reasonably common nowadays for elected leaders of liberal democracies to respond to major terrorist attacks within their jurisdictions or on their populations by, *inter alia*, establishing public inquiries. The so-called 9/11 Commission Report is in some ways an exemplar of this phenomenon (Fenster 2008), offering a model for public inquiries that followed high-profile attacks in London in 2005, Brussels in 2016, Manchester in 2017, and Christchurch in 2019 though, of course, not all terrorist acts prompt this type of investigatory oversight: the attacks in Bali in 2002, Madrid in 2004, Mumbai in 2008, Paris in 2015, and Norway in 2011 did not generate public inquiries.² When public inquiries are established under these circumstances, individuals of esteem are usually appointed to lead them. These inquiries tend to comprise a forensic examination of a terrorist attack, the identification of operational or strategic deficiencies in intelligence and security agencies, and, of course, a set of recommendations for more counterterrorism powers and resources that elected representatives are hard pressed to ignore.

Unlike those operational and strategic aspects of countering terrorism that remain concealed beneath a veil of official secrecy (see Walters 2021; de Goede, Bosma & Pallister-Wilkins 2020), these public inquiries deliver reports that can be subjected to rigorous academic analysis. While few studies on intelligence and security oversight and related public accountability measures pay much attention to public inquiries, the reports produced by the Church Commission's investigation into US intelligence activities in the 1970s and the Feinstein Commission's investigation into the US Central Intelligence Agency's detention and interrogation programmes in the 2010s have been examined closely (see respectively, Townley 2021; Johnson 2015; Miller 2008; and Guild, Bigo & Gibney 2018). When public inquiries commissioned in the wake of a terrorist attack are examined, these inquiries are understood, for example, as a rich archive of knowledge (de Geode 2014) or as vehicles of policy advocacy and shapers of public opinion (Pillar 2006; Falkenrath 2005). The full array of political uses of public inquiries on counterterrorism is, in our view, a relatively underexplored area, especially when compared to other types of formal oversight on

intelligence and security matters, such as parliamentary committees (cite) and formal integrity assurance role (or so-called ‘watch dogs’) (cite).

In this paper, we introduce the Royal Commission of Inquiry into the Terrorist Attack on Christchurch Mosques on 15 March 2019 (RCOI) as an interesting case of investigatory oversight to the **critical terrorism studies** literature. We selected the RCOI as our case because it is a major part of the New Zealand Government’s response to the Christchurch terror attack, which not only had the potential to profoundly reconfigure New Zealand’s security capabilities and reshape the future role played by security professionals in New Zealand’s political, economic and social life, but also has potentially longer-lasting effects than the Government’s other major responses, specifically gun reform, censoring Tarrant’s manifesto and the footage of his attack, and the Christchurch Call’s pleas to social media giants. Moreover, the RCOI produced the most significant public report into New Zealand’s counterterrorism efforts to date; it took more time to prepare, engaged with a far wider set of stakeholders, and was much longer than a recent public inquiry into the activities of New Zealand’s security and intelligence agencies prepared by the late Sir Michael Cullen and Dame Patsy Reddy (2016).³

We examine *Ko tō tātou kāinga tēnei [This is our home]: Report of the Royal Commission of Inquiry into the terrorist attack on Christchurch masjidain on 15 March 2019*. The report was delivered to the Governor-General on 26 November 2020 and released to the public on 8 December 2020, after the original reporting date of 10 December 2019 had been twice extended due to “the sheer volume of material [the Royal Commissioners] had to assess and the disruption resulting from the COVID-19 pandemic” (p. 48). Almost 800 pages in length, the final report is divided into ten parts, spread over four volumes. There are 73 chapters. The report opens with the usual preliminary information (acknowledgements and a foreword) and an executive summary, consolidated findings and summary of recommendations. Part 1 declares the purpose of the inquiry, providing a detailed account of Tarrant’s attack on the two mosques before describing how the RCOI was established and how the Royal Commissioners went about their task. Part 2 provides a brief overview of New Zealand’s history, constitutional framework and demography as well as New Zealand’s human rights framework and its national security system. It also introduces and explains key terms and concepts relating to extremism. Part 3 summarises what New Zealanders told the Royal Commissioners about the impact of Tarrant’s attack and their impressions of New Zealand’s counterterrorism efforts. Part 4 provides a biography of Tarrant through the conceptual lens of right-wing extremism and Part 5 explains how he acquired a firearms licence, weapons and ammunition within New Zealand. Part 6 describes what New Zealand public sector agencies knew about Tarrant prior to his attack and Part 7 points to three ways in which those agencies might have detected him. Part 8 is by far the Report’s largest part. Spanning 250 pages, it offers a comprehensive assessment of New Zealand’s counterterrorism effort to date. Part 9 introduces and advocates for notions of social cohesion and diversity as policy principles that the report asserts will help prevent future terrorist acts in New Zealand. Part 10 contains the Commissioners’ 44 recommendations to improve New Zealand’s counterterrorism effort, strengthen New Zealand’s firearms licensing system, better support the ongoing recovery needs of affected whanau, survivors, and witnesses of the 15 March terrorist attack, and further develop New

Zealand's response to its increasingly diverse population, as well as how to implement their recommendations. The report closes with the usual end matters, such as endnotes, a glossary, and various appendices.⁴

We examine this report critically in the sense meant by Robert W. Cox (1981) when he wrote that a critical theory approach sets itself apart from the prevailing status-quo arrangements in order to contemplate the conditions that gave rise to those existing institutions, professional practices and the underlying configurations of power that sustain them, as well as to consider how and why these institutions, practices and power relations might be transforming. Taking this approach requires the scope of our analytical focus to go beyond the content of *Ko tō tātou kāinga tēnei* to encompass the evolving conditions giving rise to, and shaping, New Zealand's counterterrorism effort. It also means we show how many of the report's recommendations are imbued with a problem-solving logic, which as Cox explains "takes the world as it finds it, with the prevailing social and power relationships and the institutions into which they are organized, as the given frameworks for action. The general aim of problem-solving is to make these relationships and institutions work smoothly by dealing effectively with particular sources of trouble" (1981, p. ?). In what follows, then, we problematise the Royal Commission of Inquiry into the Christchurch terrorist attack by asking: what are the stakes involved in this public inquiry and whose interests did it ultimately serve?

Our paper is organised into four main sections followed by a conclusion. The first main section briefly describes the terrorist attack on two Christchurch Mosques. The second section not only demonstrates that an Order in Council was the foundational document which appointed the Royal Commissioners and provided them with their Terms of Reference, but also reveals why two individuals of esteem, who lacked a deep understanding of the phenomenon of terrorism and had little comprehension of the weaknesses and limitations of counterterrorism efforts, were chosen to lead this inquiry. The third section considers the ways in which the Royal Commissioners engaged with New Zealand security professionals, especially those involved in counterterrorism, whereas the fourth section explains how and why the Royal Commissioners engaged with various individuals, groups and communities beyond the public sector, including the victims of Tarrant's attack, local Muslim community groups and the public-at-large. Having evaluated the Royal Commissioners' findings and recommendations, we argue that this public inquiry is not only a weak remedial intervention in New Zealand's counterterrorism effort, but that it also radically reframes its matters of concern to advance a policy agenda on social cohesion. Given the extent to which the Royal Commissioners shield ministers from accusations of disinterest, negligence or acts of omissions, and the way in which their recommendations are being implemented, we conclude that public inquiries on counterterrorism are no better than other forms of intelligence and security oversight because they all offer the gift of impunity to those with the greatest responsibility for managing contemporary security challenges.

Terrorist Attack

On Friday, 15 March 2019, Brenton Harrison Tarrant went on a well-planned shooting spree, targeting Muslims peacefully at prayer inside the Al Noor Mosque and the Linwood Islamic Centre in Christchurch, New Zealand. Beginning at 1.40 pm and occurring, successively, at two venues less than six kilometers apart, Tarrant's attack lasted only half an hour but killed fifty-one Muslims and injured another forty of their co-religionists ([New Zealand Police, 2019](#)). Having sent an email warning of his imminent attack to, among others, a security team based at Parliament in Wellington, New Zealand's capital, Tarrant live-streamed the massacre on Facebook. The attack's brevity was largely due to the rapid reaction of police officers who happened to be training nearby and apprehended Tarrant as he fled in his vehicle (RCOI, pp.40-47).

This attack suddenly and brutally disturbed the complacency of many New Zealanders. The large number of victims shocked New Zealanders, as did Tarrant's targeting of a minority group for no reason other than their religion. His access to military-style weapons and his use of social media to live stream the attack was also alarming. Tarrant's reference to vituperative right-wing ideology as a justification for his attack and his manifesto's praise of Anders Brevik, the Norwegian far-right terrorist who killed 77 individuals on 22 July 2011, demonstrated that New Zealand is closely connected to the circuits of political violence animating world affairs and is not immune to the harms caused by terrorism.

Tarrant's attack also exposed the raw extent of New Zealand's vulnerability to lone actor terrorism and revealed profound weaknesses in New Zealand's approach to counterterrorism. Although the terrorist attack on 11 September 2001 caused as much shock in New Zealand as elsewhere, it did not prompt a serious and sustained effort to analyse overseas events to determine if they might be the harbinger of things to come locally. Instead, parliamentarians passed the Suppression of Terrorism Act (TSA) 2002. The TSA was found to be unworkable when, in 2007, a group of activists were detected acquiring weapons, including military-style semi-automatics, training and expressing a desire to assassinate political figures and start 'a race war' ([Affidavit, 2007](#)). Despite the New Zealand Police using the TSA for warranted surveillance, the Solicitor General refused to authorise charges under the Act. The opportunity to re-evaluate New Zealand's need for a more strategic approach to countering terrorism was not taken at that time, nor were the shortcomings of the TSA Act remedied. Moreover, various terrorist attacks occurring overseas during the 2010s should have been further sufficient warning to prompt security professionals and their political masters into preparing a comprehensive counterterrorism strategy, but it did not. To be sure, the responsibility for this disinterest, neglect or omission lies with those ministers with responsibilities for New Zealand's counterterrorism effort who "decide both the direction of and the priorities for their departments.... In general terms, Ministers are responsible for determining and promoting policy, defending policy decisions, and answering in the House on both policy and operational matters" ([Cabinet Manual, sec 3.7](#)). This lack of action appears to be an abdication, rather than the exercise, of executive power and, as US President Truman once quipped, in a democracy the 'buck stops' with those individuals elected to the highest public office.

The Government's reaction to the Christchurch terrorist attack was swift. The New Zealand Police immediately increased their presence at public events, especially those that had nationalist, ethnic or religious dimensions. Within days of the attack, New Zealand's Chief Censor, David Shanks, classified both the livestream video and Tarrant's manifesto as objectionable, thereby prohibiting its possession and distribution within New Zealand. Shanks found that livestream video not only promoted and supported extreme violence and cruelty, but also promoted criminal acts including mass murder and terrorism. He found that the manifesto, *The Great Replacement*, was objectionable because it:

promotes and supports criminal acts including mass murder, terrorism and the killing of children to a high extent and degree. It presents this justification in a manner that is intended to glorify the writer and inspire others towards terrorist violence. It identifies other possible groups, individuals and locations for attack, and references means of carrying out attacks.⁵

On 1 April, Parliament began reforming private gun ownership, including a ban on military-style semi-automatic assault rifles, by amending, under urgency, the Arms Act 1983. A weapons buy-back scheme, lasting six months, commenced in the second half of 2019 and ended in late December 2019. Two months after the attack, Prime Minister Jacinda Ardern and French President Emmanuel Macron announced the so-called Christchurch Call, which comprised a pledge to eliminate terrorist and violent extremist content online to prevent the internet from being used as a tool for terrorists.⁶ Having arrested Tarrant and remanding him in custody, the Police began investigating the attack and initially brought a single charge of murder against Tarrant on 16 March, though by 20 May the charge sheet had grown to include 51 charges of murder, 40 charges of attempted murder, and one charge of engaging in a terrorist act. On 26 March 2020, Tarrant pleaded guilty to all charges (R v Tarrant [2020] NHC 2192 as cited in RCOI, p.47). Tarrant is the first person convicted for terrorist offences under New Zealand law and was sentenced to life imprisonment without parole, the first such penalty handed down by a New Zealand court.

On 8 April 2019, the Government established a Royal Commission of Inquiry into the Terrorist Attack on Christchurch Mosques on 15 March 2019 in accordance with the Inquiries Act 2013.⁷ Royal Commissions of Inquiry "are typically reserved for the most serious matters of public importance" (Cab Man. 4.81) and, once established, Royal Commissions are supposed to be independent of the Executive. The purposes of such an inquiry can include establishing facts or developing policy, learning from events, providing an opportunity for reconciliation and resolution, and holding people and organisations to account (Cab Man. 4.101), though tension can arise among these at times contending purposes, especially when the desire to establish facts and hold people and organisations to account might not be desired by Ministers who support an inquiry, hindering both the progress and value of that inquiry (New Zealand Law Commission 2007). The Government established this public inquiry to examine what New Zealand's public service agencies knew about Tarrant's activities prior to his attack, what actions those agencies took in light of that knowledge, and what additional measures should be taken by those agencies to prevent future attacks. Yet as the inquiry was being established, the Government clearly expressed its intent to use the resulting report – perhaps irrespective of what it might find or recommend – "to reassure the New Zealand

public, including its Muslim communities, that all appropriate measures are being taken by relevant State sector agencies to ensure their safety and protection” (cite).

Order in Council

The schedule of the Order in Council issued on 8 April 2019 sets out the Royal Commission’s Terms of Reference. While Schedule Clause 2 is titled ‘Purpose of inquiry and matters of public importance,’ it, in fact, directs the RCOI to examine four specific issues:

- (a) what relevant State sector agencies knew about the activities of the individual who has been charged with offences in relation to the 15 March 2019 terrorist attack on the Al-Noor Mosque and the Linwood Islamic Centre in Christchurch, before that terrorist attack; and
- (b) what actions (if any) relevant State sector agencies took in light of that knowledge; and
- (c) whether there were any additional measures that relevant State sector agencies could have taken to prevent the terrorist attack; and
- (d) what additional measures should be taken by relevant State sector agencies to prevent such terrorist attacks in the future.

Although each of these issues are undoubtedly matters of public importance in their own right, which the RCOI must examine, the intended purpose of these examinations remains unstated. In fact, the RCOI has no clearly articulated purpose, though given the tragic circumstances that prompted it the RCOI’s purpose could very easily have been ‘to contribute to a more peaceful and just society in New Zealand.’ This lack of overarching purpose hinders the Royal Commissioners’ recourse to any *proprio motu* efforts if they discover information in the course of their investigation that was not available to those who drafted the Terms of Reference. This jars with the New Zealand Cabinet Manual, which states that the Terms of Reference for a public inquiry “should be precise and yet sufficiently flexible to allow the inquiry to respond to issues that come to light in the course of the inquiry” (Cab Man 4.102). Deprived of an overarching purpose by this design flaw, the Royal Commissioners’ freedom to inquire into the conduct of ministers with public accountabilities for New Zealand’s counterterrorism efforts is, at once, discouraged and curtailed.

Schedule clauses 3, 4 and 5 articulate the scope of the inquiry, the matters upon which findings are sought, and the matters upon which recommendations are sought, respectively. There are essentially two matters of public concern here. The first relates to how Tarrant set about planning and preparing his terrorist attack: namely, “(i) relevant information from his time in Australia; (ii) his arrival and residence in New Zealand; (iii) his travel within New Zealand, and internationally; (iv) how he obtained a gun licence, weapons, and ammunition; (v) his use of social media and other online media; and (vi) his connections with others, whether in New Zealand or internationally” (Sch cla. 3(a)). The second matter of public concern relates to any information on Tarrant and his plans and preparations held by New Zealand’s security professionals before the attack as well as to any actions they took, or could have taken, to prevent that attack. Specifically, the Royal Commissioners were directed to make findings on:

- (a) whether there was any information provided or otherwise available to relevant State sector agencies that could or should have alerted them to the terrorist attack and, if such information was provided or otherwise available, how the agencies responded to any such information, and whether that response was appropriate; and
- (b) the interaction amongst relevant State sector agencies, including whether there was any failure in information sharing between the relevant agencies; and
- (c) whether relevant State sector agencies failed to anticipate or plan for the terrorist attack due to an inappropriate concentration of counter-terrorism resources or priorities on other terrorism threats; and
- (d) whether any relevant State sector agency failed to meet required standards or was otherwise at fault, whether in whole or in part.

The Royal Commissioners were directed to recommend improvements to the relevant information gathering, sharing, and analysis systems and processes, including policies, rules and standards, though Schedule clause 6 imposes strict constraints on the inquiry's scope, expressly prohibiting the Royal Commissioners from investigating possible changes to New Zealand's firearms legislation, how New Zealand's security professionals reacted to Tarrant's attack once it had begun, or the activities of any organisations beyond the State sector.

The way in which terms of reference frame a matter of public concern can help ensure a particular version of events is reported and accepted (Brown 2000, 2004, 2005; Maitlis & Sonenshein 2010; Whittle & Mueller 2012; Ainsworth & Hardy 2012; Kenny & Dochartaigh, 2021). By framing, we mean here the ability to select "some aspects of a perceived reality and make them more salient in a communicating text, in such a way as to promote a particular problem definition, causal interpretation, moral evaluation, and/or treatment recommendation" (Entman 1993, p. 52). By framing the first matter of concern on Tarrant's movements and actions leading up to the attack, the Terms of Reference require the Royal Commissioners to focus their efforts on how the attack took place, but not on the reasons why it took place. Framing the matter in this way de-contextualises the terrorist attack and depoliticises Tarrant's motives, thereby diminishing the Royal Commissioners' ability to fully understand the attack in all of its complexity. Moreover, by framing the systems and procedures of security professionals involved in counterterrorism activities as the second matter of concern, the Terms of Reference exclude from scrutiny those with ministerial responsibilities for ensuring the safety and security of New Zealanders.

The crafting of a narrow terms of reference, often with a focus on procedural issues, is not unusual for public inquiries and is frequently a source of some controversy (Hutter 1992). While public inquiries can serve an important retrospective investigative function that seeks to understand the causes and consequences of a major crisis or disaster, some crises and disasters can threaten the credibility of those who held relevant ministerial responsibilities at the time (Sulitzeanu-Kenan 2010). In this sense, framing the terms of reference for a public inquiry in a certain way can enable those with ministerial responsibilities to immediately proclaim they share the public's unease and are taking urgent action that will remedy the situation while depoliticising the matter and preventing other investigative procedures being undertaken which may be less easily shaped by those with ministerial power (cite). When

focused narrowly on procedural matters within the machinery of government, terms of reference for public inquiries can help elected representatives evade scrutiny and, in some cases, avoid blame by encouraging the inquiry to place blame elsewhere (Turner 1976; Weaver 1986; McGraw 1991; Kingdon 1995; Brandstrom & Kuipers 2003; Sulitzeanu-Kenan 2006; Boudes & Larouche 2009; Stark & Yates 2021). This is not to suggest that executive power is exerted here as a form of direct control, but rather, functions in a more subtle way by closing off certain avenues of investigation that could lead to Ministers responsible for New Zealand's counterterrorism effort. Over the course of an inquiry, then, those with ministerial authority can await the publication of a report, which they could reasonably expect to offer constructive findings and recommendations focused elsewhere. The risk of a report critical of those holding ministerial authority can be further mitigated by carefully selecting individuals of esteem to lead the inquiry.

The Order in Council also appointed members of the Royal Commission. The Honourable Sir William Young KNZM, a highly respected Supreme Court Judge and former president of the Court of Appeal of New Zealand, was made chairperson. It is reasonably common for a senior judge to be asked to lead a public inquiry, selected in part for their skills in dealing with complex evidence and in part for their perceived impartiality (Elliot & McGuinness 2002). Miliband (1973) also notes that judges offer a seal of credibility in addressing issues that are often controversial. For these reasons, the appointment of Young as the chairperson of the RCOI came as no surprise. Indeed, Young demonstrated the power of his legal reasoning when weighing up the veracity, credibility and probative value of evidence provided by a concerned member of the public who claimed to have observed Tarrant at a rifle club and to have reported his concerns to the New Zealand Police (pp. 348-360). Yet while judges "may be impartial in terms of having no pecuniary interest in an incident" (Elliot & McGuinness 2002, p. 16), broader impartiality is questionable given that judges are not representative of the wider population but, rather, tend to embody a much narrower segment of society. This lack of representativeness is a consequence of the social background of judges as well as their formal education, which results in a bias that leads them to act in a particular way. This is particularly the case when faced with such politically-charged situations as public inquiries (Miliband 1973; Sedley 1989; Peach 1999). As Griffith (1991, p. 57) noted:

When people like members of the judiciary, broadly homogenous in character, are faced with such political situations, they act in broadly similar ways.... behind these actions lies a unifying attitude of mind, a political position, which is primarily concerned to protect and conserve certain values and institutions. This does not mean that the judiciary inevitably and invariably supports what governments do... They are protectors and conservators of what has been, of the relationships and interests on which, in their view, our society is founded.

While the notion of representation can inform appointment decisions to ensure a public inquiry is independent (Ashforth 1990), Sir William does not sufficiently represent New Zealand society to the extent that he can uphold the integrity of the RCOI's independence. Given his background and education, Sir William was likely to take a conservative approach to leading the inquiry, adhering strictly to his mandate and preserving the status quo arrangements without challenging ministerial authority.

The appointment of the RCOI's second member could have balanced Sir William's appointment. Prior to her appointment as a member, Ms Jacqueline Caine was a professional diplomat, serving as New Zealand's Ambassador to Chile, Colombia, Peru, Ecuador, and Bolivia; and also as Deputy Ambassador to Singapore and Mexico (cite). However, as a diplomat who held a number of administrative, functional and managerial positions within the public service and implemented policies for the New Zealand Government, Caine is also insufficiently independent of the wider political establishment to be considered representative of New Zealand society. This lack of independence matters because Sir William and Ms Caine dehumanize Tarrant when they reproduce Prime Minister Jacinda Ardern's rhetorical posturing (p.10) by naming him only once at the start of their executive summary and referring to him thereafter using abstract terms such as 'the individual' and 'the terrorist.' Sir William and Ms Cain are clearly not independent of the political authority used to appointment them as Royal Commissioners; they operate less in the shadow of executive power than as an extension of it, giving credence to Sulitzeau-Kenan's reinterpretation of Clausewitz's in "these ad hoc institutions [public inquiries] represent a 'continuation of politics by other means'" (2021, p. XX).

Expertise is another important consideration in the appointment of members to the RCOI because, if the Royal Commissioners lack sufficient expertise, then the authority of their findings may be diminished (Stark & Yates 2021).⁸ By subject-matters experts, we mean those individuals who are credentialed with relevant university qualifications, responsible for authoring a body of respected work on certain matters, and have their expertise recognized as such by others experts in that field (Rogers and Mawdsley 2022; add others here). Sir William is a highly qualified legal professional with an Honours degree in law from the University of Canterbury, New Zealand, and a Doctor of Philosophy from the University of Cambridge for a thesis entitled *Duress and abuse of inequality of bargaining position* (cite). Notwithstanding his impeccable academic credentials in the field of law, Sir William is not an expert in the subject matter lying at the heart of this inquiry – terrorism as a type of political violence and counterterrorism as a form of security. Ms Caine's academic qualification include a Bachelor of Laws and a Bachelor of Commerce from the University of Otago, New Zealand. While there is no doubting Caine's professional experience provides her with a deep appreciation of a wide range of global issues, there is nothing to suggest that she is in possession of any significant expertise in terrorism and security either. In this way, Sir William and Ms Caine are not independent of the political authority that granted their special status of Royal Commissioners and neither can claim to hold relevant subject-matter expertise.

To provide the required administrative support, as well as research, analysis and drafting assistance, the Royal Commissioners were provided a secretariat led by an Executive Director, Benesia Smith. Smith is a career public servant, serving in the Ministry of Justice, the Department of Internal Affairs (DIA), and the Department of the Prime Minister and Cabinet (DPMC). She holds a law degree from the University of Waikato, New Zealand. In addition to the secretariat, lawyers Andrew Butler and Nick Whittington were both appointed Counsel Assisting the Royal Commission (cite). While both of these individuals are in private practice, it appears much of their work is undertaken for various government agencies (cite Thorndon

Chambers website and Meredith Connell Website). It is clear that the Royal Commissioners and their secretariat comprises an abundance of legal expertise and public service experience whereas there is no recognized expertise on the causes, conduct and consequences of terrorism or on the limits and weaknesses of New Zealand's search for security.

Members of a public inquiry can, of course, enhance their understanding of the subject matter at the heart of their inquiry, as well as increase the legitimacy of their findings and recommendations, by adopting a broad-based consultative approach to their investigations. Yet the Royal Commissioners chose to consult with John McKinnon, a widely respected former Secretary of the New Zealand Ministry of Defence and, before that, Director of the External Assessments Bureau within DPMC and a professional diplomat. Despite Young and Caine's claims to the contrary (p.8), McKinnon is neither independent of the national security system nor a *bona fide* subject-matter expert on countering terrorism. The Royal Commissioners also chose to consult with Lord Hogan-Howe, a former Commissioner of the Metropolitan Police in Greater London in the United Kingdom. Like McKinnon, Lord Hogan-Howe is deeply embedded within his Government's security institutions and, while he had a long career in policing, has no *bona fide* expertise in countering terrorism.

The Royal Commissioners' lack of subject-matter expertise is especially acute when they fail to grasp the complexities of terrorism. Despite the League of Nations proposing a definition of terrorism more than 80 years ago, consensus on a definition remains elusive. There are more than 250 different 'official' definitions of the phenomenon in use by various states as well as international and national bodies (Schmid, 2011). An appreciation of the contested nature of this concept is fundamental to understanding the diversity of contexts that can give rise to this type of political violence. Cooper correctly argues that "we should never attempt to treat terrorism as a discrete subject, somehow distinct or outside of the political, social and economic context in which it occurs" (In Horgan, XXXX p. 31). Yet this is precisely what the Royal Commissioners did. The absence of a definition of terrorism in their glossary indicates not only their lack of understanding of the most fundamental aspects of the phenomenon but also an uncritical acceptance of the prevailing definitions adopted by states. It seems the Royal Commissioners never fully understood the phenomenon of terrorism in all its complexity because they presented it in terms of a dichotomy between Islamist extremism, with which security professionals were too concerned, and Right Wing extremism, to which those professionals were insufficiently attentive, as if countering terrorism was as simple as meeting a quota or balancing a ledger. This led the Royal Commissioners to declare Tarrant's attack as "incomprehensible" before explaining away the causes of Tarrant's attack as "an extreme right-wing Islamophobia ideology. Its purpose was to promote chaos and disharmony in New Zealand" (p.7).⁹ Missing here is an in-depth exploration and understanding of the broader and considerably more complex political, social, and economic factors that may have contributed to the Christchurch terrorist attack. Without this, the Royal Commissioners addressed a complex issue in a simplistic manner, providing a superficial explanation of the circumstances underpinning the terrorist attack which, as we shall see, in turn limits learning and restricts their recommendations to a series of procedural issues unlikely to improve New Zealand's response to similar attacks in the future.

Here, then, Sir William and Ms Cain are, by all accounts, much respected within their own specific professional communities. Yet as established members of the judiciary and the diplomatic corps, respectively, both were shaped to varying degrees by the practices that constitute the wider political establishment to which they belong. It seems likely to us that Young and Caine were appointed Royal Commissioners because both were understood to be part of the existing order of things and a ‘safe pair of hands,’ disinclined to embarrass or impugn those who hold ministerial responsibility for New Zealand’s counterterrorism efforts. It also seems likely that Sir William and Ms Cain were acceptable as Royal Commissioners for this inquiry because – lacking specific subject-matter expertise, including concepts and theories, needed to analyse Tarrant’s attack in all of its complexity or assess the full array of possible counterterrorism responses – both were incapable of questioning conventional thinking on terrorism circulating within New Zealand’s national security system, or challenging their own received wisdom on how best to manage New Zealand’s contemporary security challenges. In fact, we believe it would have been a safe bet that Sir William and Ms Cain would reaffirm the existing epistemic and ontological commitments that structure and shape New Zealand’s approach to counterterrorism while maintaining, if not strengthening, the status quo arrangements for the national security system and the institutional apparatus that underpins it. This suggests the appointment of these Royal Commissioners, along with the narrow Terms of Reference that they were provided, meant the RCOI was never geared towards delivering an independent and authoritative report on the Christchurch terrorist attack.

Engaging Security Professionals

In New Zealand, all public inquiries, including Royal Commissions, are granted the statutory power to “require the production of evidence, to compel witnesses, and to take evidence on oath,” though when these powers are exercised in relation to parliamentarians they do not cut through parliamentary privilege (Cab Man 4.89 – 4.90). While the Order in Council identified the New Zealand Police, the New Zealand Security Intelligence Service (NZSIS), and the Government Communications Security Bureau (GCSB) as the public sector agencies relevant to this inquiry, the Royal Commissioners saw fit to include the DPMC and the DIA within their remit because the former plays a significant role in the national security system whereas the latter plays a role in social cohesion and embracing diversity programmes (p. 50). In order to probe the information held by these agencies and their related activities, the Royal Commissioners wrote to all of the 217 agencies that comprise New Zealand’s public sector, requesting information from each of them. In return they received over 73,500 pages of material. The Royal Commissioners interviewed parliamentarians who held ministerial responsibilities for national security and for the intelligence and security agencies, and “summonsed current and former chief executives of Public sector agencies and interviewed many other current and former Public sector employees who work in these agencies” (cite). They also met with New Zealand’s Chief Human Rights Commissioner, Race Relations Commissioner, Privacy Commissioner, Chief Ombudsman, Auditor-General, Chief Commissioner of Intelligence Warrants and the Inspector-General of Intelligence and Security. All of these meetings were treated as confidential and subject to the right to natural

justice (pp. 51-60). There were few people involved with the New Zealand Government, it seems, who were left untouched by the inquiry.

Even though the Royal Commissioners were fully able to collect, collate and analyse this extraordinary amount of official information, their lack of subject-matter expertise would have hampered their ability to critically assess and, if needed, challenge the ontological and epistemological commitments underpinning New Zealand's counterterrorism effort. The information, for example, provided by current and former security professionals would have been shaped through an institutionalized perspective that constructs the phenomenon of terrorism superficially and fosters an orthodoxy that accepts, rather than challenges, the prevailing institutional arrangements through which technical fixes and short-term solutions are preferred. In other words, the problem of terrorism is cut from the cloth of New Zealand's security institutions. Their inability to test the conventional thinking meant the Royal Commissioners took an "iterative and inquisitorial" (cite Report Part 1 Ch 4 para 7) approach where the emphasis was on the collection and analysis of a very limited pool of information concerning the immediate circumstances of the attack. This is not an uncommon practice in public inquiries led exclusively by legal experts, but results in what Fortune & Peters (1995) describe as a narrow range of findings focussed predominantly on technical and procedural issues that, in their own right, are rarely flawed. Put simply, the quality of their findings is diminished, and the authority of their report is undermined, because the Royal Commissioners lacked the expertise to test the conventional thinking of New Zealand security professionals – or that of those closely associated with the British Government whom they also consulted.

The Royal Commissioners found that the email Tarrant sent to Parliamentary Services immediately before his attack was the only information held by New Zealand Public sector agencies that could have indicated the attack. That email was, moreover, dealt with appropriately and within a reasonable period of time (p.19). By finding that there was no failure in information sharing, or any other reason to allocate blame to New Zealand's security professionals, the Royal Commissioners sent a message that reassured an understandably anxious New Zealand public that, by and large, New Zealand's current security dispensation is fundamentally fit for purpose and does not need major reform.

The Royal Commissioners did, however, find serious shortcomings in the way that the New Zealand Police administer the firearms licensing system, ranging from incoherent and incomplete guidance on how to process firearms applications to poor staff training and performance review processes, and in Tarrant's case, in adequately dealing with his referees (p.?). To remedy these systemic deficiencies, the Royal Commissioners recommended the Government make the relevant policies, operational standards and guidance clear and consistent; introduce an electronic system for processing firearms license applications; ensure staff are properly trained to administer the system; introduce performance indicators relating to the system's implementation; and add new processes for assessing applicants who have not recently lived within New Zealand for substantial periods of time; and require health professionals to report firearms injuries to the New Zealand Police (cite). While their findings here appears justified, the Royal Commissioners criticism stopped short of including a

succession of Ministers of Police who declined to address these issues following the Thorpe Report in 1997.

Perhaps most significantly, the Royal Commissioners found that:

The inappropriate concentration of resources on the threat of Islamic extremism did not contribute to the individual's planning and preparations for his terrorist attack not being detected. And for that reason, the Public sector agencies involved in the counter-terrorism effort did not fail to anticipate or plan for the terrorist attack due to an inappropriate concentration of counterterrorism resources. No Public sector agency involved in the counter-terrorism effort failed to meet required standards or was otherwise at fault in respects that were material to the individual's planning and preparation for his terrorist attack not being detected. (p?)

Notwithstanding their own finding, the Royal Commissioners made eighteen recommendations to improve New Zealand's counterterrorism effort. They recommended the Government create a new ministerial responsibility for leading and coordinating New Zealand's counterterrorism effort and establish a new national intelligence and security agency responsible for strategic intelligence and security leadership within the existing national security system. They also recommended several existing processes be modified, such as the existing interdepartmental executive board, which is currently voluntary, becoming permanent; existing legislation be amended to bring the intelligence and security agencies' use of finances under the purview of the Auditor-General; and the existing Parliamentary Intelligence and Security Committee be strengthened. Moreover, the Royal Commissioners recommended that the Government ensure that those agencies improve their information-sharing processes and undertake work on the use of the need-to-know principle, establish processes around the direct access authority granted under the Intelligence and Security Act 2017, and assess the clearance requirements of agency staff. Furthermore, the Royal Commissioners recommended that the intelligence and security agencies should enhance their existing service delivery and create a public-facing counterterrorism strategy, provide more reporting on the evolving threat scape and improve the ways in which they collect information reported to them by the public.

There is very little novelty or meaningful change among these recommendations, however. For example, while recommendation 2 advocates the establishment of a new agency, in practice this merely repackages current functions and reallocates existing roles from within the status-quo arrangements. Shifting functions and roles to a new institution might present opportunities for ministers to cut ribbons at opening ceremonies, but such celebrations only mask the use of an institutional solution to address a set of deeper problems linked to a professional work culture that can only be improved through effective leadership. If security professionals do not have the wherewithal to perform their roles effectively, shuffling the institutional deck chairs is an unlikely remedy. While the Royal Commissioners were positioned by the Government as making a remedial intervention into New Zealand's counterterrorism effort, they chose not to explain how or why adding more institutions and improving existing systems and processes for collaboration and cooperation among New Zealand security professionals is likely to fix **longstanding deficiencies** in New Zealand's approach to countering terrorism. These recommendations leave New Zealand no better off

when it comes to its ability to understand the nature and scale of the threat posed by terrorism.¹⁰ By adopting a problem-solving approach in their recommendations, presumably to make the existing arrangements operate more effectively and efficiently, the Royal Commissioners did not seriously question whether the conditions that gave rise to New Zealand's national security system, and its institutions and processes, in the first place are still relevant today, or in what ways and why that system might be changing. Their recommendations are, in our view, a weak remedial intervention in New Zealand's counterterrorism effort.

Despite their numerous recommendations to improve New Zealand's counterterrorism effort, the Royal Commissioners never explicitly identify what they believe the Prime Minister, or any other minister, could have done to prevent this tragedy. More specifically, the Royal Commissioners stopped short of making any findings that directly implicate successive Ministers who have done very little to protect New Zealanders from the harms associated with terrorism, or their parliamentary colleagues who produced legislation without ensuring it was enforceable. These silences and omissions preclude a deep understanding of New Zealand's approach to counterterrorism and, instead of exposing and remedying this neglect, the Royal Commissioners merely excused it. More cynically, the Royal Commissioners excuse any ministerial inaction or shortcomings when they state that:

By the middle of the last decade, the subjects of counter-terrorism, intelligence and security had become *politically and publicly toxic*. There was little political ownership. Public sector leadership was fragmented through a decentralised national security system with the Public sector agencies involved in the counter-terrorism effort acting in ways that were only loosely coordinated (RCOI, I, 15, 36, our emphasis).

Hence, rather than examine the extent to which relevant ministers have failed to provide direction and leadership to New Zealand's security professionals involved in countering terrorism, the Royal Commissioners criticized the public sector leadership provided by the officials of the DPMC. The full array of lessons, **which take into account the broader political, economic and social factors that contributed to this terrorist attack**, have not been learned and the recommendations are likely to be of only limited value in addressing similar challenges in the future.

By enacting the limits of their inquiry in this way, the Royal Commissioners shield ministers from public scrutiny and accusations of disinterest, negligence or acts of omission by draping a cloak of impunity over them even though they bear the greatest responsibility for managing New Zealand's security challenges. This Royal Commission of Inquiry was nothing short of a performative display of executive power masquerading as a form of investigatory oversight. The Royal Commissioners' inquisitorial gaze was never to be turned towards their political masters who would, in any case, determine whether or not to accept and implement their recommendations. While executive power closed off certain avenues of investigation that could lead to the Minister's being held responsible for New Zealand's counterterrorism efforts, it also opened up new avenues that diverted attention to a broader public debate about what kind of society New Zealanders should have.

Public Engagement

The Royal Commissioners' engagement with the New Zealand public differed markedly from their engagement with New Zealand security professionals. Rather than finding facts, exposing those facts to public scrutiny, identifying institutionalized lessons learnt, and searching for fault, the Commissioners sought to engage with various individuals, groups and communities of interests that lie beyond the public sector as a means of fostering a sense of legitimacy for their recommendations, especially those that encourage a form of social cohesion and widespread respect for diversity within New Zealand society. This public engagement had a tripartite focus on those individuals who were the target of Tarrant's attack, representatives of New Zealand's Muslim community, and the public-at-large.

The Royal Commissioners placed the victims of Tarrant's attack at the heart of their inquiry. This is clearly signaled in the opening pages of their report, which acknowledge the 51 Shuhada, each of whom is individually named (pp. 2-3; 7). The Royal Commissioners explained that they "heard from some people that they disliked the term victim being used, while others said the term validates the harm they have experienced. Some people prefer the term survivor, while others dislike that term or preferred not to be labelled at all" (p. 123). In the end, a diversity of backgrounds and experiences was reflected in the nomenclature of those 'shuhada who lost their lives, as well as affected whanau, survivors and witnesses.' The Royal Commissioners engaged with over 130 families on conditions set by affected whanau, survivors and witnesses, which sometimes meant meeting privately in people's homes. A record of this engagement flows throughout the report and is also captured in an ancillary publication, entitled *What we heard from affected whanau, survivors and witnesses* (cite). The Royal Commissioners found the physical and non-physical harm produced by Tarrant's attack changed the lives of affected whanau, survivors and witnesses in immediate and lasting ways, and the systems of support provided by public sector agencies was not only insufficient, but also exacerbates their trauma and grief (p.123). The Royal Commissioners recommended the Government better support the ongoing recovery needs of the affected whanau, survivors and witnesses by establishing a single point of contact through which they can access coordinated support from various public sector agencies, consider establishing a mechanism to determine a specific work programme to enable victim support efforts, and explore opportunities for restorative justice processes (cite).

The Royal Commissioners established a Muslim Reference Group to provide them with "access to a diverse range of opinions from Muslim communities" while also granting certain individuals access to the Commissioners (p. 54).¹¹ The origins of this Group, however, lie in 1(4) of the RCOI's Terms of Reference, which articulated the Government's expectation that the inquiry "connect with New Zealand's Muslim communities" and in 8(2) which states "[t]he Government expects that the inquiry will appoint a suitably qualified person or persons to assist the inquiry in its dealings with New Zealand's Muslim communities, and that the inquiry will consult those communities whenever it needs to do so in order to discharge its responsibilities." The intent here has less to do with enriching the Royal Commissioners' understanding of religious ideas and practice in New Zealand and more to do with being seen to engage with a specific group whose political standing increased dramatically as a result of

Tarrant's attack. After establishing the Terms of Reference for the Muslim Reference Group, the Royal Commissioners met with the Group on nine occasions, reporting on those meetings on six occasions (cite). When the Royal Commissioners found no New Zealand's security professionals to be at fault for failing to detect Tarrant's planning and preparation for his attack, they found evidence from the Muslim community criticising the methods of engagement used by New Zealand's security professionals when dealing with marginalized and minority communities. The Royal Commissioners state that "Muslim communities talked candidly about racism, discrimination and experiences of suspected of being, or treated as, terrorists, as well as their fear at being the target of hate speech, hate crime and terrorism" (p. 11). The Royal Commissioners also used the information gathered from their engagements with New Zealand's Muslim communities for a large section in their report devoted to diversity and social cohesion (cite) and as the basis for their making no less than 15 recommendations to improve social cohesion and New Zealand's response to its increasingly diverse population.

It remains to be seen how these recommendations will be implemented and what their long-term impact will be. But in making these recommendations, the Royal Commissioners deliberately exceeded their Terms of Reference because they reframed the nature and scope of their matters of concern by shifting their inquisitorial gaze away from an act of terrorism and a set of counterterrorism activities towards their vision of what New Zealand society should be. This departure from their mandate, which **de-securitises** a deadly act of political violence and **re-politicises** counterterrorism activities, was welcomed by almost everyone who had an interest in diverting attention away from New Zealand's search for security, including those responsible for managing New Zealand's security challenges as well as those individuals and groups who already had a stake in advancing a policy agenda on social cohesion. *Ko tō tātou kāinga tēnei* triggered a renewed debate focused on the merits of an aspirational vision of New Zealand society built upon a reconciliation between descendants of white settler nationalism, who tend to dominate New Zealand society, and New Zealand's Muslim communities, which continue to be marginalized within New Zealand society. This debate is likely to be a prolonged one, given the Royal Commissioners provided no evidence that policies that encourage social cohesion and respect for diversity prevent acts of terrorism or violent extremism or, worse, will not aggravate those factors which might drive individuals and groups toward articulating their grievances through violence. Nor has this bold and far-reaching social vision, articulated by Royal Commissioners who were appointed, been democratically endorsed by New Zealand voters.

The Royal Commissioners also sought to engage with interested members of the public, calling for submissions between 1 July 2019 to 27 September 2019. They asked the following questions: what worries you most about the safety of your community; what should government agencies be doing to keep us safe; what could be done differently to help prevent something like this happening again? (cite). That call for submission yielded over 1000 responses from individuals (including researchers and academics) and organisations (pp. 54-55). This engagement with the public was not public however, as the Royal Commissioners treated any and all submissions as private information. Even information on the demographic background of those who responded to the call for submissions was not collected. While the Royal Commissioners claim that "[e]very submission we received has contributed to our

report” (cite), they were not able to show how it did so - aside from informing the questions they asked of the relevant public service agencies. They produced a summary of public submissions, which they released at the same time as their final report (cite). This engagement with the public illustrates the Royal Commissioners’ ability to listen and take notes, but does not fully demonstrate their ability to hear and understand those diverse views. Moreover, the process by which the public submissions were collated and analysed, which involved extracting individual points made by submitters into a collective framework, paid little regard for any substantive arguments sustained within an individual submission. This suggests that the public voice was carefully vetted and calibrated to tell a particular narrative and the construction of that narrative silences any murmurs of resistance and critique. There is no way of knowing the full spectrum of views submitted to the RCOI, or the relationship between those voices and society-at-large. The Royal Commissioners could have merely ‘cherry picked’ those statements it finds useful, as evidence either confirming their findings or serving the purposes of a foil, before simply omitting the remainder. Though the apparent intent here has less to do with benefiting from those diverse views held by the public – as the Royal Commissioners claimed the public was, generally speaking, ill-informed on such matters and had limited understanding of counterterrorism – and more to do with the optics of seeking those views and fostering legitimacy for their findings and recommendations. However, the Royal Commissioners recommended the Government take steps to enhance public understanding of counterterrorism by releasing threat and risk indicators of terrorism, hosting annual hui, and establishing an Advisory Group on Counterterrorism to forge a new pathway for public input into counterterrorism policymaking processes (pp. ??). Unlike the abovementioned recommendations to improve New Zealand’s counterterrorism effort, these novel recommendations are potentially transformative of the status quo arrangements by normalizing the inclusion of a ‘public voice’ within the national security system and shifting the existing whole-of-government approach to security to one that embraces a whole-of-society perspective.

Even though the Royal Commissioners wrote to various New Zealand-based academics to elicit submissions from them, they stopped short of establishing a formal process to engage specifically and directly with these *bona fide* subject-matter experts. The Royal Commissioners chose also to eschew a nascent New Zealand security studies literature with its sharpening focus on counterterrorism.¹² Even though some New Zealand-based academics provided the Royal Commissioners with copies of their research, the sections of the report dealing with New Zealand’s national security system and the counterterrorism efforts cites only a master’s thesis.¹³ Consulting with the independent subject-matter experts employed by New Zealand universities could have helped offset the Commissioners’ shortcomings in expertise, introducing some much-needed intellectual independence into their investigation and analysis. In any case, the Royal Commissioners chose not to explain why they did not engage meaningfully with academics, raising the possibility that they did not value subject-matter expertise or feared that it might cut across and contest their own authority. Having deliberately avoided any meaningful engagement with New Zealand academics with expertise in terrorism and counterterrorism, the Royal Commissioners nevertheless recommended the Government establish a programme to fund independent New Zealand-specific research on

the causes of, and measures to prevent, violent extremism and terrorism, which could inform policymaking on counterterrorism and help raise public awareness on the weaknesses and limitations of New Zealand's counterterrorism approach.

Conclusion

Curtailing any prospects that *Ko tō tātou kāinga tēnei* could be rehabilitated as a useful form of investigatory oversight, the Royal Commissioners recommended a minister be given responsibility to lead the response to, and implementation of, their recommendations (cite). Appointing the Minister who is already responsible for the NZSIS and the GCSB as the Minister responsible for leading the Government's response to the Royal Commission's recommendation blurs the lines of public accountability because the former is supposed to be the subject of the latter's oversight. The Royal Commissioners also recommended the creation of an Implementation Oversight Advisory Group that includes representatives of communities, civil society, local government, the private sector, affected whanau, survivors and witnesses, and members of the RCOI's Muslim Community Reference Group. This Oversight Advisory Group would provide advice to the responsible ministers on the design and roll out of the plan to implement the recommendations and would publish that advice (cite). The Ministerial Implementation Oversight Advisory Group appears to comprise a membership without any subject-matter expertise in countering terrorism (cite), which means the Group will, like the Royal Commissioners who recommended it, be unable to challenge received wisdom, offering only a pious rendition of official views.

On the face of it, it seems the Royal Commissioners believed the implementation of their recommendations was too important to be left to those officials whose public sector leadership of the national security system they had called into question. Yet the Minister responsible for leading and coordinating the Government's response to those recommendations is now supported by those officials from the National Security Group at the DPMC. These officials are very unlikely to publicly criticise the Ministers who are most responsible for managing New Zealand's security challenges or to call attention to the silences and omissions in the Royal Commissioners' report that shield those Ministers from allegations of disinterest, negligence and acts of omission by offering them the gift of impunity. Playing a leading role in coordinating the new transformation agenda, these officials are entangled in an obvious conflict of interest, which will see those serving at the helm of the established 'status quo' arrangements provided with ample opportunity to instrumentalise the Commissioners' recommendations for their own bureaucratic interests while entrenching the hierarchies prevailing within the national security system. [***We see evidence of this already (cite proactive release): little or no action on new agency; delivering of new initiatives at odds with recommendations (no fund for research, but a virtual centre they can control); and the mainstreaming of a social cohesion policy agenda into the security sector in a way that either securitises social cohesion or depoliticize national security.***]. Given the very large extent to which this Royal Commission of Inquiry shields ministers from criticism and blame, and the way in which their recommendations are being implemented, we conclude that public inquiries on counterterrorism are no better than other forms of intelligence and security

oversight, such as parliamentary committee and watchdogs, because they all offer the gift of impunity to those with the greatest responsibility for managing contemporary security challenges.

Finally, then, our critical examination of the Royal Commission of Inquiry in the Christchurch Terrorist attack confirms the findings of the general literature on public inquiries, namely that these investigations into serious matters of public concern are usually established for the purposes of finding facts and exposing those facts to public scrutiny, capturing any institutional lessons learned that might prevent a large-scale loss of life from occurring in the future, or to ensure accountability or, more cynically, avoid blame. However, we believe this case of investigatory oversight will be of interest to those academics advancing the literature on critical terrorism studies because it shows how public inquiries on counterterrorism are deeply problematic, bound up in and complicit with the prevailing configurations of executive and bureaucratic power. It shows, for instance, how those individuals of esteem who are chosen to lead public inquiries in the aftermath of a major terrorist attack create knowledge that enables, sustains and justifies current counterterrorism approaches, but whose own received wisdom becomes entangled with the conventional thinking of security professionals. It also shows that public inquiries are sometimes a performative display of executive power whereby the Royal Commissioners were positioned as undertaking a remedial intervention in New Zealand's counterterrorism effort by calling for a new state security institution and improved coordination and cooperation procedures among security professionals, but that their efforts to improve New Zealand's approach to counterterrorism because subsumed by an aspirational vision of New Zealand society which has not yet been endorsed by democratic means. It shows, too, that public inquiries are commissioned in the full light of the public's common interest, but can be cynically exploited by policy advocates, senior bureaucrats, and elected representatives alike when even the most shocking acts of political violence are de-securitised as public attention is refocused on other issues.

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We have none.

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Cullen & Reddy (2016);

New Zealand Police (2019);

Affidavit 2007;

Cabinet manual;

David Shanks;

Order in Council;

Rogers & Mawsdely and other security expertise.

ENDNOTES

¹ For examples of public inquiries into mass casualty events involving human error see: [Lake inquiry into flight 548 \(UK 1972\)](#); [Australia – HMS Voyager \(1960s\)](#); in [New Zealand ballantynes fire safter wwii](#); [Air NZ eorobus flight](#); and [pike river](#). For examples of public inquiries into mass casualty events resulting from acts of political violence, see: [The Goldstone Commission in South Africa \(1990s\)](#); [the Dunblane primary school shooting in Scotland \(1966\)](#); [Bloody Sunday \(1972: 1988\) UK](#); [Chillcot Report into the decision to go to war with Iraq](#).

² See National Commission on Terrorist Attacks upon the United States (July 2004) (available at <https://www.9-11commission.gov/report/911Report.pdf>); see also Joint inquiry into intelligence community activities before and after the terrorist attacks of September 11, 2001 (December 2002) (available at <https://www.intelligence.senate.gov/sites/default/files/documents/CRPT-107srpt351-5.pdf>). See Report of the 7 July Review Committee (June 2006) (available at: https://www.london.gov.uk/sites/default/files/gla_migrate_files_destination/archives/assembly-reports-7july-report.pdf); see also Coroner's Inquest into the London Bombing of 7 July 2005, Rt Hon Lady Justice Hallett DBE (May 2011) (available at <https://webarchive.nationalarchives.gov.uk/ukgwa/20120216072447mp/http://7julyinquests.independent.gov.uk/docs/orders/rule43-report.pdf>); See Belgian Federal Parliament Inquiry? See An independent public inquiry to investigate the deaths of the victims of the 2017 Manchester Arena terror attack, of which the first volume of the report was released in June 2021 (available at <https://manchesterarenainquiry.org.uk>).

³ Cullen and Reddy took xx months, internal consultation, xx pages

⁴ In the course of their investigation, the Royal Commissioners also placed their Terms of Reference, minutes of decisions, summaries of hui [public meetings], summaries of public submissions, victim statements, public statements and other miscellaneous material on its official website (see) while officials from the Department of the Prime Minister and Cabinet (DPMC) pro-actively released their ministerial advice on their website (see).

⁵ <https://www.classificationoffice.govt.nz/assets/PDFs/Christchurch-Attack-Livestream-Classification-Decision.pdf>

⁶ <https://www.beehive.govt.nz/release/christchurch-call-eliminate-terrorist-and-violent-extremist-online-content-adopted>

⁷ Under the Inquiries Act 2013, the Government could have chosen to establish either a public inquiry, which typically investigates a particularly significant, or wide-reaching, issue causing a high level of concern to the public and to Ministers (Cab Man 4.83), or a government inquiry, which typically deals with smaller and more immediate issues where a quick and authoritative answer is required from an independent inquirer and there is no requirement that the report be tabled in Parliament (Cab Man XX). Alternatively, the Government could have established a Select Committee Inquiry or a Ministerial Inquiry.

⁸ A Royal Commission of Inquiry into an Air New Zealand plane crash in Antarctica, which comprised only on a high court judge, was severely criticized for its lack of subject-matter expertise.

⁹ In any case, they do provide the context over xx pages.

¹⁰ Within a year of the Royal Commissioners completing their work, for example, Ahamed Samsudeen, a Sri Lankan national inspired by ISIS, attacked shoppers with a knife in an Auckland supermarket. He was under surveillance by the New Zealand Police, who shot and killed him at point blank range (Newshub 2021). First identified by the New Zealand Police in 2016 as a person suspected of intending to carry out a terrorist act, they previously laid several charges against Samsudeen, though a charge under the Terrorist Suppression Act was disallowed because the definition of terrorism did not include preparatory acts (NZSIS 2021). Samsudeen was one of those individuals who the Commissioners deemed the subject of disproportionate attention by security professionals.

¹¹ It had its own terms of reference set by the RCOI. available at.

¹² See: Battersby 2018; Ip 2016; Keenan 2008; Stephenson 2018; OTHERS.

¹³ The exception here was an MA thesis from Waikato University by Chris Rothery (fn 56 and 57). full title

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