

COMMISSION OF INVESTIGATION

into

The Dublin and Monaghan bombings of 1974

Fifth Interim Report

July 2006

Contents Page

Introduction	3
The investigation task	4
The current stage of the investigation	5
The final phase of the investigation	5
Time frame	8
Legal costs	9
Court proceedings	10
Conclusion	10

Appendix A

Extract from *Iris Oifigiuil* 13th May 2005

1. Introduction

The commission of investigation into the Dublin and Monaghan bombings of 1974 (hereinafter referred to as “the commission”) was established by Order of the Government made under section 3 of the Commissions of Investigation Act 2004.

Notice of the making of the Order of the Government was published in the 13th May 2005 issue of *Iris Oifigiuil*.

The terms of reference of the commission were published on the 13th May 2005 issue of *Iris Oifigiuil*. A copy of the terms of reference is set out in Appendix A of this interim report.

The commission has decided, pursuant to section 6(6) of the Commissions of Investigation Act 2004, to request the Taoiseach, as specified Minister under section 3(3)(b) of the Commissions of

Investigation Act 2004, to consider a revision of the time frame for the submission of the final report of this statutory investigation.

This fifth interim report is submitted to the Taoiseach pursuant to section 33(3) of the Commissions of Investigation Act 2004.

2. The investigative task

The terms of reference of this statutory investigation are limited, and require the commission to investigate in private certain specific matters concerning the criminal investigation by An Garda Síochána of the bomb explosions that occurred in Dublin and in Monaghan on the 17th May 1974.

The commission considers that it has now substantially completed the investigative task set out in its terms of reference.

There are some minor aspects of this statutory investigation that the commission requires to finally conclude but they are not matters that, in the commission's view, are likely to delay the conclusion of the investigation.

3. The current state of the investigation

The commission considers that it has substantially completed its investigation in relation to each of the individual matters contained in its statutory terms of reference.

4. The final phase of the investigation

The commission has commenced the final phase of this investigation in accordance with the mandatory statutory processes set out in Part 5 of the Commissions of Investigation Act 2004.

This final phase of the investigation will conclude with the submission of the final report of the commission to the Taoiseach pursuant to section 43 of the Commissions of Investigation Act, 2006.

The time-scale for the conclusion of this final phase of the investigation has had to be reviewed by the commission because of important legal concerns relating to certain security and intelligence material relevant to the commissions terms of reference.

The commission, in the discharge of its independent investigative and reporting function, is required by law to take proper account of the continuing interests in, and duties and obligations in respect of the security and intelligence material that has been disclosed to the commission.

The conclusion of this final, or reporting, phase of the investigation requires careful consideration of the position of those persons, agencies and entities who have disclosed sensitive material to the commission for the purposes of the investigation.

It may also arise that a longer period of time may be required by those persons, agencies and entities concerned with this sensitive material to make submissions and requests to the commission pursuant to section 35(1) and section 36(1) of the Commissions of Investigation Act 2004.

The commission is satisfied that it requires a further period of time to properly consider and deal with this aspect of the conclusion of its work.

5. Time frame

The commission is required by section 32(4) of the Commissions of Investigation Act 2004 to endeavour to submit its final report to the Taoiseach by the 31st July 2006.

The commission is satisfied that, consistent with its duty to properly report to the Taoiseach on its statutory investigation of the specific matters contained in the commission's terms of reference, the time frame for the submission of its final report is no longer adequate.

The commission requests the Taoiseach, as specified Minister, to give consideration, under section 6(6) of the Commissions of Investigation Act 2004, to revising the time frame for the submission of the final report in this investigation to the 31st October, 2006.

6. Legal costs

The legal costs payable under the ‘General Guidelines on Payment of Legal Costs and Other Expenses to Persons Who Become Involved with the Commission of Investigation’ published by the Taoiseach, on the basis of the applications for legal costs and certain other expenses received to date, do not appear likely to be a significant financial cost in this statutory investigation.

The commission does consider that further applications for legal costs and certain other expenses are likely to arise in relation to certain persons who have an involvement with the commission in the final, or reporting, phase of the investigation. These further legal costs and certain other expenses will be considered by the commission in accordance with the general guidelines published by the Taoiseach and the mandatory requirements of the Commissions of Investigation Act 2004.

7. Court proceedings

There are no proceedings concerning this statutory investigation pending before the High Court, and no person has indicated to the commission an intention to commence legal proceedings concerning the inquiry or reporting work of this statutory investigation.

8. Conclusion

In these circumstances I consider that I have a duty to report this development, and to express my view that it is in the interests of this investigation and its related public interest that I request the Taoiseach, as specified Minister under section 6(6) of the Commissions of Investigation Act 2004, to consider a revision of

the time frame for the submission of my final report to a date not later than the 31st October, 2006.

Dated this 20th day of July, 2006.

Patrick MacEntee, SC, QC

Sole Member

APPENDIX A

[Terms of Reference]