

COMMISSION OF INVESTIGATION

into

The Dublin and Monaghan bombings of 1974

Fourth Interim Report

May 2006

Contents Page

Introduction	3
Progress of investigative work	4
‘Justice for the Forgotten’	5
The current stage of the investigation	7
Completion of the investigation	9
Time frame	10
Legal costs	11
Court proceedings	12
Conclusion	13

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

2. Progress of investigative work

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.

At the end of April 2006 the commission considered that it had exhausted, to the extent that it could, all available and appropriate

avenues of investigation in relation to the matters set out in its terms of reference.

The commission at this time had commenced the statutory process to bring its work to a close.

3. ‘Justice for the Forgotten’

At this time one important area of investigation by the commission had, in the commission’s view, failed to make adequate progress. This failure was due to an absence of sufficient and reliable information. In these circumstances the commission had arrived at the provisional view that it would have to report to the Taoiseach that it could not adequately answer the matters concerning this particular area of investigation, and intended setting out the reasons why this was so.

The commission has had a number of meetings with members of 'Justice for the Forgotten'. This association represents many of the victims of the Dublin and Monaghan bombings, and their families. At a meeting with 'Justice for the Forgotten' Ms. Margaret Urwin, their executive representative, indicated that they had recently come into possession of information that they considered relevant to this aspect of the commission's terms of reference.

This information, when taken with the information already available to the commission, was sufficient to warrant one final attempt to further the investigation of this particular aspect of the terms of reference.

On the 17th May 2006 the commission succeeded in its investigative efforts in this matter and obtained new information sufficient to attempt to make contact with a person whose identity is material to the commission's specific terms of reference. On the

23rd May 2006 the commission was able to meet this person outside the State.

The commission is satisfied that this person is the person whom it had been seeking in relation to the outstanding and unresolved area of its terms of reference.

4. The current state of the investigation

The commission considers that it has succeeded in its investigative work, in obtaining newly disclosed material in relation to each of the individual matters set out in its terms of reference.

Each individual area of investigation has required a search for information, material and persons both within the State and outside of the State. The statutory powers contained in the Commissions of Investigation Act 2004 have been of considerable assistance in

furthering this investigation within the State. These powers were not available to the commission in its attempts to identify possible locations of relevant information, material and persons outside of the State.

Where investigations were attempted by the commission outside of the State they have, in all instances, been dependent upon the current policies, priorities and practices of those out of State entities and agencies from whom that cooperation was sought.

The speed and effectiveness of the attempts by the commission to conduct out of State investigations has depended, to a considerable degree, on the voluntary cooperation of these out of State entities and agencies.

5. Completion of investigation

The commission considers that it should attempt to conclude its investigations in relation to the person it met on the 23rd May 2006.

Once this area of the investigative work is complete the commission considers that it will have discharged its mandate and that this investigation should conclude.

The mandatory statutory processes set out in the Commissions of Investigation Act 2004 strictly regulate the procedure to be followed by the commission prior to the delivery of its final report.

These processes require an appropriate time-scale for their completion.

The effect of the recent development will require a re-consideration of the evidence on certain matters discovered in the course of this investigation. It may also be necessary for the

commission to invite certain parties to make submissions on certain aspects of its draft report before completing its draft final report.

6. 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 May 2006.

The commission is satisfied that, consistent with its duty to investigate the specific matters detailed in its terms of reference under the Commissions of Investigation Act 2004, 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 July 2006.

7. Legal costs

The legal costs likely to be payable under the ‘General Guidelines on Payment of Legal Costs and Other Expenses to Persons Who Become Involved with the Commission of Investigation’ issued by the Taoiseach will, on the basis of the investigative work concluded to date, not be a significant cost of the investigation.

The commission does, however, consider that this new development in the investigation may incur further legal costs and other expenses. These costs and other expenses will be considered

by the commission in accordance with the requirements of the Commissions of Investigation Act 2004.

8. Court proceedings

There are no proceedings concerning this statutory investigation pending before the High Court. The commission is not aware of proceedings in contemplation. If proceedings were to be commenced in the future by the commission, or any other person, seeking relief under the Commissions of Investigation Act 2004 the President of the High Court, Mr. Justice Finnegan, has put in place measures set out in a Practice Direction of the High Court for the prompt hearing and determination of any such application.

9. 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.

Dated this 29th day of May 2006.

Patrick MacEntee, SC, QC

Sole Member

Appendix A

Extract from Iris Oifigiuil 13 May 2005

COMMISSION OF INVESTIGATION,
DUBLIN AND MONAGHAN BOMBINGS OF 1974.

TERMS OF REFERENCE

To undertake a thorough investigation and make a report on the following specific matters considered by the Government to be of significant public concern.

(1) Why the Garda investigation into the Dublin and Monaghan bombings was wound down in 1974?

(2) Why the Gardaí did not follow-up on the following leads:

- (i) information that a white van, with an English registration plate, was parked outside the Department of Posts and Telegraphs in Portland Row and was later seen parked in the deep sea area of the B& I ferry port in Dublin, and the subsequent contact made with a British Army officer on a ferry boat leaving that port;
- (ii) information relating to a man who stayed in the Four Courts Hotel between 15 and 17 May, 1974 and his contacts with the UVF;
- (iii) information concerning a British Army corporal allegedly sighted in Dublin at the time of the bombings;

and

(3) In relation to the missing documentation;

- (i) the exact documentation (Departmental, Garda intelligence and any other documentation of relevance) that is unaccounted for;
- (ii) the reasons explaining why the documentation went missing;
- (iii) whether the missing documentation can now be located; and
- (iv) whether the systems currently in place are adequate to prevent a re-occurrence of such documentation going missing.

To take account of investigative work already undertaken into the Dublin and Monaghan bombings of 1974, including the Report of the Independent Commission of Inquiry, the Final Report of the Joint Committee on Justice, Equality, Defence and Women's Rights, Inquest Statements and the Internal Garda Investigation.

To provide a final report to An Taoiseach not later than six months from the date of establishment of the Commission.

STATEMENT OF COSTS AND TIMEFRAME FOR INVESTIGATION

The Commission of Investigation will be established for a period of six months. It will be required to make a final report to the Taoiseach, as the specified Minister, not later than the end of six months from the date of its establishment.

The Commission will comprise a Sole Member. Staffing of the Commission will comprise a Senior Counsel and three support staff.

The estimated legal fees, salaries and other administrative costs for the Commission total €604,880 for a six month period. This does not include any third party costs that may be awarded by the Commission.

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