



Tithe an Oireachtais

**An Comhchoiste um Dhlí agus Ceart, Comhionannas,
Cosaint & Cearta na mBan**

**An Tuarascáil ón gCoimisiún Fiosrúcháin Neamhspleách faoi
Bhuamáil Theach Tábhairne Kay, Dún Dealgan**

Samhain, 2006

Houses of the Oireachtas

**Joint Committee on Justice, Equality, Defence
and Women's Rights**

**Final Report on the Report of the Independent Commission
of Inquiry into the Bombing of Kay's Tavern, Dundalk**

November, 2006

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Chairman's Preface

At the outset, the Sub-Committee wishes to commence this Report by expressing again its deepest sympathy with the victims and families of the victims of the car bomb explosion on Crowe Street, Dundalk, outside Kay's Tavern in December 1975; the gun and bomb attack which was carried out at Donnelly's Bar, Silverbridge, Co. Armagh also in December of that year; the bombing at Dublin Airport in November 1975; the car bomb outside the Three Star Inn in Castleblayney, County Monaghan in March 1976; the explosion and murder at Barronrath Bridge, County Kildare in June 1975; the bomb at Swanlinbar, County Cavan in February 1976; the murders perpetrated between 1974 and 1976 at Dungannon, County Tyrone; at Castleblayney, County Monaghan; on the road to Newry, at Newtownhamilton and Whitecross in County Armagh; at Gilford, County Down; Charlemont; Ahoghill, County Antrim; and in the gun and bomb attack at Keady, County Armagh.

In human terms the true costs of these atrocities is incalculable. The Sub-Committee wishes to acknowledge the enormous suffering endured by both the victims and their families, which in many cases is still ongoing. We accept as a Sub-Committee that this ongoing suffering is accentuated by the lack of closure, the failure to bring the perpetrators to justice and the ongoing suspicions of collusion.

It is hoped that the publication of both the Barron Report and this Report will go some way towards alleviating the distress these individuals have suffered over the years.

We have heard oral submissions made by victims' relatives and survivors, serving and former members of the Gardai, the Chief Constable of the PSNI and Historical Enquiries Team, officials and interest groups. We would like to thank all those persons who appeared before the Sub-Committee, who gave of their time so generously.

The Sub-Committee believes it is important that the Oireachtas can and does inquire into matters of great public concern such as the terrible atrocities referred to in this Report. It is important also, that the central characters are heard by the Oireachtas, which is the primary seat of democracy and the centre of public representation in Ireland. We believe that the Oireachtas is an appropriate forum where efforts should be made to find the truth at the heart of matters of great concern. I am grateful to the other members of the Sub-Committee for their hard work and commitment to the public interest in carrying out this process.

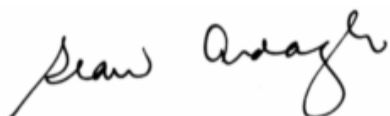
The Committee is indebted to Hugh Mohan S.C. and Paul Anthony McDermott B.L. for their pro-active role in advising and assisting the Committee. Credit is also due to Ray Treacy and the staff of the Committee for their valuable administrative and secretarial backup.

The Joint Committee on Justice, Equality, Defence and Women's Rights hereby adopts as a report of the Joint Committee, the Report of the Sub-Committee on the Barron Report in accordance with the resolutions of Dáil Éireann and of Seanad Éireann dated 5th July.

In adopting the report of the Sub-Committee, the Joint Committee wishes to emphasise that all views expressed by the Sub-Committee in the report and all conclusions drawn and recommendations made therein are those of the Joint Committee.

We commend this report to the Houses of the Oireachtas.

Signed,

A handwritten signature in black ink, appearing to read 'Seán Ardagh', written in a cursive style. The signature is positioned above a horizontal line.

Mr. Seán Ardagh T.D.,
Chairman of the Joint Committee on Justice,
Equality, Defence and Women's Rights,
29 November 2006.

Sub-Committee on the Barron Report of the Independent Commission of Inquiry into the Bombing of Kay's Tavern, Dundalk

Deputies



Sean Ardagh
(FF)



Máire Hctor
(FF)



Seán O Fearghaíl
(FF)



Finian McGrath
(Techn.Grp)



Kathleen Lynch
(Lab)

Senators



Maurice Cummins
(FG)



Jim Walsh
(FF)

Chapter One

Introduction and Victims' voices

Introduction

- 1) By motions of referral by Dáil Éireann and Seanad Éireann dated 5 July, 2006, as amended on 9 November 2006, both houses of the Oireachtas requested the Joint Committee on Justice, Equality, Defence and Women's Rights, or a Sub-Committee thereof, to consider, including in public session, the Report of the Independent Commission of Inquiry on the bombing of Kay's Tavern, Dundalk and report back to the Dáil and Seanad by 1 December 2006 for the purposes of making such recommendations regarding legislative or administrative provisions as the committee considers appropriate.
- 2) These are the circumstances, which led the Joint Committee to establish the Sub-Committee on the Barron Report. The Committee was empowered under the motions of referral to accept, including in public session, submissions on the Report from interested persons and others, and to report back to the houses, and analogous powers were conferred on the Sub-Committee. This report has been issued accordingly.
- 3) During the course of his work on the Dundalk bombing Judge Barron received and considered additional information concerning other subversive attacks and incidents that occurred in the State between 1974 and 1976. This was in line with a specific request from the Government that the inquiry take into account other bombing incidents that coincided with the relevant period. The Sub-Committee therefore, also included these incidents in its agenda for consideration.
- 4) It is necessary to outline how the Sub-Committee approached its review of the Barron Report and the legal boundaries within which they conducted their inquiries. At all times the Committee was bound by its very precise terms of reference. In particular, the Sub-Committee was not conducting an investigation of its own accord nor was it the function of the Sub-Committee to reach its own findings of fact. The Committee is both legally and constitutionally bound to follow the decision of the Supreme Court in the *Abbeylara* case (*Maguire v Ardagh* [2002] 1 IR 385). In that case Mr. Justice Hardiman stated that:

“If the Oireachtas were enabled to send for any citizen and to reach findings of fact or conclusions which could be adverse to him and affect his reputation and employment, it would indeed be functioning as a ‘High Court of Parliament’ and its members would indeed be ‘general inquisitors of the realm’, to use the archaic language employed by the English courts to describe the former powers of the Westminster parliament. I have not heard anything which confers such a power on the Oireachtas, either in relation to civil or public servants or in relation to citizens generally”.

Mr. Justice Geoghegan stated:

“Any kind of inquiry by an Oireachtas committee or sub-committee for a direct and express legislative purpose and which would not be intended to result in findings of blameworthy conduct on the part of identifiable individuals is constitutionally and legally permissible.”

As a result of this decision, the Sub-Committee is prevented from making any findings or expressions of culpability against individuals who are not members of the Houses of the Oireachtas. The Sub-Committee asked that those involved would bear this in mind at all times.

- 5) At the outset we bear in mind that the Dundalk bombing, the Castleblaney bombing and the Dublin Airport bombing were acts of international terrorism where terrorists from another jurisdiction entered this one to murder and maim innocent civilians. We also bear in mind the words of Mr. Paul O’Connor of the Pat Finucane Centre who suggested that one of the ways of ensuring that incidents such as those discussed in the report do not happen again is to have full acknowledgement and accountability and that this can only occur where there is complete public knowledge of what actually happened. In particular if the persons responsible for facilitating those acts of terrorism or of closing their eyes to them are made accountable (even if a criminal prosecution is unlikely at this remove in time) then in the words of Mr. James MacGuill, solicitor for the Watters and Rooney families, it will serve as *“an indication that no other State official can hope to conduct himself in this way in the belief that his conduct will be condoned by secrecy or otherwise”*. In the era of 9/11, Madrid and London the lessons to be learned from the acts of international terrorism that occurred in this country are a matter of urgent and pressing concern. Thus the Sub-Committee believes that it is engaged in something far more serious and pressing than a historical exercise. The fact that collusion occurred in these acts of international terrorism raises profound questions as to our relationship with the United Kingdom. The fact that we are dealing with acts of international terrorism also raises the question about whether or not the UK can legitimately refuse to co-operate with the investigation.

- 6) The Sub-Committee also notes that its work in respect of these acts of international terrorism cannot be separated from its consideration of other terrorist acts. As Ms. Margaret Urwin of Justice for the Forgotten clearly explained:

“... on the completion of the fourth Barron report we can confidently make links between four attacks in the South in the two year period from May 1974 to March 1976: the Dublin-Monaghan bombings of May 1974, the shooting of Mr. John Francis Greene in January 1975, the Dundalk bombing of December 1975 and the Castleblaney bombing of March 1976. In three cases bombs were placed without warnings. These cross-Border attacks claimed the lives of 38 people.”

- 7) During the course of this inquiry, the Sub-Committee also considered a number of atrocities that occurred in Northern Ireland during this period in particular; the gun and bomb attack at Donnelly’s Bar, Silverbridge, County Armagh; the Attack on the Reavey Family at their home at Whitecross near Markethill, County

Armagh; the attack on the O'Dowd family at their home in Ballyduggan, Gilford, County Down; the gun and bomb attack at The Rock Bar, Tassagh, Keady, County Armagh and the attack on the Miami Showband in Banbridge, County Down.

- 8) It is suggested that this report should be read alongside our three previous reports and, in particular, the issue of collusion should be considered across all four of our reports. The three previous reports we have conducted are:
 - (i) Final Report on the Report of the Independent Commission of Inquiry into the Dublin and Monaghan Bombings (March 2004).
 - (ii) Final Report on the Report of the Independent Commission of Inquiry into the Dublin Bombings of 1972 and 1973 (February 2005).
 - (iii) Final Report on the Report of the Independent Commission of Inquiry into the Murder of Seamus Ludlow (March 2006).

Victims' Voices

- 9) The examination of the Report of the Independent Commission (hereinafter referred to as the Barron Report) commenced with oral submissions from surviving victims of the atrocities and bereaved relatives. The Sub-Committee wished to hear from these people at the outset of the hearings in order to place them at the centre of its work. It was also felt that hearing from the victims and their relatives would focus attention on the grief and distress which these people still endure and hopefully help them to find some degree of closure to these tragic events. A number of the relatives said that it was the first opportunity that they had been given to talk about what had happened in public. A number of them observed that no-one from the State had come to talk to them either at the time or since.
- 10) The chairman of the Sub-Committee, Deputy Seán Ardagh, highlighted how invaluable the contributions of the families and the survivors are to the working of the committee and formally thanked them for their attendance and the immense courage that they displayed in sharing their stories.
- 11) A selection of quotes from the victims and victims' families have been included in order to give an insight into what the Sub-Committee heard. In order to uncover further details of their stories it is necessary to read the full transcripts, which are available on the Oireachtas website.

The bombing of Kay's Tavern in Dundalk.

- 12) On the evening of 19 December 1975, a car bomb exploded on Crowe Street, Dundalk outside a licensed premises known as "Kay's Tavern". Two people were killed in the explosion, Hugh Watters, aged 60, and Jack Rooney, aged 62. Both

men were married, with children. Many more persons were injured. The ensuing Garda investigation into the bombing was unable to find sufficient evidence to charge anyone in relation to the attack. In his report, which this Committee has carefully considered, Judge Barron concluded that the bombing of Kay's Tavern was carried out by Loyalist extremists, most probably associated with The Mid Ulster UVF. He concluded that it was likely the attack was carried out on the initiative of a group largely consisting of UVF members. He determined that the security forces in Northern Ireland may or should have known who was responsible for the Dundalk bombing. He further concluded that actions by the RUC were designed to limit information relating to security forces collusion in terrorist activity from reaching the public domain, which in turn did nothing to counteract such activity. He said that without proof as to who was involved in the bombing, allegations of collusion were impossible to prove or disprove. He said the forensic evidence was inconclusive but the nature of the explosives used suggested a possible link between the perpetrators of the Dublin/Monaghan/Dundalk/Castleblayney bombings. He held that the security forces in Northern Ireland did receive advance warning of an impending attack on Dundalk, and this warning was conveyed to An Garda Síochana. He said he was not able to establish whether the apparent sighting of the bomb convoy leaving Portadown on the day of the bombing was known to the authorities in Northern Ireland before the attack itself took place and in those circumstances it was impossible to say whether those authorities knew enough to have prevented the attack taking place.

- 13) Ms. Margaret English, whose father Hugh Watters was killed in the Dundalk bombing spoke of the shocking killing of a quiet and innocent man whose:

“greatest words were those of human charity and human dignity”.

She continued, reflecting upon the impact that the tragedy had on her life:

“I would not look at the television because I was afraid of what I would see. Every time I heard about a bombing, I was taken back to my life so I always kept that away. I would not look at the television.”

Ms. English went on to describe the anger that she feels towards the Irish Government:

“I thought the Irish Government would look after its citizens. It is actually breaking my heart to think that it did not. My thoughts are - I hate to say it and I hope Daddy is not looking from up there and saying: ‘Margaret, that is awful’ - that I really and honestly believe that the Irish Government committed a worse crime than the people that killed my Dad by covering it up. If it had, in the early 1970s, done something about what was happening with these bombings, my Dad would not be dead.”

Ms. English concluded by appealing to the Members of the Oireachtas:

“to put this in God's hands and to go the road God would go - truth and justice. Truth and justice are all the families want. As Daddy used to say,

and he never got it in his life, I would love you to show each of the families Christian charity. All we are looking for is Christian charity, truth and justice.”

- 14) Ms. Maura McKeever is a daughter of Jack Rooney who was also killed in the Dundalk Bombing. Ms. McKeever began by mentioning that her mother was supposed to address the Sub-Committee but had been too ill to attend. Ms. McKeever said she had asked her mother the previous night for her thoughts. Ms. McKeever recounted her mother’s reply:

“She said as two citizens of the State, two innocent victims, they should have been treated more fairly. Nobody wanted to know; nobody ever came near us to say anything. She is now 89 and she is still waiting for somebody to come and tell her there was collusion.”

Ms. McKeever went on to speak of how she felt abandoned by certain sectors within the community following the tragedy. She spoke of her father as:

“a great man for everything a man who loved his community and collected in the chapel.”

She continued:

“but neither the Government, Garda nor the priests - nobody - came near my mother. It was like saying: ‘We will ignore it and it will go away’. Nobody cared and I am living with that.”

Ms. McKeever explained what she was hoping for from our hearings:

“I would actually like to see somebody come forward and say: ‘Yes, you are right; this is what happened’. That is what I am really hoping for from today - that I will get some answers.”

She concluded:

“I want a public inquiry because I feel we should have it. After all, the guards were supposed to be doing their duty and the Government was supposed to be doing its. We are citizens of this State. We are supposed to be protected by the State. We are not being protected. We have been ignored. It is a case of if you just go away, it will be fine. I am asking for a public inquiry today.”

- 15) Deputy Máire Hctor reiterated the expression of gratitude towards the victims’ families for their involvement and proceeded to ask Ms. English about growing up in Dundalk in the mid-1970s and about her recollections of the time. Ms English replied: *“I always felt we were all so secure - really secure - and then when Daddy was murdered, it was like somebody got our little cocoon and just broke it”*.

Ms. English went on, describing the anguish of the year that her father was killed:

“That year we went around in circles but nobody ever came to ask if we wanted to talk about it. We were just pushed aside. It destroys families but nobody helped”.

- 16) In response to Deputy Finian McGrath, Ms. McKeever described her father: *“He was a great man for doing somebody a good turn. He loved life. He loved set dancing and music. He was an all-rounder and he would do anything to help anybody. He never hindered anybody and he knew an awful lot about Dundalk”.*

Ms. McKeever’s father survived for three days, despite his injuries. Deputy McGrath enquired as to whether Ms. McKeever ever held out any hope for her father’s recovery. She recounted the day she had to tell her mother that there was no hope:

“Then one of the doctors said to me, ‘Do you think you could explain to your mother that I do not think your father is going to survive.’ I do not know why I was asked to do that. I was only in my early 20s. What would I have known about anything? When I said it to her she went crazy. She said, ‘What kind of a daughter are you, trying to tell me your father is going to die?’ However, I was only doing what I was asked to do. I did not know any better. It was an awful time, a dreadful time.”

Ms. McKeever described the lingering effects of such a tragedy:

“My father was buried on Christmas Eve and Christmas was the most awful time for me. I always tried to get it over in a heave, just to get through it some way.”

The Bombing at Castleblaney

- 17) At about 8.22 p.m. on 7 March 1976 a car bomb exploded outside the Three Star Inn on West Street, Castleblaney. One man was killed, namely Mr. Patrick Mone, who was a 56 year old farmer. Another 26 people were injured. Extensive damage was caused to the Three Star Inn and its immediate vicinity. Judge Barron examined the Castleblaney bombing in his report. He did not draw any specific conclusions in relation to the bombing. He noted that the Garda investigation report had concluded that someone from Northern Ireland was responsible for the outrage. However, no conclusion or opinion was offered by the Garda report as to which particular subversive group might have been responsible for the attack. He noted that in the statement dated 3 January 1999 the former RUC Sergeant John Weir claimed to have information that the Castleblaney bombing was carried out by a named fellow RUC Officer and a named UDR Officer and that the explosives had been provided by a named UDR Officer and were stored in a farmhouse at Glenanne before the operation.
- 18) Justice for the Forgotten informed us of their belief that the intended target in Castleblaney may well have been the Derry to Dublin Ulsterbus, which was due to arrive and park at the exact spot where the bomb exploded at 8.15 p.m. The bus was delayed slightly because of the Garda checkpoint and arrived

approximately two minutes after the bomb exploded. Apparently, the bus was very punctual and one could set one's clock by it. Sadly, one man, Patrick Mone, died. If, however, the bus had arrived on time, there could have been absolute carnage and a huge death toll. Margaret Urwin, secretary of Justice for the Forgotten, suggested that this belief is supported by the fact that the bomb car was parked with the boot facing out onto the street.

- 19) Ms. Anna Mone McEneaney, the widow of Patrick Mone who was killed in the bombing at Castleblaney described the moment the bomb went off:

“When it was close to the time for the bus, Patrick got out of the car and was standing with his hands in his pockets waiting for the bus. The first thing I saw was like a flash of lightning and a bang - the bomb. Our car was turned over. In a while the town was in darkness, the dust cleared and I got out through the windscreen. I saw he was lying on the street and his legs up.”

In the aftermath of the tragedy, Ms Mone McEneaney was left alone to try to come to terms with all the unanswered questions:

“Nobody ever came near me to say who did it, where it came from or how I was getting on - one thing or another. Not until this day did I hear anything. I would like to know who planted the bomb. I always said I would like to meet the person who planted it and why they would do such a cruel thing. We were innocent people sitting there.”

- 20) Mr. Thomas Mone, a nephew of Patrick Mone began by outlining the findings of the investigation into the attack:

“The investigation report states that under the circumstances, the only conclusion one can come to is that someone from Northern Ireland was responsible for this outrage. As a member of the family I think for a citizen of the Irish Republic to be let down by this is terrible.”

Mr. Patrick Mone was in town that night simply because he was doing a favour for a friend. He described his uncle as a quiet man who disliked crowds and spoke of the sad irony that he was present in the locality:

“My uncle was a very quiet man. He would not go into Castleblaney on a Sunday night because at that time, I believe, one could not get a drink in the North and everybody would come up across the Border. There would be big crowds in the town and there might be a bit of trouble in the town. He would never be anywhere near that. It was an awful crime that he was there.”

At a later stage in response to a question Senator Maurice Cummins posed about his thoughts on the investigation Mr. Mone stated that he felt:

“the investigation was a sham, more or less”.

Mr. Mone went on to express the feelings of many present:

“The families - I believe we are all here - want to see justice and closure on this matter. We want to know the truth. That is why we are all here.”

- 21) In response to questions from Deputy Lynch and Senator Cummins, Ms. Mone McEneaney confirmed that apart from one Garda statement nobody from the Gardaí or the Department of Justice got in contact thereafter.

The Dublin Airport Bombing

- 22) At approximately 1.20 p.m. on Saturday 29 November 1975 a bomb exploded in a cubicle in the gents toilet adjacent to the public bar on the ground floor of Dublin Airport. John Francis Hayes, a 38 year old married man from Balbriggan, County Dublin, was killed in the explosion. Five other persons who were in the toilet and three transit passengers were injured, although not seriously. It appears that nobody saw the bombs being planted. A claim of responsibility was issued to the Press Association in Belfast by the Belfast brigade of the UDA. The Garda investigation report concluded that it could only be assumed that some organisation from the North, such as the UDA, was responsible for the act. Nobody was prosecuted, and no further developments seem to have taken place.
- 23) Ms. Monica Hayes whose husband John Francis Hayes was killed in the Dublin Airport tragedy described the manner in which her husband was killed:

“He had been on his lunch break, went into the toilets to wash his hands and as he lifted up the toilet tissue the bomb went off. Apparently the toilets just fell in on top of him. I think he stayed alive for about an hour but he was not conscious.”

At a later stage, Ms. Hayes described the husband she had so tragically lost:

“He was born in Kilkenny. He was a countryman, a big countryman. He loved his hurling; he was quiet and liked to go for his pints. He did not drink that much, it is just that he had his friends at the airport. He loved the job at the airport. He always liked to be out in the open and that was probably because he was brought up in Kilkenny. He was used to being in the open all the time. He had been in England eight years before I met him and we got married in England. He always wanted to come back to Ireland.”

- 24) Mr. Brendan Hayes, the son of John Francis Hayes came along to support his mother and shared his stark reality:

“Unfortunately I have no recollection of my father as I was only three years of age when he was murdered.”

Deputy Seán O’Fearghaíl wondered whether Ms. Hayes had any awareness at the time that the Gardaí were conducting an investigation. Ms. Hayes replied:

“No, none whatsoever.”

The gun and bomb attack at Donnelly's Bar in Silverbridge

25) On the same evening of the Dundalk bombing outside Kay's Tavern, namely 19 December 1975, a gun and bomb attack was carried out at Donnelly's Bar, Silverbridge, County Armagh, in which three persons were killed. Police on both sides of the border believed that the two attacks were linked. The Silverbridge attack was initially claimed on behalf of The Red Hand Commandos, an organisation affiliated to the UVF, and also a cover name used by Mid Ulster Loyalist subversives for attacks undertaken without the sanction of the UVF leadership. The attack was said to have taken place at around 9.20 p.m. A car drove up and a man got out. He had a gun and started shooting across the top of the car. According to witnesses, one or two gunmen then went into the pub and started shooting for approximately 30 seconds. They then withdrew on the instructions of one of them who shouted "back out, back out". As they were leaving one of them threw a bomb on the floor of the bar, which exploded, causing numerous injuries. Three persons died, Patrick Donnelly, aged 24 years, Michael Donnelly, aged 14 years and Trevor Brecknell, aged 32 years. Much of the information that Judge Barron had in relation to the bombing came from the Pat Finucane Centre. An RUC investigation file was submitted to the DPP for Northern Ireland on 5 April 1976. This appears to have been for information purposes only as no person had been made amenable for the attacks. It appears that an RUC Officer and another person were charged with withholding information in relation to the attack but were not prosecuted after the DPP entered a *nolle prosequi* in their case.

26) Mrs. Ann Brecknell whose husband Trevor Brecknell was killed in the attack was in hospital following the birth of her third child when she heard a radio news report about the explosion:

"I knew immediately that Trevor had been killed, I do not know how, but I simply knew."

Later, Mrs. Brecknell was asked by Deputy McGrath to describe her late husband for the Sub-Committee. She spoke of an outgoing person who loved life and his family: *"He loved mixing with people and he played darts. He loved watching football. He was just a great family man, very good-natured and he would have done anything for anybody."*

27) Deputy Hoorcar asked Mrs. Brecknell what the family would like the Sub-Committee to do for it. Mrs. Brecknell responded and in doing so put into words the outcome that so many desired:

"I would like to find out why it was done and who did it. I know at this stage that nobody is ever going to be brought to justice but I would like, for our peace of mind and for my family's peace of mind, and for my grandchildren, to know exactly why it was done to innocent people."

Mrs. Brecknell's son Alan continued:

“I think it is incumbent on this committee and on the Dáil in general to ask the hard questions where they have to be asked.”

- 28) In response to an inquiry made by Deputy McGrath Mrs. Brecknell described a visit from the RUC while she was at the hospital and the inexcusable lack of communication that followed:

“A sergeant brought me some of Trevor's personal belongings, including his ring, watch and chain. He said that they knew who was responsible but that they had an alibi of having been playing pool in Markethill with their mates and that nothing could be done about it. That was it; no one came to me thereafter, and I really knew very little.”

The Attack on the Reavey Family

- 29) The Reavey family lived at Whitecross near Markethill, County Armagh. At 6.10 p.m. on Sunday 4th January 1976 three sons of the family were alone in the living room of the house watching television. Three men entered the house wearing balaclavas and one of them started firing a machine gun. John Martin Reavey and Brian Reavey were killed at the scene and Anthony Reavey survived the attack but died of a brain haemorrhage a month later. It was generally believed to be a loyalist attack. The nearest UDR base was in Glenanne. The family was of the view that they were harassed by the RUC. Eugene Reavey told Judge Barron that an RUC officer had identified three persons as being involved in the attack and he also described how he got the same names from other sources. Judge Barron noted that despite the fact that Eugene took this up with the RUC and despite the fact that they already had the information in whole or in part, the investigation was not progressed.

- 30) Mr. Eugene Reavey who lost his three brothers depicted the horrifying scene in the house:

“John Martin was sitting in another chair by the fire. He was riddled with bullets and died instantly. Brian was shot once through the back and the bullet went through his heart. He stumbled into the room and was sitting in the fireplace with his arms folded. Anthony had dived under the bed. They came up and riddled his legs, lower abdomen and groin with eight to ten bullets.”

He then described the aftermath:

“We then went to Daisy Hill Hospital where my father and Seamus identified the bodies. On our way back from the hospital, we were stopped by the police and the army. We were taken out of the car and put up against a land rover. They began to abuse my mother. They told her that it was as well that she did not have any trouble on their side on such a bad and cold night and asked her how many noses she had. They then expressed surprise that she had only one nose and two ears and asked her where her other nose and ear were ... I can never live with the fact that I did not do anything.

This man was pressing his gun into my back and would have shot me if I had done anything. I have no doubt they would have shot all of us on that road. I have never recovered from that incident. I apologise to the committee for getting upset.”

- 31) Mr. Reavey continued describing the day he buried two of his brothers:

“We proceeded out the road with the cortege and two hearses - Anthony lived for nearly a month - but those boys, the police and the army, were sitting and waiting for us again. They were out of their cars. My brother, Seamus, was in front of me and had the black bags containing the clothes my brothers had been wearing, which had been given to him by the mortuary attendant. They were a mass of blood. The soldiers and the police took the bags out of the back of the car and danced on them on the road. I do not know how one could cope with that.”

The Sub-Committee notes that this harassment of the family was conducted by agents of the British state and it is difficult not to view it against the backdrop of collusion by those agents in the terrorist activities that had occurred. How could the British Army, knowing what had happened, continue to abuse the surviving members of the family?

- 32) Senator Cummins asked Mr. Reavey whether there was an end in sight, whether he believed there is any chance that those involved will be charged with the murder of his brothers? Mr Reavey replied:

“Those people were allowed to carry on their campaign of murder and I do not believe they will ever be arrested or charged. Somebody sanctioned their behaviour.”

Attack on the Step Inn in Keady

- 33) On the 16th August 1976, a bomb exploded in the Step Inn in Keady.
- 34) Mr. Paddy McGleenan who lost his 22 year old son Gerard McGleenan, described to Deputy Hctor the horrific manner in which his son died:

“A lump of steel went through Gerard and it stuck in our door, which my brother-in-law pulled out afterwards. It was a lump of steel about that length. The doctor said it went through an artery and severed the flow to his heart or from his heart but he did not die for a few minutes. He walked down into the house and the only words he said were ‘Mammy, Mammy, Mammy’, and that was that. My son and a friend of his took him outside and he died there.”

- 35) Mr. Malachy McDonald, whose wife Betty McDonald also died in the attack on the Step Inn in Keady, described walking into the bar where he found his wife:

“Betty was lying with her eyes wide open. She was dead. I picked her up and said an act of contrition into her ear.”

- 36) In response to Deputy McGrath’s suggestion that the overall handling of the situation was a non-event and totally unprofessional Mr. McDonald replied:

“Well, there was no handling at that time, there was no such thing as anything like that at any time. It was normal that they did not investigate anything. One did not expect it.”

The Attack on the O’Dowd family

- 37) The O’Dowd family lived at Ballyduggan, Gilford, County Down. At 6.30 p.m. on 4th January 1976 about 16 members of the family were in the house. Three masked men arrived without warning, one of them had a gun and immediately started shooting. Áine O’Dowd was wounded and three of the male members of the family who were in the living room were killed. They were Barry, Declan and Joe O’Dowd. Judge Barron said the family feels it was targeted because some of its members were workers in the SDLP. In a statement dated 3 January 1999 a former RUC Officer, John Weir, alleged that the three O’Dowd brothers had been shot by a named person.

- 38) Mr. Barney O’Dowd who lost his brother and two sons spoke of how the brutal attack occurred:

“My wife answered the door and three fellows burst in. They had camouflage of a sort of cheesecloth mask on them. They immediately started shooting and I was shot first, but by the time it was over, my two sons and my brother were dead.”

Mr. O’Dowd recalled inquiring of two detectives the stage of their investigations into the attack:

“They told me I had no right to know what developments there were. They would not answer any questions about the matter. They said that was none of my business, that was their work.”

- 39) Mr. Noel O’Dowd, who also lost his two brothers, described how his Uncle had died:

“He was shot dead in front of his two daughters, one 22 and the other 18. They watched him die.”

Mr. O’Dowd highlighted once again what the families believe to be the deficiencies in the investigation that followed:

“There were 16 people in the house - I am not sure how many there were between family and cousins and neighbours - and nobody was asked to make a statement.”

The atrocity at the Rock Bar in County Armagh

- 40) On 5 June 1976 a gun and bomb attack was carried out on The Rock Bar, Tassagh, Keady, County Armagh. Nobody was killed but a number of persons were injured. A car full of gunmen opened up with guns. A bomb planted by the attackers at the pub failed to go off. Having fired a number of shots at Michael McGrath and fired some shots into the bar window, the attackers returned to their car and made their escape. A number of persons were arrested and interviewed by the RUC. In December 1978 an RUC Sergeant confessed his involvement in the attack on the Rock Bar. Two RUC Officers later made statements admitting their participation in the attack. Another serving Officer was also prosecuted in relation to the attack. Those who admitted responsibility for the attack came before Belfast Crown Court on 30 June 1980 for sentencing:
- (i) One received sentences of 7 years for wounding with intent, 4 years for possession of explosives, 3 years for possession of a firearm and two years for causing an explosion.
 - (ii) Two others had a *nolle prosequi* entered for the charge of wounding with intent, and received sentences of two years which were suspended for three years in respect of each of the other three charges.
 - (iii) The fourth person received a sentence of one year which was suspended for two years for failing to give information.
- 41) The use of suspended sentences in respect of RUC officers involved in this type of terrorist atrocity beggars belief. One is left with the overwhelming suspicion that the case was only prosecuted by the authorities and admissions were only made because no-one had died and so the RUC officers who were engaged in collusion with the terrorists could be dealt with leniently. Senator Cummins pointed out that although thankfully nobody was killed, in this particular attack, it was also somewhat ironic given that fact, that *“this is the case in which arrests were made, charges proffered and sentences, which left much to be desired, handed down.”*
- 42) Mr. Michael McGrath who was injured in the shooting described being in the wrong place at the wrong time:
- “I was going home and I walked into them. The barman had already shut the door and I could not escape. I was like a rat in a cage. I could not get away. He came with a gun straight at me and never asked who I was.”*
- We understand that this is the first time that Mr. McGrath has ever spoken publicly about what happened to him.
- 43) Mr. Joe McGleenan, the owner of the Rock Bar continued the recurring theme on the lack of investigating:

“No one ever came to question me, and the police never visited the area to ask what had happened. The components of the bomb - shrapnel or confetti - were spread around the street where the bar was for several days afterwards, but the police did not cordon off the area or look to do anything. I believe that someone simply tidied it up and that was it. I have never been questioned or met any police.”

Attack on the Miami Showband

- 44) On 30 July 1975, the Miami Showband played a gig at the Castle Ballroom in Banbridge, County Down. They were one of the most successful bands in the country and had played at various places in Northern Ireland on numerous occasions and were well known on both sides of the border. In the early hours of the morning 5 members of the band left the town and headed towards the border in a minibus. Some time around 2.30 a.m. on the morning of 31 July the band's minibus was flagged down by a group of armed men wearing army type uniforms. The driver assumed it was a legitimate checkpoint and pulled over into a lay-by. The band members were told to stand outside the van with their hands on their heads. A number of armed men were in the vicinity of the minibus. A few seconds later there was a loud explosion from the rear of the van and two of the armed men were killed instantly. There were then a number of bursts of gunfire. Three persons were killed in the attack, Francis O'Toole, Anthony Geraghty and Brian McCoy. Stephen Travers was badly injured and Des McAlea managed to evade the attackers by fleeing across a field. Two members of the UDR were subsequently charged with murder, were convicted and sentenced to life imprisonment, with a minimum recommendation of 35 years. Subsequently a former UDR member was charged with the attack and sentenced to life imprisonment. Judge Barron noted that John Weir, a former RUC Officer, alleged that the bomb used in the Miami Showband attack had come from the farmhouse at Glenanne, which was frequented by army intelligence. Judge Barron drew no particular conclusion in respect of the Miami Showband attack.
- 45) Mr. Stephen Travers, a survivor of the atrocity, began by saying what a humbling experience it was to be present at the hearing before the Sub-Committee. He spoke of the fateful night and brought our attention to some inaccuracies in the report:

“I was in the Miami showband. We played in Banbridge and on the way back from the gig we were stopped by what I believed to be a British army checkpoint. This incident has been reported many times and, because of that, people get things wrong and the inaccuracies perpetuate themselves. The man in charge of that particular operation was undoubtedly a British army officer. The report states that we identified him from the van. Our trumpet player Brian McCoy, who was born and reared in Northern Ireland, who was a member of the Church of Ireland and whose relatives had been in the security forces - his brother-in-law was a member of the B Specials - stood beside me in the line up just before he died. To comfort me, he said, ‘Don't worry Steve, this is British army’. I have no doubt about that. I was told afterwards that the accent I heard and identified as a British accent was

put on to confuse us or to give authenticity to the checkpoint. A British army officer would be in charge of a checkpoint like that in nine cases out of ten. When I left school I went to London and became a trainee broker at Lloyds in the City, so I know the difference between a mock British accent and a real one. The accent I heard was definitely that of an Englishman.”

He continued:

“After a while there was a second explosion on the road - it was the petrol tank or whatever. I heard a man walk over towards me. He stopped at Brian's body and kicked Brian. He proceeded to walk over towards me. I just kept my face in the grass, looking down, and trying to decide whether I would get up on my knees and beg for my life or just pretend to be dead. For some strange reason I did the latter. Just as he approached me, somebody on the road shouted, ‘Come on. Those bastards are dead. I got them with dum-dums.’ It was the first time I had heard the term ‘dum-dums’. I did not know what they were. He decided to walk away and he did walk away.”

Mr. Travers recalled some of the memories that haunt him from the terrible night as he witnessed his friends being killed:

“I believe Brian had been killed at this stage - he was shot at the same time as me. I collapsed and they ran over to the side of the field. I heard them being killed. I heard them beg for their lives.”

- 46) Ms. Helen McCoy who lost her husband Brian McCoy spoke of the immediate aftermath and the lack of closure:

“I was totally devastated, left with two small children, one five years old and the other one year and ten months. It was almost two years before an inquest was held.”

She continued:

“It is not really justice my family and I crave at this stage, perhaps just an apology and an acknowledgement of what happened. This apology, however, would have to come from the right people.”

- 47) Deputy O’Fearghail asked Ms. McCoy and Mr. Travers to tell the Sub-Committee how their lives have been affected since the atrocity. Mr. Travers spoke of living in fear:

“It is strange to have to examine the underside of one's car every morning for wires and traces of a bomb.”

Ms. McCoy spoke of trying to come to terms with the lack of closure:

“I know we will not get justice. We must face this because it has been 31 years since the events took place. We have heard all the stories but we

would like someone to admit what happened and apologise. However, we will not get justice at this stage.”

- 48) Deputy Kathleen Lynch wondered *“From whom do Ms. McCoy and Mr. Travers want an apology? This matter is important because it goes to the heart of the system’s failure, not that of the foot soldiers. Who should make the apology?”* Ms. McCoy replied detailing that they knew the names of the foot soldiers, the ones who pulled the gun, the ones who shot them and the ones who planted the bomb:

“We know all those names, but we want to know who sent those people. We have an idea and have heard stories. We want those names. Obviously, we think the British Government had something to do with it, but we cannot say for certain. This is what we want to know. We want closure. I have lived with this for 31 years. I never remarried - I did not want to. I still live with the memory of Brian every day. I would like to know who sent those people to do that job.”

- 49) Mr. Michael O’Toole, now deceased, lost his brother Francis O’Toole in the Miami Showband massacre. Prior to his death Mr. O’Toole shared his thoughts on the tragedy in an interview in 1999 with Ms. Fran Banks. An account of this interview was detailed in a document that was presented to the Sub-Committee. During the interview Michael had outlined some of the effects that the tragedy had upon him and his family. These quotes are taken from the resulting document:

“Fran’s mother never left the house again.....her anguish was awful and she died of a broken heart.”

“The horror of what happened that night still haunts Michael who suffers from recurring nightmares where pools of blood and an abyss are common features.”

Overview

- 50) The Chairman, Deputy Ardagh brought the session to a close noting the profound effect that these stories will have on people’s thinking about that period. He concluded:

“I hope it will all help to heal the suffering everyone, victims of these atrocities and their relatives, has endured during the years. I again thank the witnesses whose contributions will be helpful to the Sub-Committee in its deliberations. They will also be helpful to the nation in trying to comprehend the sense of loss and injustice in order that people will care and something will be done.”

BIOGRAPHICAL DETAILS OF THE VICTIMS OF THE BOMBING OF KAY'S TAVERN, DUNDALK AND OTHER ATROCITIES

51) The victims were as follows:

- (i) John Francis Hayes (38): married, Balbriggan, Co. Dublin. Killed in the bombing at Dublin Airport. Survived by his wife and three children.
- (ii) Jack Rooney (62): married with grown-up children. Mr. Rooney was employed as a lorry driver/ refuse collector with Dundalk Urban District Council. He was killed in the bombing of Kay's Tavern.
- (iii) Hugh Watters (60): married with grown-up children. Mr. Watters was a tailor and was killed in the bombing at Kay's Tavern.
- (iv) Patrick Mone (56): a farmer, survived by his wife. Mr. Mone was killed in the bombing at Castleblayney.
- (v) Patrick Donnelly (24): a farmer, killed in the gun and bomb attack at Donnelly's Bar in Silverbridge.
- (vi) Michael Donnelly (14): son of the bar-owner killed in the gun and bomb attack at Donnelly's Bar in Silverbridge.
- (vii) Trevor Brecknell (32): originally from England, was killed in the gun and bomb attack at Donnelly's Bar in Silverbridge. Survived by his wife and three children.
- (viii) Betty McDonald (38): was killed in the atrocity that occurred at the Step Inn in Keady.
- (ix) Gerard McGleenan (22): was killed in the atrocity that occurred at the Step Inn in Keady.
- (x) John Martin Reavey, was shot dead in the family home at White Cross near Markethill, Co. Armagh.
- (xi) Brian Reavey, was shot dead in the family home at White Cross near Markethill, Co. Armagh.
- (xii) Anthony Reavey, was shot in the family home at White Cross near Markethill, Co. Armagh and died a month later.
- (xiii) Barry O'Dowd (24) (brother of Declan) was shot in the family home, Ballyduggan, Gilford, Co. Down and worked on the oil rigs in the Orkney Islands.
- (xiv) Declan O'Dowd (19) was shot in the family home, Ballyduggan, Gilford, Co. Down.

- (xv) Joe O'Dowd, uncle to Barry and Declan. A successful farmer and businessman in Ballynagarrick, County Down. He was shot dead in front of his two daughters, one 22 and the other 18.
- (xvi) Francis O'Toole (29): musician. Shot dead in the Miami Showband massacre. Survived by his wife Valerie and two daughters.
- (xvii) Anthony Geraghty (23): musician. Shot dead in the Miami Showband massacre. From Kimmage in Dublin, he was engaged to be married at the time.
- (xviii) Brian McCoy (33): musician. Originally from Caledon, Co.Tyrone, living in Raheny, Dublin at the time. Killed in the Miami Showband massacre.

Chapter 2

Judge Barron's Report

52) Judge Barron's Report is just over 190 pages long. It is broken down under the following headings:

- (i) Background information.
- (ii) The Garda investigation.
- (iii) Assessment of the investigation.
- (iv) The perpetrators and possible collusion.
- (v) Conclusions.

There are also a number of appendices as follows:

- (i) Claim of responsibility by "mid-Ulster UDA".
- (ii) Bombing of Dublin Airport.
- (iii) Bombing of 3 Star Inn, Castleblaney.
- (iv) Attack on Miami Showband.
- (v) Explosion and Murder at Barronrath Bridge, Co Kildare.
- (vi) Other bombings in the State, 1974-76.
- (vii) Information concerning certain weapons.
- (viii) Maps.

53) At the end of his investigation Judge Barron concluded that the bombing of Kay's Tavern was carried out by loyalist extremists, most probably associated with the Mid-Ulster UVF. It was also accepted that some assistance must have been obtained from Belfast loyalists regarding the theft of the bomb car. Judge Barron was of the view that it is likely that the attack was carried out on the initiative of a group largely consisting of UVF members, possibly without the sanction of the UVF leadership.

54) In light of the information available to it and in consideration of John Weir's background and character, Judge Barron said that he accepts Mr. Weir's claim that the Dundalk bomb did not come from James Mitchell's farm at Glenanne. However, he believes that the attacks on Dundalk and Silverbridge were coordinated; that those who carried out the Silverbridge attack came from the 'Glenanne group', and therefore that members of that group must at least have

known in advance of the plan to attack Dundalk. Judge Barron said that as the information available to the Inquiry suggests the involvement of some members of the security forces in the Silverbridge attack, this implies that the security forces may or should have known who was responsible for the Dundalk bombing.

- 55) Judge Barron said that the facts and circumstances of the bombing lead almost automatically to the suspicion that certain prominent loyalist subversives from mid-Ulster were involved. However, the best efforts of An Garda Síochána and the Inquiry had not obtained the quality of information to found a conclusion that those individuals were involved, even as a matter of probability. Taking into account also that the intelligence relating to the farm of a named person at Glenanne was not included in the intelligence provided to An Garda Síochána in January 1976 by the RUC, a suspicion remains that contemporary actions were designed to limit information relating to security forces collusion in terrorist activity from reaching the public domain, which in turn did nothing to counteract such activity.
- 56) Judge Barron attended before a private meeting of the Sub-Committee which was held on 5 July 2006 and made the following points. He said he was not able to establish the actual people involved in the incident. The evidence did not all hang together and therefore he had just set out the information received, without preferring one bit over another. He underlined that he had not tried to determine who was responsible, it was not his place to do that. He pointed out that the Northern Ireland Office have confirmed that as early as 1976 they knew that the farm at Glenanne was being used for terrorist attacks. In response to a question he said he was not positive if the original tape from the bomb with a print on it was available. However, there were photographs of the print and that would be sufficient.
- 57) Judge Barron confirmed that the meeting in Belfast referred to in this report was not the same as the meeting in Belfast that was discussed in the Ludlow report. Judge Barron said he had contacted the Northern Ireland authorities, he had been promised certain files, a date had been fixed for a meeting in Dublin, Northern Ireland kept postponing it and then it never happened. In response to a question he said he had a small team but he took a long time in doing his investigation and therefore he did not feel that resources were a problem.
- 58) In response to another question he said a prosecution at this stage in respect of the Dundalk bombing was highly unlikely unless one could get a match with the print that had been found on the timing device.
- 59) In respect of not naming certain names in the report, he said the Gardai did not want to put peoples' lives at risk, that a person had right to his good name and that where people had been named in the report it was due to the fact that some names were in the public domain already and there was strong evidence that certain people were involved in criminal activity.
- 60) In response to another question, Judge Barron said he could not think of any witness at this stage who his investigation had not gone after. He made the point that there were a number of Gardai in Dundalk who were there at the time but

they did not have much to say about the issues in his report. He noted that Mr. Courtney and Mr. Corrigan were the two members of the Gardaí who had contact with the RUC and were the key witnesses.

- 61) A number of persons who appeared before the Sub-Committee made observations about Judge Barron's report and his methodology.
- 62) One of the points Mr. MacGuill, Solicitor for the Watters and Rooney families, made was that a shortcoming of the whole Barron process was that none of the material that he had in his possession was made available to the families.
- 63) Ms. Margaret Urwin expressed surprise that some information was not included in the Barron report. Justice for the Forgotten sourced two important photographs from the archives of *The Irish Times*, one of which was taken at the scene of the bombing in Dundalk and another taken at the scene in Castleblaney. The Dundalk picture was taken on the night of the bombing and the Castleblaney picture was probably taken the day after the explosion. Both photographs depict members of An Garda Síochána examining fragments of the bomb mechanisms without wearing gloves. In one of our later hearings Detective Inspector Joseph Kinsella from the Garda Technical Bureau explained that it is impossible to get finger marks off corners of objects and that the officers in the photos were holding the items in accordance with the common practice at the time.
- 64) Ms. Urwin also pointed out that Mr. Justice Barron does not make any link between the Dublin Airport bombing on 29th November 1975 and an earlier incident at Dublin Airport in which the son of a leading UVF member was detained. Two young loyalists were arrested at Dublin Airport on 10 September 1975 and charged with loitering with intent to commit a felony. They were held and questioned in the Bridewell Garda station and brought to court.
- 65) Judge Barron made it clear that he had a number of unanswered questions:
 - Page 59: questions he asked about UVF bases in the murder triangle have not been answered by the authorities in the North.
 - Page 60: he requested a statement which has yet to be provided from the person who owned the bomb car.
 - Page 61: there is a list of a series of requests on ballistics, to which there has yet to be a response.
 - Page 68: questions on fingerprints and proper DNA comparisons are listed as having failed to be addressed.
 - Page 90: questions put to the then Director of Public Prosecutions (now called the Public Prosecutions Service) have not yet been answered.
- 66) The Sub-Committee wishes to express its gratitude to Judge Barron both for his report and also for his attendance before us. It should be remembered that all of the Barron reports have been frustrated by the absence of any real co-operation

from the British security forces. Obviously this denial of co-operation impacted adversely on Judge Barron's ability to establish the truth. In addition Judge Barron had no powers to compel anyone to attend before him. This all necessarily limited the scope of what he could do. We are satisfied that within the scope of his powers and of the co-operation that he got, Judge Barron addressed the matters as fully as he was able to.

Chapter 3

Collusion

- 67) In our previous reports the Sub-Committee laid heavy emphasis on the role of collusion. Why do we continue to emphasise it? Mr. MacGuill, solicitor for the Watters and Rooney families, put it well when he said that: *“We are not talking theoretically about cover-ups in the 1970s we are talking about a culture of secrecy and a grudging handing over of information that pertains to this day.”*
- 68) We note that in some of the incidents in question collusion seems to be almost beyond question. For example, in respect of the Miami Showband murders three serving members of the UDR were convicted and two other serving members of the UDR accidentally blew themselves up at the scene of the attack.
- 69) When he attended before us Judge Barron explained that he felt that he could not turn inferences into particular facts. However even on this cautious basis, we note that at page 113 of his report he found that there was no doubt that collusion between members of the security forces and loyalist paramilitaries existed in many instances. He stated that: *“It was not just a matter of a few bad apples, as suggested by the Northern Ireland authorities.”*
- 70) Judge Barron then proceeded to list various incidents that confirm that collusion was taking place during the time of the Dundalk bombings. These included the convictions of three UDR members for their part in the Miami Showband murders and the conviction of three RUC officers in connection to the attack on the Rock Bar. Judge Barron continued: *“These and other incidents paint a clear picture of collaboration between members of the security sources and loyalist extremists. The inquiry would be shutting its eyes to reality if it accepted that such collaboration was limited to the cases in which collusion has been proven”.*
- 71) Despite this acknowledgement, Judge Barron reached the following conclusion in respect of collusion in the Dundalk Bombing:

“Clearly, if what Mr. Wylde says is correct, then it is possible that some members of the security forces could have supplied loyalist paramilitaries with the explosives necessary to carry out the Dundalk bombing. The Inquiry does not dismiss or underestimate this possibility. But also, it cannot dismiss the possibility that a group of loyalists had acquired the means of recrystallising ammonium nitrate, and did so either with or without the knowledge of the security forces.

Both of these scenarios place a certain level of responsibility for what happened in Dundalk with the security forces in Northern Ireland – at best through an inadvertent failure to clamp down on the source of the explosives used; at worst through deliberate collusion between certain members of the security forces and the extremists who planned and carried out the bombing.

But without further information, the issue of whether collusion took place in relation to the Dundalk bombing cannot be resolved by reference to the nature of the explosives alone.” (page 132 of his report)

- 72) A number of the persons who addressed the Sub-Committee took a different view and felt that Judge Barron had been too restrained in his findings on collusion. For example, Ms. Margaret Urwin of Justice for the Forgotten stated that:

“The committee heard such compelling evidence from all of the witnesses present yesterday that members could be left in no doubt that collusion was rife during this period. The ballistic evidence, as charted by Mr. Justice Barron in the fourth report, is very compelling, as it links the weapons used in many of the attacks and further links them directly to members of the security forces.”

Ms. Urwin pointed out that Judge Barron had set the bar very high in respect of collusion and reminded us that in a legal sense and in international law the provision of cover for terrorists would be regarded as an act of collusion. In his report on the murder of Pat Finucane, Judge Peter Cory stated that collusion includes the pretence of ignorance or unawareness of something one ought morally or officially or legally to oppose and to fail to take action against a known wrongdoing or misbehaviour. Judge Peter Smithwick, in his opening statement at the public tribunal of inquiry set up to inquire into an allegation of collusion into the murders of RUC officers Breen and Buchanan, said that the issue of collusion would be examined in the broadest sense of the word. He said that while it generally means the commission of an act, he was of the view that it should also be considered in terms of an omission or a failure to act. Ms. Urwin continued:

“Mr. Justice Barron in his conclusions seems almost Jesuitical in his arguments on collusion. He accepts that collusion occurs between members of the British security forces and loyalist paramilitaries. He also accepts that collusion was occurring around the time of the Dundalk bombing and that the inquiry would be shutting its eyes to reality if it accepted that such collaboration was limited to the cases in which collusion has been proved. Nevertheless, he goes on to state that he cannot prove that Dundalk itself involved collusion. This is despite the fact that he accepts that Dundalk and Silverbridge were co-ordinated attacks and we have absolute proof that collusion occurred in the case of Silverbridge.”

- 73) Mr. Alan Brecknell and Mr. Paul O’Connor from the Pat Finucane Centre also addressed the Sub-Committee on the topic of collusion. They offered invaluable insight to the Sub-Committee by providing a ballistics report that charted the links between guns used in various terrorist attacks on both sides of the border. Before proceeding to address the committee on several points relating to collusion, they summarised their position as follows:

“It is our submission, first, that the fatal bomb attacks in Dundalk on 19 December 1975 and in Castleblayney on 7 March 1976 were carried out by loyalist paramilitaries acting in collusion with members of the Northern Ireland security forces. This gang was operating out of a base

in Glenanne, County Armagh. Second, the British Government continues to provide incomplete and at times misleading information regarding the activities of this gang and the extent to which the authorities were aware of their activities. Third, there remains a legal and moral responsibility on the Irish Government to establish all the facts surrounding these incidents.”

74) They complained that in written submissions to the European Court of Human Rights the British Government had tried to downplay the role of collusion. The Pat Finucane Centre outlined that this clearly suggests that the British Government had deliberately failed to admit the reality of the situation.

75) At the outset of his address to the Sub-Committee, Mr. O’Connor summarised the outcome of the investigation conducted by the British authorities in 1978:

“... according to Mr. Justice Barron, he has been informed by the Public Prosecution Service in the North that out of the 1978 investigation were to emerge 31 charges in connection with 11 very serious incidents, which included bombings, murders and so on. I am not going to name anybody. We have to ask ourselves what actually occurred and actually came out of the 1978 investigation. What actually emerged was one conviction for murder, one conviction for attempted murder, one conviction for kidnapping and a series of miscellaneous minor charges that were changed when the charges got to court to the point that police officers - I am not naming anybody - it was facilitated that police officers could be given suspended sentences in court.”

76) In response to Mr. O’Connor’s submissions Deputy Lynch asked how early the British Government knew of infiltration of the UDR. The Pat Finucane Centre outlined that in the Public Record Office it had discovered a number of documents marked ‘weapon losses’. They detailed each occasion on which weapons were lost, beginning in 1971. Behind a significant number of those documents on the right hand side the words ‘collusion suspected’ were marked. According to them, it appears that by 1973 the British Government was aware at a most senior level that it had a serious problem with the UDR. However, by 1974 proposals were made by the Ministry of Defence to the Secretary of State for Northern Ireland to increase the intelligence gathering role of the UDR. In other words, just one year later, it was official policy to increase the UDR’s role on the ground in gathering intelligence, despite the fact that up to 15% of the regiment’s members were believed to be loyalist paramilitaries.

77) The Sub-Committee was referred to an original British army intelligence document for the Ministry of Defence entitled Subversion in the UDR and dated 1974 (it is likely to have been from the first half of that year), which was from the National Archives in Britain. According to this document *“It seems likely that a significant proportion (perhaps 5% - in some areas as high as 15%) of UDR soldiers will also be members of the UDA, Vanguard Service Corps, Orange Volunteers or UVF”*. It further states that following an arms raid on a base in Belfast at Lisley Drive in October 1972 where a substantial number of weapons came into the hands of loyalist paramilitaries that it subsequently transpired that

the guard commander on the night of the raid had nine previous convictions for deception, had spent a period in jail and had been arrested in September 1972 for riotous behaviour outside Tennant Street RUC station following the shooting of two men by security forces in the Shankill and the arrest of a UDR-UDA leader. He had one UDA trace and three separate reliable reports indicated that he was a member of the UVF. That was the UDR guard commander in one of their important armouries in Belfast. It further states that there can be little doubt that subversion in the UDR has added significantly to the weapons and ammunition stocks of Protestant extremist groups. In many cases ex-UDR weapons are the only automatic and semi-automatic weapons in their possession. What makes this document so significant is that it is a Ministry of Defence evaluation.

- 78) The Sub-Committee was also referred to the minutes of a meeting held in September 1975 shortly after the Miami Showband murders and the murders of two GAA supporters at Altnamackin. By that stage it was known that the Miami Showband massacre had been carried out by UDR members. A briefing was held with Airey Neave, opposition spokesman for the Conservative Party on the North; Margaret Thatcher, the future Prime Minister; Merlyn Rees, the Secretary of State, and Harold Wilson, the then Prime Minister. At the meeting the future Prime Minister was informed that the RUC was not to be trusted. The minute of Mrs. Thatcher's call on the Prime Minister on 10 September 1975 is dated 11 September of that year. It sets out on page 3 that the Secretary of State was more worried about sectarian murders than about the bombings in Belfast and that it was unfortunate that certain elements in the police were very close to the UVF and prepared to hand information to, for example, Mr. Paisley. It states the army's judgment was that the UDR was heavily infiltrated by extremist Protestants who could not be relied upon to be loyal in a crisis. The regiment which could not be relied upon in a crisis was mobilised in south Armagh in the wake of the attacks at Donnelly's Bar, Kay's Tavern, on the Reavey and O'Dowd households and the Kingsmills massacre.
- 79) In response to a question from Deputy Lynch the Pat Finucane Centre said that memos from the British side had not disclosed any vigorous questioning of British officials by officials from this jurisdiction around the issues of infiltration of the security forces.
- 80) Justice for the Forgotten sent the Sub-Committee a number of documents which it had obtained in respect of the allegation that four members of the RUC in Portadown were also members of the UVF. These were as follows:
- (i) **Telegram dated 20 August 1975** from Callaghan at the Foreign and Commonwealth Office (FCO) to the British Ambassador to Ireland, Sir Arthur Galsworthy. It recorded that the Irish Ambassador, Dr O'Sullivan, had called that day on the Minister of State at the Northern Ireland Office and stated:

“Dr O'Sullivan's main purpose was to transmit orally a quote highly confidential unquote report which had reached the Commissioner of the Garda to the effect that four members of the RUC in the

Portadown area were also members¹ of the UVF and had been actively engaged in recent terrorist operations in the so-called murder triangle (Portadown – Dungannon – Aughnacloy). He said that he had no names or further details to offer. The Commissioner had to be careful to avoid disclosing what was obviously a particularly delicate source: and it was for this reason that he had decided against passing this information direct to the Chief Constable of the RUC. As it was, knowledge of the report was being closely restricted in Dublin to the Ministers for Justice and Foreign Affairs and one or two officials.”

The telegram records that a Mr Orme had replied that this allegation came as a complete surprise, that it would be investigated immediately but that it would be helpful if some supporting details could be passed on.

- (ii) **Telegram dated 22 August 1975** from Sir Arthur Galsworthy to FCO which states that he had called on Garvey that morning and told him that they were very anxious to follow up the report but needed further details to enable them to do so. The reply from Garvey is indistinct.
- (iii) **Telegram dated 28 August 1975** from Sir Arthur Galsworthy to FCO which states that Donlon had called that morning to say that the Irish government wanted the matter dealt with through diplomatic channels rather than police channels. Donlon is recorded as saying that there were no further details that could be made available. It continues:

“When I probed as to whether they had further details Donlon stuck to this formulation, giving me the impression that they have some detail but are not willing to pass it on. When I told him we must have further details in order to follow up the report, but that I was not seeking information as to its source, he replied that the nature of the information was such that revealing its details would inevitably compromise the source: and he repeated that he could not go beyond the formulation quoted above. But he said that the Irish Government would be grateful to know the results of any investigation that we undertook. I made the obvious point that while we took the report seriously and wished to investigate it thoroughly there was as far as I could see precious little that we could do without some further detail. This was why I had sought it on instructions.”

The telegram speculates as to the reason for what it describes as “*the coyness of the Irish*” about revealing any of the details and suggests that in case the Irish try to make capital out of any alleged failure to pursue the matter the Irish Ambassador to London should be informed of the need to provide detail.

¹ This correction to the telegram was made in one sent the following day. The first version had merely described them as supporters of the UVF.

- (iv) **Letter dated 29 August 1975** from NIO to FCO which states that the Ambassador had visited the day before and had “*referred to the message he had brought to Mr. Orme about UVF membership of RUC men*”. It states that the matter had been raised with the Chief Constable of the RUC and that a meeting between him and the Garda Commissioner was in prospect.
 - (v) **Brief on Northern Ireland for Bilateral discussion with the Irish Foreign Minister in Venice on 11-12 September 1975** also has a reference to the same issue.
- 81) In a letter to the Sub Committee from the Department of Foreign Affairs dated 27 October 2006 the Secretary General, Mr Dermot Gallagher, stated that his Department had undertaken a full review of files and this disclosed the following:
- (i) **18 August 1975** – Dept of Justice sends to Dept of Foreign Affairs a Garda report dated 15 August relating to the UVF which states that four members of the RUC in the Portadown area were members of the RUC. The report did not name the members but did contain supplementary information on the RUC duties of one of them.
 - (ii) **18 August 1975** – secret message sent from Dept of Foreign Affairs to Embassy in London asking the Ambassador “*to meet the NIO at an early opportunity to convey the information, express concern and request that urgent action be taken to investigate and remedy the position.*”
 - (iii) **20 August 1975** – Ambassador reports he has discussed the intelligence with NIO and his contact is to return to Belfast the following day “*from where he would set in train immediate inquiries.*”
 - (iv) **27 August 1975** – DFA reports on meetings with contacts in Northern Ireland over past two days one of whom said members of the UDR were “*well informed killers in league with recalcitrant elements in the RUC*” and considered “*the main power base of this particular group to be in Portadown*”.
 - (v) **28 August 1975** – Ambassador reports meeting with NIO contact with whom he raised issue and who told him a meeting between the Gardai and the RUC was imminent.
 - (vi) **1 September 1975** – Ambassador is told by Department of Foreign Affairs that the issue is one to be discussed other than through police channels and any further communication on the subject should be either from NIO to Irish Embassy in London or from British Embassy in Dublin to the Dept of Foreign Affairs.
 - (vii) **3 September 1975** – Ambassador reports he has met NIO and been told that the RUC Special Investigations Squad, which dealt with questions of police loyalty, has been told to look into it. The NIO said so far they had found nothing but it was difficult to do much in the absence of additional information.

The Sub-Committee finds the above chain of events to be surprising to say the least and cannot understand why the documentation stops dead in its tracks on 3 September 1975.

- 82) In a letter to the Sub-Committee from the Department of Justice, Equality and Law Reform dated 7 November 2006 the Head of the Security and Northern Ireland Division stated that:

“As indicated by the Secretary General at the public hearings, the Department has now completed further scrutiny of the monthly and quarterly reports received from the Garda Síochána in the years 1975 to 1976. I wish to inform you that no material has been found in these reports relating to alleged collusion in Northern Ireland.”

- 83) Mr. Paul O’Connor, Pat Finucane Centre, informed us that after Silverbridge and the attack on Donnelly’s Bar, the investigating officer told him that he had circulated a description of one of the key attackers internally, within the RUC, in the murder triangle and by the next morning the suspect had removed the beard which identified him. He felt that was very suspicious.
- 84) Mr. Cormac O’Dúlácháin SC, on behalf of Justice for the Forgotten also addressed the subject of collusion. He suggested that one has to come to the conclusion that people at a very high level knew what was going on, yet we find the most minimal accountability. He made the point that if one tries to trace who was arrested, lifted or detained, one finds people on minor charges and discovers subsequently that they were given character references when they appeared in court on these charges, that the prosecutors and prosecuting officers indicated that these people were believed to have no known associations, when all the other contemporaneous evidence was pointing in the other direction. Records of previous convictions were not referred to. Ultimately, it is not brought to an end by police or security action.
- 85) In response to a question from Deputy McGrath as to what the motivation for the collusion might have been Mr. O’Dúlácháin SC explained that when one goes on to December 1974 and the attempt to re-establish a ceasefire, there is a belief that certain elements of the security agencies may have been quite willing to provoke violence to unseat or unsettle ceasefires. That has remained a matter of political comment and political speculation. Beyond that, anything that unseated a potential ceasefire did suit an alternative political agenda.
- 86) Former Superintendent John Courtney stated that in the light of his experiences of working on the Border over the years he accepted that there was a high level of collusion between British forces and paramilitaries. He expanded on this as follows:

“I was in charge of the investigation into the murder of Captain Nairac who was murdered in Dundalk. Detective Sergeant Corrigan was also involved in the investigation. We thought it rather strange that during the whole investigation the British armed forces never communicated with either

myself or anyone else in the investigation. We tried to get information about him, but we did not get even one telephone call. I was very disappointed about the whole thing. We solved the case, irrespective of the non co-operation from them.”

- 87) In his written submissions Mr. James MacGuill, solicitor for the Watters and Rooney families, asked for a specific point in relation to the collusion in the Dundalk Bombing to be addressed as a matter of immediate concern. Mr. MacGuill proceeded to identify the document headed Mid-Ulster News, exhibited at page 137 of the report as the starting point to the issue of collusion in the Dundalk Bombing:

“It establishes that as of the 19th of December 1975 investigating authorities were put in possession of the following information; the explosives used were IRA material defused and retrieved in Belfast.”

Mr. MacGuill submitted that this report provided an immediate indicator that the explosives may have come from stocks of explosives retrieved by others, namely the security forces, and in turn passed on to the UDA. However, there appears to be nothing in the report to suggest that An Garda Síochána actively questioned the possibility that security force personnel may have served this purpose. Mr. MacGuill went on to point out that there is no evidence that any comparison between the compositions of the materials seized and the bomb material in Dundalk ever took place.

- 88) Mr. Seán Aylward, the Secretary General of the Department of Justice, Equality and Law Reform, stated that we needed to recall and balance the account and said that:

“The Garda organisation received significant and valuable assistance from the RUC on many occasions during that period. In this instance, they received co-operation about the provenance of the bomb car and they obtained photographs of potential suspects from Portadown RUC station. For all the question marks that remain, and some of them may never be resolved, we need to recall that the RUC at the time did things on many occasions which helped prevent mayhem taking place in this jurisdiction.”

- 89) Having considered all of the submissions, both written and oral, the Sub-Committee is of the view that there is evidence tending to show that there was a period of time in which there was significant state collusion which was not limited to what might be referred to as foot soldiers, bad apples, or the occasional wayward RUC officer or UDR member. The Sub-Committee expresses its outrage that acts of international terrorism could have been colluded in by all levels of the British administration.

Chapter 4

The Garda Investigation and the aftermath

- 90) In respect of the Garda investigation at the time of the bombing, former Superintendent John Courtney and former Detective Sergeant Owen Corrigan attended before the Sub-Committee. Both Mr. Corrigan and Mr. Courtney clarified that they had only been involved in the Dundalk investigation and thus could offer no insight into the other atrocities. The most appropriate starting point is the warnings that were received prior to the Dundalk bomb. In respect to this, Judge Barron stressed that in examining the intelligence information received by An Garda Síochána concerning the Dundalk bombings, it is important to consider the basis of the information and its limitations. In particular Judge Barron indicated that many of the sources of information remain unknown to the Inquiry and therefore their reliability cannot be assessed. Judge Barron also highlighted that the passage of time since the investigation makes it difficult to ascertain the state of knowledge of the Gardai at the time concerning the reliability of the informants and thus the information.

The warning

- 91) At pages 42 to 44 of his report Judge Barron considered the warnings that had been received in respect of the Dundalk bomb. A letter to Judge Barron dated 26 February 2002 indicates that information concerning a possible attack on Dundalk was received by the RUC on 15 December 1975 – four days before the bombing of Kay’s Tavern. According to Dr Reid, NI Secretary of State:

“[The report] suggested that the UVF had plans to plant bombs in the Republic. Two of the targets would be government buildings, one in Dundalk and the other in Dublin. Large car bombs (500lbs) would be used and planted by two UVF teams based in the south of Ireland and assisted by a team from Northern Ireland. There was no information on timing beyond the suggestion that the bombs would be planted within the following three weeks. The records show this information was passed by telephone to the Garda by the RUC. The RUC recorded this in the following terms: ‘Garda Síochána notified by phone. Letter following.’”

A subsequent letter dated 16 December 2002 identified the RUC officer (now deceased) who provided the information to An Garda Síochána in 1975, and stated that the information had come from “a casual contact”. The letter also said that the information had been received by the RUC on 15 December, typed up the following day, reported to RUC HQ on 17 December and conveyed to Garda HQ by telephone and letter on that day.

- 92) Judge Barron said that he had not seen a copy of the letter sent on 17 December, but concluded that the fact that the information was received by An Garda Síochána is confirmed by a letter from Assistant Commissioner Laurence Wren’s office to the Divisional Officer, Drogheda, also dated 17 December. Headed, “UDA / UVF – Bomb attacks in Republic”, the letter stated:

“Information has been received here that the UVF is planning to carry out two car-bomb attacks in the Republic during the next three weeks, one in Dundalk and the other in Dublin. It is stated that the explosives for use in these attacks are already in the Republic and the personnel who will carry out one of the outrages are also based here.

There is no indication of the type of building which is scheduled for attack in Dublin. The building in Dundalk is more clearly designated and is stated to be on the southern outskirts of the town, on the main Dublin road: ‘One turns off the main road to the right down to a Garda Box (telephone kiosk) on the righthand side, about 100 yards down there is a large Church and square and the relevant building is 150 yards from same.’ (Discussion with Superintendent Murtagh and this office on the 17/12/75 assessed possible target as the Imperial Hotel).

You should ensure that your Divisional Force is adequately alerted and that all possible steps are taken to spot-check vehicles and persons likely to engage in this activity. Spot-checks should be carried out with Army assistance, where this is considered desirable. You should not confine activity to the possibility that the personnel and materials are in the Republic, as it may well be that all may be transported into our territory immediately prior to placing of bomb.

It goes without saying that cars should be thoroughly checked and please see to it that appropriate supervision is given to ensure that the spirit of this briefing is put into practice. In this regard functions at hotels, dance halls, public houses, when large numbers of persons are present at night, should receive adequate attention as well as Churches at mass times, etc.”

Judge Barron noted that the same information was also passed to the other border divisions.

93) Judge Barron reached the following conclusion:

“The security forces in Northern Ireland did receive advance warning of an impending attack on Dundalk and this warning was conveyed to An Garda Síochána. The Inquiry has not been able to establish whether the apparent sighting of the bomb convoy leaving Portadown on the day of the bombing was known to the authorities in Northern Ireland before the attack itself took place. In the circumstances, it is impossible to say whether those authorities knew enough to have prevented the attack taking place.” (page 135)

94) Former Detective Sergeant Corrigan stated that the warning was treated with the utmost seriousness. When asked by Senator Jim Walsh what steps were taken, the following exchange occurred:

Mr. Corrigan: *As I have stated, mobile patrols would have been assigned to the shopping centre, which was the only one in Dundalk at that time. Other*

public buildings deemed to be possible targets for attack would have been covered by way of mobile patrols on an ongoing basis. In addition to the normal strengths available, special patrols would have been allocated in the period up to Christmas.

Senator J. Walsh: *Would roadblocks have been used?*

Mr. Corrigan: *There would have been roadblocks but they would have been--.*

Senator J. Walsh: *In respect of this specific incident, can Mr. Corrigan recall any specific steps being taken as a precaution?*

Mr. Corrigan: *Not specifically, but there were roadblocks at the different approaches to the town in conjunction with the additional patrols in the town. At that time, there was a roadblock on the Newry road which practically operated on a full-time basis and there were occasional roadblocks on the minor roads leading from south Armagh, such as the Crossmaglen road.*

Senator J. Walsh: *Nothing specific arose from any of them to prevent this particular occurrence.*

Mr. Corrigan: *No.*

- 95) In response to a question from Deputy O’Fearghaíl, Mr. Corrigan stated that “*I have explained to the Committee that the Garda did all in its power. One must remember that Dundalk was a hive of activity on many fronts. Subversive activity was at an all-time high and resources were diverted to cover the shopping centres and all the approach roads*”.
- 96) Mr. James MacGuill, solicitor for the Watters and Rooney families, observed that one of the most important issues to emerge from the Barron report was the previously undisclosed information that the authorities had received a credible warning about the bomb either two days or four days before it happened depending on how one reads the report. He said that the families were entitled to expect that official witnesses appearing before the Sub-Committee would come before it with hard facts. Instead, he complained that members were treated to a series of “it would have happened” or “this would have been done”. He said that the evidence given has made the families’ feeling of utter astonishment at the failure to act on the warning even worse. He pointed out that it is clear that the warning, as people identified, came from within approximately 250 yards of the main church in the centre of Dundalk, practically pinpoint to where the bomb went off. He pointed out that Dundalk was a very small town back then and “*You could not move as a stranger in the town of Dundalk and plant a bomb if someone was looking for you.*” Yet it appears that whatever would have happened would have happened at another part of the town. Nobody went to the bother of establishing where the patrols were supposed to have been, whether the individual gardaí were interviewed or what steps were taken. Mr. MacGuill said that it is utterly astonishing that evidence was given on a would have basis to this

Sub-Committee in relation to a very specific concern identified on behalf of the families and that this has not been addressed.

97) In a very strong presentation, worth quoting in full, Mr. MacGuill stated that:

“Again, from the families' point of view, it is now established a warning was received from the RUC and that it was considered so urgent it had to be communicated first by telephone and then in writing. It appears even to this day that Gardaí cannot establish when they received the warning. It is suggested that the warning was received on 15 December and confirmed in writing on 16 December. Yet, as of last week a statement claims it was given on 17 December. We have not been told, despite the fact that the committee has given him every opportunity to give the information, what steps were taken in reliance on that warning. Is there to this day a culture of secrecy and silence, an unwillingness to identify errors in the past? Is this something that could happen again? Failure by this committee to note that failure on the part of the authorities may support or contribute to failures in the future. To suggest that the warning could not be acted upon because it was vague without at the same time indicating whether any efforts were made to firm it up or to get more detail on it, is quite simply an affront to the families. If somebody warns you that something is about to happen but you do not feel there is enough information to prevent it, you ask questions such as ‘who do you think are plotting it?’, ‘can we have photographs of them?’ and ‘can we put the Army, the Garda, the Civil Defence, the FCA on alert?’ None of this was done. The people responsible do not believe they owe it to this committee to explain that failure. It is astonishing that lives could have been saved if action had been taken. The fact that people do not believe they have to account for this is, unfortunately, an affront to the families who are anxious that their personal concerns be put on record here today. They do not expect the committee to hold a public inquiry into their case only. They are however anxious to address the committee in detail on why there should be an inquiry to address all the questions of the families who have lost people through collusion whether by omission or by commission.”

98) Mr. Seán Aylward, Secretary General of the Department of Justice, Equality and Law Reform felt that it was important to note that:

“the Gardaí did everything that could reasonably have been expected of them in response to the pre-attack warning received from the then RUC two days before the bombing took place. Unfortunately, because the warning was not specific as to the timing and target, it proved insufficient to prevent the attack from taking place”.

99) The Sub-Committee is deeply concerned that in light of the warnings given the Gardaí were not in a position to take more effective steps to prevent the atrocities occurring. While it is never possible to stop all attacks by determined terrorists, given the nature of the warning and the relatively small size of the target towns it is surprising to say the least that persons from another jurisdiction were able to arrive, plant large lethal devices and leave again without being detected. It is even more surprising when one considers that the persons who planted the devices

either were or should have been well known to the Gardai, given what appears to be their multiple participation in terrorist atrocities. We do not accept any attempt to minimise this issue by suggesting that there were continuous warnings issuing at the time and so it was difficult to deal with them all and this warning was nothing different. This warning was different. It was sufficiently clear and it was sufficiently specific.

- 100) The Sub-Committee is of the view that the specific nature of the warning shows that it came from someone who was close to the perpetrators. One question which arises is whether whatever informant was the source of the RUC's information about the Dundalk bombing also passed on information about other atrocities and, if so, what steps, if any, were taken on foot of that information.

The meeting in Crumlin Road

- 101) Another important topic of focus in Judge Barron's report into the garda investigation was a meeting that was scheduled to take place in Crumlin Road Station, Belfast.
- 102) At page 19 of his Report Judge Barron described how D/Inspector John Courtney and D/Sgt Owen Corrigan arranged a meeting in Belfast with a senior CID officer to discuss the theft of the bomb car. Specifically, they had been told that an RUC constable possessed information concerning the persons who had stolen the car. The senior officer identified the constable and accompanied them to Crumlin Road Station, Belfast to interview him:

"We spoke to a Detective Inspector there. I requested to see the Constable with the information. He said he was a D/Constable, that he would ring him and get him to come in and that he would give me every facility. At that stage [the senior RUC officer] said 'I will not allow you interview that Detective Constable.' I said that all I wanted to find out was the fact about the car, but he would not agree to me seeing him. D/Sergeant Corrigan and I left without seeing this D/Constable and returned to Dundalk."

The above passage comes from a statement made by John Courtney to Garda officers on 11th April 2001. There is no mention of this incident in the contemporary documents.

- 103) Mr. MacGuill asked us to consider how on earth do two serving members of the Garda Síochána who find themselves in Crumlin Road RUC station to interview someone have that interview process terminated and do nothing about it? He suggested that if any of us were taken out of our way for a purpose and that purpose was compromised at the last minute we would expect at least that there would be an expression of upset and annoyance. That did not happen and Mr. MacGuill suggested that this raises the question - did nothing happen because there was a deliberate but unspoken, unwritten policy not to press on issues of collusion? Is the explanation for all the missing files the fact that nobody wanted this policy to ever come to light or to be acknowledged? Is it credible that somebody says "the reason I didn't report that up the line is I believed C3 was

infiltrated by the British spies”. Mr. MacGuill said that there can be only one answer to that, namely, that it is not credible. He said that this should be explored in public in the context of whether this State and senior officials of the State condoned or at a minimum were inactive in the face of collusion that was established to them.

- 104) Mr. Courtney described the meeting for us in the following terms. He said he met a Bill Moody of CID and:

“Detective Sergeant Corrigan had met him before and knew him. They appeared to be on friendly terms. We explained to him our problem and asked if he could help us in any way in investigating the bombs that went off in Dundalk, killing two people. He said he would give us every help possible and there was a constable down at the Crumlin Road station who was in a position to help and would be able to tell us who took or stole the car. We were delighted with that and we went to the Crumlin Road station. We did not know our way and he brought us there. We met a detective inspector and he introduced us to him. I told the inspector that we wanted to see this constable. He told me the person in question was an assistant constable who was off that day but that he would bring him in immediately and we should wait. With that, Chief Superintendent Mooney stepped in and said, ‘You are not going to see that man’. I said that we were only going to ask him a couple of simple questions about who took the car, what person was involved. That was all we wanted to find out. He told me that I would not see that man. I told him that he could question him himself and give us the result of the conversation, but he did not allow it. We were very disappointed. Having the name of the person who took the car would be the first lead in the investigation.”

- 105) Mr. Corrigan gave us his impressions of the meeting in question:

“We met Mr. Mooney and he made all the arrangements to have the member who had the information recalled from his day off. Up to that point he had been very helpful to us. Suddenly, his total attitude and demeanour changed. From what I can recall, he left the room and returned and gestured with his hands as he told us that we would not see that man. He just disappeared from the place. As has been stated, I had known him very well and he had known Mr. Courtney very well because both had been in CID and he was a CID officer.

I might elaborate for the information of the committee. He was the head of CID. The RUC operated with CID and also had a special branch. Special Branch worked in liaison with British military services. The CID investigated the matters on the ground but they were governed by certain stipulations. In other words, Special Branch dictated or were the senior partner in the arrangement as I knew it. Everything had to go through Special Branch for approval. My impression from the moment Mr. Mooney arrived with us at Tennant Street station was that he was in good form. His attitude totally changed in Crumlin Road station. We had made arrangements to wait for this man. We had waited for ten or 15 minutes for

him to be collected from his home or come to the station of his own accord to help us. Mr. Mooney suddenly came in the door and told us that we were not going to see that man, turned on his heel and walked out.”

106) The following exchange then occurred:

Senator J. Walsh: *Is it Mr. Corrigan's belief that the withdrawal of co-operation was at the behest of Special Branch?*

Mr. Corrigan: *I could not speculate; I am only giving an outline. That is why I mentioned this for the information of the committee.*

Senator J. Walsh: *Mr. Corrigan does not know.*

Mr. Corrigan: *Both of us were very surprised at the change of attitude. We did not meet him at the station. We met him at Knock and then travelled to Tennant Street. On the way up there was banter and general and cordial conversation. He left the room and, as I have already outlined, he returned a short time later.*

Deputy S. Ardagh: *The witness is permitted to speculate. What would he speculate?*

Mr. Corrigan: *I would say there was an input or he was acting under influence from some other quarter. His attitude changed so dramatically in the short intervening period.*

107) Mr. Seán Aylward, the Secretary General of the Department of Justice, Equality and Law Reform, stated that in respect of the Crumlin Road meeting “*As far as we can establish the Department was neither notified of the lack of co-operation at the time nor asked to intervene*”.

108) In this Sub-Committee’s Final Report on the Report of the Independent Commission of Inquiry into the Murder of Seamus Ludlow (March 2006) we also considered the visit to Crumlin Road (see page 19 et seq). In that report we noted that the names of four suspects for the murder of Mr Ludlow had been provided by the RUC to the Gardai and that the RUC had stated that they had received this information some 18 months prior to giving it to the Gardai. We stated that:

“Former Detective Inspector Courtney made it clear that the RUC had been very selective in their co-operation with the Gardai. As we know, they only passed on the information in respect of the four named suspects 18 months after they had received it themselves. In addition, they did not provide any assistance in respect of the car used in the Dundalk bombing. This shows that at that time the RUC appeared to be drip feeding information to the Gardai and the question arises as to whether they were only passing on information to serve their own ends.” (para 65)

We also noted that there was a conflict of evidence as to whether or not a policy existed that dictated that the Gardai would not interview suspects North of the border during the time in question (see chapter 5 of that report).

- 109) The Sub-Committee agrees with Mr. MacGuill that questions remain to be answered about the meeting in Crumlin Road. It was and remains a most astonishing event. We agree that it seems an extraordinary state of affairs that agendas of meetings between the RUC and Garda were not provided to Mr. Justice Barron's inquiry team. We also agree that nobody brought before us evidence which illustrated that two civilians lost their lives in Dundalk and that the matter was on the agenda every month as it would have to be. The "would have" culture remains a matter of concern to the Sub-Committee.

The Progress of the investigation

- 110) The following preliminary remarks were made in Judge Barron's assessment of the investigation and were outlined at 62 of the report:

"In making an assessment of the Garda investigation into the bombings, the following factors have to be taken into account:

- (i) The work of the investigation team should be judged, first and foremost, according to the prevailing standards of the time, taking into account the resources then at the disposal of An Garda Síochána.*
- (ii) However, criticism is also valid where the prevailing standards fell below what might reasonably have been expected at that time.*
- (iii) Any criticisms of the investigation must take into account the wider social and political circumstances in which the investigation took place."*

- 111) In his submission to the Sub-Committee, Garda Commissioner Noel Conroy clarified that the investigation into the Dundalk bombing "*employed the usual structures for a murder inquiry at that time*".

- 112) Mr. Courtney said that the investigation went on for a number of months and that a team was involved in the investigation at all times. He said that it was never wound up and that it was always ongoing.

- 113) Mr. Courtney said that with regard to all the suspects, he depended on the co-operation of the RUC on these matters because he had no entitlement or authority to cross the Border and monitor the suspects. The only hope the Gardaí had was that they were watching them to see would they cross the Border on the way to Dundalk and they could be intercepted at the checkpoint. He said we would definitely have talked to them then. He also said that he asked the RUC a number of times for its co-operation in checking the fingerprints but nothing came of his inquiries. In terms of forensics he said that:

“If there was anything significant about it I would have been told. I would have checked them. We would have expected to receive fingerprints from the Ford Cortina used to bring the bomb down. We were checking this and hoping that something would emerge.”

114) Mr. Courtney explained the steps he took when he re-opened the investigation:

“I reopened the case after consulting with Detective Sergeant Corrigan, who was the Border detective sergeant in Dundalk at the time. We decided to put every effort we could into the case because it was very serious. Both us felt that the RUC would be able to co-operate with us. I knew a particular officer in the RUC whom I visited to discuss the case. I told him we were very concerned that nobody had been arrested, charged or questioned in connection with the case. He said he would do his best and try to arrange to speak to some of the suspects. I hoped he would but he never told me that he had spoken to them, although I asked him about developments on a number of occasions. He would tell me that he was keeping an eye on matters and that he was doing his best. We had no authority to go up to the North to question these suspects. I believed the two people mentioned were very strong suspects and I was very anxious to talk to them if I could, but I did not have the authority to go up to the North to do so. I hoped to stop and question them at checkpoints if they came across the Border to visit Dundalk or anywhere else across the Border.”

Mr. Courtney explained that he was surprised at the time that the RUC Officer had not ensured that the two persons in question were interviewed.

115) When asked by Deputy O’Fearghaíl whether or not he had an awareness of the existence of the gang at Glenanne Mr. Corrigan stated *“Yes, of course. Absolutely”*. When asked by the Chairman, Deputy Ardagh whether he knew that some members of this gang were members of the UDR and RUC he said *“I was personally aware there were members of the UDR and UVF in the gang. Their base was Glenanne, the home of a UDR----- [and] an RUC reservist. That was well known”*.

116) In response to a question from the Chairman, Deputy Ardagh Mr. Corrigan stated that the Gardaí submitted a condensed monthly report to C3 on all activities on the border. When pressed by Senator Walsh as to whether it would have been put in writing or verbally to C3 that people who were in the RUC, the special branch, RUC reservists and the UDR were involved in paramilitary activity Mr. Corrigan stated that *“As far as I knew, the level of intelligence available to C3 was infiltrated by the security forces in the North, both RUC and UDR”*. Mr. Courtney said that he did pass information to C3 that members of the paramilitary gangs were also permanent and reserve members of the RUC and UDR.

117) When questioned by Senator Walsh about Mr. Corrigan’s claim that information on collusion had been passed to C3, Mr. Seán Aylward, Secretary General of the Department of Justice, Equality and Law Reform, stated that:

“We do not possess written reports which back that up. It should be noted that on a daily basis the people in the division in question were on scrambler telephones to the people in C3. While a great many conversations and oral briefings would have taken place, they would not necessarily have been writing very much down, especially where communications were speculative or just providing information rather than hard facts to be put before the Government.”

Mr. Aylward did confirm that there were monthly and quarterly reports from the Gardaí to the Department and said that he would ask for further scrutiny of those reports.

118) The Sub-Committee sought to follow this up and received a written response from Commissioner Conroy. He informed us that there are no references to British/Northern Ireland security personnel operating as loyalist paramilitaries in the relevant written reports of Mr. Courtney or Mr. Corrigan. The Sub-Committee is not in a position to make any finding of fact on this issue and, in any event, it may be the case that there is no dispute of fact since it is possible that communications from Mr. Courtney or Mr. Corrigan were made orally rather than in writing. In a sense nothing turns on this since the Sub-Committee is satisfied from other evidence, such as the high level contacts between the Irish and British in August 1975 about the allegation that four members of the RUC in the Portadown area were members of the UVF, that collusion was an area of concern on this side of the border at the relevant time. This begs the question as to why that concern was not followed up either at all or more vigorously. We will return to this issue in our conclusions.

119) Mr. Aylward also explained that:

“Cross Border co-operation up until the 1990s was largely based on policeman to policeman co-operation on an informal case by case basis. The Department did not drive or lead in that regard though in common with everybody else, it benefited from it. It was not the custom or practice for us to receive daily or monthly reports on the state of that co-operation. That does not appear to have been the case. Lacunae did exist, we know that now from the report.”

120) Ms. Margaret Urwin emphasised that Judge Barron highlights the fact that almost the exact same wording is used by the Garda officer in writing up the report on the Dundalk investigation as that used by the officer in writing up the report on the Monaghan bombing 18 months earlier. She said that this is a cause of grave concern as it is strongly suggestive of merely going through the motions.

121) The exact wording is to be found on page 50 of this Barron report, the fourth one. The first sentence reads: *“It will be appreciated that investigations were greatly hampered by reason of the fact that no direct enquiries could be made in the area where the crime originated”*. Ms. Urwin suggested that the impression being given here once again is that there was little formal co-operation or dealings between the Northern security forces and the Garda in December 1975 to January 1976. In her view this is a total misrepresentation of the facts.

- 122) Ms. Urwin asked us to reflect on why, in relation to Dundalk, that nothing happened until Superintendent Courtney was appointed as the Border superintendent in or about 1976. He then started to investigate it, but why was nothing done in obviously what would be, even from a lay-person's point of view, the vital time immediately after any crime has been committed?
- 123) In a statement to the Joint Committee Mr. Neil Faris, a Solicitor who responded to our request for submissions, reiterated previous submissions made by him stating: *"There is evidence that Ireland was resisting extradition to the United Kingdom at the time...that because of such impasse the Garda Síochána may have encountered additional difficulties in investigating crimes committed within the State"*. In the Sub-Committee's Final Report on the Report of the Independent Commission of Inquiry into the Dublin Bombings of 1972 and 1973 (February 2005) Mr Faris had asked us to consider whether what he described as the failure of the extradition process at the relevant time deprived the victims of the right to find out the truth about specific crimes.
- 124) Mr. Seán Aylward, the Secretary General of the Department of Justice, Equality and Law Reform, stated that:

"The Garda investigation into the Dundalk bombing displayed clear positive and negative elements which I do not wish to rehearse. I am not in a position to guarantee that things will not go wrong again in the future in relation to specific Garda investigations. However, I believe the accountability arrangements now in place are much more robust than those in place previously and that they accord with international best practice. I believe the Garda Síochána Act will formalise arrangements and responsibilities in a more modern and transparent manner. This should benefit all concerned, not least gardai on the ground who must work on the front line protecting us all from people who would visit murder and mayhem on us."

What did the Gardai know?

- 125) What was of particular interest in respect of this set of hearings was the focus not on the minutiae of whether a particular evidential or forensic lead was followed up but rather was on the failure to act on and follow up general intelligence as to who was behind the series of atrocities that was occurring on both sides of the border.
- 126) Commissioner Conroy indicated that his belief was that the names of members of the Glenanne gang would have been familiar to the Gardai particularly to officers along the Border at the time.
- 127) Mr. Cormac O'Dúlácháin SC, on behalf of Justice for the Forgotten, made the following observations about the state of knowledge on both sides of the border. From looking at 1974, detailed information as to the identity of loyalists was communicated from RUC Special Branch to the Garda Síochána. As early as 1974, the identity of those involved in atrocities was known. As the various

reports have emerged, names given to the Garda Síochána in 1974 subsequently reappeared in connection with events in Silverbridge, the Miami Showband and other atrocities. The identity of individual perpetrators was known as early as 1974. Their identity was not a local matter but was known at divisional headquarters in Portadown and at RUC headquarters. From the Holroyd notebooks it is known that the identity of these people was known to military intelligence. The structures within military intelligence suggest that all that fed into military headquarters in Lisburn. It is known from the Wallace documents that these individuals were being listed and collated and that associations were being identified. If one takes the individuals as being unrelated to the security forces and takes them purely as subversives, the identity of this network or organisation of subversives in Armagh was well known by 1974. Due to the fact that there has been no means of questioning anybody about it, what has not emerged through the Barron inquiries is what intelligence was gathered in connection with these people from 1974 onwards. From June 1974 onwards, both the Garda Síochána and the RUC knew that this group was capable of horrendous acts. It was capable of planting no-warning bombs in Dublin and Monaghan and planning events involving mass murder with no question of warnings. From the summer of 1974, the security forces in Northern Ireland knew that a powerful and dangerous group operated in their midst and yet we have no evidence or indication that anything was done to curtail, restrict or limit the free range of movement or the freedom to act of these individuals. While it is often said there is no evidence to convict, one continuously saw throughout the 1970s and 1980s the security forces adopt practices designed to curtail, limit and obstruct groups and organisations in carrying out actions. The question for the security forces is not simply related to having evidence to convict, but of how resources were applied and what was done to obstruct and defeat those who sought to carry out unlawful acts.

- 128) The Sub-Committee received contradictory evidence as to whether there are written records maintained by C3 on the knowledge of the participants in the Glenanne gang. Mr. Corrigan stated he was aware of it. Mr. Justice Barron does not appear to have had the opportunity to establish when he became aware of it or what families have lost people at the hands of that gang on a date after its activities became known either to the authorities in the North or the South. The Sub-Committee endorses the following comments of Mr. MacGuill:

“At what level was the information about the Glenanne gang known? If it was known by the ordinary Garda officers on the street in Dundalk that this gang operated and that there were UDR and RUC personnel in it, one of two things happened: it was either recorded in a file or was purposely not recorded in a file. If it was recorded in a file and nothing was done, that is a disgrace. If there was a purpose behind it not being recorded in a file, it is a scandal.”

The forensic evidence

- 129) Judge Barron noted at page 66 of his report that the members of the Ballistics Unit responsible for the forensic examination of the scene did not arrive until

12:30 a.m. The first potentially significant finds – the car number plate, the battery and the ‘Baby Ben’ clock – were made by local uniformed officers who were searching the rubble for victims.

- 130) With regard to the prints that were recovered at the scene of the bomb, at page 70 of the report Judge Barron states that the existing file at the Technical Bureau contains only scientific reports and copies of the two fingerprints taken at the bomb scene. It appears that any other documentation was retained by the officer dealing with the particular case. As far as the Dundalk bombing is concerned, such documentation appears to have been lost.
- 131) Detective Inspector Joseph Kinsella from the Garda Technical Bureau attended before us and said from a fingerprint point of view co-operation between the RUC and the Gardai at the time appears to have been good. He said that he travelled to the PSNI fingerprint department in Belfast on 11 October 2005 and that the file on the Dundalk bombing was made available. A handwritten record on the file cover indicated that the late Detective Chief Superintendent Dan Murphy had delivered the finger marks to the RUC. A list of six suspects was written on the file and beside each name “neg”. A record of the marks being searched on a computerized system for retrieving fingerprints on 13 December 2000 was also noted on the file as having been done. The file contained a total of 49 persons listed as suspects for checking against finger marks developed on black adhesive tape which was attached to the alarm clock found at the scene of the Dundalk bombing. On 15 July 2005 a new computer system for searching palms was used but this also led to a negative result.
- 132) Detective Inspector Kinsella explained that the quality of the marks was not good and it was not even clear if they were finger or palm prints. He pointed out that a lot of the prints of suspects on file would have been fingerprints rather than palm prints.
- 133) Detective Inspector Kinsella said that the trail of material evidence/exhibits from the bombing finished with Detective Inspector Byrne who is since deceased. He said that he did not have a record of where the items were stored or went. All he had at this stage were photographs of the print marks.

Concluding thoughts

- 134) Whilst recognising that it is sometimes dangerous to apply the standards of today to events in the past, the Sub-Committee is nonetheless concerned that it did not prove possible to make more progress in the investigation into the Dundalk bombing and the other atrocities on this side of the border. We recognize that the existence of collusion and the lack of co-operation from the authorities in Britain made the task of the Gardaí difficult. Nonetheless, if extraordinary incidents such as that which occurred at Crumlin Road had been vigorously followed up at all levels, including political levels, then further progress might have been possible.
- 135) Commissioner Conroy told the Sub-Committee that if the Dundalk bombing happened today things would be very different insofar as the Gardai now have

their own forensic science laboratory and so material could be examined locally instead of having to be sent to Northern Ireland for analysis. In addition the Gardaí have ballistics and DNA expertise as well as trained agent handlers who would be involved in dealing with people with information and proper evaluation of that information. He also pointed out that in many cases examination of CCTV can assist in detecting crime.

- 136) The Sub-Committee accepts Commissioner Conroy's assurance that things would be done differently today if an act of international terrorism were to occur in the jurisdiction.

Chapter 5

The Historical Enquiries Team

Introduction

137) The Historical Enquiries Team (hereafter “the HET”) was launched in Northern Ireland in January 2006 as an initiative to help relatives of unresolved deaths there. The team has a budget of approximately £30 million and a staff of 84, including analytical and administrative personnel. It includes an external investigation team made up of officers from outside of Northern Ireland and an investigation team comprising of serving PSNI and former RUC officers. Several persons who appeared before the Sub-Committee made reference to the work of the HET and, at our invitation, Sir Hugh Orde, Chief Constable of The Police Service of Northern Ireland, addressed us on its work.

References to the HET during the hearings

138) The Pat Finucane Centre said that it was told recently by a senior member of the Historical Enquiries Team that there was a very large library of information in the possession of Special Branch in the North which he had seen. The centre highlighted this underlining unwillingness to come forward and offer information in an article last year for the Human Rights Commission that was aptly entitled “Pulling Hens’ Teeth”.

139) Senator Cummins inquired as to the mandate of the HET and whether they would have access to the files in the special branch. Mr. Brecknell, from the Pat Finucane Centre, replied that whilst the people involved are people of personal integrity he did not know whether they will get the access required and whether families will get the maximum possible disclosure promised by the HET to them all because no case has yet come to closure. Mr. Brecknell explained that the HET is supposed to investigate all killings across the 30 years of the conflict in line with today’s standards and report back to each family individually. Mr. O’Connor, also from the Pat Finucane Centre, expressed concern that the HET has made it clear that before it can report to the families, it must consult its stakeholders. Its stakeholders include MI5, Special Branch and Army intelligence and MI5 is due to take control over all intelligence next year. Thus the HET which is answerable to the Chief Constable will become subservient to MI5. Officers involved at senior level in the HET led the Stevens investigation the details of which remain largely undisclosed. The concern is that future reports will receive similar treatment.

140) One issue which arose was whether a similar team should be set up in the Republic. Mr. Seán Aylward, the Secretary General of the Department of Justice, Equality and Law Reform, shared his view with the Sub Committee:

“I am not persuaded that establishing a similar exercise in the South where the number of cases is far smaller, would bring us any nearer to closure here. It would also involve a significant diversion of human and financial resources from ongoing Garda activities and live investigations, which would be of concern.”

141) For his part Commissioner Conroy stated:

“Our policing plans have been published. It will be noted that cold case reviews of a number of cases are being conducted every year. We evaluate any new information that comes to us with a view to bringing people to justice. That does occur. Assistant Commissioner Callanan has a team working full time on such matters.”

The submission of the HET

142) The Sub-Committee was addressed by Sir Hugh Orde, Chief Constable of the Police Service of Northern Ireland; Mr. David Cox, Director of the Historical Enquiries Team, and other officials from the HET. Their attendance before the Sub-Committee was of historic significance since it was the first time that a Chief Constable from Northern Ireland has addressed a Committee of the Houses of the Oireachtas.

143) Sir Hugh Orde began by drawing our attention to the fact that there are substantial differences between the HET and other police forces. In particular, no other police service faces the volume and complexity of unsolved crimes which the HET does. Sir Hugh Orde pointed out that 3,268 deaths occurred as a result of the security situation to which everyone refers as “The Troubles”. In addition, tens of thousands of people were injured or traumatised. The capacity does not exist to deal with every case in the manner of a traditional police investigation. Many very serious crimes would never have been looked at again as resources have been unavailable to examine each and every one individually. Sir Hugh Orde proceeded to explain the difficulties in mounting any prosecutions at this stage:

“... the likelihood of solving cases in a judicial sense is slight but possible. While the reasons for this are many, they include the obvious ones of witnesses’ memory fading over time and, sadly, many witnesses have since passed away or are too infirm to give evidence. There is a clear suggestion that there could be contamination of witness evidence by acquisition post the event, during the following 20 to 30 years depending on when the initial crime took place. Much forensic evidence is missing, while some is clearly contaminated. The forensic science laboratory in the North was blown to pieces during the Troubles. There is still, sadly, a fear that people will feel intimidated if giving evidence in Northern Ireland in these cases. The role of agents is also a matter which is a cause of considerable concern in the North. Even if we were to overcome all these challenges, the abuse of process, no doubt, would be high on the defence lawyers’ agenda. The list goes on.”

- 144) Sir Hugh Orde explained that the HET has consciously shifted the focus to ensure the driving force behind its efforts will be to deliver the outcome the families seek rather than the more formal one-dimensional police approach. He pointed out that this approach is unique in the United Kingdom policing world. He emphasised that central to the work of the HET is the principle of “maximum disclosure” which means simply that the HET intends to tell the families everything it possibly can about the investigation, its quality, the lines of its inquiry, the number of officers deployed etc., set against a context in which the investigation was carried out. The HET also intends to seek answers to specific questions put to it by the families before the reinvestigation takes place. However Sir Hugh Orde explained that Article 2 of the Human Rights Act will prevent some information being passed to victims’ families. He set out the particular difficulties that will arise in respect of the issue of informants:

“The real bone of contention, certainly in the North, concerns who was and was not an informant. As members of the committee will know better than I, many murders were justified by alleging that the victim was an informant. While this is a very complex area, the law tends towards a clear principle that we do not confirm or deny who is or is not an informant. There are sound reasons for this principle. In legal terms, the obligation to protect other sources is critical to the debate, but wider issues of strategic importance to national and international policing also merit consideration. There is also statute law that seriously restricts access to this sort of information. However, we are also clear that none of those reasons will cut any ice with the families for obvious reasons”.

Sir Hugh Orde referred to the Jean McConville case where the Police Ombudsman for Northern Ireland felt it was right to declare that her investigation had uncovered no evidence to suggest Ms. McConville had been an informant and that in the Ombudsman’s judgment she had not been an informant. He pointed out that, this lie behind the sick justification for her killing having been exposed, the IRA would have to face up to its role in history. He continued:

“Issues concerning informants may merit a review to determine whether there are circumstances in which such information can be disclosed, possibly in a confidential way without offending the wider legal principles or creating difficulties for modern policing methodology. While my mind is not closed to this, it is a finely balanced legal judgment and a matter for the Judiciary rather than for me. The genie is now out of the bottle and the debate will undoubtedly continue.”

- 145) Sir Hugh Orde stated that, difficulties aside, the HET is a force for good and tangible evidence that at least the PSNI is trying to do its bit in dealing with history. He said he was convinced a majority will recognise it as a genuine and sincere attempt. When he approached government for funding to take the task on, his vision was that it would drive a wider agenda so a range of opportunities within a framework would come on line in a short period. Unfortunately that had not happened.

146) Mr. David Cox explained that the HET is a bespoke unit that purely concentrates on examining cases from the period of “The Troubles”. It has ring-fenced funding from the Northern Ireland Office. It concentrates on the period 1968 to 1998 and does not limit its questions to those of traditional police investigations. He said that the HET sets a wide parameter and says to families when it meets them that they can ask any questions about any facet of the death of their loved one and it will try to find answers. It does its work to modern, current, professional police standards and will be thorough, fair and objective in its work. It will try to do this in a way that entertains the confidence of all sections of the community. He pointed out that the work of the HET was limited to the 3,268 deaths that were related to the security situation. Those deaths occurred in 2,516 incidents.

147) Mr Cox explained that with regard to the structure of the HET, there is a purple team and a red team. The purple team is composed of serving and retired officers, some of whom were members of the RUC and PSNI and some of whom were members of other police forces. The red team is composed entirely of serving and retired police officers who have never worked in Northern Ireland and have had no connection with the RUC or PSNI. The rationale for this structure is to try to meet the criteria of independence, if a family requests it. For example, if a family states it has no confidence in a case being examined by a person with any connection with the RUC, the HET can offer a service by using the red team.

148) In respect of the issue of independence Mr. Cox stated that:

“The issue of independence is one on which we are often challenged. It concerns Article 2 which deals with compliance as set out by the European Court, whereby an investigation would have to be independent, effective, transparent and prompt. With regard to independence, as far as we can be, we are independent. No staff who were involved in the incidents under investigation are in any way involved in a review. Even those officers on the purple team must sign a declaration that they have had no previous dealings with a case that comes up for review. The members of the red team would never have had contact with such cases in any event.”

149) In terms of accountability Mr. Cox said that the HET holds itself primarily accountable to the families. He explained that:

“Operationally, we are an independent unit. I report directly to the Chief Constable and not to any other line of command in the PSNI. That is exactly the same process when I was working on an external inquiry, the Stevens inquiry, before I came to Historical Enquiries Team. As the Chief Constable is the statutory authority for the investigation of crime in Northern Ireland, all external investigations must report to him in any event. We are no different in that way. That does not mean the Chief Constable has time on his hands to make operational decisions. It means I report to him in terms of accountability.”

150) Mr Cox also explained the efforts that the HET went to in order to gather material and stated that *“We have physically checked every room in every building within*

the PSNI for materials relating to cases from this time.” However he pointed out that the fact that several police stations were blown up several times and the forensic science laboratory was attacked and completely blown up twice meant that exhibits and files had been lost. He said that the Ministry of Defence was a good source of information since the army filed everything in triplicate. He said that the HET had set up a historical analysis computer database which in time will have the capacity to provide a massive amount of information about the Troubles. He explained how a fingerprint and forensic review is conducted in cases. If investigations bring sufficient evidence then the HET will submit a case to the DPP. Otherwise it will move to the resolution process whereby its members will sit down with families and tell them what it has done. He pointed out that before the HET can name a suspect for a killing it must have evidence and it could not ethically name persons simply on the basis that they might have been involved.

151) The Chairman, Deputy Ardagh pointed out to Sir Hugh Orde that the Sub-Committee had now dealt with four Barron reports and that the issue of collusion had come to the forefront of our work. In this context Deputy Ardagh asked what level of access the HET has to intelligence files. In reply Sir Hugh Orde said that a great deal of information belonging to other agencies was under his control in the first place.

152) The Chairman Deputy Ardagh pressed Sir Hugh Orde to indicate what the HET was doing about collusion and the patterns of violence and connections between cases that exist. Sir Hugh Orde responded by pointing out that a majority of victims had been murdered not by the State but rather by loyalist paramilitaries and republican paramilitaries who did not need the government to commit murder since they had become very good killing machines themselves. Mr Cox explained that *“The security service has its own role and its own structures and requisites to examine their material, but we have arranged with it a memorandum of understanding. If a case has material that it holds, it notifies us that it is a case on which it has information. Our appointed and nominated staff who hold the required developed vetting category - they must be cleared to a security level - go to the security service and are allowed to examine the material in situ. We look at it.”* He continued:

“We are working on establishing a third team which would probably be based in London. It would be largely analytically driven and examine the collusion issues. The reason it would be based in London is it would have external staff and additional independence. We would take the material to London to be examined because of the cost of bringing staff over. Flights, houses, food, drink, power, etc., must be paid for; for example, the red team costs almost half my budget per year. I could not set up another independent team in Ireland. We are looking at taking the work to where we can get quality staff. Their work would be based on an analytical process using our database and taking advantage of whatever we could, with access to intelligence to try to find the answers in those collusion cases.”

153) Senator Cummins observed that it is a source of satisfaction that, at last, somebody is attempting to sit down and listen to what families have to say and, one hopes, offer them closure. He asked Sir Hugh Orde whether the HET would

focus on the Glenanne farm where there was obvious collusion between the RUC, the UDR, the British Army and the murder gang in that area. Sir Hugh Orde responded with some general comments about trying to prosecute persons and the possible use of forensic evidence. Mr Cox said that he was unable to comment on specific investigations but that the investigative process is different in cases of collusion and this is the reason the HET is determining whether to set up another team to deal with that. He explained that the families would be told about the findings of the HET in any given case as would the Chief Constable and through him the Secretary of State.

- 154) Deputy Brendan Howlin² pointed out that the HET is an important body to which everyone on the island pays a great deal of attention. Deputy Howlin noted that Judge Barron had observed that the security forces in Northern Ireland may or should have known who was responsible for the bombing of Kay's Tavern and also noted that it appeared that in August 1975 the Department of Foreign Affairs had passed on information to the effect that four members of the UVF in the Portadown area were members of the RUC. He asked how the HET would be addressing issues such as this. Sir Hugh Orde indicated that he could not comment on individual cases but that the HET recognised that there would be linkage in cases since people did not kill just one person during the Troubles. He reassured the Sub Committee that the HET had no intention of sidelining one particular type of crime or another and stated that:

"We are starting at the beginning and will go through all cases. If in a particular one we uncover something which can be loosely described as collusion, to use Judge Cory's definition which was very widely drawn and included commission by omission and malpractice such as the feeding of information, we will pursue it."

- 155) Deputy Hoctor asked Sir Hugh Orde if there was information available to him on the number of acts of terrorism perpetrated using the farm at Glenanne between 1976, when the activities engaged in there became known to the RUC, and 1978, when the RUC actually acted on the information and made arrests. Mr Cox answered by saying that as the HET had not concluded its investigations he did not want to comment on these sorts of specifics. Deputy Hoctor pressed him on whether or not the HET had examined the warning that the RUC had given the Gardai about the bomb in Kay's Tavern. Mr Cox said that whilst he could not answer specifics that would be the type of material that the HET would focus on and that it could assist in establishing collusion and that was something that the White Team would work on.

- 156) Senator Walsh posed a number of questions to Sir Hugh Orde as follows:

"I am surprised at the last answer because the Glenanne gang was involved in an enormous number of atrocities. There is a list of them in the report on the Dublin and Monaghan bombings. It totals 15 murders and they involved RUC reserves, RUC full-time personnel and the UDR. It would be astonishing if Mr. Cox has not yet looked at that. Would it be the case that

² A member of the Joint Committee

Mr. Phil James has, in fact, examined the activities of that gang? His absence from this meeting deprives us of the opportunity to get relevant information about that.

The Chief Constable mentioned that the team has access to the intelligence within the RUC. MI6 was under the control of the Foreign Secretary and MI5 was under the control of the Secretary of State at the Northern Ireland Office. Has the HET unfettered access to their files? If so, can the Chief Constable outline what level of co-operation the team is getting and if anything has emerged with regard to some of the activities we are examining.

I appreciate that the witnesses might not be in a position to answer on specific details but could the Chief Constable do the committee the favour of responding to our questions in writing or perhaps making somebody available to the committee who would be able to give us the information on the questions the witnesses cannot answer today?

Were there informants within the Glenanne group? If so, how many? By whom were they controlled, the British army or people within the RUC? To whom did they report? Mr. Colin Wallace had a list of people whom he was excluded from investigating, presumably because they were informers and were controlled by other agencies or, as happened in the case of the owner of the Glenanne farm, were RUC personnel. Are there any such inhibitions on the HET with regard to the investigations it is undertaking at present?"

In reply Sir Hugh Orde stated that the HET had not been established as a cover up and that whilst it might not be perfect it was set up in a sincere attempt to make a difference where no-one was making a difference. He said that at this stage he could not give the Sub-Committee specific answers to questions about specific incidents but would look at what the HET could provide in written form. He stated that *"As far as information and intelligence is concerned, the majority of it is under my control. Even material that belongs to other agencies is under my control. It always was. It all went into a number of legacy systems that we own. We can search all of that."* Mr Cox explained that the HET was set up not to deal with Glenanne but to meet the families and that *"Glenanne has come into the process and we are devising a structure by which we hope to be able to deal with it."* In terms of the relationship between the HET and MI5 and MI6 he explained that:

"In terms of the memorandum of understanding, we have been to the security services and have an agreement. I provided the detail of how we go about looking at the material they have. They are constrained, by their charter and the Act of Parliament that set them up, to limit the supply of their material. As far as they can, they assist us. The material can be used to assist in the investigation of serious crime if it is relevant and that is the only reason it can be used. The provision is not designed to make material available to answer families' questions, so that is an issue for us. However, if the matter concerns taking a serious crime investigation forward, we get

the utmost support and have written agreements with them and a process by which we look at their material.”

- 157) Senator Walsh referred to the sentences handed down to those involved in the Rock Bar attack and asked whether the PSNI remit extended to investigating members of the judiciary who may have been involved in collusion. He also referred to delays which had occurred in respect of the RUC passing on assistance and information to the Gardaí. In particular Senator Walsh referred to the bombing of Kay’s Tavern, and the inquiries about the stolen car that were made by Detective Inspector John Courtney and Detective Sergeant Eoin Corrigan who were told in Belfast by the RUC that they would not be allowed to interview a detective constable who might have been of assistance to them. In reply Sir Hugh Orde pointed out that he could not answer questions in respect of individual cases and that sentencing was a matter for judges who are independent. However he added that:

“Anybody who has committed a criminal offence, regardless of whether he or she is a chief constable or in some other profession, is amenable to prosecution should our inquiry team find evidence. The nature of a person's profession does not detract from our ability to pursue cases. The Senator should rest assured that if we find evidence against anybody, we will pursue it.”

Mr Cox added that the HET has established very good links with the Gardai.

- 158) Deputy McGrath posed the following question to the representatives of the HET:

“... on the collusion issue, having listened to the tone and the reaction of some members, do the representatives understand the feelings of citizens, victims and taxpayers when they hear the word "collusion"? They are talking about police officers and soldiers involved in acts of violence and terrorism. Do the representatives understand the hurt and anger, particularly on the part of the families, in respect of this issue? Mr. Cox said that the vast majority of the cases do not involve collusion but is the collusion issue being taken seriously because many people do take it seriously?”

Deputy McGrath said that in the light of the constraints on the HET when dealing with agents how could it convince the victims that their cases would be handled fairly and objectively. He asked Sir Hugh Orde how, in today’s PSNI, he would deal with officers involved in any type of violence. Deputy McGrath pointed out if collusion was not faced up to the peace process would not be able to develop.

- 159) In reply Sir Hugh Orde stated:

“I was asked if I understand collusion. Yes, I do. I spent three years or so on the Stevens team examining cases where collusion was the main allegation. I was with Lord Stevens when he said there was collusion. I understand collusion. Let us be clear about what I mean by “collusion”. I will quote from the Cory report, which states: “There cannot be public confidence in

Government agencies that are guilty of collusion or connivance in serious crimes". It also states:

[T]he definition of collusion must be reasonably broad when it is applied to actions of these agencies. This is to say that [the army and] police forces must not act collusively by ignoring or turning a blind eye to the wrongful acts of their servants or agents or by supplying information to assist others in committing their wrongful acts or by encouraging them to commit wrongful acts.

This is Lord Stevens' understanding of collusion."

He explained that in respect of agents there were no constraints in that regard and that if anyone steps outside of the law he or she will be dealt with. Sir Hugh Orde stated that one of the first steps he took when he took over as Chief Constable of the PSNI was to review every single agent. He reminded us that every police service has agents, including the Garda Síochána. He said that one cannot protect communities if one does not have agents and informants. If the Garda Commissioner and he jointly offered to protect the island of Ireland from international terrorism, they would need informants and agents. He said that *"This is a brutal reality of policing, although it may not be nice. It is a question of how one controls and supervises the agents and ensures the process operates within the law."* He said that The Regulation of Investigatory Powers Act is a significant Act that legislates for how informants are to be handled. It is very clear in stipulating that if an informant steps outside his or her authorised brief or acts in a criminal way, all bets are off and he or she will be prosecuted. There is no immunity for agents. In law, no one can offer immunity to any member of the public, regardless of whether he or she provides information to the police. It may not be in the public interest to prosecute someone who plays a minor role in an attempt to frustrate a serious crime. That is different and is done under control. Sir Hugh Orde further explained that the levels of authority are high and extend to Assistant Chief Constable level and his level. He said that *"If people seriously believe I will not deal with agents in my organisation operating outside their authority, they are clearly mistaken. Let me be unequivocal in saying so."* He said that he had decommissioned a number of agents very shortly after he became Chief Constable. When pressed by Deputy McGrath Sir Hugh Orde fully accepted things were different 30 years ago but he added that The Police Ombudsman for Northern Ireland, Ms. Nuala O'Loan, is producing a report that will explain in more detail the unsatisfactory nature of some of the activities of the past and that the report is to be published soon. He added:

"Any police officer who steps outside the law to enforce the law is taking the first step on the road to anarchy and we do not tolerate this. We have the most independent and effective police complaints system in Europe, if not in the world. It is certainly better than any I have seen in America. It is truly independent and the Office of the Police Ombudsman for Northern Ireland is a truly independent organisation. The ombudsman investigates, as of right, any police shooting or deployment of the AEPs. She deals with every complaint independently and has not referred a single complaint back to us for investigation, as the legislation allows. She undertakes every

investigation herself. The reports her office publishes demonstrate the independence of her inquiries.”

- 160) Sir Hugh Orde also noted that everyone had to face up to the past and that the HET was only part of the solution and other ways also had to be found to deal with history.
- 161) Deputy O’Fearghaíl welcomed the work that the HET was doing and asked Sir Hugh Orde what sort of strategies are in place to assess the success of the HET’s engagement with the families and its work on their behalf. He asked what has been the nature and extent of the HET’s contact with the Garda Síochána in respect of the many cases that have a cross-Border dimension. He further asked whether or not he felt it would be useful to establish a mirror-image HET on this side of the Border. He wondered if Sir Hugh could comment on, quantify or categorise the nature of the co-operation that he has enjoyed from former members of the RUC, not least those who were active during the especially contentious periods discussed in these reports. In reply, Sir Hugh Orde stated:

“...when I was on the Stevens investigation, we met many former detectives who felt extremely frustrated because they had not enjoyed access to the whole intelligence picture at the time. They felt that, had they done so, they might have been able to do a better job on behalf of families. That is why we are seeing a willingness to co-operate on the part of senior investigating officers; they were frustrated at the time and felt that they could have done more, despite the very difficult circumstances in which they were operating.”

- 162) In respect of Deputy O’Fearghaíl’s question as to whether a HET type process would work on this side of the border Sir Hugh Orde fairly pointed out that it was not for him to give the Garda Commissioner advice such as that but he could make the following observations:

“Conditions in the Irish Republic were fundamentally different. One would have to examine the matter and form an assessment of what value might be added. We have tried to highlight that, recognising that in many cases we will never reach a judicial outcome and that many families to whom I have spoken do not seek one, although we should be clear that some do.

If the issue is state inactivity or inability to solve a crime, some want it to accept responsibility for its failings, but that is a different issue. Others wish only to know what went on, since they were fairly satisfied but were not kept up to date. There is a broad spectrum, and conditions were fundamentally different. I am not sure that the model that we have devised is instantly transferable, just as a resolution process from elsewhere in the world might not be transferable to us. It must be bespoke to the challenges that one faces.”

- 163) Mr. Cox said that the HET recognised that many families had suffered from a lack of information from the police over the years. He pointed out that sometimes there

would have been a reason for this e.g. *“Sometimes retired officers to whom we have spoken have said that they were unable to get back to families because of the security situation and the number of cases with which they were dealing, and also because it would have been too dangerous to them and the families to return to the areas where they lived to keep them informed.”* Mr. Cox accepted that by and large things should have been a great deal better than they were but hoped that the HET would be able to bring partial closure to families by talking to them. He also noted that whilst the Retired Police Officers Association supported the work of the HET some of its members sometimes felt that they could be liable to be unfairly castigated because they would be judged on current standards in respect of what they did many years ago. He said that some of the individuals were traumatised by the experiences that they underwent and that it was difficult for them to engage with the HET but that as people came to understand its work hopefully that would change.

- 164) Finally the Chairman, Deputy Ardagh asked Sir Hugh Orde how important it was that Sinn Fein would be involved in the Northern Ireland Policing Board. Sir Hugh replied:

“It is critical that Sinn Féin join the Northern Ireland Policing Board. At present, I am a very accountable chief constable but I am only accountable, through that process, to the communities that are represented on the policing board. Sinn Féin would have two seats but it has chosen not to take them. Sinn Féin's presence would be important because it would give the party access to the democratic accountability process put in place by Patten, which are very good, and allow it to challenge me and make my life as difficult as it wishes on behalf of the community it represents.”

He also pointed out that if Sinn Fein did not engage soon then in a few years the number of vacancies would decrease since the PSNI was recruiting so actively at the present time and that that would be a real shame.

Our view

- 165) The Sub-Committee wishes to extend its sincere thanks to Sir Hugh Orde and his colleagues for attending before us. The attendance of Sir Hugh Orde before us is an example of a new and more open approach and we urge others to follow his example.
- 166) The Sub-Committee recognises that Sir Hugh Orde and his colleagues were invited to address us on the workings of the HET and would not be in a position at this stage to make detailed comments on the facts of specific cases.
- 167) The Sub-Committee commends the British Government and the PSNI for putting the HET in place. It is a great initiative and will be very helpful to the families regarding the trauma and pain they have suffered during the past 30 years. We hope that, in some way, its work will help to minimise that pain.

168) The Sub-Committee welcomes Sir Hugh Orde's assurance that if the HET comes across collusion it will pursue it. To this end, the Sub-Committee strongly urges the HET to proceed expeditiously with the establishment and work of the White Team in London to investigate collusion. We believe that this is an essential step if the HET is to fulfil its aim to bring some sort of resolution for the families.

Chapter 6

Other matters

Missing documents

- 169) Missing documents have been a feature of all of our reports and this one is no different. Judge Barron noted that the Department of Justice, Equality and Law Reform does not have a contemporaneous file related to the Dundalk bombing. Mr. Seán Aylward, the Secretary General of the Department, offered the following explanation:

“I realise that people may be surprised that the Department did not open a specific file on an incident which claimed the lives of two of its citizens. However, as a general rule the Department only opens files when specific policy or advisory papers are created or where specific action is required to be undertaken by the Department. In the case of the Dundalk bombing, the associated criminal investigation was exclusively undertaken and delivered by the Garda authorities. The Department did not see its function as shadowing such an investigation and continues to take that line.”

In response to a question from Deputy Lynch, Mr. Aylward elaborated that *“I believe that the report records that the Department of Foreign Affairs took the matter up with the Northern Ireland authorities but it does not seem to have gone much further than that”*. He suggested that if any such dialogue had taken place one would have to look at the minutes or notes of a meeting between the Secretary of State for Northern Ireland and Southern Ministers and that such documents would be held by the Department of Foreign Affairs.

- 170) In the Sub-Committee’s Final Report on the Report of the Independent Commission of Inquiry into the Dublin and Monaghan Bombings (March 2004) we indicated that we had been greatly concerned at the lack of communication which appeared to exist between the Department of Justice and the Gardai in 1974 (para 2.33). The Sub-Committee concluded that there should be some mechanism in place for reviewing major Garda investigations and assessing the progress that is being made (para 2.47). We further concluded that the failure to adequately advance an investigation where a serious crime has taken place should be a matter of discussion between the Garda authorities and the Department of Justice, Equality and Law Reform in order to address public concern (para 3.7).
- 171) Mr. Aylward stated that his Department now has new software technology and systems in place for file tracking.
- 172) Judge Barron notes on page 119 of his Report that information provided to his inquiry from the Department of Foreign Affairs could not be located on any of the Garda or Department of Justice, Equality and Law Reform files. The information in question was to the effect that four members of the RUC in the Portadown area were members of the UVF and that one of them was actively engaged in the

murder investigation of the so called murder triangle. Mr. Aylward stated that an exhaustive search in his Department did not lead to any trace of the document.

- 173) When asked by Senator Walsh about whether there were records in C3 concerning the activities of members of the security forces engaged in collusion Commissioner Conroy stated that:

“All I can say on that front is that anything that Mr. Justice Barron asked of us we provided to him if we had it. It is clear that we have not got those documents in our possession right now. A lot of documents were got rid of many years ago because of storage and that has been certified by a very senior officer who is not longer on this earth.”

- 174) In response to a question from the Chairman, Deputy Ardagh, Assistant Commissioner Martin Callanan said that in respect of the Glenanne Group:

“The particular file to which the Chairman refers is referenced under the name of an individual. The location of the farmyard is included. There are references to a whole spectrum of people who from time to time have visited that location. That is all included in the file as a matter of record in C3.”

- 175) Ms. Urwin stated that the British are great at keeping records and everything is written down. It does appear that there is a certain amount of information available about these events. The manner in which the Pat Finucane Centre has been able to link various forensic reports is indicative of the type of information that does exist.

The aims of the families

- 176) When asked by Deputy Hoctor what the families hope to achieve at this stage Mr. Cormac O’Dúlácháin SC stated:

“There are a number of different outcomes and what any one individual wants can differ from family to family and between people within families. Where it comes in respect of the Dublin and Monaghan bombings is that, to this date, there has been no formal acceptance by the Irish Government that collusion was a factor in those bombings and, in fact, the institutions of the State went out of their way, for a number of years from 1992, to effectively deny or repudiate such allegations, or to throw cold water on them. Therefore, there is a question of whether a state, on behalf of its people, acknowledges, recognises or sets the record straight.

As regards the United Kingdom, collusion has never been an unacceptable policy. It is one of the standard tools in which political affairs across the world have been managed. What seems to be unacceptable is to admit that it has been applied as a policy and, to date, the various victims have been denied an admission of truth, an admission that there is a state involvement or a state culpability. It is ultimately about the truth and the admission, as

opposed to whether there are convictions or apportionment of individual or personal responsibility.”

- 177) Ms. Margaret Urwin stated that in regard to the allegation that four members of the RUC in Portadown were members of the UVF, Mr. Justice Barron mentioned in his report that he received this information from the Department of Foreign Affairs. He goes on to say that it is no longer available in any of the files of the Garda Síochána or the Department of Justice, Equality and Law Reform and, further, that the information did not provide any names.
- 178) The Sub-Committee recognises, as it has done in its previous reports that the State has an obligation to its citizens particularly in the aftermath of an atrocity such as occurred at Dundalk. The role of the State is not limited to the investigation of criminal or terrorist activity, but is to provide appropriate support to those most affected by the atrocity in question. In this regard the Sub-Committee reiterates what it said in previous reports to the effect that the State should continue to ensure that practical support measures are made available.

The role of non-governmental organisations

- 179) The Sub-Committee was once again struck by the contribution that non-governmental organisations such as Justice for the Forgotten and the Pat Finucane Centre can make to assist the resolution of outstanding issues relating to the conflict in Northern Ireland and in this jurisdiction. Once again the Sub-Committee is of the view that non-governmental organisations working in this area should be given every reasonable support and assistance by the authorities in their endeavours to ascertain the truth.

Legislative developments

- 180) Mr. Seán Aylward, Secretary General of the Department of Justice, Equality and Law Reform drew the attention of the Sub-Committee to the following pieces of legislation:
- (i) The Criminal Justice (Mutual Assistance) Bill 2005 which if passed into law will give effect to three new mutual assistance instruments.
 - (ii) The Garda Síochána Act 2005 which establishes a much more formal structure in respect of the relationship between the Garda Síochána and the civil authorities as well as a Garda Inspectorate. The Inspectorate will monitor the Gardaí and give advice benchmarked against international best practice.

Chapter 7

Conclusions

- 181) The victims are at the centre of the Sub-Committee's work. There is no doubt that more should have been done by this State to assist the victims of the atrocities and that they should not have been left in a position where they legitimately felt that they had been forgotten about.
- 182) The Sub-Committee is left in no doubt that collusion between the British security forces and terrorists was behind many if not all of the atrocities that are considered in this report. We are horrified that persons who were employed by the British administration to preserve peace and to protect people were engaged in the creation of violence and the butchering of innocent victims.
- 183) The Sub-Committee believes that unless the full truth about collusion is established and those involved either admit or are fixed with responsibility then there cannot be closure for the families.
- 184) The Sub-Committee further believes that unless the full truth about collusion is established and those involved either admit or are fixed with responsibility then there is always the risk of what occurred in the 1970s occurring again some day. We are of the view that these matters cannot be swept under the carpet.
- 185) The Sub-Committee is of the view that given that we are dealing with acts of international terrorism that were colluded in by the British security forces, the British Government cannot legitimately refuse to co-operate with investigations and attempts to get to the truth.
- 186) The Sub-Committee notes that the British cabinet was aware of the level to which the security forces had been infiltrated by terrorists and we believe that its inadequate response to this knowledge permitted the problem to continue and to grow.
- 187) The Sub-Committee is of the view that at the time of the atrocities the authorities in this jurisdiction at all levels could have been far more vigorous in their attempts to identify and bring to justice the perpetrators. In saying this we recognise and do not under-estimate the difficulties those authorities faced when confronted by the non co-operation of the British authorities. Nor do we underestimate the instability of the times or the threat that was posed to this State by certain organisations. Nonetheless, more should have been done.
- 188) In respect of the allegation made by the Irish Government to the British Government in August 1975 to the effect that four members of the RUC in the Portadown area were also members of the UVF, the Sub-Committee finds the whole chain of events to be surprising to say the least and we cannot understand why the documentation stops dead in its tracks on 3 September 1975 given the gravity of the issue.

- 189) The Sub-Committee has considered what it was told by Mr. Corrigan and Mr. Courtney, by the Gardaí and by the Department of Foreign Affairs and we believe that there is an abundance of information to suggest that there was reasonable if not significant, knowledge on this side of the border that British security personnel were working with and as loyalist paramilitaries. The fact that little or nothing was done to address this is, to put it mildly, alarming.
- 190) The Sub-Committee welcomes Sir Hugh Orde's assurance that where the HET finds collusion it will pursue it. To this end, the Sub-Committee strongly urges the HET to proceed expeditiously with the establishment and work of the White Team in London to investigate collusion. We believe that this is an essential step if the HET is to fulfil its aim to provide resolution and closure for the families.
- 191) In our third report (into the murder of Seamus Ludlow) we recommended that an Historical Inquiries Team be established in this jurisdiction to investigate unresolved crimes connected with the Troubles and that it have a particular remit to liaise with its counterpart in Northern Ireland. We reiterate that recommendation again as part of our conclusions to this report.
- 192) This report is our fourth and is the culmination of all of our work. The spectre of collusion was raised in our first report and we now have enough information to be fully satisfied, not only that it occurred, but that it was widespread. The seriousness of this warrants direction from the Oireachtas and we therefore recommend that there should be a full debate in both the Dáil and the Seanad on the issue of collusion since it is necessary for there to be greater political impetus to highlight the fact that it occurred and the facts of its scale and to identify measures to bring closure to the victims.
- 193) Our experience has been that the British authorities have reacted to the issues that arise from the atrocities in a closed and defensive manner. The natural instinct appears to be to selfishly defend the organisation or administration to which one belongs. The Sub-Committee believes that there is a need for officials to change to manner in which they think and act and for them to be more open about the past.
- 194) What occurred in respect of these atrocities must, quite simply, never ever be allowed to happen again.

Appendix A: Report of the Independent International Panel on alleged Collusion in sectarian killings in Northern Ireland

In 2004 the Pat Finucane Centre of Derry asked Professor Douglass Cassel, then of Northwestern University School of Law, Chicago, Illinois, USA, to convene an independent international panel of Inquiry into the alleged collusion by members of United Kingdom security forces in sectarian murders and other serious crimes in Northern Ireland in the mid-1970's. The panel, which was independent of the Pat Finucane Centre, was to conduct its Inquiry and publish a report in an "independent and impartial manner according to its professional judgment".

In particular, the panel was asked to focus on the activities of the so-called "Glenanne group" and evaluate whether the central allegations relating to the activities of the group warrant further official investigative or other measures. In order to complete its task, the panel was to gather sufficient evidence and review any document that it deemed relevant. More importantly, the panel would hear testimony from those involved thus providing an opportunity for witnesses, victims and those bereaved as a result of the alleged activities of the Glenanne group to tell their stories.

The panel's overall aim was to analyse the allegations within the realm of international human rights and humanitarian law and determine whether the United Kingdom government has a case to answer with respect to these allegations of collusion, in terms of both its substantive and procedural responsibilities under international law. The panel was asked to make recommendations as to the most appropriate mechanism with which to address the concerns highlighted and determine whether further, official investigation is required by international human rights law.

The panel consisted of four members each of whom had extensive, relevant experience; Professor Douglass Cassel, Ms. Susie Kemp, Mr. Piers Pigou and Mr. Stephen Sawyer. The panel's final report was published in October 2006 by the Center for Civil and Human Rights, Notre Dame Law School.

Key Findings and Recommendations

In the course of its Inquiry, the Panel examined 25 cases of suspected loyalist paramilitary violence in Northern Ireland during the period 1972-1977. These included the individual case summaries of (the incidents considered by Mr Justice Barron in his fourth report are highlighted in bold):

- Patrick Connolly, killed by a hand grenade thrown through a window into his home.
- Francis McCaughtey 33, killed by a booby trap bomb set on the family farm.
- Patrick Campbell 34, shot dead in the door of his home in Banbridge.
- The gun attack at Boyles bar County Tyrone.
- The bomb attack at Traynor's Bar County Armagh.
- The Dublin Monaghan bombings.
- The gun attack at Falls Bar, County Tyrone.
- The shooting of John Francis Green in County Monaghan.

- Owen Boyle 41, who was shot dead at his home at Glencull.
- Bowen home, Killyliss where a booby trap bomb exploded.
- The gun attack at Bleary Darts Club, County Armagh.
- The bomb attack on the Grew family in their home in County Tyrone.
- **The gun and bomb attack on the Miami Showband in County Down.**
- The gun attack on the Gilford Minibus in County Armagh.
- The shooting of Colm McCartney and Sean Farmer in south Armagh.
- **The gun and bomb attack on Donnelly's Bar, County Armagh.**
- **The bomb attack at Kay's Tavern in Dundalk.**
- **The attack on the O'Dowd family in County Down.**
- **The attack on the Reavey family in County Armagh.**
- **The Bombing at Castleblaney.**
- The bomb attack at Hillcrest Bar County Tyrone.
- The gun attack on the Eagle Bar in Charlemont.
- **The attack on the Rock Bar in County Armagh.**
- The shooting of Sergeant Joe Campbell in County Antrim.

The 25 cases considered, involve a total of 76 murders as well as attempted murders. In 24 of the 25 cases, involving 74 of the 76 murders the panel concluded that there was evidence that suggests collusion by members of the Royal Ulster Constabulary (RUC) or the Ulster Defense Regiment (UDR). In 12 cases, involving 11 murders and one attempted murder, former RUC officer John Weir accuses RUC officers and agents or UDR soldiers of participation. The panel found that in general Mr. Weir's allegations were credible.

Firearms were used in 8 of the 12 cases concerning Weir's allegations. In 7 of the 8 cases, RUC ballistics tests corroborate his allegations. At no stage did the ballistics tests contradict him. Further RUC ballistics reports confirm that one or more of these firearms were also the murder weapons in five more of the 25 cases. The panel also concluded that criminal convictions link 2 more of the 25 cases to involvement by State security forces. In relation to 5 of the remaining cases, the panel found that there is evidence, in some cases strong evidence, of state security force involvement. The only case that the panel could not conclusively point to collusion in was the 1975 attack on the minibus near Gilford. In that case, the panel found that, due to the inadequacies of the police investigation at the time, no conclusion could be drawn.

The panel found that the extremists with whom RUC officers and agents and UDR soldiers colluded and at times overlapped, gained most of their arms and ammunition, as well as training, information and personnel, from the RUC and the UDR.

The panel concluded that there is credible evidence which indicates that superiors of violent extremist officers and agents, at least within the RUC, were aware of their sectarian crimes and yet failed to take any preventative or punitive action and at times appeared to go so far as to condone participation in these crimes.

The panel found that the police investigations and prosecutions that ensued as a result of the confessions of Weir and another officer in 1978 were inadequate by any reasonable standard.

The panel concluded that senior officials of the United Kingdom were put on notice of sectarian violence by UDR soldiers as early as 1973. The panel found that by 1975 at the latest, senior officials had been informed that some RUC officers were “very close” to extremist paramilitaries.

The panel concluded that the police investigations during the relevant period were deficient by any reasonable standard.

The panel gave credit to the British government for introducing reforms but highlighted that the Historical Enquiries Team established by the Police Service of Northern Ireland, does not meet international standards for investigations and in particular does not publish its findings. The panel noted that The Committee of Ministers of the Council of Europe is supervising British compliance with several judgments of the European Court of Human Rights in relation to Northern Ireland. However, the panel concluded that despite these developments, the serious concerns and unanswered questions of those affected by past collusion have not been addressed adequately or, indeed, at all.

In conclusion, the panel suggested that the British government should firstly conduct a thorough and inclusive consultation with all interested groups to discuss the findings of the report. Secondly, it recommended that all necessary investigations be undertaken at the initiative of the State and that those investigations should meet the requisite international standards. The panel also urged that paramilitary groups on both sides of the conflict cooperate with these official investigations.

Further, the panel recommended that the results of these investigations be published and where collusion is found to exist, that the State should publicly acknowledge its responsibility. Finally, the panel concluded that senior officials should publicly apologize to the families of victims.

When questioned at a meeting of the Sub-Committee by Deputy Ardagh about the report’s suggestion that he had not given it full cooperation Sir Hugh Orde responded that:

“There are a number of points on that, one of which is that the Historical Enquiries Team is something we set up to deal with our responsibility as we saw it. There are a number of self-appointed groups who are pursuing specific issues - single issue cases perhaps or some that are slightly more complicated. I do my very best to meet with every one of them, be they self-appointed from the United States, self-appointed in Europe or, indeed, set up by some non-governmental structure to look at a specific case. I meet as many as I can and I share as much as I can.

I was slightly surprised by the final report. I did not have an opportunity to comment on its contents before it was published so that is still a matter for debate between me and that organisation as to what was and was not agreed.

The points around limitations are clearly made. There are some things we simply cannot share because our legal obligations and stated cases, case law and European law says we cannot. There I find myself fettered. That is our only

limitation. If we can share it, certainly with the Historical Enquiries Team, I will.

The Historical Enquiries Team has to have primacy. It is our, not other people's, responsibility to investigate these crimes and I am not going to second-guess my cases by handing some material willy-nilly to organisations, some of which have a very independent view and some of which are trying to prove a hypothesis rather than look at it from an independent stance.”

Appendix B: The list of persons/bodies who made oral submissions to the Sub-Committee.

Tuesday 26th September 2006

Bombing outside Kay's Tavern, Dundalk 19 December 1975

Mr. James McGuill, Solicitor - represented families of deceased
Ms. Margaret English (daughter of Hugh Watters)
Ms. Maura McKeever (daughter of Jack Rooney)

Attack on Three Star Inn, Castleblaney, 7 March 1976

Mrs. Anna Mone McEneaney (widow of Patrick Mone)
Mr. Thomas Mone (nephew of Patrick Mone)

Bombing of Dublin Airport, 29 November 1975

Mrs. Monica Hayes (widow of John Francis Hayes)
Mr. Brendan Hayes (son of John Francis Hayes)

Attack on Donnelly's Bar in Silverbridge 19 December 1975

Mrs. Ann Brecknell (widow of Trevor Brecknell)
Mr. Alan Brecknell (son of Trevor Brecknell)

Attack on The Reavey family 4 January 1976

Mr. Eugene Reavey (brother of John Martin, Brian and Anthony Reavey)

Attack on the Step Inn in Keady 16 August 1976

Mr. Paddy McGleenan (father of Gerard McGleenan)
Mr. Malachy McDonald (widower of Betty McDonald)

Attack on the O'Dowd family 4 January 1976

Mr. Barney O'Dowd (survivor and father of Barry and Declan O'Dowd and brother of Joe O'Dowd.)
Mr. Noel O'Dowd (brother of Barry and Declan O'Dowd and nephew of Joe O'Dowd)

Attack of the Rock Bar 5 June 1976

Mr. Joe McGleenan (owner of the Rock Bar)
Mr. Michael McGrath (survivor of the atrocity)

Attack on the Miami Showband, July 1975

Mr. Stephen Travers (survivor of the atrocity)
Helen McCoy (widow of Mr. Brian McCoy)

Wednesday 27th September 2006

Justice for the Forgotten

Mr. Kevin O'Loughlan, Chairman
Margaret Urwin, Secretary
Mr. Cormac Ó Dúlacháin, SC, Counsel

Retired Gardaí

Former Superintendent John Courtney
Former Detective Sergeant Owen Corrigan

Department of Justice, Equality and Law Reform

Mr. Seán Aylward, Secretary General

An Garda Síochána

Mr. Noel Conroy, Garda Commissioner
Mr. Martin Callanan, Assistant Gardaí Commissioner
Mr. Joseph Kinsella, Detective Inspector

Tuesday 4th October 2006

The Pat Finucane Centre

Mr. Alan Brecknell
Mr. Paul O'Connor

McGuill and Company Solicitors

Mr. James McGill

Tuesday 14th November 2006

Police Service of Northern Ireland

Sir Hugh Orde, Chief Constable
Mr. David Cox, Director, Historical Enquiries Team

Appendix C: The list of persons/bodies who made written submissions to the Sub-Committee.

Mr. James McGuill, Solicitor
Mr. Neil Faris, Solicitor
Justice for the Forgotten
The Pat Finucane Centre

Appendix D: The list of persons/bodies from whom correspondence was received by the Sub-Committee.

The Department of Justice, Equality and Law Reform
The Department of Foreign Affairs
An Garda Síochána
Police Service of Northern Ireland
Mr. Peter Kennedy

Appendix E: The Orders of Reference of the Joint Committee.

ORDERS OF REFERENCE.

Dáil Éireann on 16 October 2002 ordered:

“(1)

- (a) That a Select Committee, which shall be called the Select Committee on Justice, Equality, Defence and Women’s Rights, consisting of 11 Members of Dáil Éireann (of whom 4 shall constitute a quorum), be appointed to consider -
- (i) such Bills the statute law in respect of which is dealt with by the Department of Justice, Equality and Law Reform and the Department of Defence;
 - (ii) such Estimates for Public Services within the aegis of the Department of Justice, Equality and Law Reform and the Department of Defence; and
 - (iii) such proposals contained in any motion, including any motion within the meaning of Standing Order 157 concerning the approval by the Dáil of international agreements involving a charge on public funds,

as shall be referred to it by Dáil Éireann from time to time.

- (b) For the purpose of its consideration of Bills and proposals under paragraphs (1)(a)(i) and (iii), the Select Committee shall have the powers defined in Standing Order 81(1), (2) and (3).
- (c) For the avoidance of doubt, by virtue of his or her *ex officio* membership of the Select Committee in accordance with Standing Order 90(1), the Minister for Justice, Equality and Law Reform and the Minister for Defence (or a Minister or Minister of State nominated in his or her stead) shall be entitled to vote.
- (2) (a) The Select Committee shall be joined with a Select Committee to be appointed by Seanad Éireann to form the Joint Committee on Justice, Equality, Defence and Women’s Rights to consider-
- (i) such public affairs administered by the Department of Justice, Equality and Law Reform and the Department of Defence as it may select, including, in respect of Government policy, bodies under the aegis of those Departments;
 - (ii) such matters of policy for which the Minister for Justice, Equality and Law Reform and the Minister for Defence are officially responsible as it may select;
 - (iii) such related policy issues as it may select concerning bodies which are partly or wholly funded by the State or which are established or appointed by Members of the Government or by the Oireachtas;
 - (iv) such Statutory Instruments made by the Minister for Justice, Equality and Law Reform and the Minister for Defence and laid before both Houses of

the Oireachtas as it may select;

- (v) such proposals for EU legislation and related policy issues as may be referred to it from time to time, in accordance with Standing Order 81(4);
- (vi) the strategy statement laid before each House of the Oireachtas by the Minister for Justice, Equality and Law Reform and the Minister for Defence pursuant to section 5(2) of the Public Service Management Act, 1997, and the Joint Committee shall be authorised for the purposes of section 10 of that Act;
- (vii) such annual reports or annual reports and accounts, required by law and laid before both Houses of the Oireachtas, of bodies specified in paragraphs 2(a)(i) and (iii), and the overall operational results, statements of strategy and corporate plans of these bodies, as it may select;

Provided that the Joint Committee shall not, at any time, consider any matter relating to such a body which is, which has been, or which is, at that time, proposed to be considered by the Committee of Public Accounts pursuant to the Orders of Reference of that Committee and/or the Comptroller and Auditor General (Amendment) Act, 1993;

Provided further that the Joint Committee shall refrain from inquiring into in public session, or publishing confidential information regarding, any such matter if so requested either by the body concerned or by the Minister for Justice, Equality and Law Reform or the Minister for Defence;

- (viii) such matters relating to women's rights generally, as it may select, and in this regard the Joint Committee shall be free to consider areas relating to any Government Department; and
- (ix) such other matters as may be jointly referred to it from time to time by both Houses of the Oireachtas,

and shall report thereon to both Houses of the Oireachtas.

- (b) The quorum of the Joint Committee shall be five, of whom at least one shall be a Member of Dáil Éireann and one a Member of Seanad Éireann.
 - (c) The Joint Committee shall have the powers defined in Standing Order 81(1) to (9) inclusive.
- (3) The Chairman of the Joint Committee, who shall be a Member of Dáil Éireann, shall also be Chairman of the Select Committee.”

Seanad Éireann on 17 October 2002 ordered:

- “(1) (a) That a Select Committee consisting of 4 members of Seanad Éireann shall be appointed to be joined with a Select Committee of Dáil Éireann to form the Joint Committee on Justice, Equality, Defence and Women’s Rights to consider –
- (i) such public affairs administered by the Department of Justice, Equality and Law Reform and the Department of Defence as it may select, including, in respect of Government policy, bodies under the aegis of those Departments;
 - (ii) such matters of policy for which the Minister for Justice, Equality and Law Reform and the Minister for Defence are officially responsible as it may select;
 - (iii) such related policy issues as it may select concerning bodies which are partly or wholly funded by the State or which are established or appointed by Members of the Government or by the Oireachtas;
 - (iv) such Statutory Instruments made by the Minister for Justice, Equality and Law Reform and the Minister for Defence and laid before both Houses of the Oireachtas as it may select;
 - (v) such proposals for EU legislation and related policy issues as may be referred to it from time to time, in accordance with Standing Order 65(4);
 - (vi) the strategy statement laid before each House of the Oireachtas by the Minister for Justice, Equality and Law Reform and the Minister for Defence pursuant to section 5(2) of the Public Service Management Act, 1997, and the Joint Committee shall be so authorised for the purposes of section 10 of that Act;
 - (vii) such annual reports or annual reports and accounts, required by law and laid before both Houses of the Oireachtas, of bodies specified in paragraphs 1(a)(i) and (iii), and the overall operational results, statements of strategy and corporate plans of these bodies, as it may select;

Provided that the Joint Committee shall not, at any time, consider any matter relating to such a body which is, which has been, or which is, at that time, proposed to be considered by the Committee of Public Accounts pursuant to the Orders of Reference of that Committee and/or the Comptroller and Auditor General (Amendment) Act, 1993;

Provided further that the Joint Committee shall refrain from inquiring into in public session, or publishing confidential information regarding, any such matter if so requested either by the body concerned or by the Minister for Justice, Equality and Law Reform or the Minister

for Defence;

- (viii) such matters relating to women's rights generally, as it may select, and in this regard the Joint Committee shall be free to consider areas relating to any Government Department;

and

- (ix) such other matters as may be jointly referred to it from time to time by both Houses of the Oireachtas.

and shall report thereon to both Houses of the Oireachtas.

- (b) The quorum of the Joint Committee shall be five, of whom at least one shall be a member of Dáil Éireann and one a member of Seanad Éireann,
- (c) The Joint Committee shall have the powers defined in Standing Order 65(1) to (9) inclusive,

- (2) The Chairman of the Joint Committee shall be a member of Dáil Éireann.”

JOINT COMMITTEE ON JUSTICE, EQUALITY, DEFENCE AND WOMEN'S RIGHTS.

Powers of the Joint Committee

The powers of the Joint Committee are set out in Standing Order 81(Dáil) and Standing Order 65 (Seanad). The text of the Dáil Standing Order is set out below. The Seanad S.O. is similar.

"81. Without prejudice to the generality of Standing Order 80, the Dáil may confer any or all of the following powers on a Select Committee:

- (1) power to take oral and written evidence and to print and publish from time to time minutes of such evidence taken in public before the Select Committee together with such related documents as the Select Committee thinks fit;
- (2) power to invite and accept written submissions from interested persons or bodies;
- (3) power to appoint sub-Committees and to refer to such sub-Committees any matter comprehended by its orders of reference and to delegate any of its powers to such sub-Committees, including power to report directly to the Dáil;
- (4) power to draft recommendations for legislative change and for new legislation and to consider and report to the Dáil on such proposals for EU legislation as may be referred to it from time to time by any Committee established by the Dáil(whether acting jointly with the Seanad or otherwise) to consider such proposals and upon which has been conferred the power to refer such proposals to another Select Committee;
- (5) power to require that a member of the Government or Minister of State shall attend before the Select Committee to discuss policy for which he or she is officially responsible: provided that a member of the Government or Minister of State may decline to attend for stated reasons given in writing to the Select Committee, which may report thereon to the Dáil: and provided further that a member of the Government or Minister of State may request to attend a meeting of the Select Committee to enable him or her to discuss such policy;
- (6) power to require that a member of the Government or Minister of State shall attend before the Select Committee to discuss proposed primary or secondary legislation (prior to such legislation being published) for which he or she is officially responsible: provided that a member of the Government or Minister of State may decline to attend for stated reasons given in writing to the Select Committee, which may report thereon to the Dáil: and provided further that a member of the Government or Minister of State may request to attend a meeting of the Select Committee to enable him or her to

discuss such proposed legislation;

- (7) subject to any constraints otherwise prescribed by law, power to require that principal office holders in bodies in the State which are partly or wholly funded by the State or which are established or appointed by members of the Government or by the Oireachtas shall attend meetings of the Select Committee, as appropriate, to discuss issues for which they are officially responsible: provided that such an office holder may decline to attend for stated reasons given in writing to the Select Committee, which may report thereon to the Dáil;
- (8) power to engage, subject to the consent of the Minister for Finance, the services of persons with specialist or technical knowledge, to assist it or any of its sub-Committees in considering particular matters; and
- (9) power to undertake travel, subject to—
 - (a) such rules as may be determined by the sub-Committee on Dáil Reform from time to time under Standing Order 97(3)(b);
 - (b) such recommendations as may be made by the Working Group of Committee Chairmen under Standing Order 98(2)(a); and
 - (c) the consent of the Minister for Finance, and normal accounting procedures."

SCOPE AND CONTEXT OF COMMITTEE ACTIVITIES.

The scope and context of activities of Committees are set down in S.O. 80(2) [Dáil] and S.O.64(2) [Seanad]. The text of the Dáil Standing Order is reproduced below. The Seanad S.O. is similar.

“(2) It shall be an instruction to each Select Committee that-

- (a) it may only consider such matters, engage in such activities, exercise such powers and discharge such functions as are specifically authorised under its orders of reference and under Standing Orders;

and

- (b) such matters, activities, powers and functions shall be relevant to, and shall arise only in the context of, the preparation of a report to the Dáil.”

Appendix F : Motions of the Dáil and Seanad

Tá Dáil Éireann tar éis an tOrdú seo a leanas a dhéanamh:

Go n-iarrann Dáil Éireann ar an gComhchoiste um Dhlí agus Ceart, Comhionannas, Cosaint agus Cearta na mBan, nó ar Fhochoiste den Chomhchoiste sin, breithniú a dhéanamh, lena n-áirítear breithniú i seisiún poiblí, ar an Tuarascáil ón gCoimisiún Fiosrúcháin Neamhspleách faoi bhúamáil Kay's Tavern, Dún Dealgan, chun cibé moltaí a dhéanamh i ndáil le forálacha reachtaíochta nó riaracháin is cuí leis an gCoiste, agus tuairisc a thabhairt do Dháil Éireann faoin 17 Samhain, 2006.

Dáil Éireann has made the following order:

That Dáil Éireann requests the Joint Committee on Justice, Equality, Defence and Women's Rights, or a sub-Committee thereof, to consider, including in public session, the Report of the Independent Commission of Inquiry into the Bombing of Kay's Tavern, Dundalk, for the purpose of making such recommendations in relation to legislative or administrative provisions as the Committee considers appropriate, and to report back to Dáil Éireann by 17th November, 2006.

Tá Seanad Éireann tar éis an tOrdú seo a leanas a dhéanamh:

“Go n-iarrann Seanad Éireann ar an gComhchoiste um Dhlí agus Ceart, Comhionannas, Cosaint agus Cearta na mBan, nó ar Fhochoiste den Chomhchoiste sin, breithniú a dhéanamh, lena n-áirítear breithniú i seisiún poiblí, ar an Tuarascáil ón gCoimisiún Fiosrúcháin Neamhspleách faoi bhúamáil Kay's Tavern, Dún Dealgan, chun cibé moltaí a dhéanamh i ndáil le forálacha reachtaíochta nó riaracháin is cuí leis an gCoiste, agus tuairisc a thabhairt do Sheanad Éireann faoin 17 Samhain, 2006.

Seanad Éireann has made the following order:

That Seanad Éireann requests the Joint Committee on Justice, Equality, Defence and Women's Rights, or a sub-Committee thereof, to consider, including in public session, the Report of the Independent Commission of Inquiry into the Bombing of Kay's Tavern, Dundalk, for the purpose of making such recommendations in relation to legislative or administrative provisions as the Committee considers appropriate, and to report back to Seanad Éireann by 17th November, 2006.”

Appendix G: The Orders of Reference of the Sub-Committee.

Joint Committee on Justice, Equality, Defence and Women's Rights.

Order establishing Sub-Committee on the Barron Report on the Bombing of Kay's Tavern, Dundalk

That

- a) a Sub-Committee (to be called the Sub-Committee on the Barron Report on the Bombing of Kay's Tavern, Dundalk) be established to consider, including in public session, the Report of the Independent Commission of Inquiry into the Bombing of Kay's Tavern, Dundalk, for the purpose of making such recommendations in relation to legislative or administrative provisions as the Sub-Committee considers appropriate, and to report back to the Joint Committee

Provided that-

- the Sub-Committee and the Joint Committee, may accept, including in public session, submissions on the Report from interested persons and bodies;
 - a series of hearings will be held in public session, to commence in September 2006; and
 - the Sub-Committee will in due course, submit a report to the Joint Committee which will, in accordance with the terms of the Motion of Referral of Dáil Éireann and Seanad Éireann dated 5th July, 2006, report back to the Houses by 17th November, 2006.
- b) The Sub-Committee shall consist of 7 members of whom five shall be Members of Dáil Éireann and two shall be Members of Seanad Éireann;
- c) The quorum of the Sub-Committee shall be three;

and

- d) The Sub-Committee shall have all of the powers of the Joint Committee, including those referred to in Standing Order 81(1), (2) and (4) to (9) (Dáil) and in Standing Order 65(1), (2) and (4) to (9) (Seanad) and the power referred to in Standing Order 91(2) Dáil and 81(2) Seanad; provided that the exercise of the powers to publish and print evidence and to travel and to engage consultants shall in each case be subject to the approval of the Joint Committee.

Appendix H: The text of the advertisement seeking submissions on the Barron Report.



Joint Committee on Justice, Equality, Defence and Women's Rights.

SUB-COMMITTEE ON THE BARRON REPORT ON THE BOMBING OF KAY'S TAVERN, DUNDALK

REQUEST FOR SUBMISSIONS

By Resolutions of Dáil Éireann and Seanad Éireann on 5th July 2006, the Report of the Independent Commission of Inquiry into the bombing of Kay's Tavern, Dundalk, which had been presented to the Government by Mr. Justice Henry Barron, was referred to the Joint Committee on Justice, Equality, Defence and Women's Rights, chaired by Seán Ardagh T.D. On 5th July 2006, the Joint Committee published the Report as part of its 'Interim Report on the Report of the Independent Commission of Inquiry into the bombing of Kay's Tavern, Dundalk.' The Joint Committee has decided to establish a Sub-Committee to consider, including in public session, the Report into the bombing of Kay's Tavern, Dundalk, which also makes reference to other incidents from 1974 to 1976*, and to report back to the Joint Committee concerning any further necessary action.

The Joint Committee has also decided:

- § that submissions relevant to its Orders of Reference, both written and oral, will be sought from interested persons and bodies;
- § that a series of hearings will be held, in public session, to commence in September 2006;
- § that the Sub-Committee will in due course, submit a report to the Joint Committee which will, in accordance with the terms of the Motions of Referral, report back to the Houses by 17th November, 2006.

The Members of the Sub-Committee are Deputies Seán Ardagh (*Chairperson*), Máire Hóctor, Kathleen Lynch, Finian McGrath, Seán O' Feargháil, and Senators Maurice Cummins and Jim Walsh.

The Interim Report is available for viewing on the Oireachtas website (www.oireachtas.ie) and hard copies are also available from the Committee Secretariat at the address indicated below.

In order to assist the Sub-Committee in its hearings process, submissions relevant to its Orders of Reference are invited from interested parties and bodies and from members of the general public.

Submissions should be made in writing only to:

**Ray Treacy,
Clerk to the Sub-Committee,
Leinster House,
Kildare Street,
Dublin 2.**

or by e-mail at: barronreportdunk@oireachtas.ie
If possible, submissions should be sent electronically.

The closing date for receipt of submissions is
5.30 p.m. Friday 25 August, 2006.

*

2. Bombing of Dublin Airport 1975
3. Bombing of 3 Star Inn, Castleblayney 1975
4. Attack on Miami Showband 1975
5. Explosion and murder at Barronrath Bridge 1975
6. Other bombings in the State 1974-76

Appendix I: List of Members of the Joint Committee on Justice, Equality, Defence and Women's Rights.

**JOINT COMMITTEE ON JUSTICE, EQUALITY,
DEFENCE AND WOMEN'S RIGHTS**

List of Members

Deputies Seán Ardagh (FF) (Chairperson)
Máire Hctor (FF) (Government Convenor)
Brendan Howlin (LAB)
Kathleen Lynch (LAB) (Opposition Convenor)
Finian McGrath (Independent/ Technical Group)
Gerard Murphy (FG) (Vice-Chairperson)
Charlie O'Connor (FF)
Denis O'Donovan (FF)
Seán O'Fearghaíl (FF)
Jim O'Keeffe (FG)
Peter Power (FF)

Senators Maurice Cummins (FG)
Tony Kett (FF)
Joanna Tuffy (LAB)
Jim Walsh (FF).

