



Tithe An Oireachtas

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

**An Tuarascáil Deiridh maidir leis an Tuarascáil ón gCoimisiún
Fiosrúcháin Neamhspleách faoi Bhuamáil Bhaile Átha Cliath agus
Mhuineacháin**

Márta 2004

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 Dublin and Monaghan Bombings.**

March 2004

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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 relatives of the victims of the Dublin and Monaghan bombings of 17th May 1974.

The "Dublin and Monaghan Bombings" refer to:

The bomb explosions that took place in Parnell Street, Talbot Street and South Leinster Street, Dublin, on 17 May, 1974.

The bomb explosion that took place in Church Square, Monaghan, on 17 May, 1974¹

In human terms the true cost 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 on-going 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 acknowledge the sense of isolation that the victims and families have experienced due to the perceived inactivity on the part of successive Governments over the years in relation to the matter until Mr. Bertie Ahern, T.D. as Taoiseach took action in 1999. As Ms Alice O'Brien told the Sub-Committee:

"It was 25 years after the bombings before a Taoiseach would agree to meet the families and survivors. We met Mr. Ahern in 1999, which started the process, which resulted in the Barron Inquiry. After 4 years of assessment we now have Judge Barron's Report."

At the outset of this Report, it is important to recall the words of Mr. Justice Henry Barron in his statement to the Oireachtas on the 10th December last where he stated:

"The Dublin and Monaghan bombings of 17th May 1974 remain the most devastating attack on the civilian population of this State to have taken place since the "Troubles" began."

A total of thirty-four people, including one pregnant woman, plus one stillborn child, died as a result of the explosions. Many more were injured. We have heard submissions made by some of the victims and their relatives. They will not be forgotten.

Some insight into the nature of the atrocities, which were perpetrated on the streets of Dublin and Monaghan, may be gleaned from the following report of the Talbot Street bomb that appeared in the Irish Press the following day:

¹ The original orders of reference assigned to Mr. Justice Liam Hamilton referred to North Street, but the bomb in fact occurred outside Greacen's Bar, Church Square, Monaghan.

“Seconds after the blasts, as the pall of smoke rose from the streets, dazed survivors saw the normal home-going rush of people turned into a scene of carnage. There were bodies, some limbless, some blasted beyond recognition, some burned, lying on the pavements. Scores of others badly injured and many knocked out by the blast or shocked by the impact were hurled into windows and side streets. For some time it was impossible to distinguish between the dead and the injured.”

It is very important that the Oireachtas can and does enquire into matters of great public interest, such as the Dublin and Monaghan bombings. It is important also, that the central characters are heard in 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. We have been elected by the people and as such we must act as their public representatives in matters of public importance. The Oireachtas is a unique forum which is widely recognised and reported on by the media, and in which an informed citizen's approach can be taken in respect of hearing, examining and enquiring into important public matters, albeit with legal and procedural advice.

As I have indicated previously, we hope that the hearings combined with the Report has moved this process forward, with a view to bringing finality to the families and to the victims of these atrocities.

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. The Committee is greatly indebted to Mairéad McCabe, Clerk to the Committee, for her dedication and commitment to the work of the Committee over the period. Credit is also due to the many persons on the staff of the Oireachtas who have spent long hours on the organisation and secretarial backup to whom we are very grateful.

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 17 December 2003.

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

Mr. Sean Ardagh T.D.,
Chairman of the Joint Committee on Justice,
Equality, Defence and Women's Rights.
31 March 2004.

Chapter One

Introduction and Victims' Voices

INTRODUCTION.

By Motions of Referral by Dáil Éireann and Seanad Éireann dated 10th December, 2003, 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 into the Dublin and Monaghan Bombings and to report back to both Houses within three months concerning:

- (i) whether the Report of the independent Commission of Inquiry into the Dublin and Monaghan bombings of 1974 addresses all of the issues covered in the terms of reference of the Inquiry.
- (ii) the lessons to be drawn and any actions to be taken in the light of the Report, its findings and conclusions.
- (iii) whether, having regard to the Report's findings, and following consultations with the Inquiry, a further public inquiry into any aspect of the Report would be required or fruitful.

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.

VICTIMS' VOICES

- 1.1 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 persons at the outset of its 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.
- 1.2 The accounts of the bombings and their aftermath were both horrific and moving. The Sub-Committee noted the dignity with which each of the victims and relatives recounted their stories. One could not fail to be impressed by how they faced the difficult task of coming before the public forum of an Oireachtas Committee in order to make their statements. A number of sample quotes have been included below in order to give an idea of what the Sub-Committee heard.

However, in order to get a full picture of the events of the day, it is necessary to read the full transcripts, which are available on the Oireachtas website.

1.3 Mr. Derek Byrne told the Sub-Committee how at the age of 15 he was caught up in the blast of the Parnell Street bomb. He was pronounced dead on arrival in Jervis Street Hospital and placed in a morgue. It was only when he later woke up that the hospital authorities realised he was alive and brought him to the operating theatre to treat his injuries. He stated: *“I am still attending hospital. The stigma of the bombings is the scars I carry. When I was a teenager I was refused entrance into night clubs and discotheques and still to the present day you have a stigma attached to you...”*

1.4 Mr Noel Hegarty, who was injured in the Talbot Street bomb, described *“waking up in hospital with a priest leaning over and anointing me”*.

1.5 Ms Alice O'Brien stated of Mr Paddy Doyle (since deceased), whose daughter Anna and her two children died in the Parnell Street Bombs:

“When Paddy came out of the mortuary he nearly had a heart attack. He said it was like a slaughterhouse and that they were just throwing pieces of bodies together here and there to make up a body. He never got over that.”

1.6 Mr. Pat Fay also remembered how he had to identify the body of his father:

“Nobody knows what it is like to go into a morgue, to literally climb over bodies, arms and people blown to pieces and to go up to a slab and look at what is left of one's father.”

1.7 Mr. John Byrne stated of the Parnell Street bomb:

“I will never forget them; it will never leave me. I was completely devastated. My working life was destroyed. I suffered terrible trauma and shock. I have been attending hospitals for the last 28 years. I am still attending today. I am still on medication even to this present day, 28 years later. That is how I feel about the bombing which will never leave me.”

1.8 Ms Bridget Fitzpatrick also recalled the aftermath of the Parnell Street bomb:

“I went home with a big bandage around my leg holding my two lovely boys. I marched up Sean McDermott Street where I am proud to say I live. There were lovely, decent people living on it – neighbours. About 500 people from all the flats and the houses cheered me and my two sons up the street.” She continued:

“I was never treated for my injuries. I never knew what to do. I did not get time to think about it because I had to rear my children. I am not looking for sympathy; I am looking for justice for people like me.”

1.9 Mr. John Molloy also detailed the scene of the Parnell Street bomb. He felt he was *“looking into hell from what he saw. People were lying on the roads moaning, with bits of pieces of*

bodies here and there.” So great was his trauma at witnessing these scenes that he did not realise that he had been injured in the blast himself and was in need of medical attention.

- 1.10 Mr. Joe O’Neill, who was injured in the Talbot Street bomb, described the scene in the immediate aftermath:

“I walked out of the shop. I could not see, since my eyesight had gone dark. I could not understand why it was so dark. I thought it was winter. I got out to the footpath. I could see bodies on the street. It appeared to me as if a steamroller had come down the street and run over everybody. I looked down at my side and could see what I thought was yellow stuff pouring out of it.”

- 1.11 Ms. Michelle O’Brien lost her mother in the Talbot Street bomb. She described her father arriving home from work to realise that her mother was missing:

“He started to search the hospitals and in the early hours of Saturday morning he found her remains in the morgue. He knew it was our mother because she had worn a green coat and by her wedding ring which I am proud to wear today.”

- 1.12 Mr. Anthony Phelan whose sister died in the bombings recounted a similar incident experienced by his parents:

“My parents were told that she was unrecognisable. My father was not allowed to see the body. We have relations in Dublin and they informed my father that she could only be recognised by the ring she was wearing.”

- 1.13 Mr. Garrett Mussen was one of the youngest victims of the bombings. He and his father were blown *“pretty much clear to the back of the room we were in and reasonably seriously injured.”*

- 1.14 Mr Liam Sullivan described the scene in the Richmond Hospital:

“I will never be able to explain what I saw over there. It was like a slaughterhouse. There were bodies everywhere and people being operated on.”

- 1.15 Ms Philomena Lawlor-Watson was injured in the South Leinster Street bomb and stated:

“I can remember covering my face with my hands and waiting to feel something to penetrate my body or to see an arm or a leg disappear. My hair stood straight up and my ears and scalp were full of tiny pieces of glass. One of my fingers was bleeding and there was a slit in the red shirt I was wearing and a wound on my left rib cage.”

She continued:

“How am I now? I am still quite jumpy and I suffer nightmares, not every night but many nights. I sometimes wake after loud bangs, obviously recalling the

episode. My husband tells me that I jump in my sleep. I still feel shaky in the city centre, large stores and places of entertainment. I am constantly watching for anything suspicious or any person who is acting in a suspicious way.”

- 1.16 Ms. Iris Boyd, whose father died in the Monaghan bomb spoke of her guilt at why she had not returned to the car earlier, in which case they might have avoided the blast:

“One lady told me not to be carrying the guilt, that I was not responsible. She said:

‘My son was killed by a bomb in Belfast. He had never been in this bar before he went in on a Sunday morning and the bomb went off and killed him. He had every right to be in that bar whenever he wanted. Your father had every right to be in town just as you had every right to be in town but the bombers had no right to be there.’

I had never thought about it like that before and it just lifted it all off my shoulders. It made me look at life so differently. I thought ‘Yes, that’s right. Why am I blaming myself? It’s not me who is to blame. They should not have been there. We had every right to be where we wanted to be. They had no right to be there.’ That changed it all for me. I did not have to go back. I was so thankful to that lady for saying that. Thank you.”

- 1.17 Mr. Tim Grace asked us to reflect on the fact that it was by total chance that his wife was killed:

“During the day and in the afternoon, I looked after the baby for my wife. She had been suffering from flu during the week. The baby was teething and she was not in the best form so I said to her that she should take the car, go into town and have a look around. She went into town and parked the car in Gardiner Street, just around the corner from Talbot Street. She was obviously killed on the way back at 5.30 pm when the bomb went off. The elements of chance are, as I pointed out, colossal.”

- 1.18 Mr. Kevin O’Loughlin spoke of the agony of waiting for his mother to arrive home, knowing that her route home from work along South Leinster Street coincided with one of the bombsites. Although they had no news of her fate, he remembered how the family *“were aware that there was something terribly wrong because we knew that she would have passed down that way. She would always come the same way.”* He recalled how his father eventually found his mother’s body in the morgue where he identified her. Because of the horrific nature of her injuries, the rest of the family were prevented from viewing her body:

“I did not see my mother’s body when she was killed and I have no memory of what she looked like. She was wiped off the face of the earth in the eyes of myself and my brother. One day she was there and the next she was gone.”

- 1.19 Ms. Marie Power lost her younger sister Breda in the blast. She found it extremely difficult to cope with the reality of her death:

"I never thought she was really gone until I saw her memorial card. That was when I really knew she was not coming back. She was 21, engaged to be married and had her whole life in front of her."

1.20 Mr. Brian Fitzsimmons whose wife and son were injured in the Monaghan bomb spoke of how *"the after effects were the worst part of it. For a long time afterwards my wife would not go out and would not enter crowds or anything like that."*

1.21 Ms. Marie Sherry described being injured in the Parnell Street bomb and stated that her physical injuries were nothing when compared to the mental turmoil that she has suffered since:

"I can only describe my life, particularly in my 20s and 30s although not so much now, as one of constant alert. For weeks and months after the bombs I used to go home and say, 'Mum, any news on those people who did the bombing? Was anybody charged?' There never was news. There were no names. Nobody was charged. I lived my life thinking 'These guys are walking around. They could be sitting beside me in the cinema. They could be on the bus. These guys are free to do the same thing again'. It was just awful and it ruined my life. I did not want to go into town to socialise with my friends, I did not like being in a pub and I did not like being at the cinema ... Only when one has been through it can one realise how horrific it is to live ones life like that. I wish it had never happened. It was just awful."

1.22 Mr. Thomas O'Brien told the Sub-Committee of the anguish suffered by members of his family following the murder of his brother, his sister-in-law and his two nieces in the bombings:

"My father died in 1972 and when Johnny, Anna, Jacqueline and Anne-Marie died, my mother was heartbroken and she is still. Johnny was the eldest brother of 11 and I often wonder what the two kids would be now. They would be in their 30's and could be married and so on. We will never get over it."

1.23 Ms. Gertie Shiels told the Sub-Committee:

"These were people going about their daily lives, doing nothing untoward, and they deserved to be able to do that, to come and go from work."

She continued:

"My aunt certainly did not deserve to die like that, nor to be ignored in her death, in that it appeared that she was of no importance to anybody."

1.24 Mr. Edward Roice urged the Sub-Committee to address the feelings of neglect which he and other victims of the bombings have suffered:

"It has gone too far, as the other speakers have said. The Dublin and Monaghan bombings are like dirty words to some higher ups. The attitude is to ignore it and maybe they will forget about it. But we will never forget. My time

and my wife's time is possibly getting short and I hope, before I close my eyes, that something will come out of this. I appeal to the Chairman and the members of the Committee to do their best to press this case for us. We are tired waiting."

- 1.25 Ms Bernie McNally sustained serious injuries in the Talbot Street bombing. She made an important observation to the Sub-Committee:

"Today has been harrowing, listening to the cross-section of people, the stories and the ongoing suffering that people must deal with 30 years later. More families and survivors are unable to be present due to work commitments and illness, while many have died while waiting to get justice."

- 1.26 Mr. Frank Durkan Attorney-at-Law, appeared before the Sub-Committee on behalf of Ms. Joan Ann Burke from Artane, now living in the U.S. She was caught in the blast of a bomb at Sackville Place on 1st December 1972, and again on 17th May 1974. Mr. Durkan called for a formal public inquiry in order that someone be made accountable for these atrocities. He stated:

"She was a citizen of this State, injured in one of the most horrific crimes that ever happened in this country. Surely, she ought to know why and how."

- 1.27 Mr. Ed O'Neill, whose father was murdered in the Parnell Street bomb, made a statement to the Sub-Committee. He indicated that he did not want any sympathy but rather a proper and full investigation into the murder of his father and the other victims.

- 1.28 Similar recollections of personal experiences of the bombings were recounted one after another by the victims and their relatives. The Sub-Committee acknowledges how harrowing it was for the members of the Group to recall the events of the day and wishes to thank them for their contributions. It is clear that many of the victims and relatives have still not recovered from their experiences. Mr. Frank Massey, whose daughter was killed in the South Leinster Street bomb, summed up the views of many of the victims and the bereaved when he stated in his submission:

"As an ordinary citizen and the father of a beautiful murdered child, the circumstances of whose death have not been fully or properly investigated, leaving my family and I with a great loss and a disappointment in the society in which I brought up my seven children to believe, I demand a public inquiry in her name and in the names of all who died or were injured on 17th May, 1974".

- 1.29 Initially, Mr. Cormac Ó Dúlacháin S.C., instructed by Mr. Greg O'Neill, solicitor, made a statement to the Sub-Committee on behalf of the Justice for the Forgotten Group. He outlined the background to the establishment of the Justice for the Forgotten Group and the series of events, which led to the publication of the Barron Report and ultimately to the hearings, which were held by the Sub-Committee. He stated:

"By affording us an opportunity to publicly present the case for a public inquiry the Committee is discharging an important function. First, it indicates

the concern with which the issue is being considered and enables the public to be better informed of the grounds for an inquiry ... Consideration of the report carried out in discussion with Ministers behind closed doors would not be satisfactory at this stage."

He observed:

"We all appreciate that public inquiries are not established on the basis of allegations or idle speculation. There must be legitimate facts which raise a legitimate and grave concern."

He concluded:

"From our perspective, the Barron report is a ringing endorsement of the case for a public inquiry. It is akin to an opening statement for such an inquiry; it is not a closing statement. It validates the relentless campaign of those who will appear before the Committee today. This is a campaign driven by these people's deep sense of obligation to ask fundamental questions about what was done to and for their loved ones and themselves. I will conclude by acknowledging that all the people appearing before the committee today have, by their commitment to pursue the truth over the past ten years, done this country an enormous service."

BIOGRAPHICAL DETAILS OF THE VICTIMS OF THE DUBLIN AND MONAGHAN BOMBINGS

Patrick Askin (44): Forestry worker, married, Glaslough, Co. Monaghan. Killed in the Monaghan bomb. Survived by his wife, Patricia and four young children: sons Paul and Patrick, aged 6 and 7 and two year old twin daughters, Sonia and Sharon.

Josie Bradley (21): Civil Servant, single, Coolfin, Kilcormack, Co. Offaly. Killed in Talbot Street, Dublin. Survived by her parents, May and Chris, twin sister, Marian and eight other siblings.

Marie Butler (21): Temporarily employed as a shop assistant at Clery's while awaiting a nursing place at Sir Patrick Dun's Hospital, single. Vilierstown, Cappoquin, Co. Waterford. Killed in Parnell Street, Dublin. Survived by her mother, Mary.

Anne Byrne (35): Housewife married, Donaghmede, Dublin. Killed in Talbot Street while on a shopping trip. Survived by her husband, Michael, and two children: Michelle, aged 8 and Trevor, aged 4.

Thomas Campbell (52): Agricultural worker, single, Silverstream, Co. Monaghan. Killed in Monaghan. Survived by his mother and sister, Mary, also two stepsisters. His mother never recovered from the shock of his death and died six weeks later.

Simone Chetrit (30): A French citizen visiting Ireland with a number of other French students on an English language course. She was due to return to her home in Paris the following morning. She was single and was survived by her parents, brothers and Elie, Maurice, Marcel and Albert and sister Yvette. She was killed in Talbot Street.

Thomas Croarkin (36): Agricultural worker, single, Tyholland, Co. Monaghan. Seriously injured in Monaghan and survived until 24th July, 1974 when he died in the Richmond Hospital, Dublin. Survived by his mother and seven siblings.

John Dargle (80): John was a pensioner, who lived alone at Portland Row, Ballybough, Dublin. It seems he had served in the British Army and was working at the Corporation Fruit Market in Dublin. He was killed in the Parnell street bombing.

Concepta Dempsey (65): A shop assistant in Guiney's Talbot Street, Concepta was single and lived at Chord Road, Drogheda, Co. Louth. She was seriously injured in Talbot Street and survived until 11th June when she died in the Mater Hospital. She was survived by five nieces and nephews: Vincent, Deirdre, Gertie, Raymond and Aidan.

Collette & Baby Doherty (21): Collette ran a shop in Sheriff Street with her husband John. She was nine months pregnant when she was killed in Talbot Street. She was survived by her husband John, daughter Wendy, aged 22 months, her parents, Michael and Winifred and siblings. Wendy was with her when she was killed and was found wandering an hour later, relatively unharmed.

Patrick Fay (47): He was employed in the GPO, married, a native of Ardee, Co. Louth, he lived in Artane, Dublin. He was survived by his wife, Maura and only son, Pat, who

had moved to live in London. He was killed in Parnell Street, having just filled his car with petrol at Westbrook Motors.

Elizabeth Fitzgerald (59): She had lived with her husband, Christopher in Phibsborough. Both were injured in the Parnell Street bombing. She survived until 19th May 1974, while her husband, Christopher, recovered in the Mater Hospital.

Breda Grace (35): Married, housewife and living in Portmarnock, originally from Tralee, Co. Kerry. She was survived by her husband, Tim and 12 month old son, Edward. Breda was killed in Talbot Street.

Archie Harper (73): An active man who still ran a farm and family pub in his native Co. Monaghan. He was survived by his wife and only daughter, Iris. He was injured in the Monaghan bombing and died on the following Tuesday night, 21st May, at 11.45 p.m.

Antonio Magliocco (37): Italian citizen. Restaurant owner, survived by his wife, Anna, and three young children, Tommassino, Corrado and Marinella. He was a native of Casalattico, near Cassino, in Italy. He was killed instantly in the explosion in Parnell Street, while visiting his brother Mario's restaurant. His wife and family moved back to Italy a number of years after his death, but his brothers and sisters remained in Ireland.

May McKenna (55): Originally from Monaghan and Dungannon, Co. Tyrone, but lived in Talbot Street (over O'Neill's Shoe Shop). She was employed at Clery's. She was survived by her sister, Margaret McNicholl, brother-in-law and three nephews. May was killed instantly in the Talbot Street explosion.

Anne Marren (20): Worked in Department of Posts and Telegraphs in Hawkins Street. She was a native of Lavagh, Ballymote, Co. Sligo. She was survived by her father, two sisters and two brothers. Anne was killed in the Talbot Street explosion.

Anna Massey (21): Worked at Lisney's Auctioneers and from Sallynoggin, Dublin. Anna was the eldest of seven girls and was a twin. She was survived by her parents, Frank and Annie, and sisters. She was engaged to be married and her wedding was due to take place in July 1974. Anna was killed in the South Leinster Street explosion.

Dorothy Morris (57): Employed at Cadbury's. Dorothy had five siblings and lived all her life in Kimmage with her mother and sister, Georgina. She was killed in the Talbot Street explosion.

O'Brien Family – John O'Brien (24), Anna O'Brien (22), Jacqueline (17 mths) & Anne-Marie (5 mths): Lived in Gardiner Street, originally from Finglas. John worked in Palm Grove, the ice-pop factory. This entire family was wiped out in the Parnell Street explosion.

Christina O'Loughlin (51): Worked in the Shelbourne Hotel as a french polisher. Resided in Townsend Street, Dublin. She was survived by her husband, Kevin and two adult sons, Kevin Junior and Pius. Christina was killed in the South Leinster Street explosion.

Edward John O'Neill (39): Self-employed painter and decorator who lived in Dominick Street with his wife, Martha and five children: Denise, Angela, Billy, Edward Jr., and

Niall. Edward was killed and his two young sons were seriously injured in the Parnell Street bombing. His wife gave birth to a stillborn daughter three months after his death.

Baby Martha O'Neill (stillborn): Stillborn child of Edward and Martha O'Neill, born in August 1974.

Marie Phelan (20): Worked in the Civil Service. Originally from Ballyvoreen, Woodstown, Co. Waterford and living in Dublin. Survived by her parents, Kitty and Billy, and brothers, Pat and Anthony. Marie was killed in the Talbot Street explosion.

Siobhán Roice (19): Worked in the Civil Service. Originally from Thomas Street, Wexford town and living in Dublin. She was survived by her parents, Johanna and Edward, sisters Aileen and Elizabeth and brother James. Siobhán was killed in the Talbot Street explosion.

Maureen Shields (46): Originally from Hollyford, Co. Tipperary. Maureen moved to Dublin where she worked in the Civil Service until her marriage to Leo in 1953. They had one son and two daughters. Maureen was killed in the Talbot Street explosion.

Jack Travers (28): Self-employed, single and from Park Street, Monaghan Town. Jack still lived with his family and was very athletic. He was engaged to be married. Survived by his parents, brother Jim, sisters and fiancée. Jack was killed in the explosion in North Street, Monaghan.

Breda Turner (21): Worked in the Civil Service, in the Income Tax Office, she was engaged to be married the following Easter. Originally from Thurles, Co. Tipperary, she had moved to Dublin and was survived by her parents, Biddy and Jimmy, and brother and sisters. She was killed in the Parnell Street explosion.

John Walshe (27): Single, from Crumlin, Dublin. He was survived by his father and mother, sisters Anne and Mary and girlfriend Joan. He was killed in the Talbot Street explosion.

Peggy White (45): Part-time restaurant worker. She was survived by her husband, Joe, a daughter and three young sons. She lived in Belgium Park, Monaghan town. Peggy was injured in the bomb in North Road, Monaghan town and died on the night of the bombing.

George Williamson (72): A bachelor farmer from Castleshane, Co. Monaghan. George was survived by his sister, Margaret and two brothers, Isiaiah and Jesse, as well as nieces and nephews. He was killed in the explosion in North Road, Monaghan.

Chapter Two

Whether the Report of the independent Commission of Inquiry into the Dublin and Monaghan bombings of 1974 addresses all of the issues covered in the terms of reference of the Inquiry.

INTRODUCTION

- 2.1 A number of submissions both written and oral were received by the Sub-Committee and were of assistance to it in its deliberations on the question of whether the Barron Report addressed all the issues covered in the terms of reference of the Inquiry. These submissions were received by the Sub-Committee on foot of invitations to lodge submissions, which were extended directly, and by public advertisement. Some submissions contended that matters appeared to have been overlooked in the Report. Other submissions argued that Mr Justice Barron may have misconstrued issues in the course of preparing his report.
- 2.2 The areas where concern was expressed about the Barron Report can be broken down into the following broad categories:
- (i) the findings of the Barron Report in relation to the identity of the perpetrators and the issue of collusion.**
 - (ii) adequacy of the Garda investigation;**
 - (iii) missing documentation in this jurisdiction;**
 - (iv) the role and response of the Government of the day;**
 - (v) composition of the bombs; and**
 - (vi) concerns highlighted by certain individuals regarding the Barron Report;**
- 2.3 On foot of their written submissions, a number of parties were invited to make oral submissions before the Sub-Committee to clarify issues, which had been identified. As the examination process progressed, other parties were identified and invited to attend before the Sub-Committee. The names of all of the parties who made oral and written submissions are set out at Appendices.
- 2.4 The Sub-Committee also invited Mr. Justice Henry Barron to assist with certain issues, which had been raised by relevant submissions. Prior to his appearance before the Sub-Committee, Mr. Justice Barron was supplied with relevant written submissions.
- 2.5 The approach taken by Mr. Justice Barron may be summed up by his comment:

“... I do not like to be dogmatic. I do not like to say, ‘Of course we did everything we could have done’. I am being reasonable.”

The Sub-Committee is grateful to Mr. Justice Barron for this approach, which it believes, was both correct and helpful.

- 2.6 The Sub-Committee wishes to state that it was not its function to re-investigate the Dublin Monaghan bombings. Rather, the role of the Sub-Committee was to examine whether Mr. Justice Barron considered all the issues covered in the terms of reference of his Inquiry.
- 2.7 The Sub-Committee found the Report of Mr Justice Barron to be well written and well presented, and is grateful to him for this. It was also felt that, subject to the comments below, Mr. Justice Barron addressed the issues as best he could in the circumstances. The Sub-Committee notes that he faced a number of difficulties such as length of time since the atrocity, his lack of any powers of compellability, the resources available to him, and the lack of co-operation from the U.K. authorities.

THE FINDINGS OF THE BARRON REPORT IN RELATION TO THE IDENTITY OF THE PERPETRATORS AND THE ISSUE OF COLLUSION.

- 2.8 This was an area, which concerned the Sub-Committee greatly. A number of parties made submissions to the Sub-Committee in relation to this issue. The submissions of these parties were taken very seriously by the Sub-Committee during their deliberations.
- 2.9 In relation to the identify of the perpetrators, Mr. Justice Barron stated quite categorically:

‘The Inquiry is satisfied that the persons principally responsible for carrying out the bombing attacks on Dublin and Monaghan were loyalist paramilitaries. This was the view of the security forces on both sides of the border at the time, and most of the information available to the Inquiry points to that direction.’

- 2.10 He went on to say: ‘ A number of factors point to the involvement of two groups, one from Belfast, the other from Portadown/ Lurgan’. He noted that since 1993, the official UVF position was that the bombings were authorised by the leadership at the time. His report contains a reasonable amount of detail on the identity of the individuals suspected of carrying out the bombs and the means they used.
- 2.11 In relation to the issue of collusion, Mr Justice Barron indicated that he felt there had been a misconception about what the Report had done in this regard. He informed the Sub-Committee that the Report does generally indicate that there was a high level of collusion operating in Northern Ireland at the time of the bombings. However, while he felt there was direct evidence that collusion was operating in Northern Ireland at that time, he also felt there was no evidence to

suggest direct collusion in relation to the Dublin and Monaghan bombings. He was at pains to point out that the two positions are very different. He stated:

“Basically what we were trying to do was not to conclude anything if the evidence we had would make the conclusion unfair to whoever we were accusing ... The problem about the Report is that it is not a judgment in the sense of having listened to one side and then to another side and one decided which side one wished to accept. We put into the report as much evidence as we believe is reliable or has a basis in reliability. We have given conclusions. I am prepared to accept that other people may take different views as to what conclusions should be reached in relation to the facts in the report.”

There is a significant amount of material in the Barron Report which points to a link between some of those who were suspected of having a role in the bombings and the security forces in Northern Ireland. However, he did state that when it came specifically to the bombings, he had no direct evidence to suggest such a link.

- 2.12 Mr. Justice Barron did note that it had been asserted there was a significant element in the security forces in Northern Ireland, which was opposed to the efforts towards a political solution, which were then being pursued by the Labour Government. He quoted the then Secretary of State for Northern Ireland, Mr. Merlyn Rees, in relation to a subversive faction in British Army Intelligence:

‘ It was a unit, a section out of control. There is no doubt it reflected the views of a number of soldiers.’ “ Let’s go in and fix this lot”, and so on. But that it went on, and that it went on from Lisburn, and it went on from the Army Information Service and those associated with it, I have no doubt at all.’

- 2.13 Mr. Justice Barron also quoted from a letter from Mr. Colin Wallace, former British Army Senior Information Officer in Army Headquarters, to a former colleague, in which he wrote on 14 August, 1975:

‘ There is good evidence that the Dublin Monaghan bombings were a reprisal for the Irish Government’s role in bringing about the Executive. According to one of Craig’s people, some of those involved the Youngs, the Jacksons, Mulholland, Hanna, Kerr and McConnell were working closely with SB and Int. at that time.’

Mr. Justice Barron remarked in his Report that Mr. Wallace was making these allegations as early as 1975, but noted that his letter does not contain any objective evidence to support the claims. Mr. Justice Barron had access to Irish Army intelligence and from that he was able to note that the security forces in Northern Ireland had a significant level of intelligence on loyalist groups and Mr. Justice Barron was therefore of the view that this made it harder to accept the proposition that the bombings of 17 May 1974 came as a total surprise to the security forces in Northern Ireland.

- 2.14 Even taking into account all the information received from Colin Wallace, John Weir and Fred Holroyd, Mr. Justice Barron felt he could not go beyond the conclusions reached in his report in relation to collusion.
- 2.15 The Sub-Committee notes that at very least, the Barron Report itself contains suggestions that collusion at some level did in fact play a part in the events of 17th May 1974, and rather than allay the Sub-Committee's suspicions about collusion, the further submissions made by various parties at the series of oral hearings have only served to heighten those concerns.

Justice for the Forgotten

- 2.16 Mr. Cormac Ó Dúlacháin S.C. appeared on behalf of the Justice for the Forgotten group instructed by Mr. Greg O'Neill, solicitor. He stated:

"The Barron Report confirms that there is evidential substance and foundation to the allegations that the Garda investigation was compromised, that the RUC did not co-operate, that the Government did not assist, that there is reasonable basis for the suspicion of collusion, and that assertions made by 'Hidden Hand - the Forgotten Massacre' had substance".

He also observed that:

"... we say that the Barron Report significantly fails to achieve the goal of the entire process. In that regard, we say the process was established, with the Barron Commission, this committee and the question of a further stage. The aim of the entire process was to find out the truth in relation to the bombings, the truth in relation to the Garda investigation, the truth in relation to State action and the truth in relation to collusion. We say that, in a substantive sense, that has not been achieved."

Mr. Seán Donlon

- 2.17 Mr. Seán Donlon, former Secretary General in the Department of Foreign Affairs, was in 1974 the Assistant Secretary in charge of the Northern Ireland desk. It was his belief that there was collusion at a general level. This was based on his regular contact with responsible individuals in the North and from a litany of court cases involving collusion at local level. In response to a question by Deputy Power, he stated:

'However, I would certainly with the passage of time, use the word 'probability' rather than 'possibility' when it came to collusion.'

UK Documentation

- 2.18 When asked to consider the problems associated with the lack of original documentation supplied by the British Government to the Inquiry, Mr. Justice Barron stated that his attempts to address the issues with which he was charged

were frustrated. He pointed out that had he received the same levels of support from the British Government as he did from the Irish government he would have had much more information.

“If one does not see the original documentation and one does not see it in its context, it is obvious one is not getting the full picture.”

- 2.19 In the opinion of Mr. Justice Barron, the fact that the Inquiry never saw original intelligence documents and was only allowed access to sixteen pages of a summary of the documents, was a hindrance to its work.

The View of the Sub-Committee

- 2.20 **In relation to the identity of the perpetrators, Mr. Justice Barron compiled a wealth of material, which supports his conclusion that the bombings were carried by the two groups of loyalist paramilitaries (one in Belfast and the other in Portadown/Lurgan). There is still a degree of speculation as to the definitive line- up of individuals actually involved in each stage of the preparation, planning and placing of the bombs. The Barron Report will serve as a useful starting point in assisting any further enquiry.**
- 2.21 **With regard to the issue of collusion, the Sub-Committee has a limited function namely, to review the Barron Report and cannot therefore come to a different conclusion. The Sub-Committee would like to acknowledge the difficulties faced by Mr. Justice Barron in his attempts to explore this issue fully. There is no way of knowing what might be contained in documentation which exists in Northern Ireland and the UK without gaining access to that documentation. However, even based on the material he did manage to gather, the suggestion that members of the security forces in Northern Ireland could have been involved in the bombings is in Mr Justice Barron’s own words, ‘neither fanciful nor absurd’. In addition, the Sub-Committee is concerned that a number of responsible persons and groups who made submissions have come to the conclusion that collusion played a part.**
- 2.22 **Until such time as the relevant original documentation is released by the UK Authorities and the issue addressed in the jurisdiction where the bombs were prepared and planned, namely, Northern Ireland, it may not be possible to come to definitive conclusions in this regard. The question of what any further inquiry can achieve in this regard will be considered later in this Report. The Sub-Committee acknowledges that the failure to bring closure on this particular aspect has exacerbated the pain and suffering of the victims and their relatives.**

ADEQUACY OF THE GARDA INVESTIGATION

- 2.23 The Barron Report was extremely critical of the manner in which the investigation into the bombings was conducted. In addition to considering the

Report and the submission of Mr. Justice Barron, the Sub-Committee also received submissions both oral and written from the Garda Commissioner and the Department of Justice, Equality and Law Reform. The areas of concern were:

- (i) The actual conduct of the investigation;
- (ii) The winding-up of the investigation;
- (iii) The interaction between the Gardaí and their counterparts in Northern Ireland in respect of the interviewing of suspects; and
- (iv) The exchange and handling of intelligence.

Adequacy of the Garda Investigation

2.24 The following representatives of An Garda Síochána appeared before the Sub-Committee:

Mr. Noel Conroy, Commissioner of An Garda Síochána
Mr. Fachtna Murphy, Deputy Commissioner
Mr. Joe Egan, Assistant Commissioner
Mr. Martin Callanan, Detective Chief Superintendent

2.25 The Garda Commissioner, Mr. Noel Conroy addressed conclusion number 1 of the Barron Report with regard to the Garda investigation, which states:

“The Garda investigation failed to make full use of the information it obtained. Certain lines of inquiry that could have been pursued further in this jurisdiction were not pursued”

2.26 The Commissioner strenuously objected to these criticisms saying:

“I can tell you that they were conscientious officers who would leave no stone unturned, as far as I am concerned, in the investigation of any serious crime, never mind this outrageous crime.”

2.27 Mr. Justice Barron told the Sub-Committee that any allegations that the Garda investigation was deliberately wound down were investigated by the Inquiry and no truth was found in any of them. Any suggestion of such had been vehemently denied by the Government and Mr. Justice Barron stated:

“...there is absolutely no truth in it. We felt we should make this clear. I have read the relevant portions and am perfectly prepared to say the Report may not be as clear as it should have been”.

Witnesses in other jurisdictions

- 2.28 In relation to the interviewing of witnesses from another jurisdiction, the Commissioner pointed out that this would be done by the police force of the jurisdiction in which the suspects lived. It would not have been normal procedure for the Garda to interfere with residents in another jurisdiction.
- 2.29 The officer in charge of C3 (the section of the Garda Síochána dealing with intelligence) controlled issues relating to the interviewing of witnesses from another jurisdiction. If the Garda authorities need enquiries to be made in another jurisdiction, a request will emanate from the relevant investigating officer to the Commissioner and he deals with it. The same procedure is still in place today.
- 2.30 One of the reasons given for this procedure relates to the different legal systems, which apply in various jurisdictions. One has to be careful to obtain evidence in a legally admissible manner. The Commissioner pointed out:

“... one has to depend on one’s local police force to deal with all those issues and to make sure whatever evidence is obtained, if it is obtained, will be admissible in law later on.”

Preserving crime scenes

- 2.31 When directed to consider the manner in which the investigation of the crime scene was carried out, the Commissioner felt it had been conducted in a thorough and professional manner given the facilities and services at the time. He did point out that in today’s world, there would undoubtedly be a different approach taken to the preservation of crime scenes. An illustration of this was the way in which procedures have changed over the years.
- 2.32 In 1974, procedures regarding preserving crime scenes, photography and mapping were outlined in the Manual of Criminal Investigation. This Manual has been changed twice since 1974 as a result of the development of new techniques in relation to investigation procedures and forensic science.

Interplay between the Gardaí, the then Department of Justice and the Director of Public Prosecutions

- 2.33 One issue, which concerned the members of the Sub-Committee greatly, was the lack of communication, which appeared to exist between the Department of Justice and the Gardaí in 1974. The Garda Commissioner outlined the nature of the relationship, which now exists between the two bodies.
- 2.34 Information is made available to officers in the Department of Justice, Equality and Law Reform on a daily basis. It is their job to then brief the Minister in whatever way they see fit. Any direct communication between the Garda Commissioner and the Minister for Justice, Equality and Law Reform is limited to keeping him informed on security issues pertaining to the State.

2.35 As regards the interplay between the Garda, the Minister and the Director of Public Prosecutions, the current Minister for Justice, Mr. Michael McDowell T.D., stated:

“The function of an Garda Síochána is to report serious crime for prosecution to the Director of Public Prosecutions and he will, on occasion, give it instructions as to how the investigation should proceed. The Minister for Justice, Equality and Law Reform nowadays never gets involved in telling Gardaí how to do their day to day operational work”.

2.36 If a similar atrocity happened tomorrow, the Minister indicated that he would not be the one to contact the Gardaí. Rather, An Garda Síochána would contact his Department very quickly and would brief the Security Division in the Department in order to brief the Minister accordingly.

2.37 The Minister told the Sub-Committee that it is usual for members of the police forces from both parts of this Island and the Security Division of the Department to be represented at meetings where issues pertaining to the security of the State would arise. Sometimes those meetings would also be attended by An Taoiseach, the Minister for Justice, Equality and Law Reform and the Minister for Foreign Affairs. While individual incidents are occasionally discussed at the meetings, generally a mutual de-briefing on all that has transpired since the previous meeting is not carried out.

Other issues

2.38 Mr. Justice Barron clarified points he made in his report in relation to the role of the Attorney General of the day. He outlined how the Gardaí, if they had any evidence on a particular case, sent a file to the Attorney General for his opinion on whether there was sufficient evidence to prosecute. However, even if there was no evidence, the Gardaí could at any time go to the Attorney General for his advice as to whether there were any steps which could be taken to further the investigation.

2.39 Mr. Justice Barron made the point that the level of evidence, which the Gardaí needed in order to support a successful prosecution, was very different to the level of information, which an Inquiry such as his own needed in order to come to any conclusions. Whether or not the allegations could be proven did not concern the Inquiry in the same way as it would have concerned the Gardaí and so a different standard must apply.

2.40 Mr. Justice Barron, in his submission, further elaborated on the statement in his report that he found no evidence to support the proposition that the Garda investigation was wound down through political interference.

2.41 Although Mr. Justice Barron has found no evidence to support this theory, he still was not able to ascertain why the investigation was wound down and in fact, he stated that in his view, *“there was no single reason why the investigation ended when it did.”* It is nonetheless extraordinary that the investigation into an atrocity of this scale could or should be wound down so soon.

2.42 Mr. Justice Barron requested, and the Garda Commissioner agreed, to establish an internal inquiry on why the investigations ceased when they did. Even though the most senior Gardai involved in the investigation are deceased, this matter is still an issue of real concern for the Sub-Committee.

The View of the Sub-Committee

2.43 **The Barron Report at page 275 details certain specific criticisms relating to the Garda investigation. Nothing the Sub-Committee has heard detracts from these conclusions. They are:**

- (i) That the Garda investigation failed to make full use of the information that it obtained, notably in relation to lines of enquiry and seeking to interview suspects.**
- (ii) That the State was not equipped to conduct an adequate forensic analysis of the explosions. Vital clues were lost by the failure to act promptly in the collection and preservation of evidence.**
- (iii) That no proper chain of evidence was maintained and /or recorded in relation to the forensic samples or photographs. Critical forensic samples and photographs have as a result been lost or mislaid.**

2.44 **The Sub-Committee is of the view that Mr. Justice Barron did address the issue of the Garda investigation and that he was successful in collating evidence to support his own conclusions in relation to this issue. As was pointed out repeatedly during the course of our deliberations by almost all of the interested parties, the Dublin/Monaghan bombings represent the single biggest atrocity in the history of this State. Despite this fact, the investigation was wound down in August 1974 at a time when it appears that the investigation teams were aware of:**

- (i) the size and probable composition of the bombs;**
- (ii) the names of several persons whose photographic identities had been recognised with greater or lesser degrees of certainty by witnesses. They either connected them with the bomb cars or believed them to have been acting suspiciously, so that it was reasonable to infer that they may have been in some way involved in the bombings;**
- (iii) the names of several persons whom the Garda authorities, and other official sources, both here and elsewhere, believed to have been involved in the atrocities.**

2.45 **The Sub-Committee believes that an Inquiry with statutory powers should be established to investigate the following sole issues, namely:**

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

2. Why did the Gardaí not follow-up on the following leads?:

(i) Information that a white van with an English registration plate, was parked outside the Department of Posts and Telegraphs on Portland Row and was later seen parked in the deep sea area of the B&I ferry port in Dublin, and the subsequent contact made with a British Army officer on a ferry boat leaving that port.

(ii) Information relating to a man who stayed in the Four Courts Hotel between 15 and 17 May 1974, and his contacts with the UVF.

(iii) Information concerning a British Army corporal allegedly sighted in Dublin at the time of the bombings.

2.46 **The form this Inquiry should take is fully set out in Chapter 4 at pages 54-56. However, it should have the benefit of the work undertaken by the internal Garda investigation and accordingly, should be able to conclude its work on this issue in a relatively short time frame.**

2.47 **The manner in which crime is investigated is an operational one for the Garda authorities. However, the Sub-Committee does feel that there should be some mechanism in place for reviewing major Garda investigations and assessing the progress that is being made (see further details in Chapter 3). It should be recognised that where a major incident occurs, the trauma of the victims may be further exacerbated by any perception on their part that sufficient steps are not being taken to bring the perpetrators to justice.**

MISSING DOCUMENTS ACTION IN THIS JURISDICTION

2.48 **One of the most extraordinary revelations contained in the Barron Report is that there is an amount of official documentation, which has disappeared. Given that this was the largest atrocity in the State, it is astonishing that better care was not kept of these documents and there exists no complete explanation as to their whereabouts.**

Garda Files

2.49 Mr. Justice Barron told the Sub-Committee he was satisfied that he had received all the documentation that was available from An Garda Síochána. When asked by Senator Jim Walsh about the extent of missing Garda files, Mr. Justice Barron stated:

“What is missing as far as the Garda documentation is concerned is known as the security file relating to the bombing in Dublin. It is a limited file. The Garda has furnished to us a large quantity of documentation one way or another, which it has still from the investigation at the time but, regrettably, one of the most important things is the photographs and they are not available.”

2.50 Although Mr. Justice Barron indicated to Deputy Joe Costello that he was handicapped to some extent by not having the 1974 Dublin bomb intelligence file, and was therefore unaware of the contents, he qualified this remark by saying:

“To a large extent, it is fair to say the same documentation is on the Department of Justice file but it would have had, perhaps, internal reports or considerations of what was going on and so on. I do not know.”

2.51 Although it would appear that the missing Dublin bomb intelligence file would have been duplicated in part to a file in the Department of Justice, this corresponding file was also missing.

As a result of what the Sub-Committee felt was a degree of confusion in relation to the exact nature and extent of missing Garda files, a number of questions were put to the representatives of the Garda Síochána who attended the hearings.

2.52 The Commissioner provided the Sub-Committee with a list of the twelve files which could not be located despite exhaustive searches and which remain missing at this point in time. They consist of:

- (a) 3C 38/71 File entitled “Border Incidents”
- (b) 3C 104/71 File entitled “the appointment of Detective Garda (name not included) to Detective Branch”
- (c) 3C 15/71 File entitled “IRA activities”
- (d) 3C 38/73 File entitled “Border Incidents”
- (e) 3C 68/73 File entitled “Robbery at the Starlight Ballroom, Clones”
- (f) 3C 15/74 File entitled “IRA activities”
- (g) 3C 35/74 File entitled “UDA”
- (h) 3C 936/74 File entitled “Dublin Bombings”
- (i) 3C 1781/74 File entitled “Suspect Motor Cars”
- (j) 3C 35/75 File entitled “UDA”
- (k) 3C 27/76 File entitled “Garda Transport Radio Equipment”
- (l) 3C 1146/76 File entitled (name not included) - this file related to a suspect for a crime other than the Dublin/Monaghan bombings and which is currently within the remit of the Commission.

2.53 When asked by Deputy Seán Ardagh to consider the matter of the missing security file on the Dublin bombings, the Commissioner considered that it was likely that a copy of the file in question had been sent to the Department of Justice. As the Monaghan file had turned up in the Department, he felt there was no reason to believe that the Dublin file was not sent to the Department at the same time as its Dublin counterpart:

“I must presume that if it got one, it got the two. I do not think it went missing purposely.”

2.54 A Register was kept which detailed when and where files were sent if they left the Garda storage facility. However, this Register had also gone missing and therefore it was impossible to determine conclusively whether or not the Dublin bombing file was actually forwarded to the Department of Justice.

2.55 Although the C3 files were of central importance in the investigation of subversive activity at the time, the Commissioner felt that it was possible that much of the information contained within the missing files would actually be contained in other files which had been made available to Mr. Justice Barron:

“The fact that a small number of files could not be found does not mean that the information in other files does not contain the information contained in missing files.”

2.56 The Sub-Committee was told that the copies of the security files, which are unavailable for the years 1974 and 1975, are available at the Special Detective Unit. These copies were exact copies and were seen by Mr. Justice Barron during his investigation. When asked by Deputy Seán Ardagh if he was satisfied that the copy of the security file on the Dublin bombings was complete, Assistant Commissioner Egan stated:

“There is no reason to think that it is not. It runs in tandem with all the other years and there does not seem to be anything missing from it.”

2.57 When asked to consider the statement of Mr. Justice Barron in his Report to the effect that there were certain files in C3 which would not have been kept by the Special Detective Unit which are still missing, Assistant Commissioner Egan told the Sub-Committee that this must arise out of some confusion in describing the files.

2.58 In relation to the comment made by Mr. Justice Barron in his report:

“but the files kept by Security and Intelligence (C3) at Garda Headquarters would have included more than just the files kept by the Security and Intelligence (C3) division, of which SDU was merely a part.”

The Garda authorities informed the Sub-Committee that it is not possible due to the lapse of time, to confirm whether this statement accurately reflects the situation at the time, as the relevant files at the Security and Intelligence (C3)

were not available and could not be located for the work of the Commission of Inquiry. They stated in a written submission to the Sub-Committee:

“The most that can be said is that it is highly probable that a great deal of similarity exists between the files at the Special Detective unit and those at Security and Intelligence (C3), in light of the fact that it was standard practice at the time, for operational reasons, to make such material available to the Special Detective unit.”

2.59 With regard to the missing photo album, the Commissioner commented:

“It was very valuable at the time with regard to fixing on suspects, but it must be remembered that the manner in which these photographs were taken meant that they could not be used in evidence. The Garda would need to find some other mechanism to deal with that issue if we were in a situation of producing evidence and making evidence available for presentation in the Courts.”

2.60 Mr. Justice Barron was not furnished with the security file on the Dublin bombings. This appears to have gone missing. The annual files relating to the UVF/UDA were not available for the years 1974 and 1975. Annual files relating to payments made to confidential sources were also not available

Department of Justice Files

2.61 Mr. Justice Barron felt there was nothing in the documentation made available to him from the Department of Justice files, which suggested the existence of a file on the Dublin bombings, which had subsequently gone missing. However, he did indicate that all the evidence points to the fact that there had to be such a file in existence at some point in time. If the file in relation to the Monaghan bombings was found in the Department, it is logical to conclude that the equivalent file in relation to the Dublin bombings should also be there.

“The impression we got was that there was no point in following it up because they just had no evidence about it at all. The documents seemed to suggest they never existed in the first place but we know they had to.”

2.62 Mr. Justice Barron stated that he had not followed the issue up with the Department of Justice as far as he might:

“I do not really think we discussed the absence of files with them to any great degree. We were more interested in the procedures which were operating in the Department at the time with the Gardaí.”

2.63 In order to shed some light on the missing documents in the Department of Justice, the following representatives from the Department of Justice, Equality and Law Reform appeared before the Sub-Committee.

Mr. Michael McDowell, T.D., Minister for Justice Equality and Law Reform,
Mr. Timothy Dalton Secretary General,
Mr. Ken O’Leary Assistant Secretary, and

- 2.64 The Sub-Committee was particularly interested in the manner in which files are retained and preserved in the Department, both today and in the past.
- 2.65 The Minister outlined how files and other documents dealing with the activities of paramilitary groupings are maintained in a small unit of the Department known as the Security and Northern Ireland Division. Access to that unit is severely restricted. The only people outside that unit who have access to those documents are the Minister, the Secretary General and the Assistant Secretary General. No other persons have access to that documentation. This is the situation, which has pertained in the Department for as long as anyone can remember.
- 2.66 The Minister felt that the explanation for the paucity of documentation on the bombings was probably because most of the exchanges in relation to these matters took place between the Minister, his senior officials and the Garda authorities. As a result, they were not documented. He pointed out that time devoted to discussion of matters of State security is not necessarily matched by a corresponding volume of paperwork.
- 2.67 The only documentation, which appears to have gone missing in the Department, is the Garda report on the incident. However, there appears to be a copy of this file in Garda Headquarters.
- 2.68 No file appears to have been opened by the Department on receipt of the Garda report on the Dublin bombings. The Minister pointed out that simply because a file was received from the Garda authorities did not mean that a corresponding file would be opened in the Department of Justice. This would only occur if there was work to be done on it, if there were inquiries, parliamentary questions or issues arising, which were of relevance to the Minister or the Department.
- 2.69 Furthermore, all files opened on any incident were logged in a Register, which was kept in the Department. That Register is still in existence, and there is no record in it of any file on the Dublin bombings ever having been created.
- 2.70 The only way these files could exist is if a decision was made, at their time of opening, not to register them. The Minister could think of no possible motive, which might influence any member of the Department of Justice to do this in the immediate aftermath of the events.

The View of the Sub-Committee

- 2.71 **After hearing all of the submissions in relation to this issue there is considerable confusion as to which documents are actually missing, whether or not the missing documents are copies of original ones that are still in existence and whether or not documents referred to as being missing were ever in existence in the first place. However, what is very clear is that the Dublin and Monaghan bombings were the single greatest atrocity to have taken place since the foundation of the State, and for that reason alone it is a matter of fundamental concern that clarity is brought to this issue. Whilst**

the Sub-Committee has received no suggestion that the documentation was either deliberately destroyed or misplaced, the very fact that there is an issue about missing documentation is a matter of considerable disquiet to the Sub-Committee, and it is of the view that it requires an investigation which would have statutory powers.

2.72 The Sub-Committee is of the view that an investigation be established which can categorically determine the following:

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

The form this Inquiry should take is fully set out in Chapter 4, pages 54-56.

THE ROLE AND RESPONSE OF THE GOVERNMENT OF THE DAY

2.73 The Barron Report contained a number of adverse comments in relation to the response of the Government of the day to the atrocities. Two Cabinet members of that Government took issue with comments made by Mr. Justice Barron, which were critical of the manner in which the situation had been dealt with by the government. They felt that some of his criticisms were based on a fundamental misunderstanding as to the roles of various government Departments. These individuals appeared before the Sub-Committee to air these concerns.

2.74 Dr. FitzGerald, in his submissions, indicated that he was concerned with the fact that in his report, Mr. Justice Barron had placed emphasis on certain comments made at an inter-Governmental meeting held on 11th September 1974. The Barron Report states:

“Notwithstanding the information supplied in the course of those meetings, there appears to have been no follow through by any of those who became aware of it. Nothing was apparently raised at the meeting. Names were not sought, nor the evidence which justified the internment, nor the allegation that they had been responsible for the Dublin bombing.

Following the meetings, there is no evidence that the information was passed, either to the Minister for Justice or any of his officials, or indeed to the Garda Commissioner or any other Garda Officer. Certainly, Patrick Cooney, the then Minister for Justice was never made aware of it, nor is there any record of such information being passed to An Garda Síochána.”

- 2.75 Dr. FitzGerald submitted that had he been aware that Mr. Justice Barron intended to focus on the lack of follow-up to comments regarding internment made by Mr. Harold Wilson P.M. at an inter-Governmental meeting, he would have explained to him the different roles of certain bodies in Irish-British relations. Specifically, he would have expanded on the relationships, which existed between the diplomatic corps, the Department of Justice and the Garda Síochána.
- 2.76 Dr. FitzGerald pointed out that as Minister for Foreign Affairs he would not have thought it appropriate to respond to, or get involved in, individual cases. He felt:

“It would have cut across the correct channels. We now know, of course that those channels worked very well. [The Taoiseach] would not have thought it appropriate to respond and I suspect that if I had responded he would have rightly been unhappy that I had risen to the bait.”

- 2.77 Dr. FitzGerald told the Sub-Committee that at the time, it was not the Government’s remit to intervene in the activities of the police and the Government would not normally take a proactive approach in the investigation of a matter such as the Dublin and Monaghan bombings.

- 2.78 When asked to consider conclusion number 7 in the Barron Report i.e. that the Government of the day showed little interest in the bombings Dr. FitzGerald stated:

“It was not clear to me what the Government should have done that it did not do. The only issue, I suppose, was whether the Government should.. at some point have tried to establish why the inquiries had not got any further, or where they were getting. However, that is not really a function of Government. There is – or should be – great sensitivity among politicians about interfering in the process or with the police”

- 2.79 In relation to collusion, Dr. FitzGerald did not recall any suggestion of active British involvement in the bombings, either at the time of the bombings themselves or indeed for a long time afterwards. He stated:

“... I can only say that given the fact that I was rather persistent in these matters, to the irritation of the British, if I had such a suspicion I would have been minded to pursue it. I probably would have had to consult first before doing so, but I would have wanted to pursue anything of that kind, as I did in a lot of other cases. I have no recollection of that happening.”

He did not recall the question of whether Gardaí should sit in on interrogations conducted by the RUC as ever having being raised at Government level.

Mr. Patrick Cooney

- 2.80 Mr. Patrick Cooney was the Minister for Justice at the time of the Dublin and Monaghan bombings. He met with Mr. Justice Barron during the preparation of his Report and had concerns about a number of issues contained in it.

- 2.81 Mr. Cooney pointed out to the Sub-Committee that in his opinion, the task assigned to Mr. Justice Barron and set out in the terms of reference of the Commission of Inquiry, was a formidable one. He stated:

"In discharging that task, he, as the sole member of the Commission, had to contend with a number of difficulties, which I feel are well nigh insuperable. It made his task almost impossible to complete."

One major concern of Mr. Cooney related to the fact that interviews, which were conducted with witnesses, were not recorded verbatim. The only records of meetings were written in long hand by an assistant. Mr. Cooney felt that these notes were an inadequate method of recording the meetings and as a result might not fully reflect the discussion.

- 2.82 Like Dr. FitzGerald, Mr. Cooney took issue with conclusion number 7 in the Barron Report, which found that the Government of the day failed to show the concern expected of it and showed little interest in the bombings. Mr. Cooney felt that this conclusion was reached as a result of a fundamental misunderstanding on the part of Mr. Justice Barron, as to the nature of the relationship, which existed between the Department of Justice, the Government and the Garda Síochána. He felt that the report indicated a misapprehension on the part of Mr. Justice Barron, that the Department and the Government controlled the activities of the Gardaí in their conduct of investigations. He emphatically disagreed with this. Any form of undue interference would have been anathema to the principles of democracy:

"We were aware, as was the Department of Justice, of what was being proposed by the Garda and we had to accept its professional assessment of how it was going to deal with this serious crime. The two most senior detectives in the State headed up the investigation with a dedicated force of 40 officers. It was unprecedented. As Minister for Justice, I would have been happy with that and happy that that was an appropriate response from the Garda."

- 2.83 In considering whether the Government should have done anything about allegations of collusion in relation to the bombings, he stated:

"There was no evidence at that stage; there were suspicions of collusion between maverick elements of the security forces in the North and the probable-putative bombers but there was no hard evidence of collusion on which the Government could have gone to the other Government to make a complaint."

- 2.84 Another problem faced by the Government related to the fact that the suspects were from Northern Ireland. Even if an admission of guilt had been procured from a suspect in the North, the prosecution and trial of the offences would be held in the Republic. This would have meant that the suspect would have to be extradited to the Republic to stand trial. Mr. Cooney indicated that the likelihood of a successful extradition would have been slim in the political climate of the time, due to Irish law and policy on extradition.

- 2.85 He also felt that Mr. Justice Barron had misunderstood the role and function of the Attorney General in his report. Conclusion 5 of the Report states:

“Although the investigation teams had in their opinion no evidence upon which to found a prosecution, there is no evidence that they sought the advice of the Attorney General, in whose name criminal prosecutions were at that time still being brought. Had the Attorney General reviewed the file, it is likely that advices would have been given as to what further direction the investigation might take.”

Mr. Cooney was of the opinion that this conclusion in the Barron Report suggests that the failure to consult was a factor in the failure to find evidence. Mr. Cooney submitted that the Attorney General had no role in investigating crime or in directing the Gardaí in the investigation of crime. He stated:

“He did not want to see a file and a file would not be sent to him until there was a file or prima facie evidence against named persons and then he would deal with it.”

- 2.86 With regard to any perceived failure by members of the Department of Justice to keep their counterparts in the Department of Foreign Affairs fully updated in relation to all matters, Mr. Cooney explained that certain information was obtained in confidence by the Gardaí and shared with the Department of Justice, and the failure to pass on this information was sometimes the price which had to be paid in order to preserve confidentiality and protect Garda sources.

Mr. Justin Keating

- 2.87 Mr. Justin Keating was the Minister for Industry and Commerce at the time of the bombings and made a number of points to the Sub-Committee in his oral submission. The first related to the fact that he was unaware of the establishment of a Cabinet security committee by the Government, despite the fact that he was a Minister at the time it was established. He stated:

“I do not remember it being set up and I know that for some period I did not know that it existed. I now know who were its members. I did not know at the time, for example, that the Minister for Foreign Affairs was not a member. That sub-committee functioned. I think it was quite powerful and it had access to the Taoiseach, but I believe that it functioned with too little reference to the Government as a whole... That is fine, except for the fact that collective responsibility applies to governments.”

Another point elucidated on by Mr. Keating was the nature of the political situation, which pertained at the time of the bombings. When asked by Deputy Máire Hochtóir if he felt that the Government did not act in a determined way because of the political climate, which existed thirty years ago, Mr. Keating stated:

“I have already mentioned extradition which was a sensitive issue. It was less sensitive than the fact that if there were to be a revelation of co-operation between British state terrorists and Northern Unionist terrorists, the country

would have become practically ungovernable. The outrage and reaction here would have been so powerful as to make it ungovernable.”

Mr. Seán Donlon

- 2.88 Mr. Seán Donlon was assigned to the Northern Ireland desk in the Department of Foreign Affairs from 1971 to 1978, and from 1974 onwards, was the Assistant Secretary in charge of that desk. His task in the early 1970's was the collection of information in Northern Ireland, which related to the behaviour of the security forces.
- 2.89 Mr. Donlon informed the Sub-Committee that Mr. Justice Barron had given what he felt was a misplaced emphasis in his report to comments made at high-level meetings in 1974. He considered that the judge's comments displayed a lack of understanding on his part as to the relationship, which existed between the Department of Justice and the Department of Foreign Affairs, and the informal methods of conveying information between those two Departments.
- 2.90 He detailed his examination of the records of all the high level Anglo-Irish meetings which took place between 1973 and 1975, and confirmed to the Sub-Committee that no outrage however serious was ever discussed at that level.
- 2.91 He confirmed that major efforts were in fact made after the Dublin and Monaghan bombings to step up security and investigate co-operation, and that these efforts culminated in a security meeting which took place in Baldonnell in September 1974.

Mr. Donlon stated that there was a pattern of collusion in Northern Ireland at that time. He referred to close collaboration between elements of the RUC and members of loyalist paramilitary organisations. In particular, there seemed to be a pattern of collusion in parts of Armagh, East Tyrone and parts of Belfast. He stated:

“ When I saw where the cars used in the Dublin and Monaghan bombings originated, something clicked and that is when I began to get suspicious. In subsequent years, after the bombings, references were frequently made to this possibility by people in Northern Ireland who I would see but, much though I would press them at the time- it was something that was pressed very heavily- they could never come up with evidence that was remotely useable either in intergovernmental relations or in a court of law. Obviously we would not have needed the high test - the court of law test - to raise something with the British either at official or political level. If we had enough information, we would have raised it. We hunted for it but we could never get the information”

- 2.92 He was directly involved in preparing a case successfully taken on behalf of Ireland against the UK in the European Court of Human Rights in Strasbourg in relation to the ill treatment of prisoners in Northern Ireland. It was while gathering this information that the issue of collusion arose, but he was never able to gather any specific or hard evidence on it to have it raised at inter-Governmental level or have any action taken as a result. Mr. Donlon did however

comment on the very different relations, which exist between this jurisdiction and the UK now as opposed to in 1974.

The View of the Sub-Committee

- 2.93 **One of the complaints made was the importance that Mr. Justice Barron was attaching to the question of whether the Irish Government of the day had failed to show adequate concern and that an opportunity should have been afforded to allow a response on this issue. Mr Justice Barron dealt with this criticism very fairly in reply to a question put by Deputy Paul McGrath stating:**

“One of the problems we faced was that in doing an independent inquiry we had to stand back from the people that we were dealing with. That was a consideration. Looked at from the point of view I believe the Deputy is looking at it, maybe it was unfair.”

The Sub-Committee can understand why Mr. Justice Barron, who was not conducting a formal adversarial hearing, would not have wanted to refer back to every person mentioned in his report to get a response before publication. At the same time, the Sub-Committee notes and accepts that the persons in question had substantive points to make, and the hearings held by the Sub-Committee afforded them such an opportunity. The Sub-Committee cannot speculate on whether Mr. Justice Barron would have changed his views, had he had the benefit of those submissions before he produced his Report.

- 2.94 **In any event, the Sub-Committee notes that the atmosphere and political landscape was very different thirty years ago to what it is today. As Mr. Cooney said that the ambience in which the Barron Report was prepared is:**

‘...light years removed from the fraught and frenetic times of 1974. The burned out British Embassy was still standing as a stark reminder that democracy could very quickly become anarchy. Atrocities were being committed, mainly by the Provisionals, mainly in the North, on a distressingly regular basis. Some of those atrocities spilled over here. I think Dr FitzGerald mentioned the murder of our colleague and your predecessor Senator Billy Fox.

Armed robberies on post offices, banks and mail vans were commonplace. Demonstrations and agitation were being formented and agitators bussed in. There were hunger strikes and unrest in the prisons. It was a very fraught time. The contemporary context has always to be kept in mind when considering the task that Judge Barron had to contend with.’

Mr. Justice Barron himself noted in respect of the alleged failures of the Government of the day: *“The fact that this report is looking at the issue with*

the knowledge of 2003, rather than that of 1974, affords some explanation for this failure.” And he also noted:

“What we are saying is that today, in 2003, when a catastrophe of this nature arises, public reactions quite different. All the things that are being done today were not being done in the past. That is all we are saying. In other words, there was a much harsher regime then than there is now that we felt was something of a justification for the Government not doing the sort of things that would be expected of it today but we still felt that it did not do as much.”

- 2.95 Subject to the caveat that it would have been of assistance to Mr. Justice Barron to have had the submissions of the relevant persons in advance of his Report, the Sub-Committee believes that he was entitled to form a view in relation to the issue of the response of the Government of the day, albeit strongly challenged by others. However, it is not the function of the Sub-Committee to resolve this issue. There is no doubt that things would be done differently today. For example, in modern times much greater emphasis is placed on the needs of victims than might have been the case in the past. As was indicated by Mr. Justice Barron in response to a question put to him by Deputy Finian McGrath:

“The first time I remember anybody getting highly concerned about people involved in catastrophes was following the Lockerbie disaster which was some ten years after this.”

COMPOSITION OF THE BOMBS

- 2.96 A specific complaint was made regarding Mr. Justice Barron’s handling of the issue of the composition of the bombs. Justice for the Forgotten sought the assistance of Mr. Nigel Wylde as an explosives expert. Mr. Wylde was explicitly critical of Mr. Justice Barron’s conclusions in this area.

Mr. Nigel Wylde

- 2.97 Mr. Wylde is a former British Army officer commissioned from the Royal Military Academy, Sandhurst in 1968, and retired from the British Army in 1991. In 1970 he was trained as an ammunition technical officer, specialising in guided weapons. He was also involved in bomb disposal of both terrorist and conventional munitions. During the months from June to October 1974, he held responsibility for terrorist bomb disposal in the 321EOD unit in Belfast. (EOD stands for Explosives Ordinance Disposal)
- 2.98 Mr. Wylde was interviewed by Mr. Justice Barron during the course of the preparation of his report. Mr. Wylde felt that in a number of areas, Mr. Justice Barron had misinterpreted what he had said and wished to clarify these matters before the Sub-Committee.

- 2.99 The main thrust of Mr. Wylde's submissions to the Sub-Committee centred on his view that the UVF did not have the knowledge to construct a bomb of this type in 1974. From this, he deduced that the bombs must have come from captured IRA stocks, which would indicate a level of collusion in relation to the Dublin and Monaghan bombings.
- 2.100 Mr. Wylde's main concerns centred on Mr. Justice Barron's conclusions in relation to possible ANFO (i.e. homemade explosives) deposits at the scene of the bombings. The Barron Report states that:

"EOD and ballistics officers who had encountered ANFO residues on other occasions conducted a rigorous search of each site. To suggest that they failed to find the clumps of ANFO deposits which were large enough to be visible on television camera or footage seems unlikely".

Mr. Wylde disagreed with the above conclusion reached by Mr. Justice Barron for the following three reasons.

- (i) Firstly, he disagreed with the Barron Report's findings that the photographic evidence on the ANFO issue was poor. Mr. Wylde felt that the quality of some of the photographs was still very good and pointed that that he had experience in examining photographs of explosion scenes, and felt that they should be examined by other photograph experts. It was his view that re-crystallised ANFO was used.
- (ii) Secondly, he felt that the Barron Report did not make it clear that these were the first ANFO explosions to occur in the Republic of Ireland. He submitted to the Sub-Committee that even if the evidence of ANFO explosives having been used was apparent at the scene, the chances of recognising such evidence was very remote, as he contended that it would have been the first time that experts from the Republic would have been exposed to the debris left behind in the wake of an ANFO- fuelled bomb blast. He also pointed out that the emergency response services would have immediately washed away much of the relevant bomb debris evidence.
- (iii) A third matter which concerned Mr. Wylde related to whether or not the UVF had acquired the skills needed to manufacture the bombs by 1974. He laid considerable emphasis on the fact that the three bomb attacks occurred within a 90 second time frame. He submitted that in order to undertake an operation of such precision required considerable skills in bomb- making, skills, which in his opinion the UVF probably did not acquire until 1976, 1977 or perhaps 1978.

Other submissions received on this issue

2.101 The Sub Committee received written and/or oral submissions from the following:

- (i) Explosive experts currently serving in the Defence Forces including former members of the EOD (Explosives Ordinance Disposal);
- (ii) Retired explosive experts who had served in the Defence Forces EOD;
- (iii) Retired State Forensic Scientist Dr. James Donovan;

Army Explosive Experts

2.102 Colonel Joseph O'Sullivan, Director of the Ordnance Corps with overall responsibility for EOD (Explosives Ordinance Disposal) and Lieutenant Colonel Rory Kelleher appeared before the Sub-Committee representing the Defence Forces, in order to assist with the deliberations of the Sub-Committee on the issue of explosives.

2.103 Before their appearance, they had read the submissions produced by Mr. Nigel Wylde, which had been furnished to Mr. Justice Barron. They had also read Mr. Wylde's written and oral submissions to the Sub-Committee.

2.104 Lieutenant Colonel Kelleher informed the Sub-Committee that he attended the scene of the Dublin bombings on the day. His function was to inspect the three bombsites and included making an estimate of the quantity of explosives used. Using a TNT table, he estimated the quantity of explosives at approximately 300 lbs. His interpretation from his inspection of the site was that a mix of commercial explosives and ANFO (i.e. home-made) had been used.

2.105 He accepted the proposition that the hosing down of the bomb sites by the Fire Brigade prior to his arrival, would have either eliminated or removed to a distance most of the residue that might have been of forensic value. With regard to the level of skill needed to set the three bombs to explode within such a short time frame, he stated that no great level of skill would have been required to set a clock.

2.106 When asked if he would have been familiar with ANFO and the debris to be expected from a bomb made primarily with it, he pointed out to the Sub-Committee:

"We would have worked with ANFO material for a number of years before that. The other two officers and I would have been quite familiar with ANFO material. We would have come across it either in finds in realistic situations or as shown to us on a refresher course."

2.107 Part of the task of the Army would have been to preserve evidence that could be used in forensic analysis and to pass it to the Gardaí. However, he was not aware that there was a time scale involved in passing on material for forensic analysis in order to preserve its evidential value.

- 2.108 Colonel Joseph O'Sullivan was concerned that Mr. Wylde had adopted the view that only the IRA and certain sections of the British Army had the capacity or knowledge to deliver working bombs to the Republic, and felt that the conclusions drawn by Mr. Wylde in this regard were highly speculative. He also felt that the documents provided by Mr. Wylde contained a degree of confusion in relation to explosives.
- 2.109 On the basis of the documents available to him, his own training and experience in the EOD and the knowledge of events in Ireland at the time, it was Colonel O'Sullivan's opinion that Loyalist paramilitaries had the necessary materials and capacity to construct the types of devices used in the Dublin and Monaghan bombings in 1974.
- 2.110 From an examination of the limited chemical and physical analysis, he felt that he could not tell with any level of accuracy what explosive compounds were used in the bombs:

"The indications from Mr. Hall and Dr. Donovan are that there could have been ANFO ammonium-nitrate explosive and there could have been commercial nitro-glycerine, gelignite type explosives. Those are indications, but. Like Mr. Hall and Dr. Donovan, we cannot state anything with certainty."

- 2.111 He made reference to the fact that within a week of the Dublin/Monaghan bombings, two other incendiary devices were located near the border which were similar in nature to those used in Dublin and Monaghan and were not of a republican origin. This led him to believe that loyalist paramilitaries had the knowledge to make these devices, in light of the possible origins of those devices. However, Commandant Patrick Trears (retired) who later appeared before the Sub-Committee, and who attended at these bomb scenes, stated categorically in relation to one of these episodes by way of reply to a question put by Deputy Paul McGrath:

" A couple of weeks after the Dublin and Monaghan bombings, there was a bomb in Clones which was reported as a Loyalist bomb. That was not a Loyalist bomb. I know it. I dealt with that bomb in Clones. It was in two milk churns. It was about a 500 lb bomb."

Commandant Patrick Trears (retired)

- 2.112 Retired Commandant Patrick Trears is an explosives expert and was formerly an EOD officer in 1974. He attended at the site of the Dublin bombings in the immediate aftermath. He was of the view that there was a high degree of expertise in the composition of the bombs. He stated that he was familiar with ANFO, both in its stable form and after it had been exploded. He was of the view that the type of explosive used in the bombs was ANFO, but that there was a commercial mix through it, and that judging from the size of the craters left by the bombs, one could establish that it was high explosive. He felt there was a high degree of expertise in putting together that composition and in reply to a question put by Deputy Costello, stated:

"I figured that you could not have done it better, I could not have done it better myself"

- 2.113 Again, in reply to a question by Deputy Costello as to whether the UVF had sufficient expertise, he replied that while he had no expertise on this issue, his judgement was: *'I do not think they were up to the game at all'*.

State Forensic Science Laboratory: Dr. James Donovan

- 2.114 Dr. James Donovan was a forensic scientist in the State Laboratory at the time of the bombings and examined debris from a number of the explosion sites. He appeared before Mr. Justice Barron during his investigations to give his views on what he considered to be the likely components and origins of the bombs and to elaborate on a number of points raised by Mr. Nigel Wylde.

- 2.115 Dr. Donovan stated that he believed from his examination of the debris that he received in the State Laboratory that the bombs were made of ammonium nitrate, diesel oil, nitrobenzene, a booster charge of gelignite and some firing mechanism.

- 2.116 He said that this type of bomb was the type commonly used by terrorist groups at that time. However, he did point out that it was unlikely that the UVF could have had access to that type of explosive at that time. He did observe that he had heard that a UVF group in Fermanagh was the only group at the time with access to ovoid prills of ammonium nitrate (i.e. re-crystallised ANFO) at the time and that there was evidence in the debris from one of the bombs that prills of this nature were used in the bombings, in that two prills of burned ammonium nitrate had been found in the rubber from one of the cars.

- 2.117 He indicated that there was a strong possibility that the prills of ammonium nitrate could have come from pure gelignite, which would suggest the use of commercial explosives. Commercial explosives are extremely powerful and he was at a disadvantage in not having more pieces of metal from the cars involved in order to see how they were torn and therefore to deduce the exact nature of the bombs.

- 2.118 Dr. Donovan pointed out that the hydrocarbon could have been either vaporised by the heat of the explosion or may have been in the open air long enough to evaporate. He also stated that the hosing down of the scene with water would have had a major effect on the hydrocarbon oil.

- 2.119 As regards the suggestion that the UVF were not sophisticated enough to carry out an operation of this nature, Dr. Donovan replied:

"From what I have heard about the UVF at that time, I would have thought it would have needed direction of some sort to assemble the bomb, know where to park it for maximum effect, detonate it and get away"

- 2.120 Another point made by Dr. Donovan related to possible analysis of the make up of the bombs through examination of the photographic evidence. He stated:

"I know they could give a rough assessment of the size of a bomb but they certainly could not give any indication as to the make-up of that bomb."

Mr. Justice Henry Barron

- 2.121 Mr. Justice Barron stated that his Inquiry was at all times aware of the views of Mr. Nigel Wylde, and of his opinion that the bombs were made with re-crystallised ammonium nitrate, and the reasons upon which he based this opinion.
- 2.122 He informed the Sub-Committee that these views were taken into account in his preparation of the Report. He felt the question of whether or not the bombs were made with ANFO was adequately dealt with in his report.
- 2.123 The suggestion that the ingredients for the bombs must have come from captured IRA stocks was investigated by the Inquiry. Mr. Justice Barron felt that this Inquiry had addressed this issue extensively:

“..not only did we go to the army with his report, but we took the suggestion that it was captured IRA stocks seriously and we went to the Northern Ireland Office to find out the way in which stocks were treated – how they were stored, got rid of and so on – and we set that out in the report. We took his suggestion, or his opinion, seriously. There is no doubt about that.”

- 2.124 All of the information supplied to the Inquiry by Mr. Nigel Wylde was forwarded to experts in the Defence Forces who would have had a degree of forensic expertise in the area. They prepared a report, which was furnished to Mr. Justice Barron, which concluded that Mr. Wylde’s theory was reasonable but speculative.
- 2.125 Mr. Justice Barron also indicated that he had taken the views of Dr. James Donovan into account in the preparation of his report.
- 2.126 Mr. Justice Barron did inform the Sub-Committee that the photographs upon which Mr. Wylde based his thesis were never examined by any other photographic expert in the field.
- 2.127 When asked by Senator Jim Walsh whether he had consulted military experts to obtain their observations and views in respect of the allegations that the bombings had the hallmarks of an operation carried out by trained military experts, Mr. Justice Barron remarked:

“We received reports from all these people, including the various military officers who had investigated the sites at the time. We had evidence from the explosive ordnance officers who said they searched and searched but found nothing.”

- 2.128 There was a number of different opinions as to the origin of the bombs but, having considered them all, the Inquiry had come to the conclusion that it could not definitively accept that the bombs were made from a form of ANFO.

- 2.129 Having taken all of these issues into consideration, Mr. Justice Barron took the view that he could not be sure that the conclusions arrived at by Mr. Wylde were correct. He stated:

“All I can say is that we had various things to consider and, on the totality of what we had to consider, we decided that we could not accept his theory...If you read the report, you can see why we took the view we did. I am not an expert in this field. The only experts in the field we went to were the army and they said it was speculative.”

The Reply Made by Mr. Nigel Wylde

1. Mr. Wylde made a further written submission in order to clarify his position. He stated that all witnesses agreed with him that the bombs used in the Dublin bombings probably comprised ANFO and a smaller commercial explosive booster charge. However, the question which remains to be answered is the nature of the ANFO used and that it could be one of four options:
 - (i) re-crystallised ANFO
 - (ii) commercial ANFO
 - (iii) ANFO manufactured from ammonium nitrate content fertilizer
 - (iv) ANFO manufactured from pure ammonium nitrate
2. He stated that his submission and that of Commandant Trears suggested that it was re-crystallised ANFO.
3. He took issue with Colonel O’Sullivan’s submission that the Defence Forces had experience of dealing with re-crystallised ANFO in terrorist bombs prior to the Dublin Monaghan bombings on 17th May 1974. He stated that there was no evidence of an instance where re-crystallised ANFO was used in car bomb attacks prior to this date. As a result, he felt that Colonel O’Sullivan was not in a position to accurately identify the type of ANFO used in the bombs, as he had no prior experience of it. He argued that Colonel O’ Sullivan’s assumptions were unsupported by evidence.
4. He again made the point that the remaining photographs of the bomb scenes should be examined by photographic experts.

The View of the Sub-Committee

- 2.130 **In respect of the issue of recognising ANFO, Commandant Trears and Lieutenant Colonel Kelleher have both said that they would have recognised it and are of the view that it was not present when they visited the scene.**
- 2.131 **In respect of being able to now identify ANFO through the use of a photographic expert, it is something, which Mr. Justice Barron might have considered. Nonetheless, the Sub-Committee is of the view that Mr. Justice Barron did address the issue and considered the various possibilities. However, in any event, even if it could be shown conclusively what material was used in the composition of the bombs, this in itself does not determine**

the provenance of those bombs and would only be useful in the context of a more effective and wider ranging inquiry into the question of the identity of the perpetrators and whether or not there was collusion. In this context, it should form part of the investigation that the Sub-Committee recommends below in relation to the identity of the perpetrators and the issue of collusion.

(See Chapter 4 page 75-76).

CONCERNS HIGHLIGHTED BY CERTAIN INDIVIDUALS REGARDING THE BARRON REPORT

2.132 A number of individuals contacted the Sub-Committee and highlighted their concerns regarding the findings of Mr Justice Barron in his Report. Mr. Michael Culligan and Mr. Harry Havelin made written submissions. These two individuals did not meet with Mr. Justice Barron.

2.133 Mr. Culligan remembered two Gardaí running towards North Earl Street before the bomb went off at about 5.18 or 5.23 pm and got the impression that they may have had some sort of prior warning. He also indicated that these Gardaí may have been running to a crime scene although he accepted the possibility that they may have had nothing to do with the subsequent bombings. Mr Havelin recalled, three hours prior to the Dublin bombings, being asked by Gardaí whether he had seen any Northern Ireland registered cars in the area of Lambay Road and Walsh Road, and also whether there was any bed and breakfast or rented accommodation in that area. Mr. Justice Barron explained that he did not speak to them because he did not know of their existence. In any event, in response to a question from Deputy Paul McGrath as to whether their submissions might have altered his views, Mr. Justice Barron stated:

“I really do not think that if we got that information it would have added anything to what we said.”

2.134 Mr. Seamus Fitzpatrick contacted the Sub-Committee and informed it that while he had met with Mr. Justice Barron, he disagreed with Mr. Justice Barron’s treatment of his account of events.

2.135 Mr. Fitzpatrick remembered seeing the bomber’s car park in Parnell Street at 4.32 p.m. and engaged verbally with the driver. He was convinced that the person he saw on that day was the driver of the bomb car, and believes he was in a position to give relevant identification evidence. He was also critical of the Gardaí, as a statement purporting to be his was dated 18 May 1974 at 12.45 p.m., when in fact he remembered making a statement on 17 May at 7.30 p.m. There was another statement purporting to be his dated 27 May 1974, and in this regard, he did not recall making any statement on that date.

2.136 He recalled two Gardaí visiting his house in October 1974, when the Garda investigation was supposed to have been wound down in August of that year.

2.137 Mr. Justice Barron pointed out to the Sub-Committee the fact that there was another account, which contradicted Mr. Fitzpatrick’s account. Mr. Mortimer and Mrs Teresa O’ Loughlin stated that they had seen the bomber’s car parking in

Parnell Street at approximately 5.12 p.m. This account had also been given to the Gardaí.

The View of the Sub-Committee

2.138 **The Sub-Committee is not in a position to resolve the apparent discrepancy between the two accounts. Insofar as these issues concern the Sub-Committee, it is satisfied that Mr. Justice Barron adequately explored the various aspects of those issues and therefore did address this matter within his terms of reference. The Sub-Committee is particularly grateful to those who took the time and effort to make submissions and fully accepts their sincerity. However, the Sub-Committee does not believe that Mr. Justice Barron can be criticised for opting for one account over another on the basis of the information available to him.**

Chapter 3

The lessons to be drawn and any actions to be taken in light of the Report, its findings and conclusions.

INTRODUCTION

3.1 The Sub-Committee has been specifically requested to report on “the lessons to be drawn and any actions to be taken in the light of the report, its findings and conclusions.” In the Abbeylara decision, *Maguire v Ardagh* [2002] 1 IR385 at 700 Hardiman J stated:

“[T]here would appear to be absolutely no reason ... why an Oireachtas committee should consider itself debarred from ‘probing issues’ which are essentially of a ... ‘policy nature’. That, one would have thought, is a central feature of the Oireachtas committee.”

3.2 During the course of our deliberations, which includes the considerable written and oral submissions, a number of areas from which lessons could be drawn were identified. They are:

- i) The Government’s Role in Garda Investigations.
- ii) The establishment of Cabinet Committees.
- iii) The Role of Forensic Science.
- iv) The Retention of Evidence.
- v) The Retention of Documents.
- vi) Inter-Jurisdictional Co-Operation .
- vii) The role of Non-Governmental organisations.
- viii) Peace and Reconciliation Process.
- ix) Adequate support for Victims and their Families.

THE GOVERNMENT’S ROLE IN GARDA INVESTIGATIONS

3.3 It is absolutely imperative that the Government and the Garda Síochána have a good working relationship within a clearly defined structure. The Gardaí must have the ability to conduct their day-to-day affairs without any undue interference from Government. However, at the same time the Government has an overall responsibility to ensure that the Gardaí are working in an effective manner.

3.4 The Sub-Committee notes that the recently published Garda Síochána Bill addresses this issue in a general manner. Section 40 of the Bill provides for a mechanism which requires the Garda Commissioner to keep the Minister fully informed of the following:

- a) matters relating to significant developments concerning –
 - (i) The preservation of peace and public order in the State.
 - (ii) The protection of life and property in the State.

- (iii) The protection of the security of the State.

and

- b) any other matters that, in the Commissioner's opinion, should be brought to the attention of the Minister.

3.5 The same provision also requires the Garda Commissioner to submit to the Minister, when required, a report on any matters connected with the policing or security of the State or the performance of the Commissioner's other functions that may be specified in the requirement. A report of this nature would be made in the form and within the period that may be specified in the Minister's requirement.

3.6 The Sub-Committee is of the view that this development, which seeks to address the lack of formalisation of the relationship between these two State entities, is essential and long overdue. It is absolutely critical that the above proposal is enacted into law, and upon the enactment of this legislation, a dedicated set of guidelines should be drawn up which will give effect to Section 40.

3.7 The Sub-Committee is of the view that the failure to adequately advance an investigation when 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.

THE ESTABLISHMENT OF CABINET COMMITTEES

3.8 It is understandable that the Cabinet may from time to time wish to establish a Committee of its members to deal with a particular issue or area of concern.

3.9 The Assistant Secretary to the Government, Mr. Peter Ryan, has informed the Sub-Committee in a letter dated 26 March 2004 of the role of the then Cabinet Committee on Security. He stated that:

- (i) The Cabinet Committee on security was set up in 12 March 1974 and is recorded in the minutes of the meeting held on that date and was subsequently notified to all members of the Cabinet.
- (ii) It was chaired by the Taoiseach. The Tánaiste, the Minister for Defence and the Minister for Justice were members.
- (iii) Minutes were kept of its proceedings and other Ministers and officials attended as necessary.
- (iv) The decision setting up that Committee had no formal requirement to report to Government.

3.10 In relation to the workings of current Cabinet Committees, Mr. Ryan stated that:

- (i) Such committees are part of the internal working of Government, and are established on a case-by-case basis.
- (ii) They can only be established by a specific decision of Government.
- (iii) They cease to exist at the end of term of office of a particular Government.
- (iv) Regular reporting to Government is provided for in the relevant framework.

3.11 **The Sub-Committee is of the view that the Government should consider publishing its framework detailing the above measures, including formal reporting structures, in order to allay any public concerns.**

THE ROLE OF FORENSIC SCIENCE

3.12 The manner in which evidence is collected and stored was an issue, which concerned the Sub-Committee, as it is this evidence, which is the foundation upon which any potential prosecution will be based. Therefore it is imperative that evidence be preserved correctly. This was not the case with the forensic evidence relating to the Dublin and Monaghan bombings.

3.13 The Dublin and Monaghan bombings occurred thirty years ago. Because of that length of time one could be lulled into the false view that an atrocity of such a scale is unlikely to re-occur given the current state of the peace process. However, the recent events in Omagh and Madrid illustrate that the threat of such an atrocity happening in this country has to be seriously considered and the necessary contingency plans put in place, not least in the area of forensic science.

3.14 Dr. James Donovan was the state forensic scientist who examined the debris from the bombings. He was surprised by the lack of volume in the amount of debris and evidence, which was brought to him for examination. He felt that due to the nature of the explosion much more should have been furnished to aid him in determining both the nature of the explosives and their possible origins.

3.15 However, Dr. Donovan did point out that the amount of debris was limited because:

“Nobody quite knew how much to gather with these sort of bombings. As far as I recall, that was the first one of these sort of bombings in this jurisdiction.”

As a result, the people involved in the gathering of this evidence lacked experience in the collection of materials of this nature and as such vital evidence may have been overlooked.

3.16 The lack of knowledge in relation to the gathering of forensic evidence resulted in the evidence not being kept in sealed packages. Had it been stored in packages, it

might have delayed evaporation of nitrobenzene, nitroglycerine, tinitro or other chemicals. Nylon bags would have been necessary to maintain chemicals of this nature and to protect the exhibit from any outside influences. Evidence of the use of these chemicals in the bombings may have vanished forever because of the methods in which they were stored prior to analysis.

- 3.17 Dr. Sheila Willis, the current Director of the State Forensic Science Laboratory, appeared before the Sub-Committee to detail the difference between the forensic procedures which existed at the time of the bombings and those which are in place today.
- 3.18 Her first observations related to the manner in which material from the bomb scene was preserved. She expressed regret that nylon bags were not used to store any evidence, which had been collected. It is now recognised that they should be used to collect items for examination for explosive traces. The use of these bags increases the possibility of recovering volatile traces from the scene. Nylon bags are now available in the stores at the Technical Bureau and are part of the kit for Scenes of Crime Officers, as they are also used for fire examination.
- 3.19 Whereas at the time of the bombings the length of time between the actual events and the forensic examination of material from the scene would have been vital, this is not the case today. Material sealed in nylon bags facilitates analysis even after considerable passage of time.
- 3.20 She indicated that inadvertent contamination of evidence is a very real issue at every crime scene. Undoubtedly such information was known in 1974, but it may not have been emphasised. Examiners at scenes are usually aware of these issues today. This is particularly important in a major incident when normal procedures may not be adhered to because of the logistics of dealing with large volumes of material and heavy casualties.
- 3.21 Difficulties relating to dealing with a repeat of an atrocity of the scale of the Dublin and Monaghan bombings were highlighted. The following exchange occurred on the 11th February:

Deputy Costello: In your conclusions you say the infrastructure to deal with large-scale trace work in explosives is not in place in the Republic. What do you mean by this?

Dr. Willis: Because the technology is so sensitive at the moment, carrying out analysis to check the presence of traces of explosives left at a bomb scene, for example, would need very specific facilities like a room that is not used for anything else, a room that will never be in contact with bulk explosives. Given that we have not had a need to use such a facility, we have not got it.

Deputy Costello: If what happened in 1974 was to happen in 2004, we would still have to go to Belfast.

Dr. Willis: We would be in difficulties.

- 3.22 Dr. Willis acknowledged that adequate training of relevant personnel is being put in place. However she did also refer to the issue of adequate resources to provide the necessary facilities.
- 3.23 In order to fulfil the work of the State Forensic Laboratory there must exist a close co-operation with the An Garda Síochána. This interaction has traditionally been marked by a lack of any formal structures. However, in 2002 a Service Level Agreement was signed between the Director and the Garda Commissioner. This attempted to formalise the level of service and expectations from each side. It acknowledges the fact that training in scene of crime issues is regularly delivered and that reliable results are dependent on correct adherence to procedure.
- 3.24 The Gardai have overall responsibility for the management of any crime scene and for what samples should be taken. Scientists occasionally visit crime scenes and advise but they have no responsibility for sample taking. The Gardai recently prepared a document in consultation with the Forensic Science Laboratory outlining procedures to be followed in the event of bombings.
- 3.25 **The Sub-Committee notes that Mr. Justice Barron was critical of the forensic capabilities existing in the State at the time of the Dublin and Monaghan bombings. It appears that the situation has improved since then. The Sub-Committee is of the view that adequate measures should be taken to ensure that the forensic services would have a plan in place and with adequate resources so as to enable them to cope should an atrocity on a similar scale be repeated.**

THE RETENTION OF EVIDENCE

- 3.26 In addition to the matter of analysing forensic evidence, there is the separate issue of the retention of evidence. As no one has been prosecuted, let alone convicted, for the atrocities, the file on the Dublin/Monaghan bombings is, to use Garda parlance, in theory still open. However, vital evidence has gone missing, including certain photographs of the bomb scenes.
- 3.27 It is of vital importance that proper procedures are maintained by An Garda Síochána to ensure that all evidence collected in a criminal investigation is fully documented, logged and retained. It would appear that, in practice, the system for retaining evidence is very much dependent on the individual investigation team. The Sub-Committee notes that the High and Supreme Courts have issued a number of judgments in recent years which have indicated that the Gardai are under a legal obligation to seek out and preserve evidence so that the rights of the accused in any subsequent criminal trial may be properly protected.
- 3.28 **The Sub-Committee is of the view that best international police practice should be followed and that files relating to unsolved crimes are periodically kept under active review, and that such reviews are appropriately audited.**

THE RETENTION OF DOCUMENTS

- 3.29 The Sub-Committee was greatly concerned about the manner in which it appeared that a number of documents relating to the bombings have gone missing over the years. Dr. David Craig, Director of the National Archives made a

submission to the Joint Committee explaining how the National Archives Act 1986 operates in practice. During the course of his submission, he remarked on the irony that records which are segregated because they are regarded as important may subsequently get lost purely because they have been separated from the main record store. In respect of missing records he stated that:

“They might have been inadvertently destroyed as being just some old records lying in a filing cabinet that somebody decided to clear out when there was a shortage of space or something of the sort without any sense of what they were destroying. They might have been hidden by somebody – that is another possibility. They might have been hidden either because they were sensitive in a way that the person who hid them did not want them to be seen by other people. Alternatively, they could have been hidden – I have known of cases where this has happened – precisely to save them from destruction, or they could have been deliberately destroyed.”

- 3.30 The Sub-Committee noted that the enactment of the National Archives Act 1986 put in place a statutory mechanism for the retention and preservation of State documents. The principle provisions of the Act provide that Departmental records must be preserved unless their disposal is authorised in writing by the Director of the National Archives or another designated officer. Before disposal the Director must be satisfied that the documents do not warrant retention by the National Archives. He is entitled to come to an independent opinion on this matter. It has taken some time to get the current system working effectively. However the Director of the National Archives is of the view that there is now a much greater awareness of the responsibilities of departments in relation to document retention. He stated:

“Without pretending that the letter of the Act has been obeyed in every single case over the years, it has made a huge difference, and the culture now is to seek our permission, which was not the case previously.”

- 3.31 The Sub-Committee is of the view that a situation should never arise where important documentation goes missing. The National Archives Act 1986 should be properly implemented by each Government Department and statutory agency. While the Director of the National Archives has his statutory functions, it is also clear that each Department has its own obligations to ensure that there is in place a full and proper system for the retention of documents. The best technology and practices should be used to ensure that documents are properly recorded and secured. More importantly, each Department should nominate and appoint a dedicated documents officer, whose responsibilities would be as follows:**

- (i) to put in place a standardised system for the retention and filing of documentation;**
- (ii) to keep an accurate log/record of the documentation; and**
- (iii) to liaise with the Director of the National Archives in relation to the retention and, if necessary, destruction of documents**

In particular, files which deal with security and other sensitive matters in any Government Department, including the Department of Justice, Equality and Law Reform, should be maintained, stored and archived in line with best practice.

INTER-JURISDICTIONAL CO-OPERATION

3.32 Much of the deliberations of the Sub-Committee focused on the question of how an inquiry in this jurisdiction could be granted meaningful access to documents and witnesses in another jurisdiction through mutual co-operation (see Chapter 4 of this Report). The Sub-Committee was struck by the marked change that has taken place in international relations from 1974 to the present date. In 1974, this State had just joined the then EEC but the country could not have been construed as being integrated with its European partners in any meaningful sense. Since that time, Ireland has successfully integrated itself into Europe and European law is now very much a part of the Irish legal system. At the same time, the relationship between Ireland and the United Kingdom has also improved to the extent that there is a very close working relationship between the two Governments. This has been critical in advancing the peace process. The Sub-Committee also notes that new developments are emerging in the relatively novel area of European criminal law.

3.33 It is in this context that the Sub-Committee is of the view that consideration should also be given to the establishment of a protocol or an agreement, which would provide mutual recognition among member states of the EU of civil public inquiries. It must be possible, in appropriate cases, to provide a civil public inquiry in one jurisdiction with legal recognition in another member state where it could have evidence gathering and compellability powers to enable it to fulfil its remit.

THE ROLE OF NON-GOVERNMENTAL ORGANISATIONS

3.34 The Sub-Committee was particularly struck by the contribution that non-governmental organisations can make to assist in the resolution of outstanding issues relating to the conflict in Northern Ireland and in this jurisdiction. In respect of Justice for the Forgotten Mr. Justice Barron stated:

"We felt that Justice for the Forgotten was very helpful. In one way it was an extension of our investigation arm. It was responsible for getting Mr Wylde's reports Justice for the Forgotten, for example, and we followed them up as well as we could. It followed up a lot of things. We have ten bulky files of information."

3.35 The group represented by Desmond J. Doherty and Company, Solicitors, the Pat Finucane Centre, and British Irish Rights Watch have also been of great assistance to the Sub-Committee in terms of providing information and submissions.

3.36 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.

PEACE AND RECONCILIATION PROCESS

3.37 The Troubles have had an effect on all parts of this island, both North and South, and on Great Britain. Over the years there have been a huge number of atrocities committed on both sides of the border, which have left a vast number of families devastated. The failure to bring many of the perpetrators of these crimes to justice is something, which it is difficult for those families to come to terms with.

3.38 The Sub-Committee is of the view that it would be useful if some type of forum could be established where the victims of these crimes could liaise with each other and address any issues in a non-judgmental fashion. This forum could operate on a cross-jurisdictional basis. Any initiative of this nature should be supported by the Government.

ADEQUATE SUPPORT FOR VICTIMS AND THEIR FAMILIES.

3.39 The Sub-Committee recognises that the State has an obligation to its citizens particularly in the aftermath of an atrocity such as occurred in the Dublin and Monaghan bombings. 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 is of the view, the State should immediately put in place an inter-agency Strategy, to ensure that practical support measures are made available. Priority areas would include counselling, practical advice, telephone help-lines, and nominated liaison officers being appointed in the various agencies.

Chapter 4

Whether, having regard to the Report's findings, and following consultations with the Inquiry, a further public inquiry into any aspect of the Report would be required or fruitful.

INTRODUCTION

- 4.1 While the Sub-Committee was assigned a number of tasks, many of the submissions, focused on the question of whether there should be a further inquiry and on what format such an inquiry might take. The options open to the Sub-Committee are extensive, ranging from an immediate full public Inquiry to a more limited focused form of inquiry.
- 4.2 To facilitate its deliberations on this issue, the Sub-Committee broke down the issues which were of concern to it into two different categories:
- (i) Internal issues which related solely to matters which could be resolved within this jurisdiction, and,
 - (ii) External issues which relate to the identification of perpetrators and alleged collusion.
- 4.3 The nature of any further enquiry the Sub-Committee might recommend varied in relation to the two different categories. Therefore, it is appropriate that these issues are looked at independently.

INTERNAL ISSUES WHICH SOLELY RELATED TO MATTERS WHICH COULD BE RESOLVED WITHIN THIS JURISDICTION

- 4.4 Chapter 2 of this Report deals with the question of whether Mr. Justice Barron addressed all the issues covered in the terms of reference of his Inquiry. A number of issues were identified which the Sub-Committee believed merited further inquiry. They are as follows:
- (i) Issues arising from missing documentation in the Department of Justice and An Garda Síochána.
 - (ii) Why the Garda Investigation was wound down.
- 4.5 The Sub-Committee then had to consider the most appropriate manner in which to address these issues. When considering holding a full public tribunal of inquiry, it was necessary to have regard to the length of time it would take, its cost and effectiveness. The Sub-Committee wishes to emphasise that the effectiveness of any inquiry was considered a key factor.
- 4.6 The Sub-Committee felt it was appropriate to examine any other options, which would achieve the same result, and might be a more effective method of resolving the issues identified above. In this regard, the Sub-Committee considered the

Commissions of Investigation Bill 2004, which is currently before both Houses of the Oireachtas.

- 4.7 The Bill contains several new features that are designed to ensure that investigations are carried out in a more timely and cost effective manner, without in any way compromising or encroaching on the proper conduct of an investigation.
- 4.8 The Commission has a wide range of powers under the new Bill. It has powers:
- (i) to direct witnesses to attend;
 - (ii) to answer questions and to produce and disclose documents;
 - (iii) to enter into premises to inspect and secure documents if it is reasonable and necessary to do so in the interests of the investigation;
 - (iv) to decide to hear a witness' evidence in public.

In addition, the Bill makes it a criminal offence to make a false statement, to intentionally obstruct the Commission or to fail to comply with a direction, and provides strong penalties for such offences.

- 4.9 The Bill requires that there be very defined terms of reference and it allows for the necessary preparatory work to be completed in private with all the attendant statutory powers, including the examination of witnesses on oath. The Commission can decide to hear all or part of the evidence of a witness in public, if satisfied that it is in the interests of both the investigation and fair procedure.
- 4.10 A decision on whether or not to propose the establishment of a full Tribunal following the Report of a Commission of Investigation is a matter for the Government of the day. That proposal would be submitted to the Houses of the Oireachtas for its approval.

The recommendations of the Sub-Committee on Internal Issues

- 4.11 **The Sub-Committee is of the view that a Commission of Investigation is an ideal way to deal with the issues pertaining to this jurisdiction. It should hopefully resolve the issues in a speedy and effective way, while fully respecting fair procedures and natural justice. Accordingly, the Sub-Committee, recommends the Commission as the appropriate form of inquiry in relation to the following issues:**

The Garda Investigation:

1. **Why was the Garda investigation into the Dublin and Monaghan bombings wound down in 1974?**
2. **Why did the Gardaí not follow-up on the following leads?:**

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

and

Missing Documentation:

- 1. The exact documentation (Departmental, Garda, Intelligence and any other documentation of relevance) that is unaccounted for;**
 - 2. The reasons explaining the missing documentation;**
 - 3. Whether the missing documentation can be located; and**
 - 4. Whether the systems currently in place are adequate to prevent a re-occurrence.**
- 4.12 In adopting this method of inquiry the Sub-Committee believes it is the best and most effective way of resolving the particular issues.**
- 4.13 Whilst this is ultimately a matter for the Government, we would further recommend that the terms of reference of that Commission of Investigation be as clear and well-defined as possible. The Sub-Committee believes that this is the key to a successful investigation, while still ensuring that all issues are dealt with as comprehensively as possible.**

EXTERNAL ISSUES RELATING TO THE IDENTITY OF THE PERPETRATORS AND ALLEGED COLLUSION.

4.14 These issues concerned the identity of the perpetrators and whether or not there was collusion. The Sub-Committee devoted much of its time to this matter. All of the submissions, which were received from victims and bereaved families, urged that there was evidence in existence relating to the identity of the perpetrators and on the issue of collusion and that there was a need for a further inquiry into these issues. They acknowledged the difficulties faced by Mr. Justice Barron in this regard, notably in relation to co-operation and documents from bodies outside this jurisdiction, and to an extent were critical of some of the conclusions he had in fact arrived at.

4.15 However as a starting point, the Sub-Committee feels it is important to re-iterate some of the salient conclusions arrived at by Mr. Justice Barron in relation to the identity of the perpetrators and the issue of collusion:

1. The Dublin and Monaghan bombings were carried out by two groups of loyalist paramilitaries, one based in Belfast and the other in the area around Portadown/Lurgan. Most, though not all of those involved were members of the UVF.

2. It is likely that the bombings were conceived and planned in Belfast, with the mid-Ulster element providing operational assistance.

3. A finding that members of the security forces in Northern Ireland could have been involved in the bombings is neither fanciful nor absurd, given the number of instances in which similar illegal activity has been proven. However, the material assessed by the inquiry is insufficient to suggest that senior members of the security forces in Northern Ireland were in any way involved in the bombings.

4. The loyalist groups who carried out the bombings in Dublin were capable of doing so without help from any section of the security forces in Northern Ireland, though this does not rule out the involvement of individual RUC, UDR or British Army members.

The Monaghan bombing bears all the hallmarks of a standard loyalist operation and required no assistance.

5. It is likely that the farm of James Mitchell at Glennane played a significant part in the preparation for the attacks. It is also likely that members of the UDR and RUC either participated in, or were aware of those preparations.

6. The possibility that the involvement of such army or police officers was covered-up at a higher level cannot be ruled out; but it is unlikely that any such decision would ever have been committed to writing.

7. The inquiry believes that within a short time of the bombings taking place, the security forces in Northern Ireland had good intelligence to suggest who was responsible. An example of this could be the unknown information that

led British intelligence sources to tell their Irish army counterparts that at least two of the bombers had been arrested on 26 May and detained. Unfortunately, the inquiry has been unable to discover the nature of this and other intelligence available to the security forces in Northern Ireland at that time.

- 8. A number of those suspected for the bombings were reliably said to have had relationships with British intelligence and/or RUC Special Branch officers. It is reasonable to assume that exchanges of information took place. It is therefore possible that the assistance provided to the Garda investigation team by the security forces in Northern Ireland was affected by a reluctance to compromise those relationships, in the interests of securing further information in the future.**

But any such conclusion would require very cogent evidence. No such evidence is in the possession of the inquiry. There remains a deep suspicion that the investigation into the bombings was hampered by such factors, but it cannot be put any further than that.

- 4.16 These conclusions show that Mr. Justice Barron was able to unearth significant information, which pointed to the perpetrators and to the likelihood of collusion being a factor in the Dublin and Monaghan bombings. He did acknowledge that there were grounds for suspecting that the bombers may have had assistance from members of the security forces. However, the involvement of individual members in such activity did not, in Mr. Justice Barron's opinion mean that the bombings were either officially or unofficially sanctioned. He emphasised that he did not possess the necessary evidence to permit him to reach such conclusions.
- 4.17 It is also self-evident from these findings that the information and witnesses relevant to these two issues would appear to be based either in Northern Ireland or in Great Britain. It is also the case that Mr. Justice Barron himself thought that the scope of his Report on this aspect was limited by virtue of the refusal of the British Government to supply certain information and to make original documents available. In response to a question from Senator Jim Walsh, as to whether he himself was satisfied that he had addressed the collusion issue, he stated:

'I do not mean that our review of collusion is exhausted by any means.'

Great Britain and Northern Ireland Documentation

- 4.18 Before detailing these submissions, it is important to note that during the course of his deliberations, Mr. Justice Barron requested assistance from Great Britain and Northern Ireland authorities. He was furnished with a sixteen-page document outlining a summary of any relevant information on the Dublin Monaghan bombings, which had resulted from a trawl of their files. The Sub-Committee invited current and former titleholders from Great Britain and Northern Ireland to make oral or written submissions to them, to elaborate on this document and any other relevant matters but these invitations were declined. The names of these invitees are set out in Appendix 7.

4.19 The Sub-Committee wishes to express its grave disappointment at the response received to these invitations. An examination of the Northern Ireland and Great Britain records from the time in question would be necessary for any examination of this area. However, neither the Sub-Committee nor Mr. Justice Barron were afforded the co-operation which the gravity of the atrocity required.

Submissions made to the Sub-Committee on the Question of the identity of the Perpetrators and the Issue of Collusion

4.20 The Sub-Committee received submissions from various parties on the question of the identity of the perpetrators and the issue of collusion, which centred on information, which they said was available, and would be of assistance in identifying the perpetrators and would deal with the issue of collusion.

The Pat Finucane Centre

4.21 The Pat Finucane Centre is a human rights non-governmental organisation who have compiled a significant volume of research material into the area of collusion in Armagh, Down, Tyrone and the border areas in the 1970's. The following representatives of the Pat Finucane Centre appeared before the Sub-Committee:

- (i) Mr. Paul O'Connor,
- (ii) Mr. Alan Brecknell, and
- (iii) Ms. Johanna Keenan.

4.22 Their submission to the Sub-Committee centred on the context in which the Dublin and Monaghan bombings took place. They have engaged in researching collusion by serving members of the security forces with loyalist paramilitaries in the perpetration of terrorist activities in Northern Ireland at that time.

4.23 The various points made in their written and oral submissions to the Sub-Committee were considered when evaluating whether further investigation into the bombings of 1974 is warranted.

4.24 The Pat Finucane Centre gave specific details in relation to the matters set out below;

- (i) That elements of the Glennane group, who were identified in the Barron Report as having played a "*significant part in the preparation for the attacks*", in fact *carried out* a large number of terrorist attacks and were responsible for the deaths of dozens of people and injury to hundreds more.
- (ii) That the failure to bring the perpetrators of the Dublin and Monaghan bombings to justice allowed that group to continue to conduct terrorist attacks on both sides of the border.
- (iii) That the criminal justice agencies in Northern Ireland covered up the widespread activities of this group (they gave details of the various court cases) and that their activities are indicative of a culture of collusion which existed in the area

during the mid 1970's and which resulted in a failure to bring the perpetrators of the Dublin and Monaghan bombings to justice.

- 4.25 They outlined to the Sub-Committee their extensive research into the activities of the Glennane group. Ms. Johanna Keenan told the Sub-Committee of the special relationship which they believe existed between those operating out of Glennane and the Portadown UVF.
- 4.26 The Pat Finucane Centre also submitted to the Sub-Committee that the farm at Glennane was used as a “drop-in centre for the RUC, UDR, British Army and for loyalist paramilitaries.” The representatives also submitted that in their view it was highly unlikely that senior officers in the RUC were unaware of this fact.
- 4.27 Their information was compiled using information from official sources, information relating to court cases and convictions. They also had specific information about the alleged perpetrators of the attacks. They also based their determinations in relation to collusion on information relating to ballistic links which they believed demonstrated that there was co-operation between groups in four areas: Glennane, Portadown, Annaghmore and Dungannon, in terms of the weapons those groups were using to carry out multiple attacks.
- 4.28 The representatives of the Centre believed their research demonstrated a pattern of collusion existing in Northern Ireland at the time of the bombings and that:

“the Dublin and Monaghan bombings were not a once off event in terms of the coming together of members of the security forces and loyalist paramilitaries. The individuals came together on numerous occasions... to carry out multiple murders.”

Justice for the Forgotten

- 4.29 During the course of their submissions both Mr. Cormac O Dúlacháin S.C. and his instructing solicitor Mr. Greg O'Neill detailed the results of investigative work that their group had either undertaken or become aware of. Those results pointed to a picture of widespread collusion that was operating at that time. In particular, Mr. O'Neill told the Sub-Committee:

‘It is our view that the Rock Bar case presents the most compelling evidence for the existence of systemic collusion by the security forces in Northern Ireland into crimes which are connected to the Dublin and Monaghan Bombings through the combination and permutations of the perpetrators suspected of involvement and through the identification in terms of the evidence of people like Colin Wallace, of people who are actual members of the security forces in Northern Ireland or were agents of the security forces in Northern Ireland, these groups having been infiltrated by military intelligence.’

Deputy Peter Power asked Mr. Colin Wallace whether in his view, it was possible that the idea to bomb Dublin and Monaghan came from intelligence or from loyalist paramilitaries. He replied:

'the problem is that in 1974, because of the intense atmosphere and hostility towards the power sharing executive, it is very difficult to draw a line between the two. As I said to Mr. Justice Barron, the people we suspected of doing the Dublin and Monaghan bombings were either members of the security forces or had been, that is either RUC or UDR. That does not exclude the possibility that intelligence officers from one of the other agencies manipulated the people and gave them information to help them plan the operation. At a rough guess, it would take about thirty people to carry out that type of operation, in terms of all the support and so on involved. My concern is that bearing in mind that intelligence was effective in 1974, that group was a major threat to the security forces in 1974. I cannot believe that we did not get information about those bombings, bearing in mind how closely the group worked with former serving members of the security forces in 1974. The relationship was too close for it not to be seen.'

The Chairperson, Deputy Seán Ardagh, asked Mr. Wallace whether there was any specific evidence to show that any members of the British security forces were involved in the Dublin and Monaghan bombings and he replied: *'I am sure that that evidence exists'*.

Mr. Seán Donlon

4.30 In reply to a question from Deputy Paul McGrath, in relation to the issue of collusion, Mr. Donlon stated:

'As far as I could see, there was a pattern of collusion within Northern Ireland. For example, I think there were areas where the RUC was driven to pick up certain people and to intern or arrest them, not because of anything the RUC knew, but because of information given to them by people who were loyalist paramilitaries. I think there was a very close collaboration in some areas between elements in the RUC and members of loyalist paramilitary organisations. That was information I picked up from people I would very highly respect, particularly solicitors, priests, politicians and people on whose judgment I would rely and who could give me very practical instances and point to court cases in Northern Ireland, which clearly indicated collusion to me.'

British Irish Rights Watch

4.31 Ms. Jane Winter, Director, made submissions on behalf of the British Irish Rights Watch which is an independent non-governmental organisation that focuses on the conflict and the peace process in Northern Ireland.

4.32 She observed that Mr. Justice Barron had made three very important findings on the issue of collusion without having sufficient evidence to ground these conclusions, namely;

- (i) that the loyalists had the necessary knowledge and expertise to carry out the bombings.

- (ii) that the British authorities had no prior knowledge of the bombings which could have been passed on.
- (iii) that there was no external assistance given to the loyalists who were responsible.

4.33 She felt these were issues, which could only be adequately dealt with on an examination of the original British intelligence documents, which would require co-operation from the UK authorities.

Submissions on the issue of a further inquiry

4.34 Many of the discussions centred on the means by which access to documents in the UK and Northern Ireland could be procured. The Sub-Committee considered the potential difficulties, which arose with each option.

4.35 A large number of submissions were received which analysed the advantages and pitfalls associated with the different types of inquiry which could be established as a result of the work of the Sub-Committee. These submissions were of considerable help to the Sub-Committee in its deliberations. The parties who provided the Sub-Committee with submissions of this nature were:

- (i) Representatives of the O'Neill family, the O'Brien family and Ms Bernie Bergin;
- (ii) Justice for the Forgotten;
- (iii) British Irish Rights Watch;
- (iv) Irish National Congress;
- (v) Irish Council for Civil Liberties;
- (vi) The Pat Finucane Centre;
- (vii) Professor Colin Warbrick;
- (viii) Mr. Pudge Connolly T. D.; and
- (ix) Michael Collins S.C. and Antonio Bueno Q.C.;

The O'Neill family, the O'Brien family and Ms Bernie Bergin

4.36 Mr. Michael Mansfield Q.C. and Mr. Eoin McGonigal S.C. (with Ms. Miriam Reilly B.L.) instructed by Mr. Desmond J. Doherty, Solicitor, appeared on behalf of the above parties and submitted that as a result of the ratification by Ireland of the European Convention on Human Rights, the Sub-Committee had little or no option but to recommend a full public inquiry pursuant to the Tribunals of Inquiry Act 1921, as amended.

4.37 The Convention became part of Irish law on 31st December 2003 pursuant to the European Convention on Human Rights Act 2003. Article 2 of the Convention reads:

“Everyone’s right to life shall be protected by law. No-one shall be deprived of his life intentionally save in the execution of a sentence of a court following his conviction of a crime for which this penalty is provided by law.”

The duties which arise out of Article 2 were examined in the English case of *Regina v Secretary of State for the Home Department (Respondent) ex parte Amin (FC)(Appellant)* [2003] UKHL 51. In that case, the House of Lords looked at the obligations imposed by Article 2. The Court pointed out that if the substantive obligations regarding the protection of life are to mean anything, an effective investigation into the loss of life is required to fulfil a State's obligations under the Convention. Mr Mansfield Q.C. stated:

“Where the substantive obligations are triggered to protect life and so on, if there had been a violation of that and people have lost their lives, there is a concomitant obligation to investigate it according to certain minimum standards”

4.38 It was submitted that the case of *McCann v UK* (1995) 21 EHRR 97 established what this minimum standard should be, namely a mechanism whereby the circumstances of a deprivation of life by the agents of a state would receive public and independent scrutiny.

4.39 The nature and degree of scrutiny, which satisfies this minimum threshold, would depend on the individual circumstances of the case. Those minimum requirements were:

- (i) that the investigation must be effective;
- (ii) that there must be a sufficient element of public scrutiny of the investigation to secure accountability, in practice as well as in theory;
- (iii) that the next of kin must be involved in the procedure to the extent necessary to safeguard their legitimate interests.

4.40 It was put to the Sub-Committee that the legitimate interests of the next of kin had not been protected as required for the following two reasons:

- (i) They did not have privilege in relation to any statements made by them to Mr. Justice Barron or the Inquiry. This restricted their ability to voice their views. This would not be the case in a full public inquiry.
- (ii) A full public inquiry would allow the next of kin to be aware of what others might say about them and allow them a chance to address any comments made.

4.41 Mr Mansfield Q.C. argued that the minimum requirements have not yet been met in this instance and that they could only be satisfied by a full public inquiry.

4.42 It was submitted that the *Amin* case made the point that there should be no pre-judgment in advance of an inquiry as to what it might achieve:

“It might not come up with anything but that does not matter; there will have been, as it were, an adherence to the Convention and the rights that arise out of it, and the public will be reassured that the determination, as it were, has arisen in a public and open way, as demanded by that.”

4.43 The submission was made that simply because any further inquiry was unlikely to unearth any new facts or knowledge was not a relevant consideration for the Sub-Committee to take into account.

4.44 When considering the difficulties surrounding access to documentation in foreign jurisdictions, it was submitted that the Letter of Request procedure could be adopted seeking the relevant documentation. This was possible under the Tribunals of Inquiry Act 1921 which applied not only in this jurisdiction and also in the UK, and also under the English Evidence (Proceedings in other Jurisdictions) Act 1975. Mr. McGonigal S.C. pointed out that this procedure had been utilised to assist the McCracken Tribunal of Inquiry and as a result, documentation was obtained in the U.K. An article detailing this experience in the UK and in the Cayman islands, which was written by the barrister involved, Mr. Michael Collins S.C. was submitted to the Sub-Committee.

4.45 Mr Mansfield Q.C. stated:

“Psychologically, politically and diplomatically, the British would find it extremely difficult to say ‘We will not answer these letters of request.’”

It was submitted that any decision of an agency of the English Government not to produce documents, following the lodging of letters of request could be a potential breach of rights arising from the Convention.

Justice for the Forgotten

4.46 The legal representatives for Justice for the Forgotten suggested that the Sub-Committee examine the question of whether the Barron Report brought finality or closure. Mr. Cormac Ó Dúlacháin S.C. stated:

“The questions that follow are in some respects simple. Are there genuine issues to investigate? Are there serious issues that need to be pursued on foot of the Barron report? We then move on to an important area in which political judgment has to be exercised. In the scale of things, how grave are these issues? What is serious to one person is not as serious as to someone else, and a judgment has to be made in terms of the gravity of this issue.”

4.47 Mr Ó Dúlacháin S.C. posed the question as to whether these issues were amenable to further inquiry, and at what cost. He did point out that cost is more than simply a question of money, and that there might also be a political cost to be taken into account. It was suggested that questions, which remained to be answered, included who was responsible for the bombs, whether there was collusion and why no one has ever been brought to justice. Mr Ó Dúlacháin S.C. queried whether the Barron report was to be the end of the line and whether or

not the official State response would that there should be no further inquiry. In this context, he argued that it should not be, as the Barron Report was no more than “one person’s journey through a mass of material with no meaningful assistance.” The Barron process lacked a public probing and the current end result was, in his client’s view, unsatisfactory. The Report may have contained a wealth of information but it lacked comprehensive analysis or conclusion.

4.48 He stated:

“Why a public inquiry? The reason for a public inquiry is that there is no other means available to the relatives. There is nowhere else they can effectively go. There is no ongoing criminal investigation into collusion. There never was a Garda investigation into collusion and there is no indication that this will ever take place.”

4.49 He suggested that there were clear areas that had never been investigated and which could give rise to new information, such as the incident in Dublin Port in 1974, and also information which Irish Prisons Service records may hold regarding communications with loyalist prisoners who were in Mountjoy Prison at that time. He noted that the criminal investigation into the Lockerbie bombing took 12 years to get to trial.

4.50 Mr Greg O’Neill, solicitor, also addressed the Sub-Committee and urged us to recommend a public inquiry in this jurisdiction. He said that the issue of collusion is not something beyond the ability of this State to inquire into on its own, even without British involvement. He was of the view that for the Irish Government to:

‘put up one’s hands and say “As a sovereign Parliament in a sovereign State, we cannot investigate this if those we suspect of harbouring the colluders do not co-operate, is to give the last word to a foreign Government over events that happened within a sovereign State”.

4.51 He felt that the relevant issues could be defined, focused and demystified. He reminded the Sub-Committee of the amount of good investigative work that had been done by bodies such as the Pat Finucane Centre, which could be of use to an inquiry in this jurisdiction.

British Irish Rights Watch

4.52 In the submission made by Ms Jane Winter on behalf of British Irish Rights Watch, she stated:

“In our view, there is a difference between the UK’s failure to supply Judge Barron with the information he requested, and a refusal by the UK to co-operate with a public inquiry established by the Republic of Ireland, its partner in the peace process.”

4.53 She submitted that any public inquiry set up this jurisdiction could draw inferences from a failure of the British government to co-operate. This possibility

might encourage the UK authorities to co-operate rather than suffer political embarrassment:

“If pressure were brought to bear in the corridors, as it were, of the UN, Ireland would find many allies and the UK could find itself very embarrassed if it were not co-operating with a country with whom it says it is in partnership in a peace process in an endeavour to lay some of the issues that are regrettably left over from the conflict.”

- 4.54 British Irish Rights Watch felt that in light of the current political climate and the nature of relations between Ireland and the UK a joint resolution of both Houses of the Oireachtas calling on the British Parliament to co-operate with a public inquiry was something which might yield a positive response.
- 4.55 Ms. Winter agreed with the submissions made by Mr. Mansfield Q.C. that should the British Government refuse to co-operate with an Irish public inquiry, the victims would then have an opportunity to bring a case in the UK Courts seeking to enforce their rights under Article 2 of the European Convention on Human Rights, basing their claim on the *Amin* case. This might ultimately result in the British authorities being forced to co-operate with any Inquiry which might be established. However, the Sub-Committee notes that adopting this course of action could be problematic in light of the recent House of Lords decision in the case of *In re McKerr* [2004] UKHL 12.
- 4.56 Ms. Winter was at pains to point out however, that she was not advocating a type of cross-jurisdictional inquiry. She was not aware of any inquiry of this nature ever having been set up either in this State or in the UK, and she felt that any attempt to convene an inquiry of this nature would be fraught with difficulty.
- 4.57 Ms. Winter also agreed with the submission of Mr. Mansfield Q.C. that the Human Rights Act 2003, which incorporated the European Convention on Human Rights into Irish law, has imposed certain obligations on the Irish Government. Article 2 of the Convention affords the relatives of victims of unexplained deaths a right to an effective investigation into those deaths. Regardless of whether or not the British authorities would co-operate, it was submitted that a public inquiry is the only mechanism in Irish law that could adequately vindicate the rights of the relatives of the victims of the bombings. Ms. Winter stated:

“That means that the victims of the Dublin and Monaghan bombings have the right to an effective investigation and the agency to which they should look to vindicate that right is their own Government.”

- 4.58 She stated that if a public inquiry was not established this Government:

“will be guilty of the indifference towards the victims identified by Judge Barron on the part of the government of the day.”

The Irish National Congress

4.59 The representatives from the Irish National Congress also referred to the efforts, which were made in Britain to investigate the Lockerbie bombing, and drew a parallel with what had happened in this country. Mr Paul McGuill, Secretary of the Congress pointed out that the question of official State-sponsored collusion in acts of political violence is complex and vexing. Covert actions and conspiracies are difficult to prove and little evidence is committed to paper. Just because the task is difficult that does not mean that the task should not be undertaken. He compared it to peeling layers off an onion and advocated further inquiry.

The Irish Council for Civil Liberties

4.60 Mr. Conor Power B.L. of the Irish Council for Civil Liberties focused his submissions on the State's obligations under Article 2 of the European Convention for Human Rights. He suggested that the Sub-Committee should consider whether an inquiry would produce an effective result in the context of the State's obligations. He said that any tribunal of investigation should be independent from both the Irish and British authorities. However, he felt that a cross-border inquiry might get bogged down in legal issues and might therefore be delayed. He also suggested that a tribunal should be in a position to offer compensation.

The Pat Finucane Centre

4.61 The submission made by the representatives of the Pat Finucane Centre was quite different in many respects from that of other interested parties. They were in a position to show that they had carried out detailed research into the activities of loyalist terrorists who were active at the time of the Dublin/Monaghan bombs. Mr Paul O'Connor submitted that their group could show that there was ample evidence still available for consideration, not just in security files, but also in ordinary prosecution files in Northern Ireland. They felt that a public inquiry would be the appropriate mechanism to obtain this information and have it investigated.

Professor Colin Warbrick

4.62 Professor Colin Warbrick is a Professor of Law at Durham University and his principal field of expertise is in International Law. He was directly invited by the Sub-Committee and he focussed his submission on two main areas:

- (i) The prospects of success in obtaining international co-operation for a public Tribunal in this jurisdiction under the Tribunals of Inquiry Act, 1921. This also involved a consideration of the European Convention of Human Rights, and the obligations, which arise by virtue of Ireland's ratification of the Convention.
- (ii) What options might be available to the Sub-Committee other than a purely domestic inquiry.

4.63 At the outset, Professor Warbrick emphasised to the Sub-Committee the importance of considering the issue of potential co-operation from the British authorities:

“The guiding principles mean that States can do very little without co-operation but can do almost anything with co-operation.”

4.64 In relation to the possibility of procuring documentation from the British authorities relevant to any investigation of the circumstances surrounding the bombings, Professor Warbrick agreed with Mr. Mansfield Q.C. that the UK High Court does have some powers under the UK Evidence (Proceedings in other Jurisdictions) Act 1975 to facilitate a request from another State for information relevant to an investigation in that State.

4.65 However, he pointed out three qualifications to this power, which are relevant in this particular situation.

- (i) Requests can only be made by a “Court or Tribunal.”
- (ii) UK Courts are concerned to confine their powers under the Act to civil or commercial matters. They do not allow the powers to be used to facilitate another State to obtain evidence to be used in criminal investigations or trials. Therefore, any evidence obtained from the UK under these powers could not be used as evidence against a defendant in any subsequent criminal proceedings.
- (iii) Further, it must be demonstrated that the documents requested are likely to contain evidence, which is particularly relevant for the purposes of the Tribunal. This requires a high degree of specificity in the documents requested and eliminates the possibility of any ‘fishing expeditions’.

4.66 In response to a question from Deputy Paul McGrath he stated:

“...getting to the stage of getting that order out of the English court is by no means a simple or certain process. Far from wanting to suggest to you that it was a simple matter, it was the opposite. I think that there are a number of very serious hurdles to be overcome before you get to that position.”

4.67 He also disagreed with the submission made to the Sub-Committee by the British Irish Rights Watch to the effect that it would be possible for any inquiry in this jurisdiction to draw inferences from the failure of the British Government to provide documents in relation to collusion. He pointed out:

“...you have got to have something to go on – inferences are not something that can be drawn against no evidence whatsoever.”

He also considered the possibility of securing the co-operation of the UK authorities in revealing documentary evidence by using an argument that they are obliged to so do by virtue of the European Convention on Human Rights. However, Professor Warbrick felt that any application of this nature would run into difficulties.

- 4.68 He referred the Sub-Committee to the *Bankovic* case. In that case the European Court of Human Rights held that due to the fact that the victims of any alleged violations, which could be attributed to them, were outside the jurisdiction of the signatory States, the claims were inadmissible. Professor Warbrick pointed out that the same principle might apply in this case and would be a very difficult obstacle to surmount.
- 4.69 He agreed with submissions made by other parties that by virtue of Article 2 of the Convention, there is a requirement on a State to hold an effective inquiry in circumstances where there is an unexplained death within the State's jurisdiction. However, he indicated that although Article 2 of the Convention imposes positive duties on States to investigate unexplained deaths within their jurisdiction to minimum standards, this duty is qualified. He stated:

"...the Court seldom holds States to absolute duties in these cases; the running of time, the demonstrated pointlessness of further investigation, even sheer expense are factors a State would be entitled to take into account in determining what it must do about an unexplained death in its jurisdiction."

- 4.70 Professor Warbrick also commented that if the Oireachtas did not direct the holding of an inquiry of some form into the bombings, a question might arise as to whether Ireland had complied with its Convention obligations under Article 2.
- 4.71 The rights that are at issue in Article 2 are the rights of the surviving relatives of the victims of the bombings. Professor Warbrick felt that it was possible that a claim could be brought by the bereaved relatives to the English High Court, relying on the provisions of the European Convention on Human Rights and or in civil law. However, this would be a unique claim in the sense that it has not been tried before under the Convention. He noted that a similar case would shortly be litigated concerning recent events in Iraq. He also pointed to a potential problem, namely lack of evidence, in that it would be necessary to show with some degree of specificity, what documents are in existence, before they can be discovered.

Mr. Paudge Connolly T.D.

- 4.72 Deputy Paudge Connolly, a T.D. for Cavan-Monaghan, stated that:

"While there is no definitive conclusion to the Barron Inquiry, it signposted many issues which can only be dealt with by a cross-jurisdictional judicial public inquiry and I am here to support the relatives in pursuit of that objective".

- 4.73 He did not think that it was good enough that there was a lack of co-operation from the British and Northern Ireland authorities. He noted that the environment

had changed and that the relationship between Britain, Northern Ireland and Ireland was now much better than it had been. He stated:

“we are in the midst of a peace process, which should be exploited fully.”

Mr. Michael Collins S.C. and Mr. Antonio Bueno Q.C.

4.74 The Sub-Committee sought and received a joint opinion on certain issues of law from Mr. Michael Collins S.C. and Mr. Antonio Bueno Q.C. They were pessimistic as to whether anything worthwhile could be achieved in the absence of co-operation at inter-Governmental level. They indicated that the legal position was that it was not certain that a letter of request from any Irish inquiry would be recognised and acted on by the English courts. They cited relevant English and Cayman Island authorities in that regard. Even if such a request were to be granted, they indicated the probability that the British authorities would assert public interest immunity as the reason for non-disclosure of the documents. Given the fact that Dr. John Reid, the then Secretary of State for Northern Ireland took this view when Mr. Justice Barron sought the information from him, logic would suggest that the same attitude would be taken by the British authorities in respect of a request from any inquiry in this jurisdiction. They stated:

“Although we lack detailed knowledge of the material involved, we think it unlikely that the High Court would not uphold a claim to immunity from disclosure. In such event, the establishment of any tribunal of inquiry would turn out to be largely cosmetic, which would be a very unsatisfactory result.”

4.75 They also questioned whether Article 2 imposes any obligation to conduct a further inquiry into the bombings. They noted that each case depends on its own facts and circumstances, a consideration of what investigations may already have been carried out and the purpose and utility of any further investigation. In particular, they noted that no party had suggested that agents of the Irish State carried out the bombings. They also noted the lapse of time and stated that the Sub-Committee needs to consider

“to what extent it may realistically be said that a tribunal of inquiry would succeed in having available to it a better quality of eye witness or forensic evidence.”

Despite the lapse of time, they submitted that in their view, there was a reasonably strong argument that Great Britain has a duty under Article 2 of the Convention to set up some form of effective, official investigation into collusion by members of the security forces in Great Britain and Northern Ireland, in relation to the bombings.

In response to a question from Deputy Joe Costello on whether it was possible for Ireland to take an action against the UK under the European Convention of Human Rights, Mr. Collins stated that Ireland:

' ... could bring the case to Strasbourg on the grounds that the United Kingdom Government is in breach of its obligations under Article 2 of the Convention by virtue of a failure to set up an effective official investigation.'

He further stated:

' ... there is a substantial argument that the United Kingdom Government has a duty to investigate under Article 2 , by virtue of the ancillary and substantive right to life jurisprudence that has been developed.'

He qualified this statement that this interpretation of Article 2 of the Convention was not in existence in 1974 and the British authorities may not have understood that they had any such obligations at that time.

The reply made by Justice for the Forgotten

- 4.76 Mr. Ó Dúlacháin S.C. felt that the opinion given by Mr. Michael Collins S.C. and Mr. Antonio Bueno Q.C. placed too much emphasis on the idea that the success of a Tribunal of inquiry established in this jurisdiction is to a large degree dependent on securing voluntarily or by legal compulsion access to documentation in the possession of UK authorities. He felt the request by an Inquiry in this jurisdiction for documentation could be more varied and so gain more.
- 4.77 He also stated that he did not believe that a blanket “public interest immunity” certificate could be issued by the UK authorities in response to a request made. Each aspect of any request made would have to be considered and would involve a legal consideration and judgment in each case.
- 4.78 Mr. Ó Dúlacháin also felt that the obligations incumbent on a State to protect life under the European Convention of Human Rights are independent of the taking of any particular life. He argued that an Inquiry into the issue of collusion can have the effect of holding States and State institutions to account for their national and international human rights obligations and that this is an important public function where the prospects of establishing individual culpability will at this remove be extremely difficult.

The reply by the O’Neill family, the O’Brien family and Ms Bernie Bergin

- 4.79 Mr. Eoin McGonigal S.C. told the Sub-Committee that it should not presume that the UK authorities would not provide documentation if a Tribunal of Inquiry were to be set up. He felt that the attitude of the UK authorities to date suggests that they would in fact provide this documentation to any Inquiry, subject to public interest immunity considerations.
- 4.80 Mr. McGonigal S.C. submitted that the current Secretary of State’s attitude as set out in the correspondence was that if a judicial inquiry was set up in this jurisdiction the documentation would be made available subject to the right to raise public interest immunity. It was his contention that the public interest immunity would be determined by an inquiry in this jurisdiction. He referred to the application, which had been made by the Bloody Sunday Inquiry for similar type documents. He conceded that this issue may well be the subject of litigation,

but that should not be a reason for rejecting the idea of setting up such an inquiry.

Mr. Justice Peter Cory

- 4.81 Mr. Justice Peter Cory is a retired judge of the Canadian Supreme Court who was nominated and appointed by the Irish and UK Governments, pursuant to the Weston Park protocol, to conduct an investigation into six instances where eight individuals lost their lives North and South with particular reference to collusion. His letter of instruction and the relevant part of the Weston Park protocol is attached at Appendix 11.
- 4.82 Mr. Justice Cory was unable to appear before the Sub-Committee due to ill health. However, he did facilitate the Sub-Committee by speaking with it via a telephone conference call. He outlined the nature of the inquiries he conducted, the methodology that he used and his views on the effectiveness of the entire procedure. The Sub-Committee was anxious to speak with him due to his unique experience in conducting an inquiry of this nature and is extremely grateful to him for his assistance.
- 4.83 Mr. Justice Cory gave the Sub-Committee an insight into how his investigation conducted its work. For six of the eighteen months of the work, there was a police team of seven detectives that were selected by a committee of former Chief Constables in the U.K. These detectives were vetted to ensure that they had no prior connection with Northern Ireland matters. According to Mr. Justice Cory, they worked very hard and very carefully. At each stage, they would work one case ahead of him. When asked specifically had he seen any security documentation, he stated that he had seen MI5 documentation and believed that he had seen everything that was relevant. The detectives would bring the documents to a secure place and hold them until Mr. Justice Cory and his Counsel had an opportunity to personally peruse each document. He confirmed that the documentation consisted of both original and photostat copies.
- 4.84 Mr. Justice Cory personally evaluated the information in the documentation and used same for the purposes of his reports. He also confirmed that he had been given access to individuals for interviews where he felt it was appropriate. He also sought and obtained confirmation from the relevant organisations that they had produced every relevant document. He emphasised that he remained completely separate from the organs of State in each jurisdiction and insisted that he at all times operated independently.
- 4.85 The method by which he obtained documents was by writing to any persons or bodies he felt might have documents pertinent to his inquiry. Such letters contained his terms of reference and placed an emphasis on the fact that the process was backed by the full co-operation of both Governments. For the purposes of his inquiries, the only people with access to the documents in various state institutions were Mr. Justice Cory and two other Counsel who had been assigned to assist him. They examined all relevant documents in order to discern the nature of their contents.
- 4.86 Although he could not be certain, he did not believe that any documentation was withheld from him for reasons of security, privilege or public interest immunity.

Although he had no statutory powers, which could grant him a right of inspection, compellability of attendance or discovery of documents, he did not believe that this had hindered his progress in any way. All the parties he dealt with were extremely co-operative due to the nature of the agreement, which existed between the two governments.

- 4.87 When considering the options open to the Sub-Committee he put forward the idea of a private inquiry conducted by someone who has the trust and authority of both sides. This he felt protected the integrity of the process, and is sufficient to reassure the public that the inquiry is being conducted in a proper manner.
- 4.88 When asked to consider how an inquiry similar to those he conducted might be established, he stated:

"I think again it is something that needs an agreement between the two Governments with regard to these matters. That is the only way of doing it. Once you have that you have everything."

He continued:

"It is the co-operation that enables someone who is doing that work to reach a conclusion. It is only that way that the person can review the material that is essential to be seen to come to that conclusion."

- 4.89 He also believed that where a public inquiry was recommended, that the preliminary work undertaken in the investigative stage would significantly reduce the time of any such public inquiry.

An Taoiseach

- 4.90 The Sub-Committee was grateful to An Taoiseach, Mr. Bertie Ahern T.D., for agreeing to attend a hearing in order to outline the representations that he has made to the British authorities seeking their co-operation with the Barron Inquiry and the responses, which he had received. He stated:

"I simply do not know whether there is more information that might have been of assistance to Mr. Justice Barron, or would be of assistance to a further inquiry. However, I have already stated in the Dáil that it is my personal view that we have received as much information from the British authorities as they have, or are prepared to, share. I also said that it is my belief that a public inquiry will not change this position. I say this in the light of the efforts that I know we expended throughout the course of this inquiry to encourage co-operation, and which I have shared with you this evening, and also because, frankly, it is the only conclusion I can draw from the definitive statements in Secretary of State Murphy's letter to the sub-committee."

In response to a question from Deputy Finian McGrath, An Taoiseach stated:

'...It is unlikely that at that time MI5 and MI6 would not have taken a fair interest in what happened- let us say very carefully that we assume that they

had nothing to do with it and that there was no collusion- and that they would not have come to assessments after it. It is hard to believe that there was nothing that they could have reported on. I find it hard to believe that there was not some report somewhere about these issues....If there any other papers that would have been useful to us, I think that they were at the level of MI 5 or MI6....That is not to say that there is any questions of collusion in that answer; I am saying that they could have been helpful with papers’.

In response to a question put by Deputy Paul McGrath, he also stated:

‘ Mr. Justice Cory has done outstanding work. He has in a short period of time done an enormous amount of reading and research.... he got total access to an enormous amount of records and data. We know that those who sought information in previous years failed in their efforts.

The question arises: how did he get that in these cases? I think he got it in these cases because we had made a deal between two sovereign states in Weston Park that there would be total co-operation with an international judge, that whoever that person would be the reports would be accepted and that within our systems we would adhere to their tribunals.’

The view of the Sub-Committee on whether there should be a further inquiry on the identity of the perpetrators and on the issue of collusion

4.91 The Sub-Committee having considered:

- (i) the considerable amount of information contained in the Barron Report and the careful conclusions arrived at therein, and**
- (ii) the submissions made to it during the course of its hearings**

is of the view that this particular area requires further and extensive consideration and investigation. The above combination of information received by the Sub-Committee concerning the suspicion that collusion existed in Northern Ireland between members of the security forces and loyalist paramilitary groups in relation to the Dublin and Monaghan bombings, far from dispelling any views to the contrary, has in fact reinforced that suspicion.

4.92 The question arose as to how the issues of collusion and the identity of the perpetrators could be addressed in a meaningful way. The form that any further investigation might take was something which exercised the Sub-Committee. The problems that arise are self-evident given the fact that much of the potentially relevant information and witnesses are outside this jurisdiction. The Sub-Committee is of the view that access to relevant documentation and witnesses in the UK and Northern Ireland is vital in order to investigate and resolve this matter.

- 4.93 **The Sub-Committee received submissions from interested parties as to how this might best be achieved. The case for a public inquiry was put to the Sub-Committee by a number of parties. However, the parties who called for a public inquiry in this jurisdiction accepted that without access to documentation, information and witnesses in Northern Ireland and Great Britain relating to the bombings, an inquiry in this jurisdiction would present difficulties.**
- 4.94 **It became apparent to the Sub-Committee that to advance any meaningful inquiry it is necessary to obtain access to specific documentation outside this jurisdiction and in seeking to obtain this documentation from the relevant court one would have to be in a position to point to actual documentation that exists, rather than attempting a general trawl without any details of precise documents.**

The Recommendations of the Sub-Committee on Whether there should be Further Investigations /Inquiry on the Identity of the Perpetrators and on the Issue of Collusion.

The Sub-Committee recommends as follows:

1. **The Barron Report taken together with the oral and written submissions point to the following:**
 - (i) **That in all probability the planning of the bombings was carried out in Northern Ireland.**
 - (ii) **That in all probability most if not all of the perpetrators came from Northern Ireland.**
 - (iii) **That in all probability information which identifies and which concerns the perpetrators still exists in Northern Ireland and Great Britain.**
 - (iv) **That in all probability most of the information touching on collusion in relation to the Dublin and Monaghan bombings is in Northern Ireland and/or in Great Britain.**
 - (v) **That in all probability most if not all of the relevant witnesses in respect of perpetrators and collusion reside in Northern Ireland and Great Britain.**

2. **The Sub-Committee has given very careful consideration to the various forms of investigations and inquiries that might be undertaken to bring closure to these atrocities. They include:**
 - (i) **A public Tribunal of Inquiry with full statutory powers.**
 - (ii) **An investigation under the Commission of Investigations legislation, when enacted.**
 - (iii) **An investigation based upon the Weston Park proposals.**
 - (iv) **A civil suit initiated in Great Britain and/or Northern Ireland by individual victims and/or relatives.**
 - (v) **A civil suit against the British Government initiated in the European Court of Human Rights in Strasbourg.**
 - (vi) **An inter/cross jurisdictional Inquiry**
 - (vii) **A Truth and Reconciliation Process.**

3. **The Sub-Committee considers that a public inquiry under the Tribunal of Inquiries Act 1921 in this jurisdiction would have represented the preferred form of inquiry. However, because the perpetrators, information and witnesses are outside of this jurisdiction, there are legal and procedural**

difficulties arising from an inquiry initiated in this jurisdiction as set out previously.

- 4. The Sub-Committee considers that a Public Tribunal of Inquiry in Northern Ireland and/or Great Britain is required and represents the best opportunity to be successful.**
- 5. Before any Inquiry would proceed the Sub-Committee is of the view that what is required in the first instance, is an investigation based upon the Weston Park proposals. The terms of reference should be agreed between the two Governments and should be based upon the terms agreed at Weston Park, in particular paragraph No. 19. The letter of instruction to Mr. Justice Peter Cory and the relevant portion of the Weston Park protocol is at Appendix 11. The Sub-Committee recommends that such an investigation be conducted on the following basis:**
 - (i) That the judge conducting the investigation be of international stature.**
 - (ii) That the investigation would have the power to direct witnesses for interview, the power to compel the delivery of documentation and to inspect premises.**
 - (iii) That there should be time limits agreed for the commencement, duration and conclusion of the investigation.**
 - (iv) That the judge conducting the investigation could recommend further action including whether a public inquiry in either jurisdiction should be held or not.**
 - (v) The relevant government would be obliged to implement any recommendation within a defined time limit**
- 6. In the event of the aforementioned process failing as a consequence of a lack of co-operation from the Government or authorities in Great Britain or Northern Ireland, the Sub-Committee recommends that the Irish Government should consider instituting proceedings in the European Court of Human Rights in Strasbourg, pursuant to the European Convention on Human Rights, seeking appropriate declaratory relief against the UK, requiring it to put in place an appropriate investigation.**
- 7. The Sub-Committee recommends that a resolution of both Houses of the Oireachtas be passed endorsing this Report and its recommendations, and would invite the UK Parliament in Westminster to pass a similar resolution.**

Appendix 1:

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

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

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 2:

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

Order establishing Sub-Committee on the Barron Report.

Ordered on 17 December 2003-

“That-

- a) a Sub-Committee (to be called the Sub-Committee on the Barron Report) be established to consider, including in public session, the Report of the Independent of Inquiry into the Dublin and Monaghan bombings, and to report back to the Joint Committee concerning the following matters:
- (i) whether the Report of the Independent Commission of Inquiry into the Dublin and Monaghan bombings of 1974 addresses all of the issues covered in the terms of reference of the Inquiry.
 - (ii) the lessons to be drawn and any actions to be taken in the light of the Report, its findings and conclusions.
 - (iii) whether, having regard to the Report's findings, and following consultations with the Inquiry, a further public inquiry into any aspect of the Report would be required or fruitful.

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 January 2004;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 10 December 2003, report back to the Houses within three months of 10 December 2003.
- b) The Sub-Committee shall consist of of 7 members of whom one shall be a member of Seanad Éireann;
- c) The quorum of the Sub-Committee shall be three;

and

- d) The Sub-Committee shall have all the powers of the main 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 3:

METHODOLOGY AND PROCEDURES

It is appropriate to commence by recalling how the Barron Report came into being. On the 19th December 1999, An Taoiseach announced the appointment of Mr. Justice Liam Hamilton. His terms of reference were agreed on 15th February 2000, and were as follows:

To undertake a thorough examination involving fact finding and assessment of all aspects of the Dublin and Monaghan and their sequel, including:

- (i) *the facts, circumstances, causes and perpetrators of the bombings;*
- (ii) *the nature, extent and adequacy and of the Garda investigation, including the co-operation with and from the relevant authorities in Northern Ireland and the handling of evidence, including the scientific analyses of forensic evidence;*
- (iii) *the reasons why no prosecution took place, including whether and if so, by whom and to what extent the investigations were impeded; and*
- (iv) *the issues raised by the Hidden Hand T.V. documentary broadcast in 1993.’*

In this context the phrase the “Dublin and Monaghan bombings” refers to:

- (i) *the bomb explosions that took place in Parnell Street, Talbot Street and South Leinster Street, Dublin, on 17 May, 1974.*
- (ii) *the bomb explosion that took place in Church Square², Monaghan, on 17 May 1974.*

The results of the examination by Mr. Justice Hamilton (who was succeeded by Mr. Justice Henry Barron) were to be presented to the Government, to be followed by an examination of the report, including in public session by the Joint Committee on Justice, Equality, Defence and Women’s Rights, or a sub-Committee of that Committee. The Sub-Committee on the Barron Report was subsequently established to achieve those aims. It was envisaged that the Joint Committee would advise the Oireachtas as to what further action, if any, would be necessary to establish the truth of what happened.

² The original orders of reference assigned to Mr. Justice Liam Hamilton referred to North Street, but the bomb in fact occurred outside Greacen’s Bar, Church Square, Monaghan.

The Barron Report was presented to An Taoiseach on the 29th October 2003. The main body of the Report was 277 pages long. An idea of the areas covered may be gathered from the “part” headings:

- Part 1: Background information;
- Part 2: The Garda Investigation;
- Part 3: Assessment of the Investigation
- Part 4: Issues raised by the “Hidden Hand” Programme;
- Part 5: The Perpetrators and Possible Collusion;
- Part 6: Conclusions.

The Report also contained four appendices dealing with the following subjects:

- (i) A transcript of the “Hidden Hand” Programme;
- (ii) Murder of John Francis Greene;
- (iii) Weapons linking members of the security forces and loyalist paramilitaries.
- (iv) Profile of the Victims of the Dublin/Monaghan bombings.

PROCEDURES:

By a Motion of Referral by Dáil Éireann and Seanad Éireann dated 10th December, 2003, 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 and to report back to both Houses within three months concerning:

- (i) whether the Report of the Independent Commission of Inquiry into the Dublin and Monaghan bombings of 1974 addresses all of the issues covered in the terms of reference of the Inquiry.
- (ii) the lessons to be drawn and any actions to be taken in the light of the Report, its findings and conclusions.
- (iii) whether, having regard to the Report’s findings, and following consultations with the Inquiry, a further public inquiry into any aspect of the Report would be required or fruitful.

These are the circumstances which led the Joint Committee to establish the Sub-Committee to consider, including in public session, the Report and to report back to the Joint Committee. This Sub-Committee was given the same terms of reference as outlined above and this Report has been issued in accordance with those terms.

REQUEST FOR SUBMISSIONS:

Before the Sub-Committee commenced its public hearings, it invited interested parties with information pertinent to its terms of reference to make submissions to it. In response, written submissions were received and many of them were clearly the result of a great deal of time and effort. As will be apparent from this Report, the submissions were of enormous benefit to the Sub-Committee and we are extremely grateful to all of the authors. A list of all the parties and bodies who provided the Committee with written submissions appears in Appendix 8 to this Report.

After careful consideration of all the written submissions received, certain parties whose written submissions were of particular relevance to the Sub-Committee's terms of reference were invited to make additional oral submissions. These submissions consisted of a short oral presentation followed by questions from individual members of the Sub-Committee about matters arising out of those presentations. Simply because an oral presentation was not requested, it does not follow that the Sub-Committee was not assisted by the other written submissions. All submissions were circulated to each member of the Sub-Committee and formed an integral part of its deliberations.

A list of the persons and bodies who made oral submissions to the Sub-Committee is contained at Appendix 9 of this Report. At this point it is important to note that everyone who appeared before the Sub-Committee did so on a voluntary basis and the Sub-Committee wishes to sincerely thank all involved for their assistance with its work.

In order to complete the work assigned to it by the Houses of the Oireachtas, the public hearings were organised into a number of modules. The Sub-Committee endeavoured, in adopting its proposed programme, to arrive at the best means of structuring its work, bearing in mind the specific terms of reference. The Sub-Committee adopted this programme in order to optimise the time available to it to fulfil its remit within the timeframe delegated by the Houses of the Oireachtas.

The oral hearings were conducted over a number of days. The Sub-Committee has prepared this Report pursuant to its terms of reference for the purposes of reporting back to the Joint Committee on Justice, Equality, Defence and Women's Rights, which in turn will report back to both Houses of the Oireachtas. The Joint Committee in line with its terms of reference will report back to the Houses of the Oireachtas by 1st April 2004. This Report of the Sub-Committee to both Houses, details the submissions made, hearings held, and such comments, recommendations or conclusions as the Sub-Committee has decided to make.

The Sub-Committee would also like to take this opportunity to express its gratitude for the work done by the late Mr. Justice Hamilton and also by Mr. Justice Barron and their staff, who have performed an important public service in producing the Report that the Sub-Committee is considering herein.

In respect of procedures, it should be noted that the Sub-Committee was bound by its very precise terms of reference. In particular, the Sub-Committee was not conducting an investigation of its own into the terrible events of 1974 or seeking

to apportion any blame to any person or body. The Sub-Committee had neither the jurisdiction nor the legal authority to perform any such function.

It should also be noted that in its work, the Sub-Committee was both legally and constitutionally bound to respect and follow what was stated by the Supreme Court in its judgment 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 that convinces me that there is in our Constitution 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 what the Supreme Court stated in the *Abbeylara* case the Sub-Committee was legally restrained from entering into any adjudication on the issue of culpability. At all times it was conscious of working within its terms of reference.

While conducting its public hearings, the Sub-Committee applied the Standing Orders of Dáil Éireann and Seanad Éireann.

It is important to understand how the Sub-Committee approached its review of the Barron Report. It was not the function of the Sub-Committee to reach its own findings of fact. It was not permitted to do this under its terms of reference, and there would also be legal difficulties in making any findings of responsibility or culpability as a result of the *Abbeylara* judgment.

The Sub-Committee was of the view that it could consider whether Mr. Justice Barron failed to address any issue in the sense of whether he dealt with it at all in his Report. In addition, it was of the view that it could legitimately consider whether:

- (i) any of the findings of Mr. Justice Barron appear to have been made in the absence of any evidence to support them, and whether
- (ii) any of the findings were made without any rational basis, for example, not hearing from a necessary witness.

Appendix 4:

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

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

Deputies Seán Ardagh (FF) (*Chairman*)

Joe Costello (LAB)

Máire Hctor (FF) (*Government Convenor*)

Dinny McGinley (FG)

Finian McGrath (Technical Group)

Paul McGrath (FG) (*Vice Chairman*)

Breeda Moynihan-Cronin (LAB) (*Opposition Convenor*)

Seán O'Fearghaíl (FF)

Charlie O'Connor (FF)

Denis O'Donovan (FF)

Peter Power (FF)

Senators Tony Kett (FF)

Sheila Terry (FG)

Joanna Tuffy (LAB)

Jim Walsh (FF)

Appendix 5:

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

List of Members of the Sub Committee on the Barron Report:

Deputies

Seán Ardagh (FF) (*Chairman*)

Paul McGrath (FG)

Joe Costello (LAB)

Máire Hóctor (FF)

Finian McGrath (Technical Group)

Peter Power (FF)

Senators

Jim Walsh (FF)



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

Deputies:



Máire Hctor
(FF)



Peter Power
(FF)



Paul McGrath
(FG)



Joe Costello
(Lab)



Finian McGrath
(Technical Group)

Senator:



Jim Walsh
(FF)

Appendix 6:

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

SUB-COMMITTEE ON THE BARRON REPORT.

REQUEST FOR SUBMISSIONS

By Resolution of Dáil Éireann and Seanad Éireann on 10 December 2003, the Report of the Independent Commission of Inquiry into the Dublin and Monaghan Bombings of 1974, which has been presented to the Government by Mr. Justice Henry Barron, was referred to the Joint Committee on Justice, Equality, Defence and Women's Rights. On that date, the Joint Committee published the Report as part of its 'Interim Report on the Report of the Independent Commission of Inquiry into the Dublin and Monaghan Bombings'. The Joint Committee also decided to establish a Sub-Committee, to be called the Sub-Committee on the Barron Report to report back to the Joint Committee concerning the following matters:

- (i) Whether the Report of the Independent Commission of Inquiry into the Dublin and Monaghan bombings of 1974 addresses all of the issues covered in the terms of reference of the Inquiry.
- (ii) The lessons to be drawn and any actions to be taken in the light of the Report, its findings and conclusions.
- (iii) Whether, having regard to the Report's findings, and following consultations with the Inquiry, a further public inquiry into any aspect of the Report would be required or fruitful.

The Joint Committee has also decided:

- (i) that submissions relevant to the above Terms of Reference, both written and oral, will be sought from interested persons and bodies:
- (ii) that a series of hearings will be held, in public session, to commence in January 2004: and
- (iii) that 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, report back to the Houses within three months.

The Members of the Sub-Committee are Deputies Seán Ardagh (*Chairperson*), Paul McGrath, Joe Costello, Máire Hctor, Finian McGrath, Peter Power and Senator Jim Walsh.

The 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.

As part of its consideration of the Report, the Sub-Committee intends to hold a series of hearings, starting on Tuesday, 20 January 2004, which various interested parties and bodies and some of those persons referred to in the report will be invited to attend. In order to assist the Sub-Committee in the hearing process, submissions relevant to its terms of reference are invited from interested parties and bodies and from members of the general public.

Submissions should be made in writing only to:

**Clerk to the Sub-Committee on the Barron Report,
Leinster House,
Kildare Street,
Dublin 2.**

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

The closing date for receipt of submissions is 5.30 pm Friday 9 January 2004.

Appendix 7:

**The Sub-Committee Issued Invitations to the Following Persons/
Bodies to make Written and /or Oral Submissions:**

Justice for the Forgotten

Desmond J. Doherty and Co. Solicitors

Pat Finucane Centre

An Taoiseach, Mr. Bertie Ahern T.D.
Dr. Garret FitzGerald, former Taoiseach
Mr. Liam Cosgrave, former Taoiseach

Mr. Michael McDowell T.D., Minister for Justice, Equality and Law Reform
Mr. Patrick Cooney, former Minister
Mr. Justin Keating, former Minister

Mr. Paudge Connolly T.D.

Mr. Justice Henry Barron
Mr. Eanna Hickey B.L.
Mr. Justice Peter Cory

Mr. Paul Murphy, Secretary of State in Northern Ireland
Mr. Peter Mandleson, former Secretary of State in Northern Ireland
Dr. John Reid, former Secretary of State in Northern Ireland
Lord Merlyn Rees, former Secretary of State in Northern Ireland

Mr. Seamus Mallon M.P.

Mr Noel Conroy, Commissioner of An Garda Síochana
Chief Superintendent Thomas J. Monaghan

Mr. John Paul McMahon, Deputy Garda Commissioner, Retired
Detective Inspector Edwin S. Handcock, Retired
Detective Superintendent Ted Murphy, Retired

Mr. Hugh Orde, Chief Constable, Police Service of Northern Ireland

Lieutenant Colonel General Colm Mangan, Chief of Staff
Colonel Joseph O'Sullivan, Director of Ordinance Corps, EOD
Lieutenant Colonel Dermot Igoe

Lieutenant Colonel Rory Kelleher
Commandant Larry Rooney

Commandant Patrick T. Trears, (Retired)

Dr. Sheila Willis, Director, National Forensic Science Laboratory
Dr. James Donovan, former Director, Forensic Science Laboratory

Mr. Brett Hannam, Chief Executive, Forensic Sciences Northern Ireland
Mr. R.A. Hall, former Chief Executive, Forensic Science Agency of Northern Ireland

Ms. Jane Winter, Director, British Irish Rights Watch

Professor Colin Warbrick, Professor of Law, University of Durham

Dr. David Craig, Director, National Archives

Mr. Ian McBride, Managing Director of Factual Programmes, Yorkshire Television

Mr. Michael Collins S.C.
Mr. Antonio Bueno Q.C.

Mr. Bernard Baum

Mr. D.K. Boyle

Mr. David Brooks

Mr. F.O.C. Browne

Mr. Brendan Cafferty

Mr. Liam Clarke

Mr. Seán Considine

Mr. Owen Corrigan

Mr. Justice Declan Costello (retired)

Mr. John Courtney

Mr. Pat Culhane

Mr. Michael P. Culligan

Mr. Eamon Doherty, Commissioner of An Garda Síochána (Retired)

Mr. Frank Doherty, Attorney at law, USA

Mr. Seán Donlon, former Secretary General, Department of Foreign Affairs

Mr. Thomas Dunne
Mr. Stephen Fanning
Mr. Neil Faris, Solicitor
Monsignor Denis Faul P.P.
Mr. Seamus Fitzpatrick
Mr. John Fleming
Mr. Patrick Foley
Mr. Owen Giblin
Mr. Timothy P. Grace
Mr. Harry Havelin
Mr. Vincent Heavin
Mr. Fred Holroyd
Mr. Timothy Jones
Mr. Billy Kelly
Mr. Ciarán Kenny
Mr. Paul Larkin
Mr. Patrick MacLoughlin
Mr. William McCaughey
Mr. John McCoy
Mr. James McKeever
Mr. Seán McPhilemy
Mr. John Morgan
Mr. Frank Massey
Mr. Don Mullan
Mr. Aidan Murray
Monsignor Raymond Murray

Mr. Seán Murphy

Mr. Dermot Nally

Dr. Conor Cruise O'Brien

Mr. Barney O'Dowd

Mr. Eamon O'Fiacháin

Mr. & Mrs. M. O'Loughlin

Ms. Nora O'Mahony

Mr. Seán O'Mahony

Mr. Joe Tiernan

Mr. Colin Wallace

Mr. Patrick Walshe

Mr. Lawrence Wren, Commissioner of An Garda Síochána (retired)

Appendix 8:

Written Submissions were received by the Sub-Committee from the following Persons /Bodies

Justice for the Forgotten Group, their Legal Representatives:

Mr. Cormac Ó'Dúlácháin S.C.

Mr. Greg O'Neill, Solicitor.

Also with Justice for the Forgotten:

Mr. Nigel Wylde,

Mr. Colin Wallace

Desmond J Doherty and Co. Solicitors:

Mr. Desmond J. Doherty, Solicitor

Mr. Eoin McGonigal S.C.

Ms. Miriam Reilly B.L.

Mr. Ed O'Neill Jr.

Mr. John Bergin

Ms. Bernie Bergin

The Pat Finucane Centre:

Mr. Paul O'Connor

Ms. Johanna Keenan

Mr. Alan Brecknall

An Taoiseach, Mr. Bertie Ahern T.D.

Mr. Michael McDowell T.D., Minister for Justice, Equality and Law Reform

Mr. Paudge Connolly T.D.

Dr. Garret FitzGerald, Former Taoiseach

Mr. Patrick Cooney, former Minister

Mr Noel Conroy, Commissioner of An Garda Síochána

Mr. John Paul McMahon, Deputy Garda Commissioner (retired)

Lieutenant Colonel General Colm Mangan, Chief of Staff, Defence Forces

Colonel Joseph O'Sullivan, Director of Ordnance Corps EOD

Commandant Patrick T. Trears (retired)

Dr. Sheila Willis, Director, National Forensic Science Laboratory

Dr. James Donovan, former Director, National Forensic Science Laboratory

Professor Colin Warbrick, Professor of Law, University of Durham

Mr. Michael Collins S.C.

Mr. Antonio Bueno Q.C.

Irish National Congress:

Mr. Paul McGuill, Secretary

Irish Council for Civil Liberties:
Ms. Aisling Reidy, Director

British Irish Rights Watch:
Ms. Jane Winter, Director

National Archives:
Dr. David Craig, Director

Mr. Bernard Baum

Mr. Brendan Cafferty

Mr. Liam Clarke

Mr. Michael P. Culligan

Mr. Seán Donlon

Mr. Frank Durkan, on behalf of Ms. Joan Ann T. Hourigan

Mr. Neil Faris, Solicitor

Mr. Seamus Fitzpatrick

Mr. Owen Giblin

Mr. Timothy P. Grace

Mr. Harry Havelin

Mr. James McGeever

Lieutenant Colonel John Morgan (retired)

Mr. Frank Massey

Mr. Don Mullan

Mr. Seán Murphy

Appendix 9:

Oral Submissions were made to the Sub-Committee by the following Persons/ Bodies

Justice for the Forgotten:

Mr. Greg O'Neill, Solicitor
Mr. Cormac Ó'Dúlácháin S.C.
Mr. Micheál Ó Connor B.L.
Ms. Margaret Urwin, Secretary
Mr. Nigel Wylde

Desmond J. Doherty & Co. Solicitors:

Mr. Desmond J. Doherty, Solicitor
Mr. Eoin McGonigal S.C.
Mr. Michael Mansfield Q.C.
Ms. Miriam Reilly B.L.
Mr. Ed O'Neill Jnr

Pat Finucane Centre:

Mr. Paul O'Connor
Ms. Johanna Keenan
Mr. Alan Brecknall

An Taoiseach, Mr. Bertie Ahern T.D.

Dr. Garret FitzGerald, former Taoiseach
Mr. Patrick Cooney, former Minister
Mr. Justin Keating, former Minister

Mr. Paudge Connolly, T.D.

Mr. Seán Donlon, former Secretary General, Department of Foreign Affairs.

Mr. Justice Henry Barron
Mr. Éanna Hickey B.L.

Mr. Michael McDowell T.D., Minister for Justice, Equality and Law Reform
Mr. Timothy Dalton, Secretary General, Department of Justice, Equality and Law Reform
Mr. Ken O'Leary, Assistant Secretary General, Department of Justice, Equality and Law Reform
Mr. David Walker, Assistant Principal Officer, Department of Justice, Equality and Law Reform

Mr. Noel Conroy, Commissioner of An Garda Síochána
Mr. Fachtina Murphy, Deputy Commissioner of An Garda Síochána
Mr. Joe Egan, Assistant Commissioner of An Garda Síochána
Mr. Martin Callanan, Detective Chief Superintendent of An Garda Síochána

Mr. John Paul McMahon, Deputy Commissioner of An Garda Síochána (retired)

Lieutenant Colonel General Colm Mangan, Defence Forces
Lieutenant Colonel Dermot Igoe
Colonel Joseph O'Sullivan
Lieutenant Colonel Rory Kelleher
Commandant Patrick T. Trears (retired)

Mr. Michael O'Donoghue, Assistant Secretary General, Department of Defence

Dr. Sheila Willis, Director, National Forensic Science Laboratory
Dr. James Donovan, Former Director, National Forensic Science Laboratory

Mr. Frank Durkan, Attorney at Law, USA

Mr. Edwin S. Handcock, Detective Inspector (retired)

Mr. Séamus Fitzpatrick

Mr. Seán Murphy

Mr. Colin Wallace

Professor Colin Warbrick,

Ms. Jane Winter, Director, British Irish Rights Watch

Irish National Congress:
Mr Tom Cooper, Chairman
Mr Paul McGuill, Secretary

National Archives:
Dr. David Craig, Director

Irish Council for Civil Liberties:
Mr. Conor Power B.L.
Ms. Tanya Ward

Mr. Antonio Bueno Q.C.
Mr. Michael Collins S.C.

Members of the Justice for the Forgotten Group who made oral submissions to the Sub-Committee:

Ms. Alice O'Brien
Mr. Thomas O'Brien
Mr. Derek Byrne
Mr. John Byrne
Ms. Bridget Fitzpatrick
Mr. Pat Fay
Ms. Marie Power
Mr. John Molloy

Mr. Liam Sullivan
Mr. Frank Massey
Ms. Philomena Lawlor-Watson
Mr. Kevin O'Loughlin
Mr. Brian Fitzsimmons
Ms. Iris Boyd
Mr. Timothy Grace
Ms. Marie Sherry
Ms. Michelle O'Brien
Mr. Edward Roice
Ms. Gertie Sheils
Mr. Garrett Mussen
Mr. Noel Hegarty
Mr. Anthony Phelan
Mr. Joe O'Neill
Ms. Bernie McNally

*In addition, a discussion was held on 5 March 2004 with Mr. Justice Peter Cory.

Appendix 10:

**Correspondence was received by the Sub-Committee from the following
Persons/ Bodies**

Justice for the Forgotten:

Mr. Cormac Ó'Dúlacháin S.C.
Mr. Greg O'Neill, Solicitor
Ms. Margaret Urwin (Secretary)
Mr. Nigel Wylde

Desmond J. Doherty & Co. Solicitors:

Mr. Desmond J. Doherty, Solicitor

Pat Finucane Centre:

Mr. Paul O'Connor

Mr. Patrick Cooney, former Minister

Mr. Dermot Gallagher, Secretary General, Department of Foreign Affairs

Mr. Timothy Dalton, Secretary General, Department of Justice, Equality and Law Reform

Mr. Peter Ryan, Assistant Secretary to the Government

Ms. Máire Flanagan, Assistant Principal Officer, Department of Foreign Affairs

Mr. Mark Durkan MLA, Leader of the SDLP

Mr. Seán Donlon, former Secretary General, Department of Foreign Affairs

Mr. Edwin S. Handcock

Mr. Noel Conroy, Commissioner of An Garda Síochána

Chief Superintendent David H. Roche

Chief Superintendent Thomas J. Monaghan

Detective Superintendent Derek Byrne

Lieutenant Colonel Rory Kelleher

Lieutenant Colonel Dermot Igoe

Commandant Larry Rooney

Commandant Patrick T. Trears, Retired

Mr. Paul Leighton LLB., Deputy Chief Constable, Police Service Northern Ireland

Mr. Steven Wright, Command Secretariat,

Mr. Brett Hannam, Chief Executive, Forensic Sciences Northern Ireland

Mr. David Brooks, Head of Corporate Services, Forensic Sciences Northern Ireland

Mr. F.O.C. Browne

Mr. Justice Declan Costello (retired)

Mr. Michael Dickson

Mr. Éamonn Doherty, Commissioner of An Garda Síochána (retired)

Ms. Máire Dunne

Mr. Neil Faris, Solicitor

Monsignor Denis Faul, P.P.

Mr. Owen Giblin

Mr. Seán McPhilemy

Lieutenant Colonel John Morgan (retired)

Mr. Don Mullan

Monsignor Raymond Murray

Mr. Eddie Nagle

Mr. Dermot Nally

Mr. Éamonn O'Fiacháin

Ms. Nora O'Mahony

Mr. Patrick Walshe

Copy of advertisement returned with annotations

Appendix II:

NORTHERN IRELAND OFFICE
Castle Buildings
BELFAST
BT4 3SG

DEPARTMENT OF FOREIGN AFFAIRS
St Stephen's Green
DUBLIN 2

Mr Justice Peter Cory

June 2002

Dear Peter,

We are writing to confirm your appointment to conduct a thorough investigation of allegations of collusion by the security forces in six particular cases to which the two Governments committed themselves following the discussions with the Northern Ireland parties at Weston Park last summer. A copy of the relevant paragraphs (18 and 19) from the proposals we published on 1 August 2001 is attached for reference.

Your task will be to:

- review all the relevant papers in each case, including the records of earlier investigations;
- interview anyone you think can assist your examination;
- establish the facts so far as is practicable and subject to the law of the respective jurisdictions;
- keep, in reasonable manner, the relevant government informed of progress;
- submit reports as soon as practicable, including in circumstances where there was not a sufficient basis to establish the facts in a particular case; your reports will include any recommendation(s) you decide to make for further action, including, if you consider it necessary, the holding of a Public Inquiry

In the event that a Public Inquiry is recommended in any case the relevant Government will implement that recommendation.

There is a need to avoid any action which would be clearly prejudicial to any forthcoming prosecution. The relevant Attorney General (following consultation with the relevant DPP, as appropriate) will discuss with you any issues related to the safeguarding of prosecutions.

Your reports will be to the Prime Minister or the Taoiseach as appropriate.

The relevant Government will publish the final reports (but not the documents on which they are based) subject only to any necessary adjustments to ensure that the privacy and right to life of individuals is protected, and that the relevant Government's obligations in relation to ensuring justice and protecting national security are maintained.

You will wish to hear the views of the victims' families and to keep them informed of progress, if that is their wish. The two Governments stand ready to assist in this as appropriate.

The two Governments are keen to see rapid progress. To this end, we shall make the relevant material available to you as soon as possible. It is the Governments' policy that public servants should co-operate fully and provide full access to all the papers. In order to ensure that the examination of each case can be properly supported we shall be establishing secretariats with individuals from our own jurisdictions. Their task will be to assemble all the material which you need and to provide whatever additional assistance you, your legal assistant and support staff require. We are each prepared to arrange for independent legal advice to be available directly to you as required within our separate jurisdictions. We shall also meet any other reasonable costs incurred in the course of the investigation.

The investigation will involve you and your legal assistant being granted access to very sensitive material. Each secretariat will have the necessary guidelines and facilities for ensuring that such material is handled in a way which respects our own responsibilities in respect of such matters as national security and the privacy of individuals. It is essential that

these guidelines are observed, not least because they bear on the obligations which the two Governments have under the European Convention for the Protection of Human Rights, including in respect to the right of life, under Article 2.

Your own terms and conditions will be finalised by mutual agreement.

Thank you for agreeing to conduct this investigation. We are grateful to you for your willingness to take on this important assignment. We both wish you every success and stand ready to provide any further help or guidance which you may require.

Yours sincerely

John Reid
JOHN REID

Brian Cowen

BRIAN COWEN

Weston Park Proposals

The relevant paragraphs from the proposals which the two Governments published on 1 August last year, following the talks at Weston Park, are:

18. Both Governments want the new policing arrangements now being established to focus on the future. But they also accept that certain cases from the past remain a source of grave public concern, particularly those giving rise to serious allegations of collusion by the security forces in each of our jurisdictions. Both Governments will therefore appoint a judge of international standing from outside both jurisdictions to undertake a thorough investigation of allegations of collusion in the cases, of the murders of Chief Superintendent Harry Breen and Superintendent Bob Buchanan, Pat Finucane, Lord Justice and Lady Gibson, Robert Hamill, Rosemary Nelson and Billy Wright.

19. The investigation of each individual case will begin no later than April 2002 unless this is clearly prejudicial to a forthcoming prosecution at that time. Detailed terms of reference will be published but the appointed judge will be asked to review all the papers, interview anyone who can help, establish the facts and report with recommendations for any further action. Arrangements will be made to hear the views of the victims' families and keep them informed of progress. If the appointed judge considers that in any case this has not provided a sufficient basis on which to establish the facts, he or she can report to this effect with recommendations as to what further action should be taken. In the event that a Public Inquiry is recommended in any case, the relevant Government will implement that recommendation.



Government Secretariat
Rúnaíocht an Rialtais

26 March, 2004

Ms. Mairéad McCabe
Clerk to the Sub-Committee on the Barron Report and to the Joint Committee on
Justice, Equality, Defence and Women's Rights
Leinster House
Dublin 2

Dear Ms McCabe

I refer to your request of 22 March 2004 to Mr. Dermot McCarthy, Secretary General to the Government, on behalf of Deputy Seán Ardagh, Chairperson of the Sub-Committee on the Barron Report seeking information on the protocols which were in place in 1974 and which currently operate in relation to Cabinet Committees.

In the absence of Secretary General McCarthy, who is away on official business, I am writing to provide the information sought.

Role of Cabinet Committees

It might be helpful to the Joint Committee if I were to briefly explain the role of Cabinet (sub)Committees. They are part of the internal working of Government and can only be established by a specific Government decision. Cabinet Committees are set up by Government to assist them when and as thought necessary and continue in being for as long as is required to carry out the task(s) assigned to them. All Cabinet Committees cease to exist when a Government comes to the end of its term. There is no concept of a "standing" Cabinet Committee.

Cabinet Committee on Security

The Cabinet Committee on Security, to which reference was made during the Committee's hearing, was set up by Government decision on 12 March 1974. It was set up on foot of consideration of a report on State Security which was before the Government at that time. It was chaired by the Taoiseach and the Tanaiste and Ministers for Defence and for Justice were also members. The Secretary of the Department of the Taoiseach acted as Secretary to the Committee.

The setting up of the Committee and its membership is formally recorded in the Government Minutes of 12 March 1974 and the decision was also conveyed in writing to each Minister at that time.

The Committee had a substantial work programme as a wide-ranging review of State Security was being conducted at that time. Minutes were kept of its proceedings and other Ministers and officials attended as necessary.

The Committee was supported in its work by the InterDepartmental Group on National Security, which comprised senior officials from the Departments of the Taoiseach, Justice and Defence and representatives of the Garda Siochana and Defence Forces. Representatives of other Departments/Agencies would have also attended meetings of the Group where required in relation to matters touching on their areas of responsibility.

The decision setting up the Cabinet Committee had no formal requirement for reporting to Government. Where issues may have arisen requiring Government approval, the Minister responsible would have brought forward an appropriate proposal to Government.

Because of the national security nature of their content, minutes of meetings of the Cabinet Committee and InterDepartmental Group were circulated only to members of those Groups, respectively. Where matters arose touching on other Departments/Agencies, they would either be represented at the relevant meeting or relevant information would be communicated to them.

Present Day Procedures

The nature of Cabinet Committees is largely the same in the present day, with their establishment being part of the internal working of Government. They are established on a case by case basis, by Government decision, within a framework which Government adopted some time ago. The framework specifies, among other matters, requirements for regular reporting to Government on the work of each Committee. The framework also reflects the requirement that if specific issues arise which require approval of the Government, the responsible Minister arranges to have the matter brought to Government for consideration.

Meetings of Cabinet Committees are usually attended by supporting officials and Ministers who are not formally designated as members are free to attend and/or have their names added to the membership by the Government. Minutes are required to be prepared of all meetings of Cabinet Committees and circulated to all the members of the relevant Committee.

I hope the above is of assistance. Please feel free to contact me if I can be of any further assistance.

Yours sincerely



Peter Ryan
Assistant Secretary to the Government



NORTHERN IRELAND OFFICE
11 MILLBANK
LONDON
SW1P 4PN

SECRETARY OF STATE
FOR
NORTHERN IRELAND

Mr Seán Ardagh TD
Chairman of the Sub-Committee on the Barron Report
Oireachtas Joint Committee on Justice, Equality, Defence and Women's Rights
Leinster House
Dublin 2
Ireland

February 2004

By fax: 00 353 1 6184123

Dear Mr Chairman,

Your clerk, Mairéad McCabe, wrote to me last month inviting me to appear before your sub-committee on 10th February. I understand that a similar invitation has been issued to my predecessors, John Reid and Peter Mandelson. Please take this response as being on behalf of all three holders of this Office during the period in which the Barron inquiry was underway.

As you know, successive British Governments have condemned the Dublin and Monaghan bombings. Like all the terrorist outrages that we have witnessed in these islands over the past 30 years, they were devastating in the personal tragedy that they caused. These two events were also doubly shocking, in the context of the history of the Troubles, given the scale of their destruction. The present British Government welcomed the establishment of the inquiry under chairmanship of Mr Justice Hamilton and then Mr Justice Barron and has sought to co-operate fully with it. This has required quite a considerable investment of resources, but it is a task that we have taken seriously and done our best to address diligently. Both my predecessors and I have taken a close personal interest in ensuring a thorough response to the judges' requests.

The relevant information that we have uncovered has been shared with the inquiry, including that from some very sensitive sources. I have personally ensured that



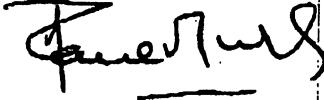
INVESTOR IN PEOPLE



the information has been provided in the fullest possible manner, consistent with my responsibilities to protect national security and the lives of individuals.

Additionally, none of us were in office at the time of the events and therefore able to recall the situation within Government at the time. I therefore do not believe that there is anything further of use that either I or John or Peter would be in a position to say in a hearing before your sub-committee.

I am therefore attaching a memorandum, setting out the steps we have taken to cooperate with the inquiry and the information that we have uncovered. I hope that this will help your sub-committee in its important work.

Yours sincerely,


Rt Hon Paul Murphy MP
Secretary of State for Northern Ireland



INVESTOR IN PEOPLE

MEMORANDUM
FROM
THE SECRETARY OF STATE FOR NORTHERN IRELAND
TO
THE OIREACHTAS JOINT COMMITTEE ON JUSTICE, EQUALITY,
DEFENCE AND WOMEN'S RIGHTS'
SUB-COMMITTEE DEALING WITH THE BARRON REPORT

INTRODUCTION

1. This memorandum is presented by the Secretary of State for Northern Ireland to the Oireachtas Joint Committee on Justice, Equality, Defence and Women's Rights' sub-Committee on the Barron Report. It addresses the way in which the British Government has sought to co-operate with the Barron inquiry, making reference to evidence we have supplied.

2. The attitude of successive British Governments to the bombings in Dublin and Monaghan was reflected in the statement I issued following the publication of the Barron report last December. The murder of those 34 individuals was an act of obscene evil. The pain of that tragedy is still vivid, not just for those caught up on the day but also for the families and friends of those who were killed and injured.

3. The British Government, from the Prime Minister down, has been committed to helping the inquiry as fully as possible. My predecessor and I have personally ensured that the search of historic records has been thorough and that, consistent with our responsibilities to protect national security and the lives of individuals, all the potentially relevant information that has been uncovered has been shared with Mr Justice Barron, including intelligence information.

BACKGROUND

4. In response to a request for information from Mr Justice Barron, the Government initiated a scrutiny of files to see whether they contained any information relevant to the Dublin and Monaghan bombings.

5. There appears to have been some confusion about the number of potentially relevant files held by Departments, with a figure of 68,000 being quoted. This figure refers to the total number of files ever recorded on the Northern Ireland Office's computer database, dating back over the lifetime of the Department (some 30 years). In other, larger UK Government departments, the file totals would run into millions. The vast majority of these would have no relevance to the events into which the Barron inquiry was looking (though this was, in many cases, only apparent once the file had been examined), and there are no contemporaneous files dealing specifically with the Dublin or Monaghan bombings.

6. The task of scrutinising files to see whether any of the information contained in them might be relevant to the inquiry was, therefore, a time-consuming one. The searches yielded a limited amount of potentially relevant information. Wherever possible, copies of the original documents were provided to the inquiry.

7. There have been criticisms in some quarters that the British Government has not provided intelligence material to the Barron inquiry. It is the case that original documents relating to intelligence material have not been passed on. That is because the nature of these documents or some of the peripheral information in them (not relevant to the inquiry) could, if released, compromise intelligence assets or the lives of sources. However, consistent with my responsibilities to protect national security and the lives of individuals, all relevant intelligence information has been shared with the inquiry, including information drawn from sensitive sources.

8. In addition to the trawl of files, the British Government has also carried out further specific work following up on specific lines of enquiry on which Mr Justice Barron sought further information. These lines of enquiry have been pursued as fully as possible, though regrettably they have sometimes come to a dead end and it has not been possible to take them further.

EVIDENCE

9. Only a small amount of information was found that was potentially relevant to Mr Justice Barron's inquiries. It is set out below in relation to the various allegations concerning the British security forces that have been made over the years and that were considered in the Barron report.

10. With all of these issues, it is unfortunately impossible to prove the negative -- there is no evidence to suggest that there was a policy of collusion, but I recognise that, for those who suspect it, the absence of such evidence does little to dispel the myth. However, I give the Committee my personal assurance that, had any evidence that pointed to collusion been uncovered during our search of the files, it would have been passed to the inquiry.

British security forces knew about the attacks in advance but withheld information?

11. During the period leading up to the attacks, there was a small number of reports indicating a general wish on the part of loyalist paramilitaries to mount attacks in the Republic of Ireland. It is presumed that these were mentioned in the course of contacts by the British security forces with their Irish counterparts, and in some cases there is evidence to show that this was so.

12. The majority of the information is general in nature, rather than specific. There was some intelligence information relating to possible loyalist activity in the Republic of Ireland in the period before the attacks in Dublin and Monaghan, though there was nothing to suggest that the information related to those attacks. On one occasion, where the intelligence indicated specific plans, the security forces in Northern Ireland successfully disrupted the loyalists' plans, with several successful arrests and prosecutions following. British records indicated that the Irish authorities were made aware of this at the time. Although none of this information related specifically to the Dublin and Monaghan bombings, it reflects the degree of information sharing between the British authorities and their Irish counterparts. We therefore felt it helpful, contextually, to share this information with the Barron inquiry.