

some depressive features. His hypomanic state deteriorated over the course of the incident.

Suicidal intent or indifference?

Professor Fahy was of the view that John Carthy was indifferent as to his welfare. He differentiated this from the subject being reckless as to his welfare. With indifference, he said *“the person may have an appraisal of the risk, they may have an understanding, they may be competent, mentally competent and have capacity to appraise the risk, but they may not care about it”*. Professor Fahy said that such a person would be indifferent to the possible consequences of his actions and also about his own welfare and life.

Professor Fahy observed that John Carthy’s request to the police to shoot him was not a straightforward indicator of suicidal ideation or intention. It had significance, however, as he believed that John Carthy was somehow willing to consider his own death and willing to consider he was going to be shot.

The exit

Professor Fahy opined that John Carthy was in a manic phase at the time he exited the house. He felt that his mental state had deteriorated so much that at the time he exited he had perhaps only a limited awareness of what he was doing and was no longer capable of being reasoned with in a rational manner. Not alone was he manic at the time of exit but he was also angry and irritable.

Professor Fahy’s view is that the removal of the cartridge was an ambiguous gesture, which pointed to a lack of clarity and a lack of clear purpose or strategy on John Carthy’s part. The signal was ambivalent, confusing and open to a wide variety of interpretation. He also expressed the view that by the removal of one cartridge from the gun, he had communicated a very mixed message which had not been reinforced *“with any verbal reassurance or any other gesture that might be viewed as conciliatory or that might allow an observer to come to a better judgement about the purpose of that behaviour”*.

Dealing with the subject’s mental state at the time of his death, Professor Fahy expressed the following view:

“Mr. Carthy’s behaviour immediately prior to his death is difficult to understand. His last comments to the police constituted an explicit invitation to shoot him, but it is not clear that this was a coherent expression of suicide intent. He walked out of the house without warning, carrying a shotgun. . . . Mr. Carthy ignored instructions to put down his weapon. . . . Without explanation, he removed one cartridge from the chamber, and left one cartridge intact. This act was both reassuring (reducing the number of cartridges) and provocative (retaining one cartridge). Possible explanations for keeping one cartridge in the gun include an effort to raise the guards’ concern about his dangerousness, or an intention to use this cartridge to shoot at the guards or to kill himself. Alternatively the action may not have been the result

of logical thought processes, and in this case could be viewed as ambivalent and confused behaviour, resulting from a psychotic mental state. . . . Mr. Carthy's actions were extremely reckless. He paid scant attention to his own safety. It is difficult to avoid the conclusion that such behaviour was motivated by conscious or unconscious self-destructive impulses."

As already noted, Professor Fahy referred to two categories of suicide by cop. In the first category the victim is defined as having an instrumental goal, while in the second the victim is defined as having an expressive goal. The witness viewed John Carthy's behaviour as more compatible with the second category, in that, for example he may have been communicating hopelessness, depression and despair; or some or all of the other examples of expressive goals referred to by Professor Fahy.

From the literature he had studied the witness noted that verbal and behavioural clues to suicide by cop risk include:

- Demands or sets a deadline for authorities to kill him.
- Threatening to kill or harm others, or indicating that he will not be taken alive.
- Gives a verbal will.
- Tells hostages and others that he wants to die.
- Offers to surrender to person in charge.
- Indicates elaborate plans for his own death.
- Expresses feelings of hopelessness.
- Emphatic that jail is not an option.
- Makes biblical references, e.g. to resurrection.
- Demonstrative with weapon, points weapon or apparent weapon at police.
- Shoots at the police.
- Reaches for a weapon or apparent weapon with police present.
- Attaches weapon to body.
- Countdown to kill hostages.
- Assaults or harms hostages or others with police present.
- Forces confrontation with police.
- Advances on police when told to stop.
- Suspect calls the police to report crime in progress.
- Continues hopeless acts of aggression even after incapacitated.
- Points weapon at self or self-mutilates when police present.

- Refuses to negotiate, no escape demands, no demands.
- Gets intoxicated with “chemical courage”.

Professor Fahy expressed the view that John Carthy exhibited some of the features noted in suicide by cop cases. He pointed out that none of the above features are diagnostic of suicide by cop and that diagnosis would be a matter of opinion or consensus.

Professor Fahy thought that suicide by cop was a possible motivation and explanation for John Carthy’s behaviour when he left the house. However, he agreed with the solicitor for the Carthy family that unless one could see into the mind of the subject one would not know what his actual intention was. He further expressed the view that in the absence of documentation, a suicide note, or a verbal communication, one’s ability to interpret John Carthy’s precise motivation was limited. While he was of the view that suicide by cop was a possible motivation for John Carthy leaving the house, he stated that this explanation was only one of a number of possible explanations and that he was unable to state what the correct explanation was.

5. Dr. Kennedy

Dr. Kennedy considered John Carthy calling on the gardaí to “shoot me” to be angry defiant behaviour on his part and not supportive of a suicide by cop attempt. He further told the Tribunal that he did not believe that suicide by cop itself could account for John Carthy’s actions at any stage during the time when he was in the house.

The Exit

Dr. Kennedy was of the view, that at the time of his death John Carthy was in an abnormal state characterized by arousal, anger and escalating threatening behaviour:

“His capacity to perceive and correctly interpret his social interactions, his capacity to reason and to make rational decisions would all have been profoundly impaired. It is more likely than not that he was deluded and he may have been suffering hallucinations.”

From a psychiatric point of view Dr. Kennedy did not believe it possible to infer any causal explanation or meaningful understanding of John Carthy’s acts at the time he left the house. “On the contrary”, he explained, “such attempts at interpretation only indicate how many different interpretations might be offered with equal validity.” By way of example, he listed a number of such interpretations in no particular order:

- John Carthy may have intended to shoot a specific person;
- He may have intended to shoot a particular category of persons;
- He may have intended to shoot himself in a public place;
- He may have intended to provoke others to shoot him; and,

- He may have been acting in an impulsive, unpremeditated way which lacked any premeditated plan or purpose, other than the expression of some strong emotion.

Dr. Kennedy thought that *“in a highly aroused state perception is narrowed and focused in an arbitrary way.”* Consequently, he thought that it would never be known whether John Carthy was aware of the ERU members who were close to him on the roadway. He said that *“he may have been aware of them, he may not have been, he may have been, as they say, looking through them and preoccupied with some other matter. It is highly likely under those circumstances, but we will never know.”*

Under these circumstances Dr. Kennedy felt that the act of stopping, withdrawing the cartridge from the right barrel, throwing it away, closing the gun and removing the safety catch, might (a) have no significance at all or (b) have been heavily laden with delusional, symbolical significance, unique to himself at that time, which could never be capable of being understood by anyone but himself.

6. Dr. Shanley

Dr. Shanley did not become familiar with the term suicide by cop until after the incident. He stated that his knowledge of suicide by cop was informed by literature that had been sent by a colleague and also some that he had received from the Tribunal. Nevertheless he stated that John Carthy was never suicidal in his dealings with him:

“There is no reason to think that he emerged with the expectation that he would be shot by the gardaí, in my view.”

In relation to John Carthy’s request to *“shoot me, shoot me”*, he observed:

“I think we are in the realms here of a high degree of speculation, because you certainly would want to know exactly what John Carthy was thinking of the incident at the precise time that he emerged from the house, and I think it is unfair to John and his memory to imply that he had every deliberate intention of getting himself killed, particularly when there were numerous opportunities in the past for him perhaps to kill himself by other means.”

7. Professor Malone

Professor Malone, while aware of the phenomenon of suicide by cop or “victim perpetrated shooting”, had never from a clinical or research viewpoint encountered such a case. He observed that the absence of a precedent of suicide by cop in Ireland reduced the likelihood that John Carthy believed the police would actually fatally shoot him. Professor Malone noted the evidence of Dr. Sheehan and Dr. Shanley that John Carthy had not previously been actively suicidal or homicidal. He thought that on the information he had seen and his own research of predictive models of broad suicidal behaviour in major psychiatric disorders that the likelihood of suicide by cop in John Carthy’s case was low.

8. Mr. Frederick Lanceley

In his evidence Mr. Lanceley listed a number of indicators of suicide by cop which he felt were present in John Carthy's case:

- i. Demand — the subject may demand or challenge the officer or agency to kill him.
- ii. Deadline — John Carthy may have had a deadline for his own death but the Garda did not know it. According to Garda personnel John Carthy kept looking at his watch towards the end of the incident.
- iii. Precipitating event or events — often, some traumatic, precipitating event has happened in the recent past. Mr. Lanceley identified *“multiple stressors . . . that would cause even a more stable individual a great deal of distress.”*
- iv. Clues as to suicidal intent — any time the negotiator hears talk of suicide, he or she should assume that the subject means what he says. Mr. Lanceley was of the view that *“with one possible exception, when asked about suicide, Mr. Carthy never denied his suicidal intent . . . He challenged the Garda to shoot him.”*
- v. An elaborate suicide plan — detail in a suicide threat, plan or fantasy is always a factor about which to be concerned. Mr. Lanceley was of the view that John Carthy had a plan which was to be shot in his own home by the Garda.
- vi. Hopelessness and helplessness — any time a negotiator hears expressions of hopelessness and helplessness, he or she should be thinking about the possibility of suicide. Mr. Lanceley directed the Tribunal's attention to John Carthy's concern, as expressed to Detective Sergeant Jackson, that he would *“get ten years [imprisonment].”*
- vii. Going out big — if the subject indicates that he wants to “go out” big, killing an officer is “going out big”. US negotiators are taught to never allow a situation to develop to the point where the subject has an opportunity to kill an officer in an effort to provoke other officers into killing him. Mr. Lanceley pointed to John Carthy's comments to Ms Alice Farrell on the evening of 18th April.
- viii. The “double whammy” — Mr. Lanceley described this as follows — when a man loses his job, he has the support of his family to fall back on. When a man loses his family through death, desertion or divorce he has the support of the men he works with to fall back on. When a man loses both his job and family over a short period, he has lost his two primary sources of support that many men count upon and he does not have much left. Some experienced negotiators refer to this situation as the “double whammy” and often find that they are talking to individuals who see no point in living because of this experience. Mr. Lanceley pointed to the fact that John Carthy had lost his job and his girlfriend in the recent past.
- ix. Refusal to talk — an individual contemplating suicide by cop may refuse to talk to the negotiator. He may refuse to talk to the negotiator because his

mind is made up and there is nothing left about which to talk. Mr. Lanceley pointed to the fact that John Carthy *“refused to talk in any meaningful way. He rebuffed numerous offers of assistance and reassurance by Garda personnel and TPIs.”*

- x. Arranging an incident — the suicidal individual may arrange a dangerous situation for the police and/or innocent persons. He may orchestrate circumstances so the police will have little option but to kill him. In Mr. Lanceley’s view, John Carthy arranged for the Garda to come to the scene by firing his weapon.
- xi. Escalation — the suicidal individual may also escalate the situation until the police must take tactical action to stop him. The escalation may be in the form of homicidal threats, shots being fired, and movement toward the police with his weapon pointed at them or other dangerous actions. This escalation in the incident will be in clear-cut, well-defined steps of which in Mr. Lanceley’s view there were many examples.
- xii. Prior suicidal behaviour — persons committing suicide by cop often will have demonstrated prior suicidal behaviour.

Mr. Lanceley set out in his report a detailed questionnaire which the Los Angeles County Sheriff’s Department provide to their communications operators. The communicators are required to consider the questionnaire *“when taking a report of a disturbance, an emotionally disturbed person, threatened suicide, or other situation that may result in a direct police/subject confrontation”*. These are:

- Has the subject been drinking today?
- Has he/she taken any drugs today or yesterday? What drugs?
- Has he/she been violent today or in the recent past?
- Has he/she ever been in a psychiatric hospital or treated for a mental disorder?
- Has he/she ever attempted suicide?
- Does he/she have guns or knives now? What kind?
- Has he/she pointed a weapon at anyone today?
- Has he/she made a threat to kill the police or be killed by the police?
- Are there personal or family problems that he/she is feeling sad about?
- Has he/she been screaming or yelling with extreme rage during this situation?
- Has he/she ever been in prison?

Conclusions

Having applied this questionnaire to John Carthy's behaviour Mr. Lanceley's conclusion was:

"In this writer's opinion, Mr. Carthy's actions and demeanour during the siege were fully consistent with a classic suicide-by-cop scenario."

SECTION C: — Conclusions

I do not favour the pro "suicide by cop" arguments led by Dr. McKenzie. I prefer the contra opinions expressed by Dr. Sheehan, Dr. Shanley, Professor Fahy and Professor Malone. I note that Dr. Turkington, who also supports the "suicide by cop" theory, considers that his view does not extend beyond the balance of probabilities and that there is room for an alternative explanation of Mr. Carthy's conduct.

The following points occur to me:

1. All of the contra opinions, with the exception of Dr. Turkington, are from leading psychiatrists. Dr. McKenzie does not have their expertise in the area of mental illness. He is a psychologist, not a psychiatrist. He is, of course, an expert of high standing in his own subject, but he is at a disadvantage in his assessment of problems emanating from mental illness by comparison with his psychiatric colleagues. It is important that the contra opinions include Dr. Shanley who is the only psychiatrist who had the actual experience of knowing and treating John Carthy over a protracted period. He knew him well. Dr. Turkington conceded that the mental state described could lead to other possibilities. I must also take into account that, although an experienced negotiator and a major expert in negotiation techniques, Mr. Lanceley is not a qualified medical professional.
2. If John Carthy intended to bring about a situation that the police would shoot him dead, it is probable that he would have provoked the first ERU man he encountered on leaving his house. In fact he walked past that officer with his gun open. He also had a choice of three ERU officers to provoke who were close to him when he emerged on to the road. He did not provoke them; he walked by them. He also did not engage with Detective Sergeant Russell, standing close by on the Carthy boundary wall as he commenced walking towards Abbeylara.
3. His conflict with the gardaí at Abbeylara had been solely with the ERU contingent from the time of their arrival at the scene. He knew that they were present nearby and were armed. On leaving his home he did not seek to provoke any of them. It is also consistent with his attitude towards the ERU men that he would ignore other gardaí on the road near the command vehicle. There is no evidence that he intended to provoke one of them to shoot him dead. Why not take the obvious easy option of provoking an ERU officer to shoot him if "suicide by cop" was his intention?

4. John Carthy's phone conversation with Kevin Ireland a few hours before he left the house included a positive statement that he had no intention of shooting himself or anyone else and he explained his violent conduct to his friend. In Dr. Sheehan's opinion, these were not words expressed by a person wishing to kill himself and I would accept his opinion in that regard.
5. There are credible explanations for John Carthy's conduct in removing a cartridge from his gun; one of them being to show the ERU that he still had a capacity to shoot and that they should keep their distance from him. If he had discarded both cartridges he would have become defenceless and thwarted from achieving whatever he had set out to do. There also were credible reasons for proceeding in the Abbeylara direction, e.g., to locate his sister and Dr. Shanley who he knew were in the vicinity and perhaps surrender his gun to them. One thing is certain he would never have surrendered it to the police. He would have known that time was running out for him. Another credible explanation is that he was going to the village for cigarettes – his nicotine craving would have been very acute at that time.

As many of the experts have frankly conceded, it is impossible to assess with conviction why John Carthy left his house and what motivated him to walk towards Abbeylara. Having regard to the foregoing opinions expressed by Dr. Shanley, who had long experience of treating the subject, Dr. Sheehan and Professor Malone in particular, and other reservations expressed herein, I am satisfied that "suicide by cop" was probably not in Mr. Carthy's mind at any time during the siege and was not a motivating factor in causing him to leave the house.

6. It is pertinent to bear in mind that in the context of the Tribunal's assessment of Mr. Carthy's conduct in leaving home armed with his shotgun and subsequent events, it is not his motivation for doing so, whatever it may have been, but the crisis situation which was presented to him on and about the Abbeylara road at that time and how the gardaí contended with it, is the kernel of that issue.
7. Awareness of the concept of "suicide by cop" has been heightened by the evidence at the Tribunal. It is a concept which I recommend should be taken into account in garda training courses.

CHAPTER 15

Recommendations

A summary of failures at Abbeylara

Failures by the scene commanders and others which contributed to the disaster at Abbeylara have been examined in depth in this report. They are briefly summarised in Chapter 8, section O, to which the reader is referred.

Learning from the mistakes

The restructuring of the Garda response in siege situations

I recommend that the Minister and the Commissioner, in collaboration with police experts from other comparable jurisdictions, should review the situation which pertained at Abbeylara as found in this Report and the criticism of Garda performance there, including that of expert police witnesses, with a view to devising a revised structure for command and an appropriate scheme for dealing with similar siege situations — particularly where a dangerous gunman is believed to be motivated by mental illness. Such a review should include consideration of and, where perceived to be appropriate, recommendations on the following matters:

- i. Where it is decided that a specialist unit of the ERU be engaged to take over tactical command at the scene, which may include also provision of the principal negotiator:
 - (a) Should the commander of the unit have full responsibility for all tactical and negotiating decisions, having advised the local superintendent of his intentions in that regard, and should he have the minimum rank of inspector?
 - (b) In such circumstances, should the local district superintendent's command function be limited to the provision of ancillary services such as food, accommodation and other supplies not provided by the ERU; the appointment of an experienced local officer as intelligence co-ordinator to liaise with the ERU commander; provision of an outer cordon of uniformed gardaí and any other additional officers the ERU commander may require, including armed detectives if necessary; the organisation of special services such as that of the Garda Technical Bureau, the Garda Press Office and the provision of police dogs and handlers at the scene; provision of additional trained, experienced negotiators (if not supplied by the ERU) and provision of equipment and non-lethal options which may be necessary if not possessed by the specialist unit?

- ii. Should local area superintendents undergo refresher training as scene commanders for one week annually — such training to include the importance of making plans; keeping records; intelligence gathering; liaising with negotiators regarding strategy; ensuring the provision of a sufficient number of experienced negotiators at the scene; the establishment of inner and outer cordons; the maintenance of a strict sterile area between cordons; basic instruction on mental illness and the need for prompt consultation, in depth, with the general practitioner or psychiatrist treating such a person, including the importance of calming the subject and of obtaining, as a matter of urgent priority, medical advice in dealing with the mental and other problems displayed by him or her?
- iii. Should ERU officers having the rank of inspector or superintendent have the benefit of similar refresher courses?
- iv. Should all garda negotiators have detailed courses of instruction of not less than two weeks' duration which include particular reference to siege situations generally and also those where the subject is believed to be motivated or affected by mental illness. (Instruction on how to deal with that type of situation should include the desirability of consulting with a psychologist attached to the Department of Justice, Equality and Law Reform.) Is it also desirable that negotiators should have the benefit of regular refresher courses?
- v. The desirability that the training of garda recruits (and all officers by way of refresher courses) should include basic instruction on mental illness and how a person so afflicted should be dealt with, including the need for urgent consultation with his/her medical advisor and the importance of calming the subject.
- vi. What specific training in negotiation strategy and on how to assist the gardaí, if the subject of a siege is believed to suffer from mental illness, is required for state psychologists?
- vii. How many psychologists should be employed by the State in providing the service of expert assistance in siege and other similar situations?
- viii. The importance of establishing a formal working arrangement (including periodic training of both sides) between the Garda Síochána and state psychologists; no such arrangement having been in existence at the time of Abbeylara or now.
- ix. The desirability of devising and adopting a retraining model based on that in Victoria, Australia — Project Beacon. The Tribunal is aware that it has had exceptional success and has been highly acclaimed in other jurisdictions.
- x. The desirability of utilising teams of appropriately trained police dogs and handlers for use in siege and other comparable situations if required.

- xi. The desirability of equipping ERU units with Taser stun guns.
- xii. Further investigation of other non-lethal options.
- xiii. The need for providing a sufficient number of appropriately equipped specialist command vehicles for use of the Garda Síochána throughout its jurisdiction.

As already stated, I am of opinion that the review of Garda command structures and training, particularly in the context of utilising the ERU in siege and other comparable situations, including those having mental illness as a factor, is a subject which should have urgent attention.

CHAPTER 16

Costs

Applications for costs have been made by solicitors for parties to whom representation at the Tribunal was granted by the Chairman on 10th January, 2003 (see Appendix 3). An application also has been made on behalf of Mr. Kevin Ireland relating to representation by solicitor and counsel at a hearing of the Tribunal on 1st October, 2003. In addition, solicitors have applied for costs regarding discovery of documents made on behalf of the following parties:

- Beaumont Hospital;
- Dr. Desmond Bluett;
- Midland Radio Group trading as Shannonside;
- Midland Health Board now the Health Service Executive, Longford/Westmeath General Hospital;
- Midland Health Board now the Health Service Executive, St. Loman's hospital; and,
- Western Health Board now the Health Service Executive, University College Hospital Galway.

In deciding whether a party is entitled to an order providing for the costs of representation at the Tribunal and related matters, the primary function of the Chairman in ruling on such applications is to decide in each case whether the party has cooperated with the work of the Tribunal and has not sought to frustrate or hinder the due performance of its function. The Chairman is mindful of the following observations of McCarthy J. in course of his judgement in the Supreme Court in *Goodman International -v- Mr. Justice Hamilton* [1992] I.R. 542 at p. 605:

“The liability to pay costs cannot depend upon the findings of the Tribunal as to the subject matter of the inquiry. When the inquiry is in respect of a single disaster, [as at Abbeylara] then, ordinarily, any party permitted to be represented at the inquiry should have their costs paid out of public funds. The whole or part of those costs may be disallowed by the Tribunal because of the conduct of or on behalf of that party at, during or in connection with the inquiry. The expression ‘the findings of the Tribunal’ should be read as the findings as to the conduct of the parties at the Tribunal. . .”

I have considered the applications for costs in the light of the foregoing legal principles. It has not been established in evidence or otherwise that any of the parties who seek costs have failed to honour their obligations to the Tribunal. Accordingly, it is proper that I should by order provide that each of them is entitled to costs of

representation at the Tribunal (including that relating to the discovery of documents, if made) on a party and party basis subject to taxation. Such costs shall be paid by the Minister for Finance out of public funds.

Two parties, i.e., the Minister and the Commissioner, were represented by the Chief State Solicitor and counsel instructed by him. They are state bodies for whom the Minister for Finance has an obligation to discharge legal fees and expenses relating to representation at the Tribunal. In the course of submissions made on behalf of the Minister for Finance to the Mahon Tribunal regarding, *inter alia*, the costs of state bodies, it was urged that “*bodies funded from public funds ought not to be awarded their costs unless the Tribunal is satisfied that special circumstances exist which make it equitable to do so.*”

The foregoing submission on behalf of the Minister for Finance was to the effect that in the absence of exceptional circumstances there is no useful purpose in seeking orders for the costs of state bodies who were represented at a Tribunal because the Minister for Finance has an obligation to discharge such costs and the making of a formal order in that regard is in the ordinary course irrelevant. It would appear that the only circumstance in which it might be appropriate is where the state is entitled to an order for such costs against another party. No such situation has arisen in this Tribunal and the Attorney General has not sought to make that case. Accordingly, no order for costs will be made regarding the Minister’s or the Commissioner’s costs of representation at the Tribunal or related matters.

APPENDIX 1

Opening Statement of Mr. Justice Robert Barr, the Sole Member of the Tribunal, made on 7th January, 2003

This is the first sitting of the Tribunal of Inquiry created by Resolutions passed by Dáil and Seanad Éireann on respectively 17th and 18th April, 2002 and by Instrument entitled Tribunals of Inquiry (Evidence) Act, 1921 (Establishment of Tribunal) Instrument (No. 2) 2002 made by the Minister for Justice, Equality and Law Reform on 1st July, 2002.

There are three functions which the Tribunal will perform at this sitting. The first is to open and define the terms of reference contained in the foregoing Resolutions of the Houses of the Oireachtas. In that regard the Tribunal will specify in broad outline the questions and issues arising out of the fatal shooting of John Carthy which it proposes to address, including a review of relevant statute law and professional procedures in the light of the circumstances of Mr. Carthy's death and his history of psychiatric disturbance.

The second function is to outline procedures which the Tribunal proposes to adopt in the conduct of its work.

Finally, the Tribunal will hear applications from parties seeking authorisation for representation at the Tribunal.

Before opening the Terms of Reference I wish to express my appreciation and thanks to the President of the High Court for his permission to sit in this court today and on next Friday, 10th instant when I will rule on applications for representation. The Tribunal is working from temporary premises in the Bar Council's Distillery Building in Church Street pending the reconstruction and renovation of premises in the adjoining Jameson Building in Bow Street which it is hoped will be ready for occupation circa the end of this month. That premises includes a place for public hearings similar to a courtroom and other facilities for the public and media.

The Tribunal is represented by Mr. Michael MacGrath SC; Mr. Raymond Comyn SC; Mr. Patrick O'Dwyer BL and Ms Jennifer Bulbulia (researcher). The solicitor to the Tribunal is Mr. John V. Nolan and the registrar is Mr. John McGreevy. They are available to answer queries which any member of the public (whether a prospective witness or not) or organisation may have regarding the work of the Tribunal. Our telephone and fax numbers are 01 817 5290 and 01 817 5501 respectively. We hope to have email facilities and a web site shortly.

The Terms of Reference

Resolutions in the following terms were passed by Dáil Éireann and Seanad Éireann on respectively 17th and 18th April, 2002.

“That Dáil Éireann [Seanad Éireann in its Resolution] resolves that it is expedient that a tribunal be established under the Tribunals of Inquiry (Evidence) Acts, 1921 to 2002, to inquire into the following definite matter of urgent public importance:

- the facts and circumstances surrounding the fatal shooting of John Carthy at Abbeylara, Co. Longford on 20 April, 2000;

and to report to the Clerk of Dáil Éireann and to make such findings and recommendations as it sees fit in relation to these matters;

And further resolves that:

- (I) The Tribunal shall report to the Clerk of the Dáil on an interim basis not later than four months from the date of the establishment of the Tribunal and also as soon as maybe after the tenth day of any oral hearings of the Tribunal on the following matters:
 - (a) the number of parties granted representation by the Tribunal,
 - (b) the progress which will then have been made in the hearings and work of the Tribunal,
 - (c) the likely duration (so far as might then be capable of being estimated) of the proceedings of the Tribunal,
 - (d) any other matters that the Tribunal considers should be drawn to the attention of the Houses of the Oireachtas at the time of the report (including any matters relating to its terms of reference);
- (II) the Inquiry shall be completed in as economical a manner as possible and at the earliest possible date consistent with a fair examination of the matters referred to it;
- (III) all costs incurred by reason of the failure of individuals to co-operate fully and expeditiously with the Tribunal should as far as it is consistent with the interests of justice and the provisions of the Tribunals of Inquiry (Evidence) Acts, 1921 to 2002, be borne by those individuals.”

Pursuant to the foregoing resolutions the Minister for Justice, Equality and Law Reform established the Tribunal by Instrument given under his seal on 1st July, 2002. Having recited the foregoing resolutions of Dáil Éireann and Seanad Éireann, the instrument continues. “Now, I, Michael McDowell, TD, Minister for Justice, Equality and Law Reform, in pursuance of those resolutions and in exercise of the powers conferred on me by Section 1 (1) (as adapted by the Tribunals of Inquiry (Evidence)

Act 1921 Adaptation Order 1936 (SR&O No. 25 of 1936)) of the Tribunals of Inquiry (Evidence) Act 1921, make the following instrument:

1. This Instrument may be cited as the Tribunals of Inquiry (Evidence) Act 1921 (Establishment of Tribunal) Instrument (No. 2) 2002.
2. A tribunal (hereinafter called “the Tribunal”) is established to inquire into, report and make such findings and recommendations as it sees fit to the Clerk of Dáil Éireann on the definite matter of urgent public importance specified in the resolution passed by Dáil Éireann on 17 April 2002 and the resolution passed by Seanad Éireann on 18 April, 2002 the text of which resolutions is set out in the recital to this Instrument.
3. The Honourable Mr. Justice Robert Barr is appointed to be the sole member of the Tribunal.
4. The Tribunals of Inquiry (Evidence) Acts 1921 to 2002 shall apply to the Tribunal.”

Facts and issues which the Tribunal perceives arise out of the fatal shooting of John Carthy and are covered by the foregoing Resolutions of the Houses of the Oireachtas

The Tribunal has received in excess of 200 witness statements relating to the matters under investigation and also certain medical reports, including the State Pathologist’s report on John Carthy’s injuries at the time of death. Certain police and professional reports on procedures for adoption in relation to situations such as that which pertained at Abbeylara and culminated in the fatal shooting of John Carthy will be considered in evidence.

It is proposed to address the foregoing facts and issues in a series of modules the contents of which are as follows. The proposed contents are set out in broad outline hereunder but do not purport to be exhaustive.

First Module: Background to the fatal shooting of John Carthy

- (a) Personal history, including his state of health and, in particular, his psychiatric condition at all material times.
- (b) His family circumstances and work history.
- (c) The deceased’s history as to the ownership and use of firearms.
- (d) The history of licences granted to him in respect thereof.
- (e) His dealings with the Garda Síochána in connection with his shotgun and the renewal of the licence in respect thereof from time to time.
- (f) Complaints made to local gardaí about Mr. Carthy’s possession of a firearm and alleged threats made by him.
- (g) His detention and questioning by local gardaí in September, 1998. The reason for his detention at that time; what transpired while he was in custody; the

period of detention and the outcome thereof. Was he previously or subsequently arrested, detained or questioned by the police?

- (h) The effect (if any) on Mr. Carthy of his detention and questioning on that occasion in 1998 as to his attitude to the Garda Síochána.
- (i) His attitude towards the Garda Síochána in the period January/April 2000, and, if hostile, the apparent reason for his hostility.
- (j) Mr. Carthy's state of mental health at the time of the confrontation at his home.
- (k) Were the local gardaí or any of them aware that John Carthy had psychiatric or mental illness?
- (l) If so, who was so aware; what did he/she understand the situation to be; where and how did he/she first learn of the deceased's mental illness or psychiatric disorder?
- (m) As to the deceased's psychiatric condition; when did he and/or his family first become aware of it? Did he consult a general medical practitioner in that regard? If so, when, who, and how often? What illness or condition was diagnosed and what treatment was received by the patient? When was he first referred to a specialist in mental illness? To whom was he referred? What was his/her diagnosis? Did he have in-patient treatment for mental illness or psychiatric disturbance? If so, when, where and by whom? Was he under medical or psychiatric care as an out-patient or otherwise in the period January/April 2000?
- (n) Was the deceased's GP aware that his patient possessed a licenced shotgun? If so, when did he become so aware? Did he have any professional opinion as to whether Mr. Carthy was fit to have possession of a shotgun in April, 2000? If so, was the opinion canvassed by the gardaí at that time or at any prior date?
- (o) Was Mr. Carthy's psychiatrist of opinion that the deceased was fit to possess a shotgun at that time? Was that opinion canvassed by the gardaí then or previously?
- (p) Did the deceased's GP and/or psychiatrist take any action as to his continued possession of a shotgun in March/April, 2000 or previously?
- (q) Did any member of the deceased's family, neighbours or friends take any step to have the shotgun removed from the deceased's possession prior to the fatal shooting? If so, what was done in that regard?

Second Module: The circumstances of the fatal shooting of John Carthy

- (a) What gave rise to the event?
- (b) What was the demeanour and conduct of John Carthy in the week prior to events at Abbeylara which culminated in his death?
- (c) What gave rise to a request for police intervention at his home? Who made that request, when, to whom and what was said by and to the requester?
- (d) What was the local garda response?

- (e) Who lead the local gardaí at the Carthy house?
- (f) Which local garda officers were dispatched to the deceased's dwelling? When did they arrive there? What instructions were they given? What transpired when they first arrived? Which garda officer first contacted John Carthy at the scene after the arrival of gardaí? How did he do so? What exactly did he say to Mr. Carthy and what was the response of the latter?
- (g) Who was in overall garda command at Abbeylara?
- (h) Did he or any officer at the scene have any particular instructions or training in dealing with an apparently dangerous man armed with a loaded shotgun who was not engaged in serious criminal activity *per se*, but was a person whose behaviour was likely to be the product of mental or psychiatric illness or other such disability?
- (i) What contacts were made with John Carthy at Abbeylara by his family, friends, the gardaí or anyone else prior to the arrival of the Emergency Response Unit? What efforts were made to have a dialogue with Mr. Carthy. Who did so, how and when, and what response (if any) was made by him at that time?
- (j) Who sent for the Emergency Response Unit? When and why?
- (k) What was the extent of TV and radio publicity relating to the incident? How did that come about? Who arranged for the presence of the radio and TV media at the scene?
- (l) What consultations took place between the deceased's mother, sister or other members of his family, friends or neighbours with the gardaí? When was such contact made? What was said and with what result?
- (m) Was any neighbour or friend of the deceased consulted by the gardaí?
- (n) Was the deceased's GP, psychiatrist or solicitor consulted by or on behalf of the gardaí or his family during the confrontation at Abbeylara?
- (o) If so, were any of them brought to the scene to speak to John Carthy directly or by megaphone or telephone?
- (p) Was he contactable by land phone or mobile? If so, what, if any, efforts were made to do so; when and by whom?
- (q) Was a loud hailer or other such means used to communicate with John Carthy? If so, who did so, when, what was said and did he respond?
- (r) What members of the Carthy family, friends, neighbours, his doctors or solicitor were present at or near the house when he emerged prior to being fatally shot?
- (s) Did any member of John Carthy's family, or any relation, friend, neighbour, medical or legal advisor offer to approach the dwelling with the intention of speaking to Mr. Carthy in the hope of calming him down and persuading him to hand over his shotgun? If so, what was the garda response to any such offer? Was contact made and, if so, with what result?
- (t) Was Mr. Carthy provided with food and medication during the confrontation? Did he have food and water available to him in the house? Did he ask for cigarettes? If so, were they supplied? If not, why not?

- (u) Did he appear to be affected by alcohol, drugs or excess medication at any material time?
- (v) How many shotgun rounds were fired by John Carthy at or about his home during the event? When was each shot fired? Were they fired indiscriminately or at any particular target? What, if anything, was struck by each such shot?
- (w) Did John Carthy attempt to contact the gardaí, any member of his family, any friend or neighbour, any doctor or solicitor during the event? If so, was contact made, and with what result?
- (x) Did any member of Mr. Carthy's family, friend, neighbour, doctor or solicitor attempt to contact him at Abbeylara? If so, what transpired?
- (y) In addition to the Emergency Response Unit, how many other garda officers were present at the scene, hour by hour, up to the time of the fatal shooting?
- (z) Where were they deployed and were any of them armed? If so, did any such officer fire his weapon? In that event, who did so, why, when and what was fired at? What firearms did such officers have at the scene?

Third Module: The Garda Emergency Response Unit

- (a) Its history.
- (b) Its relevant training.
- (c) The experience of each member thereof who was present at Abbeylara in the working of the unit. What prior experience did each have of active service with the unit?
- (d) What instructions and training did each member of the unit at Abbeylara have in the use of firearms against another person or persons?
- (e) Did the unit at Abbeylara receive any particular instructions in dealing with an apparently dangerous man armed with a loaded shotgun who was not engaged in serious criminal activity *per se*, but was a person whose behaviour was likely to be the product of mental or psychiatric illness or other such disability?
- (f) What instructions (if any) had members of the unit regarding the shooting of such a person if circumstances reasonably indicated that he had to be restrained in that way?
- (g) When did the unit arrive at Abbeylara and how was it deployed there?
- (h) Who commanded the unit at Abbeylara?
- (i) What steps were taken by the unit to persuade John Carthy to surrender and/or hand over his shotgun?
- (j) Did the unit seek or have available to it advice from a psychologist, psychiatrist or other such expert in dealing with a dangerous armed person who was believed to have and to be motivated by psychiatric disturbance? If so, was any such assistance sought by or on behalf of the unit, when and with what result?
- (k) What was said by John Carthy to members of the unit during the event, in particular, what, if anything, did he say when he emerged from his home just

prior to being shot, or when he walked down to the road outside his dwelling at that time?

- (l) What was said to the deceased at that time? Who spoke to him, what means was used and to what effect?
- (m) What firearms did members of the Emergency Response Unit have at the scene? How many of them were present? Where was each deployed? How many fired their weapons prior to and up to the fatal shooting of the deceased? All such shots require to be described.
- (n) How many shots in all were fired by garda officers at or about the Carthy dwelling?
- (o) How many bullets struck John Carthy? Who was responsible for each such bullet, in particular that which appears to have caused his death, and where was each officer in relation to John Carthy when the various shots were fired?
- (p) Having regard to the deployment of members of the unit, was it a feasible, realistic proposition to tackle Mr. Carthy as he moved from his house towards the road prior to the fatal shooting?
- (q) Was it feasible to use other means to disable the deceased as he walked from his house? Were such means available to or sought by the unit? Had they any training in the use thereof?
- (r) What was the specific role of the member of the unit who was designated to negotiate with Mr. Carthy? Who appointed him to that role, where and when? What function did he actually perform as negotiator? What did he say to Mr. Carthy and what was his response? What training had the negotiator received in the performance of his function? Who instructed him; where and when?

Fourth Module: The cause of John Carthy's death and injuries sustained by him at Abbeylara

This entails an examination of the State Pathologist's report and relevant documentation from the Coroner's Inquest into the death of Mr. Carthy.

The possibility of an effective alternative approach or approaches which might have been adopted by the gardaí before or after Mr. Carthy emerged from his house prior to being fatally injured will be examined also as part of this module.

Fifth Module: An examination of how the police in other comparable jurisdictions, (e.g. Scotland, Canada, New Zealand and Australia) deal with similar situations where a dangerous armed gunman is believed to be activated by mental illness, psychiatric disorder or other such disability

Oral evidence will be lead on this topic. In addition, official reports and recommendations made in other jurisdictions will be considered by the Tribunal, copies having being furnished to interested parties. Submissions and other evidence will be entertained in relation thereto.

Sixth Module: Review of the statute law in Ireland regarding gun licences; the right of citizens to possess and use firearms and a review of relevant police training

This module entails a review of the relevant statute law in Ireland and a comparison with that in other comparable jurisdictions. In particular it is pertinent to consider the following matters:

- i. Should there be a statutory requirement that applicants for gun licences (including annual renewal thereof) shall furnish to the licensing authority medical certificates in a prescribed form from a medical doctor in active practice who knows the applicant and certifies that in terms of physical and mental health he/she is fit to possess a firearm and to be granted a licence in respect thereof?
- ii. Should there be a provision for withdrawal of such licences and the right to possess firearms in circumstances where the issuing authority has reasonable grounds for believing that a licensee is temporarily or permanently unfit to hold a licence and to possess a firearm by reason of mental or psychiatric disorder or other such disability?
- iii. If a medical or legal advisor has good reason to believe that such a situation may exist regarding a particular patient or client, should the advisor have a statutory obligation to inform the police or other appropriate authority of his/her belief and/or opinion?
- iv. Should the statute law provide that the immediate adult family of such a licenced gun-holder has an obligation regarding the removal of a firearm from a licensee so disabled, where such family member has reasonable grounds for believing that the licensee is unfit to possess a firearm and that continued possession may constitute a danger to the licensee or others?
- v. If statute law is amended to provide that a gun licence and right to possess a firearm may be revoked by the issuing authority in such circumstances, should the licensee have a statutory right of appeal? Are there comparable statutory provisions in other relevant jurisdictions?
- vi. It is also proposed to examine the statute law, together with official reports and recommendations published in other comparable jurisdictions which are pertinent to matters raised in this Tribunal and to the possible amendment of our law. Copies of all such official documentation will be furnished to relevant parties. As such official reports and recommendations probably speak for themselves, it is not presently intended to call the authors thereof as witnesses, but contra evidence may be introduced by any interested party.
- vii. Consideration by the Tribunal of existing statute law and possible amendment thereof in the light of events at Abbeylara includes an assessment of whether medical practitioners, or other professional persons such as solicitors, should have a statutory obligation to report to the licensing authority if they have reasonable grounds for believing that a patient or client is or has become unfit to hold a gun licence and to possess a firearm by reason of mental illness or similar disability (including the effects of drug addiction). This question requires the introduction in evidence of professional opinion including those of

appropriate professional organisations, medical and legal. Likewise, possible amendment of the existing statute law regarding the licensing of firearms in possession of members of the public which are of interest to individual gun holders, gun clubs and other relevant sporting organisations. All such bodies, individual professional persons and also holders of gun licences are entitled to be heard on such matters and the Tribunal will accommodate interested parties when the foregoing questions are introduced in evidence in due course.

- viii. Regarding the training of the Garda Síochána in dealing with dangerous situations involving a mentally disturbed person armed with a loaded firearm such as that which pertained at Abbeylara; the Tribunal will examine all evidence offered on behalf of the Garda Síochána in that regard, together with the opinions of experts to be introduced by the Tribunal on the nature and extent of training, which it is submitted by such experts, police officers require in dealing with situations such as that presented by John Carthy at Abbeylara. The Tribunal's experts will include police advisors; serving police officers; psychiatrists and psychologists. In good time before such experts are called to give evidence, statements and reports furnished by them will be served on relevant parties who shall be free to examine the witnesses and propose other experts in response if they so wish.

The Tribunal's Report

Having considered all of the evidence, including relevant documentation and expert advice, the Tribunal will publish a report the first part of which will deal with the matters raised in each of the first four modules referred to herein and the Tribunal's assessment of the facts and of the performance of those who participated in events at Abbeylara up to the fatal shooting of John Carthy on 20th April, 2000. The second part of the report will review and may contain recommendations on two matters which arise out of the events surrounding the death of Mr. Carthy and matters pertaining to the fifth and sixth modules:

- (a) Changes in statute law relating to gun licences and possession of firearms by members of the public, including the possible introduction of an obligation on applicants for gun licences (including renewals thereof) to furnish written medical reports in a prescribed form completed by a medical practitioner in active practice certifying the mental fitness of the applicant to obtain a gun licence and to possess a firearm, and possible requirements directed to medical practitioners and others who have reasonable grounds for believing that a gun licensee has a mental illness, psychiatric disturbance or other disability which renders him/her unfit to hold a gun licence and to possess a firearm having regard to the risk of injury to the licensee and others.
- (b) Possible recommendations regarding the training and direction of garda officers, including the Emergency Response Unit, in dealing with dangerous situations such as that which was presented by John Carthy at Abbeylara, arising out of mental illness, psychiatric disturbance or other similar disablement.

Procedures which the Tribunal proposes to adopt in the performance of its work

1. Hamilton C.J. in his judgement in *Haughey v Moriarty* [1999] 3 I.R. 1 defined the “proceedings of the Tribunal” as involving the following stages:
 - i. A preliminary investigation of the evidence available.
 - ii. The determination by the Tribunal of what it considers to be the evidence relevant to the matters into which it is obliged to inquire.
 - iii. The service of such evidence on persons likely to be affected thereby.
 - iv. The public hearing of witnesses in regard to such evidence and the cross-examination of such witnesses by or on behalf of the persons affected thereby.
 - v. The preparation of a report and the making of recommendations based on the facts established at such public hearing.
2. It is pertinent to make clear that a statutory Tribunal, though having many of the powers of the High Court, is not a court of law. It is a Tribunal of Inquiry, the purpose of which in the instant case is to examine and, where possible in the light of the evidence, make findings on the facts and circumstances surrounding the fatal shooting of John Carthy at Abbeylara, Co. Longford, on 20th April, 2000, and, if thought appropriate, to make recommendations based on the established facts for:
 - i. Amendment of the statute law regarding the licensing and possession of firearms by adult members of the public, and
 - ii. the devising of appropriate police procedures and the establishment and regulation of professional and other obligations in circumstances comparable to those relating to John Carthy, i.e., where a potentially dangerous person armed with a loaded firearm is, or is reasonably suspected of being, motivated by mental illness, psychiatric disorder or other similar disablement to the detriment of his own safety and/or of others.
3. The Tribunal’s Inquiry is not a trial of alleged wrongdoing by any particular person or group of persons. It is an exercise designed to establish, if possible, what circumstances brought about or contributed by act or omission to the death of John Carthy on 20th April, 2000; why that tragedy happened and what might be learned from it.
4. All proceedings before the Tribunal shall be conducted in accordance with the requirements of constitutional and natural justice.
5. Prior to addressing each of the foregoing modules of evidence the Tribunal through its solicitor will contact all persons and bodies known to the Tribunal who it appears may have an interest in the particular module about to be examined and any subsequent module, and all such persons and bodies shall be furnished with copies of statements of relevant witnesses and related

documentation in the possession of the Tribunal. In appropriate circumstances, at the discretion of the Tribunal, copies of all evidential statements and documents in its possession will be furnished.

6. The operation of the Tribunal is inquisitorial in nature rather than adversarial. Accordingly, all evidence will be lead by counsel for the Tribunal. Interested parties or their legal representatives may at the discretion of the Tribunal question witnesses who give evidence. Where a party wishes to have a witness called on his/her behalf, a statement of proposed evidence and a written submission explaining the perceived relevance of the witness shall be furnished to the Tribunal's solicitor. Where possible this should be done in good time before commencement of the relevant module hearing. If it appears to the Tribunal that the proposed evidence is or may be relevant, arrangements will be made for the witness to be examined by counsel for the Tribunal at a public hearing which the Tribunal deems to be appropriate. Other parties may question the witness if the Tribunal is satisfied that they have a legitimate interest in doing so. The party who proposes the witness may also question him/her immediately after examination in chief or when all interested parties have questioned the witness. Counsel for the Tribunal will have the right to re-examine the witness.
7. Relevant documents may be submitted to the Tribunal by any party. Copies of those accepted for consideration will be furnished to other interested parties.
8. In general, hearings of the Tribunal shall be conducted in accordance with the rules of evidence applicable to civil actions in the High Court. However, the Tribunal reserves to itself the right to excuse strict compliance with such rules where it appears that in the interest of justice it is right to do so. The Supreme Court has approved of that approach in *Goodman International and another v Mr. Justice Hamilton and another* [1992] 2 I.R. 542. See also the judgement of Diplock LJ. in *R v Deputy Industrial Injuries Commissioner, ex parte Moore* [1965]1A E.R. 81 at p. 94.
9. The procedures of the Tribunal shall be in accordance with the provisions set out herein and its own rules, copies of which shall be made available to all interested parties in due course on the Tribunal website.
10. It is the earnest desire of the Tribunal that all persons and bodies who have an interest in its investigation will fully cooperate in the provision of information and documentation to enable its work to be brought to an expeditious and successful conclusion economically and at an early date as enjoined by the Houses of the Oireachtas in their respective resolutions already referred to herein.
11. **Discovery of documents**

The Tribunal hopes that all parties will facilitate its work by making prompt voluntary discovery of documents and that it will not be necessary to exercise its powers to make orders for Discovery. In making any order for Discovery of

documents the Tribunal will give the notice indicated by the Supreme Court in *Haughey v Moriarty supra*.

The formal opening of the Tribunal Inquiry

In the interest of the Carthy family and other friends and neighbours of the late John Carthy, it has been arranged that the formal opening of the Inquiry by counsel for the Tribunal will take place at the County Council Chambers in Longford on 12th February next at 11:00 a.m. The hearing will continue on subsequent days if necessary. The Tribunal much appreciates the kindness of Longford County Council in making available its Council Chambers for that purpose. The courthouse in Longford is not available as it is closed pending major reconstruction and renovation. It is not possible to conduct the entire Inquiry in Longford as there is not sufficient accommodation continuously available there.

The commencement of oral hearings

The Tribunal hopes to commence oral hearings relating to the first and second modules before the end of February next, but that depends on the requisite premises in the Jameson Building being made available to the Tribunal as promised.

Applications seeking authorisation for representation before the Tribunal

This is the final matter to be addressed at this sitting.

1. The Tribunal has power at its discretion to grant legal representation to individuals and bodies who appear to be substantially connected or associated with or affected by the death of John Carthy on 20th April, 2000 at Abbeylara, Co. Longford. Such individuals or groups include the family of the late Mr. Carthy; the Emergency Response Unit of the Garda Síochána and other garda officers who were present at the scene during events at and about the Carthy home on 19th and 20th April, 2000 or who were in command of officers there at that time; medical doctors who had some involvement in events at Abbeylara and/or who had treated Mr. Carthy for psychiatric disturbance prior to his death.
2. There may be other persons whose reputations or interest could be affected by the circumstances surrounding the death of John Carthy. They also may apply for representation having specified the reason for their application.
3. In course of its deliberations evidence or allegations may emerge of which the Tribunal is not presently aware. If that should occur an application for representation may be made to the Tribunal by or on behalf of any affected party. This should be supported by a statement in writing specifying the grounds for the application and, where appropriate, indicating the involvement of the applicant in any aspect of the investigation.
4. In certain cases it may be appropriate for individuals or bodies to apply for general representation at the Tribunal i.e. where their interest includes all or most modules of investigation. Other applicants may have an interest in one or two

modules only, e.g., 6 relating to possible amendment of existing gun law, including the possible creation of statutory obligations affecting relevant medical, legal and sporting organisations. Such bodies may be granted legal representation limited to possible changes in the law affecting those whom they represent. In due course when it is indicated on behalf of the Tribunal the possible changes in existing law which are in contemplation, interested professional or sporting bodies are requested to furnish to the solicitor for the Tribunal statements setting out their response to amendments of the law as contemplated and also statements of evidence from any witness they may wish to introduce in that regard.

5. When the Tribunal refuses an application for representation that does not preclude the applicant from applying again at a later date if there are changed circumstances which justify a further application. In that event a statement should be furnished to the Tribunal's solicitor specifying the grounds for the renewed application.
6. The granting of representation to any party does not necessarily imply that an order for costs will be made at the conclusion of the Inquiry in favour of the grantee. A party who obstructs or fails to cooperate with the Tribunal may be penalised in costs and in the end may be found liable for costs incurred by the Tribunal arising out of such obstruction or failure in cooperation.
7. Without prejudice to the exercise of my discretion, it is proper to indicate in general terms that where any person or body has realistically and reasonably incurred legal costs and/or expenses in giving the Tribunal full and prompt assistance in its work, I would be favourably disposed to provide for such costs and expenses.
8. Applications for representation at the Tribunal made at this sitting will be ruled upon in this court at noon on next Friday, 10th January, 2003.
9. In making applications for representation at the Tribunal Inquiry the following information should be furnished:
 1. The name of counsel (or of the applicant if a personal application is made).
 2. The name of the instructing solicitor (if any).
 3. The name and address of the person or body on whose behalf application is made.
 4. Whether the applicant seeks full or limited representation.
 5. The grounds on which representation is sought.

The Tribunal may require such grounds to be furnished in writing.

The registrar will call the parties who have written to the Tribunal indicating an intention to apply for representation. Others then may make similar applications.

APPENDIX 2

Memorandum on Procedures

1. General

- 1.1 This memorandum contains an outline of the procedures which the Tribunal will follow. It is not exhaustive or definitive. The Tribunal may add to, alter, or amend these procedures in the course of its work. The Tribunal may depart from these procedures to avoid unfairness or to achieve the efficient discharge of its business. If the Tribunal departs from these procedures it will state that it is doing so and why. Nothing in this memorandum shall have the effect of limiting or removing any powers, functions or discretions vested in the Tribunal by law. In adopting these procedures, the Tribunal is mindful of the definition adopted by Hamilton C.J. in delivering the judgement in *Haughey v. Moriarty* [1999] 3 I.R. 1 of “proceedings of the Tribunal” as involving the following stages:
- i. a preliminary investigation of the evidence available;
 - ii. the determination by the Tribunal of what it considers to be the evidence relevant to the matters into which it is obliged to inquire;
 - iii. the service of such evidence on persons likely to be affected thereby;
 - iv. the public hearing of witnesses in regard to such evidence and the cross-examination of such witnesses by or on behalf of the persons affected thereby;
 - v. the preparation of a report and the making of recommendations based on the facts established at such public hearing.

2. Investigation

- 2.1 The Tribunal will carry out a preliminary investigation in private of the possible evidence available.
- 2.2 The Tribunal will seek to ascertain, as appropriate, from interested persons and bodies the names of potential witnesses who may be able to give relevant evidence in regard to the subject matter of the inquiry or who may have documents relevant to such subject matter.
- 2.3 The Tribunal will make orders for discovery as necessary against persons or bodies who may have documents relevant to the subject matter of the inquiry. Such persons or bodies or other persons affected will be given an adequate opportunity to make representations to the Tribunal prior to and in relation to the making of any such order.

- 2.4 The Tribunal may invite persons who may be in a position to assist the Tribunal to do all or any of the following things:
- (a) to furnish a statement of proposed evidence;
 - (b) to answer questions in writing;
 - (c) to attend a private meeting with legal representatives of the Tribunal, where deemed appropriate. In all cases the person requested shall be under no obligation to comply with the request. A person requested to attend the meeting with legal representatives of the Tribunal shall be invited to have his or her legal representatives present if he or she so wishes.
- 2.5 The Tribunal will determine what it considers to be evidence relative to the matters into which it is obliged to inquire having regard to the documents which it has received, any statements furnished to it and any other relevant information.
- 2.6 The Tribunal will serve copies of proposed evidence on parties with full representation; on relevant parties with limited representation and on other persons likely to be affected thereby.

3. Interpretation

- 3.1 It is the function of the Tribunal to interpret its Terms of Reference as necessary. It is difficult to give meaningful interpretation without reference to relevant facts. It may not be possible for the Tribunal to do so until it has completed its preliminary investigation. The Tribunal intends, if necessary, to explain in public its interpretation of the Terms of Reference before the commencement of the hearing of oral evidence.
- 3.2 Any interested person can seek clarification from the Tribunal any time as to its interpretation of a particular provision in the Terms of Reference. Such request should be made in writing to the solicitor for the Tribunal.
- 3.3 The Tribunal may as its work progresses add to, alter or further clarify its interpretation of the Terms of Reference in the light of facts or information that has emerged.

4. Oral Hearing

- 4.1 The Tribunal will hold oral hearings as necessary to allow it to carry out its work. Such oral hearings shall be in public save as may be otherwise decided by the Tribunal in accordance with law. Counsel for the Tribunal will make an opening statement or statements.
- 4.2 The Tribunal shall decide which witnesses shall be called to give oral evidence to the Tribunal. Persons are encouraged to suggest to the Tribunal witnesses

who they feel would be in a position to give relevant evidence. In deciding which witnesses shall be called the Tribunal will consider all such suggestions.

4.3 Oral evidence shall be given on oath or by affirmation.

4.4 All witnesses will first be questioned by Counsel for the Tribunal. Parties are encouraged to inform Counsel for the Tribunal before the evidence of a witness is given, of matters or questions which they feel should be raised with that witness. The witness may then be questioned by the legal representative of parties affected by such evidence. The right to question any witness shall be determined by the Tribunal having regard to all the circumstances including, *inter alia*, the nature of the evidence given, the extent to which such evidence affects any other person and the obligation to adopt fair procedures. Following questioning the witness shall be entitled to be examined by his/her own legal representative. Counsel for the Tribunal may further examine the witness in regard to any new matters that have arisen during questioning by other parties.

4.5 A witness will be given the opportunity of adopting his or her statement, if any, as part of his/her evidence subject to any modification or clarification which he or she may wish to make.

4.6 Counsel for the Tribunal will make a closing submission. The legal representative of any party granted representation before the Tribunal will be entitled to make a closing submission to the Tribunal in which he or she will be given an opportunity to deal with and to comment upon any evidence affecting his or her client.

5. Evidence

5.1 It shall be a matter for the Tribunal to decide whether any particular piece of evidence is relevant and/or admissible.

6. Documents

6.1 A person making discovery shall make available to the Tribunal all documents other than those in respect of which a claim for privilege is asserted and accepted by the Tribunal.

6.2 Where discovery is made by any party or person he or she shall swear an Affidavit of Discovery. Such affidavit should contain an individual listing of the documents with a brief description of each item. When privilege is claimed the category of document and the ground for so doing should be briefly stated.

6.3 Where documents are to be made available to the Tribunal either pursuant to an Order for Discovery or for Inspection or voluntarily, the person doing so shall normally retain the original and make a photocopy available to the Tribunal. The original should be kept available for inspection if necessary.

- 6.4 All documents made available to the Tribunal are potentially liable to be put in evidence in the course of the public hearing of evidence before the Tribunal.
- 6.5 Documents received by the Tribunal shall be treated as confidential unless and until they are put in evidence in the course of the public hearing of evidence.
- 6.6 The Tribunal may make copies of documents received by it available to such persons as it considers necessary for the purposes of the Tribunal on the strict basis that the documents will be used solely for the purpose of the Tribunal and that neither the documents nor any material contained in them will be disclosed to any third party without the express permission of the Tribunal. This requirement will no longer apply in respect of any particular document or part thereof if and when that document or part thereof is accepted into evidence in the course of the public hearing.
- 6.7 On the basis set out herein, the Tribunal will endeavour to provide in advance to parties with full representation, the relevant parties with limited representation and to a proposed witness the documents which will be referred to during the course of the evidence of such witness.
- 6.8 A party or a proposed witness who believes that a relevant document or documents has or have been omitted from documents provided pursuant to paragraph 6.7 should bring this to the attention of counsel for the Tribunal at the earliest opportunity. If counsel for the Tribunal does not agree to include any such document or documents in the documents provided pursuant to paragraph 6.7, an application may be made to the Tribunal for a direction that the document or documents should be included. Such an application normally should be made before the witness in question begins giving evidence.
- 6.9 A witness may not refer in giving evidence or be referred in questioning to a document which is not included in the documents provided pursuant to paragraph 6.7 except by permission of the Tribunal. If the Tribunal decides to grant such permission it may require that arrangements are made for the witness and relevant parties to have an opportunity of examining and considering the document before it is referred to in evidence.

7. Sitings

- 7.1 The Tribunal will carry on oral hearings at such times and dates as may be determined by it and will give suitable notice of such sittings. The Tribunal shall decide the order of witnesses which may be called and the order in which inquiry may be carried out in respect of any fact or circumstance as referred to in the Terms of Reference.

8. Report

- 8.1 The Tribunal will prepare a report setting out its findings and recommendations on matters specified in or derived from the Terms of Reference.

9. Definitions

9.1 In this memorandum:

“Document” includes any record in any form

“Person” includes corporate bodies and institutions

“Party” refers to a person who has been granted full or limited representation.

APPENDIX 3

A. Individuals or groups to whom full representation was granted

1. The 36 named garda officers below:

Michael Jackson, Emergency Response Unit, Harcourt Square, Dublin
Gerard Russell, Emergency Response Unit, Harcourt Square, Dublin
Michael Sullivan, Emergency Response Unit, Harcourt Square, Dublin
Aidan McCabe, Emergency Response Unit, Harcourt Square, Dublin
William Sisk, Emergency Response Unit, Harcourt Square, Dublin
Ronan Carey, Emergency Response Unit, Harcourt Square, Dublin
Tony Ryan, Emergency Response Unit, Harcourt Square, Dublin
Joseph Finnegan, Emergency Response Unit, Harcourt Square, Dublin
Oliver O'Flaherty, Emergency Response Unit, Harcourt Square, Dublin
Martin Maguire, Garda Station, Longford, Co. Longford
Frank Reynolds, Garda Station, Granard, Co. Longford
Alan Murray, Garda Station, Mullingar, Co. Westmeath
Eugene Boland, Garda Station, Athlone, Co. Westmeath
Sinead Cunniffe, Garda Station, Longford, Co. Longford
Eugene Dunne, Garda Station, Mullingar, Co. Westmeath
James Campbell, Garda Station, Granard, Co. Longford
Colin White, Garda Station, Longford, Co. Longford
Maeve O'Gorman, Garda Station, Maynooth, Co. Kildare
Gerard Barrins, Garda Station, Longford, Co. Longford
Anthony Foley, Garda Station, Athlone, Co. Westmeath
Tom Dooley, Garda Station, Edgeworthstown, Co. Longford
Peter Early, Garda Station, Granard, Co. Longford
Mary Mangan, Garda Station, Longford, Co. Longford
Oliver Cassidy (retired) formerly of Garda Station, Granard, Co. Longford
Daniel Monaghan, Garda Station, Longford, Co. Longford
David Martin, Garda Station, Granard, Co. Longford
Turlough Bruen, Garda Station, Mohill, Co. Leitrim
Frank McHugh, Garda Station, Granard, Co. Longford
John Boyle, Garda Station, Granard, Co. Longford
Bláithín Moran, Garda Headquarters, Phoenix Park, Dublin 8
John Gibbons, (retired) formerly of Garda Station, Granard, Co. Longford
Justin Browne, Garda Station, Smear, Co. Longford
Jack Kilroy, Garda Station, Longford, Co. Longford

Mary Ann O'Boyle, Garda Station, Mill Street, Galway
Desmond Nally, Garda Station, Granard, Co. Longford
John Quinn, Garda Station, Athlone, Co Westmeath

2. Commissioner of An Garda Síochána on his own behalf and on behalf of any member not represented at 1 above
3. Dr. David Shanley
4. Ms Marie Carthy and Mrs. Rose Carthy

B. Individuals or groups to whom limited representation was granted

1. Dr. Patrick Cullen
2. Dr. Gerard Meagher
3. The National Association of Regional Game Councils in association with the Irish Deer Society, the Irish Shooting Association and the National Rifle and Pistol Association of Ireland
4. The Minister for Justice, Equality and Law Reform
5. Aware
6. The Irish College of Psychiatrists
7. The Medical Council
8. Ms "X"
9. RTÉ
10. Radio Ireland Ltd. trading as Today FM
11. Irish College of General Practitioners

APPENDIX 4

Key Persons

A. The Carthy family

1. **Rose Carthy.** John Carthy's mother and widow of the late John Carthy Senior, resides at Toneymore, Abbeylara. She is a sister of Ann Nancy Walsh who also resides at Toneymore, Abbeylara.
2. **Marie Carthy.** John Carthy's sister and only sibling. At the time of the events at Abbeylara in April, 2000 she resided in Galway.

B. The Walsh family

1. **Ann (Nancy) Walsh.** Rose Carthy's sister and mother of Thomas Walsh, Ann Walsh, Patricia Mahon, Rosaleen Mahon and Maura Flynn. Resides in the house referred to in the report as "Walsh's house". Rose Carthy went to her sister's house on leaving her own home at the beginning of the incident. The house was evacuated during the incident.
2. **Thomas Walsh.** John Carthy's first cousin. Was based in Cork in April, 2000. Travelled to Abbeylara on the evening of 19th April, 2000 following a request from his family. He was brought to the negotiation point on two occasions during the incident and attempted to make contact with the subject.
3. **Ann Walsh.** John Carthy's first cousin. Resides at Toneymore, Abbeylara in the house referred to in the report as "Farrell's house". Was present in Walsh's house in the early stages of the incident.
4. **Rosaleen Mahon.** John Carthy's first cousin. Was present in Walsh's house in the early stages of the incident.
5. **Patricia Mahon.** John Carthy's first cousin. Resides on the Coole Road, Abbeylara. Rose Carthy and the occupants of Walsh's house stayed in her house for the duration of the incident following their evacuation from Toneymore.
6. **Maura Flynn.** John Carthy's first cousin.

C. Neighbours

1. **Alice Farrell.** Next-door neighbour of the Carthy's (on the Springtown side). Resides in the house referred to in the report as "Farrell's house". The house was evacuated during the incident.
2. **Michael Burke.** Next-door neighbour of the Carthy's (on the Abbeylara side) since 1996. Resides in the house referred to in the report as "Burke's house". His house was also evacuated during the incident.

D. Friends

1. **Martin Shelly.** Also known as "Pepper". A friend and former work colleague of John Carthy in Galway. He travelled to the scene from Galway with Marie Carthy on the evening of 19th April, 2000. He was brought to the negotiation point during the incident and attempted to make contact with the subject.
2. **Patricia Leavy.** Originally from Abbeylara. A close friend of the Carthy family. Accompanied Marie Carthy to the scene on the night of the incident.
3. **Sean Farrell.** John Carthy's second cousin. Described as someone the subject looked up to. He was brought to the negotiation point during the incident and attempted to make contact with John Carthy.
4. **Kevin Ireland.** A friend and former work colleague of John Carthy in Galway. The subject telephoned him in Galway on 20th April, 2000. On foot of this call, Kevin Ireland contacted the gardaí in Granard.

E. Medical personnel

1. **Dr. Patrick Cullen,** a general practitioner, practising at Coole, County Westmeath. He qualified in 1980 and spent four years in general hospital medicine. Apart from general medical training he did not have any specific training in psychiatric medicine. Dr. Cullen commenced practice in Coole in 1984. John Carthy became a patient of his in 1988.
2. **Dr. John McGeown,** a consultant psychiatrist, attached to St. Loman's hospital, Mullingar. St. Loman's is a psychiatric hospital. Dr. McGeown's services formed part of the psychiatric service provided by the Midland Health Board at that time, which included St. Loman's in-patient hospital and an out-patient or day clinic at Granard.
3. **Dr. Niall Donohoe,** a general practitioner, practising at Granard from 1991. Mr. Carthy was not a regular patient of his but he attended him on a number of occasions when Dr. Cullen was unavailable. Dr. Donohoe was aware that the

latter was John Carthy's doctor. He was called to the scene on 20th April, 2000 and pronounced John Carthy dead at 6:11 p.m.

4. **Dr. Gerard Meagher**, a general practitioner, practising with Dr. Cullen at Coole.
5. **Dr. David Shanley**, a consultant psychiatrist, attached to St. Patrick's hospital and St. James's hospital, Dublin. At the time of his evidence to the Tribunal he had been a consultant attached to St. Patrick's and St. James's for twenty-five years, treating public and private patients on a routine basis. John Carthy was referred to him by his general practitioner, Dr. Cullen, by letter dated 4th April, 1995. Following this referral, Dr. Shanley saw the subject for the first time on 11th April, 1995. He diagnosed him with bipolar affective disorder and prescribed lithium, in addition to the medication he was already taking. He last saw John Carthy on 11th June, 1999, though he had telephone contact with persons on his behalf in January/February, 2000, when his prescription was changed. In early April, 2000 an appointment was made by Marie Carthy for her brother to attend Dr. Shanley at 2:00 p.m. on 20th April, 2000, the second day of the siege. He was contacted by gardaí on the morning of 20th April, 2000. He came to the scene in the afternoon. He was in a car on the roadway outside Walsh's house when John Carthy was fatally shot.
6. **Dr. Desmond Bluett**, a general practitioner, practising at Castlelawn Medical Centre, Galway. John Carthy attended his surgery during 1999 and 2000 while living in Galway.
7. **Dr. Dympna Horgan**, a general practitioner, practising in Galway. She covered on an "out-of-hours" basis for Dr. Bluett. She saw John Carthy at a garda station in Galway on 20th February, 2000 after his arrest under the Mental Treatment Act, 1945.

F. Members of An Garda Síochána

The following is a list of the key garda personnel involved in the incident at Abbeylara. All references to rank are as at the time of the incident.

1. Senior officers

- 1.1 **Superintendent Joseph Shelly**. A superintendent since 1996 and the district officer for the Mullingar district since February, 2000. He was the scene commander at Abbeylara from 7: 00 p.m. until midnight on the 19th April, 2000 and from 9:00 a.m. up to the time of the ending of the incident on the 20th April, 2000. The Mullingar district does not cover the Abbeylara area.
- 1.2 **Superintendent Michael Byrne**. A superintendent since 1998 and the district officer for the Granard district since August, 1999. This district covers the Abbeylara area. He was in Dublin when the incident commenced and

Superintendent Shelly agreed to act in the role of scene commander in his absence. Superintendent Byrne attended at the scene on the night of 19th April, 2000 and assumed the role of scene commander between midnight and 9:00 a.m. on the following day.

- 1.3 Chief Superintendent Patrick Tansey.** Chief Superintendent since 1996 and the divisional officer for the Longford/ Westmeath division based at Mullingar. Granard, Athlone, Longford and Mullingar districts are within this division. He attended at the scene and was involved in the decision to request the deployment of the Emergency Response Unit.
- 1.4 Assistant Commissioner Tony Hickey.** Assistant Commissioner responsible for the eastern region including the Longford/Westmeath division since 1997. Based at Mullingar, County Westmeath. He attended at the scene and was involved in the decision to request the deployment of the Emergency Response Unit.
- 1.5 Inspector Martin Maguire.** Based in Longford town. Acting district officer for the Granard district on 19th April, 2000. He assisted the scene commanders, having responsibility for the uniformed personnel on the outer cordons at Abbeylara.
- 1.6 Superintendent John Farrelly.** Garda press officer who was in charge of liaising with the media at the scene.

2. Emergency Response Unit Officers

The ERU has its origins in the special task force which was established in 1978, following a decision of Justice Ministers at the ninth council of the EEC at Brussels in 1975. The special task force was based in Dublin and it formed part of the special detective unit. This unit was renamed the Emergency Response Unit in 1987. The duties of the ERU include armed support during criminal/subversive operations and specialist search techniques including forced entry. The membership of the unit consists exclusively of serving members of An Garda Síochána. The unit undergoes intensive training including proficiency in firearms, tactics, specialist skills, physical fitness and hostage rescue. Members of the unit, including those present at Abbeylara, received training with police forces in other countries, including the United States, Germany and the United Kingdom.

- 2.1 Detective Sergeant Michael Jackson.** Member of the Garda Síochána since 1980 and the Emergency Response Unit since 1986. Promoted to the rank of sergeant and subsequently to detective sergeant in 1996. Rejoined the ERU as a detective sergeant in 1998. Attended a negotiators course at the London Metropolitan Police in March, 2000. He was the negotiator at Abbeylara. He discharged two shots at John Carthy, both of which struck him in the leg.

- 2.2 Detective Garda Michael Sullivan.** Member of the Emergency Response Unit since 1994 and a garda with over 18 years' service. Was delegated the duty of negotiator's assistant at Abbeylara. He was not trained as a negotiator. He attempted to negotiate with John Carthy when the negotiator, Detective Sergeant Jackson, availed of rest periods during the incident.
- 2.3 Detective Sergeant Gerard Russell.** Member of the Garda Síochána since 1980. From 1986 to 1989 he was a member of the security task force based at Harcourt Square, Dublin. He joined the Emergency Response Unit in 1989. In August, 1995 he was promoted to the rank of sergeant. He returned to the ERU as a detective sergeant in August, 1998. Prior to joining the garda he trained as a psychiatric nurse at St. Loman's Hospital Mullingar. He qualified but did not practise as a psychiatric nurse. He was the team leader of the Emergency Response Unit which was deployed to Abbeylara. He arrived there at 9:50 p.m. on 19th April, 2000.
- 2.4 Detective Garda Oliver Flaherty.** Member of the Garda Síochána since 1986 and the Emergency Response Unit since 1993. He was deployed to Abbeylara and arrived at approximately 9:50 p.m. on 19th April, 2000.
- 2.5 Detective Garda Anthony Ryan.** Member of the Garda Síochána since 1992 and the Emergency Response Unit since 1998. He was deployed to Abbeylara and arrived at approximately 9:50 p.m. on 19th April, 2000.
- 2.6 Detective Garda Ronan Carey.** Member of the Garda Síochána since 1992 and the Emergency Response Unit since 1998. He was deployed to Abbeylara and arrived at approximately 9:50 p.m. on 19th April, 2000.
- 2.7 Detective Garda Aidan McCabe.** Member of the Garda Síochána since 1989 and the Emergency Response Unit since 1993. He was deployed to Abbeylara and arrived there at approximately 1:00 p.m. on 20th April, 2000. He discharged two shots at John Carthy, one of which proved to be fatal.
- 2.8 Detective Garda William Sisk.** Member of the Garda Síochána since 1993 and the Emergency Response Unit since 1998. He was deployed to Abbeylara and arrived at approximately 1:00 p.m. on 20th April, 2000.
- 2.9 Detective Garda Joseph Finnegan.** Member of the Garda Síochána since 1987 and the Emergency Response Unit since 1998. He was deployed to Abbeylara and arrived at approximately 1:00 p.m. on 20th April, 2000.

3. Local armed officers

- 3.1 Detective Sergeant Aidan Foley.** Based in Athlone. Appointed a detective sergeant in 1998. He was the senior armed local officer at the scene. He arrived at the scene at approximately 7:15 p.m. on 19th April, 2000 and, together with other local armed officers, formed part of the inner cordon prior to the arrival

of the Emergency Response Unit. He was on the road near the ESB pole at the Carthy/Burke boundary when John Carthy exited the house on 20th April, 2000. Also present in that area at this time were Garda Eugene Boland, Detective Garda James Campbell, Detective Garda John Quinn and Garda John Gibbons.

3.2 Garda Eugene Boland. Based in Athlone. He was armed at the scene and, together with other local armed officers, also formed part of the inner cordon prior to the arrival of the Emergency Response Unit. He too was on the road near the ESB pole at the Carthy/Burke boundary when John Carthy exited the house on 20th April, 2000. Also present in that area at this time were Detective Sergeant Aidan Foley, Detective Garda James Campbell, Detective Garda John Quinn and Garda John Gibbons.

3.3 Detective Garda James Campbell. Based in Granard. Member of the Garda Síochána for more than 25 years. He was deployed to the scene in the early stages of the incident and was involved in the second approach to the Carthy house on that evening. Attended at Dr. Cullen's surgery at approximately 4:00 a.m. on 20th April, 2000 and received a number of medical reports on John Carthy's medical condition which he passed on to the negotiator. He was also near the command vehicle when John Carthy emerged from his house.

3.4 Garda John Gibbons. Based in Granard. Member of the Garda Síochána for more than 27 years. Together with Garda White, he made the first approach to the Carthy house. He was armed. He was also in the vicinity of the command vehicle when John Carthy exited his house; Garda Gibbons was unarmed at that time.

4. Officers attached to the Ballistics Section

4.1 Detective Sergeant Seamus Quinn. Attached to ballistics section at the Garda Technical Bureau, Phoenix Park. He had over 24 years' service. Travelling with Detective Sergeant Ennis, he arrived at Abbeylara after 9:00 p.m. on 20th April, 2000. He directed the retention of certain firearms for ballistic examination.

4.2 Detective Sergeant Patrick Ennis. Based at garda headquarters attached to the ballistic section in the Technical Bureau and a member of the Garda Síochána for over 30 years. He travelled to Abbeylara with Detective Sergeant Seamus Quinn, arriving after 9:00 p.m. on 20th April and took up duty as the crime scene manager.

G. The media

1. **Mr. Niall O'Flynn.** Editor and producer of the RTÉ "Five/Seven Live" radio programme on 20th April, 2000. Conducted vox pop interviews on the afternoon of 20th April, 2000 in Abbeylara.
2. **Mr. Paul Reynolds.** RTÉ Crime Correspondent.
3. **Mr. Myles Dungan.** Presenter of RTÉ "Five/Seven Live" radio programme on 20th April, 2000.
4. **Ms Noeleen Leddy.** Reporter with Shannonside radio. Attended at the scene in her capacity as a journalist. During the course of the incident she received information relating to the telephone call between John Carthy and Kevin Ireland which she brought to the attention of the gardaí at the scene.

H. Expert witnesses (also described in detail elsewhere in the Report).

1. Police experts

Mr. Alan Bailey. Consultant on the police use of firearms, specialising in the analysis of shootings by police and the provision of expert advice and opinion. Mr. Bailey is the advisor to The Police Complaints Authority of England and Wales and has also provided advice to the office of the Police Ombudsman for Northern Ireland. He retired with the rank of superintendent having completed 30 years police service with Thames Valley Police and West Mercia Constabulary in England, 25 of which were involved in police use of firearms as a tactical firearms team member, a tactical advisor, firearms instructor and firearms incident commander. Mr. Bailey has taught firearms at operations and command levels in England and overseas. He was chief instructor of a national firearms school and managed the secretariat of the Association of the Chief Police Officers sub-committee on the police use of firearms. During his career as a police officer he was seconded to the Home Office to establish and command the critical incident management team which had national responsibility for command training and advice in the areas of firearms, sieges, disaster and civil emergencies. He holds a Bachelor of Education (honours) in the management of Firearms Training and a Master of Arts (Education) in judgment training for the police use of firearms. His PhD research is entitled "Analysis of Police Shootings: Learning Lessons for Commanders and Armed Officers." He is the co-author of a Parliamentary Report into shootings by police in England and Wales between 1998 and 2001.

Dr. Ian MacKenzie. Chartered forensic and occupational psychologist working under the aegis of his own consultancy company Mandala Associates. Served as a police officer with the Metropolitan Police in London from 1960 to 1985, retiring with the rank of superintendent. From 1980 to 1987 he lectured on the metropolitan police negotiators course. Dr. McKenzie was also chief instructor

of policing skills at the Metropolitan Police Training School in Hendon, London. In addition he has been staff psychologist with the Fort Worth Police Department, Texas, USA where he was involved in training on matters of mental health and trained alongside the special weapons and tactics personnel (similar to the ERU in Ireland). On occasions he was deployed with SWAT teams and negotiating teams to siege situations. He holds a Bachelor of Arts (honours) and a Master of Philosophy in psychology and a PhD in the field of psychology and criminal justice. Dr. McKenzie has been a member of the committee of the Division of Forensic Psychology, the American Psychological Association and the American Academy of Criminal Justice Sciences. At the time of giving evidence to the Tribunal, Dr. McKenzie lectured on ethics and human rights in policing to senior investigating officers in England and Wales. Dr. McKenzie has published widely in his area of expertise. He is the managing editor of the International Journal of Police Science and Management and a member of the editorial board of the Journal of Police Crisis Negotiations.

Mr. Frederick J. Lanceley. Director of Crisis Negotiation Associates which provides instruction on crisis negotiation and related topics. He was a serving member of the Federal Bureau of Investigations (FBI) from 1972 to 1993. Mr. Lanceley served as programme manager for the FBI's Crisis Negotiation In-Service for 13 years and was a founder of the FBI's Critical Incident Negotiation Team. His work included training, research and operational practice. Mr. Lanceley has participated in the resolution of several hundred domestic and international aircraft hijackings, barricade and suicide situations, prison riots, hostage-takings and kidnappings. He is a member of the American Foundation for Suicide Prevention, the American Society of Law Enforcement Trainers and an honorary life member of the Californian Association of Hostage Negotiators. Mr. Lanceley's many publications include a book entitled "*On-Scene Guide for Crisis Negotiators*."

Mr. Michael Burdis. Retired detective chief superintendent, South Yorkshire Police. In addition to other duties Mr. Burdis trained as a hostage negotiator and was a member of the national negotiation team established in the wake of the Iranian Embassy siege in London. He was also trained and qualified to manage incidents where firearms were being used by offenders or hostage takers. He has been appointed to numerous Home Office working parties and committees mostly in relation to the investigation of crime and, in particular, homicide. In 1997 he was appointed as special advisor to the MacPherson Inquiry; the inquiry into the death of Stephen Lawrence, following which he was appointed to assist Her Majesty's Inspector of Constabulary in reviewing over 230 undetected cases of murder ranging over a ten year period in the London area. Mr. Burdis has lectured on the subject of major crime investigations to officers of all ranks throughout England and Wales. In 1983 Mr. Burdis received the police long service and good conduct medal; in 1994 he received the Queen's commendation for brave conduct; and, in 1999 he was awarded the Queen's police medal for distinguished service. Since retiring, Mr. Burdis has

been engaged by the Home Office as an independent consultant. Mr. Burdis was proposed to the Tribunal as an expert witness by the Carthy family.

Mr. Ray Shuey. Former assistant commissioner of the Victoria Police in Australia.

Superintendent Neville Matthews. Superintendent with the New Zealand Police.

Mr. Robert K. Leatherdale. Former assistant commissioner of the Royal Canadian Mounted Police.

Sergeant David Lee. A specialist police dog supervisor with the West Mercia Constabulary. He has been a police officer since 1981 and a dog handler since 1986. Sergeant Lee is a Home Office, police dog instructor and has been involved in the development of police dogs as a less lethal tactical option at firearms incidents.

2. Medical experts

Dr. David Shanley. Consultant psychiatrist, attached to St. Patrick's hospital and St. James's hospital, Dublin. John Carthy was referred to him by his general practitioner, Dr. Cullen, in 1995. He was John Carthy's consultant psychiatrist at the time of the incident. John Carthy was due to see him in Dublin at 2:00 p.m. on 20th April, 2000.

Professor Jack Phillips. Consultant neurosurgeon at Beaumont hospital, Dublin and Associate Professor of surgery in the Royal College of Surgeons in Dublin with expertise in injuries and diseases of the brain and spinal cord.

Professor Christopher Milroy. Professor of Forensic Pathology at University of Sheffield, and a consultant pathologist to the Home Office. At the time of giving his evidence to the Tribunal, he was also the Chairman of the Royal College of Pathology. Professor Milroy is regularly instructed by the police federation and families in cases of deaths involving the police. He was proposed to the Tribunal as an expert witness by the Carthy family.

Dr. John Sheehan. MRCPsych., FRCPI., Consultant psychiatrist, Mater hospital, Dublin. Dr. Sheehan is also a lecturer in psychiatry in the department of adult psychiatry in University College Dublin. As a consultant he provides psychiatric care to both in-patients and out-patients in the Mater hospital. He lectures *inter alia*, on the assessment of suicide and deliberate self-harm and depression.

Dr. Douglas Turkington. M.D., FRC Psych., Consultant Psychiatrist and Senior Lecturer in Liaison Psychiatry, based at the Department of Psychiatry, Royal Victoria Infirmary, Newcastle upon Tyne, U.K. In an academic capacity he is attached to the Department of Psychiatry, School of Neurosciences, Neurology and Psychiatry, University of Newcastle upon Tyne. His research and teaching

are based around self-harm and suicide as well as the treatment of psychotic disorders with CBT. As part of his clinical responsibilities Dr. Turkington heads the “Self-Harm Team” and has knowledge of incidents where the issue of homicide initiated by the victim i.e. ‘suicide by cop’ has arisen. He delivers risk assessment and risk management training across the Tyne and Wear area (including training on the management of patients expressing suicidal ideation) to mental health staff, local authority staff, Samaritans, general practitioners and to the local police force. As part of his training of the police, he gives specific focus to the recognition and management of victim initiated homicide.

Dr. Harry Kennedy. MD., FRCPsych., FRCPI., Consultant forensic psychiatrist and clinical director at the National Forensic Mental Health Service, Central Mental hospital, Dublin and visiting psychiatrist at Mountjoy and Cloverhill prisons. Dr. Kennedy is also a clinical senior lecturer in forensic psychiatry at Trinity College Dublin. He has training and experience in the assessment and treatment of those who are violent and mentally disordered. He has published work on homicide and suicide, hostage takers, the therapeutic uses of security, and on the relationship between fear and anger in abnormal mental states. He is the principal organiser for teaching in risk management and personal safety for psychiatrists in training and as part of continuing professional development for consultants. Dr. Kennedy was proposed to the Tribunal as an expert witness by the Commissioner of An Garda Síochána.

Professor Tom Fahy. MD., MRCPsych., MPhil., Professor of Forensic Mental Health, Department of Psychological Medicine, Institute of Psychiatry, King’s College, London and consultant psychiatrist with the Lambeth Community forensic team. His academic work is largely focused on evaluating new treatments and methods of service delivery for community based patients at high risk of violence to others. As a consultant with the Lambeth Community Forensic Team, he has responsibility for a caseload of community based patients. He also has a liaison role to the Lambeth psychiatric intensive care unit. He is honorary consultant in psychiatry to the British army since May 2002. Professor Fahy was proposed to the Tribunal as an expert witness by the Commissioner of the Garda Síochána.

Professor Kevin Malone. MD., MRCPsych., FRCPI., Professor of Clinical Psychiatry, Department of Psychiatry and Mental Health Research attached to St Vincent’s hospital, Dublin and University College Dublin. Professor Malone has a special expertise *inter alia* in the following clinical and research areas: mood disorders — psychopharmacology of treatment resistant depression; maintenance therapies in the treatment of bipolar disorder; the assessment and treatment of suicidal behavior in major psychiatric disorders; and, the psychobiology of suicidal behavior in major psychiatric disorders. Professor Malone was proposed to the Tribunal as an expert witness by Dr. David Shanley.

Professor John Harbison. State Pathologist, (now retired), who carried out the official post-mortem on the subject.

3. Other experts

Mr. Tony O’Keeffe. Consultant civil engineer and partner in the firm of Tony O’Keeffe & Partners, Kanturk, Co. Cork. Mr. O’Keeffe provided information to the Tribunal in relation to engineering matters, mapping and topography of the scene at Abbeylara.

APPENDIX 5

Index to photographs

1. View of patrol car in the driveway of Carthy's property
2. View of the front gable window of Carthy's old house
3. View of the boundary wall from the road outside Carthy's old house, x marks the negotiation point
4. Inside view of the front boundary wall of Carthy's property showing impact damage from the discharge of John Carthy's shotgun at 1, 2, 3 and 4
5. Close-up inside view of the front boundary wall at the negotiation point showing impact damage from shotgun pellets at 1
6. Close-up inside view of the front boundary wall showing impact damage from shotgun pellets at 2 and 3
7. Close-up inside view of the front boundary wall showing impact damage from shotgun pellets at 4
8. View from outside the Carthy property illustrating the incline of the road heading in the Abbeylara direction. The negotiation point is marked with an X on the front boundary wall of the Carthy house
9. View of the roadway outside Walsh's house
10. Aerial view towards Abbeylara showing: (a) Farrell's house; (b) Carthy's old house; (c) Carthy's new house; (d) Burke's house; (e) Walsh's house
11. Frontal aerial view of (a) Farrell's house; (b) Carthy's old house; (c) Carthy's new house; (d) Burke's house; (x) marks the negotiation point; and (y) marks the ESB pole
12. View of the negotiation point from the kitchen of the old Carthy house as seen through the front gable window
13. Members of the ERU in position outside the front boundary wall of the Carthy property

14. View of the roadway showing the command vehicle and the ESB pole on the right-hand side in the foreground. The entrance to the Carthy property is marked (Z).

[Source: Photographs 1 — 12 Garda Photographic Section, photograph 13 Irish Times and photograph 14 RTÉ]

















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