

Statement on the Morris Tribunal

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Liz O'Donnell T.D. Dáil Éireann Statement on the Morris Tribunal

Ceann Comhairle, I welcome this brief opportunity to comment on the second report from the Morris Tribunal. A report which, since its publication on the first of this month, has sparked shock, outrage and concern- and rightly so. Incidentally hard copies only arrived on Deputies' desks this morning

While reaction to the report's content has been diverse, one unanimous element has been the praise for its thoroughness. I want to join in commending Mr. Justice Morris and his team for their public service in this regard. At a time of understandable 'tribunal-fatigue' it's important to say that.

I also want to commend the courage, tenacity and professionalism of parliamentary colleagues- Jim Higgins and Brendan Howlin, in this whole affair. As a former Justice Spokesperson in opposition from 1992 to 1997, I was that soldier.

I know that of all the areas in the context of holding the Government to account, Justice is by far the most challenging.

Allegations against the Gardaí are particularly delicate to handle. The criminal justice system, by its nature can throw up paranoid, vengeful, and enmeshed circumstances. For a TD to make claims on the basis of information supplied by members of the public can be fraught with risk and responsibility. One has no way of establishing the veracity of the claims. They may be false, vexatious or politically motivated. Reputations are at stake.

Our Dáil privilege is a precious commodity, but must be used with prudence. Claims of corruption, against the Gardaí, rank high in the risk stakes for Deputies. The term 'appalling vista' comes to mind from the Birmingham Six debacle.

The two Deputies took the right course. They raised the claims with the Minister of the day initially and ultimately tabled a motion in the House, and continued to challenge when stonewalled by inadequate responses. The Tribunal was set up to establish facts, and after six years the Deputies have been vindicated. In this regard, our democratic systems have worked but great damage has been done both to the McBrearty's and our justice system.

I recall with trepidation, but with resolve, and in the face of considerable official and political pressure, posing questions which challenged the official version of events relating to the 'seizure of drugs' at Urlingford. I recall tabling questions about the inexplicable non-processing of extradition warrants for Brendan Smyth- a matter which brought down a Government.

I recall the questions being transferred and the truth being evaded. I recall tabling questions about serious malpractice in Limerick prison. Who can forget the torturous route to the truth in relation to the Hepatitis C scandal? Or the way Deputies like Pat O'Malley and Pat Rabbitte were accused of 'national sabotage' when they raised allegations of fraud in the beef industry, in which the State was complicit.

Of all the functions that we have as TDs, perhaps this enquiring and accountability role is the most valuable of all. People applaud the FOI system but myself, I feel the PQ is the original and the best vehicle for accountability in our system.

The fact is the State is not always virtuous. It has at times, through its Agencies, acted against the rights of citizens. So it has on this occasion, through the actions and criminal conspiracy of Gardaí, and in its delay in bringing these matters into the open. I believe such a conspiracy constitutes a subversion of the State and a crime against the people.

Background

The very first Commissioner of the Gardaí, Michael Staines, in 1922, said the following:

"The Garda Síochána will succeed, not by force of arms or numbers, but by their moral authority as servants of the people."

An Garda Síochána has been founded not on force, but on moral authority. The revelations at the Morris Tribunal have undoubtedly shaken those foundations. It is vital now that the trust that pertains to the Gardaí, to a huge degree in our society, is restored. The forthrightness and clarity of the Morris Report is part of that process.

The Tribunal was mandated in this module to inquire into the way in which the Gardaí conducted the investigation into the death of the late Mr. Richard Barron- a tragedy which ought not to be overlooked as we deal with the wider context. A family and a community lost a person close to them- and have suffered I'm sure in the course of the last few years arising from these bizarre events.

We set up the tribunal because it was perceived that the Gardaí had made an appalling mistake. A mistake compounded by the arrest, framing and targeting of innocent citizens.

Those innocent citizens, Mr. Frank McBrearty Junior and his cousin Mr. Mark McConnell, were arrested for Mr. Barron's murder. That mistake; the framing; the targeting: all the work of members of An Garda Síochána.

In all this, it's important to state that the findings of Justice Morris' report apply to some Gardaí- not all- and specifically, certain Gardaí in the Donegal Division. His findings have been as much of a shock to Gardaí all across the country, as they have been to the general public.

But based on the Minister's unscripted contribution this morning, where he reveals to have been denied full access to the Carthy report into these matters, as Attorney general advising the then Minister- one has a feeling that something more systemic and sinister was going on at a higher levels. This wilful disconnect between Garda management and democratically elected Minister was and is unacceptable.

An Garda Síochána's mission is to achieve the highest attainable level of personal protection, community commitment and State security.

Its values, according to their own words, are:-

- Respect for people and their needs
- Human rights protection
- Service to the community
- A caring service culture
- Closeness to the people
- Policing responsiveness
- Policing performance
- Individual responsibility

The depressing fact is that these honourable values were besmirched by *Gárdaí* in the Donegal Division, Ceannt Comhairle.

Findings

A huge volume of evidence was heard by Justice Morris, and the report contains detailed analysis, conclusions and recommendations.

As I state, the initial appalling mistake by the *Gárdaí* in question was the arrest of innocent citizens for the murder of Mr. Barron.

The Tribunal has found that Mr. Barron was killed in the early hours of 14th October 1996 in what all the evidence now points to as a hit-and-run road traffic accident. That was the mistake, one that was the result of a negligent *Gárda* investigation.

- They did not respond correctly to the emergency call.
- They did not arrive at the scene until after Mr. Barron's body had been taken to Letterkenny General Hospital.
- They did not follow *Gárda* crime scene procedures?
- They did not preserve the scene of the accident.
- They did not preserve the body or the clothing of Mr. Barron at the hospital, and did not make inquiries locally immediately after the accident.
- They did not ensure a forensic post-mortem was carried out.

These were all terrible mistakes. But worse was to follow.

The Tribunal finds that the *Gárdaí* were consumed by the notion that Frank McBrearty Junior and Mark McConnell were guilty - Consumed.

There had been no murder.

The two men were completely innocent.

Most shockingly, evidence to the contrary was rejected.

An *Gárda Síochána* is entrusted with unique and immense power. Power, that is central to the functioning of democracy, because it separates the State from every other actor in society. Our system of democracy confers the monopoly on the use of coercive force on the

State - The power to arrest and to detain - even to use force. And the State in turn exercises this power via An Garda Síochána and the prison service.

As a society we vest this unique and immense power in the hands of An Garda Síochána. That Gardaí became so consumed by an untruth that they rejected contrary evidence and pursued innocent citizens was a fundamental abuse of power, and is in itself, a crime against the people.

Those members of the Force most directly implicated in either grave misconduct or grossly negligent management have been dismissed, or have retired.

Worryingly, serving members of the Gardaí are also severely criticised in the report. This places a burden of responsibility on both Garda Commissioner and, in respect of senior officers, on the Government. Correctly, both will now urgently consider the disciplinary implications for those serving members of the Gardaí. The Report has also been sent to the Director of Public Prosecutions. Given the gravity of these matters, meaningful sanctions are appropriate.

Minister McDowell has confirmed that the specific recommendations of the report would be taken forward without delay. And there are developments already well under way which will address many of the issues identified in the Report.

Next week we have agreed extra time for a fulsome debate on the Garda Bill. This responds to the request in a review of the Bill in light of the findings.

The issue of accountability of the Gardaí via the Minister for Justice has always been problematical. Independence and accountability can be mutually exclusive concepts. One can be independent and accountable, however in my experience problems regularly present in relation to operational matters.

I believe there has been a resistance to develop a satisfactory level of accountability for operational matters by successive Garda Commissioners. I have always found this unsatisfactory. Given the powers vested, which we have seen are open to abuse, we need real accountability for Garda operations- not just in relation to policy.

By way of conclusion, I would like to make the following points Ceann Comhairle. The McBrearty family has been totally exonerated by Mr. Justice Morris. The Minister has announced that he is to concede liability in the case being taken by Mr McBrearty, who is pleading wrongful arrest. A solemn apology is forthcoming to the McBrearty family on behalf of the State and successive governments. I would now hope, Ceann Comhairle, that every relevant party would attend, and co-operate with the Tribunal, and in so doing ensure that it can continue its excellent work to the fullest possible degree.

One thing concerns me as a Deputy; I find it somewhat bizarre that the tribunal is pursuing a case on appeal to the Supreme Court, which relates to the attempt by the Tribunal to access phone and other records of those TDs who were carrying out their constitutional duty to hold the executive to account - and in so doing, wished to protect their sources. This privilege is a cornerstone of our weaponry as TDs and is being correctly defended by the Oireachtas.

Whatever about the pressures that come on Deputies, who pose unpalatable parliamentary questions in the public interest, it would be unconscionable to remove the protection of anonymity and privilege on those citizens who come to TDs. TDs enjoy Dáil privilege for good reason. Our papers, records and sources must be protected.