

Oifig an Choimisinéara
An Garda Síochána
Páirc an Fhionnuisce
Baile Átha Cliath 8
Éire

An Garda Síochána



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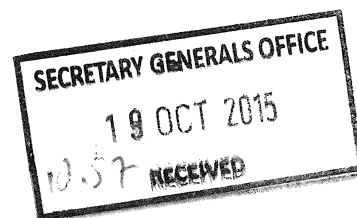
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CONFIDENTIAL

Mr. Noel Waters
Acting Secretary General
Department of Justice
and Equality
94, St. Stephen's Green
Dublin 2



Dear Secretary General

You will be aware that on 25 August last the Minister for Justice and Equality asked An Garda Síochána to continue to liaise closely with the Police Service of Northern Ireland and to let her have a fresh assessment of the Provisional IRA (PIRA) in the light of any new evidence emerging during the PSNI investigation into the death of Kevin McGuigan.

The investigation by the PSNI remains ongoing and no-one has yet been charged with the murder. We will, of course, continue to liaise closely with PSNI in relation to it, and any other issues which might emerge, as part of our ongoing security assessments.

However, particularly in the light of the assessment which the Secretary of State for Northern Ireland has sought in relation to paramilitary groups, I thought it would be appropriate at this stage to let the Minister have details of the review which we have been carrying out in relation to PIRA and this is enclosed.

It may be helpful to make a number of preliminary points.

For a number of decades PIRA waged a campaign of terror on these islands. Members of An Garda Síochána were, sadly, among those who paid with their lives in murders for which there was not an ounce of justification and which left behind family, friends and colleagues who feel the pain of that loss intensely to this day. Members of An Garda Síochána strived valiantly to deal with their activities and, it should be remembered, managed to preserve the

safety and stability of this State. In these circumstances, An Garda Síochána would regard with the utmost seriousness any threat posed by PIRA. Any suggestion that An Garda Síochána would turn a blind eye to activities of PIRA or persons who have been associated with PIRA is as unfounded as it is offensive.

Our assessment, which I am enclosing, in relation to PIRA remains consistent with our previous assessments and the findings of the Independent Monitoring Commission (IMC) which are summarised in it.

There is nevertheless a substantial legacy arising from PIRA which falls to be addressed. Firstly, the dissident republican groups, although now entirely separate from PIRA and completely at odds with the provisional movement, have their origins in that organisation. Secondly, and separately, a significant number of persons who have been associated with PIRA are involved, for personal gain, in organised crime, make full use of the reputations which they acquired as members of PIRA and do not hesitate to use their previous terrorist tactics.

It was never the position of the IMC - nor has it been the position of An Garda Síochána - that PIRA had disbanded and, accordingly, ceased to exist. But the issues surrounding the continued existence of PIRA are inevitably complex. To say that PIRA exists without further clarification as to what it exists as would mean very little and be likely to be misleading.

Obviously PIRA does not exist as the organisation it did, say, 20 years ago which was involved in what it regarded as 'armed conflict'.

Assessments are further complicated by the fact that many persons who have been associated with PIRA are also part of what might be regarded as a wider movement which includes a particular political party. It is inevitable that many of those persons continue to associate and there might be no obvious manifestations of the capacity in which they do so.

Of its nature, PIRA has been a secret organisation which kept its membership secret. The attribution of membership previously was often associated with the commission by persons of unlawful acts on behalf of the organisation and, as the Independent Monitoring Commission pointed out, there is an issue as to what membership means in relation to organisations that are no longer active. Equally, it clearly does not follow that because a person has been associated with a particular organisation in the past that any criminal activity on that person's part continues to be committed on behalf of, or as part of, that organisation. It is noteworthy that there is no evidence that there has been any recruitment to PIRA in recent years.

The assessment which I am enclosing sets out the basis on which it was conducted. It follows closely the factors which the Independent Monitoring Commission took into account, having particular regard to what, the activities that have been taking place indicate.

I want to record my appreciation to our colleagues in the PSNI and the British Security Service. We continue to enjoy excellent working relationships in fulfilling our missions to protect the public. It is inevitable that the detail of security assessments will differ from jurisdiction to jurisdiction and are a matter for the relevant agencies respectively. Historically, the attributes and activities of PIRA in the North differed somewhat from this jurisdiction.

It is to be expected that the pace and nature of developments in different jurisdictions might vary and that differently gradated pictures may emerge. I am confident that there are no overall differences of substance in relation to our assessment of the reality of any threat posed by paramilitary or terrorist groups.

An Garda Síochána will, of course, continue, in cooperation with our partners, to do everything possible to counteract crime and threats to security whatever their manifestation and irrespective of the background of those involved. We will follow evidence wherever it may lead. Should it be decided to establish a further Commission with a cross-border dimension along the lines of the IMC, An Garda Síochána will be happy to cooperate with it.

Finally, I should mention that the assessment deals essentially with security issues and involvement in organised crime. You will be aware that there are separate criminal investigations under way in relation to sexual abuse by PIRA members.

Yours sincerely



**NÓIRÍN O'SULLIVAN
COMMISSIONER OF
AN GARDA SÍOCHÁNA**

19th October 2015

Background

On the 12th August 2015, Kevin McGuigan was shot dead in Short Strand area of East Belfast.

Following the murder of Mr. McGuigan public statements were made by the PSNI Senior Investigating Officer and the PSNI Chief Constable indicating that one of the lines of enquiry was that members of the Provisional IRA (PIRA) were involved in or connected to a group suspected of involvement in the murder. These statements have attracted widespread commentary on both sides of the border.

On the 25th August 2015, the Minister for Justice and Equality asked the Garda Commissioner to continue to liaise closely with the PSNI and to let her have a fresh assessment of the status of PIRA in the light of any new evidence emerging during the PSNI investigation into the death of Mr. McGuigan.

Assessment Review & Methodology

While threat assessments are kept under continuous review, a separate and distinct exercise was conducted in respect of the Minister's request for a fresh assessment. This was coordinated by the Crime & Security department and the following methodology was employed.

- Examination of Historical PIRA Structures.
- Review of Independent Monitoring Commission (IMC) and International Independent Commission on Decommissioning (IICD) reports relative to PIRA.
- Liaison with PSNI and the British Security Service regarding evidence and intelligence arising from the murder investigation.
- Review of "post-IMC" intelligence & intelligence exchanges with partners concerning PIRA.
- Review of "post-IMC" investigations countrywide, including Criminal Asset Bureau actions, with particular reference to involvement or suspected involvement of persons with any PIRA connections.
- Specific Scrutiny of the Affiliations of persons charged before the Special Criminal Court from 1st November 2010 to the present.
- Oral and written briefings to Commissioner by senior management and investigating officers.
- Liaison with Garda Ballistics Section.
- Examination of recent assessments, agreed with security and policing partners regarding the status of PIRA.

In relation to the review of "post IMC investigations", all Garda Assistant Commissioners with operational responsibilities were tasked to oversee this exercise within their areas of responsibility. To ensure a common, consistent and objective

approach, specific guidance was given regarding the criteria which should be considered when attributing a crime or incident to individuals or organisations. These criteria were in line with those employed by the IMC during their tenure of operation. Any attribution was to be supported with a clear outline as to the reasoning in particular assessments were to be based on credible intelligence (which should be articulated), hard facts or evidence emerging from investigations.

The review process, as requested by the Minister, is now complete. A comprehensive briefing has been given to the Minister outlining in detail the findings of the review and the consequent rationale for the assessment which follows. It will be appreciated that the vast majority of the content of the briefing, which includes the product of sensitive intelligence reporting, is not suitable to be put into the public domain.

The IMC and the IICD

The key reference points of departure for our analysis are the reports of the Independent Monitoring Commission (IMC) which monitored and reported on activities of, inter alia, the Provisional IRA over the period 2003 to 2011 and the Independent International Commission on Decommissioning (IICD) which supervised and reported on the decommissioning of arms by, inter alia, PIRA in 2005 and 2006. During their periods of operation, An Garda Síochána had substantial interaction with the IMC and the IICD. These two independent bodies were established jointly by and reported to the Irish and British Governments, both of which accepted their reports.

In respect of arms decommissioning by PIRA, the IICD reported to the Governments in January 2006 confirming its view of September 2005 that the organisation had gathered all the arms under its control and that these arms had subsequently been put beyond use under the supervision of the IICD.

In respect of arms decommissioning the IMC reported that while it assessed that a small quantity of arms were held back from decommissioning this was done by individuals despite the instructions of the organisation's leadership. The IMC further reported its view that in accordance with instructions from the leadership the organisation had not acquired or developed weapons.

From 2006 onwards the IMC reported that "the leadership of the republican movement remained committed to following the exclusively political path and would not be diverted from it."

In its 15th report in April 2007 the IMC reported that PIRA had a clear strategy to follow a political path and that the leadership was implementing it firmly; that terrorism and violence had been abandoned; PIRA had not engaged in acts of violence and where individual members had done so it had been contrary to leadership

instructions; PIRA as an organisation continued not be involved in other forms of criminal activity although some members engaged in it contrary to instructions. It said PIRA leaders remained clear in their view that members should not be involved in criminal activity but some members continued to engage in crime.

In its 19th report in September 2008, in response to a specific request from the two Governments, the IMC set out its assessment and conclusions on the transformation of PIRA from a terrorist/criminal organisation. It reported that PIRA had abandoned its terrorist structures, preparations and capabilities. It concluded also that, in respect of criminal activities, it was “satisfied that PIRA as an organisation is not involved in crime and has instructed its members not to be involved in criminal activity. Some individual members remain criminally active but the organisation does not support those involved”.

Assessment

The following assessment relates to this jurisdiction and should not be interpreted as being reflective of what is occurring in Northern Ireland. It should be stated that, while it is to be expected that differently nuanced pictures may prevail in individual jurisdictions, there is no difference of substance between An Garda Síochána, the PSNI and the British Security Service as to the threats posed by individual groups. The investigation into the death of Mr. McGuigan is ongoing and has not yet secured evidence which would enable any person to be charged with the killing. An Garda Síochána will continue to liaise closely with the PSNI in relation to any matters arising in the investigation.

In the period after the Good Friday Agreement and again following the PIRA statement of 2005 indicating an end to the “armed campaign”, An Garda Síochána has seen clear intelligence and evidence of former PIRA members adopting exclusively political or community roles, others have ceased to be active in the republican movement in any capacity, a significant number have joined dissident groups, while other individuals and groups of individuals have engaged in criminality for personal gain. Against this background and in the absence of recruiting or training, individual associations with PIRA continued to decline year on year.

Defections to dissident groups is often accompanied by acrimony, threats and physical attacks between former close associates sometimes resulting in violent attacks on each other. An atmosphere of suspicion and derision often prevails and the gathering of information or intelligence may occur, mainly for the purpose of ascertaining the nature of any threat from dissident republicans.

The Special Detective Unit is the primary counter-terrorism investigative unit within the State. During the period 1st November 2010 to the present, seventy (70) persons

were arrested and subsequently charged before the Special Criminal Court with a range of terrorist related offences, including Membership of the IRA, Possession of Firearms and/or Explosives, Causing Explosions and Directing an Unlawful Organisation to wit the IRA. Special consideration is always given to what particular faction of the IRA those charged are affiliated to. No persons investigated or charged by the Special Detective Unit were affiliated to the PIRA at the time of arrest. It can be confirmed that thirty three (33) of the individuals charged had previous past associations with PIRA, before they defected to dissident republican groups.

While undoubtedly persons who had been linked with the Provisional Army Council continue to associate, there is no evidence of a Provisional Army Council, in the generally accepted sense, meeting or functioning in this jurisdiction. There is evidence that a type of “residual leadership”, committed to peaceful means, continues to exist and has become involved from time to time in dealing with “legacy” issues. Engagement with the Smithwick Tribunal of Inquiry and the Independent Commission of the Location of Victims Remains (ICLVR) over extended periods are particular examples in this regard.

During the period when PIRA was engaged in what it regarded as “armed conflict”, a substantial element of the organisation’s activity in this jurisdiction concerned logistical support. In this regard a number of so-called “military departments” within PIRA controlled and coordinated this support infrastructure.

Incrementally since 1998, these departments initially ceased to function, fell into disuse and then disbanded, resulting in the former terrorist capability eventually being lost. While there was no formal disbandment process various departments withered away and eventually dissolved. There is no evidence of any “military departments” currently in operation in this jurisdiction.

However, separately from the activities of dissident groups, there is clear evidence that a significant number of persons who have been associated with PIRA remain criminally active, particularly in organised crime, and continue to associate together. They make full use of their “legacy” reputations and in some cases their former terrorist tactics. No evidence has emerged in the course of the review which has been undertaken that this activity is directed by leadership of the organisation or that it is for other than personal gain.

Like other persons involved in organised crime, some have access to weaponry. The issue of decommissioning of weapons was dealt with comprehensively in the reports of the IICD and IMC which explained the circumstances in which not all arms of paramilitary groups could be decommissioned. While An Garda Síochána is aware from time to time of reports questioning the nature of decommissioning which took place, it is not in position to call into question the findings of the independent bodies

in the absence of evidence of the existence, extent or whereabouts of any such weaponry.

Since the establishment of the Criminal Assets Bureau in 1996, a total of €28m has been remitted to the Irish exchequer arising from Proceeds of Crime actions and tax assessments in respect of over fifty (50) individuals who have had connections or associations to PIRA in the past. Other investigations and proceedings are ongoing.

Concluding remarks

An Garda Síochána will continue to robustly enforce the many facets of available legislation to deal with the various manifestations of the IRA.

Garda intelligence and evidence was completely in line with the assessment outlined in the various reports by the IMC. No information has emerged in the course of this assessment which calls into question the findings of the IMC.

This analysis of PIRA, which concentrated largely on the period from the final IMC reporting period to the present, illustrates the picture as outlined. Security assessments are kept under constant review and will continue to be based on credible intelligence, hard facts and emerging evidence.

An Garda Síochána will continue to liaise closely with the PSNI. Cross border cooperation plays a key role in our fight against the various criminal activities, which cause harm to communities on both sides of the border. An Garda Síochána and the PSNI have a long and successful record of co-operating to tackle cross-border crime and this co-operation will continue to be the foundation stone of tackling, without fear or favour, all criminal activity with a cross border dimension.