

A JOINT REPORT BY

THE IRISH COUNCIL FOR CIVIL LIBERTIES

AND

BRITISH IRISH RIGHTS WATCH

**INTO ALLEGATIONS OF ILL-TREATMENT BY THE GARDA SIOCHANA
OF PRISONERS ARRESTED FOLLOWING THE MURDER OF GARDA
JERRY McCABE IN LIMERICK IN JUNE 1996**

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1. INTRODUCTION

On 7 June 1996 Detective Garda Jerry McCabe was shot dead and Detective Garda Ben O'Sullivan wounded in the village of Adare, Co.Limerick in a bungled robbery attempt apparently carried out by members of the IRA. The two Gardai were escorting a lorry delivering money to local post offices. The murder of Garda McCabe and the wounding of his colleague caused great anger in Limerick, where they lived and worked. The President of Ireland, the Taoiseach, the Minister for Justice, and several other Ministers attended Garda McCabe's funeral some days later. Up to 25,000 people lined the streets of Limerick city.

The investigation into the murder was based at Henry Street Garda Station in Limerick, where Garda McCabe and his colleague had worked. At Henry Street feelings were running very high about the murder of a local officer and the wounding of another. Within hours of the shooting, Gardai began to arrest people under the Offences Against the State Act, 1939, Ireland's anti-terrorist law, and detain them for questioning.¹ Their suspicions seem to have focused on a number of men who lived in the general Limerick area but who have not been apprehended at the time of writing. The Gardai concentrated on arresting their family members, friends, associates and even neighbours.

Two men who were arrested on 8 and 9 June 1996 appeared in the Special Criminal Court in Dublin on 11 and 12 June 1996 respectively. When the first of the two, Jeremiah Sheehy, was remanded in custody to Portlaoise Prison (where paramilitary-linked prisoners are held), the usually reticent Department of Justice took the very unusual step of announcing that he had been found "to have some injuries" and had been taken from the prison to hospital for further examination. The second man, John Quinn, was taken to Limerick Regional Hospital four times during his detention and when he appeared in the Special Criminal Court had to be helped into the dock and lifted to his feet when the charges were read out. His barrister told the court that he had injuries to the face and body and that his physical and mental condition gave cause for concern. She said that she had been instructed that he had received these injuries while in Garda custody. He too was referred to hospital on his arrival at Portlaoise Prison.

Mr Sheehy was charged with IRA membership and possession of a firearm at Adare on 7 June 1996. Mr Quinn was charged with IRA membership and possession of ammunition at a different location on 6 June 1996. He was later charged with conspiracy to commit a robbery at Adare. Their cases and their claims that they were ill-treated while in custody will in due course have to be dealt with by the courts. A third man was subsequently arrested and charged on 20 June 1996 with IRA membership and possession of a firearm at Adare. He did not claim that he had been subjected to any physical brutality.

Within days rumours began to spread about ill-treatment of other people who had also been detained for questioning in connection with the murder of Garda McCabe. An Independent Deputy, Tony Gregory TD, raised the issue at a Dail [parliament] Committee meeting but was not allowed to pursue it. It was raised again at the AGM of the Irish Council for Civil Liberties (ICCL) on 15 June, when it was agreed that the allegations should be investigated by ICCL workers. Reports of the alleged ill-treatment appeared in *Hot Press* magazine on 11 July 1996 and in the *Sunday Tribune* newspaper on 14 July 1996. ICCL issued a statement on 15 July expressing serious concern based on its preliminary investigation and called on the Government to set up an enquiry to be headed by a judge. The following day it was announced that senior Gardai were investigating the allegations.

ICCL responded to the announcement by writing to Minister Nora Owen on 19 July 1996 stressing the need for a genuinely independent inquiry. The Minister replied (on 29 August 1996) by suggesting that ICCL refer the results of its investigation to the Garda Síochána Complaints Board. ICCL in turn pointed out that because the complaints alleged a pattern of ill-treatment, the Complaints Board which deals with individual cases was not a satisfactory mechanism for investigating a matter like this. There is also widespread feeling amongst lawyers and independent observers, that the Garda Complaints Board, which includes Garda representatives and is dependent on the Garda to investigate complaints, is not sufficiently independent. The results of the investigation by senior officers announced on 16 July 1996 have never been officially made public but it seems it has exonerated all the Gardai concerned (see below).

In the circumstances, ICCL and British Irish Rights Watch (BIRW) decided to continue an investigation into the allegations of ill-treatment

with a view to presenting the results to the Irish Government and to international human rights agencies. It is not for us to judge these issues. We will say only that there is clearly a case to answer and that it is up to the Irish Government to hold a proper independent inquiry into this matter. Unless they do, suspicions will remain and the reputation of the Garda Síochána will suffer badly because of it - more so than if the authorities admitted there had been misconduct, if there has been, and took steps to ensure it would never happen again. If the Government take no action on this, their own reputation and moral authority to speak about human rights abuses in other countries will be tarnished as well, especially since several of the complainants allege that the Gardai questioning them claimed that they had been given "a free hand" by the Government.

Unfortunately, it is not the first time in the last 20 years that allegations of ill-treatment have been made against members of the Garda. In the mid-1970s there were repeated allegations that a group of Gardai, known as "the Heavy Gang", were systematically using brutality to secure confessions from suspects. The allegations were so serious that Amnesty International sent a mission to Dublin in 1977 to investigate. They concluded that:

"Maltreatment of suspects detained in police stations appears to have occurred in a number of cases examined by the delegates".

"Maltreatment appears to have been carried out systematically by detectives who appear to specialise in the use of oppressive methods in extracting statements from persons suspected of involvement in serious politically motivated crimes".²

Following the Amnesty report things improved and complaints of ill-treatment were much less common. In 1993, however, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) visited the Irish Republic and reported, inter alia: "In the light of all the information at its disposal, the CPT has been led to conclude that persons held in certain police establishments in Ireland - and more particularly in Dublin - run a not inconsiderable risk of being physically ill-treated".³

The CPT report went on to recommend "that senior police officers deliver to their subordinates the clear message that the ill-treatment of

detained persons is not acceptable and will be the subject of severe sanctions”.

The Irish Government’s response to the CPT report was strong and apparently unequivocal. It said:

“Indications that persons in custody might be abused or open to the risk of abuse, or left without recourse to redress where abuse occurs, or is threatened, has to be a matter of grave concern to any Government. The Government wishes to stress that its firm policy is that abuse in any form will not be tolerated, that any perpetrators will be rooted out and where possible prosecuted and/or disciplined”.

The Government went on to say that it fully took on board the CPT’s views and would endeavour to “ensure that the safeguards in place are such that the Committee will not be disposed, again, to reach the conclusion it has on this occasion about the potential risks faced by persons in Garda custody”. It reiterated this commitment in a follow-up report to the CPT in September 1996, some two or three months after the incidents described in this report.

Regrettably, the Irish Government has not shown in practice the determination to eliminate abuses promised in its responses to the CPT. Allegations of the seriousness of those we outline in this report clearly demand a formal and independent inquiry, both to establish the truth of what actually happened and to send out a clear signal to both Gardai and the public that if abuses are found to have occurred, they will not be tolerated.

But the Government has failed to hold any sort of independent inquiry into these allegations. In this respect it is following in the footsteps of its predecessors in 1977, whose attitude led Amnesty International to say that it was

“concerned that despite widespread allegations that persons under arrest had been maltreated, the Government saw no necessity to instigate an impartial inquiry into these allegations, although some of them would at least appear to have been well-founded”.

The Government’s failure to respond to calls for an inquiry, other than by suggesting referral of complaints to the Garda Síochána Complaints Board - whose composition was itself criticised by the CPT - has left us

with no option but to draw these allegations directly to the attention of the CPT, the United Nations Human Rights Committee, which monitors Ireland's compliance with the International Covenant on Civil and Political Rights, Amnesty International and any other relevant international human rights bodies or institutions.

The following dossier has been compiled from statements taken initially by two ICCL representatives from 12 people who were arrested in the weeks immediately following the murder of Garda McCabe ⁴. Each of these individuals was in the event released without charge, though one was charged with an offence much later. Concern has arisen as to how these individuals were treated by the Gardai on arrest and whilst in custody. A number of people interviewed in the course of the ICCL/BIRW investigation, including several women, claimed that they were physically abused, punched and beaten. Some also alleged that threats were made that relatives or friends would be beaten up, put out of business, or even murdered at a later date. Several detainees claimed that their interrogators told them that "they had got the go-ahead" from the Government and "the gloves were off" in this case [i.e. they had a licence to abuse and ill-treat suspects].

Detainees also claimed that comments were made by the Gardai to the effect that they were "back to the good old Seventies" - a reference to the period in the mid-1970s when the activities of the "heavy gang" in the Garda led to the critical report by Amnesty International in 1977. Others maintained that they were threatened by detectives that they would be brought before the Special Criminal Court, which the detectives had referred to as "our court", claiming that the judges there gave them "a free hand".

The Criminal Justice Act 1984, and in particular the Criminal Justice Act, 1984 (Treatment of Persons in Custody in Garda Siochana stations) Regulations 1987 (hereinafter referred to as the Custody Regulations) govern the Gardai's treatment of suspects in detention, including those detained under the Offences Against the State Act. In addition, provisions regulating the treatment of persons arrested and detained are present in many international instruments, including the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the United Nations Body of Principles for the Protection of all Persons under any Form of Detention or Imprisonment and the European Convention on Human Rights.

In relation to those arrested and released without charge, the following issues are considered in this dossier which has been jointly compiled by the Irish Council of Civil Liberties and British Irish Rights Watch. We have concentrated on persons arrested in the first few weeks after Garda McCabe's murder, when the allegations of physical and mental abuse were most intense.

2. TREATMENT OF DETAINEES ON ARREST

From the statements taken from the detainees it would appear that they were subjected on arrest to high levels of aggression by the Gardai. This ranged from general aggressive behaviour (i.e. shouting /swearing/ ransacking the house, with little or no regard for the occupants, who often included young children) to threats of physical violence and murder. On occasion little or no information about the reasons for the arrest was provided to the person arrested. Neither were all individuals informed of their rights on arrest. Indeed several individuals were only arrested when they went to a Garda station to inquire about a relative who had been arrested.

Although, surprisingly, there are few specific provisions under domestic legislation governing the conduct of the Gardai in relation to an arrest, there are well established principles under common law, and under the Irish Constitution as interpreted by the Supreme Court in a number of cases over the years. These require that persons must be told of the reason for their arrest and their legal rights.⁵ This is similarly enshrined in the Covenant on Civil and Political Rights (ICCPR).⁶ As the following extracts demonstrate, the detainees' treatment reveals breaches of domestic legislation and international conventions.

The detainees are identified only by initials which bear no relation to their actual names. Most were unwilling to allow their names to be used for fear of victimisation. Their names will be given in confidence to any demonstrably independent inquiry which is set up or to international organisations which wish to authenticate their claims.

"About 50 special branch arrived and within minutes I was arrested and taken to Henry Street Garda Station. On the journey I was threatened that they would charge me with murderor aiding and abetting and that my children would be put in care as I would be going away for 40 years....."
AB (Female)

"The special branch searched the house and turned everything upside down.....only after about 25 minutes was I arrested under s.30 of the Offences Against The State Act.....I was not advised of my rights whatsoever.....On the way to Henry Street they said: 'this is a whole new ball game, the gloves are off. We've got the go ahead from Bruton. It's not

Albert Reynolds and his fucking peace process we're dealing with now'....."
BC (male)

"On the morning I was arrested special branch arrived at the house around 8.30am. They took one of my kids into a room on his own and stopped me from following him..... They had me stuck against the wall, one guy with a machine gun in my ear and another had his face in mine shouting at me....."
CD (Female)

"I was taken from the sitting room and put up against the wall and friskedOne detective said that he would take me up the field and put a bullet in my back. He then asked me how would I like that and did I think that Mr McCabe had that chance.....That I would be taken up the field and shot was repeated.....As I had been burning rubbish before they arrived they asked me whether I had ever heard of forensics.....They then arrested me under s.30....." DE (Male)

"When my son was arrested three special branch came into the kitchen and asked me who I was? I said [x's] wife and one of them said that I wasn't the wife, I was the girlfriend.....he said that my husband was the father of another woman's child and that they had been following him around and how was it that I didn't know that he was having an affair.....When I said that I was almost 30 years married and that I had a very strong marriage they just laughed at me and said that I was a fool.....Later, when I went to the station I was arrested under s.30 just as I was about to leave the station....."
EF (Female).

"Five special branch came to the house carrying small firearms but letting them be seen.....They read the search warrant to me and entered the house and told me to put my hands up against the wall. My daughter, who is four and a half, was in her bedroom at the time.....When I asked to make a phone call to my parents they said to fucking get away from the phone and that they would phone which they did.....When my brother arrived, they told him to get away from the gate or they would arrest him and that they would send the fucking child out when they were ready.....All the time they were roaring and shouting inside and calling me an IRA murdering bastard.....My daughter was shaking and she saw them tearing everything apart in the house.....they did not tell my family where they were taking me but threatened to arrest them if they did not move away from outside the house....." FG (Male)

"I woke up to find a special branch man with a machine gun on the side of the bed and another with a gun at the end of the bed.....I am not sure if they showed me the arrest warrant but I was arrested under s.30.....they ripped the place asunder and took a load of stuff away.....When they took me in the

car [to Henry Street Garda Station] the driver said ' we don't give a fuck whether you're guilty or innocent, we're going to stitch you up, you're going to jail'" GH (Male).

"I went to Roxboro Road Garda Station to see if my sister-in-law had been arrested. When I arrived, they arrested me. I was brought to Henry Street Garda Station. The Sergeant there read me my rights and asked if I wanted to see a doctor or solicitor. Initially I asked to see a solicitor but then decided not to....." HI (Female)

3. TREATMENT OF DETAINEES IN CUSTODY

The persons from whom we took statements all complained that they had been ill-treated. The type of ill-treatment complained of ranged from being insulted by individual Gardai to being assaulted and/or threats of physical violence and even murder, and generally occurred (repeatedly) during detainees' interviews. Whilst the physical violence allegedly inflicted (on both men and women) was generally low level, some detainees had physical injuries and/or marks which were consistent with their accounts of being assaulted. It was also alleged by some of the detainees that they had to remain standing for some or all of the interviews. Such conduct undoubtedly breaches domestic legislative provisions and international covenants.

The Custody Regulations referred to above are aimed at regulating the behaviour of the Gardai in relation to detainees.

Regulation 3 requires that an officer ".....shall act with due respect for the personal rights of persons in custody and their dignity as human persons.....".

Regulation 12 covers the conduct of officers during interviews. Regulation 12 (1) stipulates that: "The interview shall be conducted in a fair and humane manner."

Regulation 20(1) specifically states that: "No member shall subject a person in custody to ill-treatment (whether against the person himself, his family or any other person connected with him) or permit any other person to do so."⁷

A: PHYSICAL ILL-TREATMENT AND THREATS OF VIOLENCE

"At one stage one of them [i.e. the interviewing Gardai] was standing and walking back and forth, and I had my hand behind the radiator, and he pushed the table very quickly against the radiator and I jumped and pulled my hand back. A detective also banged his fist down in front of me.....Every time somebody stood behind me or close to me I was just waiting for it.....I did not believe for one minute that those who were stretchered out [of Henry St. Garda Station] were self-inflicted injuries [a reference to John Quinn who was taken to hospital several times during his period of detention]....." IJ (Female)

"The interrogation began. They did not introduce themselves⁸. They came across as being intimidating. They had their feet on the table and were chewing gum.. I was sitting all the time . The detectives were both standing and sitting and walking around behind me. They asked me what I knew about Adare and I said nothing but they were not going to accept that..... They seemed agitated and I got the impression that they would hit me. At one stage they said: 'Will we start the beating now and get it over with?'. They kept emphasising that the gloves were off and that it wasn't Haughey [former Taoiseach] now and that Bruton [the current Taoiseach] wouldn't put up with it [i.e. the murder of Garda McCabe]. One of them said: 'We're back to the good old Seventies [i.e. reference to the Heavy Gang]' " JK (Male)

"They questioned me from 10.00am to about 12.00pm. They were roaring and shouting and catching me by the arm and rocking me between the four of them. They let me sit down for about 5 minutes at the beginning of the interrogation but that was all. This pattern continued throughout the interrogations. For the rest of the time I was left standing. One detective was sitting with a list of questions and answers while two detectives held me, one on each arm. They threatened to put me away for 40 years and made out that I had the blood of Garda McCabe on my hands.....The next day during the interrogation they started hitting me with their hands and with a thick book in the face. The hitting went on for about 2 minutes. They kept saying that they knew I was involved

Later on they were rocking me over and back, then they caught my leg and pulled it up behind me and started rocking me again. It was sore and they were knocking me off balance. They had my leg twisted up for about three minutes. When they released my leg, they said that they would have a little game of questions and answers. Two guys started pulling my hair back and forth to nod my head. They asked me if I was behind in Adare and took my hair and pulled it, and they would say that they took that to indicate a 'yes'. This continued for about 10 minutes..... During one of the interviews, before I was brought back to my cell, one of them picked up my hand and bent my fingers back as far as he could" DE

“.....during the interview they were banging the table and kicking the chair. This went on from about 9.45am to 12.00pm.....” EF

“.....The interviews went on all day and all evening except for breaks for meals..... During the interviews they kept hitting me on the shoulders, saying my account was a pack of lies. They would roar at me that they had a ‘free hand’ and that they could do what they want.....I was standing for most of the interviews; sometimes this was up to three hours at a time. I was only allowed to sit down if I spoke to them. In the interview room there was a pipe overhead coming down a foot from the ceiling and going to another pipe inside a partition down a waste pipe. Every 10 or 15 minutes a load of water was sent into it. I felt they were doing it to torment me because it just made me thirsty. I asked for a glass of water once but did not ask again as I did not know what I would be letting myself in for.....When Detective Z came in initially he was all soft talk. Then he got down to brass tacks. He started getting heavy and started shouting and roaring.....He punched me in the ribs. After he assaulted me he stood up against me and told me to smell his breath and said ‘would you not like to have that smell coming out of your breath?’.....(by that he meant the smell of alcohol).....” FG

“.....When being interviewed, I was not asked if I wanted to see a solicitor⁹. There were about three or more questioning me at the time. They started shouting and prodding and pushing me. I was not able to lift my right arm for two days because of all the prodding to my right shoulder. I had my working boots on when I was taken into custody. One special branch man asked me if I had steel caps on my boots. I replied that I didn’t know so he jumped down on top of them to see if I had. The first night they came in after the funeral they were like lunatics and they showed me the paper with photos in it [i.e. photos of Garda McCabe’s funeral] and they were roaring and shouting” KL (Male, aged 75)

“When I got to Henry Street [Garda Station] after I’d been arrested I don’t think I was told I could get a solicitor but I’m not sure.....As soon as they’d taken my property they took me straight to an interview room where 2 guards interviewed me. Neither of them identified themselves only I knew 1 of them from the area.....When I said “what’s your name?” to one of the detectives he said “I’m asking the questions around here”. During one of the interviews on the first day they told me that I was too comfortable and pulled the chair from underneath me. They made me stand for about 10 minutes before allowing me to sit down again..... On the second day in the afternoon the interview started with two detectives and ended up with about 6 detectives, I think. Detective Y, whom I know from the area, and another detective were very aggressive. During that interview, I was standing for all of the time. At one point one of the detectives said that he’d stick my head up on the ceiling and that he’d swing for me..... They told

me that I had Jerry McCabe's blood on my hands and that the gloves were off....." LM

"Two men came into the interview room and started beating me. They stood on either side of me and started thumping me and pushing me.....At one stage one of the detectives caught me by the jaw and started slapping my head off the locker. He was a big man and started to choke me. They made me stand for a long time. Maybe as long as four hours. There were no breaks and I have no idea if they offered me a drink.....I lost track of time. The questioning continued for hours.....When I asked to see a doctor they refused and said that Jerry McCabe did not have a chance to ask for a doctor..... I did not initially ask to see a solicitor when they arrested me. However, when I did ask to see one they just laughed at me¹⁰....." CD

"They brought in the 'rough gang'. One was Detective X, the other two did not give their names. Detective X dragged me once by the jacket and hammered the table.....they were shouting at me on that first night.....the next day during one of the interviews they threatened to push me down the stairs but I ignored them....." HI

"..... When I was being interviewed, the special branch never said their names.....They threatened me continually. They were shouting at me all the time and hitting me with the flat of their hands on my face and digging [hitting] below the chest area.....They made me stand spread-eagled up against a sheet of plywood dividing the room.....they kept kicking my legs apart to spread them.....They said things to me like that I had better get ready as they were going to give me a right kicking in the balls.....One of them had a gun or what felt like a gun stuck into the back of my head. At one point I was made go down on the ground so that the special branch guy could put his feet on my back. I was made to stay in that position for half an hour or so.....They threatened me continually. They told me that they would be back after a while, maybe a year, and that they would beat the shit out of me" GH

"They asked me to account for my movements which I did.....when asking questions they would keep hitting my shoulder to emphasise statements.....Two new detectives came in..... One..... kept slapping me across the face and kicking me on the side of my leg..... During one interview after my solicitor left they made me standthey said that it didn't matter whether I answered questions, a nod would do.....One of them stood behind me and pulled my head backwards and forwards and to the left and right. The other Garda would write down that I had answered 'yes' to questions such as 'was I a member of the IRA?'. They said that I had identified my husband and 4/5 other people in the photos as planning the Adare shooting. They said that it was planned in a park and that all these people were present and that I was present and that the seat I was sitting on

was wired and they had it all on tape. They asked me did we discuss at this meeting the type of weapons that would be used?. The fellow behind me kept pushing my head forward to indicate a 'yes'....." AB

B: PSYCHOLOGICAL ILL-TREATMENT

Complaints were made by all detainees, that the interviewing officers had used psychological intimidation of some sort against them. This ranged from threats of prosecution for withholding information or membership of the IRA to prosecution for actual involvement in the murder of Garda McCabe. Some detainees complained that they were threatened with being "fitted up" and/or facing substantial periods of imprisonment. Others claimed they were threatened that relatives or friends would be arrested and even in some cases that they would be murdered. Parents were subjected to threats that their children would be taken into custody. Several alleged that they were told that they would be put out of business or that they would lose their jobs. In addition to threats being made, the same questions were asked repeatedly, during the course of extensive and lengthy interviews. Without exception, all detainees felt intimidated.

".....Over and over again in the interviews they said who the hell was I thinking that I would be back in two days [she had told the person she stayed with that she would see him in two days] They told me that I would be lucky if I ever saw them again.....After I had accounted for my movements as requested, I said that I had nothing more to say. At this stage Detective W kept telling me that I should hang myself because I would not answer any of their questions. Over and over again for the best part of the interview he told me to hang myself; that I could use my jeans [i.e to hang herself] and that I should get it right. He said that he would go to Jerry McCabe's wife and explain to her just why I had done it.

On the second day there were five sets of detectives interviewing meall day up until midnight.....all different.....their faces started to blend together.....I was told that myself and [OP, another person detained at the same time] would travel together to Dublin and stand in the Special Criminal Court together and that we would look a pretty sight.....Somebody came in with a folder and started to flash something to one of the detectives and said to me: 'We have got you now. Now it's criminal, you better start talking'.

I had no idea what they were on about but they said that they knew my movements and that I could be done for harbouring a fugitive. I was also told over and over again that they were going to arrest my father, mother, sister, and uncle so I felt happier not to see them.....I decided when they did not identify themselves and they were going to place me and others in Adare that I was going to remain silent. Also there was so much verbal

abuse. The closer the time came to when I was to be released the more I thought that they were going to beat the shit out of me.....” IJ

“..... I have never before seen interrogation sessions as long or so many of them.....At one stage they referred to [PQ, a known local republican] whom I know. They said he was a cop killer and that he would be taken out and that there would be no Special Criminal Court for him. They went on to say that he would be given a permanent right to silence..... and that the only way he would come out of this was riddled by the Emergency Response Unit. They kept insisting that I must have been in contact with PQ already.....The same questions were repeated over and over..... There was a short break for a meal and then I was brought straight back up again. The first thing that they said was did I have somebody to go bail for me in the morning as I was being charged with membership. Although I emphasised that I was not a member of any illegal organisation, they said that it didn't matter a fuck to them as it would be no bother to put one of my hairs in the Pajero jeep which was found in Adare and stitch me up.....” BC

“When my mother came in to see me she was arrestedFrom 12.00am until 8.00am I was back in my cell. I was not interrupted except for Gardai walking up and down. When they would put me in my cell they would slam the door and say get used to that.....an hour or so before my release one of the detectives said to me in an interview room to come clean as they knew where I was on the Friday. He went on to say that there is a big difference between sitting here in a Garda station and if I were on the other side [i.e. being questioned by the IRA]. He said if I were on the other side I would be at a table with hooded men who had guns on the table and that I would be found in the woods in a body bag with a bullet in my head.....” DE

“They kept saying that I was running the Provos in the North.....They would refer to the beatings that my son got and how he bit his lip for the cameras at which point they laughed and I just cried and cried.....the detectives would change their moods in a flash so much so that I thought I was going crazy.....they kept trying to make me think that my husband was unfaithful to me and saying things of a sexual nature which made me feel very dirty.....As they pushed me into a cell after one of the interviews they said: 'By the way, your son [another son who was detained at the same time] has been raped.....I couldn't sleep for thinking about my sons.....A detective said to me during an interview did I know that they can write anything down here.....I was absolutely terrified.....” EF

“They kept asking me about people in the area. Do I know this one ? And do I know that one? They repeated themselves a lot. I got the impression that they wanted to intimidate me and intimidate people I knew. They told me that if I didn't co-operate with them they'd put me out of business.....They kept going over the same things time and time again.

They told me that there was 20,000 of them (i.e. Garda members) and they had things on [Government] Ministers and they'd even tell them what to do....." LM

"They told me that Jerry McCabe was a personal friend of theirs and they would not let his death go unrevenged They would go on at me about going over to the hospital and arresting my girlfriend who had just had a babyand the next time I would see my family was in seven or eight years.....they said that they would be taking me to Green Street [the Special Criminal Court] on Saturday or early Sunday morning and Detective Z said there is no jury up there, only judges and that the Garda have a free handso that he [Detective Z] would be retired by the time I got out.....They changed the subject to bunkers and guns and asked me if I knew where there was stuff hidden..... they said that I was hanging around with a top IRA man and that I should know. I denied this but they wanted to know if I would phone them saying that they would meet me any place in the country and that me and them [i.e. interviewing officers] would be the only three that would know about it.....

Later they threatened me that if I did not contact them with information that they could charge me as they had enough stuff upstairs [referring to what they had taken from his house] to charge me with IRA membership.....About John Quinn [who had been taken out of the station in a stretcher] they said that they supposed that I had seen him coming out on a stretcher and that I knew how he got that. They went on to say that he had bit his lip which is what I was doing at the time they mentioned it....." FG

" At one stage one of the special branch took out a gun and suggested they play Russian Roulette. He took out one of the bullets and put my husband's name on it. They said they hoped they met my husband in a field so that they could torture him first and that there were plenty of Gardai down from Dublin who wouldn't hesitate to shoot him if they saw him..... They threatened to put my kids in care.....they told me that they would charge me with withholding information and I felt that if I made a complaint that they would do just that.....They threatened putting me into Mountjoy [prison] and getting a druggie to put a needle in me.....They brought in photos of blood in the car which Garda McCabe was shot in and threatened to bring in photos of the body.....They said that there was another 48 hours awaiting me.....that they would make me lose my job.....and that a Garda would be watching me constantly....." CD

"They told me that I was bad and that I should go to hell.....they did their best to make me sign statements and tried to make me use my hand to sign it They called me names and they called [my daughter] names but I didn't take any heedThey questioned me for most of the day. I didn't know whether it was night or day....." KL

“They kept calling me names and threatened me with the Inspector of Taxes but I ignored them.....they threatened that they would charge me with withholding informationthey said that [CD, her sister-in-law] would be going to prison and that I would have to mind the kids.....At one point they even threatened me with prison and that they would shoot [my brother-in-law].....” HI

“They threatened to arrest my mother and father, who are fairly old and one of my sisters [his other sister was already in custody].....They continually repeated that they would bring me in for another 48 hours They also threatened that all they would have to do is get a Superintendent to say that I was a member of the IRA and I would go down for five or six years.....When they had me standing spread-eagled they were writing a statementAt one point they had a pen in my hand and made me write a suicide noteThey told me that the book had gone out the window on this one and the people upstairs [i.e. their superiors] said that they could do what they want as all they [the superiors] wanted was results.” GH

“They told me that my (adopted) children would be taken off me and that they were already in care and that I would be an old woman before I saw them.....They told me that they had my briefcase with all the adoption papers in it [which she had given to a friend for safekeeping. The Gardai went with a search warrant to her friend’s house and obtained the adoption papers]. They threatened me with varying sentences of 6 months to 40 years.....When I didn’t answer their question about being a member of the IRA they said this meant I had something to hide.....” AB

C : OTHER FORMS OF ABUSE

All the people interviewed maintained that they had been subjected to intense verbal abuse, a lot of it sexual in character and all of it degrading and humiliating. Several detainees claimed that they were threatened either that they would be raped whilst in custody by one of their interrogators, or that someone close to them (such as their partner or son) would be raped. Racist remarks were also allegedly made to one individual both specifically about her adopted children (who were not Irish) and also in general terms. Other abuse took the form of sleep deprivation because of constant interruption by the Gardai, and a general atmosphere of extreme hostility.

“They said that I would never see [my fiancé] again but that there were plenty of young Provos who would give me a ride.....and I would be screwed from behind because I was so ugly and stupid.....they went on that

[my fiancé] screws me from behind as I am so fucking ugly and dumb and that that was all he was used to doing in Portlaoise [prison]..... They told me that I was lower than a cigarette butt on the ground.....I literally did not know if they would be in my cell in the middle of the night so I slept in my clothes....." IJ

"My wife was allowed in for about 10 minutesthey threatened to keep her in and intimidated her so she didn't come again. However they didn't ask her to account for her movements..... I had not slept properly the night before. After the lunch break on the Tuesday they took me into a small room which was stuffy. I felt sick. They took me out into the yard where I was physically sick.....The desk sergeant called a doctor who came and examined me in the cell. He said it was probably just nerves....." BC

".....Two other detectives came into the room and said that they liked boys, young boys.....I was told to stand up and one of them said to me that the other guy (i.e. the detective) is 'queer'. Then one started putting his arms around me and said 'we'll dance'. He started to shove his hand inside my jumper and mentioned something about my having a 'flat tit'. He was also rubbing his leg up and down mine.....The other detective asked me did I know that he was trying to rape me..... I did not sleep for nervousness. They came over back and forth during the night looking at me..... When I was eventually released the detectives who interrogated me formed a line on either side and stopped next to me with files in their hands giving the impression that they were going to re-arrest me....." DE

"They stressed that they understood why [my husband] would have an affair with this woman since I was nearly 60 and no good for any man.....as they said this they were constantly laughing.....As I went out of the interview room there was a bunch of detectives outside. They started making sexual comments to me and started to dance along as I was walking saying 'right, left, right, left'.....Then they took me down to the cell and were debating whether to give me a blanket for the night. As they pushed me into the cell they said 'by the way, your son has been raped'....." EF

"Detective Z called my two kids two black IRA bastards and said that they would go over and arrest my girlfriend who was in hospital. The baby was five days old.....they said that my girlfriend was another black IRA bastard.....they kept abusing me with that.....I couldn't sleep as they were opening and closing other cell doors and shouting and roaring at other prisoners.....they would check on me every half hour or so and if I wasn't moving they would turn on the light....."¹¹ FG

"I was in a cell from 12.00am to 8.00am but they kept opening the door every 15 minutes or so and kept making noise so I was not able to sleep....."
CD

"They made heaps of sexual threats and accusations. One special branch man said: 'when you are doing your 40 years in Portlaoise (prison)those Provo bastards will be screwing the arse off you '.....'" GH

"Detective V on the Saturday made terrible racist remarks generally and in particular about my [adopted] children.....He said things like '[my husband] could not produce a Provo pup for you. He had to go all the way to Romania to get them.' He called the children 'niggers,' 'wogs,' 'tawneys,' and 'wops'. He called me a 'Provo sow' and said: 'How could anyone get on top of that'. He talked about a black man in and said that maybe I had a thing for 'niggers'. He said that the children would have been better off [where they had come from] and that they would be better off dead than with us....." AB

4. CONCLUSIONS

ICCL and BIRW fully accept that it is the duty of the Gardai to investigate the murder of Garda McCabe and the wounding of Garda O'Sullivan. We also realise that there are always likely to be strong feelings on the part of colleagues of a murdered police officer. But it is precisely after crimes that provoke intense anger among the public or police officers, that it becomes imperative to take immediate and effective precautions to ensure that there will be no abuse or ill-treatment of suspects.

It was in precisely such a climate of public outrage, after the Birmingham and Guildford bombings in Britain, that the miscarriages of justice in the Birmingham Six, the Guildford Four, and the Maguire Seven cases occurred. It should also be borne in mind that when there is ill-treatment of suspects in an investigation, one result may be that the guilty go free. A frightened and traumatised suspect may make a false confession or name other innocent parties as being involved in the crime with the result that the police either close their file, confident that they have got the right person, or head off entirely in the wrong direction.

The persons interviewed by the ICCL representatives were seen separately and except in the case of family members did not appear to have discussed their experiences with one another. Their accounts were detailed and persuasive. Some detainees had physical injuries or marks, consistent with their stories. One detainee's doctor, shortly after her release from custody, noted on examination the following injuries:

- 5 small bruises on right arm
- 1 large bruise (10cms x 12cms) on upper right arm
- 11/12 small bruises on left arm
- 1 large bruise (9cms x 7cms) on left arm
- 2 small bruises on the back

In the doctor's opinion, the injuries were consistent with the detainee's explanation as to how they had occurred. An ICCL representative also spoke to solicitors representing a number of those arrested. Those solicitors were able to confirm some of the allegations of ill-treatment.

If these allegations are true, then the conduct of the Gardai when investigating the murder of Garda McCabe and the wounding of Garda O'Sullivan, fell well below acceptable standards. The allegations made by those persons detained in Limerick would not only suggest that there was criminal misconduct by some Gardai but that some of the interviewing officers felt secure in the belief that their conduct was not being subjected to any scrutiny. We have already made the point that it was unwise to centre an investigation like this in the murdered Garda's own station. Feelings were likely to run high and inevitably there were going to be fears among the persons detained.

There is no indication that the Garda authorities took any steps to ensure that emotions were kept under control and were seen to be kept under control. We would have expected at the very least that a senior officer from Garda headquarters would have been appointed to take direct control of this investigation from the beginning so as to signal clearly both to Gardai and to the general public that the rules would be scrupulously observed in this case and that everyone's rights would be respected.

We are also very concerned at the highly political character of the remarks allegedly made by some of the interrogators and the implication that they felt that the current Government had somehow given them a licence to ill-treat suspects. Similarly the allegations that those officers seemed to regard the Special Criminal Court as somehow being "their" court, which would do what they want, is very disturbing.

The arrests and subsequent detention, of those persons interviewed by ICCL and the rumours and allegations of ill-treatment, have created a climate of fear and intimidation within the local community, so that it is felt that anyone associating with those persons who were arrested is likely to be arrested as well. Indeed, when an ICCL/BIRW representative (who is an experienced criminal barrister) went to Limerick in November 1996 to speak to some of those who had provided statements, she was herself effectively detained for one and a half hours in a Limerick hotel by a detective from Henry Street Garda Station.

The purported reasons for this detention were: that she had been seen in the company of "known subversives" (i.e. those persons who had provided statements regarding their treatment whilst in custody and whom she had arranged to meet); that the officer, in the course of

investigating criminal activity, wanted to search her file (which contained the confidential statements of the detainees); and that he was not satisfied as to her identity (despite having spoken to the Co-Chair of ICCL whom the officer knew in a professional capacity, and who had confirmed her identity and mission).

When the representative refused to hand over her file on the basis that ICCL had guaranteed the confidentiality of those statements, she was threatened with arrest and search under s.30 of the Offences Against the State Act, 1939, and a female Garda was summoned to the hotel, giving the impression that such a search was about to be carried out, though in the event it was not. The 'release' of our representative was only secured after the Co-Chair of ICCL had contacted the Justice Minister's Secretary and the European Committee for the Prevention of Torture and had informed the Chief Superintendent at Henry Street Garda Station that he had done so. In a subsequent statement to ICCL, our representative reported that throughout the period of her detention the detective behaved "in an extremely aggressive manner" which, despite being well accustomed to dealing with police officers, she found "very intimidating".

We felt and feel that this incident raises serious questions about the attitude of the Garda authorities towards bona fide human rights organisations investigating allegations of human rights abuses in the Republic of Ireland. We wrote to the Minister for Justice in December 1996 protesting about the treatment of our representative. We did not receive a substantive reply until 19 May 1997 and then only after we and a number of international human rights organisations, including Amnesty International, the Fédération Internationale des Ligues des Droits de l'Homme and the US Lawyers Committee for Human Rights, had all written to the Taoiseach and Tanaiste as well.

In her letter of 19 May 1997, the then Justice Minister, Ms Nora Owen, said that she had requested a full report from the Garda authorities about the incident and that, "following investigation", the Gardai were satisfied that the detective sergeant who had accosted our representative had behaved with courtesy and restraint and had acted properly at all times. In fact, far from seriously investigating the incident, the Garda authorities had not even bothered to contact ICCL, BIRW, or the representative herself about it.

The Minister suggested that if our representative was dissatisfied with the Garda investigation, she might complain to the Garda Síochána Complaints Board. However, since any investigation by the Complaints Board would be carried out by a Garda officer appointed by the Garda Commissioner and since the Garda authorities had already made up their mind about the incident without seeking her version of it, she saw no point in going to the Complaints Board.

As we indicated in the Introduction, ICCL raised the issue of alleged ill-treatment of persons detained in Limerick with the Minister for Justice in July 1996 after a preliminary investigation. A Garda Chief Superintendent then announced an internal investigation into allegations about the Limerick arrests. Justice Minister Nora Owen urged ICCL to forward complaints to the Garda Síochána Complaints Board and some of the individuals involved have done so.

However, we did not and do not feel that the Complaints Board is a satisfactory body to investigate this matter because (a) it is designed to deal with individual complaints rather than allegations of a sustained pattern of ill-treatment; (b) investigations on behalf of the Board are carried out by Garda officers - which would be particularly inappropriate in this case; and c) the CPT has criticised the composition of the Board and its tribunals - both of which include serving Garda officers - as likely to damage confidence in its impartiality. Indeed, we understand that in some cases where complaints were made by individuals to the Board, the officer appointed to investigate came from a Garda district adjacent to the village of Adare, where Garda McCabe was murdered. While we do not question the integrity of the officer concerned, this appointment serves only to confirm the impression that the Gardai are investigating themselves.

In any event, ICCL and BIRW believe that allegations such as those made to us in the course of this inquiry, which suggest a whole pattern of abusive behaviour rather than an isolated incident or incidents require a broader ranging inquiry than can be mounted by the Complaints Board and one which is clearly and demonstrably independent of both Gardai and the Government.

The result of the internal Garda investigation announced in July 1996 has never been officially announced but a leaked report published in a local Limerick newspaper almost one year later said that all the Gardai

involved had been cleared of any misconduct. The paper was quoting “a senior Garda source in Dublin”. The investigation was apparently carried out by a Chief Superintendent from outside Limerick but there was no indication of how many, if any, of the detainees he had interviewed. A secret internal investigation like this generates no confidence whatsoever.

The report in the *Limerick Leader* newspaper was in response to a call by Amnesty International in its annual report for a full and independent inquiry into the Limerick allegations and for the findings to be made public.

We very much welcome the call by Amnesty and we again request the Irish Government to set up a fully independent inquiry, headed by a judge and with High Court powers to summon and question witnesses, to investigate the treatment of persons arrested in Limerick following Garda McCabe’s murder. We believe that if alleged misconduct on the part of the Gardai is not properly and thoroughly investigated, it merely serves to bring the entire criminal justice process into disrepute.

We also call upon the international human rights organisations to whom we are sending this report to press the Irish Government to hold such an inquiry. If the Government fails to do so, we would urge the various international bodies to make their own inquiries into the allegations we have detailed and to closely question the Irish Government on how they propose to implement their pledge to the CPT to root out all abuses of persons in custody and to take the sternest action against the perpetrators of such abuse.

JULY 1997

¹ Under Ireland’s anti-terrorist law, the Offences Against the State Act, 1939, people can be held without charge and interrogated for 48 hours, as opposed to 12 hours under the ordinary criminal law (NB the Criminal Justice (Drug Trafficking) Act 1996 now allows for persons arrested in connection with drug trafficking offences to be detained for up to 7 days without charge). Persons charged with paramilitary linked offences are sent for trial before the Special

Criminal Court. This court consists of three judges sitting without a jury, though jury trial is required for all other serious offences under Irish law.

² Amnesty International Mission to the Republic of Ireland in June 1977. AI Index EUR 29/03/77.

³ Council of Europe - Report to the Irish Government on the visit to Ireland carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 26 September to October 1993 - CPT/Inf (95) 14. See also Response of the Irish Government to the Report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) on its visit to Ireland 1993 - CPT/Inf (95) 15.

⁴ A further statement was taken from an individual who was arrested some months later.

⁵ In The People (DPP) –v- Quilligan (No. 1) [1986] IR, the Supreme Court held that all persons who were arrested, including those arrested under s. 30 of the Offences Against the State Act 1939, must be informed of the offences in connection with which they have been arrested. Section 5 of the Criminal Justice Act 1984 requires that persons who are arrested must be informed of their right to consult a solicitor and the solicitor in question must be notified on the request of the detainees. Section 9 of the 1984 Act specifically applies these provisions to arrests made under s. 30 of the 1939 Act.

⁶ Article 9 (2) requires that “Anyone who is arrested shall be informed, at the time of their arrest of the reasons for his arrest and shall be promptly informed of any charges against him.” (Promptly as interpreted by the Human Rights Committee is “..... as soon as the charge is first made by the competent authority”). Principles on Detention, principle 13 requires :” Any person shall at the moment of arrest be provided by the authority responsible for his arrest with information on and an explanation of his rights and how to avail himself of such rights.”

⁷ See Regulation 20 (2): “No member shall use force against a person in custody except such reasonable force as is necessary”; see also Regulations 20 (3) and 20 (4) which govern reporting procedures to a superintendent if injury to a person in custody occurs and Regulation 20 (6) which requires a superintendent where he receives a report of a person in custody having been injured to “.....investigate the matter without delay or cause it to be so investigated.” The Supreme Court in Quilligan’s Case (see endnote 3 above) also laid down that an arrested person “must not be subject to any form of questioning which the courts would regard as unfair or oppressive either by reason of its nature, the manner in which it is conducted, its duration or the time of day, or of its persistence to the point of harassment *A fortiori* this applies to cases where the initial detention period of 24 hours is extended to 48 hours by virtue of the provisions of s. 30”

⁸ See Regulation 12 (1) Criminal Justice Act 1984 (Treatment of Persons in Custody in Garda Siochana Stations) Regulations 1987(the Custody Regulations): “Before an arrested person is interviewed the member conducting the interview shall identify himself and any other member present by name and rank to the arrested person.”

⁹ See s. 5 (1) Criminal Justice Act 1984: “Where a person not below the age of seventeen years is detained in a Garda Siochana station pursuant to section (4), the member of the Garda Siochana station in charge of the station shall inform him or cause to be informed without delay that he is entitled to consult with a solicitor ” See also Regulation 8 (1) (b) of the Custody Regulations: “The Member in charge shall without delay inform an arrested person or cause him to be informed that he is entitled to consult a solicitor.” See also article 14 (3) ICCPR and Principles of Detention, principle 17.

¹⁰ See Regulation 9 (2) (a) of the Custody Regulations: “ Where an arrested person has asked for a solicitor (i) the member in charge shall notify or cause to be notified the solicitoras soon as practicable and (ii) if the solicitor cannot be contacted within a reasonable time or if the solicitor is unable or unwilling to attend the station the person shall be given an opportunity to ask for another solicitor if the person asks for another solicitor the

member in charge shall notify or cause to be notified that other solicitoras soon as practicable.”

¹¹ Regulation 19(2) of the Custody Regulations: “A person in custody shall be allowed such reasonable time for rest as is necessary.”