

Consultative Group on the Past
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FAO: Lord Eames/Mr Denis Bradley

28th January 2008

Dear Lord Eames/Mr Bradley

**Consultative Group on the Past – Submission by the Police Federation
for Northern Ireland – 28th January 2008**

Introduction

The Police Federation for Northern Ireland represents 9,000 serving police officers in the Police Service of Northern Ireland. Of particular relevance is the fact that 6,000 officers currently serving joined the police service as members of the Royal Ulster Constabulary George Cross and have very direct experience of policing the troubles.

This submission also includes the views of the RUC GC Widows' Association. This Association represents the widows of 420 officers, including the majority of the 302 officers killed during the course of the past 30 years. A further twenty officers were murdered after they left the service, 70 committed suicide during service and 11,500 were injured.

The Federation appreciates the complexity of the task given to the Consultative Group. Our comments are designed to be helpful towards guiding the Group to a constructive report. However, in addressing the challenge it is worth recalling the comment of the American novelist and editor, William Maxwell, who observed that memory is "a form of storytelling ... in talking about the past, we lie with every breath we draw". The truth or otherwise of this insight goes to the heart of the work of the Consultative Group and illustrates succinctly the misgivings of the Federation in how any appointed body could successfully fulfil its remit.

During a consultation process it is inevitable that numerous ideas would and should be floated to see if they can be eliminated or taken up by others for debate before finding their way eventually into solid recommendations to Government. This is acceptable methodology. This submission therefore addresses some ideas aired to date. The Consultative Group has been at pains to declare that there is no interim report or even agenda. However, on the basis that it has also said 'nothing is ruled in or out' (Bradley) and 'asked to be judged on the published report' (Eames), we may be forgiven for taking this opportunity to say now what we don't want to see in the report as well as what we do.

War

First, we cannot accept a reclassification of the conflict of the past 30 years as a "war". To do so is to bring moral and legal equivalence to the security forces and the paramilitaries. Police officers joined the police not to defend Northern Ireland per se but to uphold the rule of law. If the status of Northern Ireland had been changed by the UK Government during the conflict or in the future through constitutional process, then officers would have to accept that result as the legitimate outcome of the democratic process. This is an important principle in the argument against calling the conflict a war. Secondly, and on a pragmatic basis, the threat from terrorism may have been deadly and ubiquitous, but for the majority of officers the bulk of their time was occupied with routine civil police duties. Police officers were armed for their own personal protection, not for offensive combat purposes and only because the republican paramilitaries in particular, chose to designate them as 'legitimate targets' (their terminology). Over a few months 14 officers were murdered by terrorists before officers were re-armed.

We must also look at why the conflict ended. From an early stage, perhaps earlier than they might care to admit, the PIRA leadership realised that a successful military outcome was impossible. While it took almost two decades for a political arrangement to be put in place, the main reason for the cessation of violence was the acceptance by the IRA Council that the political road was likely to prove more rewarding. One would hope that this lesson has been permanently taken on board by the IRA Council and that the pursuit of their national aims will always be confined to the out-workings of the democratic process.

However, the abandoning of the Armalite for the ballot box has not been marked by any notable contrition on the part of the paramilitary combatants. Rather their concern is to secure the reclassification as a war, preferably accompanied by an apology from the British Government for its role in trying to protect directly its UK citizens and indirectly the citizens of other countries. The lack of contrition is a major obstacle to forgiveness and reconciliation.

The British Government was legally and morally right to treat the paramilitaries as criminals. Their objective may have been political but their adoption of violence as the means to an otherwise legitimate aspiration is what criminalised them. Secondly, their choice of targets underscored their

criminality. Out of the 3,400 killed during the Troubles, the paramilitaries murdered over 2,400 civilians. The slaughter of civilians was a combination of their operational incompetence and utter disregard for the certainty of human collateral damage. Paradoxically, the granting of war status would demand that many of their murderous activities be reclassified as war atrocities for which in international law there can be no amnesty.

Amnesty

Considering the nature of their campaign, its illegality, its abhorrent and vicious tactics, followed then by the reluctant but utterly pragmatic resignation to democratic means over violence, the proposal of an amnesty is unacceptable to the Federation and the wider police family. The UK Government treated the paramilitaries as criminals; an amnesty removes this designation. Such a move may please the paramilitary principals but it immediately invites the legitimate state forces to review their own status during the conflict and to conclude that the award of amnesty explicitly signals official forgiveness for the atrocities of the terrorists. An amnesty would be a betrayal of the professional service of over 30,000 police officers, their families and every citizen (including Lord Mountbatten, at least four Members of the Westminster Parliament, several local councillors and political figures) all of whom were capable of distinguishing between the legitimate institutions and instruments of a democratically elected Government and ruthless terrorist organisations lacking a democratic, legal, moral or even historical mandate. Given that the UK Government has apologised for the Irish Famine and the Slave Trade, it is little wonder that the Federation and others view the UK Government as capable of disavowing any high principle if it thought an apology might advance a narrow self-interested political aim. We would strongly advise the Consultative Group against entertaining any recommendation for a trade-off in apologies between the British Government and the paramilitaries.

If there has been unacceptable wrong-doing (allowing for the reality of managing informants) by the security forces and security services on the sanction of the Government then the Federation would condemn any such law-breaking.

Neither could we accept that the sacrifice of our members can be bound up in such an apology as to be dismissed as a casualty of political expediency. These comments also apply to the so-called “on-the-runs”. The Federation, the Widows’ Association and the parents of murdered police officers met the then Prime Minister Tony Blair at the end of 2005 and very forcefully pressed upon him the injustice of the proposed on-the-run legal measure which would have constituted, effectively, an amnesty. We derived considerable satisfaction when he dropped the proposal.

A TRC Model

The Federation is not persuaded by the calls for a Truth and Reconciliation Commission (TRC), or truth recovery body, international, internal to organisations or institutions. We are aware that there are or have been some

40 international examples of such bodies operating with some measure of success and there would not be a prescriptive model adopted for Northern Ireland. Even so, after some consideration we remain sceptical for the following four main reasons:

- 1 We do not see any incentive for the paramilitaries to come forward and to detail their part in past atrocities or events. The imposition or serving of two year prison sentences under the 1998 Belfast Agreement, no matter how serious the crime, removed the threat of offenders having to serve lengthy or even life sentences, upon eventual discovery. By contrast police officers would be duly obliged to participate through professional inclination.
- 2 Northern Ireland has a population of only 1.75m. Neighbour knows neighbour and we suggest that confirmation of who set up whom for murder may be too much for many people to bear. We foresee large social problems with the potential for the violence of retribution lasting beyond the immediate generation. Other countries with experience of TRCs tend to be considerably more populous and much larger geographically; South Africa has a population of over 47m, thus reducing the scope for friction between perpetrators and victims.
- 3 Truth, like history, belongs to the victors. In Northern Ireland there was no decisive victory, in the sense that no side was vanquished to the extent that it could not participate in the future governance of Northern Ireland. As a result there may be (precarious) agreement on how Northern Ireland should be governed but there has been no change of mind either at individual, societal or party political level about the issues which brought about the conflict. The conflict is now fought through political demands and assertions – Irish Language Act, Conflict Memorial at the Maze, marching rights, post-primary educational arrangements etc.

In recalling how events happened and the role of the various actors, there can be no expectation that a single truth will meet a general acceptance across the community. One has only to look at the heinous nature of the atrocities committed to believe that it is unlikely that anyone involved would be prepared to come forward to describe their participation.

We also see only limited value of truth-telling in private. Unless the process is public, the verification of evidence will be difficult and a public process creates its own difficulty of fomenting open and entrenched disagreement among witnesses. A story-telling opportunity might be more appropriate.

While it is not popular to argue the “draw the line in the sand” argument ie let time and nature take its course, it is the view of the Federation that Northern Ireland is not ready for a truth recovery body, no matter how customised.

We note that one of the criteria of the Consultative Group is “the resources that could be required to implement any recommendations that it makes”. The Saville Inquiry (according to the Belfast Telegraph) with its expenditure of £174m, ten years and 900 witnesses, to recover the truth of the deaths of 14 people, illustrates the scale of the problem of devising a truth recovery mechanism to decide the circumstances of the other 3,400 lost lives.

- 4 It is difficult not to seem cynical by noting that the major proponents of a truth recovery/truth and reconciliation forum or mechanism can be grouped into three categories. First, the republican paramilitary community (more so than the loyalist paramilitary groups) because they see this as an opportunity to rewrite history, “to prove” that they were soldiers engaged in a war. They would also hope to prove that they were the victims of rampant state collusion that undermined their operational integrity. (The word ‘collusion’ has been so widely defined by Judge Cory as to have lost any legal value).

One may ask: when are they going to acknowledge that their own leaders have been colluding for over 25 years with the Government in how they could get off their military hook and on to the political road? Collusion was rife among all paramilitaries and at all levels and played an important part in minimising the loss of life. A forum which gives free rein to wild claims and self-serving assertions has no place in any barely settled constitutional context and will put public and political focus on the past and not on the future.

The second group seeking TRC arrangements are lawyers and academics. No matter how objective academics might seem to be, their analyses always point to urging the Government to create some form of TRC. In a similar vein, for the lawyers their self-interest as demonstrated by the Saville Inquiry is obvious. The “truths” of the past may indeed seep out naturally over time. The Federation believes, however, that this ad hoc process can be responded to and managed at considerably less financial and emotional cost in a civilised manner more so than through any TRC facility. Thirdly, the UK Government may be tempted to view a TRC as providing a tidying up opportunity on the past, a way of writing and closing a last chapter on a book.

From such an organised perspective this may be inviting but far from tying up the past neatly, the whole bundle of events, hatreds, atrocities, un-reconciled politics and emotions may actually unravel.

The Government should concentrate on allowing the politics of Northern Ireland to stabilise so that peace becomes the norm. In making this point the Federation must remind the Government – and make the Consultative Group aware – that the threat of violence from dissident republicans is higher now than at any time over the past five years. We urge caution in making any recommendations which would

re-open wounds (rather than healing them) to the extent that recruitment is encouraged to the ranks of the dissidents who would thrive on further evidence of a fractured society. The Group should also note that the paramilitary groups in both communities continue to recruit and in loyalist areas retain their power base.

Truth and Justice Demand

The demand for truth and justice spans both communities. The unpalatable fact is that post-troubles we can expect neither. The Consultative Group has simply not got within its gift to deliver what many would regard as the only thing which would bring them closure on the past - the conviction through the courts of the perpetrators of atrocities or other crimes. In Government there is not the political will to pursue the on-the-runs or to investigate the past crimes of leading political figures or even lesser players. In that respect it is both surprising and hypocritical that Sinn Fein calls for truth recovery.

Recommendations

The Federation appreciates that so far we have been negative in our views of many of the ideas being put to the Consultative Group. However, we do have what we hope are positive suggestions to make.

We all need to remember the inescapable and bleak fact that victims are just that: victims. They serve a life sentence trapped by circumstances not of their making and usually simply by being in the wrong place at the wrong time. Police officers and their families are innocent victims. They chose to work to uphold the rule of law and to preserve a democratic process which would have allowed others to pursue political aspirations by non-violent means if they had so wished.

Story-telling

Despite our reservations on the truth recovery/reconciliation argument we do believe that further and separate study needs to be made of how a non-legalistic forum might be configured, one that permits story-telling by victims and survivors as a respectful acknowledgement by society of the enormous hurt they have suffered.

Previous Victims' Reports

The Consultative Group can and should make recommendations to ensure that the financial, material and physical needs of victims are met. That means revisiting the Bloomfield Report recommendations and the Interim Victim Commissioner's work and re-examining the resources of the Police Fund and the Police Rehabilitation and Retraining Trust.

A similar review should be made of the non-police equivalent civilian help organisations, particularly with a view to co-ordinating and even rationalising their organisations. This might mean a one-stop panel to assess victims' needs and to signpost directions to help. The Federation and the Widows' Association would welcome access to a sympathetic panel of experts – in the case of police victims – to include at least one representative with a police background. Such panels might bridge the evident gap between the inflexibility of Government rules on support and the needs of victims - which change over time.

But the most difficult area to address is the mental anguish which is the life sentence of the victims, the bereaved and those disabled physically and wounded in mind. More extensive and professional healthcare resources need to be available to address trauma and to provide access to services ranging from expert counselling and treatment to simple companionship.

HET/PONI

We would like Government to review the work of the Historical Enquiries Team and the Police Ombudsman for Northern Ireland. Ironically, it was the Federation that drove the campaign to have the unsolved murders of the troubles reinvestigated.

However, what we envisaged as an information sharing exercise on the circumstances of the killings with the relevant families has taken on a disproportionate and aggravating life of its own. The Federation knew from the beginning that the prospect of closure for families through conviction on new evidence was never going to happen. Yet, an unlimited budget would not address the needs of the HET while they continue on their present course. In the meantime, current policing need is in risk of being de-prioritised and under-resourced.

Similarly, what useful purpose is now being served by a Police Ombudsman's Office that is required to look into allegations of police failure from many years ago and certainly pre-Belfast Agreement? None of these hindsight laden inquiries has produced evidence capable of securing a conviction but they have created unrealistic expectations among complainants because of PONI failure to distinguish between evidence and conjectured inference. Despite the protestations of the investigators, these inquiries judge the police at that time according to the standards of today conveniently ignoring the scale of the mayhem, the lack of resources and the community hostility which prevented successful detection and conviction in the first place.

The Federation expects police officers to be pursued for wrongdoing, no matter how far back, provided the evidence is there and it is still in the public interest to do so.

On the present record of PONI into historic cases, we cannot see that the public interest is being served and therefore the remit of PONI should be time limited to very recent and current cases only. Unless officers have behaved illegally they are entitled to a life and a retirement free from the past.

We also believe that outstanding coroners' inquests should become closed files. After the lapse of so many years there is little that can usefully be established and the context in which deaths took place is no longer understood.

Post Traumatic Stress Disorder (PTSD) Case

The Consultative Group will be aware that the largest civil class action in legal history was taken by the Federation against the Chief Constable for failing to address the incidence of PTSD among some 5,000 officers. The decision by the Judge largely vindicated the action of the Federation but to date the Chief Constable and the Northern Ireland Office have refused to enter into discussions which would agree compensation arrangements with those officers who may be covered by the scope of the judgement. These officers are the victims of an unsympathetic Government (more so than the Chief Constable who is understandably concerned by the financial implications of settlement if not reimbursed by the NIO). We ask that the Group should call upon the Government to put an end to the deadlock and enter into an administrative process which would allow officers and their families to move on. Indeed Mr Justice Coughlan has made such a suggestion as recently as 25th January 2008 regarding consequential orders and directions of the Group Action case.

A Memorial

The Federation and the police family have their own memorial (at Police Headquarters) to our colleagues who made the ultimate sacrifice. We would share the view that a more generic memorial might be appropriate for the wider community. We urge caution as to what form that might take. For example, the often cited Vietnam memorial in Washington is a wonderful and awe-inspiring acknowledgement of sacrifice but of course there are no Viet Cong names on the black granite. In Northern Ireland a living neutral memorial without names is more likely to prove successful. Victims, survivors and their families and those who emerged from the troubles, relatively in the literal sense unscathed, could then look or access it from whatever private and personal perspective they hold dear.

Distinguishing between Victims

We have in this submission made no distinction between victims, called for a hierarchy of victims for priority purposes or sought to define who qualifies as a victim. This is a difficult area for us, as in our view (and for most people) terrorists authored their own misery as well as

bringing grief to the innocent. However, if we are to seek a more civilised future, deliberate or incidental inequality of treatment of families from whatever quarter, in any of the Consultative Group's recommendations will serve only to allow grievance to be inherited to the eventual detriment of stable society.

Respect for Victims

The clock cannot be turned back. The Consultative Group has more prospect of success in addressing the tangible needs of victims and their families. But for most people nothing can erase the searing memories of the past. Each handles their emotions in their own way. For the Police Federation and our Widows' Association we can take pride and some comfort from the fact that our colleagues and loved ones died or were injured upholding the law. Please do not take that away from us.

The Group therefore, in listening to all interests, must ensure that in trying to be inclusive and delivering a common denominator of recommendations that the sacrifice of the servants of the state and the ordinary citizens is acknowledged, respected. And always will be.

Yours sincerely

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Chairman