

STATEMENT OF CASE TO DESIGNATE THE CONTINUITY IRISH REPUBLICAN ARMY AS A TERRORIST ENTITY

Purpose

1. The purpose of this paper is to set out the case demonstrating the Continuity Irish Republican Army ("CIRA") meets the statutory criteria for designation as a terrorist entity within New Zealand pursuant to the Terrorism Suppression Act 2002 ("TSA").
2. The paper concludes that the CIRA meets the criteria for designation as a terrorist entity under the TSA.

Structure of this paper

3. This paper sets out background information about the CIRA covering various aspects of the organisation including its objectives, tactics, weapons and structure, before detailing two case studies of recent attacks which meet the definition of a terrorist act under the TSA.
4. The discussion preceding the case studies provides background about the CIRA which helps inform the analysis of the specific attacks in the case studies below. The attacks detailed in the two case studies represent recent and serious attacks claimed by the CIRA. It is these two attacks that have been analysed as meeting the definition of a "terrorist act" under s 5 of the TSA, and which provide the basis for the paper's conclusion that the CIRA meet the statutory criteria for designation as a terrorist entity under the TSA.

Statutory criteria for this designation under the TSA

5. The Prime Minister has the power under the TSA to designate individuals or groups as terrorist entities. Section 22 provides that the Prime Minister may designate an entity as a terrorist entity if the Prime Minister believes on reasonable grounds that the entity has knowingly carried out, or has knowingly participated in the carrying out of, one or more terrorist acts.
6. A terrorist act is defined in s 5 of the TSA. A number of different acts fall within this definition. The s 5 criteria relevant to this paper are those which deem an act to be a terrorist act if that act:
 - a. Is intended to cause the death of, or serious bodily injury to, one or more persons; and
 - b. Is carried out for the purpose of advancing an ideological, political, or religious cause; and
 - c. Is intended to either:
 - i. Induce terror in a civilian population; or

- ii. Unduly compel or force a government or an international organisation to do or abstain from doing any act; and
- d. Is not an act that occurs in a situation of armed conflict and which is, at the time and in the place that it occurs, in accordance with rules of international law applicable to the conflict.

Credibility of Sources

- 7. This paper has been prepared using open or unclassified sources which have a reputation for careful and unbiased reporting. These are: Royal United Services Institute (RUSI); Jane's Terrorism Monitor ("Jane's"); Reuters; the BBC, The Guardian, The Economist and The New York Times. This paper also utilises reports from the Independent Monitoring Commission ("IMC"). The formal task of this Commission set up under articles four and seven of an agreement between the Government of the United Kingdom and the Government of Ireland, is to "monitor the remaining threat from the paramilitary groups...".¹ Its informal task is to reassure all sides that developments in the paramilitary sector are known, understood and if necessary, being countered.

Background

Establishment of the CIRA

- 8. The CIRA, a Nationalist Separatist Group, was formed in early 1995. It was one of several splinter groups² that emerged in Northern Ireland following the declaration of a ceasefire by the Provisional Irish Republican Army ("PIRA") in 1995 and its decision to abandon violence and instead pursue its goals by political means, through Sinn Fein. The gap left by the PIRA facilitated the emergence of the CIRA which has stated its intention to continue the campaign against British rule through violent means.³ The CIRA refuses to recognise the legitimacy of the political approach taken by Sinn Fein; it sees Sinn Fein as betraying its campaign against British rule through violent means; and refuses to acknowledge the 'Good Friday' political settlement reached in 1998.⁴ This settlement commits all participants (British, the Loyalists and the Republicans) to exclusively democratic and peaceful means of resolving differences.
- 9. In 1996, the CIRA displayed its capability when, in its first major attack, it destroyed a hotel in County Fermanagh with a bomb reported to contain more than 1,200lbs of explosives.⁵ From 1996 to 1998, the CIRA was linked to a number of major car bombings and minor attacks as it tried to disrupt the peace process.⁶
- 10. Since its inception, the CIRA has never called a ceasefire and as recently as June 2010 stated that it does not intend to.⁷ Jane's and the IMC consider the CIRA remains a major threat in Northern Ireland.⁸
- 11. The CIRA has been designated as a terrorist organisation by the United States⁹ and the United Kingdom¹⁰ and has been listed by the European Union,¹¹ Australia and Canada for asset freeze purposes.

Organisation and structure of the CIRA

12. The number of active CIRA members is estimated by Jane's to be between 50 and 80.¹² Membership is made up of individuals who have a long standing commitment and investment in continuing the Republican struggle through violence. These individuals oppose the Good Friday agreement, do not agree with the political approach taken by Sinn Féin, subscribe to a radical ideology and are capable and experienced in both bomb making and the tactics of terrorism.¹³
13. The CIRA continues to recruit new members, who make up the remainder of its membership.¹⁴ These tend to be young men with no previous police records or PIRA background, possibly because these individuals are easier to indoctrinate and more difficult for police and security services to identify. Members of the CIRA are mainly located in the Belfast, Fermanagh, Newry and Craigavon areas in the North and in Dublin, North Louth and Limerick in the South.¹⁵
14. The CIRA continues to evolve and develop its membership, structure and capability. The CIRA is motivated and committed but has limited operational capability due to its size. It relies on individual Republican dissidents¹⁶ and other dissident groups (mainly the RIRA)¹⁷ to periodically boost its capability and fill tactical deficiencies. This pool of experience and assistance which the CIRA can draw on increases the threat posed by the group.¹⁸
15. At the same time, the IMC indicates some disunity¹⁹ and a lack of central strategic focus within the CIRA.²⁰ This is likely due to factionalism within the dissident Republican movement in Northern Ireland.²¹ The level of cooperation between the CIRA and other dissident groups within Northern Ireland suggest the possibility that there may be room, in the future, for consolidation of these groups into a more structured, centrally controlled and strategically focused group similar to the PIRA.

Ideology/objectives

16. The CIRA does not adhere to a strict centrally controlled ideology in the way the PIRA used to.²² Its central aim is to remove British control from Northern Ireland and re-establish a 32-county republic²³ through the use of violence.²⁴ It holds to the idea that no current parliament or assembly in either Dublin or Belfast carries any legitimacy.

Weapons, Tactics and Capability

Weapons

17. There are limited details known about the weapons possessed by the CIRA. It has access to firearms, likely to be M-79 grenade launchers and military styled semi-automatic rifles, although the quantity in its possession is unknown.²⁵ It is likely that these are obtained through arms supply lines established through the Balkans.²⁶ Some of the CIRA's weapons may also be smuggled from the United States.²⁷ The CIRA continue to procure weapons, produce explosive devices and train members in the use of these.²⁸ It is possible that the CIRA have acquired

some weapons and other explosive materials from individuals who joined the organisation after leaving the PIRA when it abandoned violence, although the quantity is difficult to verify.²⁹

18. The CIRA has some expertise in manufacturing explosive devices and has proven its ability to construct, place and detonate these, some of which have been large. Its bomb makers are likely to be former members of the PIRA, a proposition supported by the fact that the CIRA's devices are similar to those used by the PIRA in the early 1990's.³⁰ It is possible some of these bomb makers are not current CIRA members but may be providing the CIRA with 'ready to use' devices.³¹
19. The CIRA targets the British military forces, Northern Ireland security forces, members of the Police Service of Northern Ireland ("PSNI") and Loyalist paramilitary groups. It has, in the past and very recently, stated that it considers "anyone who supports the crown forces to be legitimate targets."³² This makes a large percentage of the population in Northern Ireland potential CIRA targets.
20. The CIRA have recently stepped up their targeting of PSNI members; between the time that it killed PC Carroll, a PSNI Officer on 9 March 2009 [see paragraphs 26 to 28 below], through until the end of October 2009, there were 11 attempts to kill other PSNI officers and 38 officers and families were rehoused due to threats from dissident Republicans, some of which were attributed to the CIRA.³³

Tactics

21. The CIRA uses the tactics of terrorism as an integral part of its campaign. It instils fear in the general public by displaying its ability to target individuals through assault and violent intimidation, often in connection with perceived anti-social behaviour.³⁴ It is involved in serious criminal activities such as extortion, robberies, "fuel laundering"³⁵, drug dealing, "tiger kidnapping"³⁶ and brothel keeping.³⁷
22. It targets members of the PSNI and security forces through bombings and assassinations. Some of these bombs are large and are planted in public areas. On most occasions the CIRA makes telephone warnings regarding the location of these devices. This not only necessitates the use of extensive PSNI and security force resources to respond to these threats, but it affects large numbers of civilians who are often evacuated as a result. This acts to remind the public what the organisation is capable of.
23. The PSNI take a cautious approach when attending scenes where the CIRA have provided a telephone warning of a bomb threat. This is a result of the CIRA's increased targeting and gathering of intelligence on members of the security forces and PSNI,³⁸ and the known tactic of the CIRA to orchestrate a scene in order to target PSNI members who respond. Consequently, the PSNI take time to ensure their safety before responding to a threat. It is possible this tactic has been successful in decreasing public confidence in the PSNI, with some evidence

suggesting local people have criticised the slow police response in dealing with these threats.³⁹

Capability

24. In its most recent report on 26 May 2010, the IMC concluded that the CIRA continues to put considerable effort into improving its terrorist capability through recruitment, training and the acquisition of weapons, concluding that it remains a serious threat.⁴⁰ The CIRA's recent activities suggest it is intent on targeting and capable of killing members of the PSNI and other security personnel. The IMC considers the killing of PC Carroll [see paragraphs 26 to 28 below] to show "evidence of commitment to terrorism, determination and careful planning" by the CIRA.⁴¹
25. The seriousness and incidence of CIRA attacks and activities has recently increased. The PSNI consider the threat in Northern Ireland from dissident Republicans to be higher now than at any time since the Omagh bomb in 1998,⁴² the IMC consider the threat to be the highest since it first met in 2003.⁴³ In June 2010, the CIRA declared its plans to step up its terrorist campaign against security forces in Northern Ireland and has made it clear that it will only negotiate with the British Government in the event it declares its intention to withdraw from Northern Ireland.⁴⁴ This is unlikely due to the political investment in and support for the peace process within Northern Ireland. With the CIRA opposed to any level of negotiation (except on its own terms), it is unlikely to concede defeat in the near future.

Case Studies

Murder of PC Carroll in Craigavon on 9 March 2009

The Facts

26. On 9 March 2009, PC Carroll, a PSNI Officer, was shot while he sat in an unmarked patrol car.⁴⁵ At the time, PC Carroll and another officer were responding to an emergency call from a distressed woman who said her house was being attacked in the Lismore Manor area of Craigavon, County Armagh. PC Carroll was killed as a result of the attack.⁴⁶
27. The CIRA claimed responsibility for the murder of PC Carroll,⁴⁷ and in its public statement said; "As long as there is British involvement in Ireland, these attacks will continue".⁴⁸ This was the first murder of a Police Officer in Northern Ireland since 1998, and the first of a member of the PSNI since the force was established in 2001.
28. The murder appeared to be planned, the call from the woman used as a way to draw the police into the area so that one or more officers could be killed. The CIRA have a long history of targeting PSNI members⁴⁹ and continue to make public threats against PSNI members who they consider to be legitimate targets.⁵⁰ On 23 March 2009, two people were charged with the murder of PC Carroll.⁵¹

The attack meets TSA criteria for designation

29. The shooting of the PSNI officer in Craigavon is consistent with the definition of a terrorist act under s 5 of the TSA.
30. The targeted nature of the officer's murder clearly shows an intention to cause the death or serious bodily injury of the civilian officer (s 5(3)(a) TSA). The shooting is one of a number of attacks on PSNI officers carried out by the CIRA since 2009 and there are signs of decreased public confidence in the PSNI as a result (see paragraph 23 above). The pattern of attacks and the use of extreme violence serve as a regular reminder to the general public of what the CIRA are capable of, and represent an attempt to induce terror in the civilian population (s 5(2)(a) TSA). The CIRA has stated its intention to continue the campaign against British rule in Northern Ireland through violent means. It considers the PSNI to be a legitimate target in this campaign. This attack is thus an example of the CIRA's pursuit of its objective to compel, through the use of violence and terror against the civilian population, the removal of the British presence in Northern Ireland (s 5(2)(b) TSA). This shooting was therefore also carried out with the purpose of advancing the CIRA's own ideological/political cause (s 5(2) TSA).

Landmine attack on PSNI patrol in Rosslea area, County Fermanagh - June 2008

The Facts

31. On 14 June 2008, a PSNI patrol was targeted by a landmine while on duty in the Rosslea area of County Fermanagh. Two police officers escaped serious injury when the mine, reported to consist of a substantial amount of home made explosives and controlled by a command wire,⁵² only partially exploded.⁵³
32. The CIRA were reported to have claimed responsibility for this attack,⁵⁴ described as attempted murder by the PSNI's Chief Superintendent.⁵⁵ The IMC, in its Twentieth Report made particular reference to this attack and concluded the "CIRA was active in the period under review"⁵⁶ and that it "focused particular efforts on attacks on members of the PSNI which could have resulted in the loss of life."⁵⁷
33. The CIRA have a long history of targeting PSNI members⁵⁸ and continue to make public threats against members who they consider to be legitimate targets.⁵⁹

The attack meets TSA criteria for designation

34. The landmine attack on the PSNI patrol in Rosslea is consistent with the definition of a terrorist act under s 5 of the TSA.
35. The planting of the landmine and its detonation when the patrol was passing clearly shows an intention to cause the death or serious bodily injury of the civilian officers (s 5(3)(a) TSA). The CIRA has stated its intention to continue the campaign against British rule in Northern Ireland through violent means. It considers the PSNI to be a legitimate target in this campaign. This attack is thus an example of the CIRA's pursuit of its objective to compel, through the use of

violence and terror against the civilian population, the removal of the British presence in Northern Ireland (s 5(2)(b) TSA). This attack was therefore also carried out with the purpose of advancing the CIRA's own ideological/political cause (s 5(2) TSA).

LAW OF ARMED CONFLICT

The law of armed conflict exemption

Is there an armed conflict and are CIRA members combatants?

36. For the s 5(4) exemption to apply, two conditions must be satisfied. First that there is a state of armed conflict currently in Northern Ireland and second that the attack accords with the law of armed conflict ("LOAC"). If one of these conditions is not met, the exemption does not apply.
37. An internal armed conflict exists where the conflict is fought between government forces and opposing non-state forces, or amongst armed groups, none of whom qualify as a legitimate government. Additional Protocol II (1977) to the 1949 Geneva Conventions adopted a higher threshold, requiring the insurgent forces fighting the government to be under responsible command and to control territory such that it would be able to implement the Additional Protocol. Such violence may even be classified as an international armed conflict when peoples are fighting against colonial domination, alien occupation or racist regimes in the exercise of their right to self determination.⁶⁰ LOAC distinguishes, however, between armed conflict and other internal disturbances or tensions such as riots and isolated and sporadic acts of violence.
38. Although the CIRA uses language suggestive of an armed conflict against the United Kingdom the situation is one of sporadic violent activity by the organisation. The CIRA's attacks began in 1996 and they have not considered themselves bound by the Good Friday agreement. A number of bomb attacks have been claimed by and/or attributed to CIRA. There is not however evidence of violence that has reached a degree of intensity and continuity on the part of either CIRA or the Northern Irish / UK authorities that would bring the situation within the meaning of "armed conflict."
39. Given there is no situation of armed conflict, the exemption in s 5(4) cannot apply to CIRA's attacks detailed in the case studies.
40. Even if it is accepted that there is a current armed conflict, the second threshold for applying LOAC is also not met. Only combatants⁶¹ have the right to conduct attacks in accordance with LOAC. This generally means members of armed forces, however irregular forces can still qualify provided that they distinguish themselves from the civilian population while engaged in an attack or operations preparatory to an attack.⁶² The CIRA, by not distinguishing itself from the civilian population during operations (attacks are covert or carried out remotely) or conducting its operations according to LOAC, does not qualify for combatant status.⁶³ Furthermore there is no evidence of a responsible internal disciplinary system within the CIRA which enforces compliance with LOAC.⁶⁴ Again, this means that the exemption in s 5(4) cannot apply.

The case studies

41. For completeness, even if the two threshold questions were answered in the affirmative and LOAC did apply to CIRA, in both instances detailed in the case studies, CIRA has breached LOAC in two respects.
42. First, both attacks were clearly targeted against policemen. Members of the police, unless integrated into the armed force, are civilians. This breaches the LOAC principle of distinction – that attacks on enemy combatants and military objectives are lawful, whereas attacks on the civilian population, civilian objects and people rendered *hors de combat*⁶⁵ are not.
43. Second, “terror attacks” are prohibited by LOAC.⁶⁶ Although the attacks in question were directed solely toward members of the PSNI, the circumstances of these attacks and the threats that accompany them were also clearly meant to send a terrorising message to the population.

¹ For further details, see Annex 1 to the 23rd Report of the Independent Monitoring Commission. This can be found at <http://www.independentmonitoringcommission.org/documents/uploads/23.%20Twenty-Third%20Report.pdf>

² Dissident Republicanism in Northern Ireland is factionalised, and includes the Real Irish Republican Army, the Irish National Liberation Army and Oglagh na hEireann (ONH is a name sometimes used by one of the factions within the RIRA. It is also the name of a second and independent group of dissident republicans located around the town of Strabane.)

³ In an interview on 6 June 2010, the newly elected chairman of the CIRA army council said "there should never be anything but a campaign of military force against the British while they remain in Ireland." and "It is the job of the CIRA to pursue war against the British." See "Northern Irish group vows to keep up war on UK - report", Reuters, dated 6 June 2010 <http://uk.reuters.com/article/idUKTRE6550Y320100606>

⁴ The Good Friday agreement endorsed by the people of Ireland, North and South, in referenda held simultaneously on 22 May 1998. The Agreement represented an historic breakthrough. It commits all participants to exclusively democratic and peaceful means of resolving differences. Participants in the multi-party negotiations recognised it as a historic opportunity for a new beginning for relationships within Northern Ireland, between North and South, and between Britain and Ireland. It envisages a future based on the acceptance of diversity and on the principles of partnership, equality and mutual respect, clearly committing the participants to “the achievement of reconciliation, tolerance, and mutual trust, and to the protection and vindication of the human rights of all”.

The Agreement provided for the establishment of new institutions, across three “Strands”:

- an Assembly and Executive within Northern Ireland to exercise partnership government based on equality
- a North/South Ministerial Council to develop co-operation and action within the island of Ireland
- a British-Irish Council to promote mutually beneficial East/West relationships.

It also included measures to uphold the protection of human rights and equality and to deal with the consequences of conflict. In addition, it mapped the way forward with major new initiatives in the crucial areas of policing and justice.

⁵ The attack injured 17 people when the bomb exploded minutes after the hotel was evacuated. See:

- BBC "Who are the dissident Republicans?" dated 23 August 2010, last accessed 26 August 2010 <http://www.bbc.co.uk/news/uk-northern-ireland-10732264> and;
- Jane's Terrorism and Insurgency, report "Continuity IRA" dated 16 July 2009, last accessed 19 July 2010, page 7, available on subscription.

⁶ See:

- See above, note 5, point 2; Jane's Terrorism and Insurgency, report "Continuity IRA - Chronology of major events" page 7.

⁷ The Sunday Times "CIRA vows to step up terror spree" dated 6 June 2010, last accessed 13 July 2010 <http://www.timesonline.co.uk/tol/news/world/ireland/article7144939.ece>

⁸ See:

- The Independent Monitoring Commission, Twenty Third Report, paragraph 2.15, dated 26 May 2010, last accessed 19 July 2010; <http://www.independentmonitoringcommission.org/documents/uploads/23.%20Twenty-Third%20Report.pdf> and;
- See above, note 5, point 2; Jane's Terrorism and Insurgency, report "Continuity IRA", page 2.

⁹ U.S Department of State "Foreign Terrorist Organizations"

<http://www.state.gov/s/ct/rls/crt/2008/122449.htm>

¹⁰ U.K Home Office "Proscribed Terrorist Groups"

<http://www.homeoffice.gov.uk/publications/counter-terrorism/proscribed-terror-groups/proscribed-groups?view=Binary>

¹¹ Official Journal of the European Union "Council Common Position 2005/847/CFSP 29 November 2005: http://eur-lex.europa.eu/LexUriServ/site/en/oj/2005/l_314/l_31420051130en00410045.pdf

¹² See above, note 5, point 2; Jane's Terrorism and Insurgency, report "Continuity IRA".

¹³ The Independent Monitoring Commission, First Report, dated 20 April 2004, last accessed 19 July 2010. <http://www.irishtimes.com/newspaper/special/2004/imcreport/imcreport.pdf>

¹⁴ See above, note 8; The Independent Monitoring Commission, Twenty Third Report.

¹⁵ See above, note 8; The Independent Monitoring Commission, Twenty Third Report.

¹⁶ These tend to be individuals unaffiliated with any particular dissident group but committed to the same cause.

¹⁷ Dissident Republicanism in Northern Ireland is factionalised, and includes the Real Irish Republican Army, the Irish National Liberation Army and Oglagh na hEireann (ONH is a name sometimes used by one of the factions within the RIRA. It is also the name of a second and independent group of dissident republicans located around the town of Strabane.)

¹⁸ See:

- The Independent Monitoring Commission, Twenty Second Report, dated 4 November 2009, last accessed 19 July 2010, page 9; <http://www.independentmonitoringcommission.org/documents/uploads/Twenty-Second%20Report.pdf>
- BBC "Irish Police 'battle' dissidents: dated 7 March 2010, last accessed 13 July 2010 http://news.bbc.co.uk/2/hi/uk_news/8553970.stm
- BBC "Dissident threat level increases" dated 22 April 2010, last accessed 11 May 2010; http://news.bbc.co.uk/2/hi/uk_news/northern_ireland/8638255.stm

¹⁹ The Independent Monitoring Commission, Twenty Second Report, dated 4 November 2009, last accessed 19 July 2010, paragraph 2.18;

<http://www.independentmonitoringcommission.org/documents/uploads/Twenty-Second%20Report.pdf>

²⁰ See above, note 13; The Independent Monitoring Commission, First Report.

²¹ Dissident Republicanism in Northern Ireland is factionalised, including the RIRA, the Irish National Liberation Army and Oglagh na h-Eireann.

²² "No way back? Examining the background and response to the rise of Dissident terrorist activity in Northern Ireland" RUSI Journal April 2009, Vol. 154, No. 2 pp. 50-55 by Margaret Gilmore, available on subscription.

²³ In the republican tradition, reference is often made an 'Ireland of 32 counties' it being immediately understood that the 32 counties comprises the 26 of the Republic of Ireland and the 6 of Northern Ireland.

²⁴ See above, note 5, point 2; Jane's Terrorism and Insurgency, report "Continuity IRA".

²⁵ See above, note 5, point 2; Jane's Terrorism and Insurgency, report "Continuity IRA".

²⁶ See above, note 5, point 2; Jane's Terrorism and Insurgency, report "Continuity IRA".

²⁷ See above, note 5, point 2; Jane's Terrorism and Insurgency, report "Continuity IRA".

²⁸ See above, note 8; The Independent Monitoring Commission, Twenty Third Report.

²⁹ The Telegraph "Northern Ireland shootings: A profile of the Continuity IRA" dated 11 March 2009, last accessed 4 August 2010 <http://www.telegraph.co.uk/news/uknews/northernireland/4968775/Northern-Ireland-shootings-A-profile-of-the-Continuity-IRA.html>

³⁰ See:

- See above, note 18, point 3; BBC "Dissident threat level increases" and;
- The Independent "Northern Ireland terror threat is 'highest since Omagh attack'" dated 23 April 2010, last accessed 11 May 2010 <http://www.independent.co.uk/news/uk/crime/northern-ireland-terror-threat-is-highest-since-omagh-attack-1951957.html>

³¹ See above, note 18, point 3; BBC "Dissident threat level increases".

³² See:

- The Sunday Times "CIRA vows to step up terror spree" dated 6 June 2010, last accessed 13 July 2010 <http://www.timesonline.co.uk/tol/news/world/ireland/article7144939.ece>
- Reuters "Northern Irish group vows to keep up war on UK - report" dated 6 June 2010, last accessed 13 July 2010 <http://uk.reuters.com/article/idUKTRE6550Y320100606>
- BBC "CIRA threaten community workers" dated 26 November 2008, last accessed 19 July 2010; http://news.bbc.co.uk/2/hi/uk_news/northern_ireland/7751025.stm
- The Independent Monitoring Commission, Twentieth Report, dated 10 November 2008, last accessed 16 August 2010, paragraph 2.15; <http://www.independentmonitoringcommission.org/documents/uploads/Twentieth%20Report.pdf>

³³ BBC "Files reveal growing NI terror threat" dated 28 October 2009, last accessed 5 July 2010 <http://news.bbc.co.uk/2/hi/programmes/newsnight/8328309.stm>

³⁴ See, for example, paragraph 2.12 of The Independent Monitoring Commission, Twenty Third Report, dated 26 May 2010, page 8;

<http://www.independentmonitoringcommission.org/documents/uploads/23.%20Twenty-Third%20Report.pdf>, paragraph 2.16 of the IMC's Twenty Second Report <http://www.independentmonitoringcommission.org/documents/uploads/Twenty-Second%20Report.pdf>, and paragraphs 2.6 and 2.16 of the IMC's Twenty First Report <http://www.independentmonitoringcommission.org/documents/uploads/Twenty-First%20Report.pdf>,

which detail a number of acts of violence and intimidation carried out by the CIRA against civilians or their property and violent acts which placed the lives of civilians at peril. Such a series of attacks demonstrate that the CIRA is uninhibited in its use of violence and is willing to attack civilians. Fear of the CIRA is the logical consequence.

³⁵ The price of petrol in Ireland and Northern Ireland differs sufficiently for the smuggling of petrol across the border to be profitable.

³⁶ This is the taking of family members' hostage in order to compel other family members to cooperate with the captors.

³⁷ The Independent Monitoring Commission, Twenty First Report, dated 7 May 2009, last accessed 19 July 2010 <http://www.independentmonitoringcommission.org/documents/uploads/Twenty-First%20Report.pdf>; see paragraph 2.18.

³⁸ See above, note 37; The Independent Monitoring Commission, Twenty First Report, paragraph 2.17.

³⁹ BBC "Bomb explodes at police station" dated 23 April 2010, last accessed 13 July 2010 http://news.bbc.co.uk/2/hi/uk_news/northern_ireland/8638902.stm

Local people criticised those responsible for leaving the device and the police response which meant that homes were evacuated by the fire service, instead of PSNI; "the fact that dissidents can return to this village in just over a week to plant a second bomb says it all really."

⁴⁰ See above, note 8, point 1; The Independent Monitoring Commission, Twenty Third Report, page 9.

⁴¹ See above, note 19, The Independent Monitoring Commission, Twenty Second Report, paragraph 2.14.

⁴² See:

- See above, note 18, point 3; BBC "Dissident threat level increases".
- See above, note 30, point 2; The Independent "Northern Ireland terror threat is 'highest since Omagh attack'".

⁴³ See above, note 8; The Independent Monitoring Commission, Twenty Third Report, page 4.

⁴⁴ See:

- above note 32 point 1; The Sunday Times "CIRA vows to step up terror spree" dated 6 June 2010; and
- above note 32, point 2; Reuters "Northern Irish group vows to keep up war on UK - report" dated 6 June 2010.

⁴⁵ See:

- PSNI Statement 9 March 2009; http://www.psni.police.uk/index/news-archive/news-2009/news_march_2009/police_officer_murdered_lismore_manor_craigavon_09_03_09.htm

⁴⁶ See:

- PSNI Statement 9 March 2009; http://www.psni.police.uk/index/news-archive/news-2009/news_march_2009/police_officer_murdered_lismore_manor_craigavon_09_03_09.htm

⁴⁷ See:

- above note 5, point 1; BBC "Who are the dissident Republicans?" dated 23 August 2010; and
- See above, note 5, point 2; Jane's Terrorism and Insurgency, report "Continuity IRA".
- Belfast Telegraph "Continuity IRA claiming responsibility for killing PSNI Officer" dated 10 March 2009, last accessed 29 April 2010 <http://www.belfasttelegraph.co.uk/news/local-national/continuity-ira-claiming-responsibility-for-killing-psni-officer-14220267.html>;

- The Guardian "Two arrested over killing of policeman in Armagh" dated 10 March 2009, last accessed 6 July 2010 <http://www.guardian.co.uk/uk/2009/mar/10/northern-ireland-policeman-killed/print>;
- See above, note 22; "No way back? Examining the background and response to the rise of Dissident terrorist activity in Northern Ireland" RUSI Journal;
- The Economist, "Britain: Shadow of the past; Northern Ireland: Vol 390, Issue 8622, pp 59-60, dated 14 March 2009.

⁴⁸ see above, note 18, point 2; BBC "Irish police 'battle' dissidents"; dated March 7 2010.

⁴⁹ See:

- The Independent Monitoring Commission Seventeenth to Twenty Third Reports <http://www.independentmonitoringcommission.org/>
- Above, note 5, point 2; Jane's Terrorism and Insurgency, report "Continuity IRA", chronology, pp 6 to 10.
- See above, note 22; "No way back? Examining the background and response to the rise of Dissident terrorist activity in Northern Ireland" RUSI Journal;
- above, note 33; BBC "Files reveal growing NI terror threat" dated 28 October 2009.

⁵⁰ Continuing threats to the PSNI were made by the CIRA in an interview with The Sunday Times in June 2010; See:

- See above, note 32, point 1; The Sunday Times: "CIRA vows to step up terror spree"; and
- See above, note 32, point 2; Reuters "Northern Irish group vows to keep up war on UK"

⁵¹ See news release by the PSNI dated 23 March 2009. "A 17 year old youth has been charged with the murder of Constable Stephen Carroll, possession of a firearm with intent to endanger life; belonging to a proscribed organisation, namely CIRA and collecting information likely to be of use to terrorists."

http://www.psnipolice.uk/index/news-archive/news-2009/news_march_2009/charges-murder_of_constable_stephen_carroll_23_03_09.htm

A 37 year old man, Brian McConnell, has also been charged with PC Carroll's murder.

⁵² BBC "Bomb attack was attempted murder" dated 6 June 2008, last accessed 7 July 2010 http://news.bbc.co.uk/2/hi/uk_news/northern_ireland/foyle_and_west/7456794.stm

⁵³ See:

- above, note 52, BBC "Bomb attack was attempted murder" dated 6 June 2008; and
- The Independent Monitoring Commission, Twentieth Report, dated 10 November 2008, last accessed 16 August 2010; <http://www.independentmonitoringcommission.org/documents/uploads/Twentieth%20Report.pdf>
- See above, note 5, point 2; Jane's Terrorism and Insurgency, report "Continuity IRA", page 10

⁵⁴ See:

- See above, note 52, BBC "Bomb attack was attempted murder";
- See above, note 5, point 2; Jane's Terrorism and Insurgency, report "Continuity IRA", page 10.

⁵⁵ see above, note 52; BBC "Bomb attack was attempted murder" dated 6 June 2008.

⁵⁶ The period under review was 1 March to 31 August 2008.

⁵⁷ See above, note 53, point 2; The Independent Monitoring Commission, Twentieth Report, dated 10 November 2008, page 9

⁵⁸ See:

- The Independent Monitoring Commission Seventeenth to Twenty Third Reports <http://www.independentmonitoringcommission.org/>
- See above, note 5, point 2; Jane's Terrorism and Insurgency, report "Continuity IRA", chronology pp 6 to 10;
- See above note 33; BBC "Files reveal growing NI terror threat"

⁵⁹ Continuing threats to the PSNI were made by the CIRA in an interview with The Sunday Times in June 2010. See;

- See above, note 32, point 1; The Sunday Times: "CIRA vows to step up terror spree"; and
- See above, note 32, point 2; Reuters "Northern Irish group vows to keep up war on UK".

⁶⁰ Additional Protocol I (1977) to the Geneva Convention of 1949 Art 1 (4).

⁶¹ Strictly speaking combatant status only arises in international armed conflict so the tests from Additional Protocol I have been applied.

⁶² Additional Protocol I (1977) to the Geneva Convention of 1949 Art 44.

⁶³ The applicable LOAC would be customary international law, Common Article 3 of the Geneva Conventions 1949 and Additional Protocol II (1977) to those Conventions. The United Kingdom has ratified all four Geneva Conventions and the two Additional Protocols.

⁶⁴ Additional Protocol I (1977) to the Geneva Convention of 1949 Arts 44 and 43(1).

⁶⁵ A person is *bors de combat* if he or she is wounded, sick or shipwrecked or captured by the opposing force.

⁶⁶ Customary international law. See also Additional Protocol II (1977) to the Geneva Convention of 1949 Art 4(2)(d). Such attacks are also unlawful under customary international law.