

**REPORT**  
**following a Review of**  
**the Report of the Serious Crime Review Team**  
**relating to the Garda investigation into the death of**  
**Father Niall Molloy**

**Dominic McGinn, SC**

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**1. Terms of Reference.**

By Warrant of Appointment dated the 11<sup>th</sup> February 2014, I have been appointed to perform the following tasks:

1. To conduct a review of the contents of the Report of the Serious Crime Review Team (“SCRT Report”) relating to the Garda investigation into the death of Father Niall Molloy;
2. In light of that review –
  - (a) To prepare a report on any issues of public interest which may arise from the SCRT Report, with due regard to the rights of those involved, so as to facilitate the Reviewer’s Report being put into the public domain; and
  - (b) Taking into account existing mechanisms for the investigation of offences, to identify matters, if any, of significant public interest or concern which would warrant examination by a further inquiry and in respect of which such further inquiry would have a reasonable prospect of establishing the truth.

## **2. Introduction.**

At approximately 3.15 am on the 8<sup>th</sup> July 1985, Sergeant Kevin Forde, who was then attached to Clara Garda Station, was alerted by Father James Deignan to the death of Father Niall Molloy. Sergeant Forde travelled to Kilcoursey House, Clara, Co. Offaly, the home of Richard and Therese Flynn, where he found Fr Molloy's body lying in the main bedroom. Dr Daniel O'Sullivan was with the body and he asserted that Fr Molloy had been dead for "a couple of hours". Sergeant Forde and his superior, Inspector Thomas Monaghan, spoke to Richard Flynn, who was present in the house with his son, David. Richard Flynn admitted that he had struck Fr Molloy during a disagreement and that this had rendered him unconscious. Mr Flynn claimed that he had gone downstairs to call for help and, when he returned to the bedroom, Fr Molloy had died.

Following a garda investigation, Richard Flynn was charged with the Manslaughter of Fr Molloy and with an alternative charge of Assault Occasioning Actual Bodily Harm. He was tried before the Dublin Circuit Criminal Court in June 1986 but the jury was directed by the trial judge, His Honour Judge Frank Roe, to find Mr Flynn not guilty of both charges.

On the 23<sup>rd</sup> October 2010, an article, written by journalist Gemma O'Doherty, was published in the Irish Independent newspaper. In this it was suggested that there were a number of witnesses who had information showing that the circumstances of Fr Molloy's death were not properly investigated and that the criminal trial had been irregular.

As a consequence of this article, the circumstances surrounding the investigation and the trial were examined by the Serious Crime Review Team (SCRT), which compiled a Report authored by Detective Superintendent Christopher Mangan and dated the 1<sup>st</sup> March 2013.

My task is to review this Report. It should be noted at the outset that I have not been instructed to undertake an independent inquiry of the circumstances surrounding Fr Niall Molloy's death or of the circumstances surrounding the criminal trial of Richard Flynn. As a consequence of my terms of reference, while I have spoken informally to a number of individuals, many of whom have formed opinions about the events with which this review is concerned, I have not sought to interview witnesses or access documentation which is outside

the SCRT Report. Further, I have not had any regard to the opinions of others in forming my own independent view of the contents of the Report.

In summarising the contents of the Report, I have attempted to be as complete as possible. I have therefore included in it any material either which is already in the public domain, such as newspaper articles and evidence given before public tribunals, or which would become public by virtue of any formal inquiry if such were to be convened. This latter category of information includes the contents of statements made voluntarily to the SCRT by witnesses and the contents of documentation assimilated during the course of the SCRT's investigation. By necessity, therefore, the assertions and opinions of individuals who have made statements or who have written reports, letters or articles have been repeated as part of this report. In addition, a number of individuals, when preparing documents or making statements, detailed rumours and speculation about events which have been widely circulated since 1985. For completeness, I have included in this report such assertions, opinions, rumours or speculation. However, in doing so, I am not purporting to attest to the truth, accuracy or reliability of any details related. Further, the truth, accuracy or reliability of such details cannot be taken to have been established simply by the repetition of the assertions, opinions, rumours or speculation. Such material would have no evidential status in a Court and, unless there is credible evidence which tends to support the truth of anything asserted, should be treated with the utmost caution.

### **3. The Garda Investigation in 1985.**

#### **3.1 Garda Arrival at the Scene.**

Sergeant Kevin Forde, then attached to Clara Garda Station in Co. Offaly, was on duty in the station at 3.15 on the morning of the 8<sup>th</sup> July 1985 when Fr James Deignan, the parish priest for Clara, called to the station and reported that a man, a priest he did not know, was dead at Kilcoursey House in Clara, the home of Richard Flynn and his family. Fr Deignan further reported that he understood that the priest had fallen against a wall and had hit his head. He said that it was a terrible scandal in the parish and asked if there was any way in which it could be kept quiet. He also said that he had been called to the house to administer the last rights to the deceased and that Richard Flynn had said to him, "I'm the culprit".

Sergeant Forde contacted his superior, Inspector Thomas Monaghan, by telephone and then went to Kilcoursey House, arriving at about 3.30 am. There he met Dr Daniel O'Sullivan, a local general practitioner, who took him to an upstairs bedroom, where Sergeant Forde saw the body of a man lying face upwards just inside the bedroom door. The body was fully dressed, although his shirt was pulled out at the back, and there was a towel covering his face. On lifting the towel, Sergeant Forde saw that there was blood on the deceased man's face, that his upper lip was burst and that there was a cut on the lower left jaw. Dr O'Sullivan identified the man to Sergeant Forde as Father Niall Molloy of Castlecoote, Co. Roscommon, whom he said was a friend of the Flynn family. Dr O'Sullivan also told Sergeant Forde that Fr Molloy had been dead for "a couple of hours".

Between the body and the bed, Sergeant Forde noticed a stain, apparently caused by blood, about three feet long by eight inches wide. There was also apparently blood on the floor around the head, on the bedclothes, which were in a state of disarray, and on two wall pictures directly above the body. Sergeant Forde then went downstairs to meet the family. It appears that, at this stage, nobody else was upstairs and Sergeant Forde left instructions that it should remain this way.

On the ground floor, Sergeant Forde met David Flynn who brought him into a room to meet his father, Richard. Richard Flynn was wearing pyjamas and a dressing-gown. He had a cup

of coffee in one hand and his other arm was stretched along the couch on which he was sitting. Sergeant Forde was of the view that he appeared calm, cool and unconcerned.

Richard Flynn invited Sergeant Forde to sit down and offered him coffee. He apologised for disturbing him at such a late hour and described the death of Fr Molloy as “a messy old business”. Richard Flynn continued, “I am very upset about my wife, I struck her with my left and I hit him at least twice with my right. That is all there is to it.” It seems that David Flynn was also in the room during this conversation. There is no information in the documents to suggest whether David Flynn was fully dressed or, like his father, wearing nightclothes.

At 4.25 am, Inspector Monaghan arrived at Kilcoursey House. He first viewed the scene in the bedroom and noted the position of the body. He also noted the blood-stain on the white carpet between the body and the bed: he estimated the dimensions of this stain to be six to nine inches wide and a number of feet in length. Inspector Monaghan arranged for the scene and the body to be guarded so that both could be preserved pending a full examination. He then went downstairs and spoke to Richard Flynn, who was still dressed in pyjamas and dressing-gown. In the presence of his son, David and David’s wife, II, Richard Flynn said, “I’m the culprit” before apologising again for the trouble caused and for getting everyone out of bed. Inspector Monaghan formally cautioned Mr Flynn and then asked him whether he had encountered his wife and Fr Molloy in a compromising position. Mr Flynn replied, “No, no. Nothing like that.” He then gave an account of how he and his wife had been in bed and that Fr Molloy, a family friend for twenty-eight years, was also in the room. They had all had “quite an amount of drink taken” and there was a disagreement about who should go downstairs to get more alcohol. Mr Flynn described how he had refused to get a drink for his wife and Fr Molloy, as a result of which he had been physically attacked by both of them as he was about to go down for a drink for himself. Mr Flynn admitted that he had then struck them both, first hitting his wife once in the face, knocking her down, then hitting Fr Molloy at least twice, maybe three times, in the face with his fists. Richard Flynn claimed that both had been rendered unconscious, so he had thrown water on them to try to revive them. He said that he knew that Fr Molloy had a heart condition and that he appeared to be having difficulty breathing. Mr Flynn said that he had said an act of contrition into Fr Molloy’s ear and had then gone downstairs to call Fr Deignan and Dr O’Sullivan and, when he returned to the bedroom, he found that Fr Molloy was dead and his wife was hysterical. He claimed that, when Fr Deignan and later Dr O’Sullivan arrived, he had told Fr Deignan to notify the gardai.

Although Inspector Monaghan maintained a written note of this account in his notebook and Richard Flynn accepted that the note was accurate, Mr Flynn declined to sign the notebook, stating that he would make a full statement the following day. He also asked for a photocopy of the notes, to which Inspector Monaghan agreed.

At about 12.00 noon on the 8<sup>th</sup> July 1985, Inspector Monaghan returned to Kilcoursey House and met II Flynn. He asked her whether he could speak again to Richard Flynn and she left to get him. However, instead, a man who identified himself as Liam Lysaght, a solicitor from Dublin, came to speak to Inspector Monaghan. Mr Lysaght explained that he represented Richard Flynn and that Mr Flynn would not be making a statement. He nevertheless agreed to accept from the inspector the photocopied notes of the previous day's conversation.

Richard Flynn's wife, Therese, had not been at Kilcoursey House when the gardai arrived at 3.30 am on the 8<sup>th</sup> July 1985: it transpired that, shortly before the arrival of Sergeant Ford, she had been taken to Tullamore General Hospital in a state of some distress and had been admitted there. Ms Flynn was interviewed by gardai on the 9<sup>th</sup> July 1985 whilst still at the hospital. She gave a brief account of the events during the day on the 7<sup>th</sup> July and described how she, her husband and Fr Molloy had visited some friends, the HH's, in the early evening. She told the gardai that, having returned home and after the departure of other family members who had been at Kilcoursey House that day, she had gone to bed leaving her husband and Fr Molloy chatting in the sitting room. At this stage, she said that MM was in her bedroom. Therese Flynn said that she awoke later to find her husband in bed, still talking to Fr Molloy who was sitting at the foot of the bed. She said that the next thing she remembered was Fr Molloy lying on the floor, at which point she had tried unsuccessfully to find a pulse and to give him the kiss of life.

Apart from the time of admission, the evidence about which is addressed later in this report, there appears to be no medical evidence whatsoever about Ms Flynn's treatment at Tullamore General Hospital. There is no information about what, if anything, she said to the medical staff or about any clinical findings which may have been reached following examination.

### 3.2 Post Mortem Examination.

The body of Fr Niall Molloy remained undisturbed in the main bedroom of Kilcoursey House from the time of the arrival of Sergeant Forde until it was removed by ambulance to Tullamore General Hospital at 2.30 pm on the 8<sup>th</sup> July 1985.

During that period, the State Pathologist, Dr John Harbison, having been called at 8.20 am that morning, attended the scene. He viewed the body, which, at 1.47 pm, was identified to him by Canon Patrick Murray from Athlone as being that of Fr Niall Molloy with an address in Fuerty in Co. Roscommon. Dr Harbison noted that the body lay on its back approximately three feet from the saddle of the door of the main bedroom and that the trunk was at an angle of approximately forty-five degrees to the partition wall between the bedroom and the adjoining bathroom. The left leg lay roughly parallel to the same wall and the right leg at an angle of approximately thirty degrees to the left leg. The body was fully clothed in a pullover, shirt, trousers, socks and shoes, and a tweed jacket lay on the floor adjacent to its feet. The right arm was fully extended approximately thirty degrees out from the body and the left arm was flexed at the elbow, with the forearm parallel with the body and the left hand about one inch away from the wall.

On a preliminary inspection of the body, Dr Harbison noted white froth exuding from the mouth and an injury to the left side of the upper lip. A further injury was present over the angle of the lower jaw on the left cheek. He noted that the only area of the room which appeared to be in disarray was the double-bed, which he described as being “in a state of slight disorder”, and an area around the bed, floor and chairs where clothing, both male and female, was scattered. He saw blood-staining on the thick carpet on the floor, which he estimated to be over a distance of eight to nine feet, extending from a point approximately six feet from the foot of the double bed to a point approximately two feet from the deceased’s right arm. The staining nearest the body was dark and appeared to have been due to direct bleeding on the surface, but the remainder was fainter and suggested a smear or a wipe.

Dr Harbison measured the air temperature at 1.56 pm and found it to be 21.3°C. He noted that rigor mortis was firmly established in all four limbs, in the neck and in the lower jaw. At 2.17 pm, he took a rectal temperature and noted it to be 31.5°C.

Fr Molloy’s body was then wrapped and removed by ambulance to the hospital in Tullamore. Before commencing a full post mortem examination of the body at 4.50 pm, Dr Harbison spoke to Inspector Monaghan, who provided him with further information about events in the house the previous night, and to Dr O’Sullivan, who not only was the Flynn family

practitioner but also had attended Fr Molloy on occasion. There is a complete absence of information in the documentation about exactly what was discussed during either of these conversations or how the details supplied may have affected Dr Harbison's approach to the examination.

The post mortem examination was attended by five members of the garda investigation team, including a photographer.

Dr Harbison described the body as being that of a late middle-aged male of fairly lean build, 5 feet, 11 inches in height, with receding greying hair.

He noted six different areas of injury to the head: a group of lacerations on the left side of the mouth; a group of bruises on the nose; an area of spotty bruising over the right cheek bone; a superficial abrasion and associated bruising on the right ear; a small laceration to the left side of the lower jaw; and two abrasions just on the left side of the chin.

There was an area of fading bruising on the left forearm and three areas of injury to the legs: bruises to both knees and on the middle of the left shin; a small abrasion on the medial surface of the left thigh; and a tiny abrasion on the medial surface of the right lower leg.

Apart from a few petechiae, or pin-prick blood spots, on the inner surface of the lower lid of the right eye and an old operation scar to the abdomen, there were no external abnormalities noted by Dr Harbison. There were no fractures to the facial bones, although the nasal cartilage was slightly more mobile than normal and there was a bony deformity of the right side of the pubic symphysis in the form of a rounded bony protrusion approximately 1½" in diameter. Dr Harbison noted that post-mortem lividity was purple and distributed over the back, and that rigor mortis was relatively easily broken down.

On internal examination, Dr Harbison noted that there was some internal bleeding in the head but that the skull was intact. It appears that, while there were some abnormalities in the structure of the brain, there was no bruising to the surface. However, on sectioning the brain, traumatic sub-arachnoid haemorrhage was found in both fronto-parietal and right parieto-occipital regions on the upper surfaces of the hemispheres. Similarly, there was internal bleeding in the jaw and lower facial area but no fractured bones. Dr Harbison also noted white froth in the trachea and larynx.

There was no sign of recent injury to the ribcage or chest, and the only abnormality noted was the presence of watery froth in the lungs and windpipe. The heart and surrounding tissues

were found to be healthy apart from a small area of possible scar tissue and some plaques near the coronary artery: samples from both of these areas were sent for histology. Similarly, an examination of the abdomen showed nothing significantly abnormal.

Samples of urine and blood were taken for toxicology analysis. This revealed alcohol at a level of 134.7 milligrams in 100 millilitres of blood and 196.6 milligrams in 100 millilitres of urine. Dr Harbison assessed this as being “within the limits of ordinary social drinking and would not constitute inebriation”.

In conclusion, Dr Harbison was of the opinion that Fr Niall Molloy died of acute brain swelling and acute sub-dural haemorrhage, both resulting from multiple injuries to the head and neck, principally to the face. He stated that the distribution of these injuries was consistent with Fr Molloy having been the recipient of five, six or more blows from an object such as a fist. He further concluded that the violence was insufficient to fracture any facial bones.

Dr Harbison listed the other important pathological findings as being pulmonary oedema, or waterlogging of the lungs, and a slightly enlarged heart. He opined that the oedema was likely to have been associated with the head injuries, which was a phenomenon known as “cerebral lung”, which in turn gave rise to the froth seen exuding from Fr Molloy’s mouth. Whilst there were other possible causes of such oedema, such as the inhalation of vomit or acute heart failure, Dr Harbison concluded that there was no pathological evidence of inhalation and far less such evidence of heart failure than of the head injuries. The enlargement of Fr Molloy’s heart was described as being “minimal, even within the upper limits of normal”, for which there was no clear evidence of the cause. Dr Harbison stressed that these pathological conditions relating to the lungs and the heart did not detract from the head injuries being the primary cause of death: he pointed out that there was a complete absence of evidence of either vomiting or the inhalation of vomit whether at the scene, on the clothing or in the respiratory tract.

Dr Harbison also noted that there was no injury of a defensive or offensive nature on Fr Molloy’s arms or hands and was of the view that the fading bruise to the forearm was from a time prior to the final assault on Fr Molloy.

In summary, Dr Harbison certified the cause of death as being from an acute swelling to the brain and acute sub-dural haemorrhage, both arising from head injuries. He could only

narrow down the time of death to a period “late on the night of the 7<sup>th</sup> July or in the very early hours of the 8<sup>th</sup> July 1985”.

After the examination was completed, Detective Garda Keating handed to Garda Michael Fox the personal property found on Fr Molloy’s body, and Garda Fox passed the property to Sergeant Forde at 9.00 pm on the 8<sup>th</sup> July 1985. This property included £115 in cash and Fr Molloy’s wristwatch, the face of which was broken: both Garda Fox and Sergeant Forde stated that they noticed that the glass on the face was broken but was still in place, and neither of them noticed whether the watch had stopped or what time was shown on it. Sergeant Forde further stated that, on the 11<sup>th</sup> July 1985, all Fr Molloy’s property, including the watch, was handed to William Molloy, the deceased’s brother.

### 3.3 Examination of the Scene.

The scene of Fr Molloy’s death had been preserved by different members of the gardai after the arrival of Sergeant Kevin Forde at Kilcoursey House. As the investigation progressed, members of the Garda Ballistics Section went to Kilcoursey House in order to examine the scene and to note anything of evidential value or otherwise unusual. Detective Garda Michael Keating was there on Monday 8<sup>th</sup> July 1985 and he returned the following day. Also there on the Tuesday to assist with this examination was Detective Sergeant Edwin Handcock.

The premises were described as a large two-storey house set on top of a hill and surrounded on three sides by lawns and the fourth side by a yard and outhouses. When the gardai arrived, there was still a large marquee to the right of the building.

As he went upstairs, Detective Garda Keating noticed what appeared to be blood on the top newel post of the bannisters. In the main bedroom, he saw Fr Molloy’s body, still lying on its back with an orange towel covering the face. The position of the body was such that the bedroom door could not open completely. The body was fully clothed with the left leg roughly parallel with the dividing wall of the adjoining bathroom. There was what appeared to be a drag-mark in blood extending from near the double bed across the carpet to within about two feet of the body. Both ends of the drag-mark were more heavily stained than the remainder of it. On the body, Detective Garda Keating noted wounds to the left side of the jaw and to the upper left lip and there was froth around the mouth.

On further examination of the bedroom, further blood splatters and smears were found: smears were seen on the edge of the bedroom door, on the architrave leading to the closet, on the architrave on the bedroom side of the door leading to the bathroom, and on the window-ledge and the radiator in the adjoining bathroom; splatters were seen on the outside surface of the bedroom door, on the outside of the closet door, on the wall and picture-frame to the right-hand side of this door, on the basin in the adjoining bathroom, on a magazine lying on the bed, on the top cover and duvet of the bed, on the bottom bed board, on the screen of the television beside the bed, and on magazines on top of the television.

It seems that there was some attempt at looking at the pattern of the blood spatters, some of which blood appeared to be diluted or watery, but there were no detailed notes of this and there is no record of any conclusions being drawn from the pattern of blood.

This aspect of the investigation is particularly frustrating because, subsequently, there was considerable conjecture about what may or may not have occurred at Kilcoursey House and a full and careful analysis of the pattern of blood spatters might have assisted in confirming or dismissing some of the suggested theories. However, at this remove, all that can be said is that there was no meaningful interpretation performed at the time and that, therefore, there is no evidence from which firm conclusions could now safely be drawn.

Also in the main bedroom, the gardai found three drinking glasses, two of which were empty: one of the empty glasses was on the sideboard between the bedroom windows and the other was on the ground behind the television stand; the third glass, apparently containing water, stood on top of the television. A partially-consumed bottle of brandy was on the top shelf of the wardrobe. There is no record to show whether any of these items was analysed at all.

Detective Sergeant Handcock recorded that, in the dining room on the ground floor, part of one of the legs of a large oval table had been broken: the missing piece of wood was on the mantelpiece in the same room and a small piece of cardboard had been placed under the broken part to stabilise the table.

In a television room also on the ground floor, the glass top of a coffee table had been broken: there were two large pieces of glass resting against an adjacent wall and slivers of glass were lying on the carpet beneath the table. Observation of this remaining glass showed that there should also have been a number of small fragments of glass in order for the whole of the table-top to be present but these were missing from the room. However, this missing glass was later found in a trailer in the rear yard, amongst waste foodstuffs of recent origin. The

wooden frame of the table was cracked on the part where the glass should have been supported, about half-way along the frame. There was a parallel wooden frame towards the bottom of the table which held a shelf, and this lower frame was also cracked in a similar place.

No traces of blood were found in the television room or in any of the other rooms on the ground floor.

Two twelve-gauge shotguns were found in a small, narrow room on the ground floor, as well as fourteen shotgun cartridges of the same gauge.

In a bedroom immediately adjacent to the master bedroom, there was an unmade double bed upon which were two pillows, one on top of the other, at the centre of the head of the bed. A table lamp on the bedside locker on the left side of the bed was still switched on and there was a glass of what appeared to be milk on the same locker. An empty packet of cigars was in the waste paper basket under the dressing table. There is no record to show whether any of these items was analysed at all.

On the side of the bath in the bathroom situated directly opposite the master bedroom, there was a yellow towel, on which there was a small stain of what appeared to be blood. Again, there is no record to suggest that this was tested in any way.

Detective Garda Oliver Cloonan of the fingerprint section examined the main bedroom and developed some fingermarks on unspecified "different items" in the room. There is no information in the documents to indicate whether these fingermarks were ever tested against the fingerprints of those people who were known to have been in the room or whether they were ever matched with any individual.

#### 3.4 Statements Made by Members of the Flynn Family.

At 4.30 pm on the 15<sup>th</sup> July 1985, solicitor Liam Lysaght arrived at Tullamore Garda Station and presented to Inspector Monaghan prepared statements from eight members of the Flynn family: Richard and Therese Flynn, their son and daughter-in-law David and II Flynn, their daughters JJ, KK and LL, and LL's husband GG. Perhaps unsurprisingly, these statements are entirely consistent with each other and provide the following narrative for events preceding Fr Molloy's death:

On Saturday, the 6<sup>th</sup> July 1985, Richard and Therese Flynn's daughter, LL, was married to GG in the church at Clara, Co. Offaly. Their reception was in a marquee in the garden of the Flynn family home at Kilcoursey House. The following day, the Flynns hosted a cold buffet lunch for the families of the bride and groom and some close friends. The guests included Fr Niall Molloy, a family friend of the Flynns. It seems that the lunch began at about 3.00 or 4.00 pm and most of the guests had left by 5.00 or 6.00 pm. Then Richard and Therese Flynn, together with Fr Molloy, left at about 7.30 pm to visit other friends, the HH's, who had been friendly with the Flynns and with Fr Molloy for some fifteen years through a mutual interest in horses. HH and his wife had been at the lunch on the Sunday and had chatted to the Flynns and to Fr Molloy. When they had departed Kilcoursey House, they had invited the three of them that evening to call to their house, also in Clara. The statements indicate that, at the HH's, the atmosphere among the group was convivial, relaxed and entirely normal. It appears that Richard and Therese Flynn left the HH's, still in the company of Fr Molloy some time after 9.00 pm and the three of them returned to Kilcoursey House, arriving at around 9.30 or 9.45 pm. On their way back in the Flynns' car, they had encountered their son David Flynn and a small group of other guests who were all on the way to the pub. David Flynn was of the view that everyone was in "great form". He noted that his father was driving the car, his mother was in the front passenger seat and Fr Molloy was sitting in the back. It is unclear from David Flynn's statement whether he was travelling in a car himself.

PP and her sister-in-law II had remained at Kilcoursey House to keep 'MM' company but, when Richard, Therese and Fr Molloy returned, LL and II then left to go to Paddy White's pub where they joined the remainder of the group, including LL's husband GG and her brother David (II's husband).

A number of the group, including LL and GG, were due to be staying the night at Kilcoursey House but they did not arrive back there until about 1.00 am on the 8<sup>th</sup> July, having gone from the pub first to David and II Flynn's home for coffee and sandwiches. When the party arrived at Kilcoursey House, they were told that Fr Molloy was dead. LL went immediately to her parents' bedroom on the first floor, where she saw the body of Fr Niall Molloy lying along the wall with his head towards the door and his feet towards the window. It seems that Therese Flynn was kneeling beside him trying to resuscitate him but to no avail. LL, a trained nurse, ascertained that there was no pulse and so she closed Fr Molloy's eyes, covered his face with a towel and placed one of his arms over his chest. LL also noticed that her mother had a bruise on the jaw.

At this point it appears that Therese Flynn became hysterical. LL tried to calm her down and other members of the family tried to come to her assistance but LL declined their help. Eventually, Dr Daniel O'Sullivan arrived and gave Ms Flynn sedative medication. He recommended that Ms Flynn should go to hospital so LL and her brother David, who had been summoned from his home by GG, helped her downstairs to Dr O'Sullivan's car. LL and her sister KK took their mother to hospital, where she was admitted at about 3.00 am.

Therese Flynn's statement of the 14<sup>th</sup> July 1985, provided to the authorities through Mr Lysaght, gave a rather more detailed account of matters than the brief statement taken from her by the gardai on the 9<sup>th</sup> July. In this later statement, she confirmed that Fr Molloy had been present for some of the celebration of her daughter's wedding on the 6<sup>th</sup> July but that he had gone home at about 10.30 pm. Fr Molloy also attended the lunch on the Sunday and she recalled that he arrived at about 3.30 pm. She repeated her account of going with her husband and Fr Molloy to visit the HH's during the early evening and described how the three of them had arrived home at about 9.30 pm, at which time her daughter LL and daughter-in-law II left and MM went to bed. She stated that, after a couple of drinks together in the sitting room, she became very tired and announced that she wanted to go to bed. The statement then reveals that, "it was suggested that we each have a nightcap and Richard was to get these and bring them up to our bedroom". Therese Flynn described how she had gone upstairs, taken a sleeping pill, got into bed and dozed off, awaking to find her husband in his pyjamas sitting next to her in bed chatting to Fr Molloy, who was still dressed and sitting at the end of the bed. She stated that her next memory was of waking up or regaining consciousness on the floor and seeing Fr Molloy also on the floor, near the door, and her husband no longer in the room. She stated that she thought that Fr Molloy must have passed out and she tried to lift him towards the bed and to revive him, but there was no sign of life: she could hear no heartbeat but only "an awful gurgling sound". The last thing she remembered was going out to the landing to call her husband, after which she was only aware of being sedated and brought to hospital with bruising to her left arm and an injury to her jaw.

There is no medical evidence in the documentation either to confirm or to cast doubt on these assertions that Therese Flynn sustained any injuries or that she had taken a sleeping pill earlier in the night.

Richard Flynn's statement of the 14<sup>th</sup> July 1985 was extremely brief: he referred to the notes taken of his conversation with Sergeant Forde and Inspector Monaghan during the early

hours of the 8<sup>th</sup> July 1985, a copy of which had been provided to Liam Lysaght later on the same day. He stated that these notes represented a correct description of what had occurred and that he had nothing to add to them.

### 3.5 Statements from Non-Family Members.

Prior to receiving the Flynn family statements on the 15<sup>th</sup> July 1985, the investigating gardai already had taken statements from Fr James Deignan and from Dr Daniel O'Sullivan, in which both men detailed their recollections of the events of the 8<sup>th</sup> July. Thereafter, the gardai also took statements from C who worked at Kilcoursey House, from NN and OO who had been present on the evening of the 7<sup>th</sup> July, and from HH, who had hosted Richard and Therese Flynn and Fr Molloy on that Sunday evening. In addition, it appears that a further statement was taken by solicitor Liam Lysaght from another member of the Flynn family, MM or 'MM', who had been in Kilcoursey House when Fr Molloy met his death. This also was provided to the gardai. The statements from these witnesses add the following details to the narrative:

Fr James Deignan, the parish priest, had been at the house when GG, LL and their companions had returned to Kilcoursey House. He recalled that he had been contacted at about 1.00 am by Richard Flynn, who had told him that he should come immediately and that he should be prepared to anoint someone. On his arrival, Fr Deignan recalls that he found only Richard Flynn and his wife Therese there. Objectively, this seems to be incorrect because MM had been in the house throughout the evening according to her statement, which also was taken by Liam Lysaght, solicitor, and provided to the gardai through him. MM described how, after Richard and Therese Flynn had returned home with Fr Molloy and after LL and II had gone to the pub, they sat together chatting in the drawing room before the Flynnns said that they were going to bed. MM went into the kitchen to get a drink and she met Fr Molloy as she came out: apparently he too was there to get a drink. It seems that Fr Molloy then went upstairs, followed after a few minutes by MM, who was not sleeping in her usual room opposite the main bedroom but in the last room at the end of the corridor. She recalled going to bed at about midnight and stated that she heard nothing else all night until being told by David Flynn the following morning that Fr Molloy was dead.

Given that MM was in bed asleep when Fr Deignan arrived, it is perhaps hardly surprising that he did not mention her in his statement. However, further scope for confusion arose because it seems that, having given the last rites to the deceased, Fr Deignan realised that he had forgotten his reading glasses. He therefore returned home for them and arrived back at Kilcoursey House at about the same time as the group arrived back from the pub. This corresponds with the recollection of OO and NN, the sister and brother-in-law of GG, who stated that, as they arrived at Kilcoursey House having been with the group at Paddy White's pub and then at David Flynn's home, the parish priest of Clara was also arriving and pulled his car in behind the NN & OOs' vehicle.

On his initial arrival, Fr Deignan had been shown to an upstairs room where he administered the last rites to a man lying on his back on the floor. Fr Deignan claims that he did not know at that point who the man was or whether he was alive or dead, although he did notice blood stains on the carpet. It appears that he then tried to contact a doctor by telephone, although it is unclear whether this attempt was before or after he had gone home to fetch his glasses. In any event, attempts to telephone the doctor were unsuccessful and eventually he had to drive to Kilbeggan to get hold of Dr O'Sullivan. Fr Deignan made no mention in his statement of travelling with JJ, one of the Flynn daughters, on the journey to alert Dr O'Sullivan but other evidence tends to show that JJ did so and that, in fact, it was JJ Flynn, not Fr Deignan, who spoke to the doctor when they arrived at his home. In any event, it appears from Fr Deignan's statement that, having returned to Kilcoursey House with the doctor and following a conversation with him, Fr Deignan then contacted Clara Garda Station. Both Richard Flynn and David Flynn, in their respective statements, claimed that they had asked Fr Deignan to contact the gardai but their assertions are inconsistent with the accounts given by Fr Deignan and Dr O'Sullivan.

Dr Daniel O'Sullivan confirmed that he was contacted by Fr Deignan and JJ Flynn at about 2.00 am. JJ Flynn asked him to come to their home in Clara because Fr Molloy was dead. Dr O'Sullivan did as he was asked and, on arrival at Kilcoursey House, found a man whom he recognised as Fr Niall Molloy dead on the floor of a bedroom. He found the body to be "quite warm" and concluded that Fr Molloy "appeared to be only dead a short time". Dr O'Sullivan noticed that Therese Flynn was also lying on the floor of the same room in a state of hysteria and being tended by two of her daughters, LL and KK. He gave her some treatment and states that he then "admitted her to Tullamore General Hospital in my own car". Dr O'Sullivan further states that he advised Fr Deignan to contact the gardai. It appears that Richard Flynn

was also in the house on Dr O'Sullivan's arrival and that he had been sitting downstairs in his pyjamas.

C, a groomsman who had worked for the Flynns for more than ten years, also arrived at Kilcoursey House at about 3.00 am. Through his work there, Mr. C had come to know Fr Molloy, who was in the habit of visiting Kilcoursey from his parish in Co. Roscommon about twice a week. During his time there, Mr C had seen no disputes between Fr Molloy and the Flynns or between Richard and Therese Flynn, and he knew nothing of any business arrangements between Fr Molloy and the Flynns. At the wedding on the Saturday, Mr C remembered speaking to Fr Molloy about horses, in which Fr Molloy had an interest. Mr C had slept the night on the Saturday at Kilcoursey House but, on the Sunday, had been out for much of the day at a football match in Tullamore. He was at Kilcoursey House between about 7.30 pm and 9.30 pm, during which time he spoke to Fr Molloy in the kitchen and then a little later to Therese Flynn, but nothing struck him as unusual. When he returned to the house at about 3.00 am, he noticed that there were a number of cars outside: both Richard and Therese Flynn's vehicles and cars belonging to GG and Fr Deignan, but not Fr Molloy's. When he went inside, he saw that all the lights were on and he was told by JJ Flynn, who was crying in the kitchen, that Fr Molloy had died. He later spoke to both Fr Deignan and GG, who described the incident as "a terrible accident".

### 3.6 Background Evidence.

#### 3.6.1 William Molloy.

Fr Niall Molloy's older brother William (who was also referred to in other statements as Billy) made a statement to the gardai detailing the family history: the deceased was the seventh of eight children in the Molloy family and was 52 years old when he died. Having been ordained into the priesthood in 1957, he was appointed Chaplain to the Irish Army, serving mainly in Athlone but also in Cyprus. In about 1975, he was given the parish of Castlecoote in Co. Roscommon. Fr Molloy had held a lifelong interest in horses and had been a successful showjumper as a child. At Castlecoote, he formed a pony club, for which he was the trainer, and was involved in hunting: he was the 'Chef d'Equipe' for the National Hunt and for the Pony Club of Ireland.

William Molloy had been aware of his brother's friendship with the Flynn family for some time: either since Fr Molloy had returned from Cyprus ten years before his death or since their father's funeral in about 1978, which was the only occasion on which William Molloy had met the Flynns. In his statement, William Molloy expressed that "I was anxious at the time about this relationship" but he accepted that it was something which he had never discussed with his brother and that it probably arose from a common interest in horses.

Mr Molloy's statement continues that, after hearing of his brother's death, he travelled to Clara Garda Station on Monday 8<sup>th</sup> July 1985 with two priests from Castlerea. They then went to Kilcoursey House where they spoke to Richard Flynn, who invited them in for coffee and said, "I'm sorry, so sorry over Fr Niall". In a private conversation, Richard Flynn said to William Molloy, "I had a terrible lot of drink taken and a political row started." He also asked, "After twenty-eight years of friendship, why did it come to this?" at which point Mr Molloy remembered that Mr Flynn broke down.

### 3.6.2 A & B.

It appears that II Flynn, David Flynn's wife, gave a brief account of her understanding of events when she spoke by telephone to Fr Niall Molloy's niece, A. She related to Ms A how a group of the younger guests had gone to the pub on the Sunday evening leaving Fr Molloy at Kilcoursey House, where he seemed "fine". On returning from the pub at about 1.10 am, Fr Molloy was already dead and the impression they gleaned was that his death had occurred only about ten minutes previously. They found Therese Flynn in a hysterical condition and Richard Flynn in a state of shock, as a result of which it was difficult to ascertain exactly what had happened, although it was obvious that a lot of drink had been involved. A told II Flynn that, until she heard to the contrary, she would treat Fr Molloy's death as having been caused by a heart attack and II Flynn indicated that she would appreciate that approach.

A's mother, B, was Fr Molloy's oldest sister and it seems that they were very close friends. Ms B and Fr Molloy had last seen each other on the 8<sup>th</sup> June 1985, a month before his death. When making her statement in July 1985, Ms B said that she had formed the view at this meeting that her brother "did not seem to be his usual self". She noticed that there was some slight damage to the rear right wing of his car and he explained that a woman had backed into him in a supermarket. Although nothing more was said about any problems he may have been having, Ms B was sufficiently anxious about her brother that she telephoned him the

following week and asked whether anything was worrying him or whether he wanted to talk about anything. Fr Molloy reassured her that everything was alright and that he would speak to her if he were worried. Ms B continued to speak to her brother by telephone on a weekly basis, every Sunday, although the last time she called him, on the 7<sup>th</sup> July 1985, there was no answer, presumably because Fr Molloy was at the post-wedding lunch at Kilcoursey House.

At Fr Molloy's funeral, both A and her mother B heard from a cousin, William or Bill Maher, that a firm of solicitors called Fair and Murtagh in Athlone had been having dealings with Fr Molloy prior to his death. On the 12<sup>th</sup> July 1985, Ms A called the solicitors to ascertain whether Fr Molloy had made a will. She spoke to a PP, who explained that there was no will but that there was an urgent matter which he needed to discuss with Fr Molloy's family. He therefore met with A and her mother on Monday, 15<sup>th</sup> July 1985 and revealed that Fr Molloy and Therese Flynn had had a business association, in respect of which he had acted as their solicitor on a number of transactions since 1972. He asked whether the two ladies were aware of this and they responded that they were not: that, as far as they were aware, the only connection between Fr Molloy and the Flynns was through horses. Mr PP added that there had been a development in 1984: Fr Molloy had come to his office with Therese and Richard Flynn and the three of them explained that Richard and David Flynn were in financial difficulty and that they needed cash in a hurry. It had been proposed that Fr Molloy and Therese Flynn would purchase some of the land at Kilcoursey for £35,000, of which £24,000 or £25,000 would be paid as a deposit and the deal would then be subject to Land Commission approval. It seems that Mr PP formed the view that Fr Molloy, whose share of the deposit was to be £11,000, was having reservations about this transaction but that Therese Flynn reassured him that, should the deal be finalised, they would own the land and if anything went wrong, they would get their deposit back. Mr PP continued that, in February 1985, the Land Commission refused to sanction the deal and, thereafter, Fr Molloy had been trying to recover his money from Richard Flynn but had been unsuccessful in this regard. Apparently, he had been in contact with Mr PP on several occasions to see if anything could be done. Mr PP also revealed that Therese Flynn had been speaking to him a few days before this meeting on the 15<sup>th</sup> July and she had asked whether Mr PP was obliged to inform Fr Molloy's family about the transaction, to which Mr PP responded that he was so obliged. There is no information available in the documents to suggest whether or not Therese Flynn was still in hospital when she was speaking to Mr PP.

Some documentation relating to this transaction has subsequently been recovered by the gardai and this is addressed later in this report. However, there is no statement from Mr PP at all. Accordingly, it is impossible to ascertain whether or not the recollections of Ms A and Ms B about these conversations are accepted by him and, more importantly, whether or not Mr PP was being accurate in his retelling of events. These are the difficulties which are invariably encountered when a person relates information which has been imparted by another and a strict adherence to the evidential rules which govern a legal process would render these recollections inadmissible because they infringe the rule against hearsay.

### 3.7 Further Garda Investigation in 1985.

As all this information was being assimilated, Inspector Monaghan attempted to question members of the Flynn family again. On the 19<sup>th</sup> July 1985, he went with Detective Sergeant Thomas Dunne to the home of David Flynn and interviewed Richard Flynn in the presence of his son. Having been formally cautioned in relation to his right to silence, Richard Flynn was informed that the gardai were investigating suggestions that he owed Fr Molloy a large sum of money and that Fr Molloy had expressed serious concern about getting the money back. When invited to comment about this, Mr Flynn responded that he would make no statement without his solicitor being present.

On the 23<sup>rd</sup> July 1985, Inspector Monaghan and Detective Sergeant Dunne returned to Kilcoursey House and interviewed Therese Flynn in the presence of her solicitor, Liam Lysaght. Ms Flynn explained that she could not recall any details of the events leading to Fr Molloy's death other than those contained in the prepared statement which had already been handed to the gardai by her solicitor. She accepted that there had been a business deal in which she and Fr Molloy had agreed to purchase land from her husband and that a deposit of £24,000 had been paid, but she asserted that she herself had repaid to Fr Molloy the £11,000 which he had originally provided. Ms Flynn claimed that this sum had been repaid to Fr Molloy in cash, from an amount which she kept in a safe in the house, about two months prior to his death, but she accepted that she had no receipt for this repayment. She said that she had no idea what Fr Molloy had done with this money but that she had wanted to repay him because she had not wanted him to be worrying. Ms Flynn explained that she had known Fr Molloy since childhood through pony clubs and that it had been his idea to purchase the land because he had wanted to retire there and build a house on the land.

Liam Lysaght then told the gardai that he would prepare a statement in respect of the details which Therese Flynn had given and that he would hand the statement to the investigation team. He also accepted that Ms Flynn's assertion that the £11,000 deposit had been repaid to Fr Molloy was unsupported by receipts or other banking documentation and he agreed that there was no other evidence that Richard or Therese Flynn had returned to Fr Molloy the deposit for the unsuccessful transaction. Mr Lysaght also explained that Richard Flynn did not wish to be interviewed by the gardai or to make any further statement.

Documents evidencing this agreement were subsequently obtained by members of the SCRT whilst they were investigating matters in 2011 and 2012. These documents appear to confirm the existence of the contract and to confirm its financial details, as well as the fact that a deposit of £24,000 was paid on the 7<sup>th</sup> September 1984. There was also a letter dated the 14<sup>th</sup> February 1985 from the Land Commission confirming its refusal to consent to the proposal.

However, there is no banking documentation relating to Fr Niall Molloy so it is impossible to ascertain whether or not he lodged £11,000 into his bank account, if he had one. Such records might have been strong evidence to support Therese Flynn's assertion that the deposit was repaid but, in the absence of these, the assertion remains uncorroborated.

The only other relevant development in 1985 was that Dr Daniel O'Sullivan took blood samples from both Richard and Therese Flynn on the 15<sup>th</sup> July 1985 at the request of Detective Sergeant Thomas Dunne. However, it appears that these samples of blood were never compared with any swabs taken from the scene or with any other exhibit.

#### **4. The Trial of Richard Flynn.**

##### **4.1 Evidence.**

In keeping with standard procedure for the vast majority of investigations into serious crimes, the garda investigation file was forwarded on the 31<sup>st</sup> July 1985 to the Office of the Director of Public Prosecutions for consideration. On the 20<sup>th</sup> August 1985, a written direction was issued by Eamonn Barnes, who was the Director at that time. The direction was that Richard Flynn should be prosecuted on indictment for two offences relating to the injuries sustained by and the death of Fr Niall Molloy at Kilcoursey House on the 8<sup>th</sup> July 1985: Manslaughter, contrary to Common Law, and Assault Occasioning Actual Bodily Harm, contrary to Section 47 of the Offences Against the Person Act, 1861.

Richard Flynn was tried on these charges before the Dublin Circuit Criminal Court on the 12<sup>th</sup> June 1986 before His Honour Judge Frank Roe, who was at that time President of the Circuit Court.

It appears that the evidence called by the Prosecution largely mirrored the factual summary set out above. Of particular significance was the evidence of the post mortem examination, which was given by Dr John Harbison in accordance with his report. However, when being cross-examined by Counsel for the Defence, Dr Harbison accepted that, while the pathological evidence suggested that the primary cause of Fr Molloy's death was the trauma to the brain arising from his head injuries, there were two other possibilities: that Fr Molloy had suffered a heart attack prior to any attack on him, the coronary perhaps having been brought on by being worked up; or that Fr Molloy suffered a heart attack after the assault. Nevertheless, Dr Harbison stated that these two theories were merely possibilities and that the evidence pointed towards the original conclusion which he had reached.

It seems that Dr Harbison also accepted in cross-examination that the injuries sustained by Fr Molloy were possibly consistent with the assertion made by Richard Flynn in his written statement that he had only struck Fr Molloy two or three times. In particular, Dr Harbison agreed that the injury to Fr Molloy's left lower chin was consistent with an impact with an object in the process of falling to the ground. Upon being asked what object might have caused this particular injury, Dr Harbison identified the bed-post and/or the television table as

possibilities. He continued that, notwithstanding the suggestions put in cross-examination about the possibility of a heart attack, he could not ignore the head injuries as being a significant, of not the sole, cause of death.

#### 4.2 Defence Application.

At the conclusion of the Prosecution evidence, Counsel for the Defence, Patrick McEntee SC, applied to the trial judge for a directed acquittal on both charges. This is an application which is made in many cases where the Defence contend that the onus of proof, which rests on the Prosecution, has not been discharged and that the jury should be directed by the judge to enter a verdict of ‘not guilty’. Although such an application is often made, it is only granted in exceptional circumstances where either there is a clear lacuna in the evidence called for the Prosecution such that there is insufficient proof that the accused person committed the offence alleged, or that such evidence which might tend to implicate an accused person is so weak that a properly directed jury could not properly convict in reliance on it.

In Richard Flynn’s case, the submission was on three grounds:

1. It was contended that a possibility existed that Fr Molloy had suffered a heart attack which resulted in his death, such heart attack having occurred either before any assault upon him or subsequent to the assault.
2. As an alternative, it was contended that there was an onus on the Prosecution to disprove Richard Flynn’s assertion in his statement that he had acted in self-defence and that this onus had not been discharged. In support of this contention, the Defence relied on the evidence given by Dr Harbison that other possible causes of death had been left open and that the head injuries, rather than having been caused by five or six blows, may have been caused by two or three blows and a fall, causing Fr Molloy to bang his chin off a solid object in the bedroom.
3. In addition, the Defence suggested that the Prosecution had not disproved that Fr Molloy had died by misadventure rather than by an overt act by Richard Flynn.

#### 4.3 Trial Judge’s Ruling.

The trial judge, Judge Roe, granted the Defence application in respect of the Manslaughter charge on the basis that the cause of death had not been sufficiently proved to comply with the Prosecution's onus of proof. The judge also granted the application in respect of the Assault charge on the ground that the Prosecution had not sufficiently proved that Richard Flynn did not act in self-defence, as claimed in his statement. Having granted these applications, the trial judge proceeded to direct the jury to acquit Richard Flynn on both charges, as a result of which verdicts of 'not guilty by direction of the trial judge' were recorded.

#### 4.4 Prosecution Reaction.

Whenever a trial judge grants a defence application for a directed acquittal, the Office of the Director of Public Prosecutions requests Counsel for the Prosecution to submit a report setting out the reasons behind the granting of the application and providing an assessment of whether the decision made by the trial judge was correct. Following this practice, Raymond Groarke, who acted for the Prosecution in the trial of Richard Flynn on the 12<sup>th</sup> June 1986, submitted such a report.

Ordinarily, a legal privilege would attach to any communication passing between the DPP's Office and Counsel instructed in a trial because such communication is private. However, given that it is in the public interest to ensure that the criminal justice system operates in a fair and open manner, the contents of Counsel's report in respect of the trial of Richard Flynn has been fully rehearsed below.

In his report dated the 12<sup>th</sup> July 1986, Mr Groarke set out the evidence adduced during the trial and detailed the submissions made by Counsel for the Defence at the conclusion of the Prosecution's case. Having also summarised the trial judge's ruling, Prosecution Counsel indicated that he disagreed with the judge's decision to direct an acquittal on both counts. He was of the opinion that the jury should have been permitted to assess the issue as to whether Fr Molloy could possibly have died as a result of a heart attack, and that the question of whether this was a real possibility, or a reasonable doubt, should have been examined in the light of Dr Harbison's declaration that "I can't ignore the head injuries". Mr Groarke also opined that raising the possibility that a heart attack was a contribution to the cause of death was insufficient to amount to a defence. This opinion was based on the well-established legal doctrine that an accused person must take a victim as he finds him, so that, provided the

unlawful actions of an accused at least contributed to the death, even if the deceased had a vulnerable pre-disposition, the accused was responsible in law for the death.

Notwithstanding these opinions expressed by Raymond Groarke, he continued that “if I had been defending the case, I would have been most surprised and disappointed not to have obtained a direction [to acquit] having regard to the evidence on cross-examination”. The implication from this remark in Prosecution Counsel’s report is that this very experienced Counsel, who was present in court for Dr Harbison’s evidence and therefore the best-placed person to assess it, was unsurprised at the judge’s ruling in light of that evidence.

However, Prosecution Counsel did firmly disagree with the trial judge’s decision to direct an acquittal on the charge of Assault. In any criminal trial, the question of whether the Prosecution has disproved a suggestion that an accused person acted in lawful self-defence is quintessentially one to be assessed by a jury. It is only in an exceptional case that a judge should withdraw such an issue from the jury’s ambit of responsibility. In the Richard Flynn case, Mr Groarke was of the opinion that there was ample evidence to suggest that, even if Fr Molloy had mounted an attack, the force used by Richard Flynn was excessive, whether or not it was used in his own defence. In addition, Prosecution Counsel emphasised that the evidence at the trial was that there was no mark of an offensive or defensive nature on Fr Molloy’s hands or arms.

Additional peripheral matters which were pertinent to the issue of self-defence were also highlighted in the report of Counsel for the Prosecution. These included the fact that Fr Molloy’s body had been moved either before or after death a distance of some eight or nine feet, which was clear from the dimensions and direction of the blood mark on the carpet which stretched from the bed to the body. Furthermore, evidence was given of some spattering of blood found on both sides of two doors in the room, on the wall and at the top of the stairs. It seems that Mr Groarke had been led to understand by one of the forensic scientific gardai that these spatters of blood were consistent with a person shaking his hands to dry them causing washed matter, including blood, to end up in these positions following the assault.

Prosecution Counsel concluded his report with the strong opinion that, “the count of assault should not have been withdrawn from the jury. There was ample evidence for the jury to consider whether or not the defence of self-defence was valid. This is the case even if there was no other evidence at all other than that of the accused’s statement.”

#### 4.5 Commentary.

At the time of the trial, the law allowed an appeal from a criminal trial to the Court of Criminal Appeal only by the Defence. Where the Prosecution held the view that a trial judge had erred in law, as a result of which an accused person had been acquitted, a limited form of appeal was possible by virtue of Section 34(1) of the Criminal Procedure Act, 1967, which provides as follows:

*“Where, on a question of law, a verdict in favour of an accused person is found by direction of a trial judge, the Attorney General may, without prejudice to the verdict in favour of the accused person, refer the question of law to the Supreme Court for determination.”*

By the date of the trial, the powers hitherto exercisable in this regard by the Attorney General had been vested in the Director of Public Prosecutions. However, the power to appeal to the Supreme Court on a point of law has only ever been used in exceptional circumstances. In its ‘Guidelines for Prosecutors’, a publicly available document published by the Director of Public Prosecutions, the DPP explains the limited scope of the appeal or review permitted under the 1967 Act and emphasises that,

*“References under Section 34 arise very rarely. It should be noted that the section applies to a limited class of legal rulings against the prosecution.”*

It is perhaps arguable that the Director of Public Prosecutions could have applied to the Supreme Court for a review of the decision of Judge Frank Roe to direct the acquittal of Richard Flynn, particularly in relation to the Assault charge. However, at its height, Judge Roe’s decision was less an error of law and more an error in applying the law as it pertained in respect of the onus of proof and in respect of his role in assessing whether or not the prosecution had adduced sufficient evidence for the trial to proceed to be considered by a jury. The Supreme Court’s role in this regard is to clarify questions of law so that there is certainty should such a question arise in the future. On any view, Judge Roe did not make a demonstrably wrong ruling on the law. Rather, arguably he misapplied the law in deciding that the evidence in the case was insufficient to be considered by a jury. At most, this was a mistake in the assessment of the evidence. Such an assessment was something which could not be corrected or clarified in any meaningful way by the Supreme Court.

In any event, even if such an application under Section 34 of the 1967 Act had been made, the law did not permit the verdict to be set aside and, therefore, Richard Flynn's acquittal would have remained unaltered.

Since the date of the trial, the law has moved on. The Director of Public Prosecutions now enjoys a wider right of appeal following the enactment of the Criminal Procedure Act, 2010. Section 23 of this Act provides that an appeal on a point of law can be brought to the Supreme Court by the DPP if an accused person has been acquitted and that, in certain circumstances, the Supreme Court has power to quash the acquittal and order a re-trial. However, the rights and powers under this section are not retrospective in that they apply only to individuals who have been tried and acquitted after the commencement of the Act. Accordingly, these provisions could have no effect on the position of Richard Flynn.

Similarly, Sections 8 and 9 of the Criminal Procedure Act, 2010 allow the DPP, in certain circumstances, to apply for a re-trial of a person who has been acquitted of an offence. This is a significant departure in the existing law in that it allows for exceptions to the rule against double-jeopardy: hitherto, a person could not be tried for the same offence if he or she had been acquitted at a criminal trial. The position under Sections 8 and 9 is that, if there is compelling new evidence or if the previous acquittal was in some way tainted, there is a possibility that a fresh trial could be permitted. However, like Section 23, these provisions are prospective only and their application is limited to acquittals returned after the commencement of the Act. Therefore, again, these provisions could have no effect on the position of Richard Flynn.

## 5. Developments after the Trial.

### 5.1 Anonymous Letters Received.

During 1986, Fr Niall Molloy's brother, William (or Billy), received an anonymous letter from a person claiming to have worked as a waiter on the day that Fr Molloy died. The author of the letter claimed that there had been a row early in the evening "where Fr Niall and Mr Flynn was fighting down stairs, Mrs Flynn got between them to stop them". He asserted that, during this, bottles were broken which one of the daughters cleared up and, as a result of this row, Fr Molloy was bleeding so Mrs Flynn took him upstairs to clean him up and they were followed by Mr Flynn. The author claimed that the row started again upstairs and that Mrs Flynn attacked the priest. He gave a time for this as being at around 9.00 pm. It was suggested that the staff were paid and went home but that, even at this stage the row had not finished and that Mr Flynn was drunk. The author claimed that, at 9.30 pm, Fr Molloy was still alive but was "bleeding a lot" and he exhorted Billy Molloy not to forget that the trial judge was a friend of Mrs Flynn's and that he traded in horses with a man at the Curragh. He concluded by offering the opinion that Fr Molloy "was murdered in cold blood" and that he could not give his name because he depended on big functions to make a living. The letter is signed, "a friend".

At the foot of the document is the following certification: "I certify that this is a first hand copy of the letter received by Billy Molloy passed to me 7/11/86". The signature is illegible and there is no mention of this letter in William Molloy's statement but the signature appears to have been witnessed by a "C. Byrne". Unfortunately, there is no statement from anyone of that name in the SCRT Report.

Notwithstanding the absence of detail, it appears that this anonymous letter must have been passed to the garda investigation team at some stage prior to 1988 because it appears that two witnesses, I and J, who had not been interviewed before, were invited to make statements about events at Kilcoursey House. However, these witnesses add little insight to the unfolding of events on the 6<sup>th</sup>, 7<sup>th</sup> and 8<sup>th</sup> July 1985 and, significantly, they fail to corroborate in any way the assertions made in the anonymous letter.

The two witnesses, I and J, were part of the catering team and they signed their statements on the 18<sup>th</sup> November 1988. Both ladies were working at the time in the Bridge House in Tullamore, which was providing the catering for the Flynn wedding events on that July weekend. They were both at Kilcoursey House on Saturday 6<sup>th</sup> July and I remembered that Fr Molloy was present at the top table, although it appears that he arrived some way through the meal. J was also at Kilcoursey House on Sunday 7<sup>th</sup> July to set things up for the meal but she and her colleague left before the meal started and, whilst she was there, she did not remember seeing Fr Molloy. Neither of the ladies remembered seeing or hearing anything unusual on either of the days.

It appears that William Molloy also received a second anonymous letter from “a concerned Midlander who wants justice done”. In this, the author asserted that the “mystery” surrounding the case included the “sudden death of the doctor’s wife” only ten days after she had revealed things about the night of Fr Molloy’s death. Although the letter continues with a series of startling suggestions about how Fr Molloy was killed, it does not make it clear whether the author had any first-hand knowledge. The implication is that the information came from “the doctor’s wife” who had since died and who, in any event, had not been present during the events related. Given the author’s remove from the events, the letter amounts at best to second-hand hearsay and, accordingly, its accuracy and reliability must be open to question. Further, because of the death of “the doctor’s wife ” and the anonymity of the author of the letter, this accuracy and reliability simply cannot be tested.

The suggestion made in the letter is that some form of operation was performed on Fr Molloy and that he had bled to death as a result. It is contended that this happened downstairs at Kilcoursey House and that, although the plan initially was to dump the body in the river, those responsible instead decided to drag it upstairs which caused considerable staining to the carpet on the stairs.

It is worth noting that the pathological evidence given at both the trial and the inquest is entirely inconsistent with the suggestion of bleeding to death. Further, the description in the letter of the room being “like a slaughter-house” with the amount of blood is also inconsistent with the crime-scene examination and with the photographs which do not show a disproportionate amount of blood in the main bedroom and show a complete absence of blood downstairs and on the carpet on the stairs. In addition, the details in the letter appear to

have been echoed some time later in information given to a detective called Gerard O'Carroll, which he then established could not have been true.

The letter also made the completely unsubstantiated allegation that the person responsible for Fr Molloy's death was someone other than Richard Flynn, although at a later point in the letter it transpires that this allegation was based simply on "whisperings in the countryside". The letter further suggested that Richard Flynn, who was taking the "wrap" for the killing, would plead diminished responsibility. As an objective fact, this did not happen.

The final sentence of the letter promised to send some money for the "fighting funds", although it is unclear what is meant by this phrase. Then, bizarrely, the letter stated that, if the author failed to send the money within ten days, the letter should be ignored. It is not clear whether any money was ever received or why paying any heed to the information in the letter was dependent on the receipt of funds.

As stated, both of these letters were anonymous and contained very little information from which their authorship could be ascertained. The difficulty with anonymous assertions is that they are very easy to make but very difficult to substantiate. In the absence of further information in respect of the source of the contentions in the letters, it is impossible to assess in any meaningful way the accuracy and reliability of this information.

## 5.2 Newspaper Article by Tom Reddy.

During the same time period, a journalist called Tom Reddy wrote a short article, entitled "Watch clue to priest's death", which was published in the Irish Independent on the 8<sup>th</sup> July 1986. In this, he suggested that Fr Niall Molloy's wristwatch "could hold a vital clue" about the time of the priest's death. Mr Reddy reported that William Molloy had brought the watch to a jeweller who had then sent it to Dublin for repairs. An unnamed "expert" is then reported to have told Mr Reddy that such a watch is shockproof and would not break or show a mark after a 15-foot fall. He is further reported to have said that it would take a severe blow to cause such damage.

## 5.3 Fr Molloy's Watch.

There has been an enormous amount of speculation about the wristwatch which Fr Niall Molloy was wearing at the time of his death. This seemed to emanate from the fact that the glass on the front of the watch was broken and that, at some point after the watch had been returned to Fr Molloy's family, it was noticed that the watch had stopped working and that the time on it showed as 10.40. An assumption was then made that the watch must have stopped working at the same time as Fr Molloy was being beaten which, if the watch was showing the correct time, must have been 10.40, almost five hours before the gardai arrived at Kilcoursey House.

A garda report submitted by Detective Sergeant John Dunne indicated that, on the 18<sup>th</sup> July 1986, he and Sergeant Kevin Forde met William Molloy and discussed a number of issues, including Fr Molloy's watch.

However, before getting to the watch, they spoke about the anonymous letters. Billy Molloy had with him the most recent one, which he said had been posted in Limerick on the 7<sup>th</sup> July 1986 and a copy of which the gardai obtained. This appears to be the same letter from a "waiter", which has been detailed earlier in this report. Mr Molloy said that he had been receiving a lot of letters of support, most of them anonymous, and that he was passing them on to his solicitors, who had advised him not to discuss matters with the gardai. He also mentioned that a female journalist had been asking questions and that his nephew, QQ, had told her about the most recent letter. He described QQ as a "nuisance" because he was "running to the press with stories". Mr Molloy also revealed that he had been receiving money from American supporters who had also promised to put pressure on Irish politicians about the case.

Detective Sergeant Dunne reported that William Molloy also spoke about his late brother's horses which he said remained at Richard Flynn's farm in Clara. Mr Molloy told Detective Sergeant Dunne that he had discovered that a man named RR from Sligo had received £2,000 commission arising from the sale of one of the horses called Stepside.

The report states that, finally, they discussed Fr Niall Molloy's wristwatch: this had been repaired by a T, a jeweller in Castlerea. Detective Sergeant Dunne reported that he subsequently spoke to T who confirmed that William Molloy had brought the timepiece to him to be repaired. T had found that the glass on the face of the watch had cracked and that the second-hand was trapped in the cracked glass, thus stopping the mechanism. He told the gardai that the battery was flat but that, otherwise, the watch was in working order. T had

replaced the battery and removed the glass and the watch then functioned normally. The gardai also reported that T had told them that the damage to the watch had not been as a result of a very severe blow but that it could have been caused by letting the watch fall on a hard surface or by striking it accidentally against a hard object.

Detective Sergeant Dunne ascertained from the case file that the watch, along with Fr Niall Molloy's other belongings, had been handed by the gardai to William Molloy on the 11<sup>th</sup> July 1985 and Sergeant Forde confirmed that there had been no discussion among the gardai or with members of the Molloy family about the damage to the watch. The watch was reported to have been worth about £200.

Detective Garda Michael Keating made an additional statement on the 6<sup>th</sup> July 1986, just less than a month after Richard Flynn's acquittal. This was a week or so prior to the inquest which was held into Fr Molloy's death but after questions had been raised about Fr Molloy's wristwatch. In this statement, Detective Garda Keating detailed a conversation about Fr Molloy's watch which he recalled having with Dr John Harbison during the latter's post mortem examination of Fr Molloy's body. Detective Garda Keating had taken possession of the watch after Dr Harbison removed it from the deceased's wrist and they spoke about how, notwithstanding that there was a superficial crack in the glass face, the watch was still in working order, which they commented was in common with a number of working watches found after a recent air crash which they had both attended. In his statement, Detective Garda Keating reported, "while there may have been a very superficial crack or mark on the glass of the watch, there certainly was no major smashing or breaking of the glass or face of the watch which would result in its ceasing to function".

The fact that the conversation between Dr Harbison and Detective Garda Keating took place was endorsed by two other members who attended the post mortem examination: Detective Gardai Oliver Cloonan and Declan Buckley. Both remembered the discussion about the fact that Fr Molloy's watch was still working. Unfortunately, neither of these statements is dated so it is impossible to ascertain whether they were made during the initial investigation in 1985 or, as is probably more likely, after Detective Garda Keating made his further statement in July 1986 and following the issue pertaining to the watch having been raised.

In addition, the statements of Garda Fox and Sergeant Forde, which addressed the details of the handover of Fr Molloy's property, were clearly made expressly to deal with the issue of

the watch: both statements were made as addenda to the witnesses' original statements, both are short and address only the circumstances of the handover, and both are worded in almost identical terms to each other. Further, both statements specifically address the issue of whether or not the watch was working: both Garda Fox and Sergeant Forde stated that they noticed that the glass on the face was broken but was still in place, and neither of them noticed whether the watch had stopped or what time was shown on it. Although both statements are undated, as is common with the vast majority of statements made by members of the gardai in any investigation, the overwhelming inference is that, like the statements of Detective Gardai Keating, Cloonan and Buckley, these additional statements were made in 1986, after the issue about the watch had been raised. An additional indicator of this is that there has been a handwritten amendment to Sergeant Forde's statement in respect of this date of the handover of property to William Molloy: it appears that the date was originally typed as "11/7/86" but was then changed to "11/7/85", which date seems to coincide with other documentation. This amendment possibly adds further weight to the implication that the statement was made in 1986 rather than 1985.

Dr Harbison's report also mentions the removal of Fr Molloy's watch, along with a gold chain and Miraculous Medal which was around Fr Molloy's neck. Dr Harbsion stated that he removed these items and handed them to Garda Fox. This detail is inconsistent with the accounts given by Detective Gardai Keating, Cloonan and Buckley and by Garda Fox himself, all of whom state that the items taken from Fr Molloy were first handed to Detective Garda Keating, who then passed them to Garda Fox. It may be that this anomaly of detail is not particularly significant. However, there is also no mention in Dr Harbison's report of any conversation about the watch being in working order. While this absence does not mean that this conversation did not take place, it certainly does not add any corroboration to Detective Garda Keating's subsequent recollection.

## **6. The Inquest.**

On the 24<sup>th</sup>, 25<sup>th</sup> and 26<sup>th</sup> July 1986 at Tullamore Courthouse, an inquest into the circumstances of the death of Fr Niall Molloy was held pursuant to the Coroner's Act, 1962 before Brian Mahon, the Deputy Coroner for Co. Offaly. The State was represented by both senior and junior counsel; the Flynn family and the Molloy family each had its own counsel; and Fr James Deignan was represented by a solicitor. Evidence, by way of deposition, was taken from twenty-two witnesses, including Richard Flynn and other members of the Flynn family, two pathologists, a forensic scientist, and members of An Garda Siochana involved in the technical examination of the scene, the preservation of the scene and the investigation of the death of Fr Niall Molloy.

The State Pathologist, Dr John Harbison, stated that the cause of death was acute brain swelling and subdural haemorrhage as a consequence of head injuries. He added that cardiomyopathy may also have contributed to Fr Molloy's death. He repeated the detail from his report that, as a result of his examination of the body at the scene, he had concluded that death had occurred either late at night on the 7<sup>th</sup> July or in the very early hours of the 8<sup>th</sup> July 1985 but he was reluctant to say "[on] which side of midnight death occurred". He also estimated that Fr Molloy had last consumed alcohol an hour or two prior to his death.

When Dr Harbison was asked about removing the wristwatch from the deceased during the post mortem examination, he responded that he had no recollection of commenting that the watch was still working, although he emphasised that this lack of recall did not mean that he had not said this. He further commented that, if the watch had been stopped at a particular time, he would normally have noted this given that it would have been both unusual and relevant.

Dr Declan Gilsenan, a pathologist who would ordinarily undertake the responsibilities of the State Pathologist if Dr Harbison were unavailable and who had been instructed by the Flynn family to examine the case, gave evidence based on a review of Dr Harbison's work. Dr Gilsenan had discussed the case with Dr Harbison, had read the Book of Evidence and had examined the deceased's heart, brain and histology slides. Dr Gilsenan was of the opinion that Fr Molloy's death had been caused by pulmonary oedema, the priest having suffered

cardiac arrest due to the emotional excitement and the physical activity of the events at Kilcoursey House. He further ventured the suggestion that the oedema could also have resulted from either cerebral lung or aspiration of vomitus or from a combination of both. Dr Gilsenan concluded by saying that the cause of death was not clear-cut and that “occasionally, we have to say we don’t know”.

Following this, Dr Harbison was recalled and stated that nothing said by Dr Gilsenan would cause him to alter his conclusions, that the cause of death was acute brain swelling and subdural haemorrhage as a consequence of head injuries.

A number of other witnesses gave evidence to the inquest, although this evidence was in accordance with the statements made by them to the gardai during the investigation, a summary of which has been set out above. There was also a very brief deposition taken on the 25<sup>th</sup> July 1986 from a Dr Greally who confirmed that he had admitted Therese Flynn to Tullamore General Hospital on the 8<sup>th</sup> July 1985 and referred her to a surgical doctor. The time of admission was given as between 3.15 and 3.30 am.

The Coroner, Brian Mahon, made a number of closing remarks to the jury clarifying what he saw as the main issues. He stated that he was satisfied of the identification of the deceased and the location where death had occurred. He also stated that the inquest had “gone a long way” to establishing the time of death, the evidence having provided a four-hour period of between 10.00 pm and 2.00 am.

Mr Mahon suggested that it was not an unusual feature in a religious rural community for a priest to have been called to the house before a doctor, and he commented on the delay in contacting the gardai as being “regrettable but understandable”. He also commented that there were matters which he did not understand, such as the unexplained drag-mark in the bedroom, the injury to Fr Molloy’s left leg, and the reason behind the row starting in the first place.

In dealing with the evidence of the pathologists, Dr Harbison and Dr Gilsenan, Brian Mahon stated that, in his opinion, an overall view of all the testimony endorsed the conclusions reached by Dr Harbison: he told the jury that the medical evidence was of (a) acute brain swelling and subdural haemorrhage, consistent with having sustained a serious head injury; and/or (b) heart disease in the form of an abnormally enlarged heart muscle, which may have been a contributing factor. He instructed the jury that it was open to them to “elect for either (a) or (b) or both”.

Having retired to consider the verdict, the jury recorded a finding that “death was due to acute brain swelling and sub-dural haemorrhage, consistent with having sustained a serious injury to the head”.

## 7. Medical Commentary.

By letter of the 6<sup>th</sup> October 1988, Fr Niall Molloy's nephew, QQ, acting in his capacity as administrator of his uncle's estate, formally requested the Garda Commissioner to re-open the investigation into Fr Molloy's death. Part of the basis for this request was new medical evidence which had emerged. QQ enclosed with his letter reports from Professor Dermot Hourihane and from Dr John Dinn.

### 7.1 Professor Dermot Hourihane.

In a report dated the 20<sup>th</sup> October 1987, Professor Hourihane, a professor of histopathology at Trinity College and a consultant histopathologist at St James's Hospital in Dublin, ventured an opinion that the anatomical evidence of injury was very strongly suggestive that Fr Molloy had received kicks as well as punches and that he had lived for hours rather than minutes after the injuries were first received. He based these opinions on a review of the transcripts of the medical evidence from the inquest, in addition to Dr John Harbison's autopsy report and record of histological findings.

The foundation for his conclusion that Fr Molloy had been kicked was threefold: first that Dr Harbison had agreed with a suggestion put in cross-examination during the inquest that the most likely explanation for one of the injuries to the jaw was a blow from a shod foot; secondly that a small abrasion on the inside of the thigh and an area of bleeding around the outside of one kidney were suggestive of blows, probably kicks, delivered whilst Fr Molloy was on the ground; and thirdly that bleeding over the inner aspect of the collar bone was more suggestive of a kick rather than a blow struck by a fist.

In respect of the cause of death, Professor Hourihane agreed with Dr Harbison's assessment that Fr Molloy had died as a result of pulmonary oedema following upon brain swelling. However, he suggested that other findings, including a thin layer blood on both sides of the brain, indicated that death had not occurred within minutes of the blows having been sustained but rather after some hours. He also agreed with Dr Harbison's opinion that there was unconvincing evidence of underlying heart disease, although Professor Hourihane added the proviso that he could not comment categorically on this without first examining the histological preparations from the heart.

## 7.2 Doctor John Dinn.

Dr John Dinn, a consultant neuropathologist at St James's Hospital and senior lecturer in neuropathology at Trinity College, was also provided with the transcript of Dr Harbison's evidence at the inquest, along with the depositions of Dr Harbison and Dr Gilsean, the coroner's report, the opinion of Professor Hourihane, the histology slides and two books of garda photographs. In his report dated the 16<sup>th</sup> September 1988, he detailed the pathological findings in respect of Fr Molloy's brain and agreed with Dr Harbison's conclusions in respect of the cause of death. He went further in setting out the quantity of bleeding within the skull and opined that this accumulation of blood would not occur within one hour, as was implied in the statements of evidence. Dr Dinn asserted that there was corroboration for this conclusion in the findings from the histology slides which showed histological changes which take from one to three hours to develop. In conclusion, Dr Dinn contended that Fr Molloy did not die suddenly following the head trauma but that he was alive and unconscious for more than one hour after the injuries had been inflicted.

## 7.3 Doctor John Harbison.

Both of these reports, which had been sent to the gardai by QQ, were passed on to Dr Harbison, the State Pathologist, for any comments which he might have. In a report dated the 3<sup>rd</sup> March 1989, Dr Harbison responded that there were conflicting arguments being made about the timing of Fr Molloy's death and that it was unsurprising that Dr Dinn and Professor Hourihane, having been instructed by the Molloy family, would disagree with the opinion of Dr Declan Glisean, who had been instructed by the Flynn family. Dr Harbison's comment on this was that he would "allow the experts on both sides as much latitude as possible by agreeing to the possibility of conflicting views". He also deferred to the experts in neuropathology in assessing the time of death, having himself relied on the expertise of Dr Farrell of Beaumont Hospital when first writing his report, and he repeated that he would "like to leave the widest possible latitude in this area".

In respect of the suggestion that the injuries might have been caused by kicks rather than punches, Dr Harbison indicated that he was unable to be certain that a deceased person had been kicked unless there were imprints of footwear on the skin, which were not present in

this case, or the damage inflicted was greater than could have been caused by the fist of an ordinary unfit middle-aged man. He stated that, while he was not in a position to say categorically that any of the injuries were not caused by kicks, similarly he could not conclude with any degree of certainty that they had been so caused. However, he did comment that, in his experience, fatal kicks to the chest area usually would cause rib fractures, which were not noted in this case.

Dr Harbison's report concludes with the comment that, subject to a perusal of the transcripts with which he had not been provided and subject to the neuropathological opinion of Dr Farrell, Professor Hourihane and Dr Dinn, having been instructed by the Molloy family, had produced generally fairly reasonable alternative explanations which he conceded as being possibilities.

In an addendum report dated the 11<sup>th</sup> October 1989, Dr Harbison indicated that he had reviewed the neuropathological findings and had discussed them with a senior neuropathologist. They had concluded that a sub-dural haemorrhage alone could easily have occurred within an hour and that, in any event, this bleeding was of lesser significance in the cause of Fr Molloy's death than the post-traumatic swelling of his brain, which swelling can reach a fatal degree in well under an hour.

However, Dr Harbison did concede that he was unable to rebut Dr Dinn's assertion that the changes in the neurones which were seen under microscopic examination would have required more than one hour between injury and death to have become visible.

## **8. Further Developments.**

### **8.1 Theft of the File from the DPP's Office.**

Between 5.30 pm on the 29<sup>th</sup> August 1987 and 9.05 am on the 31<sup>st</sup> August 1987, a burglary occurred at the Offices of the Director of Public Prosecutions on St Stephen's Green, Dublin 2. A garda investigation was launched with a view to apprehending the burglars and to recovering the files which had been stolen.

Following receipt of confidential information, members of the investigation team searched premises on Arbour Hill, Dublin 7 on the 23<sup>rd</sup> October 1991 and located sixty of the stolen files. The file in relation to the investigation of Fr Molloy's death was not recovered until much later, on the 14<sup>th</sup> January 1993, again as a result of receiving confidential information.

A number of suspects were interviewed in relation to this offence, among them an associate of the Dublin criminal known as 'The General', Martin Cahill. However, no charges were ever brought because there was insufficient evidence against any individual.

### **8.2 Arson at the Coroner's Office.**

The Deputy Coroner for Co. Offaly, Brian Mahon, related to investigating gardai that a burglary had occurred at the Coroner's Office in Tullamore over the Christmas period in either 1990 or 1991 and that the burglars had ignited a fire in an office which they had ransacked. This fire had destroyed a small quantity of papers, including cards of appreciation from the Molloy family, but the actual file relating to the Fr Niall Molloy Inquest had remained undamaged.

## 9. Newspaper Articles.

### 9.1 Conor Lenihan.

Almost four weeks after the trial and acquittal of Richard Flynn, the Sunday Press carried an article in its edition of the 6<sup>th</sup> July 1986 written by Conor Lenihan in respect of the trial judge, Frank Roe. The article is highly complimentary, praising the judge's strong work-ethic and the long hours he devoted to the cases which came before him, as well as extolling his abilities as a horseman and his generosity to others around the racetrack and to charities generally. A number of political references made it clear that Judge Roe had a close connection with the Fine Gael party. The article is limited to giving background information about the judge and makes no specific reference to the trial of Richard Flynn.

### 9.2 Veronica Guerin.

In the Sunday Independent dated the 16<sup>th</sup> October 1994, an article written by journalist Veronica Guerin carried the headline, "Roe sent letters on Molloy case to DPP". The article briefly outlined the background of the case: that Fr Niall Molloy met his death in 1985 during a violent argument and that Richard Flynn subsequently faced charges of manslaughter and assault but was acquitted at trial in 1986. Ms Guerin purported to explain the acquittal by reporting that "Justice Frank Roe accepted expert evidence that the priest may not have died from his injuries, but from a heart attack". She also reported, by contrast, that "an inquest jury found [that] the priest [had] died from head injuries sustained in the fight".

The force of the article was carried by the assertion that the trial judge had written twice to Eamonn Barnes, who was at that time the Director of Public Prosecutions, about the trial of Richard Flynn. The article suggests that this revelation came about because the DPP's file had been stolen, along with 144 others, by Martin Cahill, an infamous criminal known as 'The General', who had retained a copy of it after he had returned the file to the authorities in exchange for obtaining an assurance that efforts would be made to secure the release of another criminal from a prison in England.

Although Martin Cahill had subsequently died, the article suggests that a colleague of his had revealed the contents of the State file, and in particular the two letters from Judge Roe, to the Sunday Independent. Although the letters were not copied as part of the article, and their exact wording was not reproduced, Ms Guerin asserted that the first of them revealed to the DPP that Judge Roe was acquainted with the three main protagonists in the case: Richard Flynn, Therese Flynn and Fr Niall Molloy; and that the second, said to post-date the Flynn trial, contained an explanation of the judge's reasoning in directing an acquittal.

The article reveals that Judge Roe was approached by the newspaper about this issue but that he refused to make any comment and did not confirm the existence of the letters.

The remainder of the article deals with the suggestion that Fr Niall Molloy had made a will in which Therese Flynn was a beneficiary. However, it was also reported but that no copy of this document could be found notwithstanding that an unnamed "former worker from the Bishop's office" had claimed to have seen it.

### 9.3 Gemma O'Doherty.

On page 3 of its edition dated Saturday, 23<sup>rd</sup> October 2010, the Irish Independent carried an article written by Gemma O'Doherty in respect of the death of Fr Niall Molloy. In the article, Ms O'Doherty detailed how Fr Molloy's family had been fighting for 25 years to establish the truth about the events at Kilcoursey House in July 1985 and that, more recently, a number of political figures had recognised the necessity of reopening the investigation.

It was this publication in October 2010 which led directly to the re-opening of the investigation by the Serious Crime Review Team.

The article quoted Professor Dermot Hourihane, described as being "one of the country's most experienced pathologists", as saying that he believed the case raised "many major questions about the workings of the Irish justice system" and a former Circuit Court Judge, John Gerard Buchanan, as making the following comments about the directed acquittal of Richard Flynn: "The full facts of this case did not come into the public domain as a result of the direction given by Judge Roe".

It was asserted that Fr Molloy's family had uncovered "significant new evidence about the affair, including fresh witness statements and glaring inconsistencies". The article detailed

some of this fresh information, including an account by Kevin Forde, the first garda on the scene, that Fr Molloy's watch was cracked and the time was fixed at 10.40 notwithstanding that the gardai had only been notified at 3.15; the fact that there had been a break-in and fire at the Offaly Coroner's office, which destroyed the file in this case; and the existence of an anonymous letter purporting to set out a different version of events than that which had been known hitherto.

In the Weekend Review of the same edition of the Irish Independent, a four-page feature piece by Gemma O'Doherty gave additional details about the case. This commenced with a description of the scene encountered by Kevin Forde on his arrival and with his recollection of his reaction to what he found. The article however questions the reliability of this recollection, particularly in relation to his assertion that Fr Molloy's watch had stopped working, because this conflicted with other evidence which had been given at the inquest in 1986.

The article continues with a description of the trial of Richard Flynn before the Dublin Circuit Criminal Court and focusses on the inconsistency between Mr Flynn's admission to hitting Fr Molloy two or three times during a "stupid row" and Dr Harbison's findings that Fr Molloy had sustained at least six blows to the head, internal bleeding to the kidney, bruising on his knees and shin, and an abrasion on his inner thigh, one and a half inches from the groin. The cause of death given by Dr Harbison was from pulmonary oedema, or water-logging of the lungs. Notwithstanding this, Ms O'Doherty makes it clear in the article that Dr Harbison, when being cross-examined by Defence Counsel during the trial, accepted that there might have been another explanation for the cause of Fr Molloy's death in that he could have suffered a fatal heart attack. The article rehearsed that this concession was the basis for the application by Defence Counsel for a directed acquittal and that the trial judge accepted the contention, in the face of strong opposition by the Prosecution, that "no-one intended any injury to be caused". Ms O'Doherty described this as a "remarkable conclusion" and opined that the decision "would go down as one of the most bizarre in Irish legal history".

In her article, Gemma O'Doherty went on to report that the Molloy family believed that the trial judge had "single-handedly corrupted the course of justice". She suggested that Judge Frank Roe had written a letter to Eamonn Barnes, who was then the Director of Public Prosecutions, stating that he knew Richard Flynn, his wife Therese, and Fr Molloy because all three were part of the "horsey set". It appears that the basis for this suggestion about a

letter arises from the article written in 1994 by the late Veronica Guerin about communication with the criminal, Martin Cahill, who had allegedly stolen a large number of files from the DPP's Office.

Ms O'Doherty revealed that she then sought the opinion of another judge and colleague of Judge Roe's who, perhaps unsurprisingly, commented that it would have been inappropriate for the judge to have presided over the trial if he had known the parties involved.

The same newspaper article rehearsed the findings of the inquest, held five weeks after the criminal trial, and revealed that the Molloy family had then brought a civil action against Richard Flynn which had not been contested by Mr Flynn and which had resulted in the Molloy family receiving £13,000 in damages. There is no documentation in the SCRT Report which either confirms or disputes this assertion.

Gemma O'Doherty then claimed that, as of the date of the article, some twenty-five years after Fr Molloy's death, the Irish Independent had uncovered new information which supported the Molloy family's belief that more people had been present at the death than had been declared at the time. The article suggests that an unnamed man had revealed that he had spoken to Dr Daniel O'Sullivan who, in a state of anguish, had confessed to having been present when Fr Molloy died. However, Dr O'Sullivan had himself died of a heart attack fairly shortly after July 1985 and so any secrets he may have had and any opportunity properly to investigate these died with him.

In relating the background history in another part of the feature spread, Ms O'Doherty detailed Fr Niall Molloy's upbringing and early adulthood. She revealed that Fr Molloy had met Therese Flynn before she was married and that they developed a friendship grounded on their shared love of horses. The article also told of the large amount of money which, in 1962, had been gifted to Fr Molloy by his father, described as being "a wealthy senator", and which enabled the young priest to pursue his equestrian interests. Again, there is an absence of material in the SCRT Report to confirm or dispute this background information.

Ms O'Doherty reported that Fr Molloy was permitted to use the Flynn lands for stabling and training his horses, that he set up a joint bank account with Therese Flynn and that he was allowed the use of an office and bedroom at Kilcoursey House. However, Ms O'Doherty suggested in the article that things were becoming unsettled in the weeks leading up to his death: his home had been burgled and documents had been stolen; and his hitherto cordial

relationship with the Flynns had deteriorated because of a collapsed business deal involving the purchase of land.

In dealing with the aftermath of Fr Molloy's death, the article placed emphasis on the apparently changing account given by Richard Flynn about how the injuries had been inflicted: to Sergeant Kevin Forde he had said that there had been a "silly row" about getting more drink; to Billy Molloy he had said that the row had been about politics; and, according to the evidence given by Dr O'Sullivan at the inquest, Richard Flynn had told the doctor that an argument had taken place downstairs before the row started in the bedroom. The article also detailed how, four weeks after Fr Molloy's death, Therese Flynn had attempted to claim on an insurance policy which Fr Molloy had taken out and which named her as his sister: that when the insurance company asked for some additional documentation, she never contacted them again.

In another section of the feature, Gemma O'Doherty set out the findings of Professor Dermot Hourihane, whom she again described as being "one of the country's leading pathologists". She repeated the conclusions in his report which had been submitted to the gardai in 1988, namely that he thought the injuries were suggestive of Fr Molloy having been kicked as well as struck with a fist and that it was likely that there had been an interval of hours rather than minutes between the injuries being inflicted and death.

Ms O'Doherty also devoted a section of the feature piece to Sergeant Kevin Forde, whom she said had expressed to her some concern about Fr Molloy's broken wristwatch, claiming that "it was one of the first things I noticed". He apparently also said to Ms O'Doherty that he had noticed that the watch was stopped at the time of 10.40 and that he had included this in his statement made at the time.

Assuming that this is an accurate account of what was said by Kevin Forde, objectively it appears that he was wrong about this inclusion in his statement: the first statement that he made, in 1985, following the discovery of Fr Molloy's body makes no mention whatsoever about any watch; he made a subsequent statement, probably in 1986, about handing the watch back to William Molloy but specifically stated in it that, although he noticed that the glass was broken, "I did not notice if the watch was stopped or what time was on it". Similarly, his contemporaneous handwritten notes contain a comprehensive account of events on the night in question but there is no reference whatsoever to Fr Molloy's watch.

Kevin Forde's reported recollection of events also appears to be open to question in another respect: Ms O'Doherty asserted that he told her that he had noticed "a significant amount of blood on the banisters" leading him to speculate that there may have been initial violence downstairs. In his original statement however, although he carefully outlined the blood he saw in the master bedroom, he made no mention of noticing blood anywhere else.

In another section of the feature, Ms O'Doherty wrote about Conor Lenihan's article concerning the trial judge, Frank Roe. She criticised the almost universally positive tone of Mr Lenihan's piece and suggested that this might have been connected with the fact that Conor Lenihan's father, Brian Lenihan, had attended the Flynn wedding as a friend of the family. She did however report that Conor Lenihan had strenuously denied this allegation and had assured her that he had written the article from a professional, objective and independent standpoint having conducted considerable research into the subject-matter.

The final part of Gemma O'Doherty's feature was concerned with the theft by Martin Cahill of 145 files from the DPP's Office, one of which concerned the Richard Flynn trial. She also revealed that there had been a fire in the office of the Offaly Coroner, Brian Mahon, which had destroyed a number of files, including that relating to the Fr Niall Molloy inquest.

This final revelation should be viewed in light of the enquiries made of Brian Mahon about the fire in the Coroner's Office, which established that, in fact, the inquest file was undamaged.

In an article which appeared in the Irish Independent on the 22<sup>nd</sup> November 2010, Gemma O'Doherty revealed that Detective Superintendent Christy Mangan had been appointed to head a team of investigators from the SCRT to reopen the Fr Niall Molloy case. She revealed that there had also been suggestions that this should be followed by a full commission of investigation allowing for a complete re-examination of the matter.

Ms O'Doherty repeated these suggestions in a further article in the Irish Independent on the 15<sup>th</sup> November 2012, asserting that pressure was mounting for an independent inquiry to be established. This article focussed on the insurance claim made by Therese Flynn against a policy in Fr Molloy's name which stated that she was his sister and on the perceived failure by the SCRT to investigate this aspect of the case.

A final article by Gemma O'Doherty was published in the Irish Independent on the 19<sup>th</sup> November 2012. The basis of this piece were revelations by Gerard O'Carroll, a former detective inspector, who had been highly critical of the way in which the original garda investigation had been conducted. Mr O'Carroll had asserted to Ms O'Doherty that he had attempted to investigate the case himself but that an attempt had been made by Garda Headquarters to "silence" him and he had told her that he wanted to see justice for Fr Molloy. In the article, Ms O'Doherty also repeated the misgivings which Kevin Forde had apparently expressed to her about the shortcomings in the original investigation.

## 10. The SCRT Investigation.

### 10.1 Statement from Gemma O'Doherty.

On the 17<sup>th</sup> November 2010, Gemma O'Doherty made a formal statement to members of the Serious Crime Review Team. In this, she detailed that she had received a telephone call in August 2010 from a person whom she declined to name. This call had caused her to make enquiries about the circumstances of the death of Fr Niall Molloy, during the course of which she spoke to numerous individuals.

Ms O'Doherty stated that a TT had told her that he had spoken to the County Surgeon, whom he named as either SS or SS, whose wife was Therese Flynn's sister. It appears that SS, prior to his death in February 1986, expressed to TT concerns about the events in Kilcoursey House.

It is asserted that TT told Ms O'Doherty that he would be prepared to speak to the gardai although it appears that he did not do so. However, the SCRT did speak to a X, who also had been told by TT that SS had made some comments.

However, it is not clear what, if anything, SS would have known about events at Kilcoursey House. Certainly, there is no suggestion in any of the statements taken at the time that he had attended the scene and, therefore, any information he had must have been gleaned second-hand from others. Further, although the details given by TT about SS's comments are extremely limited, there is a suggestion from what TT told X that SS had been speaking about the night of the wedding and not the night of Fr Molloy's death, which was twenty-four hours later. Unfortunately, SS died on the 7<sup>th</sup> February 1986 so the details of his recollections cannot now be explored.

Gemma O'Doherty also stated that she had spoken to Kevin Forde, who was the garda sergeant who was the first member of the emergency services who arrived at Kilcoursey House following Fr Molloy's death. She asserted that Mr Forde had confirmed that the face of Fr Molloy's watch had been cracked and that he remembered that the watch was stopped,

showing the time as 10.40. It is noteworthy that in Kevin Forde's second statement, probably made in 1986, he specifically stated in it that, although he noticed that the glass was broken, "I did not notice if the watch was stopped or what time was on it". Further, in a report dated the 18<sup>th</sup> July 1986, Detective Sergeant John Dunne related that Kevin Forde had told him that there had been no discussion in 1985 about any damage to the watch.

Ms O'Doherty also claimed that Kevin Forde told her that he had been contacted about the incident by Fr James Deignan who had arrived at his house at 3.15 am and that he, Kevin Forde, had arrived at the scene at 3.30 am. He claimed that Fr Deignan had said to him, "There is a dead man at Kilcoursey. I don't know who he is. He is a priest. This is a terrible scandal in the parish. Is there any way it can be kept quiet?" This account is broadly consistent with the contents of Mr Forde's original statement.

Ms O'Doherty stated that Kevin Forde also told her that he had been concerned about three observations he had made at the house: the eight-foot drag-mark in blood across the bedroom carpet; the "significant amount" of blood on the banister; and the blood in the basin in the en-suite bathroom next to the principal bedroom. These purported concerns, apparently made with hindsight, contrast with his statement made at the time, in which Mr Forde detailed the blood which he saw in the bedroom but in which there was no mention of blood on the banister or in the bathroom. In fact, there is no mention by Mr Forde in his statement that he ever went into the en-suite bathroom. Further, although he noticed the drag-mark on the bedroom carpet, he estimated it to be only about three feet in length.

In her statement, Gemma O'Doherty also detailed her conversations with Professor Dermot Hourihane, described as "a retired professor of histopathology at Trinity College". She stated that Professor Hourihane claimed to have requested and received a copy of Dr Harbison's notes from the post mortem examination conducted in 1985 and, having reviewed the notes, agreed with Dr Harbison's conclusion that Fr Molloy's death was caused by the head injuries. Ms O'Doherty claimed that, however, Professor Hourihane ventured further opinions: he was of the view that Fr Molloy had suffered even greater brutality than Dr Harbison had suggested; he believed that Fr Molloy had been kicked as well as punched; and he was of the opinion that the blood around Fr Molloy's kidneys had been caused whilst Fr Molloy had been lying on the ground with a flexed back or in a bent position. She reported that Professor

Hourihane was also of the view that Fr Molloy had lived for hours rather than minutes after the injuries had been sustained.

Gemma O'Doherty's statement also indicated that Fr Molloy's family had claimed to her that the gardai were notified about Professor Hourihane's opinions in 1986. Although the date appears to be wrong, it is clear that the gardai were so notified: in 1988, QQ had sent Professor Hourihane's report, along with that of Dr John Dinn, to the garda investigation team and these reports had then been sent to Dr John Harbison for his reaction.

However, although these medical opinions appear to cast some doubt over the accuracy of the accounts given by the Flynn family members about what happened on the night in question, they do little to assist in establishing what actually happened.

Gemma O'Doherty was also concerned in her statement about an aspect of the recollection of C, the groomsman employed at Kilcoursey House. She noted that he recalled in his statement that he had been speaking to Therese Flynn on two occasions during the evening of the 7<sup>th</sup> July 1985 when he was at Kilcoursey House between 7.00 pm and "about 9.30 pm". Ms O'Doherty highlighted that this was inconsistent with Ms Flynn's account of having returned to the house from the HH's at 9.40 pm. In fact, Ms Flynn's statement gives the time of her return to Kilcoursey House as "about 9.30 pm" and this tends to coincide with the recollection of HH, who stated that the Flynns and Fr Molloy left his house "shortly after 9.00 pm". In the light of this, perhaps there is no inconsistency. Nevertheless, Ms O'Doherty suggested in her statement that C, who had refused to speak to her about this matter, should be re-interviewed by the gardai.

In this context, Ms O'Doherty also recommended that a D, who was fourteen years old at the time, should also be interviewed because, through her conversations with C at the time, she might have information to offer.

Gemma O'Doherty provided the gardai with a comprehensive list of other individuals whom she thought should be re-interviewed. At the beginning of her list were David Flynn and his ex-wife II; LL and GG; sisters JJ and KK Flynn; NN and his wife OO, who was GG's sister. It is unclear how many, if any, of those on this list had spoken at length or at all to Ms O'Doherty. However, she did claim that David Flynn, when asked by a reporter in 1986

whether the case had been difficult for the family, had apparently said, “It’s very difficult, maybe, when one knows certain answers and isn’t in a position to comment, it makes it very difficult to live with.”

Ms O’Doherty also recommended that the gardai should speak to C’s mother and a man to whom this lady had spoken, E. Ms O’Doherty claimed that E had expressed some concern that the scene had been examined by Detective Garda Declan Buckley, who apparently was a former neighbour of the Flynns. Ms O’Doherty also claimed that E told her that he had asked an unnamed local garda about the conduct of the investigation into Fr Molloy’s death and that the garda failed to answer the question but referred instead to the fact that E had no tax on his tractor.

Although, when the SCRT subsequently took a statement from Mr E, he did not repeat any of these concerns, even if there had been any such concern on the part of Mr E about Detective Garda Buckley, it seems that it was ill-founded because Declan Buckley, even if he had been a former neighbour, had only performed a peripheral role in the examination of the scene and his involvement in the investigation was minimal.

Gemma O’Doherty also advised that enquiries should be made of F, an employee of the Bridge House Hotel who had organised the catering for the wedding weekend celebrations at Kilcoursey House. It appears that Mr F had told Ms O’Doherty that it had been suggested that he was the author of one of the anonymous letters which had been sent to William Molloy in late 1986 and in which it had been alleged that there had been significant violence downstairs in the house prior to 9.30 pm on the 7<sup>th</sup> July 1985. Mr F had told Ms O’Doherty that, because of this suggestion of authorship, his employer G had recommended that F should make a statement to the gardai. Mr F apparently had a recollection of giving the gardai a sample of his handwriting to be compared with the writing in the letter and of subsequently making a statement about this at the request of Mr G. However, G told Gemma O’Doherty that he had no recollection of asking F to make a statement.

As a matter of objective fact, F had made a handwritten statement, which document is appended to the SCRT Report. Although it appears that there has been no formal handwriting analysis, a cursory comparison of Mr F’s handwritten statement with the anonymous handwritten letter, said to be from a “waiter” and which was suggested had been written by F, reveals that the writing on the two is completely different.

In her witness statement, Ms O'Doherty also stated that two other Bridge House Hotel employees, I and J, could be expected to have relevant evidence to divulge. It is likely that Ms O'Doherty did not know that both of these witnesses had already made statements in 1988 following the receipt by William Molloy of the anonymous letter.

Gemma O'Doherty mentioned in the statement that she had also spoken to H, the son of Dr Daniel O'Sullivan who had attended Kilcoursey House on the night of Fr Molloy's death. Dr O'Sullivan had since passed away but she claimed that his son revealed to her that Dr O'Sullivan and the Flynns had been close friends and that his father had also been a close friend of Brian Lenihan Senior, who had been a guest at the wedding on the 6<sup>th</sup> July 1985. Apparently, Dr O'Sullivan had said that there were "unanswered questions" about the incident. Unfortunately, because of his death, it is unlikely that it will ever be discovered what he meant by that and, in any event, when H was subsequently interviewed by the SCRT, he revealed that his father rarely spoke about the incident at Kilcoursey House. H also asserted that Gemma O'Doherty had misstated other matters following her conversations with him.

Notwithstanding this, Ms O'Doherty was anxious to assert that there was some significance with the friendship which existed between Dr O'Sullivan, the Flynns and Brian Lenihan. She had interviewed a K who, in an apparently opaque fashion, had suggested that Brian Lenihan had previously done a favour for the Flynns, although even the vague details revealed to Ms O'Doherty by K suggest that any such favour was completely unconnected to the death of Fr Molloy and, if true, related instead to securing the entry of a family member into the equestrian section of the army. This incident was confirmed in a statement subsequently taken from K who did not know whether Mr Lenihan had in fact put in a word for her but, even if he had, it could hardly be categorised as a favour for the Flynns since none of the Flynn family benefitted from it. Nevertheless, Ms O'Doherty had pursued this by speaking to one of Brian Lenihan's sons, Conor Lenihan, who had confirmed to her that his parents had been close friends of the Flynns. Apparently, Conor Lenihan had then related to Ms O'Doherty certain rumours which he had heard about the events at Kilcoursey House. It appears that he had no independent recollection of events himself and in fact had to ask Ms O'Doherty what had happened at the criminal trial, having himself referred to the trial judge as "Tommy Roe". However, during their conversation, Conor Lenihan apparently told Ms O'Doherty that he was aware that there were also rumours about Judge Roe's partiality towards anyone involved in the horse business. Gemma O'Doherty recommended in her

statement that, as a result of the conjecture in which Conor Lenihan had engaged and because of his opinions about the events, the gardai should also take a statement from him. In due course, the SCRT did speak to Conor Lenihan, who made it clear that, when giving information to Ms O'Doherty, he had been merely repeating rumours and conjecture and that he had no special or particular knowledge about the case.

In her statement, Gemma O'Doherty then rehearsed the names of a number of other people who might be able to offer information about the incident at Kilcoursey House in July 1985 and the consequential events. She ventured an opinion as to why some of these individuals might know something relevant, although it seems that, for the most part, such opinion was based on no more than what Ms O'Doherty had been told by others rather than on any first-hand experience.

The ten names given were as follows: UU; Brian Mahon, the coroner; Verona Lambe, the County Registrar; XX, the intern doctor who admitted Therese Flynn to hospital and who, it was alleged, may not have been accurate about the time of admission; M, the undertaker who laid out the deceased and who had spoken to Fr Molloy prior to the wedding; YY, the owner of Castlecoote Stores who also might have been able to offer some insight into how Fr Molloy was feeling in the days leading up to his death including, apparently, asking for prayers to be said for him; Fr Molloy's solicitor, Mr PP of Fair and Murtagh in Athlone, who was aware of the business dealings between Fr Molloy and the Flynn's; N, a close friend of Fr Molloy's, who apparently remembered that Fr Molloy was not himself; Eamonn Barnes, the former DPP, who was in the decision-making position in respect of the prosecution of Richard Flynn; and ZZ, the daughter of Martin Cahill, a notorious criminal who had expressed certain opinions about the death of Fr Molloy.

Further, Ms O'Doherty recommended that the gardai should also speak to two others who had a role in the relevant events but whose identity she had been unable to ascertain: the solicitor who represented the man charged with setting fire to the Coroner's office; and the nurse who laid out the deceased.

She also mentioned that there was one other individual who had not given his permission to Ms O'Doherty to reveal his identity. It must be assumed therefore that Ms O'Doherty appreciated that no further enquiries could be made in respect of this person.

In her statement, Gemma O'Doherty also stated that she handed to the gardai copies of two letters which she claimed were of importance to the investigation, albeit that apparently one of them was anonymous. It is not clear what was contained in these letters but it may be that they were the same as those received by William Molloy, copies of which the gardai already had.

In summary then, Gemma O'Doherty advised the garda investigation team that there were thirty-five individuals who should be either interviewed or re-interviewed: TT, TT's wife, Kevin Forde, Professor Dermot Hourihane, C, D, David Flynn, II, LL, GG, JJ, KK, NN, OO, C's mother, E, F, G, I, J, H, K, Conor Lenihan, UU, Brian Mahon, Verona Lambe, XX, M, YY, PP, N, Eamonn Barnes, ZZ, an unnamed solicitor and an unnamed nurse.

Of these, seventeen agreed to speak to the garda investigation team and to make statements. Five of these had previously given statements in the 1980s and they recorded their further comments in additional statements; the other twelve individuals were approached for the first time to make statements. The contents of these seventeen statements are summarised below.

Perhaps unsurprisingly, the members of the Flynn family and their in-laws and close friends declined to comment further about the case. It also appears that no statements were taken from C's mother; from the Coroner Brian Mahon, or the County Registrar Verona Lambe; from any doctor or other medical staff at Tullamore Hospital; from the solicitor PP or any other member of the legal profession; or from YY who had apparently been willing to speak to Gemma O'Doherty. Significant absentees from those who agreed to speak to the gardai are TT and Professor Hourihane, both of whom, according to Gemma O'Doherty, held strong opinions about the case but who did not make statements to the SCRT.

TT was one of the numerous individuals who, when approached by members of the garda investigation team declined to make a statement. In the conversation he had with the SCRT on the 27<sup>th</sup> January 2011, he indicated that the extent of his knowledge of relevant events was a conversation which he remembered having with SS, the details of which were rather vague. Other enquiries suggested, in any event, that SS had not been at Kilcoursey House at all on Sunday, the 7<sup>th</sup> July 1985.

## 10.2 Additional Statements.

As stated above, the SCRT took formal written statements from seventeen individuals from the list of potentially relevant witnesses provided by Gemma O’Doherty in her statement. A summary of what they told the gardai is set out below.

#### 10.2.1 Kevin Forde.

On the 19<sup>th</sup> September 2012, Kevin Forde made an additional statement to add to his recollections contained in the two statements which he had made in 1985 and 1986. In this he confirmed that, on arrival at Kilcoursey House, he had secured the scene by preventing anyone from going upstairs in the house and that he had passed this role on to colleagues who had taken up station at the foot of the stairs and not outside the bedroom door.

Kevin Forde then listed the members of the family whom he remembered seeing at the house that night, and he specifically pointed out twice in his statement that he had no recollection of seeing C there.

Mr Forde also emphasised that, during his seventeen years as a sergeant at Clara Garda Station from 1980 until 1997, no member of the Flynn family was ever summonsed or charged with any criminal offence whatsoever, no matter how trivial. He also pointed out that, as far as he was aware, neither Richard Flynn nor any other member of the Flynn family was friendly or familiar with any member of the gardai at Clara Garda Station and that on no occasion was any summons or charge discontinued against any of the Flynns.

Significantly, Kevin Forde did not mention in his statement any of the issues which Gemma O’Doherty asserted that he had communicated to her. He did not give any details whatsoever about Fr Molloy’s watch, whether in contradiction of his earlier statement or otherwise. Neither did he purport to be concerned about any of the areas of blood found at the scene.

#### 10.2.2 C.

C met Detective Superintendent Mangan on the 15<sup>th</sup> November 2012 with a view to, in his words, “clear up a few things that people have said I know about”. He began by confirming the accuracy of the contents of the statement he had made to the gardai on the 24<sup>th</sup> July 1985. He continued with further details of his history of working for the Flynn family since he was sixteen years old, initially minding cattle and then, after the move to Kilcoursey House and

Richard Flynn contracting tuberculosis which confined him to a wheelchair for a time, looking after horses. C stated that he was only ever paid by either Richard or Therese Flynn, never by Fr Molloy, although it was Fr Molloy and Ms Flynn who used to be involved with the horses. He expressed the view that Fr Molloy enjoyed a “normal” relationship both with C himself and with the Flynn family, and he stated that he had never witnessed any arguments or rows between Fr Molloy and either Richard Flynn or David Flynn, although Richard Flynn may have sometimes disagreed with the cost of the horses. C remembered Fr Molloy being at Kilcoursey House two or three times a week to see how the horses were.

C remembered that he had done the lawns prior to the wedding and that the wedding itself and the lead-up to it were “jolly”. He was invited to the wedding and he attended with his mother, and the only famous person he remembered being there was Brian Lenihan.

The following day, the 7<sup>th</sup> July 1985, C confirmed that he went to a county football match in Tullamore and that he returned to Kilcoursey House, although he was unsure about his timings, referring back to the detail in the statement he made in 1985. He also confirmed that he had seen Therese Flynn when he was at the house during the evening and that he had later gone out, not returning until about 3.00 am from a dance or disco in the Bridge House Hotel. He thought that he may have been brought home by a EE. It appears that the details and timing of this were subsequently confirmed by both EE and FF, who were both out with C that night. In any event, C remembered that, on returning to the house, he was told of Fr Molloy’s death. He emphasised that nobody in the Flynn family, either at that time or at any time since, told him what had happened at Kilcoursey House on the night in question: it was simply never discussed with him.

C clarified that, at some point after Fr Molloy’s death, he had lived with a X and his family but he asserted that he had never spoken to X or his daughter D, who would have been only about ten years old at the time, about the events at Kilcoursey House. In his own words, “There was awful gossip going around Clara without me starting it”. Further, C did not remember X ever working at Kilcoursey House, although FF, as well as a couple called AAA, had worked in the house. He also recalled an “old man”, whose name he had forgotten, who used to work in the garden and who used to arrive on a bicycle. He also did not remember a plasterer, Q, ever working there. At that time, C was playing football with Tubber GAA and Q was also on the team.

It appears that, prior to C making this statement, the gardai had spoken to his team-mate, Q, who had suggested that C had related to him certain significant things about the events at Kilcoursey House in July 1985. These suggestions which Q had made were put to C in order for him to have an opportunity to respond to them.

He accepted that he had been speaking to Q earlier in 2012 and that Q had told him that the investigation into Fr Molloy's death was being reopened. Q had then suggested that C had told him that someone other than Richard Flynn had struck Fr Molloy and that this violence had resulted in the broken coffee table; Mr C's response to this was, "I did not say that to you, because I would not be part of that sort of carry on". C then related how, on a later date, Q had suggested to him that the gardai would arrive in the early hours of the morning to arrest C in front of his wife.

After a statement made by Q was read to him, C responded that he had supplied none of the information in Q's statement and that he found the contents of the statement "absolutely appalling". He reaffirmed that he did not see anyone hit Fr Molloy at all and that he would not have been able to stand by and watch that kind of thing happening. He also asserted that he was "very annoyed" at Q for including such matters in his statement and that he could not imagine why Q had said such things.

Finally, C was adamant that he had not been told by anyone what he should include in his original statement to the gardai. He accepted that he had worked for the Flynns for a further two years after 1985 but he asserted that his statement was made of his own free will and contained only the truth. Further, he refuted any suggestion that any member of the Flynn family had said, prior to Richard Flynn's trial, that they would be "all right" because they knew the trial judge. He reiterated that he owed the Flynns nothing, that they had never given him any gift or unusual gratuity apart from £500 when he finished working there, which sum he used to purchase a cooker and a fridge.

C concluded his statement by claiming to have received a number of telephone calls from a female journalist who had suggested to him that, if he did not come forward to speak to the gardai, he would be arrested. He stated that she had also said to him that the gardai in Clara were corrupt, as were the politicians and the clergy, and that she had asked him for whom he voted. In his statement, C asserted that he had told the journalist that he would go to Court to stand over his recollections and that the content of his statement was the truth.

### 10.2.3 D.

In statements made on the 20<sup>th</sup> January 2011 and the 9<sup>th</sup> August 2012, D, who lived next door to Kilcoursey House in 1985, related that she remembered seeing Fr Niall Molloy in a horse-drawn trap on his way from Clara towards Kilbeggan at between 7.30 and 8.30 pm on the evening after the wedding of LL and GG.

When asked about whether she had spoken to C about events at Kilcoursey House, she stated in January 2011 that she could not recall this well enough to be able to make a statement about it as she had been only fifteen years old at the time. However, she did confirm that C had stayed in her home for a time after Fr Molloy's death.

However, by August 2012, it appears that D's memory had improved because, in her second statement, she purported to remember a conversation which she had had with C during which he had intimated certain things about Kilcoursey House. She repeated that she could not remember the specifics of the conversation but she developed a "gut feeling" arising from what was said that more people had been in the house when Fr Molloy had been killed, although she accepted that, because she was only fifteen at the time, she would not have been aware of the significance of any such conversation.

### 10.2.4 David Flynn.

David Flynn was questioned on a voluntary basis by Detective Garda Pat Flood and Detective Superintendent Christopher Mangan on the 25<sup>th</sup> April 2011. In interview, he confirmed that his mother conducted her dealings with Fr Niall Molloy completely independently from the rest of the family and that he, David Flynn, was never aware of what their business entailed. He detailed some of the items which his mother, when she died, had left to him and his wife but denied any knowledge of any valuable paintings. He was specifically asked questions about paintings by Jack B Yeats, the basis for which interrogation appears to be a recollection by Fr Molloy's cousin, S, who in the 1970s was at Kilcoursey House in the capacity as an insurance assessor and discovered that Fr Molloy had Yeats paintings in the house. However, a solicitor's letter dating from 1987 indicated that all Fr Molloy's paintings had been returned to the family after July 1985 or had been removed by Fr Molloy himself prior to his death.

While David Flynn accepted that his relationship with his mother had changed after 1985, he denied that his mother had ceased speaking to him: he explained that their relationship had

merely changed from mother-son to a purely business arrangement, but without any animosity. Mr Flynn confirmed that his mother had asked him to sell Kilcoursey House because she no longer wished to live there.

David Flynn also asserted that, at the time of the wedding in July 1985, the relationship between Fr Molloy and his parents was good and certainly no different from how it had been for the previous twenty years. He said that he did not know why Fr Molloy had not conducted his sister's wedding ceremony and that he was not aware of any discussions about business dealings on the day of the wedding. He confirmed that, as of July 1985, his father's business situation was that he was "asset rich but cash poor" but that, although times were tough, he had managed to keep the various businesses afloat and that he had not had to lay off any staff.

Mr Flynn described again the events of the early morning of the 8<sup>th</sup> July 1985: that he had been asleep but was woken by a telephone call from GG who asked him to come to Kilcoursey House without specifying what was wrong. He said that he could not remember the details of driving to the house or his arrival there but he recalled that he was shocked at what had occurred. He added that his father appeared to be very calm, which he also attributed to the shock of the events of the night. Mr Flynn asserted that he never spoke to his father about what had happened but that he did contact the family solicitor the following day. He could not explain why the gardai had not been contacted immediately but repeatedly insisted that there had been no discussion among the members of the family to follow any particular plan of action. He also insisted that it was his father who had called Dr O'Sullivan to the scene.

David Flynn explained that, the following day, his father had asked him to look at some bruises on his upper body and arms, which he described as black and blue. He claimed that these had subsequently been photographed at the suggestion of their solicitor, although there are no such photographs in the SCRT file.

On being asked about a number of specific issues, David Flynn denied any knowledge about Fr Molloy's watch, about the broken glass table, about any safe in the house, about any life insurance policy Fr Molloy may have had, or about the break-in at Fr Molloy's home. He did have some understanding of the land transaction between Fr Molloy and his father: he said that there had been an agreement for the sale of about twenty acres but that the Land Commission refused to allow the sale to go through.

David Flynn was also asked about a comment he had made during an interview with a Tom McCaughren of RTE during which he was reported as saying, “It’s very difficult when one knows certain answers and isn’t in a position to comment; it makes it very difficult to live with”. He explained that, at that time there had been rumours and speculation about matters which he knew were untrue and which he could have shown were untrue but that, at the time, he had felt that he could not say anything specific. He did not specify which rumours he had been in a position to refute, neither did he offer an explanation about why he had felt unable to refute them at the time or on what basis he would have refuted them.

On the 19<sup>th</sup> December 2012, David Flynn again met Detective Superintendent Mangan on a voluntary basis in order to clarify some outstanding matters. Mr Flynn explained that, despite saying in April 2011 that he had no knowledge about the broken coffee table, he could now offer some assistance: he said that his sister LL still had this table and that it had been broken either at the wedding or just after it by a BBB, who had been about twenty years old at the time. However, it seems that BBB never made a statement.

David Flynn also revealed that his father had told him that he had dragged Fr Molloy’s body away from the bed, which had resulted in the mark in blood on the bedroom carpet. Mr Flynn explained that he was meeting Superintendent Mangan despite having sought legal advice, both at the time of Fr Molloy’s death and in his more recent dealings with the SCRT, and that there was a lot of background to the relationship which had existed between his mother and Fr Molloy. This relationship had been ongoing as early as the late 1960s when David Flynn was an adolescent and that, over the years, they used to holiday together, they would stay in a Dublin hotel together when attending the Horse Show and they conducted business together, although nobody seems to have known what their business entailed. He stated that they used to drink heavily every night and that, in many ways, their bond was “stronger than any husband-wife relationship”.

#### 10.2.5 E.

E made a statement on the 1<sup>st</sup> February 2011 in which he confirmed that he was a friend of a farmer in Tubber called CCC who had expressed some concern to him that his son, Detective Garda Declan Buckley, had been involved at all in the investigation. It appears that the reason given for Mr Buckley’s concern was not any apprehension of inappropriateness but simply

because Mr Buckley wanted to avoid other residents of Tubber asking him questions about the case.

#### 10.2.6 F.

In a statement dated the 21<sup>st</sup> February 2011, F detailed that he had been involved in the catering for the Flynn wedding in July 1985 because he had then been working part-time for the Bridge House Hotel whilst he was at college in Limerick. His recollection was that the wedding had gone well and that there had been no incidents of note prior to him leaving at about 8.00 or 9.00 pm with I, the last of the Bridge House Hotel staff to leave. F had no memory of anything significant happening on the day following the wedding: his next recollection was attending Kilcoursey House a couple of days later to collect crockery and other items belonging to the hotel. By this time, news of Fr Molloy's death was known and F had to speak to a member of the gardai at the gate before gaining admittance to the house. He also remembered that he had spoken to Therese Flynn on that occasion and that she was very appreciative of how well the wedding had gone, giving him a tip of £20. During this conversation, he had noted that Ms Flynn did not have any visible marks to her face which he found surprising because he had heard that she had been injured during the events on the night after the wedding.

F also stated that he had been approached by the investigating gardai at the time with a view to ascertaining whether he had been the author of an unsigned letter from a "student in Limerick". The author of the letter had purported to have information about the incident. Although F confirmed that he was a student in Limerick at the time, he denied having written the letter and, by implication, having any information about Fr Molloy's death. Nevertheless, he supplied the gardai with a sample of his handwriting.

Although it appears that there has been no formal handwriting analysis, F set out his recollection of events in a handwritten statement made to his boss at the Bridge House Hotel, G, who had asked him to attend a meeting less than a week after the wedding. The meeting was also attended by the Financial Controller of the hotel, DDD. It appeared that they were also aware that a letter from a "student in Limerick" had been written and that they were anxious to ascertain whether F had written it, which he denied. He then wrote an account of his recollection of events for G, which he signed and dated, and left it with them. This contemporaneous note appears to confirm that F was at Kilcoursey House with J on the

Sunday after the wedding between about 11.00 am and 1.30 pm but that he noticed nothing unusual.

Even in the absence of formal handwriting analysis, it is possible to conduct a cursory comparison of this document written by F with the anonymous handwritten letter, said to be from a “waiter” and suggested to have emanated from F, which was sent to William Molloy. Such a comparison reveals that the writing on the two is completely different, which tends to endorse F’s forthright denial that he wrote the anonymous letter.

#### 10.2.7 G.

In July 1985, G was the owner of the Bridge House Hotel in Tullamore, with whom Richard and Therese Flynn had arranged the catering for their daughter’s wedding at Kilcoursey House. He confirmed in his statement dated the 28<sup>th</sup> January 2011 that it was a carefully planned event involving as many as forty staff members. G remembered that Fr Niall Molloy arrived after the function had started and that there had been a seat reserved for him at the top table. He also confirmed that, while he did not return to the house on the Sunday after the wedding, the hotel did provide food for that event and that this was overseen by I. He also confirmed that F worked for the hotel at the time and may have attended the wedding function as a waiter.

#### 10.2.8 H.

In an undated statement, H explained that he was the son of Dr Daniel O’Sullivan, who was the general practitioner in Kilbeggan in 1985 and had attended at Kilcoursey House during the early hours of the 8<sup>th</sup> July 1985. H stated that his father rarely spoke about the events of that night and that, as far as he was aware, his father did not know what had happened prior to his arrival at the house.

H confirmed that Gemma O’Doherty had visited him and had discussed the death of Fr Molloy for over half-an-hour. He denied that he had said to Ms O’Doherty that his mother had died as a result of the stress arising from the events at Kilcoursey House. Instead, what H had said to Ms O’Doherty was that his mother had died of a heart condition, about which they

had been unaware, four weeks after Fr Molloy's death and that the Flynn family did not attend her funeral.

A further statement was taken from H on the 4<sup>th</sup> October 2012. In this, he confirmed that his parents had been very close friends with Richard and Therese Flynn for many years and that, in the mid-1960s, his father had made plans with Richard Flynn to go into business running a small hotel in Moat. However, his statement is silent about whether or not this business ever came into fruition. H also remembered that Fr Niall Molloy was invariably with the Flynn family, not only when they came to visit but also on occasions such as Christmas and Easter. Whilst H himself was not at the Flynn wedding, his parents were there but Mr H did not know the time at which they left.

#### 10.2.9 I.

I, who had spoken to the garda investigation team in 1988, was invited to make a further statement in January 2011. In this, she repeated that she had been in charge of the catering for the Flynn wedding on the 6<sup>th</sup> July 1985 and that, as part of the arrangements, she had been told by Therese Flynn to keep a seat at the top table for Fr Niall Molloy. I remembered that Fr Molloy arrived at about 6.45 pm and that she left the event at about 9.00 pm, having noticed nothing out of the ordinary.

On the day after the wedding, Therese Flynn contacted I to ask whether the hotel could provide some catering for an afternoon lunch. I arranged this and sent F and J to Kilcoursey House with the food. Although I's expectation was that the staff would return to the hotel immediately, it appears that, on arrival, they were requested to assist with the tables and that they stayed on at Kilcoursey House until about 6.00 pm. Later that night, I was out with her parents and passed Dr Dan O'Sullivan's home at about 1.45 am, at which time they noticed that Dr O'Sullivan was getting into his car.

I's recollection that her staff remained at Kilcoursey House on the Sunday until about 6.00 pm conflicts with the accounts given by J and F, who stated that all the staff left at about 1.30 or 2.00 pm.

#### 10.2.10 J.

In January 2013, J made a further statement in which she detailed that, with as many as twenty or thirty other staff, she was working at the Flynn family wedding in July 1985. She recalled that I was in charge and that the Bridge House Hotel employees were both casual and full-time staff members. J also recalled returning to Kilcoursey House the following day with F and that they only delivered food and crockery and set it up, they did not stay to serve the food. She confirmed that she had no information to offer in respect of Fr Molloy's death.

A contemporaneous handwritten note in J's handwriting appears to confirm these details about her visit to Kilcoursey House on Sunday, 7<sup>th</sup> July 1985 with F. The times given in this note suggest that they arrived there at about 11.00 am and were back at the Bridge House Hotel at about 2.00 pm.

#### 10.2.11 K.

In a statement dated the 20<sup>th</sup> January 2011, K confirmed that she and her husband X had attended the wedding of GG and LL in July 1985. She explained that, while she was not really a friend of Therese Flynn, her husband knew the Flynns and Fr Niall Molloy through their interest in horses and show-jumping. As a result, K was aware that Fr Molloy and the Flynns were close and, in her statement, she explained that she was surprised that Fr Deignan officiated at the wedding instead of Fr Molloy. She also noted that Fr Molloy arrived mid-way through the reception and that he went to sit at the top-table: he appeared to be in good form and was smiling. In her statement, K listed some of the people she remembered being at the wedding and these included Brian Lenihan.

On the Monday after the wedding, the 8<sup>th</sup> July 1985, K heard that Fr Molloy had died. Her husband X went to Kilcoursey House to offer his sympathies to the family and was told by Richard Flynn that it was "a messy old business". On the same day, the groomsman, C, came to stay for about two weeks at the K home because of the upheaval of the ongoing garda investigation. K remembered that he was very upset and that he started to cry when he arrived.

In a further statement taken on the same day, K detailed how, in 1990, her daughter D had gone for an interview at the Army Equitation School and that she had told her mother afterwards that the interviewer had asked if she "had any pull". K subsequently mentioned this to Therese Flynn who said that she would "see Brian", which K took to mean that she

would have a word with Brian Lenihan. K did not hear anything further about this but her daughter did in fact attend the equitation school and went for training in the Curragh.

This incident is perhaps the foundation of the allusion in Gemma O'Doherty's statement of the 17<sup>th</sup> November 2010 to Brian Lenihan having done a favour for the Flynns. There is no reference whatsoever to this event in the statements which were taken by the SCRT from D, X or Ann Lenihan (the late Brian Lenihan's wife). K's recollection of matters fails to establish categorically that Brian Lenihan had anything to do with D's admission to the equitation school in 1990 and, even if he did have some involvement, whether this amounts to a "favour for the Flynns" is a matter of opinion.

#### 10.2.12          Conor Lenihan.

Conor Lenihan made a statement to the SCRT on the 2<sup>nd</sup> February 2011. In this, he detailed how he had received a telephone call from Gemma O'Doherty in late 2010 during which she had asked him about the newspaper article in respect of Judge Frank Roe which Mr Lenihan had written when he was a freelance journalist. Mr Lenihan formed the view that, because this article had been complimentary about the judge, Ms O'Doherty had been trying to draw a link between Mr Lenihan's sentiments about the judge and the fact that Mr Lenihan's father had been a guest at the Flynn wedding at Kilcoursey House in July 1985. He felt that she had been attempting to impugn his "journalistic integrity, professionalism and impartiality". In refuting Ms O'Doherty's suggestions to him that, in his article, he had been overly favourable towards the judge because of his parents' friendship with the Flynn family, Mr Lenihan stated that he had told her that he had formed his own impressions about Judge Roe when Mr Lenihan was working one summer for the Leinster Leader and had to attend Naas Circuit Court where the judge was sitting. He said that, at that time, he had spoken to lawyers, reporters and sports journalists, all of whom would have known Judge Roe through his legal career and his involvement with the Turf Club.

Conor Lenihan accepted that, at the time he wrote the article, there had been a large amount of "supposition and rumour" in circulation following the outcome of the trial of Richard Flynn. Mr Lenihan asserted in his statement that, while his knowledge of the court case had been based on other newspaper articles and on the supposition and rumour, none of the rumour or speculation was unique to him. He reasoned that the tone of his article was favourable towards Judge Roe because the newspaper for which it was written, the Sunday

Press, was particularly nervous about potentially defaming a judge or a member of the legal profession and because the newspaper's competitors, the Irish Independent and the Irish Times, held the opposite view of Judge Roe. He also pointed out that the Sunday Press had a readership amongst horse-racing enthusiasts who, themselves, might be favourable towards the judge.

Mr Lenihan concluded that, during his conversation with Gemma O'Doherty, when he had spoken about Judge Roe's lenient treatment of people who had a connection with the horse business and about the original garda investigation having not been thorough, he had merely been repeating rumours which he had heard in respect of these things and that he had not had any concrete information to this effect. He stated that he wished strongly to emphasise that he had no information about the Fr Niall Molloy case other than newspaper accounts published at the time and rumours and speculation which were in wide circulation in the aftermath of Fr Molloy's death.

10.2.13 L.

In a statement dated the 3<sup>rd</sup> October 2012, L outlined that she had got to know Fr Niall Molloy and Therese Flynn after she married her husband, UU, in 1974: UU had run a riding centre in Tubberbride where he trained horses for show-jumping and where Fr Molloy and Ms Flynn sometimes had horses. L described her friendship with them as lasting from 1974 until 1985, during which time she regularly used to go to horse-shows where she would meet them as well as Richard Flynn and the Flynn girls, LL, JJ and KK, all of whom were interested in horses. She indicated that she was aware that Fr Molloy and Therese Flynn were in the horse business together and that, although she was unaware of the name of their business, they used to pay their bills to the riding centre by cheques drawn on a joint account. L remembered the names of a couple of the horses owned by Fr Molloy and Ms Flynn, including Stepside, which she thought had been sold to an agent from Wicklow called OOO, although she asserted that the horses were registered only in Therese Flynn's name.

L remembered attending the wedding in July 1985 at Kilcoursey House and she described it as lovely, passing without incident. She also recalled having a cup of tea with Fr Niall Molloy in the kitchen, where "EEE and his wife" were also present, and that Fr Molloy, who seemed to be in "good form", walked her and UU to their car as they were leaving. From other statements, it appears that "EEE and his wife" in fact may have been FFF and Z

L described the atmosphere at the Flynn home as “perfectly normal” and that “there was definitely no tension”. L also recalled going into the house a number of times during the wedding reception and that it appeared to be immaculate. She did not see a broken coffee table at any stage.

It appears that L was also asked about C because, in her statement, she confirmed that C had a room in Kilcoursey House and that, at that time, he was still unmarried. She also indicated that she was not aware of C ever owning a horse but she was definite that neither she nor her husband had ever purchased an animal from C and that they never had a horse belonging to him at their riding centre. It is unclear whether there had ever been a suggestion that C was selling or keeping horses or, if there had been any such suggestion, who had made it.

L concluded her statement as describing Richard Flynn as a “gentleman”, Therese Flynn as “kind and very hard working” and Fr Molloy as “a lovely man and a dedicated priest at all times”.

#### 10.2.14 M.

In his statement made on the 9<sup>th</sup> February 2011, M confirmed that he had known Fr Niall Molloy all his life and that he was the best man at the wedding of Fr Molloy’s brother, Billy Molloy. Through M’s interest in horses, he used to meet Fr Molloy all over the country and would, on occasion, also meet Therese Flynn whom he knew through Fr Molloy. M saw Fr Molloy on the 6<sup>th</sup> July 1985 after a funeral in Athleague. Fr Molloy mentioned that he was going to go to a wedding that afternoon in Clara but he told M that he was not looking forward to it, although he did not say why this was the case.

#### 10.2.15 N.

N spoke to members of the SCRT on the 4<sup>th</sup> March 2011 and made a statement, in which she confirmed that she had known Fr Niall Molloy since the early 1960s because she was friendly with his sister, GGG. She also detailed that, more recently, she had run a pub and a guest-house in Castlecoote, where Fr Molloy was curate. The guest-house was next to the church and Fr Molloy was in the habit of calling in every day. N described him as “quiet, gentle and reserved” and that he would not confide in others. She also confirmed that it was widely

known that he was friendly with the Flynn family through their mutual interest in horses and horse-shows.

N described her last encounter with Fr Molloy on the morning of Sunday, 7<sup>th</sup> July 1985 after mass in Castlecoote. He indicated to her that he was on his way to a luncheon at the Flynn's house and that the wedding mass had been the day before. N described him as being in "great form" and looking "well". She also indicated that, seeing him on a daily basis, she had never seen him with a black eye or other marks to his face.

#### 10.2.16 Eamonn Barnes.

Eamonn Barnes was the Director of Public Prosecutions from 1975 until 1999, during which period Richard Flynn was prosecuted and acquitted. In a statement made to the SCRT on the 15<sup>th</sup> March 2011, Mr Barnes confirmed that, having received the garda investigation file on the 31<sup>st</sup> July 1985, he issued a direction on the 20<sup>th</sup> August 1985 that Richard Flynn should be prosecuted for Manslaughter and Assault Occasioning Actual Bodily Harm.

At around the time of the trial in June 1986, Mr Barnes was made aware of suggestions that he was a friend of the Flynn family, that he had acted as a sponsor or godfather for one of Richard Flynn's daughters, and that he had attended the wedding reception of that daughter in July 1985. In his statement, Eamonn Barnes clarified that there was no truth whatsoever in any of these suggestions. He asserted that, as far as he was aware, he had never met any member of the Flynn family.

This suggestion about being a godfather was investigated by members of the SCRT who examined the parish records at the church in Tubber, Co Offaly, where all four of Richard and Therese Flynn's children had been baptised between 1956 and 1965. The godparents of all four of the children are detailed in these records and Eamonn Barnes is not one of them.

Mr Barnes was also made aware that a suggestion had been made that Judge Frank Roe, the presiding judge at the trial of Richard Flynn, had written to the Office of the Director of Public Prosecutions regarding the case. In his statement, Mr Barnes stated that there is no truth in this suggestion. He clarified that neither he nor any member of his staff has any recollection of any such letter having been received. Further, an examination of the relevant files disclosed no evidence or suggestion that such communication had been made or that such letter had ever existed. In his statement, Mr Barnes also asserted his satisfaction that

nobody at all had contacted him or his office with a view to influencing the decision whether or not to prosecute Richard Flynn.

Members of the SCRT conducted their own trawl through all the existing documentation and correspondence pertaining to the investigation into the death of Fr Niall Molloy which was held at the DPP's Office. No correspondence with Judge Frank Roe was located and there appeared to be a complete absence of any material which might have tended to suggest that there ever had been correspondence from the judge.

10.2.17 O.

In 2007, O wrote a book about her father, Martin Cahill, who was a notorious criminal known as 'The General'. She made a statement to the SCRT in February 2011 in which she detailed an incident described in her book: O related that she had been at home and had gone into a room where she had encountered her father surrounded by boxes and paperwork. She described that he had appeared to be reading a file and taking notes on an A4 sheet of paper and that he had said to her that it related to a priest called Fr Niall Molloy who was killed in a house owned by a family called Flynn in Clara, Co Offaly. Although he did not allow O to see the file, she asserted that he had told her that Fr Molloy had been beaten by a statue of a horse. Objectively, it seems unlikely, given the nature of the injuries sustained by Fr Molloy, that an object like a statue was used during the assault on him. Further, O stated that her father had given her no information about from where the files had come or why he had them and, although she had some personal papers belonging to him, O did not know what had happened to the notes.

O also asserted in her statement that her father had spoken to the journalist Veronica Guerin about the case and that O got the impression that he was opining that there had been a "cover up". It also appears that Ms Guerin and Mr Cahill had reached some sort of agreement that, if Ms Guerin were permitted by him to look at the files, she would in turn write about the church, corrupt politicians and corrupt gardai.

### 10.3 Further Witness Statements.

In addition to those people named by Gemma O'Doherty in her statement as being witnesses with potentially relevant evidence to divulge, the SCRT interviewed for the first time a further twenty-four witnesses who had not been named by Ms O'Doherty.

#### 10.3.1 Bill Maher.

Fr Niall Molloy was Bill Maher's uncle, Mr Maher's mother being Fr Molloy's oldest sister. Mr Maher remembers being told of Fr Molloy's death in a telephone call from his brother QQ, who said that there had been some sort of an accident and that a shotgun had been involved. Mr Maher's sister R telephoned Kilcoursey House and spoke to two different females but did not glean any further information. It appears that another uncle, William Molloy or "Uncle Billy", had gone to Kilcoursey House with QQ Maher. After Billy had been into the house, he came out and related that Richard Flynn had told him that there had been an argument about politics and that Richard Flynn had hit Fr Molloy. William (or Billy) Molly had then made a statement to the gardai, which relates in more detail what he had told his nephew QQ.

At Fr Niall Molloy's funeral, Bill Maher remembers noticing that there was a significant injury to the left side of Fr Molloy's jaw which looked to Mr Maher as if it had been inflicted with a sharp object. It seems that this injury had been noted by Dr John Harbison during the post mortem examination and was described by Dr Harbison as "a laceration  $\frac{3}{4}$ " long, over the ramus or shaft of the lower jaw on the left side, 2" anterior to the angle of that jaw". However, Dr Harbison did not comment further specifically about this injury neither did he venture an opinion about how or with what it might have been inflicted.

Bill Maher also recalled that he had spoken to Fr Molloy "sometime before his death", during which conversation Fr Molloy had mentioned going to speak to his solicitor, a Liam Lysaght who had offices in Baggott Street, Dublin. After Fr Molloy's death, his family had encountered significant difficulty in getting any information from Mr Lysaght about any dealings he may have had with Fr Molloy. It is clear that Liam Lysaght was certainly representing the members of the Flynn family and that he played a significant role in liaising between them and the investigating gardai in the immediate aftermath of Fr Molloy's death.

In correspondence with the Molloy family's solicitor, Mr Lysaght denied that he had ever acted for Fr Niall Molloy. Although it appears that this was an issue which was then taken up before the Law Society and the High Court, Mr Maher stated that no file relating to Fr Molloy was ever disclosed by Mr Lysaght to the Molloy family.

Mr Maher had been informed that Fr Molloy had visited the offices of Fair and Murtagh, Solicitors, in Athlone on the Friday before his death, when he spoke to a PP. This appears to coincide with the recollections of A and B who had both made statements to the gardai in 1985 about this meeting.

Bill Maher went on in his statement to make a number of claims about events in the weeks following Fr Molloy's death. He asserted that, within a month, a horse called Stepside, owned by his uncle, was offered for sale at the RDS on behalf of Therese Flynn. Apparently this was one of about six or seven horses jointly owned by Fr Molloy and Mrs Flynn. Mr Maher also alleged that, "sometime prior to his death", Fr Molloy's home in Fuerty had been broken into and some private documentation was stolen although cash which was also taken was subsequently found outside. This burglary had apparently been reported to the gardai at the time. It is noteworthy that many of these details given by Bill Maher in relation to the break-in at Fr Molloy's home are materially different from the details which were apparently relayed by HHH to Gerard O'Carroll, addressed in later paragraphs, and that the version of events related by Mr Maher is more consistent with the arguably more objective recollection of the garda who had investigated the burglary.

Bill Maher's statement then continues with a series of recollections of conversations he had with others who each had something to say about the circumstances of Fr Molloy's death. For example, Mr Maher in his statement repeats a rumour which he heard through his late uncle, William Molloy, who in turn had heard it from a nun in England. This was to the effect that the former DPP, Eamonn Barnes, was the godfather of one of the Flynn children. When Mr Barnes was asked by the gardai about this rumour, he firmly refuted any truth in it and stated categorically that, as far as he was aware, he had never even met any member of the Flynn family. As detailed previously, an examination of parish records showed that this rumour about Mr Barnes is demonstrably untrue.

The other recollections detailed by Mr Maher were that Billy Molloy had also told him that a nun from the Poor Clare Order had offered to pay the Molloy family's legal fees if only the family would "let the poor man rest in peace"; that Veronica Guerin, prior to her death, had

claimed to have seen, in a solicitor's office in Parliament Street, the file in the case which had been stolen from the DPP's Office but that she had been advised by a friendly member of the gardai not to write about the story; that NN and OO had told Mr Maher that they had returned to Kilcoursey House on the 8<sup>th</sup> July 1985 at about 1.00 am but that they had not been allowed to enter the house. Unfortunately none of these accounts has been verified by any of the people who were supposed to have said these things and, in the case of some of the recollections, the death of the other respective party means that there never will be any confirmation or denial.

Bill Maher repeated in his statement the opinion of Professor Hourihane as to the cause of death. This had been related already to the gardai by Gemma O'Doherty and reflects the contents of a report from Professor Hourihane, dated the 20<sup>th</sup> October 1987. Mr Maher also opined that he did not accept the evidence given at the Inquest by three members of the gardai in respect of his uncle's watch and repeated comments made to him by retired Detective Garda Gerry O'Carroll, who was writing a book and who voiced a view that the way the Molloy family had been treated "was the greatest injustice done to any family since the foundation of the State".

Bill Maher also stated that he had spoken to the Coroner, Brian Mahon, who had conducted the Inquest in 1986. Mr Maher related that, on being asked whether anything untoward had happened to the body, Brian Mahon told him that it had emerged at the Inquest that Fr Molloy had been "kicked in the balls". Although it appears that this conversation was witnessed by a III, neither Mr Mahon nor III have made any statement confirming or denying it and there appears to be no other evidence to substantiate the truth of the assertion. If such a fact had emerged at the Inquest, it can be assumed that details of it would have been included in the transcript. The transcript of the Inquest has been examined in some detail by a number of well-respected medical practitioners who were investigating the injuries sustained by Fr Molloy and there is no reference whatsoever in their reports or in any of the other documentation to this type of attack on the priest.

#### 10.3.2 Q.

Q met Detective Superintendent Mangan on the 9<sup>th</sup> August 2012 in order to relate to him various things which Q asserted were said to him by C. These assertions must be read against

a consideration of C's comments about Q in his own statement, taken in November 2012, and of C's denials of these conversations.

Q's recollection of his relationship with C is very different from that given by C: according to Q, the two of them were very close friends, doing "nearly everything" together as they were growing up. He indicated that they were also at National School with David Flynn and that, as a result, he knew the Flynn parents and Fr Niall Molloy "very well". Q claimed that C used to organise work for Q to do for the Flynns and that, accordingly, Q was in regular contact with the Flynns. He was of the view that Fr Molloy and Therese Flynn were in the horse business together and that they "both had equal authority when it came to work in the stables".

Q detailed how he was married at the beginning of June 1985 and so he and C stopped seeing so much of each other, although they still would see each other at GAA matches. He became aware of Fr Molloy's death by hearing it on the news. Q, in his statement, revealed that his father expressed the view that "they (being the Flynns) would never be charged and that they had influence to getting it squashed". There is no explanation of how Q's father reached this conclusion or whether he had any evidential basis for this view.

About a fortnight after Fr Molloy's death, Q asserted that he spoke to C about the events at Kilcoursey House. He suggested that, on that occasion, C gave him certain information about a dispute which had arisen between Fr Molloy and the Flynns. Q's recollection is that C told him that Fr Niall Molloy had bought sixty acres of land around Kilcoursey House for £40,000 but that, in the absence of any paperwork, he was trying to get his money back. Q further claims that C gave him some details about an incident on the Thursday night before the wedding during which the coffee table had got broken and that the events on the Sunday had been a continuation of this. The suggestion seems to have been that there was violence inflicted on Fr Molloy downstairs in the house; that it was decided, having taken legal advice by telephone, that the considerable number of people, who were present at the time, should all leave the premises; that Fr Molloy's body was then carried upstairs to the Flynn's bedroom; and that a substantial period of time was allowed to pass before anyone in authority was called to the house.

Q gave an account in his statement of telling C in 2012 that he was going to relate these details to the gardai and he described that C's reaction was that he had no recollection either of the events happening as Q was describing or of telling Q anything along these lines.

It is noteworthy that, in his own statement, C emphatically denied that he had related any of these matters to Q. Further, there are differences in detail between the scenario described by Q and some of the objective evidence, such as the documentary evidence from the solicitor about the details of the land deal; the absence of any noticeable injuries or marks on Fr Molloy between Thursday and Sunday; the complete absence of any blood downstairs; and the blood splattering around the bedroom.

Q made a further statement on the 24<sup>th</sup> September 2012 in which he detailed speaking at length to a JJJ and his wife KKK about the SCRT investigation which was ongoing in 2012. These conversations between Q and JJJ seemed to be focussed on whether the gardai were mentioning Q and about the content of the statement made by JJJ. Further, Q reports that KKK said, “We all know what happened and who done it. It was common knowledge around the parish”. Of concern is that it appears that neither JJJ nor KKK actually made a statement to the SCRT despite what Q claims to have been told and it appears that there is no first-hand evidence to form a basis for the “common knowledge”.

In this September statement, Q also related more recent conversations he had had with C during which C is supposed to have told him that the details in the original statement which C made in 1985 had been provided by the investigating gardai who had “put the words in my mouth”. If this were the case, it is surprising that C did not make this clear in his statement of the 15<sup>th</sup> November 2012 nor why C would have repeated in that later statement the same details that were in his 1985 account.

Q made a third statement on the 10<sup>th</sup> October 2012 in which he repeated the details of conversations which he asserted he had had with C. Q was unable to explain why he had not, at the time of the conversations, gone to the authorities with the information which had been given to him, suggesting that he thought it would all come out in the investigation. He did remember speaking to his wife about it, and then subsequently to X, LLL, MMM and maybe JJJ.

Q also related that he had spoken more recently to C about the conversations in 1985 and that C had, once again, denied knowing anything about the events leading up to Fr Molloy’s death or about telling Q about any such events. Q claimed that he had suggested that C had told him “the whole story”, to which C had responded, “Well, if I did, I shouldn’t have”. Q asserted in his statement that he recorded this whole conversation on his mobile telephone and that,

while he did not still have the recording because he deleted it, he did give a copy to journalist Gemma O'Doherty.

There is no reference in the SCRT Report to suggest that Ms O'Doherty ever supplied a copy of this recording to the SCRT. Further, when Ms O'Doherty made her statement in November 2010, she did not provide Q's name among the thirty-five names listed and neither did she mention in her statement having heard a recording of any conversation involving C.

#### 10.3.3 R.

In a statement taken on the 16<sup>th</sup> February 2011, Fr Molloy's niece, R, related how she had been informed of her uncle's death on the morning of Monday, 8<sup>th</sup> July 1985 and how she had telephoned Kilcoursey House to offer her condolences to Therese Flynn, whom she knew was close to Fr Molloy. R had no further details to offer, except that her mother-in-law had also died during that period, only two or three days before her uncle.

#### 10.3.4 S.

Fr Niall Molloy was S's cousin, their respective fathers having been brothers. S made a statement to members of the SCRT on the 31<sup>st</sup> January 2011 in which he detailed how he had grown up with Fr Molloy, who was four years older than him, who lived only about five miles away and with whom he shared a love of horses. He confirmed that Fr Molloy had continued to buy and sell horses even after he had been ordained and that, in about 1973 or 1974, S had sold an animal to his cousin, in respect of which he was given a cheque drawn on a joint account in the names of Niall Molloy and Therese Flynn. Over the course of the following ten years, S used to meet his cousin at various show-jumping events where, often, S's daughter was competing against one of Therese Flynn's girls and where Fr Molloy would be in Therese Flynn's company. He remembered the two of them being fairly shy. S also detailed that he met Richard Flynn a number of times and that he found Mr Flynn to be more outgoing than his wife.

In his statement, S revealed that he never had any reason to suspect that Fr Molloy had any business worries or that there were any differences between him and Therese Flynn. He also felt confident that, had his cousin had any such concerns, he would have confided in him.

It seems that, about two weeks before his death in July 1985, Fr Molloy asked S to purchase some cattle for him. During that conversation, S noticed that his cousin had a black eye which looked a few days old. When he was asked about it, Fr Molloy suggested that the injury was a result of the actions of a member of the Flynn family but he gave few further details. Having bought twelve cattle, S arranged for them to be delivered to the Flynn land in Clara, where he was met by Fr Molloy who gave him a cheque, again drawn on the joint account in the names of himself and Therese Flynn. Fr Molloy then also suggested that he would be asking his cousin to buy more cattle for him, although he could not do this until after the wedding on the 6<sup>th</sup> July. He indicated that he was getting out of horses and that he was hoping to sell two horses, which were at that stage on the Flynn land, before leaving on a long holiday to America. He also said that he and Ms Flynn were dissolving their business but S did not press him for details about this.

S also detailed in his statement that he had visited Richard Flynn at some stage between 1971 and 1973 as part of his job selling insurance. During this visit, Mr Flynn had taken S on a tour of the house which had included a visit to a bedroom described by Mr Flynn as “Fr Niall’s room”. S noticed that the room was full of beautiful bridles and saddles and that there were four or five paintings on the walls which S stated were by “the Sligo artist Jack Yeats”. He related how Mr Flynn had told him that these paintings were not to be included in the insurance quote because they belonged to Fr Niall.

S also related in his statement a rumour which he had heard, although he could not recall from where, to the effect that the nurse at Tullamore Hospital, where Fr Niall Molloy’s body was taken on the 8<sup>th</sup> July 1985, had found leaves and grass on his body when she had removed his clothes. There is no evidence whatsoever anywhere in the available documentation to substantiate this rumour.

S also clarified some testimony which had been given in court, presumably during the trial of Richard Flynn, whereby two witnesses, a UU from Colooney and a vet from Tullamore, had claimed that they had worked on horses only for Therese Flynn and not for Fr Niall Molloy: S’s assertion was that both of these men did work also for his cousin.

#### 10.3.5 Ann Lenihan.

In an undated statement made to the SCRT, Ann Lenihan, widow of the late Brian Lenihan, confirmed that she had known Therese Flynn since they were at university, long before Ms Flynn had got married. They had remained friends over the years and, when the Lenihans were living in Athlone during the first twelve years of their marriage, she and her husband used to go to dinner at the Flynn home about once a year. Ms Lenihan also confirmed that they had been invited to the Flynn wedding in 1985, although in her statement Ms Lenihan was unsure of the names of the bride and groom, stating that she thought that it had been another daughter, JJ, who was marrying “GG”. It appears that her husband had also known the groom’s uncle who was a member of the Fianna Fail National Executive. The Lenihans went to the wedding reception and left at about 7.00 pm after the speeches. As far as Ann Lenihan was aware, there were no incidents of note and the only politicians at the event were her husband and the groom’s uncle.

#### 10.3.6 T.

In 1983, T was the owner of a jewellery business in Castlerea, Co Roscommon, of which Billy Molloy was a customer. T made a statement in December 2012 in which he described how Billy Molloy visited his premises a few months after the death of Fr Niall Molloy bringing with him a broken watch. T remembered that it was a mechanical Swiss watch, the glass of which was cracked and “pressed in against the hands”. He opined that the nature of the watch was such that this damage could have occurred by knocking the watch against the tip of a sharp object or if it simply fell on the floor. He described the glass cover as being made from “mineral glass” which he was able to replace at a charge of about £5 or £10. T clarified that the watch was never shown to him by any member of the gardai and that Billy Molloy was the only person who had brought it in to him.

This recollection of T’s is in direct conflict with the assertion made in the statement of Gerard O’Carroll to the effect that Mr O’Carroll, when still a serving member of the gardai, had taken Fr Molloy’s broken watch to T and that T had told him that the glass was “almost indestructible” and must have been broken as a result of having been struck by another object with great force.

#### 10.3.7 Liam Lysaght.

On the 5<sup>th</sup> December 2012, members of the SCRT visited Liam Lysaght, who had been the Flynn family's solicitor in 1985. During a conversation with the gardai, Mr Lysaght indicated that he did not know of any connection between the Flynn family and Judge Roe who had presided at Richard Flynn's trial. He recalled some of the details of his involvement with the case: that he had been called to the Flynn home at about 7.30 on the morning of the 8<sup>th</sup> July 1985 and that, by that stage, Richard Flynn had already admitted that he had delivered blows to Fr Molloy. Mr Lysaght thought that Mr Flynn had said that there had been an argument over getting drinks as well as about going on holiday. He also had a recollection of photographs having been taken of Richard Flynn to confirm that he had defensive wounds and that Mr Flynn had also seen a doctor to verify the existence of these injuries. In the SCRT file, there are no copies of any such photographs and there is an absence of documentation or other evidence to corroborate the assertion that Richard Flynn sought medical attention.

Mr Lysaght said that he had been aware that there was a drag-mark in blood on the white bedroom carpet but that Richard Flynn had offered an explanation for this: he thought that Mr Flynn had said that he tried to move Fr Molloy but thought better of it. He said that he had no recollection whatsoever of any suggestion that anyone other than Richard Flynn may have been involved in Fr Molloy's death and he expressed the opinion that Richard Flynn would not have admitted to a crime which he had not committed.

Liam Lysaght confirmed that he and his staff had spoken to all the members of the Flynn family and that their statements made for the purposes of the garda investigation had all been prepared by his office.

Mr Lysaght suggested that there had been some confusion over whether or not there was documentary evidence to show that Fr Niall Molloy and Therese Flynn had been in business together but he confirmed nevertheless that he had been involved in a proposed transaction on behalf of them to purchase land, although this deal had never been completed.

#### 10.3.8 U.

As part of the SCRT investigation, gardai sought a statement from U, who was the usher to Judge Frank Roe, who had presided over the criminal trial of Richard Flynn. U made a statement on the 14<sup>th</sup> January 2013, in which he confirmed that he had worked for Judge Roe

as an employee of the Department of Justice from 1973 until the judge's retirement in 1990. He stated that Judge Roe would never speak to him about any trials he conducted and, specifically, that the judge had never discussed with him the Richard Flynn trial and had never made any mention of the Flynn family or of the Molloy family. As far as U was aware, Judge Roe had never known either family and certainly U had never driven the judge to any meeting with either family. U also confirmed that he was not privy to Judge Roe's correspondence with anyone so he was unaware whether there had been any written communication between the judge and the Office of the Director of Public Prosecutions.

U was aware that Judge Roe had had a great interest in horses and that, in the past, he had owned and ridden the winner of the Ulster Grand National. The judge had also owned other race horses.

U was of the view that Judge Roe was conscientious in that he had never taken any time off during the legal terms and that he had always been scrupulously fair: he gave an example of the judge refusing to hear a case when it became apparent that he was acquainted with one of the parties.

#### 10.3.9 V.

V had been the best man at the wedding of GG and LL, having grown up with GG in Limerick. The gardai had not spoken to V during the original investigation in 1985 but the SCRT had located him in Cairo and he agreed to make a statement by telephone from Egypt on the 29<sup>th</sup> September 2011.

V stated that he had been staying with David and II Flynn for the weekend of the wedding at their home at Tubber House, and that he knew David Flynn well. He remembered going to the pub with a number of others on the evening of Sunday 7<sup>th</sup> July 1985, the day after the wedding, and that they went back to Tubber House after the pub. He stated that LL and GG left at some stage, although he could not assist with the time, and that he then went to bed. Although he had a vague recollection of being made aware the following morning that something serious had occurred, he was unable to assist with any detail and could only really recall that he had been driven to Dublin Airport to catch a flight back to London, where he had been working at the time. He thought that he had not actually realised that someone had died at Kilcoursey House until he read it subsequently in a newspaper, after which he would

have spoken about it by telephone to someone, probably GG or another mutual friend, W, who had also been staying at Tubber House. However, V further stated that he never discussed the matter in detail with any member of the Flynn family because it was too sensitive.

#### 10.3.10 W.

W, who made a statement to the SCRT also on the 29<sup>th</sup> September 2011, was a friend of V's and also knew GG from being at college with him in Shannon. He had also been staying with David Flynn at Tubber House and he recalled that he had seen Fr Niall Molloy at the wedding, chatting with the Flynn family, although W had no recollection of seeing Fr Molloy on the Sunday. W remembered that Richard and Therese Flynn left Kilcoursey House during the early evening of the 7<sup>th</sup> July and that, shortly after that, a decision was made that many of the younger guests would go to the pub. His recollection of events thereafter is vague, although he had the impression that everyone was enjoying themselves, and he could not assist with the time that he had gone to bed. However, he did recall that II told him the following morning to help himself to breakfast and to see himself out. It appears that there had been some indication of a problem in Clara but the scale of it was not evident and W had then driven V to Dublin Airport without discovering what was going on. He recalled that they ascertained that there had been a death when they arrived at the airport and that, although he went to Fr Molloy's funeral, the incident was never really discussed afterwards.

#### 10.3.11 Gerard O'Carroll.

In July 1985, Gerard O'Carroll was a Detective Sergeant attached to Garda Headquarters. He was subsequently promoted to Detective Inspector before retirement. In an undated statement made to the SCRT, he detailed how, in the week following Richard Flynn's acquittal at trial, he received information about the death of Fr Niall Molloy. Although he declined to name the person who divulged this to him, Mr O'Carroll described his informant as "a highly respected and trusted source". It appears that this source had heard that Dr Daniel O'Sullivan had confided in another unnamed medical colleague that he had "witnessed some awful and dreadful events" at Kilcoursey House on the night of Fr Molloy's death and that he was "distracted and close to a nervous breakdown". The source recommended that Mr O'Carroll

should examine the post mortem photographs to answer the “mystery” of the eight-foot drag mark in blood on the bedroom carpet. Mr O’Carroll managed to obtain a copy of these photographs by directly approaching the photographer, Detective Garda Tony Byrnes.

Although his statement does not reveal whether Gerard O’Carroll was able to draw any conclusions from looking at the photographs of the crime scene, he submitted a detailed report, dated the 14<sup>th</sup> July 1986, to Assistant Commissioner David Leahy about his unofficial investigations. In this, he again declined to name his informant but he detailed the information which had come from Dr O’Sullivan and which had been relayed through this unnamed person. It also is made clear in the report that Mr O’Carroll was not speaking to this unnamed person himself but was communicating through one of Mr O’Carroll’s relatives.

As a result of this extended series of individuals, the account given by Gerard O’Carroll in his report is, at best, fourth-hand hearsay. There is no indication that Dr O’Sullivan was actually present during any of the events related, so he must have heard it from someone else. It seems that Dr O’Sullivan then relayed this to a colleague of his who in turn informed a relative of Gerard O’Carroll’s. This relative then detailed to Mr O’Carroll what he had heard. Given the number of individuals through which this information passed, it would not be surprising if certain matters had become distorted, exaggerated or even fabricated. In any event, given the number of links in the chain of communication, the death of some of them and the anonymity of others, it would be impossible at this remove to test the reliability or accuracy of what was revealed.

Among other things in Gerard O’Carroll’s report, it was suggested that Dr O’Sullivan had revealed that Fr Molloy’s genital area had been mutilated and that, as a result, there was blood everywhere. Mr O’Carroll reported that, in order to verify this information, he would have to examine the photographs taken of Fr Molloy’s body before and during the post mortem examination. In his report, Mr O’Carroll detailed a contemporaneous conversation he had with Detective Inspector McCaffrey, in which he said that “if that part of my information was totally incorrect, I could not place much credibility in the rest of the information”. Although it appears that he encountered some trouble, Mr O’Carroll eventually succeeded in obtaining the photographs taken before the post mortem examination and was able to satisfy himself that there were no injuries to and no evidence of any interference with the genitals of Fr Molloy. In his report, written in July 1986, Mr O’Carroll stated, “Having examined the

photographs, I concluded that the information in my possession was inaccurate and appeared not to warrant further investigation”.

This assessment which Mr O’Carroll appears to have made in 1986 also accords with the balance of the evidence: the only injury noted by Dr John Harbison during his post mortem examination of Fr Molloy’s body which could possibly be described as “genital mutilation” was “an abrasion 1/6” across with a lower skin flap on the medial surface of the left thigh, 1½” below the scrotum”. This is a very small, almost superficial mark some distance from the genitalia. Further, in his report, Dr Harbison described the genitalia as “normal”. This is entirely coincident with the photographs from the post mortem examination, which showed a complete absence of genital injuries.

Gerard O’Carroll’s 1986 report goes on to detail how he had been approached by other more senior detectives who demanded the return of the photographs. Although he had no difficulty in returning the photographs, Mr O’Carroll expressed concern in his report that he himself was being investigated as a result of his research into the Fr Molloy case.

Having submitted this report to Assistant Commissioner Leahy, it seems that Gerard O’Carroll received a reply the next day confirming that there was a duty on all members of the gardai to investigate any crime and to explore fully any item of information coming to the notice of the gardai. Mr O’Carroll also mentioned in his statement that he forwarded to the assistant commissioner an anonymous letter which he had received, but he did not give any further details about this document.

In his statement, Mr O’Carroll also details that, in about June 1986, he was informed by a sitting TD, Liam Skelly, that a nephew of Fr Molloy’s, QQ, had approached him in an attempt to obtain Mr Skelly’s support in the Dail for a public inquiry into his uncle’s death. Mr Skelly had been told that Fr Molloy’s family had found aspects of the case, the investigation and the trial disturbing and unsatisfactory. As a result of this, Mr Skelly had agreed that he would make discreet enquiries on the family’s behalf. Mr O’Carroll, having been appraised of this, agreed that he and Mr Skelly would henceforth work closely together in the interests of the Molloy family.

Mr O’Carroll related that, towards the end of June 1986, he and Liam Skelly travelled to Castlereagh to visit Fr Molloy’s sister-in-law, HHH, who revealed to them that, a couple of weeks before he died, Fr Molloy had told her that the parish house in Castelcoote had been burgled and that personal papers and business documents had been taken from a bureau. Mr

O'Carroll remembered HHH saying that her brother-in-law had told her that nothing else had been taken, notwithstanding the presence of money and other valuables, and that he had suggested that the culprit was not a stranger. However, although he had been extremely upset by this, he had not reported it to the gardai. These details about the break-in are materially different from Bill Maher's assertions in respect of these same events and it is noteworthy that the version of events related by Mr Maher is more consistent with the arguably more objective recollection of the garda who had investigated the burglary.

It appears that HHH also reported that her brother-in-law had become dispirited after the break-in and had told her that he intended to sell everything that he owned and ask to be transferred to the missionary fields of South America. In his statement, Gerard O'Carroll commented that HHH had confided that the wider family were distraught about how events had transpired after Fr Molloy's death, particularly in relation to the "malicious gossip" about his sexual impropriety. HHH was adamant that he had never breached his priestly vows and she described him as a gentle and peace-loving man who would never raise a hand to anyone.

Mr O'Carroll described in his statement how, before leaving, he had asked HHH for her brother-in-law's watch: Mr O'Carroll noted that the glass front was broken and that the hands were stopped at the time of 10.40. Mr O'Carroll related that he had subsequently taken the watch to T, a professional watchmaker in Castlerea, who had told him that the glass was specially toughened and was "almost indestructible". Mr O'Carroll recalls that T told him that the glass could not have been broken in the course of a fall but rather that it had been broken as a result of having been struck by another object with great force. This account appears to conflict entirely with the recollection of T who, in his statement, asserted that the only person who had ever brought this timepiece to him was William Molloy and that the glass could have been broken by knocking it against a sharp object or if it simply fell on the floor.

As part of his unofficial investigation, Gerard O'Carroll also visited Fr Deignan, who seemed surprised by the visit but who told him that his conscience was clear, and Dr O'Sullivan, who became "quite agitated" and said that it was all over and that he had nothing to say. It appears that Mr O'Carroll also heard from a colleague that Cardinal O'Fiach had called Tullamore Garda Station on a number of occasions on the 8<sup>th</sup> July enquiring about the circumstances of the death of Fr Molloy.

Gerard O'Carroll concluded his statement by expressing his opinion that the complete truth about Fr Molloy's death has never emerged and that he believes this to be a "grave miscarriage of justice".

Gerard O'Carroll has authored a book, entitled "The Sheriff", which appears to relate a number of different tales from his life as a detective although it is unclear when this was written or published. Chapter 20 is headed "Death of a Priest" and details the circumstances surrounding the killing of Fr Niall Molloy. The chapter rehearses many of the details which Mr O'Carroll relayed to the SCRT when he made his statement and some of the information contained in his report made in July 1986. However, a significant omission both from his formal statement and from his book is his contemporaneous assessment of the reliability of the information which was passed to him about events at Kilcoursey House, that "Having examined the photographs, I concluded that the information in my possession was inaccurate and appeared not to warrant further investigation".

#### 10.3.12 X.

X, a farmer who has lived in Kilcoursey since 1969, made a statement on the 20<sup>th</sup> January 2011 in respect of his background knowledge of the Flynn family, whom he had known since they bought Kilcoursey House, where X was often asked to do jobs around the property and land. X also knew Fr Niall Molloy, who was a regular visitor to the Flynns and had an "apartment" in the house. He confirmed that Fr Molloy was at Kilcoursey House about every second day and, in X's opinion, took charge of many of the household decisions: X described him as being "the paymaster". Part of his basis for this was that Fr Molloy would pay him for the work he did at the house and had commented to X that they always settle their accounts at the time of the horse show and at Christmas time.

X and his wife were guests at the wedding on the 6<sup>th</sup> July 1985, where X was surprised that the mass was conducted not by Fr Molloy but by Fr Deignan, the parish priest. In fact, X noted that Fr Molloy was not at the ceremony but instead arrived during the reception, at about 7.30 pm. X and his wife left Kilcoursey House at about 1.00 am and walked to their car with Fr Molloy, who told them that he had two masses to say the following morning.

Having heard of Fr Molloy's death on the Monday, X went back to Kilcoursey House to sympathise with the Flynn family. Members of the gardai on duty there prevented him from

going upstairs but he was permitted to go into the kitchen where he saw Richard Flynn who said, "Sorry old business, I did it". X remembered that Mr Flynn also said something about having "fierce strength" in his hand and X was struck by Richard Flynn's calm demeanour.

In his statement, X described a conversation which he had had with a TT about something said to TT by Therese Flynn's brother-in-law, SS. SS's comments were vague and, in any event, are of doubtful relevance because they are connected with the night of the wedding and not the night of Fr Molloy's death. As detailed already, it is asserted that TT also spoke to journalist Gemma O'Doherty about SS but it appears that he was unable to provide to her any greater degree of detail.

X also confirmed that the Kilcoursey groomsmen, C, had stayed with his family after Fr Molloy's death. X's opinion was that this was because he was afraid to stay in Kilcoursey House. He remembered that C took a horse called Stepside, which was owned by Therese Flynn and Fr Molloy, to the Dublin Horse Show after Fr Molloy's death and that the horse was subsequently sold there.

#### 10.3.13 Thomas Burns.

Thomas Burns retired from An Garda Siochana in 1995 with the rank of Chief Superintendent. When he was a Detective Superintendent in 1986, he and Superintendent Dick Walsh had a meeting with Sergeant Gerry O'Carroll about the post mortem photographs. He submitted a report dated the 14<sup>th</sup> July 1986 in relation to this meeting, in which he confirmed speaking to Gerard O'Carroll on the same date and recovering from him the post mortem photographs. He reported that Mr O'Carroll was concerned to ascertain whether he was being investigated and that he was unsure what to do with the information which he had discovered in respect of the Fr Molloy case. Mr O'Carroll was advised to furnish any such information to the coroner in advance of the inquest and to submit a formal report.

#### 10.3.14 Z.

Z and FFF attended the Flynn wedding on the 6<sup>th</sup> July 1985. In a statement made on the 25<sup>th</sup> November 2012, Z detailed how she and her husband had been friendly with Therese Flynn

and Fr Niall Molloy through horses: that they would meet at horse-shows and hunts. She did not remember anything unusual at the wedding, although she did recall having a cup of tea with her husband and Fr Molloy before they left and that Fr Molloy appeared to be in good form. It may be the case that Z and FFF are the same people described by L as “EEE” who had enjoyed a cup of tea with Fr Molloy towards the end of the wedding.

Although Z was aware that it had been suggested subsequently that Fr Molloy had marks or injuries on his face at this stage, certainly she did not remember seeing any such marks on the night of the wedding.

#### 10.3.15 AA.

AA was at the wedding in July 1985 as a guest of Richard and Therese Flynn, whom, along with Fr Molloy, she knew through her association with horses. In a statement dated the 17<sup>th</sup> December 2013, she described Fr Molloy as being in good form at the wedding and indicated that she was not aware of any tension at the wedding. She also confirmed that she knew no details of the business between Fr Molloy and Therese Flynn except that it related to horses.

#### 10.3.16 BB.

In 1985, BB had a butcher shop in Clara and, in a statement made to the gardai in September 2011, he remembered that, on the Sunday after the Flynn wedding in July 1985, he had been returning from Dublin at about 10.00 or 11.00 at night having visited his father in hospital. As he was driving into Clara and approaching the Flynn’s house, he saw a respectably-dressed middle-aged man jump over the wall on the left-hand side of the road, run along the road towards Clara for about twenty yards and then jump back over the wall again. He described the man as having grey hair and wearing grey/blue trousers and a “bluey” shirt. BB accepted that, although he had intended to mention this to Sergeant Kevin Forde, he had neglected to do so but he added that he had regretted this ever since.

It is unclear what, if any, relevance this recollection has. Given the similarity in clothing and general description, the man seen by BB could have been Fr Niall Molloy. However, the description is so lacking in detail that the man could equally have been any number of other individuals. Certainly, there is no mention by any other witness that Fr Molloy was

mysteriously absent at about this time. Accordingly, it would be purely speculative to try to draw any conclusions from this sighting.

#### 10.3.17 CC.

Between 1981 and 1989, CC worked in the mortuary at Tullamore Hospital, where his duties included getting bodies ready for post mortem examinations. He made a statement on the 6<sup>th</sup> November 2012, in which he detailed his recollection of the Monday morning when the body of Fr Niall Molloy arrived at the mortuary. When CC arrived for work between 7.30 and 8.30 that morning, Fr Molloy's body was already there, although CC recalled that nothing was written in the register. He could not remember clearly whether there was more than one body in the fridge at the time but he did recall opening only one body-bag and finding the body of a man with dried blood on his face. CC noticed a cut shaped like an anchor or a horse-shoe on the chin, he thought on the left side, and he began to wash the face. However, Dr Harbison, who was then the State Pathologist, arrived and dismissed CC before he could do more and a colleague then took over as the assistant to Dr Harbison.

The cut which CC described seeing on Fr Molloy's chin would appear to coincide with the injury described in Dr Harbison's post mortem report as "a laceration  $\frac{3}{4}$ " long, over the ramus or shaft of the lower jaw on the left side, 2" anterior to the angle of that jaw".

In his statement, CC described how, the same morning, he had seen Therese Flynn in the female surgical ward, where he had gone as a result of the gossip circulating in the hospital. He remembered seeing that she had a badly bruised face and a black eye. He also clarified that he had not realised that the body he had seen in the morgue had been Fr Molloy until later on in the day when he heard the rumours among the staff.

CC also accepted that he had signed an on-line petition for justice for Fr Molloy as a result of being requested to do so by a journalist whom he named as "Gemma".

#### 10.3.18 DD.

In a statement dated the 27<sup>th</sup> November 2012, DD detailed that, between 1982 and 2009, he had worked for Combined Insurance Limited and that, for the first six years of that period, he had been a claims adjuster. He recalled that, in 1985, he received a letter regarding an

insurance policy in the name of Fr Niall Molloy. DD thought that this may have occurred in September although he also felt that it was within a couple of weeks of Fr Molloy's death. The letter was very short and was signed "Therese Flynn" with an address at Kilcoursey House: she asserted that she had the policy and wished to make a claim arising from Fr Molloy's death. DD sent the appropriate forms to Ms Flynn but, in his statement, he made it clear that this had not been an acknowledgement by the company that Ms Flynn had a valid claim on the policy and, as matters transpired, he did not receive any further correspondence from her. DD was also aware that Combined Insurance did subsequently settle a claim on Fr Molloy's life accident policy and that the benefits were paid to Fr Molloy's family who were his legal next-of-kin.

An analysis of the available documentation showed that, at the time of his death, Fr Molloy had a life accident policy with Combined Insurance, which he had taken out on the 30<sup>th</sup> November 1984 at a cost of £16. The benefit payable on Fr Molloy's death for any accidental cause was £1,500. DD, in his statement, described this level of cover as low and was sufficient to pay for little more than a burial.

In fact, the SCRT appear to have uncovered two insurance policies held by Fr Molloy with Combined Insurance. One policy is indeed dated the 30<sup>th</sup> November 1984 and shows that insurance was purchased at a cost of £16. The policy gives Fr Molloy's address as Kilcoursey House and his next-of-kin as Therese Flynn who, in the policy, is named as his sister. The policy also makes a mention of "R. Flynn" as being Fr Molloy's brother-in-law. The document appears to have been signed by Niall Molloy as the applicant.

The other policy appears to have been issued on the 31<sup>st</sup> May 1984 and cost £6. Again, the insured's name is given as Niall Molloy, the address as Kilcoursey House, and the next-of-kin as Therese Flynn, noted in the document as being the insured's sister. The significant difference between this policy and the later one is that the box marked "signature of applicant" contains the name Therese Flynn and not Niall Molloy. It seems that this earlier policy was of limited duration and was due to expire after six months, on the 30<sup>th</sup> November 1984, which is the date of the later policy which replaced the insurance cover.

EE spoke to members of the SCRT on the 29<sup>th</sup> September 2012 and made a statement confirming that, in 1985, he had been living with his parents in Kilcoursey and was working as a fitter with Bord na Mona. He was friendly with FF and C who are both a similar age to him. In his statement, he detailed that, although he was not at the Flynn wedding himself, he remembered being with FF and C on the Sunday evening after the wedding, the night on which Fr Molloy died. They were at a number of different public houses and, at the end of the evening at about 3.00 am, EE gave C a lift to Kilcoursey House, where C was living: EE thought that his friend's quarters were downstairs in the house. When EE dropped him off, he noticed nothing unusual and saw nobody else around.

#### 10.3.20 FF.

In 1985, FF used to cut the grass at Kilcoursey House, his mother having worked in the house as a cleaner. FF made a statement in September 2012 in which he detailed that a journalist, Gemma O'Doherty, had contacted him during August 2012 to ask him about the events surrounding Fr Niall Molloy's death in July 1985. For some reason, Ms O'Doherty did not include FF's name in the list of potential witnesses which she set out in her statement.

FF stated that he was always paid by Mr Flynn for the work he did and that he was asked to help out at the wedding on the 6<sup>th</sup> July 1985. At the time he was friendly with C, who worked with the horses at Kilcoursey House, and the two of them and EE went for a few drinks together on the Sunday evening after the wedding. FF remembered being with his friends until about 2.00 or 2.30 am, at which point he walked home on his own: his understanding was that EE would be taking C to Kilcoursey House, where C was living.

#### 10.3.21 Dr Francesca Brett.

On the 1<sup>st</sup> June 2011, Professor Dermot Hourihane, who had been assisting the Molloy family with expert advice on histopathology, sent to the family solicitor a report from Dr Francesca Brett, a consultant neuropathologist at Beaumont Hospital in Dublin. In Dr Brett's report, dated the 24<sup>th</sup> May 2011, which was based on her perusal of stained slides, she concluded that the red dead neurones in Fr Molloy's hippocampus, cortex and brain stem indicated survival of between six and twelve hours. Dr Brett also concluded that an area of ischaemic damage in the brain stem was suggestive of a survival of up to twenty-four hours.

### 10.3.22 Dr Michael Farrell.

It appears that, as part of the SCRT investigation, a report was also commissioned from Dr Michael Farrell, also a consultant neuropathologist at Beaumont Hospital. It was Dr Farrell to whom the State Pathologist, Dr John Harbsion, had deferred when he was invited in 1989 to comment on the time of death.

Dr Farrell examined the photographs which had been taken of Fr Molloy's cranium and, in a report dated the 16<sup>th</sup> August 2012, stated that, although the skull appeared to be intact, there were several different areas which showed evidence of bleeding. A microscopic examination of representative brain slides demonstrated patchy but established dark cell change involving certain neurons. Dr Farrell's interpretation of this was that it indicated that the deceased had been alive following the injury for a number of hours prior to his death. He concluded, "There are considerable variations in the timing of dark cell change but nevertheless most will agree that a patient needs to have been alive for 3-6 hours prior to establishment of dark cell change".

### 10.3.23 Thomas Monaghan

In 1985, Thomas Monaghan had been the garda Inspector in Charge at Clara, Co. Offaly, and had been involved in the investigation into the death of Fr Niall Molloy. He had subsequently been promoted to Chief Superintendent but, by September 2012 when he was interviewed by members of the SCRT, he had retired.

One of the matters which Thomas Monaghan recalled was that, at the time of the 1985 investigation, an explanation had been given for the broken coffee table which had been discovered in a downstairs room at Kilcoursey House: that two children who were at the wedding had accidentally damaged it. Although Mr Monaghan remembered that statements had been taken from these two children, any such statements appear no longer to be in existence. This appears to contradict the assertion by David Flynn that the coffee table was broken by a guest at the wedding called BBB who, he thought, was about twenty years old at the time.

#### 10.3.24 Richard Flynn.

It appears that the SCRT, as part of their investigation, expressed a wish to interview Richard Flynn. However, in a letter dated the 8<sup>th</sup> February 2011, Dr Michael Curran of Moate, Co Westmeath, certified that Mr Flynn was physically and mentally incapable of undergoing questioning in relation to any garda matters.

In any event, the powers of the gardai to interview Richard Flynn, particularly if he had not consented, would have been severely limited. When a person has been tried and acquitted of an offence, ordinarily there is a prohibition on the subsequent questioning of that person in respect of the same offence. This prohibition has been eased in certain circumstances by virtue of the Criminal Procedure Act, 2010 which provides for the questioning of suspects who have already been acquitted of the offence under investigation. However, these powers to interview suspects are only exercisable under approval from the District Court and, in any event, can only be used where the acquittal was after the commencement of the legislation, which of course was not the case in this instance. Accordingly, in the absence of the powers enacted in 2010, the SCRT would have been unable to interview Richard Flynn unless he had voluntarily agreed to the process.

#### 10.4 Other Outstanding Issues.

##### 10.4.1 Judge Roe's Letters.

In investigating the veracity of the assertions made in Veronica Guerin's article of the 16<sup>th</sup> October 1994 that two letters about the trial of Richard Flynn had been written by Judge Frank Roe, the trial judge, to Eamonn Barnes, who was at that time the Director of Public Prosecutions, the SCRT contacted the firm of solicitors which acts for Independent Newspapers. By letter dated the 12<sup>th</sup> May 2011, the solicitors responded that there were no letters or other documents dating from the relevant period which had any connection with the article written by Ms Guerin.

Accordingly, it appears that the letters, which are said to have been from Judge Roe to the DPP and which are said to have been in respect of the trial of Richard Flynn, either never existed, have been destroyed or lost, or otherwise are not available for examination. The absence or unavailability of any such letters must be viewed against the emphatic denial by Eamonn Barnes that any such correspondence ever existed and the fact that the only evidence of their existence appears to be Veronica Guerin's claim in her article that "the Sunday Independent was shown the two letters".

As already stated in this report, members of the SCRT conducted their own trawl through all the existing documentation and correspondence pertaining to the investigation into the death of Fr Niall Molloy which was held at the DPP's Office. No correspondence with Judge Frank Roe was located and there appeared to be a complete absence of any material which might have tended to suggest that there ever had been correspondence from the judge.

However, the gardai did find, in the file relating to the Richard Flynn trial, a handwritten letter which purported to explain the reasons behind the trial judge's decision to direct the jury to acquit Mr Flynn. This letter begins with the heading, "DPP v. Richard Flynn" followed by, "12.6.1986 His Honour Judge Frank Roe SC". It is possible that a cursory reading of this document could give rise to the assumption that this is a letter handwritten by the judge with a view to explaining his reasoning. It may be the case, therefore, that the article written by Veronica Guerin in 1994 which describes such a letter was based on seeing this document and on an erroneous assumption that Judge Roe had written it. However, it is actually the report authored by Prosecution Counsel, Raymond Groarke, in the case and sent to the DPP to appraise him of the outcome.

#### 10.4.2 The Horse Stepside.

It appears that, in response to a number of suggestions and recollections about the ownership and sale of a horse called Stepside, the SCRT made enquiries of the Royal Dublin Society and obtained a catalogue from their Horse Show in August 1985. In the catalogue, there is a single entry in respect of "Mrs R Flynn" which details her ownership of Stepside, which was one of the horses listed for sale. This would appear to corroborate the recollection of L that the horse was registered only in Therese Flynn's name. However, in the absence of any dates or details of transfer of ownership, there is no information about whether the horse was sold

or to whom, although staff at the Royal Dublin Society stated that the majority of the horses for sale at this “showcase” event would have been purchased by foreign buyers.

Additional details about Stepside can be gleaned from a solicitor’s letter, dating from 1987, which purported to answer a number of queries which had been raised by the Molloy family about Fr Molloy’s property. This letter is addressed in more detail below.

#### 10.4.3 Fr Molloy’s Property.

As part of its investigation, the SCRT obtained a copy of a letter dated the 23<sup>rd</sup> December 1987 from solicitors acting on behalf of Richard and Therese Flynn to solicitors acting for the estate of Fr Niall Molloy. It seems that this was part of a series of correspondence arising from an action in the High Court brought by Fr Molloy’s estate against the Flynns for the recovery of the deceased man’s property.

Among the items discussed in the letter are some paintings, although the exact number and description of these is not given. The understanding of the Flynns’ solicitors was that any paintings which had belonged to Fr Molloy and which had been at Kilcoursey House at the time of Fr Molloy’s death had been already handed back to the Molloy family. It appears that Therese Flynn had also instructed her solicitor that there had been two other paintings owned by Fr Molloy, both watercolours, but that he had removed these from the house in about 1983.

The letter also addressed the situation surrounding the horse Stepside: the horse was said to have been sold for £20,000 to an Italian purchaser and, as of the date of the letter, only £7,000 of this had been paid. The letter indicates that this money was paid in two instalments to UU and that the purchaser had refused to furnish the balance because, notwithstanding that veterinary surgeons in Dublin had provided a clean bill of health, a veterinary examination of the animal in Italy had revealed that it had a heart defect. Although the prognosis in respect of this transaction was unclear, the solicitor’s letter suggests that, with as much as £7,000 to £10,000 owing for veterinary fees in Ireland, there would not be any profit made on the sale of Stepside.

The solicitor’s letter also acknowledged an understanding by all parties that Therese Flynn and Fr Niall Molloy held a joint bank account with Allied Irish Banks in Capel Street, Dublin but that there were no significant funds in it.

#### 10.4.4 Fr Molloy's Will.

In her article published in 1994, Veronica Guerin wrote that there had been suggestions that Fr Niall Molloy had made a will in which Therese Flynn was a beneficiary but that no copy of this document could be found notwithstanding that someone who worked at the Bishop's office had claimed to have seen it.

The SCRT made enquiries with the army authorities, because of Fr Molloy's former position as chaplain and because it had been suggested in the article that the army, having received the will from Fr Molloy, had sent it to the offices of the Bishop of Elphin. These enquiries revealed that no military records existed to show that the army had ever had sight or possession of a will belonging to Fr Molloy or that any such document was sent on elsewhere. Further, when asked about this in February 2013, the Diocesan Secretary in Sligo confirmed that the Office of the Diocese of Elphin had no will belonging to the late Fr Niall Molloy and that there was no record that such a will had ever been deposited there.

In addition, the statement of A, made in July 1985, reveals that the apparent understanding of PP, a solicitor with Fair and Murtagh in Athlone, was that, on Fr Molloy's death, there had been no will.

#### 10.4.5 Burglary of Fr Molloy's Home.

Enquiries made by the SCRT in February 2011 identified a retired garda, Kieran Connell, who had investigated a burglary at the residence of Fr Niall Molloy at Castlecoote, Co. Roscommon, in early 1985, about six months prior to his death. Kieran Connell had established that a local person, who had since died, had located cash in a hedge or ditch near one of his fields at around 3.00 pm on the day of the break-in. It seems that this cash comprised the proceeds of the church collection and amounted to between £13 and £15 in

coins. In the location in the house from which this change had been taken, Kieran Connell found further quantities of money which apparently had been left untouched. Mr Connell had also discovered that the burglars had unsuccessfully attempted to gain entry by trying to force the back door of the premises, before actually getting in through the unlocked front door. The evidence suggested that the culprits had decamped through trees at the rear of the house and had then entered a neighbouring property belonging to a NNN. However, Mr Connell was of the view that this subsequent break-in was a “cover-up” because it was well-known that NNN owned nothing of value.

Kieran Connell had also ascertained that Richard and Therese Flynn had stayed as guests with Fr Molloy on the night prior to the burglary and that the Flynns had attended Mass celebrated by Fr Molloy in Castlecoote Church. It seems that Fr Molloy and Therese Flynn had then travelled together to Mayo for a show whilst Richard Flynn returned home.

There was no official record held at Roscommon Garda Station of this burglary or of any subsequent investigation. However, Kieran Connell explained to the SCRT that he had not expected that there would be any documentation because, in his opinion, no official record of the reported crime existed. Further, there is no evidence whatsoever that the burglars removed from the house any legal documents or other financial records. It seems that Fr Molloy was willing to discuss other financial concerns with Kieran Connell but that he never mentioned to Mr Connell that he was missing any documentation as a result of the intrusion into his home.

#### 10.5 Shortcomings in the 1985 Investigation.

As a result of the extensive enquiries carried out by the Serious Crime Review Team, a number of shortcomings in the original 1985 investigation were identified. It was the opinion of the SCRT that there ought to have been a comprehensive canvassing of the guests who attended the wedding on the 6<sup>th</sup> July 1985 with a view to interviewing everyone; that house-to-house enquiries should have been conducted; that the break-in at Fr Molloy’s home should have been properly investigated; that the people mentioned by David Flynn in his original statement should have been interviewed at an early stage to test the veracity of his account;

and that Fr Molloy's wristwatch should not have been returned to the Molloy family without a proper investigation of its condition.

An additional hindrance identified by the SCRT was the perfectly lawful ability of the Flynns' solicitor, Liam Lysaght, to produce on behalf of the Flynn family a series of witness statements which were lacking in detail and which appeared, from the timings on them, to all have been made within a few minutes of each other. Mr Lysaght then declined to allow the gardai to interview any of his clients. It is worth noting that Mr Lysaght was acting entirely within the law and in the interests of his clients and that, accordingly, his actions were at all times professional. It is also important to note that, at that time, the gardai did not enjoy any adequate power to detain and question anyone in respect of a murder investigation unless firearms were involved. This position pertaining to garda powers of detention has since been addressed by legislation. The SCRT Report also identified as a difficulty the absence of any legal power to compel a witness to co-operate with a criminal investigation. Again, this anomaly has subsequently been examined by the legislature and efforts to remedy the situation have been made.

The SCRT Report also expressed concern about the fact that Dr John Harbison placed reliance on a colleague's opinion on neuropathological issues but that the gardai at the time did not seek a report from that colleague. It was established that Dr Harbison had been in contact with Dr Michael Farrell who, when asked by the SCRT, compiled a report suggesting that Fr Molloy had lived for three to six hours after sustaining the injuries. Had this opinion been sought in 1985, a different complexion would have been placed on the accounts given by members of the Flynn family and it can be assumed that more questions would have been asked.

There are additional shortcomings which have become apparent as a result of the objective reading of the documents in the case. It would have been of benefit for Fr James Deignan to have been more closely questioned about why he felt that it was more important for him to return home to collect his reading glasses rather than to summon a doctor or the gardai to Kilcoursey House. The absence of any statement from the solicitor, PP, about the business transactions between Fr Molloy and the Flynns is a significant omission, as is the lack of any information from Richard and Therese Flynn about this. Further, notwithstanding that blood

samples were taken from the scene and from the members of the Flynn family; that various physical items were taken from the principal bedroom and from other rooms in the house; that numerous fingermarks were located in the bedroom; and that all these samples and findings were transmitted to the State Forensic Science Laboratory, presumably with a view to trying to ascertain who had been in the bedroom and elsewhere; there is a complete absence of any record of any scientific testing of the samples taken during the examination of the scene.

## 11. Conclusions and Recommendation.

### 11.1 Commentary.

Certainly there are extremely unusual, if not unique, features about this case. Many of these are quite disturbing and merited an in-depth analysis. Unfortunately, it appears to me that the precise truth of the events of the 7<sup>th</sup> and 8<sup>th</sup> July 1985 cannot now be ascertained.

Among the questions which remain unanswered are the time that Fr Molloy sustained his injuries: the medical evidence suggests that he did not actually die for a considerable period after being injured. However, the time of death was always given within a very wide margin, from 10.00 pm on the 7<sup>th</sup> July until 2.00 am on the 8<sup>th</sup> July. Given that the interval between injury and death has been afforded even greater latitude, with estimates varying from three to as much as twenty-four hours, the time of injury could have been anywhere between 10.00 pm on the 6<sup>th</sup> July 1985 until 11.00 pm on the 7<sup>th</sup> July 1985. In less theoretical terms, Fr Molloy was last seen alive by a number of independent witnesses during the late evening of the 8<sup>th</sup> July, which narrows the available time period down to between about 9.00 pm and 11.00 pm on that night. Whilst this establishes that the account given by Richard and Therese Flynn is not accurate as to time, it does little to show what actually occurred during those hours.

The fact that Fr Molloy's watch was stopped with the time showing 10.40 has been assumed by many observers to be significant. A close analysis of the evidence reveals that the situation is less clear-cut. The first, most obvious, observation is that it cannot now be established that Fr Molloy's watch was even showing the correct time on the 7<sup>th</sup> July 1985. Further, a number of witnesses made statements and gave evidence at the inquest that the watch was only superficially damaged and was still working during the post mortem examination. The only suggestion that this was not so appears to come from a witness who, as an objective fact, made a statement in 1986 that he had not noticed whether or not the watch was working. Further, although there have been suggestions that the watch could not have been damaged except through particularly excessive force, the actual evidence from the expert who repaired the timepiece is that the damage could have been caused by a relatively modest impact. Given the medical evidence, it is certainly possible that Fr Molloy sustained his injuries at 10.40 pm

on the 7<sup>th</sup> July 1985 but it is by no means proved by the ambiguous situation surrounding the watch.

Irrespective of the exact time of the assault on Fr Molloy and the exact time of his death, what remains unexplained is why there was such a significant delay in calling the authorities. There has been an enormous amount of speculation about this and various theories have been suggested to fill the evidential vacuum. Much of the conjecture is completely without foundation and some of the theories are actually contradicted by the available evidence. Unfortunately, it appears that the only people who could offer credible evidence in order to explain the delay either have died, are too infirm to speak about it or are unwilling to divulge exactly what occurred.

The comments which Fr James Deignan made to the gardai about trying to keep the events at Kilcoursey House quiet were, at best, inappropriate. His motivation for these comments is unclear and it would be impossible at this juncture, given the subsequent death of Fr Deignan in 1998, to investigate this further.

Equally, the calm attitude of Richard Flynn when the gardai arrived at Kilcoursey House is a feature of the case which many would find inexplicable. Without knowing more about Mr Flynn's usual general demeanour, it would be impossible to comment on whether or not this was out of character but, after the violent death of a family friend in the house, a somewhat less controlled reaction would perhaps be anticipated. However, this factor of itself lends very little to the quest for the truth of what occurred and, in the absence of an explanation by Richard Flynn, any conclusion drawn from his behaviour would simply be speculative.

The attitude taken by the Flynn family with the authorities is perhaps less surprising given that, undoubtedly, at least one of them knew who was responsible for Fr Molloy's death. There is no lawful mechanism for extracting a confession from someone against their will and, given the right of every individual not to incriminate himself, no amount of questioning would convince a reluctant culprit to confess to an offence. If the members of the Flynn family chose to say nothing further about the events of July 1985, or even claimed to have forgotten the details of the night in question, there is little that could lawfully be done to persuade them otherwise. Conversely, where a person has confessed to an unlawful act, such a confession would ordinarily have a powerful presumption of truth, given that very few people would voluntarily confess to a crime they did not commit.

It is suspicious that the business dealings which were ongoing between the Flynnns and Fr Molloy were not revealed to the authorities at the outset of the garda investigation and only came to light subsequently. Certainly the most obvious inference to draw from this would be that Richard and Therese Flynn did not wish this to be revealed because it indicated that a financial advantage might have accrued to them following Fr Molloy's death. However obvious this inference might be, it is by no means the only conceivable reason why someone might withhold information and it would be wrong, therefore, to arrive at a concrete conclusion in this regard.

In light of the confession, made on a number of occasions, by Richard Flynn to inflicting the violence on Fr Niall Molloy, the directed acquittal of Richard Flynn at his trial was extraordinary. While much of the focus of the criticism for this has been on the trial judge, a careful reading of the assessment by Prosecution Counsel of the evidence which was given at the trial reveals that the decision might have been at least partially attributable to the concessions made by Dr John Harbison when he was being cross-examined. In the absence of any written ruling by the judge and given his subsequent death, it would be impossible now to ascertain the exact reasons for his decision. However, irrespective of whether or not the trial judge was correct in acting as he did and whatever his motivation was, the state of the law at the time of the trial was such that his decision was not, and is not now, subject to review.

It is clear from the evidence that the Flynn family certainly enjoyed friendships with those involved in politics, some of them at the highest level. However, there is no evidence to substantiate a contention that these political connections were used to their advantage in relation to the events surrounding Fr Molloy's death. It is impossible to prevent conjecture in this regard and it is clear that certain strident views are held by those closest to the late priest. This does not amount to evidence upon which any reliance can be placed and, in the absence of such and given the death of most of the main protagonists connected with this aspect of the case, there is no prospect of arriving at a sound, evidentially-based conclusion in this respect.

It is an uncomfortable fact that the judge at Richard Flynn's trial, Judge Frank Roe, was deeply involved in the horse business, which was something he had in common with Richard and Therese Flynn and with Fr Niall Molloy. This inevitably has led to an inference being drawn that he must have known all the parties involved and that, accordingly, he was predisposed towards ensuring that Richard Flynn would not be convicted. This line of

reasoning has been fuelled by the suggestion that the judge wrote to the DPP to appraise him of the fact of such a connection. When analysed objectively, it would appear to be inconsistent that a person who planned to misuse his judicial authority to secure a defendant's acquittal would first highlight his connection with that defendant in written communication. Further, if such a communication had occurred, it is surprising that no objection was then raised by the DPP to the judge presiding at the trial. As an objective fact, there is no documentary evidence to substantiate the suggestion that the judge was in correspondence with the DPP or to substantiate the suggestion that Judge Roe was predisposed to securing Richard Flynn's acquittal. While nothing can be done to prevent anyone arriving at their own decisions in respect of the trial judge, at this remove and given the death of Judge Roe, it is highly unlikely that any concrete conclusions, founded on reliable evidence, could be reached.

It is also an undeniable fact that the garda file relating to the investigation into Fr Molloy's death was stolen from the DPP's Office at the end of August 1987. However, there is no evidence to suggest that this file was particularly targeted and it must be appreciated that it was only one of a much larger number of such files which were stolen during the course of the break-in. In addition, although individuals have related certain comments and opinions made by the person responsible for the theft, there is no evidence to substantiate these utterings. The reality is that the file was eventually recovered and that it is now available for perusal. Indeed, the material parts of the file were included in the SCRT Report and therefore have been summarised as part of this review. Again, although this circumstance serves to fuel speculation about the case, the actual consequences of the theft appear to be less dramatic.

Similarly, the suggestion that the arson of the Co. Offaly Coroner's Office was in some way connected with the investigation into Fr Molloy's death appears, on careful scrutiny, to be without foundation. Although some items relating to Fr Molloy were consumed by the fire, the actual coroner's file escaped any damage.

The anonymous letters which were sent to William Molloy following his brother's death have given rise to a huge amount of conjecture. The difficulty with unnamed sources of information is that they are not susceptible to questioning or testing in order to establish the reliability, accuracy or truthfulness of the information. In this case, some of the matters asserted in the letters have been shown to be unreliable and the remainder have suffered from a lack of corroborative evidence.

The extent of the rumours, gossip and speculation surrounding the events at the house and in respect of the trial has been significant but perhaps to be expected given the shortcomings in the 1985 garda investigation, the lack of a credible explanation of events at Kilcoursey House on the 7<sup>th</sup> and 8<sup>th</sup> July 1985 and the outcome of the criminal trial. While understandable, the speculation is unhelpful in trying to ascertain the truth because, very often, it clouds the issues and diverts attention from the actual evidence that exists. Much of the SCRT investigation was directed towards ascertaining whether such speculation had any grounding in fact and, almost invariably, revealed an absence of evidence to substantiate what had been asserted.

There is, however, objective evidence that Therese Flynn attempted to make a claim on an insurance policy which Fr Molloy had taken out in 1984, some seven or eight months before he died. One of the peculiar features of this policy was that Fr Molloy had signed the document which expressly details Ms Flynn as being his sister and next-of-kin. It is also of note that the insurance cover was for a relatively modest amount and that Ms Flynn failed to pursue the claim when she was requested to provide further details. Given Ms Flynn's subsequent death, it would be impossible for any further light to be shed on this aspect of the case.

Questions have been raised about the existence of a will drawn up by Fr Molloy. Although suggestions were made that a will had been entrusted to the church, the available evidence shows that, in fact, there is no record whatsoever of any such document ever having been made.

The extent and location of Fr Molloy's property was also investigated in the aftermath of his death and issues arose about at least one racehorse and about a number of paintings which he had owned. The investigation established that, notwithstanding the conflicting recollections of some of the witnesses, these issues had been addressed relatively shortly after the priest's death, presumably in the context of the civil action which appears to have been taken by the Molloy family against Richard Flynn.

## 11.2 Conclusions.

Given the significant interval of time between the events in question and the re-opening of the case by the SCRT, it is perhaps unsurprising that many of the questions arising from the

original investigation remain unanswered. This has not been assisted by the continued reluctance of those who have first-hand knowledge of these events to answer questions raised by others. However, given that every individual has an inalienable right not to incriminate himself, it would appear that this difficulty cannot be overcome.

It can never be forgotten or ignored that this case stems from the tragic and unnecessary loss of the life of a relatively young man, who was much loved by his family and those in the wider community. Whenever a life is prematurely cut short by a human act, there is an understandable and justified quest for answers and answerability. Following the death of Fr Niall Molloy, such a quest has been frustrated by a number of different factors, all of which have accumulated to give rise to a completely reasonable sense of injustice.

However, notwithstanding this, my task has not been to establish the truth of what occurred or even to venture an opinion about this, but merely to identify any issues of public interest which may arise and to identify matters, if any, of significant public interest or concern which would warrant examination by a further inquiry and in respect of which such further inquiry would have a reasonable prospect of establishing the truth.

The thrust of this report has been to shed light on as many issues as possible in order to minimise the number of unanswered questions. It is with this in mind that the material contained within the SCRT Report has been comprehensively rehearsed, whether credible or not and whether reliable or not. Having detailed the material in this way, it is difficult to envisage how any further inquiry could have a reasonable prospect of establishing the truth about the issues raised, whether or not these are of significant public interest.

### 11.3 Recommendation.

For the reasons stated above, while there are a number of issues of public interest which have been identified and enumerated, some of which could be categorised as issues of significant public interest or concern, it is unlikely given the passage of time, the death of many of the pertinent witnesses and the reluctance of others voluntarily to give evidence, that any further inquiry would have a reasonable prospect of establishing the truth. Accordingly, examination by a further inquiry could not be said to be warranted.

**Dominic McGinn, SC.**

10<sup>th</sup> October 2014.