

Opening Statement

Read by Dr Niamh McCullagh, MIAI CSFS

Thank you for the invitation to address the committee here today.

My name is Dr Niamh McCullagh and I am a Consultant Forensic Archaeologist. I led the Forensic Investigation team on behalf of the Mother and Baby Home Commission of Investigation (MBHCOI) at Tuam, Sean Ross Abbey and Bessborough. Today I am also representing other members of that investigation team; Aidan Harte (Forensic Archaeologist) and Dr Linda Lynch (Juvenile Osteoarchaeological Specialist). It should be noted that we have not made a written submission but have been asked to appear before this Committee and we hope to answer any questions that the Committee might have.

We have individually and collectively considerable experience of these kinds of investigations, including for An Garda Síochána and the Independent Commission for the Location of Victims Remains.

Our expertise means that we are qualified to anticipate the many practical concerns and the potential issues that will arise in any forensic excavation and recovery of remains at these and similar sites that this bill refers to.

I was responsible for directing the test excavations undertaken by the MBHCOI at Tuam in 2016 and 2017 (<https://www.gov.ie/en/press-release/169f8f-commission-of-investigation-into-mother-and-baby-homes-fifth-interim>). Our reports on the site deal extensively with what was at Tuam and the manner in which these infants and young children were interred.

Subsequently, in 2017, I was independently requested by the former Minister for Children and Youth Affairs to direct an Expert Technical Group (ETG) to report on options available to Government on the appropriate excavation and recovery of the remains of these infants and young children at Tuam (<https://assets.gov.ie/47451/3314dd47812349c498b3e0fbfc06bf88.pdf>). The group comprised of a range of international experts in mass grave excavation, DNA, forensic archaeology, forensic anthropology, coronial law, and juvenile osteoarchaeology). The group report was published in 2018.

In this report we identified a programme of “Humanitarian Forensic Action” that should underpin the recovery of remains from the significantly challenging conditions observed at the underground chambers at Tuam. This approach provides a structure that protects the dignity of the dead through the utilisation of proper processes of forensic recovery, management, individualisation of remains and identification where possible. The use of forensic methods and procedures in the recovery of remains allows increased opportunity for individualisation of human remains, a key step towards providing identity. In our opinion this methodology is relevant and appropriate to other burial contexts at similar institutional sites.

For the purposes of the Committee it is worth reminding ourselves of the context of what we discovered at Tuam. There is evidence here of some commingling of skeletal remains in the

subsurface chambers. This means the mixing of the remains of two or more individuals. The remains here are of infants and young juveniles. A full-term infant skeleton comprises over 300 bones, with the cranium alone consisting of 34 individual pieces of bone. It appears that many of these bones will have separated on skeletonisation and have mixed with others making individualisation, and subsequent identification particularly difficult. It cannot be assumed that all of the individuals buried here will be identified, whether through DNA or other identification processes.

We broadly support the advancement of this Bill through the Oireachtas and believe that this legislation should insist that appropriate actions and accepted best-practice be applied at each and every stage of future investigations or excavation programmes. The essential requirement is therefore that the Bill adopt principles of Humanitarian Forensic Action and place them at the core of any new legislation concerned with Institutional burials.

However, on the basis of our experience at Tuam, drawing on our own individual professional experience, and incorporating the advice received from international experts, we have a number of concerns about the proposed legislation:

1) The bill refers to “exhumation”, this is possibly a misapplication of that term. It is intended to refer to situations where bodies have been interred in an appropriate way. In the context of this bill “excavation” is the more appropriate term.

2) There is considerable reference in the Bill to DNA profiling. Our 2018 Expert Technical Group report was of the view that DNA profiling is possible. However, the re-association of individual bones to one set of remains will create challenges for identification and reburial. Every effort should be made to re-associate bones to an individual prior to DNA. This will be a significant investment of time and expertise and is may not be completely successful in every case.

We must bear in mind that we have a duty of care to all of the remains interred not just those we can identify. There is an absence in the draft Bill of clear direction and specification with regards to the process of forensic excavation, recovery and management of the human remains that will be uncovered.

The Bill does not address the post mortem management of remains prior to identification nor does it address what will happen to remains that cannot be identified. There is no mention of how such unidentified remains are to be treated and how they are to be buried and how will this be done in a manner that respects the dignity that they have been so far deprived of in death.

3) Finally, we have identified some technical issues within the Bill that we believe require some further attention. These are largely related to the excavation and the requirements for the “Agency” to become involved at a given location; Head 5 “Criteria for intervention” (2a & 2c):

i) **2a** states that certain burials will be considered inappropriate where human remains are uncoffined.

Coffins will decay and the practicality of establishing whether remains are uncoffined prior to intervention is unlikely. The absence of a coffin cannot be considered a reliable indicator that no coffin was present at the time of burial.

ii) **2c** states that burial depth should also be considered as an indicator of appropriateness.

It is not always possible to accurately confirm the original ground level at the time of burial due to numerous factors particularly truncation. The original depth of the burial cannot be established with any certainty prior to intervention.

In conclusion

It is our opinion to provide dignity to those interred, their recovery must be undertaken with as much detail and care as technology, techniques, and circumstances will allow. In our view, it is this forensic approach to the investigation and recovery of human remains that will lead to the truth of these infants and children; who they were, how they lived and how they died.

This brings our opening statement to a close. We are happy to answer any questions that the committee may have arising from this or other areas relating to our expertise.

Dr N. Á. McCullagh, Forensic Archaeologist

A. Harte, Forensic Archaeologist

Dr L. G. Lynch, Osteoarchaeologist