



Garda
Ombudsman
INQUIRY INDEPENDENCE IMPARTIALITY

**Information Report from the Garda Síochána
Ombudsman Commission at the completion of the
investigation into the complaints of Ian Bailey,
Catherine “Jules” Thomas and Marie Farrell**

Pursuant to s.103 of the Garda Síochána Act, 2005

Author: The Commission
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1. Introduction:

- 1.1 As the report below will confirm the first complaint to the Garda Síochána Ombudsman Commission (GSOC) was received from Mr. Ian Bailey in December 2011. The complaints from Ms. Farrell and Ms. Thomas followed in 2012. The complaints from all parties related to the murder investigation conducted by the gardaí into the death of Ms. Sophie Toscan du Plantier on or about the 23rd of December 1996.
- 1.2 While Mr. Bailey and Ms. Thomas had both been arrested during the course of the garda investigation neither had been charged with any offence in relation to that investigation. Ms. Farrell was considered a witness in the garda investigation.
- 1.3 However Mr. Bailey has been involved in significant legal proceedings since the death of Ms. du Plantier in December 1996. These proceedings have included a libel action in Cork Circuit Court commencing in December 2003; a High Court action launched against the Minister for Justice and the Garda Commissioner for wrongful arrest and garda conspiracy in 2007 but not heard in the High Court in Dublin until November 2014 and running through to March 2015; European Arrest Warrant proceedings in the High Court and on appeal to the Supreme Court between April 2010 and March 2012; investigations by French authorities leading to the indictment of Mr. Bailey in France in late 2016 for the murder of Ms. du Plantier; further European Arrest Warrant proceedings in the High Court commencing in March 2017 which were refused in June 2017 and Court of Appeal proceedings in March 2018 in relation to the unsuccessful High Court action decided in March 2015.
- 1.4 The continuing litigation has been taken into consideration throughout the GSOC investigation as to whether any new material arose out of these often lengthy and complex cases or what impact, if any, decisions of the various courts had on the GSOC investigation. Regard was had in particular to the call by Mr. Bailey on the Director of Public Prosecutions in late 2016 where he sought to be have decisions made by her predecessors not to prosecute him reviewed.
- 1.5 During the course of the GSOC investigations in 2014 it was publically revealed that phone calls at Bandon Garda Station had been recorded and this, and other associated matters, became the subject of a Commission of Investigation under the chairmanship of Mr. Justice Nial Fennelly, retired judge of the Supreme Court in March 2014. The Commission of Investigation delivered its final report on the 31st of March 2017.
- 1.6 The GSOC investigation had to deal with the issue of phone recordings once the information became public but the Commission was conscious throughout of the Fennelly Commission and findings it might make as a result of its wide ranging and thorough investigations.
- 1.7 The various and complicated court proceedings and related investigations such as the Fennelly Commission have added to the investigative process for GSOC. The Commission was not anxious to complete the investigation in the event that matters relevant to its inquiries came into the public arena which could be further investigated by GSOC.
- 1.8 The Commission has also been informed that the garda investigation into the unlawful death of Ms. du Plantier is still open as no one has been charged with her death in this jurisdiction. GSOC therefore is conscious that any information released should not jeopardise any future proceedings, if indeed same arises. However the information included in this Report is information that must in law be made available to any accused person or persons should any criminal proceedings ever be brought into the future, including as will become apparent, the loss of exhibits and interference with documentation relevant to the investigation. It was

decided by the Commission that it was in the public interest to publish these matters in this Report.

- 1.9 Finally identities of various witnesses and gardaí have not been included in this Report despite in most instances the names being in the public arena through media reports and other proceedings. In light of the fact that the decision of the Commission is that no conduct of a criminal or disciplinary nature has been revealed in this investigation it was decided it was not necessary to name the various parties. It should be noted that where members of the Garda Síochána have retired it is not possible to bring proceedings under the Garda Discipline Regulations and a number of the original gardaí involved in the investigation in 1996 onwards had retired by the time complaint was made to GSOC in 2011 and 2012. Other members had died in the interim period.

2. The background.

- 2.1 On 23 December 1996, at approximately 10:10 hours, the body of Madame Sophie Toscan Du Plantier, a French citizen, was discovered close to her holiday home at Toormore, Schull, Co.Cork. It was soon established she had been murdered and the Garda Síochána immediately commenced a murder investigation. The Garda Síochána investigation identified a suspect called Ian Bailey who lived close to the area where the murder had occurred. A witness in the Garda Síochána investigation allegedly put Ian Bailey close to the scene in the early hours of 23 December 1996.
- 2.2 Ian Bailey was arrested along with his partner Catherine Jules Thomas (hereafter referred to as Jules Thomas) on suspicion of murder on 10 February 1997 and detained at Bandon Garda Station but released later that day without charge. On 27 January 1998, Ian Bailey was further arrested for the murder before being released without charge. On 12 February 1998, a file was submitted by the Garda Síochána to the Director of Public Prosecutions (DPP). On 22 September 2000, Jules Thomas was arrested for a second time, as well as one of her daughters. Both were later released without charge.
- 2.3 Clarifications of matters contained in the Garda file submitted to the DPP in February 1998 had been sought by the DPP and following a re-examination of all the material from the investigation, it resulted in a further file being submitted to the DPP in March 2001. On 7 November 2001, the DPP decided that a prosecution against Ian Bailey would not be sustainable based on the evidence presented.
- 2.4 In January 2002, a review team under Detective Chief Superintendent Austin McNally was appointed by Garda Commissioner Pat Byrne to examine the garda investigation following a critical analysis of the investigation by a senior solicitor in the office of the DPP. In the outcome in December 2002, the review concluded that no new evidence had been gathered to further support any recommendation against Ian Bailey. In addition, it was the opinion of the review team that despite the lack of any new evidence, Ian Bailey remained a suspect. No forensic evidence presented itself and this, coupled with the passage of time, prevented the review team from advancing the investigation any further.
- 2.5 On 8 December 2003, Ian Bailey took a civil action in Cork Circuit Court against seven named newspapers in respect of their reporting of the murder. The case found in Ian Bailey's favour against two newspapers and against him in respect of his claims against five newspapers.
- 2.6 In October 2005, prior to the establishment of GSOC, Ian Bailey made a complaint to the Garda Commissioner, Mr. Noel Conroy, concerning alleged garda misconduct and the Garda Commissioner appointed Assistant Commissioner Ray McAndrew to investigate the complaint. In May 2007, a recommendation was made to the DPP by Assistant Commissioner McAndrew that there was a lack of evidence to support complaints made by Ian Bailey and others in their allegations against members of the Garda Síochána. However, a recommendation was made that consideration be given to prosecuting one witness under the provisions of section 12 of the Criminal Law Act 1976 in relation to false statements and allegations. In July 2008, the DPP, James Hamilton, recommended no prosecution following the Assistant Commissioner McAndrew's Investigation.
- 2.7 In February 2010, the French authorities sought the extradition of Ian Bailey for the murder of Madame Toscan Du Plantier after a European arrest warrant was issued. Ian Bailey challenged the French arrest warrant and in March 2012, the Supreme Court ruled in his favour. To date, no-one in this jurisdiction has been charged with the murder of Madame

Toscan Du Plantier and Ian Bailey maintains his innocence denying any involvement in the murder.

- 2.8 This report issued under section 103 of the Garda Síochána Act, 2005 (“the Act”) concerns the investigation of complaints received by Garda Síochána Ombudsman Commission (GSOC) from Ian Bailey (in December 2011), his partner Jules Thomas (in April 2012) and Marie Farrell (in March 2012) who all alleged corruption against members of the Garda Síochána involved in the investigation into the murder of Madame Toscan Du Plantier.
- 2.9 An investigation strategy was developed by GSOC aimed at addressing the areas of complaint outlined by Ian Bailey, Jules Thomas and Marie Farrell. This commenced with an extensive documentation request of the Garda Síochána followed by a documentation review period. Based on this review, it was further decided that a 3-phased approach would be needed towards the identification and interview of relevant witnesses of interest to GSOC. This began with Phase 1 - the re-interview of all key witnesses in the original AGS murder investigation who gave evidence at the time which tended to inculcate Ian Bailey in the murder of Madame Toscan du Plantier. This was followed by Phase 2 - the re-interview of all key witnesses who featured in Assistant Commissioner McAndrew’s complaint investigation with any significance to the matters under consideration by GSOC. The witness strategy culminated in Phase 3 - the re-interview of all surviving members of the Garda Síochána who it was felt held key positions in the original garda murder enquiry.
- 2.10 The initial tranche of garda documentation was first requested of the Garda Síochána by GSOC in March 2012. GSOC took receipt of some of this documentation for the first time in November 2012. During this period of time, GSOC commenced its witness enquiries obtaining statements of complaint from the three complainants and also commenced Phase 1 of the aforementioned witness strategy. In January 2013, the Garda Síochána provided GSOC with access to the remainder of the documentation sought in the GSOC request of March 2012.
- 2.11 Extensive efforts were undertaken by GSOC to trace the whereabouts of a person considered a key witness in this complaint investigation. This witness was eventually traced to a location in England and in February 2014, GSOC investigators attended a pre-arranged appointment with the witness at an agreed location with the intention of obtaining a witness statement from the witness. The witness failed to provide the statement as requested.
- 2.12 In late March 2014, GSOC first became aware of the existence of tape recordings of phone calls to garda stations that may have relevance to this enquiry. The day after becoming aware of this, a further information request was submitted by GSOC to the Garda Síochána requesting copies of any such tapes for the purpose of this investigation. These recordings (along with transcripts) were provided to GSOC and analysed. They were indeed found to contain information of relevance to this investigation which is now included in this report for completeness.
- 2.13 In April 2017, following the report of the Fennelly Commission (under Mr. Justice Nial Fennelly), the Tánaiste and Minister for Justice and Equality, Frances Fitzgerald TD wrote to the Chair of GSOC and referred the relevant section of the Fennelly Commission report to GSOC pursuant to S.102 (7) of the Garda Síochána Act 2005 for GSOC to decide how to deal with the matters presented therein. The matters raised by Mr. Justice Fennelly were already

under consideration by GSOC from March 2014 and are addressed as part of the wider complaint investigation.

3. Complaints Received and Designations

- 3.1 On 20 December 2011, a complaint was received at GSOC from Ian Bailey. The complainant made a number of allegations. These, along with a summary of action taken by GSOC and the outcome in respect of each are as follows:
- 3.2 **(a) That the garda members investigating the death of Madame Toscan Du Plantier which occurred on or about 23 December 1996, conducted a corrupt investigation in so far as it related to Mr. Bailey and**
- (b) That Mr. Bailey and his partner, Ms. Jules Thomas, were unlawfully arrested in February 1997 for the murder of Madame Du Plantier;**
- 3.3 All relevant documentation was reviewed by GSOC and relevant witnesses were re-interviewed. Whilst concerns are raised by GSOC later in the body of this report in relation to the management of the garda investigation, there was no evidence of corruption in support of this allegation.
- 3.4 Ian Bailey was first formally nominated as a suspect for the murder of Sophie Toscan du Plantier by the Garda Síochána on the 27th December 1996. This was documented at Job No. 166 in the Garda Jobs Book for the murder along with a rationale involving what was known of Ian Bailey and his movements by gardaí at the time of the murder.
- 3.5 He was interviewed by gardaí at his home address on the 10th February 1997 following discrepancies being noted by the investigation team in previous accounts he had given concerning his movements during the material times of interest to the murder investigation. The interviewing members were concerned further about the content of this interview and apparent discrepancies in the account given and so a named detective garda arrested Ian Bailey on the 10th February 1997 at 10:45am in Lissacaha, Schull, Co. Cork for the murder of Sophie Toscan du Plantier contrary to Common Law, during which he was cautioned.
- 3.6 Mr. Bailey was then taken to Bandon Garda Station, arriving at 11:55am, where he was detained pursuant to S.4 of the Criminal Justice Act 1984¹, his detention being authorised by the Member in Charge who believed that his detention was necessary for the proper investigation of the offence for which he had been arrested. He was informed again why he was arrested and confirmed that he understood. His rights were read over and explained to him. At 11:58am, he requested a solicitor and Mr. Con Murphy (his solicitor) arrived at the station at 12:26pm. Throughout his time in custody, Ian Bailey was provided with food, drinks and cigarettes.
- 3.7 At 4:34pm, the appropriate Superintendent authorised the taking of his blood, photograph, fingerprints and palm prints. At this time, an authorisation to extend his detention for a further time not exceeding six hours was also given by the Superintendent. At 4:37pm, Ian Bailey was medically examined by a Doctor. Ian Bailey underwent a series of garda interviews, consultations with his solicitor, prisoner checks and rest/hygiene breaks during

¹ S.4 of the Criminal Justice Act 1984 provides that a member of the Garda Síochána may arrest, without a warrant, a person whom he/she, with reasonable cause, suspects of having committed an arrestable offence (defined as an offence punishable by a term of imprisonment of 5 years or more on first conviction).

his period of detention. He was released from garda custody without charge at 10:44pm and signed the record of his custody.

- 3.8 Jules Thomas was arrested by another named garda on the same date at 12:22pm (and at the same location) for the murder of Sophie Toscan du Plantier contrary to Common Law. The decision to arrest Ms. Thomas was based on information within the possession of the Garda Síochána at that time and the account that she had given to gardaí outlining the movements of her and Ian Bailey at the material time of interest to the murder investigation.
- 3.9 Ms. Thomas was taken to Bandon Garda Station, arriving at 1:30pm where she was once again informed why she had been arrested and asked to confirm that she understood. She was offered the services of a solicitor but declined at that time. Her detention was authorised by the Member in Charge, who believed that her detention was necessary for the proper investigation of the offence for which she had been arrested, and she was detained under S.4 of the Criminal Justice Act 1984. She was given a notice of her rights and signed for them. She was provided with a water and a cup of coffee and also offered food, which she declined.
- 3.10 At 2:30pm she requested a specific solicitor to attend but due to difficulties with his availability at that time, he did not arrive until 4:40pm. At 6:17pm, the appropriate Superintendent authorised an extension of her detention for a period not exceeding six hours. During her detention, Ms. Thomas was provided with refreshments, cigarettes and rest breaks. At 10:15pm, a named detective superintendent authorised photographs to be taken of Jules Thomas. At 12:14am on the 11th February 1997, Ms. Thomas was released from garda custody without charge and it was noted that she had no complaints.
- 3.11 From the material reviewed by GSOC in this investigation, it appears that there was a reasonable belief held by gardaí at that time that Ian Bailey and Jules Thomas were responsible for the murder of Sophie Toscan du Plantier. The arrests of both were therefore lawful. It appears to GSOC that the Custody Regulations were complied with in full by gardaí at that time in relation to both prisoners with both being offered access to a solicitor during their detention. GSOC is satisfied from its investigations that both were detained lawfully.
- 3.12 Nothing was noted in the documentary review conducted by GSOC that undermined the decision to arrest either Ian Bailey or Jules Thomas in any way and there is no information available to suggest that either constituted an unlawful arrest. It is further noted that the legality of this arrest has never been successfully challenged by either Mr. Bailey or Ms. Thomas at any stage since that date and that no complaint was made by either party to their solicitor at the time of their arrest or detention.
- 3.13 **(c) That Mr. Bailey and Ms. Thomas's identities along with their personal details were transmitted at the time of their arrest in February 1997 by members of the Garda Síochána to various members of the press and news media;**
- 3.14 There is no evidence sufficient to sustain either a criminal or disciplinary charge available in respect of this allegation from the documentation reviewed by GSOC and the witnesses that were interviewed. It does seem that certain elements of the media came to be in possession of information in respect of aspects of the garda investigation but it has not been possible to

say that if this was leaked by the Garda Síochána as alleged, when this may have been done and by whom, to any evidential standard.

- 3.15 **(d) That Mr. Bailey was subsequently rearrested and detained for 12 hours on 27 January 1998, once again in a media glare, and wrongly accused of both the murder and with interfering with a “key witness” in the purported case against him;**
- 3.16 In a similar way to allegation (b) above, whilst it is the case that Mr. Bailey was re-arrested in connection with the murder, there is nothing to suggest this was unwarranted or that he was wrongly accused. On this occasion, Ian Bailey was arrested by a named Inspector on the 27th January 1998 at 8:16am at his home address on foot of an arrest order issued pursuant to S.10 of the Criminal Justice Act 1984. The arrest order was obtained by a detective superintendent from Bandon District Court on the 26th January 1998 and was issued by the appropriate District Judge. This was shown to Ian Bailey at the time of his arrest and read out to him.
- 3.17 The new information sworn before the Court grounding this warrant application was based on a number of factors including:
- alleged confessions made by Ian Bailey to witnesses since his first arrest of his involvement in the murder and his motive,
 - apparent discrepancies in the nature of the information Ian Bailey allegedly had in his possession that would not have been widely known at that time,
 - the level of detail concerning the murder that Ian Bailey had allegedly disclosed to other parties and,
 - alleged attempts by Ian Bailey to threaten and intimidate a person considered by the Garda Síochána to be a key witness in the murder investigation at that time
- 3.18 Ian Bailey was again taken to Bandon Garda Station following this arrest where he arrived at 9:15am on the 27th January 1998. He was given his rights, confirmed he understood and was provided with immediate access to his solicitor who was present in the station at that time. At 2pm on that date, authority was given by the appropriate Superintendent for an extension of the period of Ian Bailey’s detention for a further six hours. Ian Bailey was released from garda custody without charge at 8:08pm, noted as having no complaints to make and signed the custody record to this effect. During his time in custody, Ian Bailey was interviewed, checked, and provided with access to his solicitor, rest breaks, refreshments and cigarettes.
- 3.19 Based on the above, there is no evidence to suggest that the second arrest of Ian Bailey was unlawful or unreasonable or that proper procedures were not followed regarding either his arrest or subsequent detention.
- 3.20 Ian Bailey’s interactions with Marie Farrell are outlined later in this report.
- 3.21 **(e) That Marie Farrell was coerced and cajoled by various garda members, in particular four named gardaí and others, into “bearing false witness and facilitated by the said Mrs.**

Farrell signing five or more blank statements which were then subsequently created to support the false narrative” in the case;

- 3.22 The original statements made by Marie Farrell were seized by GSOC Designated Officers during this investigation and submitted for forensic analysis which included ESDA ² testing and ink analysis (for dating and matching purposes). Nothing was found of evidential value in this testing to support this assertion.
- 3.23 **(f) That the case against Mr. Bailey has been based on this false narrative and that the so called “evidence” garnered by a large number of officers under the direction and command of various senior officers, including (but not exclusively), three named senior gardaí and others, was falsified, forged and fabricated with one overriding intention - to “frame” Mr. Bailey.**
- 3.24 GSOC reviewed large amounts of documentation and re-interviewed witnesses in respect of this allegation which was central to the GSOC investigation. There is no evidence to suggest that Ian Bailey was “framed” for the murder or that evidence was falsified, forged or fabricated by members of the Garda Síochána.
- 3.25 **(g) That the new information which has now come to light is indicative and evidence of a concerted, determined and persisting ongoing conspiracy, by ex and serving garda members, to pervert the course of justice in this case;**
- 3.26 The new information referred to by Mr. Bailey in respect of this allegation concerns a lengthy critique of the garda murder investigation by the office of the DPP that came to light during related court proceedings. GSOC has established that this critique was written by a senior solicitor of that office but issued in the name of the then DPP, Jim Hamilton. It is noted that this critique is the opinion of the DPP and is not evidential in and of itself. There is no evidence within the critique that members of the Garda Síochána had attempted to pervert the course of justice.
- 3.27 **(h) That unidentified senior garda officers breached the strict rules of the Separation of Powers Doctrine by exhorting the then State Solicitor in Cork to bring improper influence as a result of his collegiate acquaintance with the then Minister for Justice to bring a prosecution against Mr. Bailey in the late 1990’s.**
- 3.28 The then State Solicitor in Cork was interviewed by GSOC Designated Officers in respect of this allegation.. In summary, his recollection of this meeting (and the way in which it came about) was very different to that of other witnesses interviewed by GSOC in respect of this issue and would not support the allegation made by Mr. Bailey to any evidential standard.
- 3.29 On 23 April 2012, a complaint was received at GSOC from Jules Thomas. **The complaint alleged that she was illegally arrested and detained by the gardaí on a number of occasions during the course of the garda investigation into the murder of Madame Toscan Du Plantier in 1996.**
- 3.30 The circumstances surrounding Jules Thomas’ first arrest are outlined in detail at paragraphs 3.8 – 3.10 of this report above. She was further arrested at 8:55am on the 22nd September 2000 by a detective sergeant pursuant to S.7 (2) of the Criminal Law Act 1997³ at her home

² ESDA stands for **Electrostatic detection apparatus**, which is a machine used within forensics for document examination. The machine allows the visualisation of indented writing without damaging the document.

³ Namely assisting an offender

address. She was conveyed to Bandon Garda Station, arriving at 10:20am on the same date where her detention was authorised by the Member in Charge pursuant to S.4 of the Criminal Justice Act 1984. She was informed of her rights and signed the custody record to this effect.

- 3.31 At 2:45pm on that date, the appropriate Superintendent authorised an extension of her detention for a further six hours along with permission for fingerprints and photographs if required (although neither was done). Jules Thomas was released from garda custody without charge at 8:53pm that evening. During her time in detention, she availed of her right of access to a solicitor and was provided with meals and rest breaks.
- 3.32 Statements, memos of interview and other relevant documentation were examined by GSOC in respect of this allegation (similar to that of Ian Bailey above). There was no evidence to suggest that Ms. Thomas was arrested for any other reason than a reasonable suspicion was held by members of the Garda Síochána at that time as to her involvement in the murder of Madame Du Plantier (or of assisting Ian Bailey in his commission of the offence). As with the comment on Mr. Bailey's allegation above, GSOC notes that there has been no successful challenge to the legality of this arrest pursued by Ms. Thomas. GSOC is of the view that the aforementioned arrests and periods of detention concerning Jules Thomas were lawful and that the required custody regulations were complied with.
- 3.33 On 7 March 2012, a complaint was received at GSOC from Marie Farrell. **The complaint alleged intimidation by certain gardaí into making false complaints against Ian Bailey.**
- 3.34 GSOC examined all relevant documentation and re-interviewed witnesses in respect of this allegation. In addition, original materials were seized by GSOC and submitted for forensic examination. During the course of the GSOC investigation, the existence of recorded telephone calls into and out of garda stations in the Cork area became known and these were also secured and examined by GSOC. These recordings would not be supportive of any suggestion of intimidation towards Marie Farrell by any member of the Garda Síochána at that time.
- 3.35 On 10 February 2012, the then Deputy Director of Investigations at GSOC designated the complaint of Ian Bailey for investigation pursuant to S.98 of the Act following full consideration of the complaint by the Commission.
- 3.36 On 15 March 2012, the then Deputy Director of Investigations also designated the complaint of Marie Farrell for investigation pursuant to S.98 of the Act following full consideration of the complaint by the Commission.
- 3.37 On 25 April 2012, the then Deputy Director of Investigations further designated the complaint of Jules Thomas for investigation pursuant to S.98 of the Act following full consideration of the complaint by the Commission.

4. GSOC Investigation

4.1 Witness Statements from Complainants

4.1.1 Ian Bailey

- 4.1.1.1 On 22 March 2012, Ian Bailey provided a witness statement to GSOC designated officers following a series of meetings held with him. He was born in Manchester, England and has lived in Ireland since 1991. He has been the partner of Jules Thomas since 1992 and has lived with her at The Prairy, Lissacaha, Schull, Cork since that date. He stated he had been alerted by a journalist to the finding of a body at Toormore on 23 December 1996. He described arriving at the scene at around 14:20 hours with his partner Jules Thomas. He referred to being approached by two gardaí and he explained that he made press enquiries but was referred to the Garda Press Office. He left the scene but stated that he returned around 15:30 hours to 16:00 hours and was with a photographer where he observed the journalist who had alerted him with the local Superintendent.
- 4.1.1.2 In the days following the murder, Ian Bailey received a visit from investigating gardaí and completed a questionnaire as requested. He also provided fingerprints and hair samples to the gardaí on a separate occasion around this time.
- 4.1.1.3 On 30 January 1997, Ian Bailey states he received another visit from named gardaí who were accompanied by a Superintendent. Ian Bailey stated that at one point he was then left on his own with this Superintendent and Ian Bailey alleges that this Superintendent told him that he was going to place Ian Bailey at or close to the scene of the murder. Ian Bailey considers this Superintendent to be at the centre of his allegations of garda misconduct and the conspiracy against him.
- 4.1.1.4 On 10 February 1997, Ian Bailey was first arrested for the murder of Madame Toscan Du Plantier at his home by named gardaí. He was placed in a garda car driven by a detective garda. Initially he was taken to Jules Thomas' house next door⁴ before he was taken to Bandon Garda Station. During the journey to Bandon Garda Station, Ian Bailey described the atmosphere as aggressive, accusatory and hostile with a particular detective garda being hostile and proceeding to repeatedly jab his finger into his side and arm, stating, *"you did it, just admit it, everyone knows you did it, you better get your act together"*. One of these members allegedly said to Ian Bailey, *"Even if we don't pin this on you, you're finished in Ireland and you'll be found dead in a ditch with a bullet in the back of your head"*.
- 4.1.1.5 Ian Bailey stated that on arrival at Bandon Garda Station, there was a large media presence and the garda car had to drive through the middle of the media to access the Station. Ian Bailey believed the presence of media at Bandon Garda Station had been orchestrated by gardaí. A named photographer photographed Ian Bailey in the yard of Bandon Garda Station.

⁴ Mr. Bailey lived with Jules Thomas and there was a second house on the property which Mr. Bailey used as a study on occasion.

- 4.1.1.6 Ian Bailey was detained for 12 hours at Bandon Garda Station and states that he was repeatedly bombarded with the claim that he was the murderer by numerous different gardaí. He was forced to remove his clothing and provided with a shirt that was black and tan in colour which Ian Bailey believes was significant of the anti-English sentiment he received during his detention. He states that he signed statements during the interviews that did not reflect the events but he signed them to make the whole experience stop. He was allegedly told by a named Superintendent that Jules had accepted his guilt and never wanted to see him again and that if Ian Bailey returned to his home, there would be a lynch mob waiting for him. He subsequently learnt that Jules Thomas had been told by two detective gardaí that he had confessed to the crime.
- 4.1.1.7 After being released from Bandon Garda Station, Ian Bailey was taken by a garda car to a friend's house in Skibbereen. His friend was away in London but two of this man's own friends were present in the house. Ian Bailey spent the night in the house and the following day, Ian Bailey's friend returned from London to the house. One of the two other gentlemen left the house and returned with a copy of the Sun newspaper which reportedly had Ian Bailey's name and photograph taken at Bandon Garda Station by a photographer on the front page. Ian Bailey's details were also broadcast on the radio. Ian Bailey believes his arrest details were provided by the Garda Síochána to a named journalist and others in the media.
- 4.1.1.8 Ian Bailey states that following his arrest and throughout 1997, different stories repeatedly appeared about him in the media as the "self-confessed prime suspect". He alleges that gardaí also visited his home on numerous occasions and alleged he was trying to interfere with and influence Marie Farrell, a witness in the case.
- 4.1.1.9 Ian Bailey states that following a chance meeting with Marie Farrell in a bar in Schull in the summer of 1997, he spoke with her and made an arrangement to meet her at an ice cream shop run by her a week later. At the time, one of Jules Thomas' daughters babysat for Marie Farrell. During the meeting between Ian Bailey and Marie Farrell, it was suggested by Marie Farrell that two named detective gardaí were putting pressure on Marie Farrell to implicate Ian Bailey in the murder.
- 4.1.1.10 He made reference to one of the two gentlemen at his friend's home in Skibbereen being recruited by gardaí and being paid in the form of cash, "hash" and clothes and that this man had been offered a substantial sum of money if he could provide information that would lead to Ian Bailey being convicted of the murder.
- 4.1.1.11 On 27 January 1998, Ian Bailey was arrested again regarding allegations that he had been intimidating witness Marie Farrell. He was taken to Bandon Garda Station where he was interviewed by members of the National Bureau of Criminal Investigations who he states accused him of murder in the same aggressive and intimidating manner. Ian Bailey alleges that the media were again alerted to his arrest and were present at Bandon Garda Station when he arrived.
- 4.1.1.12 Ian Bailey states that a named Superintendent made many erroneous allegations against him during his arrest regarding the interference with Marie Farrell. This included telling Ian Bailey that a small basement cell was waiting for him in Mountjoy. Ian Bailey was released without charge.
- 4.1.1.13 Media reporting continued which Ian Bailey attributed to statements and leaks from the Garda Síochána throughout this time.

4.1.2 Catherine Jules Thomas

- 4.1.2.1 On 25 April 2012, Catherine Jules Thomas (who is more commonly referred to as “Jules Thomas”), made a witness statement to GSOC designated officers. She has been the partner of Ian Bailey since 1992 and lives at The Prairy, Lissacaha, Schull, Co. Cork. Ms. Thomas is originally from Cardiff in Wales and has lived in Ireland since 1972. She is the mother of three daughters.
- 4.1.2.2 Jules Thomas provided to GSOC officers two previous witness statements she had made, including one made on 9 February 2006 to a named detective superintendent and inspector. The other witness statement was an undated typed account and not a Garda Síochána witness statement. These two witness statements were endorsed by Jules Thomas and became her witness statement to GSOC which she wanted to adopt for that purpose.
- 4.1.2.3 The complaints made by Jules Thomas were broadly similar to those of Ian Bailey and concerned alleged corruption as well as aggressive and hostile behaviour towards her by garda members during the investigation into the murder of Madame Toscan Du Plantier. She stated that following her arrest on 10 February 1997, she was taken to Bandon Garda Station where there was a large crowd of people, including press, outside the station prior to her arrival.
- 4.1.2.4 Ms. Thomas has stated that she was told by garda members that Ian Bailey was the killer and that he had confessed to the murder. She further stated that garda members persistently told her that Ian Bailey was guilty and that two named detective gardaí told her during her detention that Ian Bailey was the killer (with one telling her that Ian Bailey would kill her next). Following her release from the garda station, she received a phone call late one night from a male she believed to be this detective garda who sounded drunk, telling her, *“Get the fuck out, get the fuck out”* and when she asked who the caller was, the reply was, *“you know bloody well who I am”* and repeated, *“Get the fuck out”*.
- 4.1.2.5 Ms. Thomas made reference to the man from the house in Skibbereen being recruited by a named detective garda and being paid in the form of cash, “hash” and clothes and that this same man had been offered a substantial sum of money (believed to be in the region of Irish £5,000) if he would provide a witness statement saying Ian Bailey had admitted the crime.
- 4.1.2.6 In the statements provided by Jules Thomas to GSOC, she also referred to contact with Marie Farrell and the alleged intimidation which Ian Bailey and herself were alleged to have made towards Marie Farrell. Ms. Thomas stated that these were false allegations. Concerning her arrest on 22 September 2000, Ms. Thomas stated that a named garda was aggressive in her manner and questioning, including commenting that Jules Thomas had poor taste in relationships.

4.1.3 Marie Farrell

- 4.1.3.1 Marie Farrell was identified as a “significant witness” in this investigation and met GSOC designated officers on three separate occasions in the spring of 2012 in order to provide witness statements. She consented to being video recorded at the GSOC offices in Longford during the taking of these witness statements. On the third occasion, the video equipment was not available and therefore, the last witness statement was not recorded on video.
- 4.1.3.2 On 24 April 2012, the first meeting between GSOC and Marie Farrell took place in which she outlined her background and the circumstances that led up to her involvement in the murder investigation. She referred to being originally from Longford and having moved back to Ireland after a period of time living in London. She had decided to settle in West Cork in January 1995 with her husband Chris Farrell and their children. Marie Farrell initially ran market stalls selling clothes before opening a shop in Schull, Co. Cork.
- 4.1.3.3 Marie Farrell stated that on 21 December 1996, Madame Toscan Du Plantier entered her shop around 3pm. Around the same time, she alleged that she saw a male standing across from her shop. She described the man as thin, sallow skin, late 30’s to early 40’s, 5’8” tall, Mediterranean looking and wearing a long black coat. After Madame Toscan Du Plantier left her shop, the male walked off in the same direction as her. Marie Farrell stated the man was not Ian Bailey who at this time was unknown to her.
- 4.1.3.4 On 22 December 1996, Marie Farrell alleged she saw the same man looking for a lift around 6am outside Schull when she was driving in the opposite direction.
- 4.1.3.5 Marie Farrell then stated that later that same day, she had met a man in Cork City whilst working at a market stall and had arranged to meet him later in Schull. She was not prepared to name this man but stated that he has since died. She has maintained her silence concerning the identity of this male to this day and this has become a feature of the garda investigation at various stages. It appears at the time that the Garda Síochána did not seek to progress any charges against Marie Farrell for the withholding of information at that stage. At about 10:30pm on 22 December 1996, Marie Farrell left her home and met the aforementioned male in Schull. She then drove to Goleen, Co. Cork, followed by the man in his car. On arrival she then got into his car and they drove around the area for some time, stopping along the way for a chat.
- 4.1.3.6 Marie Farrell states that when they were driving again towards Schull, they passed Kealfadda Bridge and the headlights of the car picked up a male who was staggering along the road. Marie Farrell states that this man was the same one she had seen on 21 December 1996 opposite her shop and the following day, looking for a lift outside Schull. She described the time as around 2:30am and the male, who was wearing the same long black coat, was half running and half stumbling. According to Marie Farrell, she returned twice to the Kealfadda Bridge area when driving that night but did not see the man again along the road and there was no-one in the immediate vicinity. She returned home at 4am on 23 December 1996.
- 4.1.3.7 Marie Farrell became aware of the death of Madame Toscan Du Plantier later on 23 December 1996 and assumed it was a hit and run. It was not until 24 December 1996 that it was confirmed as a murder and she realised that the woman who had been murdered was the same one who had been to her shop previously. She was unsure what to do concerning her knowledge of seeing the man staggering at Kealfadda Bridge as she did not want her husband to find out about the man she had been out with that night.

- 4.1.3.8 On Christmas Day 1996, Marie Farrell rang Bandon Garda Station and told them about seeing the man opposite her shop and seeing him looking for a lift the next day but did not mention seeing the man at Kealfadda Bridge. On 27 December 1996, she was visited by a named detective at her shop and she states that she either completed a statement or a questionnaire. She states that this detective insisted on putting down the height of the man opposite her shop as 5'10" tall (and not 5'8" tall as she had described) owing to the street level being lower on the side of the Main Street where she had initially seen him. Marie Farrell then stated that another garda came into her shop on 28 December 1996 and gave her a video tape to watch and see if she recognised anyone on it. She brought the video tape home and watched it with her husband. The video reportedly showed Ian Bailey reciting poetry at the annual swim in Schull on Christmas Day of that year. Chris Farrell recognised Ian Bailey as someone who had been into their shop. Marie Farrell did not recognise the man on the video tape and stated that he was not the same man that she had seen previously opposite her shop on 21 December 1996 or at Kealfadda Bridge. Marie Farrell returned the video tape to Schull Garda Station.
- 4.1.3.9 Approximately two weeks later, Marie Farrell states that she made an anonymous phone call from a telephone kiosk in Cork City as she wanted to pass on the information about the male she had seen at Kealfadda Bridge. Marie Farrell used the name of "Fiona" during the call. A few days after the phone call, she states that she saw Ian Bailey for the first time walking on the Main Street in Schull. She was going into Brosnan's Spar shop and inside the Spar shop, she saw a couple of gardaí and told them that she had seen the man from the video walking on the Main Street and she pointed out Ian Bailey who was outside the Post Office.
- 4.1.3.10 Marie Farrell admitted making a second anonymous phone call to gardaí from Leap near Skibbereen, followed by a third anonymous phone call from her own home, telling gardaí she wouldn't be coming forward and had told gardaí everything. In the first week of February 1997, Marie Farrell was approached by a named garda at her shop who requested her to come to his home outside Schull. She went to the garda's home where he showed her the same video of Ian Bailey at the Christmas Day swim, before saying to her that he thought she was "Fiona" and the person who had made the anonymous phone calls. A short time later, two other named detectives came to the garda's house. Marie Farrell states that one of the detectives gave her details of the murder of Madame Toscan Du Plantier, including the nature of her injuries, and stated that Ian Bailey had carried it out. Marie Farrell states that she named Ian Bailey as the person she had seen at Kealfadda Bridge only because this detective had insisted it was Ian Bailey who had murdered Madame Toscan Du Plantier and had convinced her that Ian Bailey was responsible. Marie Farrell states that she now regrets making this statement naming Ian Bailey.
- 4.1.3.11 On 15 May 2012, Marie Farrell met GSOC designated officers for a second time to complete her witness statement. In this account, Marie Farrell recalled that when Ian Bailey was arrested for the murder, she did not know him prior to his arrest and had only seen him in the street in Schull and on the video given to her by gardaí.
- 4.1.3.12 Marie Farrell states that on 14 February 1997, she went to Ballydehob Garda Station after a named detective called her regarding her statements. Marie Farrell states that she met a garda at the garda station, and that two other named gardaí were also there. She alleges that she signed a number of blank witness statements, either three or four pages, and was only there for a few minutes. She states that a named detective garda took the lead and wanted Marie Farrell to state Ian Bailey had been threatening her, parking outside her shop and making threatening gestures towards her. This detective garda had allegedly told her that he would fill in the statements to say that Ian Bailey had threatened her.

- 4.1.3.13 Marie Farrell told GSOC designated officers that Ian Bailey had not actually threatened her but that she willingly signed the blank witness statements in Ballydehob Garda Station on 14 February 1997 as she wanted to help the Garda Síochána. She also stated there was no undue pressure put on her at the time.
- 4.1.3.14 Marie Farrell stated that following this meeting, there was non-stop contact from the detective garda. She states that he discussed aspects of the murder investigation, including witnesses and the next steps in the garda investigation, with her via telephone. She states that her husband, Chris, got suspicious of the phone calls as he would see his wife in different phone boxes around the area. It is reported by Marie Farrell that there were several phone calls a day from this detective garda and that he made it clear that he didn't want his colleagues to know about all the phone contact that he had with her.
- 4.1.3.15 In 1997, a garda mobile phone was provided to Marie Farrell because of the alleged threats from Ian Bailey against her, although she stated that the provision of this mobile telephone was not at her request. She stated that the same detective garda got very close to her family during 1997 and that he would call to the shop or their home. This detective garda would drink whiskey with Chris Farrell in their house and it is alleged by Marie Farrell that the detective garda would leave their house drunk and drive back to Bandon in an unmarked garda car. Marie Farrell stated there were rumours around Schull that she and this detective garda were having an affair, which she denied.
- 4.1.3.16 Marie Farrell referred in her witness statement to being told by this detective garda of enquiries being conducted around the witness who had been in the house in Skibbereen. She alleged that he referred to plans to use this man to provide cannabis and poitín to Ian Bailey in order for him to confess to the murder. She alleged that the cannabis and poitín had been provided by the detective garda and had been seized in Garda raids. In May 1997, the detective garda rang Marie Farrell and met her outside the church in Schull where he was reported by her to be upset and he told her that the Skibbereen witness had double crossed him and had told Ian Bailey about being given the cannabis and poitín.
- 4.1.3.17 It was alleged by Marie Farrell that Ian Bailey had contacted the Sunday World newspaper and that someone had taken photographs of the detective garda handing over the drugs to the Skibbereen witness. She stated that she was also told by the detective garda that the Sunday World were not running the story. It was then reported by the detective garda that he had threatened the Skibbereen witness who had left the country.
- 4.1.3.18 In June 1997, in an alleged arrangement with the detective garda, Marie Farrell met Ian Bailey when he came into her ice cream parlour shop. She states that the detective garda had spoken to her about getting Ian Bailey into her shop to get information from him and provided her with a tape recorder to record the conversation with Ian Bailey. The meeting lasted approximately two hours and during this time Ian Bailey had allegedly said to Marie Farrell that he knew she had been under pressure to make statements about him. She states that Ian Bailey asked her to cash a cheque he had received from the Cork Examiner for a story by him in relation to the murder. He also told her about his arrest and how he was treated.

- 4.1.3.19 During this meeting, Marie Farrell alleged that Ian Bailey told her that he knew about her old address in London, as he was an investigative journalist and that he also knew the reason why she and her family left London. Marie Farrell told the GSOC designated officers that she had been involved in a fraudulent claim of income support and housing benefits amounting to a sum in the region of £27,000. She states that following a dispute over money with Chris Farrell's sister and her husband, who had been working with Chris Farrell in a double glazing firm in London, Marie Farrell had been reported to the social welfare authorities by her sister-in-law concerning fraudulent claims she had made. She states that she was contacted by the social welfare authorities who told her to pay back the money. It was then that Marie Farrell and her husband left London and returned to Ireland.
- 4.1.3.20 Marie Farrell met the detective garda in Schull following the meeting in her shop with Ian Bailey. The tape recorder had not recorded details of the meeting. The detective garda took the cheque (believed to be to the value of £25) from Marie Farrell which Ian Bailey had wanted cashed.
- 4.1.3.21 Marie Farrell alleged that sometime in 1997, her husband Chris was due to appear in the Circuit Court in relation to his appeal against having no car insurance but, owing to the intervention of the detective garda, Chris Farrell did not have to attend the court. It is understood that gardaí offered no evidence at the detective garda's request. Marie Farrell believes her husband did not receive any penalty or sanction in relation to the matter.
- 4.1.3.22 In the autumn of 1997, Marie Farrell alleged that the detective garda assisted her in getting a new council house in order to get a serviced site to build on in Schull. It was reported by her that a (now-deceased) politician was a friend of the detective garda and that two meetings were arranged by the detective garda with this politician. During one of these meetings (in the Munster Arms in Bandon), the politician allegedly told Chris and Marie Farrell that they would get one of the new houses in Schull as he was owed a favour from somebody in the Housing Department in the County Hall in Cork. A few months after the meetings, Marie Farrell states that they got a new house.⁵

⁵ These matters were addressed in the McAndrew report (page 188, paragraph 7.9.67) who found there to be no interference by members of the Garda Síochána with the aforementioned politician on behalf of Marie Farrell. The politician stated that it was Marie Farrell who had contacted him directly and that *she* had mentioned the detective garda's name to him. There was no evidence of any undue influence or control in this matter found.

- 4.1.3.23 Marie Farrell stated in her account to GSOC that the detective garda told her everything about the murder investigation including witness details. She had to return the garda mobile phone at the end of 1997 for operational reasons and purchased her own mobile phone. Phone contact with the detective garda continued on a daily basis according to her. She was advised to report any intimidation by Ian Bailey and was allegedly told to say that Ian Bailey had made threatening gestures even if she had only seen Mr Bailey driving past her. Marie Farrell stated to GSOC designated officers that Ian Bailey did not threaten or intimidate her at any time.
- 4.1.3.24 In early 1998, Ian Bailey was arrested again. The detective garda allegedly told Marie Farrell that the arrest was due to him persuading his bosses of the threats and intimidation to Marie Farrell.
- 4.1.3.25 In the summer of 1998, Marie Farrell was working as the Restaurant Manager at Coosheen Golf Club in Schull. One evening at closing time, a named detective sergeant, a detective in the murder investigation, was present in the restaurant with his wife. Marie Farrell alleges that she went to the ladies toilets to check and clean them when this detective sergeant entered the toilet, pushing her against the wall whereupon he opened his trousers and said *“would you like some of this”*. Marie Farrell said something like *“for feck sake, Chris and your wife are out there or they could see”*. It was over in a couple of seconds and the detective sergeant then went into the men’s toilets. Marie Farrell states that the detective sergeant then apologised a few weeks later to her at the Golf Club. In 1999, Marie Farrell was summonsed as a witness in a court case and was staying at the Aisling Hotel in Dublin when it is alleged that the detective sergeant (who was then stationed in Dublin), called to her hotel and brought her out for a drink.
- 4.1.3.26 In 2002, Marie Farrell was served with a subpoena in relation to a court case taken by Ian Bailey against a number of newspapers. Marie Farrell states that she did not want to go to court. Prior to the commencement of the court case, she was contacted by the detective garda and other named gardaí who she states told her how important it was for her to attend the court. On one occasion, she attended Bandon Garda Station where she met a named detective superintendent prior to his retirement. During a conversation, he allegedly referred to outstanding fines which Marie Farrell had and advised her to pay some of them in instalments to the detective sergeant saying that *“if it was discovered that fines were quashed for making statements in relation to Ian Bailey, we would all be in the shit”*.
- 4.1.3.27 Marie Farrell stated in her account to GSOC that she was brought to the court in Cork by the detective Superintendent and that she gave her evidence in the case brought by Ian Bailey.
- 4.1.3.28 In 2003, Marie Farrell states that the detective garda advised her to go to the newspapers and tell her story about the intimidation and threats received from Ian Bailey. She allegedly contacted the Sunday World newspaper who offered her €2,500 for the story but they wanted a lot of detail. She went with the Star on Sunday newspaper who gave her €1,500 for her story as they did not want as much detail as the Sunday World newspaper.

- 4.1.3.29 On an occasion in 2004, the detective garda allegedly phoned Marie Farrell and advised her that Ian Bailey would be visiting Schull Garda Station the following day and that she should contact gardaí and tell them that Ian Bailey had passed her in a car and made threatening gestures to her. Marie Farrell alleges that she did what the detective garda told her. However, she later received a letter from Frank Buttimer (Ian Bailey's solicitor) who told her to stop making false accusations against his client or they would take legal action against her. She contacted the detective garda about the letter and was told by him that Ian Bailey had not turned up at the garda Station on the day of the alleged threat. She states that contact between her and the detective garda ceased in the autumn of 2004.
- 4.1.3.30 In 2005, the detective sergeant (who was now an inspector) was in contact with Marie Farrell and advised her that the parents of Madame Toscan Du Plantier were taking a civil action against Ian Bailey and that there would be another court case. Marie Farrell told the detective sergeant that she would not go back to court and that if she was put under any pressure like the last time, she would go and see Frank Buttimer and tell him exactly what went on. The detective sergeant allegedly said to her, "*who wants to hear anything about that?*" Marie Farrell said "*maybe Ian Bailey would want to hear it*" and the detective sergeant allegedly replied, "*who cares about that long black English bastard*" and "*do you want to turn the whole thing into another Donegal*". Marie Farrell responded, "*never again I'm telling no more lies for the guards*". The detective sergeant allegedly replied that if she did see Frank Buttimer that she would never have another day's peace for as long as she lived in Schull.
- 4.1.3.31 Marie Farrell told the GSOC designated officers of incidents involving gardaí and her family, including an altercation with a man in Schull who allegedly assaulted her husband Chris with a shotgun and who was not arrested or prosecuted. Separately, her sons were being allegedly harassed by a named garda and despite making a complaint to the Garda Complaints Board, she was told that her complaint was vexatious. Chris Farrell was then prosecuted following a further altercation with the man in Schull.⁶
- 4.1.3.32 In April 2005, Marie Farrell contacted Frank Buttimer and met him over several meetings over a period of four to six months in his office in Cork city. She said that she told Mr. Buttimer the truth about her involvement in the Ian Bailey case. Frank Buttimer then wrote to the Department of Justice followed by a story appearing on TV3 news in October 2005 that Marie Farrell had withdrawn her statements made to the gardaí in relation to Ian Bailey.
- 4.1.3.33 In early 2006, Marie Farrell and her family sold their house in Schull. Marie Farrell states that she did meet the detective garda by chance in May 2006 at Cork University Hospital. There was a conversation between the pair during which the detective garda allegedly said that if he had been around, he could have talked her out of going to Frank Buttimer and that he wanted Marie Farrell to keep him out of it as much as she could. Marie Farrell principally alleged to GSOC that she felt intimidated by the gardaí and that she was put under pressure to make statements in order to implicate Ian Bailey in a murder investigation.

⁶ These matters were addressed by the McAndrew report (page 165, paragraph 7.9.11 onwards). Complaints were made and the gardaí denied any improper conduct in respect of this. It was found that summonses against the son of Marie Farrell were properly processed by Garda Finn and that these summonses were issued and processed through the Courts in the normal way.

4.2 Documentation Requests to the Garda Síochána

- 4.2.1 GSOC experienced a significant delay in the provision of copies of witness statements and other material being provided to the investigation from the Garda Síochána. GSOC first requested these statements from the Garda Síochána on 13 March 2012, as being part of the Garda Síochána investigation file. In addition, also requested were the original Jobs Books for the murder investigation, a full copy of the McAndrew review file and copies of all reports sent from the Garda Síochána to the DPP. The GSOC request was made through the Assistant Commissioner, Crime and Security at Garda Headquarters.
- 4.2.2 It was not until 28 November 2012, that some of the initial material was received, when copies of just 32 witness statements were received at GSOC from Garda HQ. Legal advice sought was initially cited by the Garda Síochána as the reason for the significant delay in the provision of the requested material.
- 4.2.3 Prior to the receipt of any documents received from the Garda Síochána, Ian Bailey had provided GSOC with copies of the transcripts from the libel trial in December 2003 as well as 623 witness statements which he had obtained as part of the discovery process in civil proceedings taken by him.

4.3 Witnesses

- 4.3.1 On 24 October 2013, 384 witness statements were received by GSOC from the Garda Síochána and represented witness statements forwarded to the DPP as part of the original murder investigation file.
- 4.3.2 Witnesses were identified by GSOC designated officers from a review of the garda documentation and witness statements provided to the GSOC investigation. Specific witnesses considered relevant to the allegations under investigation were contacted by GSOC and they were requested to provide witness statements.
- 4.3.3 Throughout the course of this enquiry, GSOC met with 55 witnesses, some of whom were met with on more than one occasion and statements were obtained following interview. Some of these witnesses included members of the public in the West Cork area, who had originally provided witness statements to the Garda Síochána murder investigation and whose evidence focused on the actions of Ian Bailey at the time of the murder of Madame Toscan Du Plantier. The witnesses were shown copies of their witness statements by GSOC which they had previously made to the Garda Síochána and they were asked to endorse the copies of the witness statements with their signatures and the date if they were happy with the contents of the statement. In addition, these witnesses were also asked by GSOC to comment on specific allegations made by Ian Bailey, or Jules Thomas or Marie Farrell (or all three). The witnesses were asked if they had any comment to make on the general conduct of the members of the Garda Síochána during the original murder investigation

and whether they had any concerns around the manner in which the original garda investigation had been conducted at the time.

- 4.3.4 Journalists who had reported on the Madame Toscan Du Plantier murder investigation and who had connections with Ian Bailey were also identified and sought as witnesses to the GSOC investigation. These journalists were also shown copies of their original witness statements and asked to comment on the allegations made in the complaint matters under investigation.
- 4.3.5 Lawyers who had worked for the DPP were also contacted by GSOC and asked to comment on their involvement in the murder investigation.
- 4.3.6 The last group of witnesses which GSOC identified and sought witness statements from included retired and serving members of the Garda Síochána who had been involved in the original murder investigation.

4.4 Statements Obtained from Legal Professionals

- 4.4.1 A group of witnesses was identified as comprising legal professionals who, at that time, had dealings with the original murder investigation in some form or other. These consisted of the State Solicitor for West Cork and two former Directors of Public Prosecutions.
- 4.4.2 All three of these witnesses met with GSOC officers between June 2012 and April 2013. Documents generated as part of the original murder investigation were put to the witnesses. In particular an analysis of the murder investigation was discussed. It was confirmed that the garda investigation file had been reviewed by two senior and one junior counsel and all had formed the view that there was insufficient evidence to put before a jury. This coincided with the view of the former Directors of Public Prosecution.
- 4.4.3 On the question of pressure being brought to bear on the office of the DPP at that time, the view given to the GSOC investigators was that it was indirect pressure via the media as opposed to pressure from the Garda Síochána.

4.5 Witnesses in GSOC investigation and statements obtained from Cork residents

- 4.5.1 A group of witnesses were identified as comprising persons living in the Cork area at the time of the murder. Some of these witnesses knew the deceased and/or Ian Bailey. Many of them had provided multiple witness statements to the Garda Síochána as part of the murder investigation, in one instance a witness stating that he had made approximately twelve statements. These witnesses were re-interviewed by GSOC to confirm or establish that the statements they gave to gardaí were accurate and given freely at the time. They were also asked whether they had anything further to add and whether they had any comment to make on their interaction with members of the Garda Síochána. Where

available, they were shown a copy of the statement they made to gardaí at the time and were asked to endorse this.

- 4.5.2 The interviews with the GSOC investigators took place between June 2012 and February 2014. Some of the witnesses had difficulty recalling in detail the events but they stood over the statements that they had made to gardaí at the time of the murder investigation.

4.6 **Statements Obtained from Journalists**

4.6.1 A group of witnesses were identified as comprising journalists who had some involvement in the media coverage of the murder at the time. Many of them had provided multiple witness statements to the Garda Síochána as part of the murder investigation. These witnesses were re-interviewed by GSOC to establish if the statements they gave to gardaí were accurate and given freely at the time. They were also asked whether they had anything further to add and whether they had any comment to make on their interaction with members of the Garda Síochána. Where available, they were shown a copy of the statement they made to gardaí at the time and were asked to endorse this.

4.6.2 The journalists were interviewed by GSOC investigators between November 2013 and January 2014. While not identifying sources, where applicable the journalists confirmed background information and how they became involved in reporting events and whether they knew Ian Bailey.

4.7 **Statements Obtained from Retired and Serving Members of the Garda Síochána**

4.7.1 These witnesses were re-interviewed by GSOC to confirm or establish that the statements they had previously given in connection with the murder enquiry were accurate. Where available, they were shown a copy of the statement they had made at the time and were asked to endorse this. In addition and where appropriate, they were asked to comment on any suggestions from other witnesses of garda wrong-doing if they were able to do so. Additional information that may have been required from them in furtherance of the GSOC investigation was also sought. The gardaí, both serving and retired, denied any wrongdoing in the course of the murder investigation.

4.8 **Persons Who Declined to Fully Cooperate with the GSOC Investigation**

4.8.1 A number of witnesses were identified who it was felt might have information that would assist the GSOC enquiry. When seeking to speak to these people, they then declined to cooperate fully with the enquiry in some form or other. This ranged from not wishing to speak to GSOC, to providing GSOC with a statement which they then refused to sign. One of the reasons given by witnesses who refused to sign their statements to GSOC was that GSOC had declined to provide them with a copy of their statement *at that stage of the investigation*. This was indeed the case and was based on the statutory position as outlined in S.81 of the Garda Síochána Act 2005 – sometimes referred to as the “harmful effect”

test.⁷ Despite this being explained to the witness at the time by GSOC Designated Officers, they still refused to sign their statement with some believing that they were legally entitled to a copy of their statement *at that stage* of the investigation.

4.8.2 These witnesses included serving and retired gardaí, journalists and members of the public.

4.9 Witnesses Who Are Now Deceased

4.9.1 A number of potential witnesses in the Garda Síochána murder investigation were identified as relevant to the GSOC investigation. However, enquiries indicated that these witnesses had died prior to the GSOC investigation or before they were met by GSOC designated officers. These potential witnesses included members of the public, retired gardaí, a solicitor and a person working for a newspaper.

4.10 Examination of Garda Documents

4.10.1 The garda “Jobs Books” were examined by GSOC as part of this investigation. The books are meant to contain an entire record of the progress of a major investigation outlining all actions undertaken by gardaí and the reasons that these actions were raised in the first place. They are also meant to contain the results of these actions or enquiries and, as such, are deemed to constitute the best available record of garda activity in an investigation and the rationale for this activity.

4.10.2 Throughout 2013, a review was conducted of the garda Jobs Books in respect of the original garda murder investigation by GSOC designated officers. The review process required a GSOC designated officer to inspect the original books at Anglesea Street Garda Station in Cork. Seven Jobs Books in total were provided to GSOC covering the period 23 December 1996 to 10 July 1997.

4.10.3 The Jobs Books were hard-backed A4 size books marked ‘Garda Síochána’ and ‘Dialann’, (Irish for diary). Inside the Jobs Books, Garda Síochána message forms were glued on the pages with the results of the actions on the page(s) that followed. All the entries were handwritten and as a result, it was not always clear what was written. Many of the entries were not dated. The Jobs Books were numbered with the relevant jobs as follows:

- a. Book 1 – Jobs 1 – 164
- b. Book 2 – Jobs 165 – 319
- c. Book 3 – Jobs 320 – 463
- d. Book 4 – Jobs 464 - 627
- e. Book 5 – Jobs 628 - 792
- f. Book 6 – Jobs 793 - 957
- g. Book 7 – Jobs 958 – 1103

All of these books were examined and analysed with the following findings:

⁷ Under s. 81 of the Garda Síochána Act 2005 information obtained in carrying out the duties of the Commission may not be disclosed if it likely to have a harmful effect. The 2005 Act then sets out instances where disclosure may be considered to have a harmful effect, which include the impeding of *an investigation under Part 4 or otherwise prejudices the effective performance of the Ombudsman Commission's functions.*

- 4.10.4 There were more references to Ian Bailey than any other person of interest in the Jobs Books in the first month of the murder investigation and it was clear that he was regarded as a prime suspect early in the murder investigation. Prior to the arrest of Ian Bailey on 10 February 1997 and following his arrest, there were references to Ian Bailey in the majority of the Jobs recorded in the Jobs Books.
- 4.10.5 The first written reference to Ian Bailey was in Jobs Book number 1 when he was mentioned in Job number 71. This concerned information received on 25 December 1996 at 12:30 hours from Marie Farrell and the sighting of *“a ‘weird looking character’ wearing a long black coat and black beret, short hair, sallow complexion and about 5’10” tall who she saw around Schull during the day on Saturday 21 December 1996 and the morning of Sunday 22 December 1996”*. The result of the action to identify him states that on 6 January 1997, *“Marie Farrell does not know Bailey”*. On 17 January 1997, information from a named garda states that *“she (Marie Farrell) has identified the man as Ian Bailey as the man she saw. Ian Bailey was staying with Murphy Sunday night – She said she was going to the Coal Quays”*.
- 4.10.6 Job number 122 refers to information on 27 December 1996 from gardaí who were in Brosnan’s Newsagents at 11:30hrs when he saw Ian Bailey looking for the previous day’s Irish Times and noticed that both his hands were cut. Ian Bailey was described as *“pale and shook looking”*. Job number 122 also refers to Ian Bailey being drunk in the Courtyard Bar the previous night and that gardaí had no interest in the murder as a foreigner was involved. The action sheet overleaf states *“report on Ian Bailey attached to flyer, enquiries re Bailey continuing elsewhere”*.
- 4.10.7 Job number 135, dated 28 December 1996 states, *“Have full background done on Ian Bailey, Ph (xxx) xxxxx”*. (Named garda) appeared to have been allocated this job. It is noted that *“Ian Bailey is friend, associate of (a named person) and calls to him on and off”*. On 2 January 1997, the job was passed to another garda *“as Bailey is S No.7”*. It is assessed that *“S”* means *“suspect”*.⁸
- 4.10.8 Job number 153 dated 29 December 1996 referred to *“Owen Bailey who telephoned station as a journalist and asked “was there any new developments in the Plantier murder case”. Requested to speak to somebody dealing with the case”*. It is known that Ian Bailey referred to himself as Eoin Bailey on occasion. Job number 164 (dated 28 December 1996) referred to Ian Bailey having access to a white Ford Fiesta registration 87-C-1524, owned by Catherine Thomas, The Prairy, Schull. At the rear of Jobs Book 1 there are contact details noted for different garda members. Ian Bailey’s name is written twice along with the telephone numbers of (xxx) xxxxx (Ian Bailey’s telephone number) and xxxx1 (number unknown). It is noted that *‘suspect’* is written beside Ian Bailey’s name and there are no other suspect’s names written on the same page.
- 4.10.9 In Jobs Book 2, the first reference to Ian Bailey is Job number 165 which states *“Re Ian Bailey Reporter. First reporter to scene, sent by Examiner and 106 FM. Q – Was he sent. Who sent him”*. The message was not dated and the result of the action is not recorded. Job number 166 is dated 27 December 1996 and states *“Ian Bailey and Catherine Thomas called to (a named person) on 27 December 1996”*. It refers to a party which was cancelled. A named garda nominates Ian Bailey as a good suspect *“from what he knew about him”*.

⁸ Ian Bailey’s Suspect File was File Number 7

Job number 195 refers to rumours and local talk during a questionnaire from a member of the public. It states, "*Ian Bailey has been very fighty for the last week*".

- 4.10.10 Job number 196, dated 30 September 1996, refers to information from a member of the public in Schull and that he noticed Ian Bailey at approximately 10:00hrs on 24 December 1996 with both his hands badly scratched and that he was agitated. Job number 253 refers to information from a member of the public who told him about two glasses in the kitchen of Madame Toscan Du Plantier's house, blood on the door and the fact that the woman was wearing night clothes and not partially clothed. Job number 305, dated 2 January 1997, refers to Ian Bailey's alleged assault of Jules Thomas. Job number 306 (which was also dated 2 January 1997) refers to information that Ian Bailey left England quickly for "*good*" reasons and that he had beat his English wife who later divorced him. It states Ian Bailey "*fixed her*" and nearly choked her. Information from both job numbers 305 and 306 came from a garda member.
- 4.10.11 Job number 336 in Jobs Book 3, refers to a journalist being interviewed to establish what time he told Ian Bailey of the murder. Job number 346, dated 7 January 1997, concerns an action to interview a woman in the UK and to get a detailed background check carried out regarding Ian Bailey.
- 4.10.12 It is clear from the review of the Jobs Books that Ian Bailey had become a significant suspect and that he was being referenced more than any other suspect within the Jobs Books. Job number 408, dated 7 January 1997, refers to the Suspect Team dealing with Ian Bailey and focussed on information from someone named in the Jobs Book which was referenced in Job number 253.
- 4.10.13 Job numbers 428 and 429 refer to Ian Bailey being in the Courtyard bar on the Saturday night (21 December 1996) and then Ian Bailey spending the night at a house in Schull. Job number 447 which was dated 12 January 1997, referred to a sighting of Ian Bailey wearing his long black coat.
- 4.10.14 Thereafter, the frequency of the references to Ian Bailey in the Jobs Books increased significantly and it was apparent from the recorded messages that the Garda Síochána were examining all aspects of his past history and particularly his movements around the time of the murder.

4.11 Missing Items and Documentation

- 4.11.1 It was noted during the review of the Jobs Books by GSOC that there were a number of issues about the actual records which could not be explained. These included the numbering (such as Job number 277 jumping to 288 on the next page but there were no apparent missing pages). A number of pages were glued together with nothing in between them, meaning that the page numberings were also out of sequence.
- 4.11.2 On 27 March 2013, a GSOC designated officer visited Anglesea Street Garda Station to review the murder investigation Jobs Books and other original material held by the Garda Síochána. On this date, GSOC received copies from the Garda Síochána of the original DPP murder file covering report, the Hogan Review covering report, the McNally Review report and the McAndrew complaint investigation report. It was noted that the McAndrew report appeared to be incomplete in that it contained no introduction, no terms of reference, no information on how the team was constructed, who commissioned them or on what date.

There was also no conclusion or summary with the report which stopped very abruptly on page 374 after dealing with the final complaint matter on the table of contents.

- 4.11.3 It was also noted that while the name of Ian Bailey appeared in Jobs Book 1 at a relatively early stage of the investigation, the first formal nomination of him as a suspect was contained at Job number 166 in Book 2 on page 9. The next 2 pages of the book had been seemingly ripped (or cut) out of the book and had left a rough torn stub. Other than the first few pages of the Book there appeared to be no other pages missing. The Book continued at page 12.

30/12 8/12

GARDA SÍOCHÁNA

MESSAGE No. 166

FROM

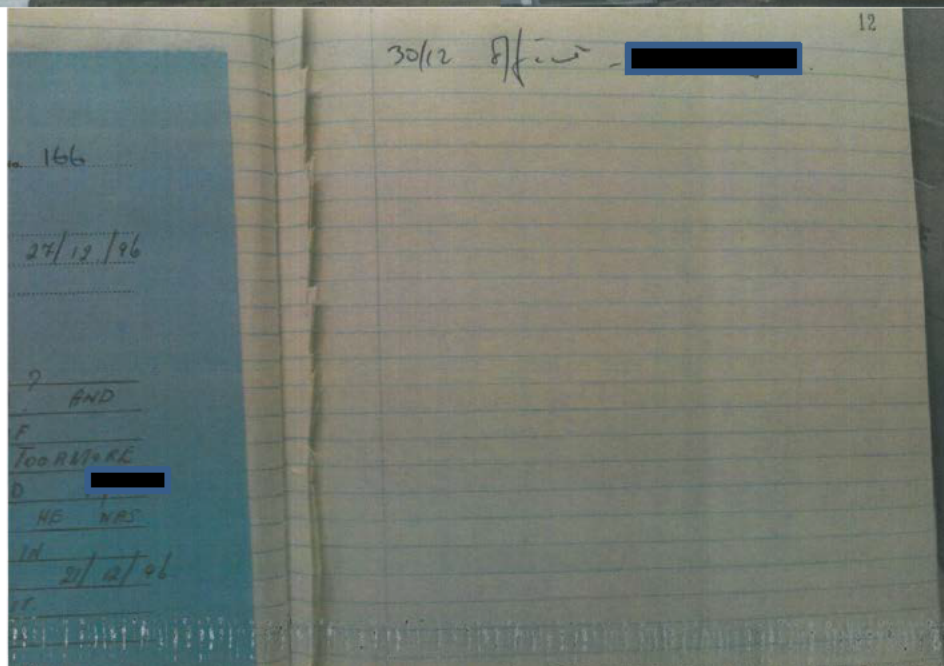
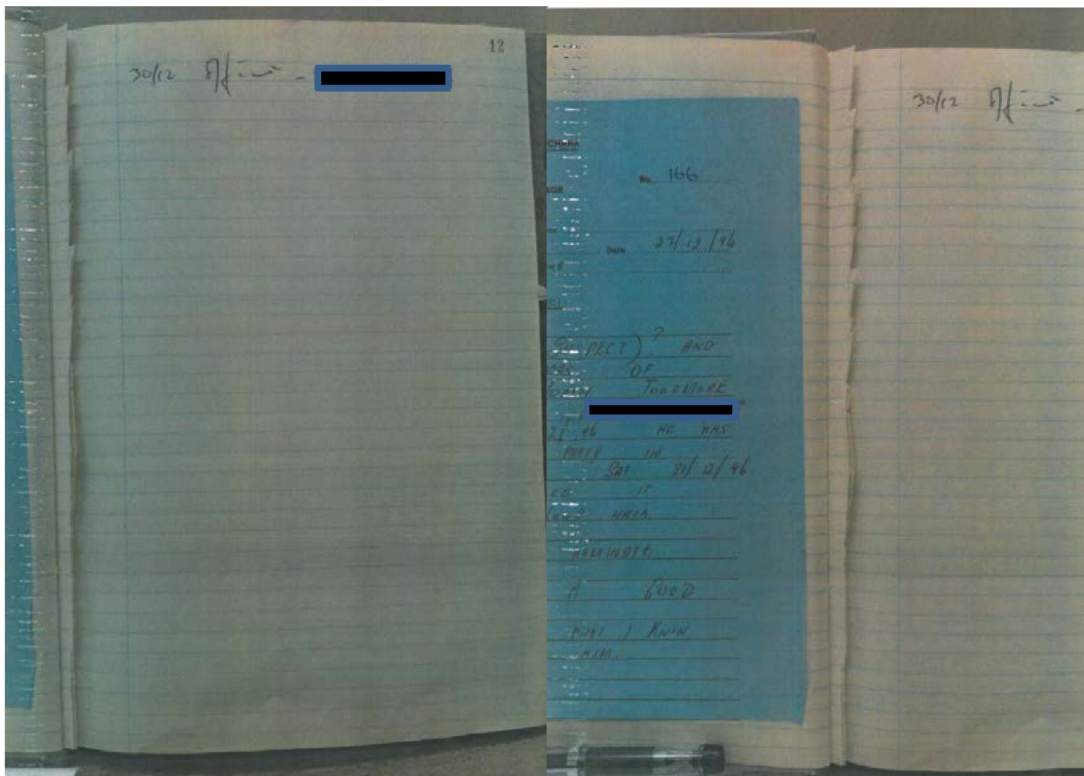
Name Address

Tel. No. Time Date 27/12/96

Received by [REDACTED]

SUBJECT

IAN BAILEY (SUSPECT) AND
CATHERINE THOMAS OF
LISSACAHA NORTH TOORINORE
CALLED TO [REDACTED] HE WAS
TO DAY 27/12/96
TO WILD A PARTY IN SAT 21/12/96



- 4.11.4 On 13 June 2013, following a request by GSOC to have sight of the original suspect files in the Garda Síochána murder investigation, it was reported by a Chief Superintendent to a GSOC designated officer that five of the suspect files requested were, in fact, missing. The missing suspect files included Ian Bailey and Jules Thomas, as well as three other files on

suspects. It was further reported that the missing suspect files could not be located for the McNally Review Group led by Chief Superintendent McNally in 2002.

- 4.11.5 On 25 September 2013, following a written request by GSOC, documentation was received from the Garda Síochána which outlined an extensive list of significant documents including witness statements and 22 exhibits that had gone missing and could no longer be located by the Garda Síochána, along with when they were noticed as missing and what steps the Garda Síochána had taken to try and locate them. It was reported to GSOC that extensive searches had been carried out by the Garda Síochána for the missing items.
- 4.11.6 The missing exhibits included:
- a) a blood-spattered gate taken from close to where Madame Toscan Du Plantier's body was found,
 - b) a French wine bottle found four months after the murder in a field next to the scene,
 - c) a black overcoat belonging to Ian Bailey,
 - d) the original memo of interview of Jules Thomas following her arrest in 1997,
 - e) an original witness statement from Marie Farrell provided on 5 March 2004,
 - f) an original witness statement from Jules Thomas dated 19 February 1997
- 4.11.7 In total 139 original witness statements were either missing or not held by the garda Síochána. These included witness statements from garda members, forensic scientists and members of the public.
- 4.11.8 Witness statements were taken by the French Police from a number of people but only typed copies of witness statements were held by the Garda Síochána. In addition, only a typed copy of a witness statement from another witness was held by the Garda Síochána, with the original witness statement having been taken in the USA.
- 4.11.9 The Garda Síochána indicated other miscellaneous items were missing which included a diary belonging to Ian Bailey and tape recordings/transcripts of conversations between Ian Bailey and a foreign journalist.

4.12 Forensic Analysis of Documents

- 4.12.1 On 29 January 2014, GSOC designated officers attended Anglesea Street Garda Station in Cork and met with a detective inspector by appointment, who provided them with access to all the original Jobs Books in respect of the original garda murder investigation. A lever-arch file full of original statements made by Marie Farrell to the Garda Síochána was also provided, along with an additional copy statement of an inspector who had performed ESDA and ink testing on these statements at the request of the McAndrew investigation of complaints made by Ian Bailey.
- 4.12.2 After review and examination of these documents by the GSOC designated officers, the items were seized for forensic testing pursuant to section 7 of the Criminal Justice Act 2006. The items were individually placed in tamper-proof evidence bags, sealed and labelled and taken immediately back to GSOC's office in Dublin where they were kept securely.
- 4.12.3 Certain items seized by GSOC were submitted to the laboratory of the Forensic Science Service of Northern Ireland (FSNI) for analysis. The items were Jobs Book 2 and witness

statements of Marie Farrell dated 14 February 1997 and 10 July 1997. The FSNI were requested by GSOC to examine the Jobs Book for evidence of missing pages and indented writing. This was in order to determine what was written on the missing pages and to assess the authenticity and contemporaneous nature of the witness statements. The analysis was carried out by Brian Craythorne, a forensic scientist with 25 years' experience as a questioned document examiner with the FSNI.

- 4.12.4 Brian Craythorne produced a statement on 6 May 2014 following the examination of the documents submitted by GSOC. He noted that the Jobs Book Two had pages numbered up to 155. He found several pages had been removed, possibly by cutting with scissors. He found the front fly sheet, the pages numbered 1 to 7 and pages 10 and 11 were missing. Some further pages at the front of the book were removed to facilitate indented writing examination by the ESDA technique, thus the pages numbered 8,9,12 and 13 were removed at FSNI.
- 4.12.5 There were other indentations noted on pages 9, 12 and 13 of the Jobs Book by Brian Craythorne, including references to numbers believed to be job numbers such as 165, 166, 167, 168 and a particular name or a similar name.
- 4.12.6 Enquiries by GSOC identified Message 147 from Jobs Book 1 related to the indented writing report from the FSNI concerning information from a member of the public who saw a female in the jeep with the dark-skinned male on the 22 December 1996. The message appeared to have resulted from a witness statement numbered 55. GSOC was not provided by the Garda Síochána with a witness statement from this member of the public concerning the information. A witness statement from another person with the same last name in Schull had been provided to GSOC from the garda murder investigation. The statement referred to a sighting of Ian Bailey acting oddly but had no connection to the information on the indented writing.
- 4.12.7 The examination of the witness statements of Marie Farrell for evidence of indented writing using the ESDA technique did not reveal anything of apparent significance. Indentations on the pages within the statements appeared to originate from other pages of the same statement and this would occur if the pages were written out whilst resting one on top of the other. It was noted that on page 9 of the witness statement dated 10 July 1997 the indentations originated from the writing on page 8 and were very jumbled towards the middle of the page with some possible indentations originating from outside of the writings on the witness statement pages. However, this alone would not be enough to call into question the contemporaneous nature of the witness statement.
- 4.12.8 The examination of the inks within the witness statements revealed nothing of significance. There were some alterations to small portions of written text but these were of an obvious nature which appeared to be made in order to correct errors. The phrase "*but I did not murder her*" which had been obviously added to page 6 of the statement appeared to be written in an ink indistinguishable to the ink on the rest of the statement.

4.13 Phone Recording Enquiries

- 4.13.1 In March 2014, GSOC became aware that there were possible recordings in existence of telephone conversations into Bandon Garda Station that may be of relevance to this investigation. The GSOC investigation was already at an advanced stage but it was decided that these recordings and their content should be examined prior to concluding the

investigation. The sequence of how the existence of these recordings became known to GSOC is outlined here:

- 4.13.2 In May 2013 an application for discovery was made to the High Court by the legal team acting for Ian Bailey in civil proceedings. Mr. Justice John Hedigan made the order for discovery and identified 12 categories of material.
- 4.13.3 As a direct result of this order, every garda member involved in the investigation into the death of Madame Toscan Du Plantier was contacted by letter to ensure that all material relating to this matter was identified and available for disclosure.
- 4.13.4 At this time an Incident Room was established in Anglesea Street Garda Station to address this discovery application in a coordinated way. A garda from the Telecoms Section in Bandon Garda Station handed nine Digital Audio Tapes (DAT) into the incident room established to deal with the issue of the tape recordings. Six tapes were handed to the Incident Room Manager on 11 June 2013 and three tapes were handed into a garda in the Incident Room on 20 June 2013. The garda from the Telecoms Section in Bandon was unaware of the content of the tapes but was aware that they covered the dates specified in the discovery order and therefore decided that they may be relevant. The tapes were secured in the incident room.
- 4.13.5 On 5 September 2013, a Sergeant took possession of the tapes and began listening to them to confirm the content. This occurred in Macroom Garda Station. Each tape had the capacity for 320 hours of recording. Three of the tapes were not operating and were repaired by the Telecoms Section in Dublin before being listened to. The DAT system is no longer in operation and an old Dictaphone machine had to be located and made operational in order for the tapes to be played. Initially the tapes were believed to contain 999 calls and radio traffic, however it was later ascertained that each tape contained eight channels of recordings. The additional channels were recordings from telephones in Bandon Garda Station. It was not confirmed which phones were being recorded.
- 4.13.6 Once it had been identified that the tapes contained significantly more content than initially thought, an incident room was set up in Ballincollig Garda Station, four Dictaphone machines were located and made operational and the incident room was resourced to commence listening to the content of the tapes. Whilst the three tapes were in the Telecoms section in Dublin for repair, a 10th tape was located in Dublin on 31 March 2014, which also covered the timeframe identified in the discovery order. This tape was taken by the Telecoms section approximately ten years prior and during a routine audit of telecoms throughout the country.
- 4.13.7 Following a full review of the tapes, 280 calls were identified by gardaí as being relevant to the discovery order. Copies of these recordings were sent to Counsel, who decided that only 124 calls were actually relevant to the Discovery Order.
- 4.13.8 In April 2014, GSOC were provided copies on DVD and CD of the 280 recordings gardaí believed relevant and the 124 calls that Counsel believed were relevant. The GSOC copies also contained a further five recordings which were identified by the original investigation team and provided to the DPP as part of the file in 1999. The additional five recordings were three calls involving a witness and two calls involving Marie Farrell. Another call, from the current recording system (in 2010 involving Marie Farrell) was also included on the GSOC copy.
- 4.13.9 It should be noted that the murder occurred on 23 December 1996, yet the first calls the gardaí referred to were from 25 December 1996 to 1 January 1997 and these were not provided to GSOC. No phone calls relevant to the period when Ian Bailey became a suspect

and his arrest on 10 February 1997 were referred to by gardaí or were provided to GSOC with the exception of a single call from Marie Farrell on 21 January 1997. It is understood by GSOC that only a limited number of Digital Audio Tapes were available in Bandon Garda Station due to a severe flood in 2009 which resulted in the destruction of some of the tapes.

4.13.10 There are 10 tapes available from the entire period of the investigation. The recordings begin in March 1997 (some 3 months after the murder) and span to 2003. There are 6 tapes for the whole of 1997, 3 for 1998 and 1 for 2002/2003. The tapes can only give a snapshot and incomplete picture of the investigation. There are significant gaps in the information available on the tapes due to the randomness of the available tapes. Therefore, the significance of the material on the tapes is reduced. There are over 40,000 calls recorded on the available tapes. 282 of the calls were considered of relevance to the murder investigation. According to the Fennelly Report the figures equate to 0.66% of all the available recordings relating to the investigation.

4.13.11 A level of contact was noted between journalists and Bandon Garda Station. This contact is, in the main, enquiries in relation to progress in the murder investigation. No specific inappropriate disclosure of information by garda members to journalists was found by GSOC investigation in the phone calls. However, conversations between garda members indicated a concern that there were members of the press being briefed.

4.13.12 Many of the recordings were conversations between garda members, in particular, between the 'Book Man' (the man in charge of the Jobs Books), and other members and these conversations invariably related to discussions around enquiries being made, completion of jobs, discussion re: witnesses, Ian Bailey, etc.

4.14 Other Enquiries

4.14.1 GSOC obtained copies of the search warrants obtained by the Garda Síochána murder investigation team from the Courts Service at Clonakilty District Court. Nothing arose from these documents.

4.15 Miscellaneous Issues

4.15.1 During the course of the GSOC investigation, Ian Bailey contacted GSOC designated officers concerning a number of matters. On 15 August 2013, he contacted GSOC and stated that he wished to broaden his complaint to GSOC and stated further to his original complaint he also wished to add that he had become aware of startling information that indicates both himself and partner Jules Thomas, had been and are continuing to be the subject of intelligence reports on the Garda Síochána PULSE system. Ian Bailey stated that he had PULSE reports which he received from a confidential source and that there had been a large number of PULSE entries made between 1999 and February 2012.

4.15.2 The complaints process was explained to Ian Bailey and he stated that he would take time to think about it and if he wished to proceed with a new complaint, he would contact GSOC to forward his submissions. No such further contact was received by GSOC in respect of this new matter.

5. Summary

- 5.1 Allegations were made by Ian Bailey, Jules Thomas and Marie Farrell of high-level corruption in the garda investigation into the murder of Madame Toscan Du Plantier. The allegations included that Ian Bailey and Catherine Thomas were falsely arrested for the murder, that Marie Farrell was intimidated into making false complaints against Ian Bailey including signing blank witness statements, that information from the garda investigation was leaked to the media and that senior garda officers attempted to influence the DPP to bring a prosecution against Ian Bailey.
- 5.2 A significant number of witnesses were approached and fully co-operated with the GSOC investigation. Many of these witnesses were local residents living in the West Cork area who provided circumstantial evidence in relation to the actions of Ian Bailey. The circumstantial nature of the evidence from the residents was such that Ian Bailey was treated as a significant suspect. None of the local Cork residents who co-operated with GSOC indicated that the Garda Síochána were in any way corrupt in their investigation and that witnesses were under any pressure to provide witness statements naming Ian Bailey.
- 5.3 Journalists who had reported on the murder and had co-operated with the GSOC investigation had no complaint about the garda murder investigation. The majority of them indicated that there was no systemic flow of unauthorised information from the garda murder investigation to the journalists. One journalist was not prepared to name a source of information to GSOC which ultimately had resulted in the alerting of a photographer about Ian Bailey's arrival to Bandon Garda Station when he was arrested on 10 February 1997. The giving of information to the media was of concern to members of the Garda Síochána who made comment on this during recorded phone conversations.
- 5.4 In the witness statements obtained from retired garda members who worked on the original garda investigation into the murder, there was no evidence provided to suggest any garda corruption or malpractice. They all described Ian Bailey as being treated as a suspect owing to his eccentric and previously reported violent behaviour. The witnesses also described Marie Farrell as allegedly attention seeking and not credible. They did not support her allegations of blank statements being signed and indicated that Marie Farrell had willingly co-operated with the murder investigation and had identified Ian Bailey as the male she had seen near to the murder scene at Kealfadda Bridge at the material time.
- 5.5 It should be noted that whilst all the senior garda members who were involved in the murder investigation co-operated with GSOC, there were a number of garda members, principally those of detective rank, who did not and thus it was not possible to fully establish some details pertaining to the arrests of Ian Bailey and Jules Thomas which had been the subject of complaint. Additionally, there were a number of retired garda members who died during the course of the investigation and before GSOC designated officers were able to speak to them in order to obtain witness statements.
- 5.6 The review of the garda Jobs Books assisted the GSOC investigation in establishing the nature of messages and actions being generated during the course of the Garda murder investigation. The prominence of Ian Bailey in the Jobs Books clearly identified him as a suspect early in the Garda investigation. However, the Jobs Books did not account for, or explain, the decisions taken in the garda investigation, particularly in relation to the arrests of Ian Bailey and Jules Thomas which had been planned (as evidenced in witness statements

from experienced detectives who had been seconded to the investigation to assist in interviews).

- 5.7 The missing pages from the Jobs Book when Ian Bailey was identified as a suspect are of grave concern to GSOC. From enquiries conducted by GSOC with members of the McNally Review Team, it would appear that the Jobs Book pages in question may have been removed from the book some time after December 2002 as their absence was not noted during the McNally Review and would have been the subject of comment had they been noticed (the McNally Review Team had access to the original Jobs Books as part of their review and reported in December 2002).
- 5.8 In addition, the significant amount of missing original witness statements and physical exhibits in the garda investigation suggested there was difficulty in the administration and management in the incident room (even when viewed through the lens of the time) as opposed to clear evidence of corrupt practice. The witness statements provided to GSOC from the senior garda members did not indicate clearly who was in charge of the investigation from the very outset and throughout the enquiry and who was responsible for making the strategic decisions (including the arrest plans).
- 5.9 The telephone calls which were provided to GSOC were of benefit to the investigation. The review of the available phone calls indicate that Marie Farrell had been under no pressure in her interactions with a detective garda (and indeed other members of the Garda Síochána) to provide accounts. The relationship between this detective garda and Marie Farrell would appear to have been questionable at times. It cannot be explained why Marie Farrell provided witness statements in the first instance before retracting her evidence in the garda investigation.
- 5.10 GSOC was not able to substantiate other allegations that a witness had been provided with drugs by gardaí, though the telephone calls which had been reviewed confirmed that the witness himself mentioned drugs. The reluctance of witnesses in this particular aspect of the case to co-operate with GSOC, including the witness, has resulted in these allegations being incapable of being proven to any evidential standard.
- 5.11 No evidence of a criminal nature in support of the allegations made by the Complainants was identified during the course of this GSOC investigation. As a result, all accounts provided to the GSOC investigation were by way of witness statement and none were taken after caution.

6. Conclusions

- 6.1 It is GSOC's view, formed after an extensive investigation, that while there was evidence of a lack of administration and management of aspects of the investigation into the murder of Sophie Toscan Du Plantier, there was no evidence of the high-level corruption by gardaí alleged by the complainants Ian Bailey, Jules Thomas and Marie Farrell. A number of factors led to Ian Bailey being identified as a suspect at an early stage of the murder inquiry—his subsequent arrest and the arrest of his partner, Jules Thomas, therefore could not, as the complainants allege, have been construed as unlawful or illegal.
- 6.2 GSOC found no evidence that Marie Farrell was coerced or intimidated (as alleged by Ian Bailey and Marie Farrell) into making false statements against Ian Bailey; in fact, a phone call

listened to in the course of the investigation could be seen as evidence of a relationship between Marie Farrell and an investigating garda that was not coercive. While it does certainly appear that journalists were in possession of information in advance of Ian Bailey's arrests, GSOC was unable to establish the source of the media's information.

- 6.3 It is a matter of grave concern to GSOC that a large number of original statements and exhibits relating to the murder investigation are missing. It is GSOC's view that a lack of administration and management are the likely explanation for this state of affairs. GSOC found no evidence of corruption.
- 6.4 As a result of the examination of material conducted during this investigation, it is GSOC's view that it does appear that journalists were in possession of sensitive information about the murder at the time of the garda murder enquiry.
- 6.5 While there was general cooperation from garda members during the course of the GSOC investigation, a number of garda members were less than cooperative and thus it was not possible for GSOC to fully establish some of the details pertaining to the arrests of Ian Bailey and Jules Thomas. Other garda members who may (or who may not) have had information of relevance to the GSOC investigation are now deceased.
- 6.6 Pages missing from the original garda "Jobs Books" in relation to the garda murder investigation are of the most concern to GSOC. These books form a complete record of all activity undertaken in respect of a major or critical incident (or investigation) along with the rationale for the decisions made. This concern is compounded further by the fact that the specific pages missing are from an area of the book when Ian Bailey seems to have first been identified as a potential suspect in the murder by gardaí – and as such, they are potentially very significant.
- 6.7 The books are hard-backed in nature, A4 in size and the pages are retained in the book by way of a glued-in spine. As a result, it would not be possible for pages to simply fall out of the book by accident and for them to be removed, this would have to have been a deliberate act. The original books were seized by GSOC as part of this investigation in order that forensic tests could be conducted to try and establish if the missing pages held any information of significance (or to offer clues as to why they may have been removed). The results of these tests are discussed earlier in this report at Section 3.12. At the time of writing, no explanation has been found from anyone within the Garda Síochána as to when these pages were removed, how this was done, by whom and for what purpose. However this may well have occurred after December 2002 (as explained at paragraph 5.7 above).
- 6.8 The significant amount of missing original garda documentation, witness statements, suspect files and physical exhibits in the garda murder investigation suggest to GSOC that there was a lack of administration and management of the incident room (even when viewed through the lens of the time) as opposed to clear evidence of malpractice or corruption. It was not entirely clear from statements provided to GSOC who was in charge of the investigation at any particular moment in time and who was ultimately responsible for strategic decisions (including the arrest plans). The lack of forensic material obtained from the scene, particularly given the precise nature of the murder and the state in which the body of Madame Toscan Du Plantier was discovered, is also of concern to GSOC.
- 6.9 The review of telephone call recordings provided to GSOC during this investigation indicate that Marie Farrell had not been under pressure in her interactions with a detective garda to

provide accounts. The relationship between the detective garda and Marie Farrell appears to GSOC to not have been appropriate at times.

- 6.10 GSOC was not able to substantiate other serious allegations such as that a witness had been provided with illegal drugs by gardaí, though the telephone calls which have been reviewed noted that drugs were mentioned by the witness himself. The reluctance of witnesses (including the witness himself) to cooperate with GSOC in relation to this aspect of the case has resulted in these allegations being incapable of being proven to any evidential standard.