

## **ANALYSIS OF THE EVIDENCE TO LINK IAN BAILEY TO THE SOPHIE TOSCAN DU PLANTIER MURDER**

### **1. Lack of Forensic Evidence linking Ian Bailey to the murder scene.**

Sophie Toscan Du Plantier was killed by a person who battered her to death with a rock and a concrete block on 23 December 1996. Some fifty wounds were inflicted upon her.

Photographs of the deceased show her body as being scratched by briars in the area.

The Gardaí suggest that Ian Bailey is the murderer and was scratched on his hands and arms by the briars during the struggle.

No forensic evidence linking Ian Bailey to the scene was found despite the fact that the murder of Sophie Toscan Du Plantier was the direct result of an apparently frenzied and furious attack upon her in a briar-strewn location. If in fact the attack was carried out in a frenzied manner one might have expected that the assailant would have left traces of blood, skin, clothing fibres or hair at the scene. No such material was discovered.

Bailey willingly gave his fingerprints and a sample of his blood to the Gardaí for analysis and examination. These specimens were given at a time when he was aware that apparent bloodstains had been found at the scene. He had been a crime reporter in England and was aware of the nature of forensic evidence.

At page 23 of Dr. Geraldine O'Donnell's statement, she refers to light bloodstaining of human origin being found on the outside surface of Sophie's back door. (E.G.9) She was provided with an insufficient sample to identify the blood grouping.

Jules Thomas has stated that on 23 December 1996 (within hours of the murder) Alfie Lyons told Bailey about the bloodstain on the back door of Sophie's house yet on 10 February 1997 while in custody Bailey willingly gave a sample of blood for analysis. At law he was under no obligation to do so.

In interview 6C. Bailey states "I have no doubt what tests are done will clear me. I know I didn't have anything to do with it. This murder. I had nothing to do with it".

Following his original arrest in 1997, Bailey was interviewed by Pat Kenny on the radio and he indicated that at the request of the Gardaí he had voluntarily provided a sample of his hair because it had been stated that some hair had been found in the hand of Sophie Toscan Du Plantier. It would appear, however, that the hair found at the scene is consistent with hair originating from the deceased.

If Bailey had murdered Sophie, he would have known that there was a definite possibility of forensic evidence such as blood, fibres, hair or skin tissue being discovered at the scene. His voluntary provision of fingerprints and a specimen of his blood is objectively indicative of innocence.

## **2. Ian Bailey's alleged prior knowledge of Sophie Toscan Du Plantier.**

In replies to a questionnaire dated 31 December 1996 Bailey indicates that he never met Sophie but saw her once eighteen months previously.

At p.4 of Bailey's memo dated 10 February 1997, he states that:

*"Eddie Cassidy rang about 2.30 p.m. and said how close are you to Toormore? I said why and he said there was a murder there, a French national, a lady and he was going to come down and he wanted me to go up in advance of him and that he would call me on a mobile as he was travelling down.*

*How did you know where to go?*

*It was a French national, it was a lady, I had knowledge (local) that there was a house there owned and some times occupied by a French lady. I knew it was near Alfie Lyons and I had seen the French lady there when I was working with Alfie."*

After his arrest on 10 February 1997 at p.3 of a memo of interview Bailey was engaged in the following questions and answers:

*How did you know how to get to the scene of the murder?*

*I was aware that there was a French woman living in Toormore.*

*When was the last time you saw her?*

*Some time in the Spring of the year before last.*

*Did you meet her in Schull on Saturday 21st?*

*No I did not.*

At p.5 of the memo Bailey says, "it was twelve months before. I can't recall going up there socially or otherwise I can't recollect being up there in the last twelve months. It was the spring of 1995 when I saw Sophie."

In the questionnaire dated 14 January 1997 question 9 is as follows "Did you know the deceased and if so how did you know her, when did you last see her?"

A line is drawn through the area provided for an answer and the word "No" is written there.

Bailey has steadfastly maintained that he did not know Sophie Toscan du Plantier on a personal basis. He had on 31 December 1996 indicated to the Gardaí that he had seen Sophie once about eighteen months previously and the Gardaí allege that on 21 September 2000 Bailey stated that he had seen Sophie in Schull on the Saturday before she died

Yvonne Ungerer at p.3 of her statement no. 46B says that "in another conversation I had with Bailey he said he knew Sophie the deceased, that he had met her when he was up at Alfie's one day. I don't know for sure if he saw her one day at Alfie's or met her another day or whether he met her the day he first saw her while he was working at Alfie Lyons'."

At page 3 of Superintendent Dwyer's statement it is recorded that Bailey said "that he knew Sophie and had seen her once when he was gardening up at Alfie's last year or the year before". He said that to his recollection she was plain. He repeatedly denied committing the murder.

The statement of Guy Girard contains hearsay evidence only.

The Garda contention that Bailey is being untruthful and evasive regarding his knowledge of Sophie Toscan du Plantier is not supported by convincing evidence.

The personal opinion of the Garda who completed the questionnaire dated 14 January 1997 was that Bailey appeared very excited about "his" investigation (into a French connection) of the incident and appeared willing to assist the Gardaí in any way he could."

### **3. Detention of Jules Thomas allegedly on suspicion of committing the murder.**

On the 10 February 1997 Jules Thomas (Bailey's female partner) was arrested for the murder of Sophie Toscan Du Plantier.

None of the questioning put to Jules Thomas during the course of her detention relates to an involvement by her in the murder. It would appear that her arrest and detention was unlawful.

On the 19 January 1998, at the request of this Office, the Gardaí furnished a copy of a tape recording relating to interviews conducted by Caroline Mangèz, a French Journalist, with Ian Bailey.

During the course of the interview on 14 February 1997, the phone rings in the Thomas house and Jules Thomas answers it.

She converses with the caller in relation to her detention by the Gardaí.

She says that she was in quite a lot of shock but was beginning to feel human again after having a night's sleep.

She said that she felt quite severely damaged by the detention, never having been through an interrogation of that nature before.

She felt it was very biased and that she was press-ganged.

She said that she was speaking the truth and saying what she had to say and the Gardaí were trying to force her to say things which she did not know about and which she could not say.

They felt that she was covering up and she wasn't.

She says that you cannot say what you do not know about and that you cannot act on what you don't know.

She says that it seemed like she was being forced to say things that she did not know and that gets her back up quite seriously.

On tape Jules Thomas sounds credible and convincing.

Statement 10E made by Jules Thomas is the final statement made by her during the course of her detention in February 1997.

D/Gda. J. Fitzgerald and D/Gda. W. H. Leahy were the Gardaí taking the statement.

This is the statement wherein Jules Thomas was temporarily persuaded by the Gardaí that Ian Bailey had committed the murder.

At the time the statement was taken Jules Thomas had been in custody for over ten hours.

The detail of her questioning indicates that she was arrested to obtain information which could be used against Bailey. Her detention cannot be legally justified.

Jules Thomas has continued to live with Bailey since the murder. In the event of proceedings, it would appear that she would be a witness on his behalf.

In letter dated 24 July 1998, Murphy and Long, the Solicitors who act for Jules Thomas wrote to Malachy Boohig, State Solicitor as follows:

*"Ms. Jules Thomas most emphatically will not, if called as a witness for the prosecution, confirm the statement allegedly made in Bandon Garda Station on the 10<sup>th</sup> day of February 1997. There are several matters in the statement which she claims are not accurate".*

In 1997 Ian Bailey and Jules Thomas were interviewed by Pat Kenny on his radio show and Jules Thomas refers to her unlawful arrest on 10 February 1997 for the murder of Sophie Toscan Du Plantier. She states that she was "knocked for six" by the experience and the Gardaí were applying pressure upon her to make her say things that she knew not to be true and telling her that he was admitting to killing Sophie Toscan Du Plantier whereby she was becoming more and more stunned by the horrific experience.

She states in the interview with apparent conviction that she is convinced of his innocence.

Subsequent to the initial arrest of Jules Thomas, the Gardaí sought advice from this Office as to whether or not she could be subsequently arrested for offences under section 7 (2) of the Criminal Law Act 1997 (aiding and abetting the murderer).

In direction dated 9 March 1998 this Office advised that “a prosecution under section 7 (2) would require proof: (a) that a person had committed an arrestable offence. (b) that another person knew or believed that the first had committed that or another arrestable offence and (c) that the other person without reasonable excuse did an act with intent to impede the other person’s apprehension or prosecution.

Applying that to the present case it would be necessary to prove in a prosecution of Jules Thomas that Ian Bailey had committed murder. While his conviction therefore would not be an essential precondition, evidence sufficient to convince the court of his guilt beyond reasonable doubt would be essential. In effect a prosecution under section 7 (2) would require the proofs of a murder trial. It is not specifically set out what act or acts would be alleged to bring the case within (c) above. On this Office’s knowledge of the facts of the case generally including those set out in the file of 16 February 1998, it can be stated that the available evidence would fall far short of that required to warrant a prosecution under section 7 (2). A similar observation can be made in relation to the evidence which would be required to satisfy (b) above. There would therefore in the view of this Office on the evidence currently available be no realistic prospect of a prosecution under section 7 (2)”.

This direction was effectively confirmed on 14 January 1999 and a formal direction that Ian Bailey should not be prosecuted on the basis of the available evidence issued on 30 March 2000.

Despite the above advice the Gardaí proceeded to arrest Jules Thomas on 22 September 2000 for alleged breach of section 7 (2) of the Criminal Law Act 1997.

By letter dated 25 June 2001, Murphy and Long, Solicitors, who appear on her behalf confirmed once again that there are several inaccuracies in the statement allegedly made by Jules Thomas at Bandon Garda Station on 10 February 1997 and therefore she does not confirm the contents of her statement dated 10 February 1997. It is also stated that Jules Thomas does not confirm the contents of the interviews allegedly conducted on 22 September 2000 and indicates that there are several inaccuracies contained in those interviews.

Finally it reiterates that Jules Thomas is not willing to testify as a witness against Ian Bailey in the event of a prosecution being directed against him.

#### **4. Warnings issued by the Gardaí as to the alleged danger presented by Bailey to the community.**

In a report submitted to this Office on 26 February 1997 for the purpose of a consultation the Gardaí stated the following:

1. It is of the utmost importance that Bailey be charged immediately with this murder as there is every possibility that he will kill again.
2. It is reasonable to suggest that witnesses living close to him are in imminent danger of attack.
3. The only way to prevent a further attack or killing is to take Bailey into custody on a charge of murder and this point cannot be over-stressed.

It is understood that the Gardaí issued similar warnings about Bailey to members of the community.

In the report of Detective Inspector Liam Hogan submitted to this Office on 7 June 2001 the concern expressed by Paul O'Colmain that he was being associated by the Gardaí with Ian Bailey is noted and that he had explained to the Gardaí that over the previous six months he had tried to distance himself and his family from Ian Bailey and Jules Thomas.

It had been highlighted in the original investigation file that Paul and Marie O'Colmain were very closely aligned with Ian Bailey and Jules Thomas. This alignment was clearly shattered as is demonstrated by the approach to Inspector Walsh on 28 September 2000 by Helen Hoare, Solicitor, on behalf of Paul O'Colmain who explained that her client had been in contact with her to express his concern that the Gardaí were associating him with Ian Bailey. By inference, it seems that the O'Colmains are afraid that if they align themselves with Ian Bailey on any matter they will incur the disapproval of the Gardaí.

At Page 105 of Inspector Hogan's report it is stated that a small quantity of cannabis was found by the Gardaí in the O'Colmain house and a son of the O'Colmain's is known to have a serious drug problem. It might, for this reason, be thought that the unfortunate O'Colmains under such circumstances are most anxious to ingratiate themselves with the Gardaí and as such are witnesses of very little weight.

P.164 and 165 of the initial Garda report provide evidence of the hysteria in relation to Bailey which existed following his portrayal as a ruthless and unrestrained killer. See below.

On the 20 February 1997 Bill Fuller, his partner and child had gone to the causeway at Kealfadda Bridge in order to pursue his own investigation of the murder. He was with his wife and child. He saw a man whom he thought to be Bailey and this caused them to run away in blind panic believing the man had seen them. They ran a considerable distance until they reached Toormore Beach where they ran along a lane way which led out onto the roadway to Goleen. Screaming and roaring they ran in front of the first car to approach them. It was being driven by a Ms. Breda O'Reilly. Her initial reaction was not to stop, but when she saw that Bill Fuller was carrying a three-year-old child under his arm she thought the child was sick. When Ms. O'Reilly lowered the car window both Bill and Kerri Fuller screamed at her that the murderer Ian Bailey was down the road, pointing towards Kealfadda Bridge. Ms. O'Reilly drove them directly to Goleen where Ms. O'Reilly contacted the Gardaí. In her statement Ms. O'Reilly describes the

terrible state of shock and fear that the Fullers were in and she stated that they feared for their own safety.

It transpires that a local farmer was working near their van that day and they had mistaken him for Ian Bailey in their high state of apprehension.

On the same date Bill Fuller made a statement. In the context of the above it carries no incriminating weight.

On 29 September 1998 Garda Kevin Kelleher advised that D/Garda Leahy was the sole officer assigned to dealing with Bill Fuller. Superintendent Twomey confirmed this to be the case. Such an investigative practice is unsafe.

On 28 September 1998 Malachy Boohig, State Solicitor phoned to say that Bill Fuller had made a further statement which incriminated Bailey.

On 29 September 1998 Sgt. Gerry McCarthy stated that he believed Bill Fuller had made an additional statement and he agreed to obtain a copy and fax it to this Office. Supt. Twomey then phoned this Office and stated that no such additional statement existed and he had spoken to D/Garda Leahy in the matter.

There has been a consistent flow of information to the media in relation to the investigation into the killing of Sophie Toscan Du Plantier.

Once Ian Bailey was believed by the public particularly in the local area to be responsible for the murder the fear thereby engendered was bound to create a climate in which witnesses became suggestible.

On 24 December 1998 the Irish Independent under the headline "Sophie's Murderer Will Kill Again", published a report stating that "the savage killer of French woman Sophie Toscan Du Plantier will murder again unless West Cork locals help Gardaí bring him to justice, her distraught family warned yesterday (23 December 1998)".

Chief Supt. Dermot Dwyer is quoted in the report as revealing that new and interesting details have been uncovered in the hunt".

The tape recording made by Caroline Mangez primarily relates to conversations with Ian Bailey recorded on or about 14 February 1997.

A conversation recorded some five months later is also to be heard.

The recordings are significantly different in tone and content to the statement made by Caroline Mangèz to the Gardaí. By way of stark contrast she is clearly at ease with Bailey on tape.

The part of the tape which would appear to have been recorded on 14 February 1997 includes the following:

1. Bailey alleging that he has been hounded, harassed and demonised.

He states that he had nothing to do with the killing.

2. He states that he was disorientated during detention on 10 February 1997.

He alleges that between ten to twelve police officers questioned him during the detention.

He asserts that Gda. J.P. Culligan was aggressive, particularly during the journey from his home to the Garda Station.

3. He states that the driver of the car was named "Liam" and this man told Bailey that even if the Gardaí did not pin it on him that he was finished in Ireland.

Liam told him that somebody other than the Gardaí would put a bullet in the back of his head.

4. On arrival at the Garda Station the press and photographers were there. Bailey says that they clearly had been tipped off.

5. Bailey asserts on tape that he is afraid that the Gardaí are determined to find evidence to convict him despite the fact that he is innocent.

He again asserts that he had nothing to do with the murder and states that his conscience is clear.

6. He reiterates his fear of being "stitched up" by the Gardaí.

7. He states that the Gardaí were embarrassed by stories he had written which indicated that they had no idea as to who had committed the murder. He had been told this by local people.

8. Bailey states that it is not unusual for him to get up during the night but on this occasion he had to get up because he had a story to write for the Sunday Tribune and it had to be submitted on Monday 23 December 1996.

9. He states that this was a very difficult story because it was about computers and he found it difficult to write 900 words on this subject which had to refer to computer language etc.

He states that he hand wrote the story in the kitchen of Jules' house and then between 7.00 and 8.00 a.m. as dawn was approaching, the first light of the day was beginning to show, he went to type it below in the studio.

He says that he had to fax the story as he could not dictate it. Normally he dictates his story by telephone.



In relation to the part of the tape which apparently deals with a recording in July of 1997. Bailey asserts that there is definitely a concerted attempt to implicate him as the killer of Sophie Toscan Du Plantier.

He says that he believes that the Gardaí have lied to people in France in that context and emphasises again that he is not the killer.

He states that the Gardaí have made it very difficult for themselves in that they have told journalists continually that he is the killer.

The recorded conversation represents the actuality of what transpired between Mangèz and Bailey.

It is not incriminating but is in fact a proclamation of innocence on the part of Bailey.

On tape Bailey sounds credible and convincing.

## **5. Premonition.**

In the event of a prosecution Jules Thomas would clearly be a witness for Ian Bailey. Nonetheless, her reference to Bailey stating that he had a feeling that something bad was going to happen is worth examining.

This would have been about 12.45 a.m. on 23 December 1996.

However the following six statements, five of which were not submitted with the original Garda file, indicate the following:-

1. David Bray at 12.45 a.m. on 23 December 1996 noted that the wolfhound which he minds was unusually upset.
2. Martin Breuinger confirms that the wolfhound was unusually disturbed between 12 midnight and 2.00 a.m. on 23 December 1996.
3. Geraldine Kennedy states that her dog was barking mad from 10.30 - 10.45 p.m. on 22 December and continued this for about three hours practically non-stop.
4. The dog owned by Derry Kennedy and his wife was unusually upset between 10 p.m. on 22 December 1996 and 1.50 a.m. on 23 December 1996.
5. Michael Gallagher refers to strange people being in the area on 23 December 1996.
6. Sheila Barnett noted an unusual man in the area earlier on 23 December 1996.

This evidence suggests that there could well have been unusual movement in the area where Sophie was killed in the early hours of the morning.

Bailey and Jules were drinking in a pub in Schull at the time the dogs initially became upset.

Later, Bailey was with Jules Thomas overlooking the scene from a distance and he says he got a bad feeling.

This was during the time the dogs were unusually alarmed.

Such a sense of foreboding is not considered incriminating.

Bailey may have sensed the activity below him which also alarmed the dogs.

If he had intended to contact Sophie it is unlikely that he would have invited Jules Thomas to go over to that area with him.

Unfortunately, the forensic evidence is unable to pinpoint the time of Sophie Toscan du Plantier's death. It is not, therefore, possible to say whether she was killed around the time that the dogs were acting strangely, or at a later time in the night or early morning.

## **6. Inconsistencies in relation to Bailey's response to Garda questioning.**

The original questionnaire of Bailey completed on 31 December 1996 asks at question 5 "account of your movements between 9 p.m. Sunday and 9.a.m. Monday, include persons, vehicles met with the times of meeting etc."

Three lines are provided for the response.

The relevant portion of Bailey's reply is "then came home about 12 midnight".

Questionnaire responded to on 14 January 1997 by Bailey has a question which asks "account of movements between 12 midday Friday the 20th of December 1996 and 10 a.m. on Monday 23rd of December 1996. Details of all travel and meetings with other individuals no matter how trivial should be included that is visits to shops, mass, pubs, local visits etc. Means of transport need to be included. Use separate page for this information if necessary.

Bailey's response was, "access to car 87 C 1524 (white ford fiesta) as attached".

The attachment relates to a two-page précis of what Bailey was engaged in on Friday, Saturday, Sunday and Monday.

This questionnaire was completed by a Garda Sergeant who recorded the answers given to him by Bailey.

Question 13 asks, "have you any information as to who may be responsible for this crime?"

Bailey's response was that he believed from his investigative research that there was definitely a French connection.

This Office and the Gardaí are aware that Bruno Carbonnet, a French man who was a lover of Sophie during the course of her marriage to Daniel Toscan Du Plantier stayed on occasion in her West Cork home.

Bruno reacted violently when his relationship with Sophie ended and he was a suspect in relation to the murder enquiry.

In the Interview with Bailey on 10 February 1997 (6C) Bailey asserts, "I didn't kill that lady, I didn't kill her."

The Gardaí state "you have told us several times on this day that you went home from the Galley Pub with Jules, then went to bed and did not get up until the following morning. Now you have told the other Officer that you in fact did get up that night and left Jules's house."

Bailey responded, "yes, I now remember that I did get up and go to my studio to do some work".

It is common case that Bailey had to submit an article to The Sunday Tribune later that day.

The Gardaí "Why are you now changing your story regarding that night, is it because you were aware that Jules is now saying that you did get up."

Bailey responded, "No, I remember now."

These questions were being put weeks after the event.

The Gardaí "tell the truth about you being at Kealfadda Bridge at 3 a.m. approximately on the 23rd of December 1996?"

Bailey "I wasn't there, I didn't kill her. I know you don't believe me."

Interestingly, in the context of Bailey's home, Kealfadda is not on the way to or from Sophie's residence.

In her statement taken (10E) towards the end of her detention Jules Thomas states that she went to bed at 1.30 a.m. on 23 December 1996.

She remembers Ian coming into the bedroom and getting into bed. She fell into a sleep almost straight away having taken two tablets for period pain, these were painkillers.

She said that she was in a sleep and Ian was tossing and turning and he then got up from bed approximately an hour later. He got up easy so as not to wake her even though her recollection was poor she feels almost 100% sure that he did.

She doesn't recall his absence during her further sleep.

She did not take any notice of him leaving the bed as it was common for him to do this. She can't recall him coming back to bed.

It is clear from the file that it was a mundane act for Bailey to get out of bed in such circumstances.

His version of events cannot be properly rebutted.

It should also be noted that anything said by Bailey during the course of his detention may be inadmissible on the basis that much of what was put to him was gleaned from Jules Thomas during the course of her unlawful detention and the fruit of the poison tree rule might well apply.

In any event, all Jules Thomas does is assert that despite being half asleep she recollects Bailey getting up out of bed which was a common thing for him to do.

Bailey does not state that he left the home premises. He states that he went to his studio which is located on the Thomas lands. It is directly beside the house.

P. 126 of D/Sgt. Liam Hogan's initial report refers to Bailey stating "some time after going to bed I got up – did a bit of writing in the kitchen. I then went down to the studio. I am not sure what time it was but it was dark. I have no watch. I had a story to write for the Tribune and was told it was O.K. – that Tuesday would do. It was a story about the Internet. I went back to Jules's house about 11:00 a.m."

This was in the early hours of 23 December 1996.

D/Sgt. Hogan states that the deadline for the story was 2:30 p.m. on that date.

Regardless of whether the deadline had been extended to Tuesday, clearly the deadline for Bailey's submission of the story was imminent.

We know that Bailey wanted to pursue his career as a journalist and this could explain why he got up in order to write the story.

To suggest that Bailey's completion of the questionnaires demonstrate an intention to lie and mislead may be unfair unless one proceeds from the assumption that he is in fact guilty, in which case he would have reason to remember every detail of his movements with great particularity. He is, of course, entitled to the presumption of innocence.

Sophie was killed on 23 December 1996.

Bailey's first questionnaire was completed eight days later.

It is a difficult exercise for any person to recall with precision the timing and location of ordinary matters even after a very short time.

The same observation applies to the questionnaire completed on 14 January 1997, some three weeks after the murder.

The same observation applies to the interviews conducted while Bailey was in detention on 10 February 1997, some seven weeks after the murder.

The fact that Bailey and Jules Thomas have made errors in their recollection does not necessarily mean they are deliberately lying. Errors made by other persons are regarded as simple mistakes in terms of recollection.

On 21 September 2000 the Gardaí once again searched the house of Jules Thomas and during a conversation with Ian Bailey they allege he stated that he had seen Sophie Toscan Du Plantier in Schull on the Saturday before she died. This alleged observation by Bailey is made some 4 years after the death of Sophie Toscan Du Plantier during which time both Ian Bailey and Jules Thomas have effectively had the quality of their lives destroyed by the fact that he has been publicly identified as the murderer. The assertion he made is inconsistent with his previous denial that he had seen Sophie Toscan Du Plantier in Schull on that date.

## **7. Unreliability of Marie Farrell.**

Between 2p.m. and 3 p.m. on 21 December 1996 Marie Farrell alleges that she saw a man who she later purports to identify as Ian Bailey outside her shop on Main Street Schull.

In her statement dated 27 December 1996 she states that he was approximately 5 foot 10 inches in height and of thin build.

Bailey in fact is over 6 foot 2 inches tall and of a strong and powerful build.

Her alleged observation was made in the full light of day.

At a consultation with the Gardaí in February 1997 this discrepancy was pointed out to D/Sgt. Liam Hogan and Detective Superintendent Ted Murphy.

In the report submitted with the Garda file received in this Office on 5 September 1997 Marie Farrell's misdescription as to Bailey's height was explained by alleging that she was in an elevated position in the shop while observing him.

No explanation was given for her misdescription in relation to his build.

The Gardaí were asked to get a statement from Marie Farrell describing the elevated position she was in and how it affected her judgement in relation to the size of other people, particularly those known to her.

Marie Farrell has not satisfactorily explained the situation but later indicated that her assessment as to Bailey's height was made by reference to the Garda who was taking the statement from her. The Office has been informed that this Garda is 5 foot 11 inches tall.

In her statement dated 14 February 1997 she states that on Monday 23 December 1996 at about 3 a.m. she was with a male friend in her motorcar and she saw a man walking on the road. He was stumbling forward and had his two hands to the side of his face but she could see his face.

She states that she identified the man as being the same person she had seen on 21 December 1996 in Schull and on the morning of 22 December 1996.

A person in a motor car being driven in an unlighted country area during the hours of darkness is unlikely to be in a position to make a reliable identification of a person on the roadway under the circumstances described above.

Marie Farrell's powers of observation and identification are diminished even further by virtue of the statement she made on 22 January 1997. She describes the man she saw in the town who she later purports to identify as Bailey as being very tall. This contradicts her description of the man as being five foot ten inches in height as stated by her on 27 December 1996.

Her evidence is diminished still further by reference to her statement dated 27 December 1996 in which she states that she saw the same man on Sunday morning 22 December 1996 at 7.15 a.m. on the roadway thumbing a lift, because the evidence on file proves that Bailey was elsewhere at 7.15 a.m. on that date.

Bailey, Patricia Murphy, Mark Murphy, Robert Shelley and Tony Doran state that Bailey slept in Patricia Murphy's house.

Patricia Murphy states that she arrived home at about 12.15 a.m. on 22 December 1996. Her son Mark arrived with Bailey and Shelley at about 1.30 a.m. After about an hour she says that Mark went to bed and she talked to Bailey for about another hour. She says that Bailey then left but after about two minutes he returned and asked if he could remain for the night. This would have been about 3.30 a.m. according to her statement.

Tony Doran who was in bed believes that Patricia Murphy retired at about 6 a.m.

There is no evidence on file to support Marie Farrell's assertion that she saw Bailey at 7.15 a.m. on the roadway on 22 December 1996.

Bailey actually had breakfast in the Murphy house.

Mark Murphy states that he drove Bailey home at about 2 p.m. on 22 December 1996.

Marie Farrell's evidence is further diminished by the fact that on 11 January 1997 she phoned the Gardaí under the alias Fiona. Garda Bambury took the call.

Garda Bambury on 13 August 1997 about seven months after the call made a statement in the matter although Fiona's identity was known to Gardaí on 24 January 1997.

His recollection in the statement is that Fiona said "that at 3 a.m. approximately on the morning of the 23rd of December 1996 she was in a car which was driving from Goleen towards Toormore. She said that she saw a man on the road at that time. He was walking towards Goleen and he was near Sylvia O'Connell's Knitwear Shop when she saw him. She said that he was wearing a long black coat, he had his hands up to the side of his face and he seemed to be stumbling along. She said that he was on his correct side of the road and facing towards her. She declined again to give her full name and address. She said that she would ring back again later in the day."

On 11 January 1997 Garda Bambury immediately informed Superintendent Dwyer of the call and provided him with details of same.

Superintendent Dwyer noted the details on a work sheet by recording that: "At 4 a.m. on Sunday - Monday morning near Knitwear Shop - place O'Connell's, Schull - Goleen Road. Man wearing long black coat and a hat. Wiping himself and stumbling along."

This note of Superintendent Dwyer was not included in the Garda file submitted to this Office.

In fact, the note was only submitted on 12 November 1997 in response to query number 3 in direction dated 8 October 1997.

As the note was taken by Superintendent Dwyer immediately after the call was made, clearly the contents thereof reflect more accurately the detail of Fiona's call than the statement made by Garda Bambury seven months after the event or the statement of Marie Farrell made seventeen days after the call.

There are significant differences in detail between the note taken by Superintendent Dwyer and the statements of Bambury and Farrell.

The note taken by Superintendent Dwyer refers to Sunday - Monday morning. This could be interpreted to read Sunday or Monday morning.

Sophie was killed on the Monday morning.

Marie Farrell alleged in her statement dated 27 December 1996 that she observed Bailey on Sunday morning 22 December 1996.

Bailey has alleged that the Gardaí exerted pressure on Marie Farrell to change the day of her alleged identification from Sunday (prior to the murder) to Monday (subsequent to the murder).

The statement wherein she claims to identify Bailey on the roadway after the murder was made subsequent to her being identified as Fiona by the Gardaí. They traced her through a telephone call to Chief Superintendent Smith on 24 January 1997.

However, she did not make that statement until 14 February 1997. (After Bailey's release from detention)

Superintendent Dwyer's note refers to the man as wearing a hat and wiping himself.

Marie Farrell's potential as a witness is diminished even further by memo dated 28 January 1997 wherein she says that the person she was with was an old friend.

She has admitted to the Gardaí that this was a lie.

She has informed them that she was with a lover and has refused to disclose the identity.

The Gardaí state that Marie Farrell is adamant that she will not disclose the identity of her lover. She could be held in contempt of Court and even be imprisoned for such refusal in the event of being called as a witness in proceedings related to this case. It should also be noted that the national media have published on a number of occasions the allegation that this witness was with her lover at the relevant time. Her husband in all probability is aware of the matter despite the fact that the information was supposed to be confidential.

At the request of this Office, Marie Farrell was again asked to disclose the identity of her lover and on 19 May 1998 through her Solicitor she refused to do so.

Superintendent Twomey in report dated 8 August 1999 indicates that a name has come into Garda possession of a person who was possibly with Marie Farrell at the relevant time on 23 December 1996. Such evidence could be material. For all we know the person might refute the suggestion that the man on the road was Bailey.

In report dated 2 July 2001 Detective Garda Barth O'Leary states that the person referred to has been ruled out as a suspect and the Gardaí have been unable to establish the identity of the person who allegedly was with Marie Farrell on the night in question.

Even if the identification was definite this would be of little probative value given the location was not even indirectly en route between the scene of the murder and Bailey's home.

## **8. Relationship between Gardaí and certain witnesses.**

Detective Garda Fitzgerald is the officer who identified Marie Farrell as "Fiona" and he managed her as a witness.

He is also the officer alleged to have given cash, clothes and hash to Martin Graham in order to obtain incriminating evidence against Bailey.

He is also the Garda who would appear to have elicited incriminating observations against Bailey which Jules Thomas asserts were "Press Ganged" from her while she was unlawfully in custody.

He was also involved in taking a statement from Michael Oliver on 10 February 1998 on which date Oliver was awaiting sentence on a serious harm conviction.



The statement flatly contradicts a questionnaire completed by Oliver a year earlier. This questionnaire was not volunteered by the Gardaí – it had to be sought.

It could certainly be argued that Oliver in an attempt to avoid a heavy sentence was anxious to please the Gardaí at the time of making the statement on 10 February 1998. Little if any incriminating weight can be attached to it.

As referred to previously, the distressed Paul O'Colmain may also have been anxious to please the Gardaí in view of the drug difficulties relating to his son.

Martin Graham was destitute, had previous criminal convictions and was a drug abuser.

During the course of using Graham the Gardaí discovered that he had told Bailey that he had received cash, clothes and hash from them as a reward for his assistance.

The Gardaí must have been aware that such a person might fabricate evidence in order to secure rewards.

Tapes of conversations between Detective Garda Fitzgerald, Garda Michael Coughlan and Martin Graham were made by the Gardaí in order to discredit Graham after he had told Bailey how he was being used by the Gardaí.

Garda Fitzgerald and Garda Coughlan were aware of the conversation being taped. Graham was not. (Transcript 22 May 1997 refers). They were unable to keep control of the conversation which resulted in Graham asking for hash.

Garda Fitzgerald states "in case you go to the old pub to night Martin, I have a bit of money here for you and a bit of stuff, I got a few smokes as well for you."

Martin Graham responds by asking, "have you got some hash?" The transcript states that he was laughing. However having heard the recording of the tape that does not appear to be the case. The question sounds serious.

Detective Garda Fitzgerald knowing that he was on tape, responds by stating "I have cash and I have something in a ????? and I have a few smokes you know you said you were starved were you"?

Thereafter Detective Garda Fitzgerald states, "oh god we are going to have an accident". (comment as the car goes around the bend).

Later in the conversation Detective Garda Fitzgerald asks, "tell me this Martin, you mentioned to me yesterday and where is this place that you can collect the stuff now inside around Skib, is there a location where an old smoke can be collected?" Is there a location in Skib, where you can collect a bit of dope, and pay somebody after, is there some location?" I suppose it would be a mortal sin, to ask you where you are collecting your stuff or would you be afraid of a surveillance operation being mounted?" That is a handy kind of arrangement just go to point (a) and pick up, isn't it? Do you pay before or after?"

Garda Mick Coughlan who was with Garda Fitzgerald asks "is there a big market in Skibbereen do you think?" Later in the conversation Garda Jim Fitzgerald states "there is a bit of money there Martin, cash and a few smokes in case you go to the pub you know, it is inside there with the smokes. I have no smokes here, I will give you a big bit and you can look after it yourself." Martin Graham responds, "could we have a private chat, do you mind (addressing Mick Coughlan and asking Jim Fitzgerald) I don't know you (referring to Gda. Mick Coughlan) you could be the Drugs Squad".

A private conversation outside the car for a couple of minutes then takes place between D/Garda Jim Fitzgerald and Martin Graham. This is not recorded and is therefore not in the transcript.

Based on the above conversation and on the allegation by Martin Graham that he was given Hash by the Gardaí, despite D/Gda. Fitzgerald's denial, the balance of evidence suggests that Graham is telling the truth. Such investigative practices are clearly unsafe to say the least.

## **9. Alleged informal admissions by Bailey.**

After Bailey had been released without charge on 11 February 1997, the Gardaí took a statement from Yvonne Ungerer.

She states that Bailey told her that he had been arrested and that the Gardaí had taken blood from him and some clothing. She asked him why did they arrest you? He replied that some witnesses had come forward who had seen him down by the water or causeway. I asked him what time was that and he said it was early in the morning. She thinks he said around 4.00 a.m. (46C)

He said that he had got up out of bed to do some work on an article and he went out. That must have been the time they saw me. He did not say whether he was walking or driving nor did he specify where exactly the water or causeway was.

It is clear that Bailey was simply reciting what the Gardaí alleged to him while he was in custody.

She said what were you doing down there and he said "oh I suppose I was washing the blood off my clothes".

She felt he said that in a half joking way. Bailey has consistently denied being at Kealfadda Bridge, his answer is not an admission it is a sarcastic retort and he has stated this to be the case in answer to Garda questions. Yvonne Ungerer was well aware that Bailey was investigating the murder in a journalistic capacity.

This statement was taken from Yvonne Ungerer on 11 February 1997 after Bailey had been released from detention some hours earlier. During detention he steadfastly maintained that he had not been at the causeway.

During the course of his detention on 10 February 1997 Bailey was asked, "did you tell any editor of a newspaper that you killed Sophie? (Interview 6C)

He answered, "Helen Callanan told me that she had heard it being discussed with another journalist in Dublin. I had done this, I was a prime suspect, I had done the murder. Subsequent to that I said to her as a joke that I was the murderer and that I did it to further my career". He also indicated to Helen Callanan that he would sue for defamation anybody who alleged that he was the murderer.

He was asked did you tell anybody else?

He answered, "I also mentioned it to Yvonne Ungerer, Three Castle Head, I can't recall what I said to her basically but it was on the same lines, this was possibly in the last week".

Consequent to this, the Gardaí took the last mentioned statement from Yvonne Ungerer. In that context, Bailey directed them to her. His black humour is the antithesis of an admission.

At interview 6D it was put to him that witnesses saw him at 3.15 a.m. near Kealfadda Bridge.

He responded these people are mistaken. I was in bed.

At p.2 of 6D he was asked didn't you tell somebody that you committed this murder.

He responded yes, I did, that was only a black joke. I told Yvonne Ungerer.

At interview 6E he was asked to tell the truth about being at Kealfadda Bridge at 3.00 a.m. approximately on 23 December 1996.

He responded I wasn't there, I didn't kill her. I know you don't believe me.

Bailey claims that his activity subsequent to the murder related to his investigation of it on a journalistic basis.

He has consistently denied an involvement.

His so called informal admissions appear to be sarcastic responses to questions put to him by people who were aware that he was working to discover the identity of the person who killed Sophie.

Malachi Reed's statement was made on 6 February 1997.

He states that on 4 February 1997 Bailey gave him a lift home and said to him "I went up there with a rock one night and bashed her fucking brains in". He then said he did it to get a story for the newspapers.

Malachi Reed says that he got a shock when he heard what Ian had said and he got a cold shiver. This is not consistent with the recollection of his mother, Amanda, who states that:

*"I remember Tuesday the 4<sup>th</sup> February 1997 at 9 p.m. Malachi arrived home. He told me he had got a spin home from Ian Bailey. Malachi seemed okay and was in good form. On the following day the 5<sup>th</sup> February 1997 Malachi arrived home at about 6:00 p.m. I noticed he was agitated and I wondered why. I questioned him and he told me that Gda. Kevin Kelleher had called to school that day and was asking questions about Ian Bailey and his movements on the previous night. Malachi then said he hadn't told the Guard everything and he told me that Ian had been drinking on the Tuesday night and that he had said to him that he had smashed her brains in with a rock or stone. At this stage Malachi was upset and I think that it was only then that the impact of what Ian Bailey had said to him hit him".*

It is abundantly clear that Malachi Reed was not upset by Ian Bailey on 4 February 1997, however, following his conversation with Gda. Kelleher he became upset and turned a conversation which had not apparently up until then alarmed him into something sinister.

At a party Diane Martin said to Ian Bailey "well, Ian I think you did it, you are the murderer".

She says that he did not react and she was shocked.

Bailey's conduct, however, is consistent with restraint in dealing with this rude person who certainly was not in possession of evidence to support her allegation. His failure to answer her is not incriminating.

Bailey got up and walked away.

Later at the party she started to chant in time to the music "Ian is a murderer". Bailey carried on playing music.

One has to read her statements to get the full flavour of her unreliability.

Her second statement portrays the level of hysteria against Bailey in the local community.

The first statement of James McKenna should be examined in this context.

McKenna states that Bailey said to him do you know about the murder in the town and he said that he had seen it on T.V. in the North, Bailey turned around and said "that is me". He smirked at me as he said it.

Bailey and Jules Thomas left the premises and the bar girl came running around to say, "do you know who you were with" he is the person who killed the girl. All the bar clapped".

Again this demonstrates hysteria and resentment against Bailey.

James McKenna's statement made on 9 April 1997 consists of two pages.

Diana Patricia McKenna made her statement on 28 April 1997.

It is not witnessed by a member of An Garda Síochána.

She states that on 8 April 1997 she and her husband met Bailey and Jules in a bar. They engaged in conversation. She spoke to Jules and her husband spoke to Bailey.

At 11:15 to 11:30 p.m., Bailey got up and left the bar.

He came back ten minutes later. A short time after that Bailey and Jules left the bar having invited Diana and her husband to their house at Toormore.

After they had left she recalls people in the bar clapping.

Maura the bar maid hurriedly came towards her and her husband. She told them that the man in whose company they had been had murdered someone.

Mrs. McKenna knew immediately that she was referring to the French woman who had been murdered because she had heard of this murder from her mother who lives in Schull and from a local person called Trish who works in the Waterside Inn.

Mrs. McKenna says that Trish had told her that a local man was under suspicion.

Mrs. McKenna then says, "Maura walked off and Jim told her that the man he had been sitting beside had asked him had he heard about the murder in Schull. Jim had said that he had heard about it in the news in the North. Jim said the man had said "that is me".

Jim told her that he was going to report the matter to the Guards.

It is notable that James McKenna only told his wife what Bailey had allegedly said after he had witnessed the highly unusual demonstration of resentment by way of clapping, when Bailey left the premises and the categorical statement by Maura that Bailey had murdered Sophie.

At the time of the alleged admission to James McKenna, it is notable that his wife did not observe any form of discomfiture on the part of her husband and he did not move away from Bailey.

According to Mrs. McKenna even when Bailey and Jules had left the premises James McKenna said nothing until after the clapping of the people in the bar and Maura's assertion that Bailey had killed Sophie.

Based on her statement it is clear that the alleged admission is of negligible weight.

However, the Gardaí took a second statement from James McKenna on 21 April 1997.

This statement consists of some six pages.

In the second statement Mr. McKenna says that after Bailey said to him “that was me” he immediately took this as an admission that Bailey had killed the lady.

McKenna states, “I was numb with shock. After a few moments my wife asked what was wrong with me. I can’t remember what, if anything I told my wife. Very shortly after this I was aware that this couple were about to leave the bar. They may have said something as they were leaving, but at the time I cannot be sure”.

This recollection is inconsistent with the recollection of his wife who says that her husband did not say anything to her and she did not notice anything wrong with him until after the following:

1. Bailey and Jules inviting herself and her husband to visit their home at Toormore. Mrs. McKenna says, “we didn’t commit ourselves to visit them the next day at their home”.
2. Until after Bailey and Jules had left the bar.
3. Until after the people in the bar had clapped the fact that Bailey and Jules had left.
4. Until after the bar maid Maura had told them that Bailey had murdered Sophie.

It is particularly notable that James McKenna in his second statement in order to amplify the alleged seriousness of the admission and the consequent shock he suffered as a result of hearing it, says that he cannot recall the invitation to visit the Thomas home.

This is extraordinary in view of the fact that in his first statement he says “he departed asking me to know if we would like to call to his home the next day with our dogs, they both left the bar and out the door. At that stage the girl behind the bar Maura came running around to say do you know who you were with he is the person who killed the girl. All the bar clapped”.

It is clear that McKenna’s second statement cannot be relied on. It is not consistent with his first statement and conflicts with the statement of his wife.

When Bailey spoke to Delia Jackson, he categorically denied committing the murder. (Statement 129A).

At page 2 of Helen Callanan’s statement taken on 10 February 1997 she states that:

*“last week I got to know that there were rumours that Eoin Bailey might be a suspect in the investigation. When I next spoke to Eoin Bailey, I asked him if he was aware of the rumours. He asked me who said it and I told him that it did not matter”. She then says that on Saturday 1 February he phoned her and “asked me who said he did. I killed her to resurrect my career as a journalist, prior to saying that he said it was me. When he said it was me, I immediately thought that he meant a quote from one of his stories about Sophie’s marriage breaking*

*up but he then continued to say yes I did it I killed her to resurrect my career as a journalist. He again asked who said it and suggested that it would be worth £20,000 to him but then I finished the conversation”.*

It is quite clear that Bailey wanted to find out who was slandering him.

When Helen Callanan refused to tell him he became frustrated and his remarks to her reek of sarcasm not veracity.

Statements of Richie and Rose Shelley, taken on 2 and 5 July 1999 respectively were submitted by the Gardaí.

Richie Shelley states that on New Years Eve 1998 he was drinking in Hackett’s bar with his wife. They were joined by Ian Bailey and Jules Thomas. At the end of the night, they went to the house of Jules Thomas and continued drinking there. The murder was discussed and Richie Shelley states that “the whole time Jules Thomas was supporting Bailey and saying he was innocent”. Richie Shelley then states that Jules Thomas went to bed and he and his wife were given sleeping bags by Bailey. However, he got the impression that Bailey was not comfortable having them in the house and he decided to phone his father to collect them. Richie Shelley slipped into Bailey’s room apparently looking for the phone. It should be remembered that at this time many people in the local community were convinced that Bailey had murdered Sophie Toscan Du Plantier and the community had been exhorted to obtain incriminating evidence in the matter.

Bailey got out of bed and showed Richie Shelley where the phone was located. After making the call, Richie Shelley alleges that Ian Bailey came into the kitchen and cried “I did it”, repeating this about four or five times. In response, each time Bailey allegedly said “I did it”, Richie Shelley allegedly asked “you did what”? Bailey did not answer. However, when Richie Shelley allegedly persisted with the question, Bailey allegedly said “I went too far, I went too far”. Richie Shelley asked Bailey what he meant by saying he had gone too far, but Bailey did not answer him. Rose Shelley states that she overheard the “conversation between Ian and Richie about the murder, which frightened her to such an extent that she left the house immediately”. However, she also states “on New Years Night the exact words that Ian said to Richie I cannot be specific but what he did say I realised he was telling Richie that he did the murder”. An objective assessment of the alleged conversation between Richie Shelley and Ian Bailey does not demonstrate that the conversation was about the murder. Indeed, it is alleged that Richie Shelley had to persistently ask Bailey what he was talking about but he elicited no satisfactory response to the question. It is, however, matter of indisputable fact that Bailey has on other occasions consistently and publicly proclaimed his innocence.

The next morning, all four people met up in the pub again, and Richie Shelley is alleged to have said to Bailey “up to last night I thought you were innocent but now I think you are guilty”.

From the report of Inspector Horgan dated 27 July 1999 it appears that Richie and Rose Shelley have indicated that they did not come forward with the above information previously because they did not want an involvement in the case. This diminishes the credibility of their recollection still further. In fact Richie Shelley in his statement dated 19 June 2001 states that he did not come forward with the information until he was

approached by the Gardaí. If the alleged conversation took place he did not attach sufficient weight to it to even bother reporting it.

Richie and Rose Shelley were collected from outside the Thomas house by John Shelley but neither Richie nor Rose bothered to tell John Shelley about the alleged admission.

On an overall basis the Shelley evidence is dangerously unreliable.

## 10. Scratches.

The Gardaí suggest that Bailey was scratched on his hands and arms during the course of killing Sophie Toscan du Plantier. Her body was scratched and they suggest that her killer must also have been scratched during the struggle.

Bailey has consistently stated that he received scratches by climbing up a twenty-foot tree with a bow saw in one hand, cutting the top off the tree and pulling it down through the branches.

Bailey is supported in his explanation as to how he got the scratches by Jules Thomas and her daughters Virginia and Saffron.

The Gardaí do not contest the fact that Bailey cut the tree in the manner stated but they have a statement from a forester who says that it would be unlikely for a person to be scratched while engaged in work as described by Bailey. The forester did not see the scratches.

This opinion does not outweigh the direct evidence as to causation of the scratches from the cutting of the tree. A forester might be an expert in the avoidance of scratches while cutting a tree not in the theoretical interpretation of them.

Common sense dictates the real possibility of being scratched during such an operation.

Even when Jules Thomas had been turned against Bailey while she was in detention on 10 February 1997 she did not retract from her previous explanation as to him being scratched as a result of cutting the tree.

Bailey cut the tree on Sunday 22 December 1996.

On the same date prior to cutting it he asserts that he had killed turkeys and became slightly marked in the process. His memo at 9.45 a.m. on 10 February 1997 specifically refers. He is supported by Jules Thomas and her daughters directly in the matter.

The scratches on Sophie Toscan du Plantier are listed by Prof. Harbison.

At p.91 of Liam Hogan's first report the briars which the Gardaí allege scratched Sophie and her murderer show razor like thorns. The photographs are referred to.



Dr. Louise Barnes, a dermatologist (skin specialist) closely observed Bailey some five days after the murder. She states "at no time, did he strike me as being suspicious. As a keen observer of people's appearance due to my profession I certainly did not notice any marks or injuries to his face or hands."

Denis O'Callaghan saw Bailey on 24 December 1996 (the day after the murder) and he noticed multiple light scratches on Bailey's arms.

Such light scratches are not consistent with cuts by razor like thorns.

Richard Tisdall in his statement 190B recalls seeing scratch marks on one of Bailey's hands on Sunday night 22 December 1996 (prior to the murder but after the cutting of the tree and the killing of the turkeys).

Ronan Collins and Dylan Fairbairn on 24 December 1996 were in Bailey's house and neither noted the scratches on Bailey. (After the murder).

Con O'Sullivan a butcher who alleges he met Bailey on 23 December 1996 does not refer to seeing any scratches on him.

From the evidence available it seems clear that the scratches caused to Bailey by cutting the tree and killing the turkeys were not of a very grave nature and it is not therefore surprising that certain patrons in a pub on the night of 22 December 1996 did not observe them.

While in custody Jules Thomas stated that:

*"Sunday morning around midday that Sunday 22nd December 1996 I met Mark Murphy's van as I drove towards Schull and I saw Ian Bailey in front of the van and presumed that Mark was bringing him home to my place. I returned home from Schull and I spoke to Ian at home. He had shorts on him and he was going killing the turkeys for Christmas and me and the girls were stringing up the turkeys. Ian and Saffi went down to cut the top off a Christmas tree for the Christmas. Following the cutting of the tree his forearms were scratched".*

Virginia Oliver (Thomas) in her statement of 2 January 1997 states that "in relation to the scratches on Ian's hand last week I can verify that Ian killed and plucked three turkeys on the Sunday before Christmas. Ian also climbed to the top of a tree to cut the top off to use as a Christmas tree. I did see his hands scratched when he came down the tree."

Saffron Thomas was interviewed on 10 February 1997 and she stated that "I can verify as I was a witness to him receiving cuts and scratches to his hands, arms and legs from more specifically the cutting down of the tree." "We had to kill three turkeys and in doing so Ian was cut by the turkey wings flapping when their heads were cut off."

In the questionnaire dated 14 January 1997 Bailey says that he killed and plucked the turkeys on Sunday 22 December 1996 and then cut the tree and scratched his hands while doing so. He has remained absolutely consistent with this explanation.

On Sunday 22 December 1996 Bailey was seen by a local farmer, Liam O'Driscoll, "pulling a Christmas tree. He was accompanied by one of Jules' daughters at the time."

There is no doubt but that Bailey cut the tree on Sunday 22 December 1996 and in fact dragged it home.

Statement 81A made by Denis O'Callaghan on 4 February 1997 refers to "multiple light scratches". He says that he saw them on Bailey's left hand. In his previous statement he said they seemed like briar scratches, however in view of the description of the thorns attached to the briars in the locality where Sophie was killed, light scratching would not be consistent with cuts from such thorns.

On 27 December 1996 Gda. Bart O'Leary alleges that he noticed that the back of both of Bailey's hands were cut. Both were totally covered in what he thought were briar marks.

On 28 December 1996 Gda. O'Leary asked Bailey how he cut his hands and Bailey explained while cutting the top off a tree to make a Christmas tree. Bailey then took off his jacket and Gda. O'Leary noticed that the scratches were on the backs of both hands and up as far as both his elbows. Bailey's willingness to assist the Gardaí is indicative of innocence. He made no attempt to conceal the scratch marks.

As distinct from his observation the previous day Gda. O'Leary says that they were not cuts only scratches and they were healing up.

This evidence is of benefit to Bailey. It is suggested by the Gardaí that Bailey murdered Sophie Toscan du Plantier and was wearing clothing including a heavy black coat. Marie Farrell's statement refers.

If he had killed Sophie Toscan du Plantier while wearing this coat his arms and elbows would have been protected from the briars by the coat and other clothes. (Although the more recent report from D/Inspector Hogan speculates that he might have been naked when he killed her, no evidence to support this view is submitted (Report of March 2001, p.60)).

Bailey's long black coat does not seem to have disappeared. On 31 December 1996 Gda. Kevin Kelleher noticed Bailey wearing a long black coat and carrying a bottle of wine.

At page 19 of Dr. Geraldine O'Donnell's statement she refers to Bailey's clothing which included one black/dark navy overcoat (P.J. 24) and states that she found no damage on the clothing of Ian Bailey.

If Bailey had been the murderer one would have expected to find some damage done to his coat by the sharp thorns.

Gda. Kelleher says that he noticed Bailey's left hand and could see scratches on the wrist. He described the scratches as being light and extending all along his left wrist. His observation was made at the same time as that of O'Leary who later stated that Bailey's hands were cut.

The evidence of D/Gda. John Culligan and D/Gda. Denis Harrington demonstrate more discrepancies in the Garda evidence.

On 31 December 1996 D/Gda. Denis Harrington noticed that Ian Bailey had a lot of scratches on the back of both hands.

A few days before most of the scratches were meant to have been on the left hand.

Bailey asserts that some of the marks on him were obtained as a result of killing the turkeys on Sunday 22 December 1996.

Con O'Sullivan's evidence in relation to the date the turkeys were killed cannot be relied on as his statement was taken some five months after the event. The balance of evidence overwhelmingly demonstrates that the turkeys were killed on Sunday 22 December 1996.

Statements which the Gardaí decided not to submit to this Office but which were obtained as a result of our requesting sight of all statements taken during the course of the investigation show that two plucked and beheaded turkeys were lying on tea towels on the bathroom floor of the Thomas house in the early hours of Tuesday 24 December 1996. (The day after the murder).

Ronan Collins and Dylan Fairbairn refer.

It is not contended that the Thomas family and Ian Bailey had more than three turkeys.

The evidence of Collins and Fairbairn is consistent with the evidence of Bailey, Jules Thomas and her daughters to the effect that Bailey killed and plucked turkeys on 22 December 1996 (before the murder of Sophie) on the basis that it is clear that Bailey was otherwise occupied on 23 December 1996 being the date upon which Sophie's body was found.

It is interesting to note that the Gardaí did not ask Bailey to show the scratches to a medical or any other expert witness in order to obtain an opinion as to causation.

This request was not made despite the fact that Bailey though under suspicion at the time was prepared to co-operate with the Gardaí. (Statement of Gda. Bart O'Leary refers - re: scratches and Bailey's willingness to show them to persons in authority).

The evidence of Denis O'Callaghan and Billy O'Regan relating to 24 December 1996 suggests that Bailey had difficulty cutting wood with his saw on an earlier date. This is consistent with his assertion that he cut the top off a tree on 22 December 1996 and scratched himself in the process.

It is interesting to note that persons who dealt with Bailey on the days after the murder was committed, such as Conn O'Sullivan, Eddie Cassidy and so forth do not mention noticing scratch marks on Bailey's hands.

Brian Jackson in a statement taken on 13 January 1997 (159) says that Bailey came to his home some day between 23 and 28 December 1996. He makes no mention of observing scratches on Bailey.

Mike Browne a photographer was with Bailey for a substantial period on 23 December 1996.

He describes the clothing Bailey was wearing. He makes no mention of seeing the scratches on Bailey.

Bailey's explanation for the scratches is plausible, consistent and is supported by other direct and credible evidence.

#### **11. Bailey's alleged incriminating knowledge of the murder.**

The news that a French national had been killed was broadcast on the 2 p.m. local news.

Despite knowing that it had been mentioned, Bailey did not claim to have heard it when he was later detained and interrogated by the Gardaí.

This is indicative of honesty on his part.

Bailey has consistently maintained that Eddie Cassidy told him on 23 December 1996 that a French National had been murdered and asked him to investigate the matter. The phone call was made at 1.40p.m. on that date.

Eddie Cassidy states in his statement (99A) taken on 12 February 1997 "I can remember the 23rd of December 1996, the day the murder was discovered in Dunmanus West, Toormore, Co. Cork. Sometime around 12.20 p.m. I contacted Bantry Garda Station to speak with Superintendent J. P. Twomey about there being an incident in Schull which I had heard through a reliable source of mine. I had been told that there had been a serious or suspicious incident."

This Office asked the Gardaí "who is the reliable source who informed Eddie Cassidy about the incident which contact led Cassidy to phone Bantry Garda Station at 11.53 a.m. on the 23rd of December 1996 seeking Superintendent Twomey?".

The answer given by D/Sgt. Hogan is that Eddie Cassidy will not disclose his source. The telephone records at appendix O, volume 6 of the Garda file show Cassidy's call seeking Superintendent Twomey to have been made at 11.53 a.m. on 23 December 1996.

This means that Cassidy's source had informed him of the murder prior to 11.53 a.m. on 23 December 1996.

The Gardaí did not arrive at the scene of the murder until 10.38 a.m. on 23 December 1996.

Therefore, Cassidy's source had informed him about the incident within a short time of the Gardaí hearing of the murder.

In statement (99A) Cassidy is incorrect in relation to placing the time of the initial call at 12.20 p.m.

In the memo of interview conducted on 8 January 1997 (99) Cassidy states that the call he recollected making at 12.20 p.m. was about another matter. This contradicts his assertion in statement (99A) that the call was about the murder.

Superintendent Twomey was not available in Bantry Station so Cassidy phoned him at Schull Garda Station.

Telephone records indicate that this phone call commenced at 13.25 and went on for four minutes and nineteen seconds.

Superintendent Twomey had left the scene of the murder at 12.50 p.m. on 23 December 1996 knowing that the deceased was a French National, one Sophie Toscan Du Plantier.

Therefore during this four minute and nineteen second phone call with Eddie Cassidy, Superintendent Twomey had full knowledge of the identity of Sophie Toscan Du Plantier, the location where she was murdered, her Nationality and so forth.

Superintendent Twomey does not refer to this telephone conversation in his statement dated 25 March 1997. He mentions it in a statement made in May some five months after the call. After such a lengthy period it is unlikely that he could recall the detail of the phone conversation with precision.

I can see no reason why Superintendent Twomey would not have told Cassidy that the deceased was French and that she had been murdered.

Around that time it would appear that her nationality was common knowledge.

Prior to 2 p.m. on 23 December 1996 Cathy Farrell states that she had been told by one Anne Mooney that the deceased was French.

On the basis of this information Cathy Farrell broadcast on the 2 p.m news bulletin the fact that the woman murdered was French.

Deirdre O'Reilly of 96 FM states that she was told between 2 p.m. and 2.15 p.m. on 23 December 1996 that the body was that of a French woman and she contacted Bandon Garda Station and this information was confirmed over the phone by the Gardaí there.

On the 3 p.m. news bulletin she repeated the information that the woman murdered was French.

Between 10 a.m. and 1 p.m. on 23 December 1996 several people were aware of the murder. These include Gardaí, a priest, a doctor, neighbours of the deceased and of

course Eddie Cassidy who had been informed of the incident by his secret source prior to 11.53 a.m. on that date.

It is probable that many of these people told family, relations and friends.

In a rural area the local grapevine can operate most efficiently. At 10.00 a.m. Alfie Lyons who knew Sophie, suspected that it was she who had been killed.

It is difficult to accept that Superintendent Twomey did not disclose the nationality of the deceased to Eddie Cassidy.

During the course of that phone call he gave Cassidy directions on how to get to the scene.

Cassidy does not state that in memo 99. He makes no mention of the detail of the conversation he had with Superintendent Twomey therein. Instead he says that he had earlier phoned Dermot Sheehan, Auctioneer, Goleen who was able to tell him where the scene was and he related this to Bailey.

This is incorrect.

His conversation with Bailey was at 13.40 on 23 December 1996.

Telephone records indicate that his conversation with Sheehan was at 14.21 on 23 December 1996. Sheehan states that Cassidy gave him specific directions and may have told him that the deceased was French. Sheehan's statement is headed as a "Further Statement", however, the Gardaí claim that he did not make a prior statement.

It is abundantly clear that Cassidy must have been given the directions to the scene by Superintendent Twomey.

In statement 99A Eddie Cassidy changes his evidence again. He says that "I was referred to Schull Garda Station where Superintendent Twomey was. I spoke briefly to him there and he confirmed that a female body had been found, initially he said the location was around Toormore. He gave me no further details and I was not aware that the body was that of a French National or a young or old person. I rang the Superintendent back after about fifteen minutes and he told me that the woman was in her late twenties, he did not give me specific details of where to go but he told me that if I passed the Altar Restaurant and over the humpback bridge and turned right before Sylvia O'Connell's and said that you probably would not be able to get a photograph because the road was closed off."

Cassidy then changes the sequence of events in that he goes on to say that he first rang Father Denis Cashman and then rang Dermot Sheehan, auctioneer, Goleen. This would have been after speaking to Superintendent Twomey twice. It contradicts his first memo of interview.

Cassidy then states that at 12.50 p.m. approximately he contacted Tom McSweeney of RTE but McSweeney was already working on the story.

In fact telephone records show that Cassidy phoned Tom McSweeney at 13.32. He phoned again at 13.33 and spoke to him for three minutes and nine seconds.

He then states he phoned Ian Bailey and told him that a female body had been found in the Toormore area.

He asked Bailey to go to the scene and gave him directions there.

Cassidy maintains that he did not know that the deceased was French.

In statement 384 made by Cathy Farrell which was not included in the Garda file originally sent to this Office, she states "I was putting a script together for our 2. p.m. bulletin when I received a call from Anne Mooney another local journalist. She asked me had I heard about the murder which I confirmed. She then added that the victim was a French woman. I then read that information on our 2 p.m. news bulletin. After 2 p.m. I spoke to Deirdre O'Reilly of 103 FM, Bandon, West Cork and she put together a more detailed report for our 3 p.m. bulletin."

Telephone records show that Cassidy phoned Anne Mooney at 13.49 hours. (35 seconds)

Cassidy phoned Anne Mooney again at 13.50 hours. (32 seconds)

Cassidy for the third time phoned Anne Mooney on 23 December 1996 at 13.51 hours and the call lasted one minute and thirty-six seconds.

This is the same Anne Mooney who is alleged by Cathy Farrell to have told her prior to the 2 p.m. news bulletin that the deceased was French.

In a later statement Cassidy claims that he did not know the nationality of the deceased until 4 p.m. This claim is unbelievable, not alone in view of the above but as will be demonstrated later in this analysis.

The Gardaí did not consider it appropriate to take a statement from Anne Mooney, however, this Office requested them to do so.

The statement was taken one year after the murder. Anne Mooney's recollection in relation to what she specifically knew and said at the time is unreliable in view of the long delay.

Cathy Farrell's statement was made on 3 April 1997 some three months after the event. Her recollection is factually corroborated by the fact that she broadcast the information that the deceased was French on the 2 p.m. news bulletin

Accordingly, some person told her that the deceased was French prior to 2 p.m.

Cathy Farrell recalls this person as Anne Mooney.

Anne Mooney in her statement taken a year after the event confirms that she contacted 96 FM to see if they knew anything about the incident and she was told that they already had it and were running it on the bulletins.

Anne Mooney says that she remembers Eddie Cassidy contacting her around 2 p.m. and he asked her if she had heard that a body was found near Schull, that it was a woman's body and he thought it was non-national and that it was found in suspicious circumstances and she thinks that was about all he said to her.

In her statement dated 3 April 1997, Cathy Farrell states that on 23 December 1996 "I was putting a script together for our 2.00 p.m. bulletin when I received a call from Anne Mooney another local journalist, she asked me if I had heard about the murder, which I confirmed. She then added that the victim was a French woman. I then read that information on our 2.00 p.m. news bulletin".

This is very important evidence in that the Gardaí assert that the nationality of the deceased was not published until much later that day.

Accordingly it is astounding that the Gardaí did not in their original report disclose Cathy Farrell's statement to this Office.

Eddie Cassidy denies speaking to Anne Mooney on 23 December 1996 despite telephone records to the contrary.

On 8 October 1997 it was directed that the Gardaí furnish this Office with a copy of all statements taken during the course of the Garda investigation.

The Gardaí knew from telephone records that Eddie Cassidy had phoned Anne Mooney prior to 2.00 p.m. on 23 December 1996, the last call at 13.51 hours had a duration of one minute and thirty-six seconds. Nonetheless, they did not take a statement from Anne Mooney until directed by this Office to do so.

They must have anticipated that Anne Mooney would confirm Cathy Farrell's recollection and this would have undermined Eddie Cassidy's assertion that he had no idea that the deceased was French until 4.00 p.m. that day.

As a result of direction dated 8 October 1997, the Gardaí knew that this Office would become aware of Anne Mooney, and they took a statement from Eddie Cassidy on 19 October 1997 in which he states that he dialled Anne Mooney's number three times without getting a reply on 23 December 1996.

The telephone records and Anne Mooney's recollection clearly contradict Eddie Cassidy. It seems clear that he spoke to Anne Mooney at the relevant time.

The statement of Dick Cross was taken one year after the murder by the Gardaí. It was taken at the specific request of this Office.

Telephone records indicate that Eddie Cassidy phoned Cross at 13.38 on 23 December 1996.



Within two minutes Cassidy phoned Bailey at 13.40 and spoke to him for two minutes and thirty three seconds. Bailey asserts that during this conversation Cassidy told him about the murder, the nationality of the deceased, gave him directions to the scene and asked him to go there.

Cross then says Bailey phoned him after the call from Cassidy.

Bailey told Cross that there had been a murder at Toormore.

Cross says that on the basis of local information given to him by Eddie Cassidy he had drafted rough details on how to reach the scene.

He says that he over shot the junction on the narrow road leading to the Du Plantier house and a man driving a tractor pointed it out to him.

Taking into account the fact that Cross's conversation was with Cassidy prior to Cassidy speaking to Bailey, it would seem that Cassidy had accurate information as to the location of the murder when speaking to Cross at 13.38 and then to Bailey at 13.40. If Cassidy's evidence in statement 99A and 99D is accepted the source of this information was Superintendent Twomey, who, however, disputes this.

Michael McSweeney in his statement dated 18 February 1997 says that Pdraig Beirne phoned him at 2 p.m. approximately on 23 December 1996 and advised him to go to West Cork in relation to the incident.

At 2.10 p.m. Pdraig Beirne phoned Michael McSweeney back to say that he had been contacted by Ian Bailey who claimed he had photographs of the scene.

At around 2.15 to 2.20 p.m. Bailey phoned Michael McSweeney stating that he had taken photographs of the scene. At statement 74(A) McSweeney states that Bailey was vague about the content of the photos and then went on to say that his girlfriend had taken them.

No reference to Bailey having a picture of the deceased is to be found in any of McSweeney's three statements. McSweeney is the witness who D/Sgt. Hogan described as not being co-operative. However, his statements appear objective, balanced and fair.

Bailey's flurry of activity in relation to dealing with the murder on a journalistic basis only commenced after he had spoken to Eddie Cassidy at 13.40 hours.

Eddie Cassidy in his statement taken on 22 April 1997 (99C) refers to original notes that he had taken before he went to the scene on 23 December 1996.

On the right hand side of the notes he says the information is from Diarmuid Sheehan Auctioneer.

He says that the notes about the Altar Restaurant were those he got from Supt. J.P. Twomey. These may relate to his phone conversation with Twomey at 13.25 hours on 23 December 1996.

He says that the name of the deceased which is written on the top of the notes was given to him by Supt. Twomey at 10.10 p.m. on the night of 23 December 1996.

In an undated statement (99D) Cassidy states that the sequence of events previously outlined is not accurate with regard to time.

He then refers to the telephone records.

He then makes another mistake.

He states that it was 13.20 when he contacted Bantry Garda Station to speak with Supt. J.P. Twomey about the incident in Schull which he had heard about through a reliable source.

In fact the telephone records indicate that the time he made this call was 11.53 a.m.

Cassidy then refers to his phone conversation with Supt. Twomey at 13.25 hrs. At this time Supt. Twomey knew the precise location of the murder, the nationality and identity of the deceased having returned to Schull Garda Station from the scene.

Cassidy says that Supt. Twomey told him that the location was around Toormore and gave him no further details other than confirming the body was that of a female.

In this rectifying statement Cassidy states that:

*"after about fifteen minutes the Superintendent phoned me back and told me the woman was in her late twenties and gave me general directions of where to go saying that if I passed the Altar Restaurant and over the humpbacked bridge and right before Sylvia O'Connell's I would find the place but that I would not be able to get a picture as the road was closed off. At 13.40 I contacted Ian Bailey".*

Supt. Twomey denies making this call.

If there was no such call then Cassidy's unreliability is further demonstrated.

Cassidy further states:

*"I then rang Schull Garda Station for Supt. Twomey to get the exact location but he was not there so I rang Bantry Garda Station and spoke to him for eight minutes and told him what time I would arrive at the scene and he gave precise directions there. That call was at 14.52. I did not know that the deceased woman was a French national until I arrived at the scene when I was told by Supt. Twomey. That was approximately 4 p.m. on the 23<sup>rd</sup> December 1996."*

This is an incredible assertion by Cassidy in view of the fact that at 2 p.m. on 23 December 1996 it had been broadcast on the public airwaves that the deceased was a French national.

In the statement of 19 October 1997 this phone call at 14.52 hours on 23 December 1996 is referred to for the first time.

It defies belief that Twomey kept from Cassidy the nationality of the deceased. It was a matter of Public Record at that time.

On 23 December 1996 Supt. Twomey met Eddie Cassidy at the scene some time after 3.00 p.m. Other journalists were there but Supt. Twomey did not discuss matters with them. He remained with Cassidy.

An objective assessment of Supt. Twomey's known communications with Eddie Cassidy on 23 December 1996 suggests privileged treatment being given to the journalist.

Cassidy's reliability as a witness is diminished still further by his statement made on 20 December 1997.

In it he asserts that:

*"it is brought to my notice that I said in a previous undated statement made in late June or early July 1997 that Supt. Twomey rang me back about fifteen minutes after this phone call at 13.25 hours. I now realise that this is not correct. One of the reasons being, my telephone was continuously engaged from about 13.30 to 14.00 hours. I do not have a call waiting service on my phone 023 34479".*

Cassidy further states "I am now satisfied that the next time I spoke to Supt. Twomey was at 14.52 hours at Bantry Garda Station when I advised him that I was bringing a photographer to the scene".

Telephone records indicate that this conversation lasted for eight minutes and forty-one seconds. It is not understood why Cassidy felt obliged to tell Supt. Twomey that he was bringing a photographer to the scene and it certainly would not take eight minutes and forty-one seconds to convey that information.

This Office requested the Gardaí to obtain a detailed statement from Supt. Twomey outlining all forms of communication he had with Cassidy on 23 December 1996.

In a statement made on 11 December 1997 Twomey states that "the first communication I had with him "Cassidy" on the 23rd December 1996 was when he rang me at Schull Garda Station at 13.25 and I have referred to this in my statement of the 16th May 1997".

"It has been brought to my notice that Mr. Cassidy rang Bantry Garda Station at 14.52 and spoke to me for eight minutes. I have no record of this call and cannot recall the conversation at this stage".

(Telephone records prove that the call was made.)

"As stated in my statement of 25 July 1997 I returned later that evening to the scene and Eddie Cassidy and other journalists were near the scene including the suspect Ian Bailey. It was getting dark at this stage and they left after a short period as they were not allowed to the scene".

Supt. Twomey does not refer to a phone conversation he had with Cassidy at 10.00 p.m. on 23 December 1996. Twomey has denied making one call, has no recollection of another and does not mention the 10 p.m. call.

The most favourable assessment that one can apply to Eddie Cassidy is that he would be wholly unreliable as a witness.

Padraig Beirne's statement is made five months after the murder.

He states that Bailey phoned him at about 1.55 p.m. and offered him a picture of the deceased.

Beirne says that he told Bailey that Michael McSweeney would collect the picture of the dead woman.

Beirne says that Bailey also offered him pictures of the scene where the body was found but he was not interested in them.

Beirne says that he gave Bailey, Michael McSweeney's mobile phone number.

We know from Michael McSweeney's statement that Bailey phoned McSweeney.

However, Michael McSweeney makes no mention of Bailey stating that he had a photograph of the deceased.

Beirne says that he contacted Michael McSweeney and advised him of the conversation -agreement with Bailey.

Michael McSweeney in his statement makes no mention of being told by Beirne that Bailey had a photograph of the deceased taken prior to her death which was to be picked up by him.

Padraig Beirne's statement is strange. With regard to the alleged pre-death photograph of Sophie, he is not supported in his recollection by Michael McSweeney, Dick Cross, Bailey or indeed anyone else.

If Bailey had stated that he had a pre-death photograph of Sophie Toscan Du Plantier it is not credible that McSweeney would have forgotten such an important item from a media perspective.

Michael McSweeney's statement is taken less than two months after the murder. His recollection appears more logical and reliable than that of Beirne whose statement was taken five months after the murder.

On balance it appears probable that the photograph never existed.

It is clear from the file that Bailey had been trying to establish a journalistic career in this country.

Jules Thomas has stated that Bailey having been informed of the murder by Eddie Cassidy believed that this was an opportunity to further his career. This assertion is self evident. He was a journalist living in the locality.

This provides an explanation for his eagerness to become very involved in the reporting of the situation from the time he heard about the murder from Eddie Cassidy.

At the time that he was speaking to Padraig Beirne and Michael McSweeney (around 2.00 p.m.) he knew that he would be in a position to take photographs of the scene within minutes.

In fact he and Jules took photographs about 20 minutes after the above calls. They were at the scene at about 2.20 p.m.

It is clear from the evidence on file that Bailey was at home at 9.00 a.m. on 23 December 1996.

The body of Sophie Toscan Du Plantier was found by Alfie Lyons at 10.10 a.m. on 23 December 1996.

The Gardaí were at the scene of the murder at 10.38 a.m. on 23 December 1996. On 23 December 1996 it would have been dark until after 8.00 a.m. According to information in the IPA Diary sunrise on 23 December in Dublin is at 8.39a.m., and it would be somewhat later in Schull.

The Gardaí state that it is reasonable to suggest that the photographs referred to by Bailey were taken prior to the telephone call from Eddie Cassidy at 13.40 on 23 December 1996.

In essence this means that such photographs would have had to be taken by Bailey between 8.00 a.m. and 9.00 a.m. on 23 December 1996.

Therefore the Gardaí place Bailey around 3.00 a.m. or 4.00 a.m. on 23 December 1996 at Kealfadda Bridge washing blood off his clothes, he later sneaks back to the house and there gets a camera, goes back to the scene of the murder, waits until it is bright and then takes photographs of the scene, he then goes home has breakfast with Jules Thomas at 9.00 a.m. and then does nothing until he receives an unexpected phone call from Eddie Cassidy at 13.40 asking him to go to the scene.

This sequence of events is unlikely to say the least. Bailey and Jules Thomas were not observed at the scene until after 2 p.m. on 23 December 1996.

If Bailey was the murderer, it would be an extraordinary act for him to photograph the body before its discovery and then attempt to sell the photograph to a newspaper.

Caroline Leftwick's statement was taken nearly five months after the murder. One wonders how she could recall precise times after such a lapse of time. In any event the times she mentions do not make sense.

Leftwick states that between 11.30 a.m. and 12.30 p.m. on 23 December 1996 Ian rang her and told her that there had been a murder at Toormore. He was excited.

She states that he said it was a French woman and he was going to cover the story.

He then said that he would not be coming over to collect the garlic.

D/Gda. W.H. Leahy took the statement.

This statement is remarkable in that Bailey is alleged to have been aware of the murder before 12.30 p.m., was excited about its investigation and yet did nothing whatsoever to further its coverage until he received an unexpected phone call from Eddie Cassidy at 13.40 hours asking him to go to the scene in Toormore.

It is far more likely that Bailey made the call to Caroline Leftwick after he had received the call from Eddie Cassidy at 13.40 hours. The Gardaí were at the scene at 10.38 a.m. and Bailey was not seen there until about 2.20 p.m.

Richard Leftwick made a statement on 15 May 1997 in which he states that the phone call was received from Bailey between 12.00 noon and 2.00 p.m. His later statement made on 10 December 1998 cannot be considered more reliable than his previous statement dealing with the same issue.

Phoning the Leftwicks simply to tell them that he could not collect garlic as previously arranged was a mundane and courteous act on the part of Bailey.

Richard Leftwicks original statement is consistent with Bailey receiving the call from Eddie Cassidy at 13.40 hours and then phoning the Leftwicks to tell them that he could not collect the garlic.

If Bailey had murdered Sophie Toscan Du Plantier earlier that day such a telephone call is hard to comprehend. One would have expected his mind to be on other things, such as listening to the radio to see if the murder of the woman was reported, establishing an alibi and so on. His behaviour is indicative of innocence.

Paul O'Colmain's statement taken on 1 September 1999 recalling the time of an alleged conversation with Bailey on 23 December 1996, some 32 months previously, cannot be attributed any weight. As indicated previously he is a witness who appears to be anxious to please the Gardaí.

In letter dated 19 June 1998 Malachy Boohig, State Solicitor refers to the Leftwick's reference to garlic as being erroneous and that in fact cannabis was to be collected by Bailey on the date in question. Mr Boohig had previously told this Office that he had been given this information by the Gardaí.

## **12. Knowledge of injuries to body of deceased.**

Dr. L. O'Connor arrived at the scene of the murder at approximately 11.00 a.m. on 23 December 1996.

He observed Sophie's body there.

At page three of his statement (63) he states "her left hand was clinched and she appeared to have a laceration between her first and second fingers".

Several other persons saw the body that morning. These included Gardaí, a priest and neighbours.

This particular wound would have been as apparent to them as to the doctor.

A substantial amount of gossip occurred on the day itself about the murder as to how Sophie was killed and in the days and weeks thereafter there was national media speculation in relation to it, her injuries, the murder weapons etc.

Incriminating weight cannot be attached to Bailey mentioning to Deirdre O'Reilly two weeks after the murder that Sophie had sustained a serious finger injury. See statement of Ian Vickery in that context.

### **13. Other aspects of Garda Investigation.**

Page 7 of the transcript of a tape recording made by D/Gda. Fitzgerald and D/Gda. Coughlan in order to discredit Martin Graham reads as follows:

Fitzgerald says to Graham (Appendix R, bottom of page 7) "this could be a very important conversation Martin, there could be revelations here that could save another life and that is all we are interested in and do you know that people are scared around here, especially women that he has assaulted in the past including his own wife you know and all we are trying to do is get the truth and save a life. When things die down, things will revert back to the old ways, drink, joints, the moon and everything you know, what is going to happen again, because there will be more reactions. Do you study the moon?"

Graham as stated previously is an Englishman in poor circumstances living in this country and engaged in the abuse of illegal drugs.

If Gardaí were prepared to discuss the case in such terms in a recorded conversation it is a fair inference that such comments were characteristic of the approach of at least some of the Gardaí. Such comments seem to have been intended to elicit a particular response from witnesses who are in effect exhorted to take a particular line in order to avoid further loss of life.

The evidence of James Camier and his wife is highly suspect.

Their statements were taken some two years after the murder.

On 1 October 1998 Garda Kevin Kelleher having been contacted by this Office stated that Geraldine Camier had informed him that she could not recall her husband having a conversation with Jules Thomas on the morning of 23 December 1996.

However, on 7 January 1999 a copy statement from Geraldine Camier was received in this Office wherein she states she can now recall Jules Thomas telling her husband about the murder and she thinks the conversation took place on Monday 23 December 1996.

This statement is in direct contradiction to the information that she had previously conveyed to Garda Kelleher but is in support of evidential arguments advanced by the Gardaí.

On 11 January 1999 at the request of this Office Garda Kelleher made a statement in which he confirms that Geraldine Camier could not recollect the events recorded in the statement made by her husband.

James Camier in his first statement taken on 21 September 1998 states that between 11 am and 11:30 am on 23 December 1996 (date of the murder) Jules Thomas told him that a French woman had been murdered in the locality. He states that he was shocked by the news.

On 1 October 1998 Garda Kelleher told this Office that James Camier did not mention the alleged conversation with Jules Thomas to any other person that morning.

It was indicated that such reticence was bizarre, particularly as Camier was working with his wife at the vegetable stall and serving the public, many of whom he must have known.

Garda Kelleher agreed that the behaviour was at the very least strange.

Subsequently, on 17 October 1998 James Camier made a further statement in which he states that when his stall became quiet on 23 December 1996 he discussed the murder with his wife.

This contradicts the information which he had previously given to Garda Kelleher.

The most charitable interpretation that one can attribute to the Camier evidence is that it is wholly unreliable.

It is also inadmissible against Bailey on the basis of the rule against hearsay evidence.

#### **14. Fire on the Thomas property.**

On 7 February 1997, Brian Jackson made a statement to D/Garda Jim Fitzgerald. In it he states that around Christmas time he noticed a fire in the Thomas property.



The statement of Louise Kennedy is taken on 17 April 1997 some four months after the event.

She says that she noticed the fire on 26 December 1996.

After a period of four months her recollection could easily be in error as to the date.

A fire in a country area is surely not unusual.

At page 5 of her statement, Bridget McLoughlin recollects that "in the course of my conversation with Eoin Bailey I asked him about the rumours that he had burned some clothes on the morning after the murder. He replied "I had to burn clothes because they were covered in turkey blood".

Bridget McLoughlin mentions the day after the murder.

Bailey in his reply does not.

On 10 February 1997 while Jules Thomas was in detention (10B Page 5) she was asked "what about the fire at the back of the studio?

She replied "it was going for about three days. I wanted to clean out that place and tidy it up. I burned newspapers and clothes I used in my painting. I burned the mattress as well it was old and worn.

A horse hair mattress could easily smoulder for three days.

At page two of a further interview conducted while she was in custody Jules Thomas was asked did you ever see blood on Ian's clothes?

She replied "no". Except when he killed the turkeys on the Sunday. He returned to the house about lunch time from Schull. He did some jobs around the place. When he killed the turkeys he was wearing shorts. There was blood on them. I put them soaking in a tub outside under the drain pipe. None of us like killing turkeys and Ian doesn't like doing it.

She mentions soaking shorts, she does not mention other clothes.

If the blood stains were not removed from the shorts as a result of the soaking it is possible that Bailey burned them or some other clothes in the fire.

Jules Thomas is alleged to have told D/Gda. Jim Fitzgerald that she started the fire long before Christmas.

Bailey during an interview referred to the fire being in early December.

The Gardaí that describe Bailey and Jules as lying in relation to the fire. This Office is not persuaded that is the case.

In any event the most that this evidence could possibly establish is that Bailey could have burnt bloodstained clothes, not that he did so.

**15. Alleged similar fact evidence and sexual motive.**

In memo of interview 10A at p.3 taken while Jules Thomas was in detention she was asked are you surprised Ian Bailey has been arrested for the murder of Sophie Toscan du Plantier.

She replied yes - can't believe it. I'm totally shocked. I am not the type to show my feelings outwardly. I feel really sick inside. Ian is not capable of murder.

She was asked, didn't Ian give you a bad beating?

She replied, but I never felt threatened by him. It only happens about once every four or five years.

She was asked, didn't Ian pull the hair from your head?

He did but I never felt afraid for my life. Ian isn't capable of murder. I felt much more afraid with Chris. (A former partner of her's). Chris kicked me with his hobnail boots. Ian was very remorseful for what he did. He was very sorry about it. He promised me he'd never do it again. He told other people also how remorseful he was. I believe him. He had drunk whiskey. Whiskey has a terrible effect on him. I cannot trust him when he drinks whiskey.

She was asked, didn't Ian promise you before that he wouldn't ever beat you again after the time in Cork?

She replied, I believed him this time.

She was asked isn't it true that blood had to be washed off the wall after he assaulted you in Cork?

She replied, that was his own blood, not mine.

She was asked did Ian ever bite you?

She replied he did.

She said that Ian is a different man when he drinks whiskey.

The principal assault on Jules Thomas did not require her to be detained in hospital. It related to a domestic incident and unfortunately such violence is not uncommon.

What is uncommon is the brutal form of murder of Sophie Toscan du Plantier whereby she suffered the infliction of approximately 50 wounds.

The killing of Sophie Toscan du Plantier is not similar to the domestic violence in relation to Jules Thomas and this is further emphasised by the further domestic incident set out in file 4643/1/2001.

As far as Colette Gallagher is concerned, she is a woman who spent a night in the Thomas/Bailey household. Bailey got into her bed and rubbed her leg. Jules Thomas then entered the room.

Bailey was annoyed.

Colette Gallagher protested her innocence.

No complaint was made to the Gardaí.

The Gardaí describe this incident as attempted rape. This description greatly overstates the case.

Carly Leftwick (Wright) has alleged that during the course of a party she went to the toilet and met Bailey in the corridor. He allegedly picked her up and said "wrap your legs around me".

She told him to put her down, which he did at once.

The Gardaí have described this as a sexual assault.

No complaint was ever made.

The evidence relating to this is consistent with the view that it was not a sexual assault, but was a flirtatious act on the part of Bailey. When his approach was not welcomed he immediately desisted therefrom.

One witness on file who lived with Bailey for a time says "Ian liked the ladies and the ladies liked Ian".

The Gardaí attribute a sexual motive to Bailey allegedly going to Sophie Toscan du Plantier's house in the early hours of the morning before she was murdered.

They say that he killed her because she rebuffed his sexual advance.

However, he does not appear to have been remotely upset by Carly Wright peremptorily dismissing his advance.

This is not consistent with the scenario envisaged by the Gardaí in relation to Sophie.

In fact there is no evidence of a sexual motive in this case. References in the Garda Report to a sexual motive are pure speculation.

At the time Sophie was murdered she was in her night clothes, but had her boots on which were laced and tied.

Ian Bailey is 6' 2" tall and powerfully built. Sophie was 5' 4" tall and petite.

There is no evidence of sexual interference with her.

Bailey is in his forties. Prior to his recent conviction this year he had no previous convictions for violent crime. The recent conviction relates to an incident which is trivial by comparison with the du Plantier murder.

Sarah Limbrick, Bailey's former wife who has known him since the 1970's has asserted that he never used violence towards her person. When angry he would strike the wall.

She appears to loathe him as a person having endured difficult divorce proceedings and a dispute over property with him.

## **16. General**

A prosecution against Bailey is not warranted by the evidence.