

## **THE BARRON INVESTIGATION**

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Richard Barron died in the early hours of the morning of Monday, the 14th of October, 1996. As a result of his death a murder investigation was launched. In explaining the Terms of Reference, Sir, you indicated that there were three main aspects to paragraph (b) of the Terms of Reference. This paragraph reads:

**Investigations in relation to the death of Mr. Richie Barron of Raphoe, Co. Donegal on the 14<sup>th</sup> October, 1996 with particular reference to the arrest and treatment of persons in custody in connection with that investigation, the progress, management and effectiveness of the Garda investigation with particular reference to the management of informants.**

The three aspects relate to the investigation itself, the arrest and treatment of persons in custody in the course of that investigation and the use of informers to apparently further Garda enquiries. In relation to the investigation, the explanation given by you, Sir, indicates:

**The Tribunal proposes to enquire into the investigations made by members of An Garda Síochána into the death of the late Mr. Barron. The Tribunal therefore will**

- (i) Enquire into and in so far as is possible, establish what were the basic facts in this regard;**
- (ii) Enquire into the steps taken by An Garda Síochána in carrying out the investigation;**
- (iii) Enquire into and establish the normal approved practices and procedures which are prescribed or followed when investigating crimes in the apparent circumstances in which Mr. Barron died;**
- (iv) Enquire into whether the normal approved practices and procedures which are prescribed or followed in such circumstances were carried out or followed in the course of the investigation into the death of Mr. Barron;**
- (v) Enquire into the adequacy of the Garda practices and/or procedures;**
- (vi) Enquire into the efforts made by An Garda Síochána to obtain expert evidence and the use made of such evidence by them in the course of the investigation;**
- (vii) Enquire generally into the progress, management and effectiveness of the entire investigation into the death of Mr. Richard Barron;**
- (viii) Enquire into the course of the investigation into the death of Mr. Barron and the decisions which may have been taken in the course of the progress and management of the investigation, and enquire as to whether the investigation was in any way influenced by any external or improper factor and whether there is any connection between any of these matters and any other matter referred to in the Terms of Reference.**

In relation to the linked issue of informants, the explanation of the Terms of Reference given was:

**The Tribunal will enquire into the management of informants and will**

- (i) Enquire into the basis upon which a person may be classified by the Garda Síochána as an informant and whether procedures and practices exist which apply to the classification and management of informants and whether these are adequate and appropriate and/or whether recommendations may be made for improvements in this regard;**
- (ii) Enquire as to whether the procedures and practices for the classification and management of informants were applied in this investigation adequately, appropriately or at all;**
- (iii) Enquire as to the procedure and practice (if any) by which the information gleaned from informants is marshalled, analysed, processed and/or verified by the Garda Síochána and if and how that was done in this investigation and whether recommendations may be made for improvements in this regard;**
- (iv) Enquire into whether there was a misuse and/or over-reliance upon informants arising either as a result of the actions of the informants themselves or those dealing with informants or in the handling of the information supplied by members of An Garda Síochána;**
- (v) Enquire into any aspect of this Term of Reference in so far as it may be connected to any other Term of Reference.**

**In this regard if it emerges in the course of establishing the facts in relation to the other Terms of Reference that informants were used by members of An Garda Síochána in the course of the events relevant to those Terms of Reference, the Tribunal will enquire into and consider in respect of all evidence which emerges before the Tribunal concerning informants, the adequacy and appropriateness of the procedures and practice in relation to the classification and management of informants and such information alleged to have been supplied by them in like manner to that set out above.**

In this section, we propose to review the materials available on the investigation and on the use of informers. In the next section but one, we propose to review the materials available in relation to the arrest and treatment of persons in custody arising from same. Since persons can only be arrested on the basis of a reasonable suspicion that an arrestable offence was committed, and that the person to be arrested committed it, we will focus on the justification for those arrests in the context of the next section merely mentioning in this section the relevant apparent facts as they occur. At the risk of some repetition it is perhaps also as well to include some outline in relation to those matters in this section.

One of the major sources of information in relation to the manner in which the Gardaí conducted their enquiries into the death of Mr. Barron is the report furnished by Superintendent Lennon to the Director of Public Prosecutions, to which reference has already been made. That report is critical, to a degree, of the manner in which the investigation proceeded. However, much more stinging criticisms are made by Superintendent Lennon in his report to the Superintendent's Office in Letterkenny dated the 2<sup>nd</sup> March, 1998. We now propose to quote those criticisms because they put in context what will follow, in terms of our remarks, as to the apparent defects that might be seen in relation to this entire matter. In this report Superintendent Lennon says:

**The initial report received at the Communications Centre was not immediately acted upon, in that an officer or sergeant was not informed of this suspicious death for a period of approximately seven hours. One of the sergeants on duty in the district on that night should have been informed of the circumstances of the death of Richard Barron. The scene was not preserved from the time of the first arrival of the Gardaí at 1.40 a.m. until 9.10 a.m. that morning despite an alert to the District Officer at 7.45 a.m. and the scene was not continually preserved until the termination of the examination of same. It has become apparent that Garda McDwyer discovered human tissue with hair attached on the roadside at the scene and actually lifted and examined of same before replacing it on the roadway, prior to leaving the scene unattended. This piece of vital evidence was not ever recovered by the investigating members for examination. The scene and surrounding areas were not properly preserved and searched for any weapon or other evidence associated with the suspicious death of the deceased until 11.00 p.m. on the 15.10.1996, two days afterwards. Despite the searches undertaken after the scene had been preserved for a second time on the 15.10.1996, a suspected murder weapon, (a stick) was located near the scene during a further search of same on the 6.12.1996. The body of the deceased was not preserved from the time of the arrival of the first Gardaí at the hospital at 2.00 a.m. until its removal to the morgue at 5.50 a.m. The body of the deceased was not preserved at the morgue from the time of its arrival from 5.50 a.m. on the 14.10.1996 until the actual autopsy was carried out at 3.30 p.m. on the 14.10.1996. It has become apparent to the investigation team that the autopsy was carried out...[where]...the pathologist was given to understand from the outset that the deceased's death was due to a hit and run traffic accident. We are in the unfortunate position at this moment in time, that we are unable to state with certainty the cause of Richard Barron's death. I feel that an application should have been made for the services of Dr. John Harbison (State Pathologist) from the outset. Consultation after the autopsy per telephone was insufficient in order that he reach a conclusion. The photographs of the body are incomplete and of little use to the investigation team. There are not any photographs of the deceased in a totally naked form, which would have been helpful in relation to his injuries. Back and frontal naked**

photographs should have been obtained. The deceased's watch was not taken possession of by the investigating members at Letterkenny Hospital. The deceased's money was not taken possession of at Letterkenny Hospital. The investigation proper did not take place until Wednesday, 16th October, 1996, a delay of over fifty six hours. The house to house questionnaires were not completed satisfactorily. From the records it is apparent that a total of forty three questionnaires were returned to the incident room, during the initial investigation. A large percentage of these were not completed in a satisfactory manner. It was necessary for the second investigation team to return to the majority of the persons questioned in the aforementioned forty three questionnaires and complete same. It was also necessary to complete questionnaires in respect of a further forty persons who had not been questioned initially, and who were in the immediate vicinity of the scene. It was discovered that houses within a hundred yards of the scene were not visited at all. It appears that there [was] not any co-ordination or overall responsibility taken in the initial investigation from the outset. There does not appear to have been any co-ordination within the incident room itself. The majority of statements taken were of very poor quality and relevant questions were not asked. This resulted in a large percentage of witnesses having to be re-visited and questioned a year later. Of the six hundred patrons who attended the disco on the relevant night, only one hundred and sixty were interviewed. There was extreme difficulty in acquiring statements of evidence of members involved in the investigation and despite several oral and written requests, statements were still unavailable until 1.3.1998. In fact the investigation team are still awaiting statements from members. Despite extensive inquiries the investigation team are unaware as to who actually contacted the DPP in relation to the statement of admission [allegedly] made by Frank McBrearty junior or if there was any contact made as is set down in procedure. The investigation team on this date are still unaware, despite requests made in this manner, as to whether the aforementioned statement of admission was made on a single sheet of paper or on two sheets. This is significant in that the investigation team are aware that the main body of this statement has not been assigned or initialled by Mr. McBrearty junior. In fact this all important statement is not in the possession of the investigation team and has not been viewed by them. It is clear that proper conference notes were not kept by the initial investigation team and that for some unapparent reason separate sheets of paper containing notes were attached to the original conference book with the aid of paper clips. The conference notes are lacking any detail and there are not any pre-arrest conference notes recorded. It appears that suspect elimination forms were not introduced at any stage by the initial investigation team, resulting in suspects still being in the system on the 29.9.1997 who could have been eliminated at a very early stage. Jobs in the jobs books were written off without being properly completed. Jobs of an urgent

nature were not completed and returned to the incident room. Records were not kept of members who took part in the various searches during this investigation, thus difficulties were encountered in locating the identity of such members. Records were not kept of members who performed duty at Letterkenny Hospital during the periods Frank McBrearty senior spent in hospital. Members of the bar staff of both Frankie's Niteclub and the Tudor Lounge were not interviewed. Statements entering the incident room were not proof-read, resulting in an enormous task at the latter part of the investigation. Statements entering the incident room were not evaluated in the initial investigation, resulting in a further 254 jobs being undertaken by the subsequent investigation team over a year after the incident. It is clear that there was an apparent lack of knowledge as to the contents of the statements. Two important statements taken by members were not forwarded to the incident room for over a period of a year. On one occasion two witnesses gave their version of events in the form of one joint statement, which was signed by both witnesses. I am of the belief that the majority of statements that were accepted in the incident room were not cross checked on their entry to the system, resulting in confusion. I am satisfied that in some occasions additions were inserted into member's statements. This is apparent as these additions are not present in the original member's statements. This may result in embarrassment in the event of a successful order of discovery being made by the suspected persons involved in this investigation. It would appear that the conferences initially held were too large and regular attendance of these conferences by members involved in the investigation was not ensured. The powers of arrest were not properly researched, resulting in possible High Court actions being undertaken at a later date by some of the persons arrested. The extraordinary delay in the application for a warrant under section 10 of the Criminal Justice Act, 1984 in respect of Mark McConnell, may result in a successful application to the High Court in the future. Upon acquiring this section 10 warrant there was an unaccountable delay of two weeks in its execution, which may result again in a successful High Court application for damages by Mark McConnell. I believe that certain members had important information in their possession which was not made available. It is apparent that members who interviewed suspects, while in custody did not make written notes of any kind for each period of interview. It appears that suspects while in custody were not questioned in sufficient detail to justify the reasons for their arrest. It is obvious that certain matters and items of evidence were not put to and shown to one of the main suspects in this investigation, namely, Frank McBrearty junior during his detention. The investigation team had in their possession at the time of his detention, a possible murder weapon (a bill hook) which was not shown to him and he was not questioned about [this] at all. Detailed background reports on suspects and the deceased were not prepared by the initial investigation team. Liaison with the

**Barron family was not undertaken in a satisfactory manner during the first year of the investigation. The introduction of the term Mr. X was unhelpful to the investigation. There was not any effort made to corroborate the several damning statements made by Noel McBride. Sightings of witnesses mentioned by Mr. McBride in his first statement were not cross checked by the incident room staff, which could have resulted in discrediting him at a very early stage. Had Mr. McBride's statement been properly evaluated and cross checked with existing statements already in the system, by the incident room staff, the progression of the investigation on one single line of inquiry could have been avoided. The delay in the evaluation of Noel McBride's 'bona fides' could have been avoided had items of tangible evidence, namely the bicycle (allegedly given to him by Frank McBrearty senior) been examined and it's origins investigated as soon as it came to the knowledge of the investigation team. Application was not made to trace the origin of the telephone call allegedly received by Noel McBride on the Sunday morning immediately after the incident, which he claimed had been made by Frank McBrearty senior. This could have resulted in discrediting Mr. McBride as a truthful witness at an early stage. It appears that the typing of statements was not coordinated in an efficient manner and that every word processing unit in the station was used without proper records being kept. This resulted in serious difficulties being experienced in the preparation of a master file of statements, with several having to be re-typed. A proposal for the future would be that one typist and at least one word processing unit be utilised for the typing of statements, resulting in easy retrieval of statements at a later date and uniformity in the finished product. The co-ordinator of the incident room was making enquiries, arresting and interrogating persons, etc. without paying due attention to the proper co-ordination of the incident room. Complaints made by solicitors during the investigation seemed to have been lost in the system and never recovered. Forwarded for your information. (Private and confidential report of the de-briefing conference at the termination of the investigation into the suspicious death of Richard Barron at Raphoe on the 14th October, 1996, signed by Kevin Lennon and addressed to the Chief Superintendent at Letterkenny).**

On the weekend of the 12th and 13th of October, 1996 the Barron family of Raphoe, County Donegal experienced first of all a very happy event followed by the tragedy with which paragraph (b) is centrally concerned. Richard Barron's daughter, Geraldine is married to Frankie McElwee of Strabane, County Tyrone. On Friday, the 11th of October, 1996 Geraldine Barron went into Altnegralvin Hospital in Derry as she was expecting her first child. On Saturday morning a baby boy was born. On Sunday, the 13th of October, Nora Barron, the wife of the deceased, called to the McElwee household and, together with her daughter's in-laws, they visited the maternity hospital. Mrs. Barron returned home that night. Richard Barron was probably planning to visit his new grandson on a later occasion, but on that Sunday, he went out drinking.

The McBrearty family were, and are, the proprietors of a public house and ballroom premises in Raphoe which was generally known as "The Parting Glass". This, apparently was a successful business attracting patrons from a wide catchment area to discotheques on weekend nights, including this particular Sunday night. Those entertainments took place in what was known as "Frankie's Nightclub". The business, through Frank McBrearty, Snr., sponsored a football team in which Frank McBrearty, Jnr., played. As it turned out, they had a match that afternoon which was unsuccessful from the point of view of the local team. Frank McBrearty, Jnr. who was playing for the side was taken off by the manager in the second half: this led to the exchange of excited views, and the expression of agitation, by both Frank McBrearty, Jnr. and Snr. Probably by the time the match had finished, and the players had returned home, Mr. Barron was in the process of leaving his house. We know that he left there at around 5.45 p.m. and was saluted by a neighbour as he walked from his house at the Commons, near Raphoe, into town. The Late Richard Barron had a lot to drink on that particular night. In the aftermath of his death, the deceased was found to have a blood alcohol level equal to 283 mg percent and a urinary alcohol level of 308 mg percent.

The movements of the Late Richard Barron can be traced with some exactitude from the time at which he left his house at around 5.45 p.m. It would seem to us, Sir, that it is not necessary to call every person who had contact with the deceased on that Sunday evening/Monday morning. As you have said, this is an inquiry into an investigation, but, of necessity, the treatment of the basic facts by the Gardaí in the course of that investigation are germane to this inquiry. The walk from Mr. Barron's house to the centre of Raphoe meant that he arrived there at approximately 6.30 p.m.

At around the same time as Mr. Barron was arriving in Raphoe another man, who, we understand, has since died, left his home at Massreagh, Kilmacrennan, County Donegal to go to a church service at Letter. Mr. Hugh Stewart arrived back home at 9.40 p.m. He then noticed that he had left his house key in the back door. On going in he remarked that the chainsaw which he always kept in the hallway was missing. He reported this to Garda George Healy at Kilmacrennan, believing that nothing else was missing. However, a day or two later he went to look for his slash hook, which was always kept beside the chainsaw, and could not find it. Strangely, this fact becomes of significance later on in the context of allegations made by Paul "Gazza" Gallagher.

The statements as regard to where the Late Mr. Barron was are confusing. No one was paying any particular attention to him because there was no reason why they should. In respect of two incidents, the attention of other drinkers, and of people around the town, was drawn to Mr. Barron. Even in this respect, there is no agreement as to the time. It would seem that Mr. Barron was first seen both inside the Central Hotel and around the Diamond up until around 9.00 p.m./9.30 p.m. when he left and walked to the Town and Country, a public house owned by the Quinns. Some people might have had the impression that he was in that pub on a continuous basis until around 11.30 p.m., but, it would seem, if recollections are correct, that he left the Town and Country for about

half an hour and then returned to it. While he was absent he seems to have visited the Tir Chonaill bar and to have cashed a cheque in the Diamond bar. It seems to us, Sir, that all of these are mere details with which you do not have to concern yourself beyond reading the appropriate papers. However, this narrative begins to focus on the Garda investigation by reason of what is alleged to have happened at some time after he returned to the Town and Country pub. Again, people cannot agree on the time of this incident, but it was probably around 11.00 p.m. Since what happened in the Town and Country/Quinn's is of importance, many statements were taken from people who witnessed what was later described as an altercation. Geoffrey Dolan, a patron of the bar, described the incident as follows:

**About twenty minutes or half an hour after I came in an argument and a bit of a scuffle broke out between Richie Barron and Mark McConnell. Mark appeared to be coming from the toilets. Before Mark went in [to] the toilets he spoke to Richard McBrearty. On the way out the argument and scuffle broke out. Richard McBrearty got Richie and held him back. Richie Barron was fairly thick and looked to be very warm. He was wearing a navy snorkel jacket. He was shouting abuse at Mark McConnell. I can't remember what was said. Mark said catch yourself on go home to your bed you auld man or something like that. Mark looked annoyed, but didn't look angry enough to fight. (Statement of 16/10/96).**

In the aftermath of this incident Mark McConnell spoke to Charlotte Peoples and, according to her, said "sure he was taunting me all night and sure its only drink". (Statement of 18/10/1996). Mark McConnell, when later arrested and questioned said:

**Between 10.30 p.m. and 11.00 p.m. I noticed Richie Barron staring at me. Richie was sitting at the corner of the counter and I was standing at the right hand side of the wee table inside the door. About five minutes later I went to the gents. As I was returning and as I passed Richie Barron he tugged at my top. I continued on back to the table. Richie Barron came towards me and said to me "you are a poor excuse for a McBrearty". Richie appeared to be taking off [his] coat as if to fight me. Mark Bogle held Richie back. I said to Richie "go on home you are an old man". Mark Quinn told me to go into the pool room...I went into the pool room and remained there for a while. When I came out to the bar Richie was gone. Around 1.00 a.m. I asked Mark Quinn for another pint and he refused me. My wife and I left Quinn's pub around 1.20 a.m. We walked over towards the Parting Glass. As we were passing by Súile Tavern we spoke to Stephen McCullagh and his wife. We walked up to Sarah's Cafe where I ordered a chicken curry for collection after the disco. I think it was Philomena who took my order. (Statement in Garda custody on 4/12/96).**

Roisín McConnell added only one detail to that account. It was that Richard Barron was annoyed and roared something like "let me at him". (Statement of

16/10/96). Derek Ayton adds that after Mark McConnell went to the pool room he heard Richard Barron apologising to Mark Quinn about some row. Martin Quigley adds that Mark Quinn had requested the deceased and Mark McConnell to "stop arguing". He later asked Mark McConnell what the argument was about and was informed that it was something that had happened years ago between the McBrearty family and the Barron family. Apparently, Mark Quinn may have stood between the two parties, and Mark Bogle may have held Richard Barron back. The account taking the most serious interpretation of this incident is that of Mark Bogle. In his statement dated the 16th of October, 1996 he said:

**At about 10.30 p.m. I got up to buy a drink for the company and I saw Richie Barron sitting at the counter along with Derek Ayton. I asked Richie and Derek did they want a drink and bought them one. I thought Richie was well on with drink at this stage. Richie shook my hand for buying him the drink. I noticed that Richie was well cleaned up that night. He was shaved, his hair was combed and his clothes were tidy...some time between 11.00 p.m. and 11.30 p.m. I was getting up to go to the bar again for a drink when I saw a skirmish getting up between Richie Barron and Mark McConnell. Richie shouted at Mark "I'll kill you, you bastard" and Mark said "come on ahead then". Richie then made to go for Mark and I caught hold of Richie and held him back. Richard McBrearty from Brocagh, St. Johnston was there and he caught hold of Richie as well. Mark Quinn the owner of the bar was lifting glasses and he caught hold of Mark McConnell. Mark was taken out to the kitchen by Mark Quinn to calm things down, I've no idea what the row was about. I sat down with my back to the bar again. I think Richie must have left Quinn's around then. Mark McConnell came back into the bar again, but I never got to hear what the row was about. Around 12.30 a.m. on 14/10/96 me and the wife left Quinn's and went driving up to the Parting Glass. When we got to McGranaghan's Corner at the bottom of Irish Street, Richie Barron was standing on his own against McGranaghan's...lighting a cigarette...He looked well drunk and I thought if we get him into the car we wouldn't get him out...that was the last I saw of Richie.**

It is difficult to say what time Richard Barron left the Town and Country/Quinn's because this depends upon interpretations as to when the incident just described took place. Probably it was around 11.30 p.m. because it was at 11.45 p.m. that Declan McCullagh, the barman of another public house, the Súile Tavern, heard a knock on the door. He thought it might be the Gardaí, checking up on closing time, but when he looked out he saw it was Richie Barron on his own and let him in. He described him as: "drunk, but not legless. I've seen him worse". The deceased got a small whiskey. He was chatting with a man call Phonsie Crawford. Here is Declan McCullagh's account given on the 17th of October, 1996:

**Phonsie and Richie were drinking and chatting together. Manny Heggarty started annoying Richie about money he maintained**

**Richie owed him from way back. This was to do with a deal they were both in for a horse. Richie was waving his hand at Manny to stop annoying him. I went out working in the lounge then and I was called into the bar by one of the girls because Manny and Richie were fighting. At this stage Eugene Gamble had got in between them, but I had to give a hand to hold Richie back because he is very strong. I didn't see any blows struck, but Manny had a cut on his head that I didn't see earlier on him. When we got them separated Richie went to go out the door. He had his hand on the lock, but Phonsie Crawford pulled him back and told him to sit down and finish his drink. Richie sat back down. Phonsie and Richie sat for no more than ten minutes and during that time Manny Heggarty kept nagging Richie on about the money he was owed. I checked Manny a good few times to keep quiet and he eventually shut up when I told him to get out or shut up. Phonsie had left within ten minutes of the row ending and Richie left five to ten minutes after that. I saw Richie to the door. I am not sure of the time he left. When Richie was going out he was joking about his trousers. The top button kept opening and the trousers kept falling...I asked him at the door did he want a taxi to leave him home and he said "no I'll walk it".**

John "Manny" Hegarty described the incident as an exchange of punches and an entanglement. Significantly, he says: "Eugene Gamble the barman separated us. He put Richie out. Richie came back in again and fell asleep at the counter". (Statement of 14/10/96). Sir, these incidents are of importance because as a result of them both John "Manny" Hegarty and Mark McConnell became suspects. Even though the Hegarty incident was, on the face of it more serious than the McConnell incident, for reasons which we will shortly go into, the Gardaí began to believe that Mark McConnell became inspired by motives of revenge over this relatively trivial incident. However, there was nothing whatever to suggest, it seems to us, from any other witness who had any contact with Mark McConnell on that night that he was in any way upset, much less vengeful, over what had occurred.

It might be noted, Sir, that a telephone call from the Town and Country to the Tudor Lounge (a premises adjacent to the Parting Glass, also owned by the McBreartys) at approx. 11.00 p.m. on this night formed the background to a complaint to the Garda Complaints Board. Suffice to say at this point, that it was allegedly put to Mark McConnell while in custody that this call had been made by him to Frank McBrearty, Jnr. sometime after the altercation with Richie Barron to arrange for them to meet up to seriously assault/murder Mr. Barron. Frank McBrearty, Snr. later alleged that the misapprehension as to who made this call, a matter that could have been easily resolved had an investigation of same been properly carried out, had in part led to the arrests that were later made in the context of an alleged conspiracy to murder, between Frank McBrearty, Jnr. and Mark McConnell. In a statement to Supt. P. Forde on 2<sup>nd</sup> February, 1999, the investigating officer at the time of the arrests, Supt. John J. Fitzgerald said that: "The phone call referred to...had no bearing on

decisions to arrest any person in connection with the investigation". (See Garda Complaints File 971126).

After the deceased left the Súile Tavern he was seen alive by four other people, that we know about. David Parke (statement of 15/10/96) described his sighting as follows:

**I parked beside the Diamond petrol pumps facing in the Convoy direction. I had a good view of the Irish Street area. At 12.30 p.m. I saw Richie Barron staggering past McGranaghan's shop. He was coming from the Súile Tavern direction. As he turned up Irish Street he was holding onto the wall. He was using his two hands. He appeared to be very drunk. I was thinking to myself that I better be careful going up the road in case that man is lying on the road. I had seen [him] walking up the road in the past drunk and staggering on the road. After I seen him going around the corner he held onto the wall until he went out of my view. That was the last I seen of him...I do not remember any car going up or coming down Irish Street after that until I saw Lee Parker going up Irish Street, that's not saying that cars did not go up or down Irish Street. No car came to my attention by the way it was driving.**

Perhaps contemporaneous with this sighting was that of Roberta Browne (statement of 16/10/96) who places it a few minutes later:

**...at approx 12.35 a.m. I was walking down the Diamond in Raphoe. I was after leaving McCarron's pub at about 12.30 a.m. I was walking down the street alone. I was walking past Jim McGranaghan's shop and I was heading for "Frankie's" Nightclub. I met Richie Barron coming towards me. When he was going passed me he caught me by my leather jacket and pulled me back. He turned around and he said to me "have you enough money or do you want a few pound". I said no thanks I'm alright and I walked on. After a few seconds I looked behind and he was nowhere to be seen. He must have turned up Irish Street...he seemed in good form when I met him, he was staggering a good bit. He seemed to have a lot of drink in him.**

At 12.38 a.m. the watch which the deceased was wearing stopped. This seems to be a total coincidence because when it was later examined by a watchmaker, George Patton (Statement 19/11/96), he got it to go again simply by winding it: Mary Joe McGranaghan and her boyfriend, Shane Scanlon, had been to the cinema in Lifford from where they returned to Raphoe, turning up Irish Street and parking. They noticed two men leaving Patsy's pub and remarked on the time at 12.35 a.m. She continues (statement of 16/10/96 and see also 21/10/96):

**The next thing I remember is three girls from Convoy turning up the street. I do not know what they were up to, but they made a bit of noise at our door and actually disturbed my mother in the house. I**

recognise these girls as Paula McClafferty from Main Street, Convoy, her sister whose name I don't know. The third girl was Helena Meehan from Convoy. This was all shortly after 12.30 a.m. I then saw Sidney Vance pass up and straight down again. He only had time to reach his home and no further. I saw Gavin Gillen a red haired lad from Glen pass down strolling with his hands in his pockets. There was somebody else with him whose identity I do not know. I cannot say exactly what the time this was at. It was between 12.45 and 1.00 a.m. About 12.50 a.m. I saw Richie Barron turn up the street. He was obviously drunk and was swaying from one side of the street to the other. It appeared that there was no co-ordination between his head and feet at all. I thought he might bump into our car as we sat there. He went on up passed us. During the whole time I was there I saw no cars pass down Irish Street towards town. I recall seeing two cars pass up after Richie Barron passed us by. One of these was Roy Barnett. He lives up towards Mongorrry...the second car was a red Golf with an old registration. I believe this car belongs to a girl who is now living in Mongorrry and married with a family. She was Sylvia Laird before she married. She is now Barnett or Park, I am not sure. I believe that the drivers of these cars should have seen Richard Barron on the road as the speed he was going when he passed us would mean that he was still on the road when they went up. I went in home about 1.05 a.m. and I did not see or hear anything pass up or down the street after that.

Richard Barron met his death some time between 12.45 a.m. and 12.54 a.m. It was at the later time that his body was discovered. The next person, whom we know about, who saw Richard Barron was Lee Parker. He had earlier seen the deceased at some time between 12.15 a.m. and 12.30 a.m. after leaving the Súile Tavern. He said that he "looked to be right drunk and was pulling up his trousers". In his statements (15/10/96) and (18/10/96) he describes driving from Raphoe up Irish Row:

I got into my car and drove up the Glenmaquinn Road. As I came near to Matt McBride's house at Townparks, Raphoe I saw a man lying on the road...I had a fair idea it was Richie Barron, because I saw him drunk down town earlier. I pulled out to go around him and saw the blood on the road. Just beyond the body I turned the car and drove back by the body again. As I was driving slowly past him I saw it definitely was Richie Barron. He was lying half way between the left hand side of the road as you go up and the centre of the road. He was lying on his back parallel with the hedge. His head was towards Raphoe and his feet towards Glenmaquinn. His legs were crossed from the knee down only. I saw a big hole in his forehead. The blood was running down the top of his head and going towards the hedge on the left hand side as you leave Raphoe. I saw no other marks on him. I don't know where his arms were placed. I saw a serious amount of thick blood around his head on the road. I saw no glass or debris or dirt or anything on the road.

**All I saw was Richie and the blood. At this time it was dry. It hadn't rained for about half an hour, but the road was damp. I didn't get out of the car at all. I drove on a few yards to McBride's gate and parked. I ran in and knocked on the door...I told [Rita McBride] to phone the Guards or an ambulance...I looked at my watch and saw it was 12.55 a.m. When I got back to where Richie was lying Edward Johnston and Sean Duffy were already there...the body was in the same position as I found it.**

Mr. Parker had come from Raphoe towards the scene of Mr. Barron's death. Sean Duffy had come to Raphoe by the straight narrow road over the hills which joins the main Letterkenny/Donegal town road. Neither saw any cars. When Mr. Duffy came he did not realise that the body had already been discovered. He tried to see if there was any pulse. He noticed that the deceased's trousers were pulled down, as he put it, and his underpants could be seen. He saw a considerable amount of blood on what he took to be a scrape on his forehead (Statement 15/10/96). The deceased's son, Stephen Barron, arrived shortly afterwards. He was called from his home. Edward Johnston, coming from Raphoe stopped because he saw the lights on Mr. Duffy's car and then a body. He said "there was a right bit of blood on the road. I noticed a mark on the front of his forehead" (statement 17/10/96). Sidney Vance, who probably passed the deceased on his way home did not encounter any cars on this road, again, going out of Raphoe and up towards Townparks, which is up the hill and to the right. Stephen Barron found his father's dentures were broken and he attempted to let in air by clearing his mouth. Those who arrived later do not materially add to details of this description. They include Paul Holian, Matt McBride and Stephen McCullough. Mr. Holian had come from the north west road into Raphoe and again, his statements indicate that he did not see any cars.

Sir, at this point, a potential misunderstanding needs to be addressed. The initial report into the death of Mr. Barron, compiled by Superintendent Lennon, does not include the fact that within 300 metres of the scene of his death a road branches to the right up the hill. Driving this road shows that it leads into an area of substantial forestry, with a choice of four turns within 3 kilometres which will lead you onto a warren of roads that can ultimately bring you back on to the main Letterkenny to Lifford/Strabane or Derry roads. There are a further two turns to the right in the same direction up the hill towards Glenmaquinn within 3 kilometres. The first turn to the left, to take a road that might ultimately lead one back to Raphoe, on the Convoy to Raphoe road, occurs a further distance away. If someone had killed the deceased by negligent driving then, if they were not already facing towards Glenmaquinn, they could turn in that direction and disappear into the warren of roads to the north within literally one minute. We have also taken the opportunity to look at the scene. From Raphoe up towards Glenmaquinn, and the turning to the right towards Mountain Park, the road both kinks and dips. There is a steep hill from the north west coming down towards Raphoe. The public lighting which is now in place was, we understand, at this time placed further back from the scene of Mr. Barron's death. Apart from going back into the warren of roads around Mountain Park one might also be able to go to the outskirts of Irish Row and turn immediately northwards. These

possibilities are not discussed in Superintendent Lennon's report and one of the issues for you, Sir, must be as to whether any consideration was given to this in the Garda conferences which followed.

Garda Patrick Boyce was manning the Divisional Communications Centre at Letterkenny Garda Station. Here is his account of the relevant communications on that morning:

**...at 1.05 a.m. I received a telephone call on direct line from Hilary McBride, Townparks, Raphoe. She told me that Richie Barron was struck by a vehicle and he is lying on the side of the road at Townparks, Raphoe. Caller said that an ambulance was called for and that Gardaí were required at the scene. The caller spoke in normal tone when giving the details. I immediately phoned Lifford Garda Station and passed the details onto Garda P.J. McDermott. At 2.15 a.m. I received a phone call from Lifford Garda Station informing me that Richie Barron had died. At 3.45 a.m. I received a phone call from a male caller who wanted to remain anonymous, that Paul Gallagher, Dr. McGinley Road, Letterkenny was driving a Renault 9 car reg. no. 880 IH around Raphoe last night and that he was very drunk. I passed this information onto Sergeant Joseph Hannigan immediately. Caller spoke in normal tone when giving details. At 6.25 p.m. I received a phone call from a female caller who stated that a Renault car travelled down the Mongorrry Road last night at approximately 1.00 a.m. and failed to stop at the junction with the Diamond. She said that the driver was from Dr. McGinley Road, Letterkenny and that he was drunk. Caller spoke in a quiet and sound tone. I immediately passed this information on to D/Sergeant S Henry at Letterkenny. Kevin Monaghan and Leonard Diver, ambulance men went immediately to the scene having received a call "at approximately 1.00 a.m. while...at Letterkenny General Hospital". (Statements of 16/10/96 and 17/10/96).**

The ambulance and crew arrived at the scene at 1.20 or 1.25 a.m. The crew described the deceased as having a lot of blood coming from his head. Mr. Monaghan and Mr. Diver indicated that there was a lot of blood on the roadway, some of which was congealed. Mr. Monaghan states:

**...I...radioed control at Ballyshannon and spoke to John Kennedy. I told him that it looked like a hit and run and that he better get the Guards out to let them know. We took the man onto Letterkenny Hospital after being helped by onlookers...Leonard was in the rear of the ambulance giving the patient all the assistance he could...we arrived at Letterkenny Hospital about 1.50 a.m.**

Mr. Diver noted, in addition, that Mr. Barron was bleeding from the nose and mouth. He said that he did not see anything on the road such as debris or glass and that he would usually see if there was glass at the scene. Dr. Hamad Mahmad Zuhairy received the emergency at Letterkenny Hospital and found no

sign of life, despite attempts at resuscitation. He reports that the deceased was clinically dead on arrival at 1.50 a.m.

In Raphoe, Garda Patrick Mulligan was on duty. Garda John O'Dowd, also stationed in Raphoe, was off duty, but was apparently with him at or around the time when the ambulance came to Raphoe. Garda Mulligan, possibly accompanied by Garda O'Dowd, indicates that he had moved off to deal with an incident in the town down the Convoy Road. They therefore did not apparently see or hear the ambulance which came through the town and up Irish Row to the scene of Mr. Barron's death. It was a considerable time after Mr. Barron's death that any Garda arrived at the scene. The ambulance had then come and gone. Some part of the possible explanation for this may be found in the statement of Garda P J McDermott who is the Station Orderly at Lifford Garda Station. He says (statement of 10/2/98):

**A few minutes after 1.00 a.m. on 14th October, 1996 I received a phone call from Communications Centre, Letterkenny, informing me that a hit and run accident had occurred at Townparks, Convoy. I informed the member in Communications that Lifford patrol car crew did not normally attend to events in Convoy as we were also responsible for events in Carrigans and Raphoe sub-districts in addition to our own sub-districts. At this time, the crew of Lifford patrol car, Gardaí Birney and McDwyer were on their meal break. I suggested to the member in Communications that Ballybofey car would normally attend to incidents in Convoy sub-districts. I was then told that the Ballybofey car would be contacted to go to the scene. I then took it that everything was in order and asked Garda McDwyer to relieve me for my meal break. Garda McDwyer complied with my request. I was about ten minutes away when Garda McDwyer contacted me at home by phone, and informed me that he had received a message from Communications Centre, stating that the hit and run traffic accident had occurred at Townparks, Raphoe and not Townparks, Convoy. He requested that I return to the Station immediately. I arrived back at the Station at 1.20 a.m. As soon as I arrived back, Gardaí Birney and McDwyer left in the patrol car and went to Raphoe.**

Garda James McDwyer gave three statements relevant to this matter. In the last of them (24/4/2000), he indicates that he left Lifford approximately ten minutes after the first call and travelled 6.5 miles to Raphoe, arriving at the scene of the accident at 1.34 a.m. He claims that together with Garda Birney, who accompanied him, and Garda Mulligan and Garda O'Dowd, whom they met there, they examined the scene for thirty five to forty five minutes. However, none of the Gardaí preserved the scene. You will have to focus, Sir, on the issue as to whether this was a crucial omission in the context of what follows. No-one has ever said that this was the correct way to proceed. In this first statement (17/10/96), Garda McDwyer described approaching the Garda Station in Raphoe as a result of the fact that he was aware that someone was speaking on the 'Green Man' telephone device from there to Garda Boyce:

I saw no one at the Station nor in the environs of the Station. I remarked this to Garda Birney and we both thought it a little odd. We turned right at the Garda Station as the townland here is Townparks, we drove to the end of the Royal and Prior School, but we saw no sign of an accident. We decided the accident was in another area of the town, our knowledge being that there were several "Townparks" in Raphoe. We entered the town and turned left at the "Diamond". While driving along here I said to Garda Birney there's Garda Mulligan over the street, maybe he will lead us to the accident. Garda Birney drove over to where Garda Mulligan was on patrol. I saw...Stephen McCullagh speaking to Garda Mulligan. I informed Garda Mulligan of the accident and did he know about it? His reply was that he was just getting the information from Stephen McCullagh and that he saw the ambulance come down Irish Street a few minutes before we arrived. I spoke to Garda John O'Dowd who was sitting in his own car nearby. Garda Mulligan got into Garda O'Dowd's car and told us to follow them. We drove after Garda O'Dowd up Irish Street and just past McBride's house a little way up the hill. I saw a group of people standing on the roadway and Garda O'Dowd stopped his car...I walked over to a point where Gardaí O'Dowd and Mulligan were standing as did Garda Birney. We examined the road. I saw a large concentrated pool of blood just left of the centre of the roadway with a trickle of blood running towards the left hand side and into a tunnel in the ditch. This blood mass was located opposite a tree at the edge of a hedge...I saw a white blanket in the hedge. The road was wet and during our examination it started to rain heavily. I examined the scene closely again and curiously nothing was present to indicate a vehicle, no dirt marks, no impact area, no paint flakes or glass. I walked the area studying the road closely. I found a piece of human skin with hair attached to it lying on the road adjacent to the pool of blood. I stepped the difference in distance between the piece of skin and the pool of blood and I found it to be five feet in length. This piece of skin was located on the Letterkenny side of the blood mass. I could find no other foreign object at the scene.

In his statement of 24/4/2000, Garda McDwyer says that the "scene was contaminated as there were several people present and traffic had already passed over the scene". He says that Garda Birney, Garda Mulligan and he then went to Letterkenny General Hospital to obtain Mr. Barron's clothes and "preserve them for examination". Garda John Birney has since retired from An Garda Síochána. He gives a similar account to Garda McDwyer. He also says that he could not find any trace of glass, paint, plastic parts of a vehicle or dirt on the road and that there were no tyre marks. He does not mention the piece of flesh. When later interviewed on the 26th of April, 2000 he could not find his official notebook of the time.

One of the issues which arises is as to what Gardaí Mulligan and O'Dowd were doing. Garda Mulligan was officially on duty. Garda O'Dowd, who was not

rostered for duty, claims that he called at 12.45 a.m. to Raphoe Garda Station on the 14th of October, 1996 in order to leave some paperwork with him. Otherwise, he was not on duty. He took Garda Mulligan out for a drive in his private car and, according to him, drove the 'outlying areas' of the sub-district. In his original statement of the 23rd of November, 1996 he claimed to have passed the entrance to Frankie's and saw no sign of bouncers, or any of the McBreartys, which he claims to have "thought unusual as they would always be stuck in any incidents". He then saw the ambulance coming away from the scene of the accident, when he drove back into the centre of Raphoe. Stephen McCullagh then walked over to him and told him that Richard Barron had been knocked down. Garda Birney and McDwyer then pulled up stating that they had a report of a hit and run accident. His account of the scene also involves a lack of debris or glass. He claims to have spoken to Matt McBride in his adjacent house and farmyard to check if the tractors had been recently driven and was satisfied that the engines were cold. In his first statement, he claims to have returned home after having "stopped a number of vehicles in the Glenmacquinn area to establish their movements around 1.00 a.m. to no avail". Garda Patrick Mulligan said that at about 1.15 a.m. he attended to a fight outside Frank McBrearty's disco. He gives a similar account of Garda Birney and McDwyer arriving. He, similarly, could not find any physical evidence of a road accident. How closely anybody looked, we do not know. He also agrees that he went to Letterkenny General Hospital. He said that he arranged with the porter to keep all the clothes because he would return in the morning.

We now return to an incident in relation to the movements of Garda John O'Dowd. He says that he arrived home at around 4.00 a.m. Eamonn Strain, in his statement taken on the 9th of November, 1997, states that he went to the pictures in Letterkenny with his girlfriend Anne Toye. She resides at Rooskey, Manorcunningham and so he left her home. He says:

**After I had dropped Anne off at her house I drove down from Anne's house and turned right at the bottom of the road leading up to her house, for Corkey, Manorcunningham. As I had just turned right the lights of a car came on behind me, I assumed it was the Guards and I stopped, I want to say now that this time would have been 12.45 a.m. on the 14/10/96...I then saw the door of this car open and a man in the driver's seat appeared to be looking for something. The man then got out of his car and came up to the passenger door of my van...I began to wind down the window, he opened the passenger door and put his head and shoulders into my vehicle and rested his knee on the passenger seat. He said to me that there was a poor [person] knocked down before he said that he said that we are investigating a hit and run and he mentioned a place where it happened, but I can't remember that now. He then said something else, but I can't remember now. I did not speak to him at all. He then said to me don't be feared. He was chatting with me for about three or four minutes, but I really can't remember what else he said. He eventually said that's alright and closed the door of my van. I then drove off.**

In later statements, he says that he heard the news of Mr. Barron's death on the following morning, possibly from a 10.00 a.m. bulletin and that from the time given on the bulletin he claims to have realised that he was stopped about five to ten minutes before the time of discovery as stated on the radio. He then discussed that time with his girlfriend. The opening question he then remembered as being "were you in Raphoe tonight?". Anne Toye was interviewed by the Carty investigation team, as was her mother. Apparently both were going from Fál Carrach to Dublin on the 7.30 a.m. bus that morning. Ms. Toye believed that she returned home at 12.00 midnight or very shortly afterwards. She recalls a car driving past from the Raphoe direction at a normal speed at around 12.10 a.m. She says she had no encounter with Garda O'Dowd. In his second statement on the issue of the investigation of the Barron death, Garda O'Dowd said:

**In an effort to make enquiries following the suspicious death of Richard Barron and in the belief at the time it was a hit and run accident, I proceeded to the townland of Kincraig, Manorcunningham to check if John McArt's brown Opel Kadett was at home. I was aware at the time he had an uninsured vehicle...the vehicle wasn't at home. While in that area I stopped a car which came down a side road. This road is one of very poor quality which leads back to Raphoe. I spoke with the occupants of this car, a man and a woman. The woman said she was Toye from up that road and I was aware there was a family by that name up there. The man said he was Strain from Burnfoot. I was in my own private car and wearing civilian attire. I believe I had a torch. I asked them where they had come from and if they had been in Raphoe that night. They said they weren't in Raphoe and were coming from Toye's house. I identified myself as a Garda and explained that a man had been knocked down in Raphoe earlier. I asked them if they had seen any other vehicles on the road, to which they replied no.**

When spoken to, in the presence of Garda Patrick Mulligan, by the Carty investigation team on the 9th of May, 2000, Garda O'Dowd was told that Anne Toye had said that she was not in Mr. Strain's car on the night that he stopped it. Garda O'Dowd said that his recollection was now unclear and that he could not be sure if the "Toye girl" was in the car, or not. In a further report prepared under the direction of Deputy Commissioner Noel Conroy, Leonard Toye was interviewed with the result that he indicated that Eamon Strain would not have left his house until much later than Mr. Strain believed at the time; report of Deputy Commissioner Noel Conroy, 22<sup>nd</sup> July, 2002, page 14.

On the 28th of April, 2000 the Carty investigation team took a statement from Garda James Connolly who is attached to Mountcharles Garda Station. In it, he refers to the Sunday evening, the 13th of October, 1996. He had finished 'BSE duty' on the bridge in Lifford at that time and then travelled to Donegal town to meet a friend. He then says he went to Daly's pub in Main Street, Lifford. He continues:

It would have been approximately 11.00 o'clock by the time I got to the pub, I'm not exactly sure. I went there on my own and had a few drinks in the lounge area of the bar. I spoke to a few locals, I am pretty sure Billy Kelly and Angus Stewart both from Lifford were there. Normally I play cards with these two men on Monday nights but I did not play cards on this night the 13.10.96...at a particular stage, I cannot be absolutely sure but it was some time around 11.30 or maybe even 12.00 o'clock or later I recall seeing Garda Pauric Mulligan and Garda John O'Dowd standing at the bar having a drink. I could see them from where I was standing in the lounge. As far as I can recall Garda Mulligan had a civilian jacket over his uniform shirt and Garda O'Dowd was wearing plain clothes. Pauric Mulligan was facing me and John O'Dowd had his back to me. I wasn't talking to them at any stage that I can recall. I can't say even whether we saluted each other or not. I remained in the pub until 1.00 a.m. or maybe even a bit later. I was on duty the following morning at 6.00 a.m. I am pretty sure that Pauric Mulligan and John O'Dowd were not there when I was leaving. I did not see them leave...the reason why I recall Pauric Mulligan and John O'Dowd being in the pub that night is that when I came on duty at 6.00 a.m. on Monday morning the 14.10.96 I heard about a hit and run accident in Raphoe the previous night and I knew the members were stationed in Raphoe, but I didn't know whether they were on or off duty. Some time after 8.00 a.m. on this morning the 14.10.96 I was directed to Raphoe to preserve the scene of this accident accompanied [by] Garda Niall Coady and it would have been in my mind that Pauric and John were in Daly's the night before and it was unusual for Pauric Mulligan to be there.

When Gardaí Mulligan and O'Dowd were informed on the 9th of May, 2000 by Detective Superintendent McGarty and Detective Inspector O'Loughlin that there was a witness who placed them in the pub at this time, Garda O'Dowd, in circumstances where it would be fair to say that he was speaking for both, indicated that any witness who says that he saw them in a pub must be mistaken about the date. Both readily agreed to submit their cars for technical examination. This was later done and the examination was negative as to any forensic connection with the death of Richard Barron some four years earlier. On the 18th of May, 2000, Garda Martin Leonard, of the Garda Representative Association, met Inspector O'Loughlin and Detective Sergeant Healy and told him that "we are conceding the pub issue in full". He asked him would they guarantee 'a Regulation 7' caution only. Inspector O'Loughlin and Detective Sergeant Healy indicated that they could not give any such guarantee. If, Sir, you accept that Garda Martin Leonard made such an assertion it will, of course, be necessary for you to decide whether it was done on express instructions and in his role as a representative. We must expressly draw to your attention that this apparent statement is flatly contradicted by what was said on the 9th of May by Garda O'Dowd in the presence of, and with the apparent consent, of Garda Mulligan.

A further point for confusion may arise if people read the statement of Mr. Thomas Peoples, a taxi driver from Letterkenny, in isolation from other material. In that statement, dated the 4<sup>th</sup> of June, 1997, he indicates encountering two men approximately one hour after Mr. Barron met his death. We believe that this statement should be read in conjunction with those of Paul Holian and Shane Durning which are statements 12 and 13 in the report by Superintendent Lennon.

Sir, we have taken this digression with a view to pointing out the materials which are available as to the movements and actions of the Gardaí who came to the scene of Mr. Barron's death on the night in question. Having dealt with that, we now propose to return and give a very brief outline of what the main suspects say about their movements on the night in question. We refer to them in this way because they were treated in this manner in the course of the Garda investigation. It is therefore important to have a brief outline as to where they say they were at this stage. We would ask you to note, however, Sir, that as their apparent movements, and what people said about their movements, were made the basis of a foundation of what was claimed by the Gardaí to be a reasonable suspicion justifying arrests, that this issue will be gone into in detail in the next section dealing with the arrest and detention of suspects.

Mark and Roisín McConnell are a married couple and at this time had one child, who was then an infant. They live at Tullyvinny. On the evening of Sunday, the 13th of October, 1996 Mark McConnell dropped his wife off, together with their infant, at 330, St. Eunan's Terrace in Raphoe. This is the home of her parents. Mark McConnell went to the Town and Country/Quinn's pub shortly after in order to drink and to play pool. He was apparently joined by his wife at some time around 8.00 p.m. She went in the company of others and during the night the McConnells were joined by Katriona and Eunan Brolly. They met a lot of people and a full account of this will be given later. One of the facts in issue will be as to what time the Town and Country/Quinn's pub closed at. It was certainly after licensing hours, and according to some of the patrons it could have been as late as 1.00 a.m. to 1.15 a.m. when the house was finally cleared. At whatever time they left, which on their case was after Richard Barron was already dead, they went to Sarah's Cafe and ordered a takeaway which was to be collected and consumed after they had gone to and stayed for a while in the disco in Frankie's Nightclub/McBreartys.

Mary McGranaghan made a statement on the 8th of November, 1996 to the effect that she had observed Mark McConnell, accompanied by Eamonn Meehan, walking past her shop between 11.00 p.m. and 11.50 p.m. on that night. However, in January, 1997 in a statement made to Sergeant Thomas McMenamin, Mary McGranaghan claimed that it was not Eamonn Meehan that was with Mark McConnell, but that the person was in fact Michael Peoples. When interviewed by the Carty investigation team, she said that Michael Peoples was not known to her and claimed that one of the local Gardaí in Raphoe had said to her that it was not Eamonn Meehan because their information was that he had left Raphoe at 9.00 p.m. She cannot recall who might have made this alleged suggestion to her. The Carty investigation team spoke to Sergeant Thomas McMenamin who said that he was either contacted

by the Incident Room at Letterkenny, or that Mary McGranaghan may have contacted Newtowncunningham Garda Station directly herself, in order to clarify her identification. He certainly did not ask her to acquaint herself with Michael Peoples after he took an initial statement from her on the 8th of November, 1996.

Frank McBrearty, Snr. at that stage ran what appears to have been a major nightclub/disco business out of Frankie's Nightclub. This is to the rear of, and is attached in some way to the Parting Glass/Tudor Lounge bar/lounge premises. No one has made the case that Frank McBrearty, Snr. was in any way involved in the circumstances which led to the death of Richard Barron. We do not believe that there is any controversy in relation to his movements on the evening in question. He seems to have spent the entire of this evening either in or around his own premises. For the majority of the time, up to around midnight, he was in the Tudor Lounge. A number of patrons were then invited by him to go into the discotheque/nightclub on a free entry basis. During the time he was in this nightclub, or otherwise in his bar/lounge premises he was seen by numerous people dealing with the kind of situations that might arise in the ordinary running of such a premises.

Sir, as you will have gathered, one of the other significant movers in the discotheque/bar/lounge business, which we have referred to, was Frank McBrearty, Jnr. At the time, we understand, he was married and had two children aged around six and seven years. A number of incidents occurred at the discotheque in respect of which there is a controversy as to whether he was involved. His case is that he was in or around the discotheque premises at all material times, by which we mean from midnight to 1.00 a.m. There were a couple of incidents which occurred during this time, but, again, it is impossible to find a consistent thread in the accounts which places the occurrence of these incidents at a particular time. At some time between a time approaching 12.30 and a time which could have been as late as 12.45 a.m. a man called Paul "Gazza" Gallagher was ejected from the disco. Mr. Gallagher claims that he was ejected at 12.30 a.m. Glenda Muldoone says it was at 12.45 a.m. to 12.50 a.m. and there are further conflicting accounts as to time. There is also a conflict as to whether Mr. McBrearty, Jnr. was involved in this ejection. However, if he was, it might account for him looking as if he was upset or had exerted himself. Some time around 1.00 a.m. there were a number of other men ejected from the discotheque. These may have been the people to whom the attention of Garda Patrick Mulligan was attracted, causing him to move away from the Diamond area and thus miss the arrival and the departure of the ambulance, apparently. The case made by Mr. McBrearty, Jnr. was that if he left the discotheque premises at all during this evening then, at the material time, it was to deal with trouble makers, but that he certainly never, or by any route, went to the scene some three hundred and fifty metres away, as the crow flies, where Mr. Barron met his death.

Sean Crossan is an electrician by trade, but worked part time in Frankie's Nightclub. He was there on the evening in question. His account of his movements involves him being there from 9.00 p.m. until after the discotheque had closed which, again by reason of inexact recollection as to time, seems to

have been some time around 2.00 a.m. His statement of the 18th of October, 1996 is of importance, since the car park of this discotheque backs onto a river, on the other side of which are fields which ultimately go towards the McBride house with adjoining laneway onto the roadway where the deceased met his death. Mr. Crossan's presence there, and the role the car park played in the investigation must surely be taken into account. He says:

**Frank McBrearty, Snr. asked me to look after the car park at around 12.30 a.m. I normally do the pay box all night. When I went up to two wee girls in the car park then, one of them was sick. I was up about five minutes and went down to get the wee girl a tissue. I don't know who these girls are. When I went down Frank McBrearty, Snr. was at the pay box and he asked me to go down around the corner in case some boy he put out broke windows. I don't know who he put out. I didn't ask him, but I went down the corner towards the Diamond. There was nobody at all about. I only went down as far as the bar door, but I could see nobody as far as the Diamond. I didn't see any cars about. When I went back up I went to the front door of the disco. Frank senior was standing at the pay box and I asked him who he put out and he said Gallagher. I didn't know who Gallagher was. It was around 12.40 at that stage. I went up the car park again to the two wee girls. I was up there to 1.45. I kept going up and down the car park to them. I didn't see anyone else going into Frankie's Nightclub that night that I knew. No one came down through the grounds of the nightclub while I was there. They were all in cars.**

In a later statement dated the 17th of November, 1996, to which, the Gardaí attached much significance, Mr. Crossan indicated that at 12.40 a.m., which if other witnesses are right was a time at which Mr. Barron was still alive, "three fellas came down the car park of Frankie's Nightclub". He described them as being young, nineteen-twenty years and well-dressed. One of them said that he had been up with two young girls who were getting sick. Despite this, he didn't know who the girls were, but thought they might be from Lifford. Sergeant Hannigan questioned him as to the clothes of those people, and he says that none of their clothes were dirty. So, what does the reference to sick girls in the car park mean? The next day Mr. Crossan gave a formal statement in which after describing the sick girls, to whom he was attending intermittently from 12.30 a.m. for about the next forty minutes, he said:

**I walked straight back up to the girls. Three boys came down the car park. They came from the direction of the wall to the field. What caught my eye was the fact that no car had gone up the car park before these fellas came. I didn't see anyone sitting in a car beforehand. That's what caught my eye more was that they came down the car park and no car went up first. They were chatting to each other on the way down, no laughing or joking. I never saw these three fellas before. They went down towards the dance hall. I don't know if they went in or not. I can't describe them individually. The three of them were eighteen or nineteen years of age and thin. I**

**can't say what colour their hair was. They were dressed casually and had not coats on. They were clean. I lost sight of them. Their clothes didn't look to be dirty.**

The two girls who were in the car park, because one of them was feeling unwell, were identified as Victoria Barrett and Catherine Vaughan, who are first cousins from Lifford and Strabane. The statement of Victoria Barrett was not taken until the 10th of December, 1996. It seems to us to be an important account of what was happening that night. She describes arriving in the Parting Glass at 11.45 p.m. and meeting her friend and first cousin Catherine Vaughan. Ms. Barrett was with her boyfriend, Rodney Roulston. She continues:

**At 12.40 a.m. my friend Catherine felt ill so I took her out to the fresh air. I did not pass any remarks on who was at the door. We went around the back of the Parting Glass to the place where a new wall is being built. We sat on the wall. My friend got sick and I comforted her as best I could. We were there ten minutes when one of the McBrearty's men who was in the car park came over to us. I know this man to see but I do not know his name. I would describe him as being forty five to fifty years, bald with hair combed over from the right. He is about five foot nine inches and is heavy build. He was not well dressed. He may have had on a jacket and trousers. He asked me if my friend was alright and he went to get tissues. It was not long until he returned with the tissues. I stayed with my friend at the wall until 1.20 a.m. when we got into my boyfriend's car...McBrearty's man stayed with us for approx. ten minutes. I do not know where he went when he left us. My boyfriend came out of the disco at 2.00 a.m. and brought my friend to Letterkenny Hospital. I did not notice or pay any attention to who else was in the car park. At one stage somebody passed us when we were at the wall somebody spoke to me by name but I was too busy with my friend to look around to see who was looking at me. I do know Frank McBrearty, Snr. and Frank, Jnr. but I do not recall seeing them that night.**

No statement from Catherine Vaughan has been supplied to us, Sir. As to whether this presence in the car park was even taken into account in the Garda investigations, we do not know.

Eunan Brolly, as you will recall, Sir, witnessed the incident between Mark McConnell and the deceased in the Town and Country/Quinn's. He and his wife, Katriona, had gone to this pub at approximately 7.00 p.m. His recollection is that Mark McConnell joined him at around 9.00 p.m. and that later his wife, Roisín as well as Kay Quinn, Mark and Mary Bogle, Paul and Sue Quinn and Charlotte Peoples were in the company. He says that he and his wife would have left the bar at approximately 12.00 midnight. His wife, Katriona Brolly, gives a similar account. His statement is dated the 16th of October, as is hers. Neither of them, at that stage, mention the fact that they had an arrangement for Mark and Roisín McConnell to come and stay in their home that night. Mark McConnell, in his statement of the 16th of October, 1996, says that after leaving

the Parting Glass, sometime between 1.45 a.m. and 2.00 a.m., they: "came out home first and got stuff to stay the night with Eunan and Katriona Brolly". After leaving the pub, some baby requisites were required by Mark and Roisín McConnell from their house. They were therefore driven there by Edel Quinn and Ebby Walsh, collected these items and were then driven to the Brolly household where apparently they had to knock up Katriona in order to get in, to stay the night. "We had arranged this earlier on in the night to stay with them", he says.

In her statement of the 16th of October, 1996 Roisín McConnell also mentions going down to the Brollys' "after collecting the curry in Sarah's Cafe". It seems that the Brollys were not interviewed again prior to the arrests which took place on the 4th of December and neither were the McConnells. Roisín McConnell, in her statement of the 16th of October, 1996 indicated that her sister, Edel Quinn, came into the Parting Glass/McBreartys', while she and her husband were there and related to them that Richard Barron had been knocked down and killed. She says that she asked Frank McBrearty, Snr. about it and that he told her that he was not dead. In his statement, made while under arrest on the 4th of December, 1996 Mark McConnell gives a similar account. We do not suggest, Sir, that you should draw any inference in relation to this slight discrepancy as the earlier statements are short and experience shows that re-interview can be necessary in order to elicit all relevant facts. This, in part, of course depends on the skill of the interviewer. That, however, is a matter for you. Certainly, as and from about 2.30 a.m., Mark and Roisín McConnell are in the home of Eunan and Katriona Brolly.

Among the other patrons in the Town and Country/Quinn's when the McConnells were there, were the Dolans and a man called Duke Quinn. The Dolans consisted of Stan Dolan, Laura Dolan, Frankie Dolan and Irene Dolan, all of whom were apparently in the company of Jimmy Deery. Irene and Frankie Dolan are married to each other. When the Dolans returned home, at some time between 1.00 a.m. and 2.00 a.m., to their residence at Townparks, Raphoe, a birthday celebration began because it was Laura Dolan's birthday. Irene Dolan remembers a telephone call to her house; but in her statement of the 17th of October, 1996 she does not mention this. There is a note of an interview with her on the 16th of January, 1997 where it is mentioned and then, eventually, on the 20th of November, 1997, in a statement taken by Detective Sergeant John White she says:

**We got a carry out as we left the pub to have a drink in the house. This was a spur of the moment decision just before we left the pub. Laura, my daughter, Jimmy Deery, Frazer Worth, my husband, myself and Darren my son, all came back to the house. We had drinks from the time we came home to our house until 4.00 a.m. or 5.00 a.m. Laura called me to the telephone in the hallway at some stage that morning. I don't know what time. Roisín McConnell was on the phone. She asked me was her husband, Mark, at my house. I told her he was not here. She seemed very worried about Mark. She said that Richie Barron had been knocked down in a hit and run accident and that she was worried about Mark, her husband, as he**

**had been involved with Richie earlier in the night. Roisín seemed worried and I took it that she was worried that Mark may have been hurt with him as well. I don't know how long I was talking to her. We had more conversation, but I cannot remember it. I cannot remember when I met Roisín McConnell after that, but she never mentioned the telephone call to me after that. I don't know where she was that night she telephoned me. I took it for granted that she was in her own house.**

A witness who confirms that Mark McConnell was indeed upset was Garrett Friel, who made his only statement to Garda John O'Dowd on the 23rd of October, 1996. He was driving around Raphoe on that night and then parked in the town. He says:

**I saw Roisín McConnell and Edel Quinn on the opposite side of the road just outside Frankie's bookies. They were walking on the roadway on the side of the parked car. The next thing I saw was Mark McConnell coming behind with a fellow I now know as Edel Quinn's boyfriend. I noticed that Roisín and Edel seemed to be keeping their distance from Mark and Edel's boyfriend in that whenever Mark and Edel's boyfriend quickened their pace the girls in front also increased theirs. What I noticed about Mark was that he was crying. I saw this because Mark was standing across from my van for three/four minutes and Edel's boyfriend was patting him on the back and even looking up into his face. The two women seemed to disappear. I didn't see them after this. The spot where Mark and Edel's boyfriend were standing would be approximately the end house of these rows of houses up from the Parting Glass and across from Reynolds.**

Laura Dolan was born on the 13th of October, 1966. In consequence, that Sunday was her birthday, though the birthday celebration seems to have taken place in the early hours of Monday morning. In her first statement of the 23rd of October, 1996 she, again, does not mention the telephone call. The first mention of it appears to be in a statement dated the 1st of December, 1997 taken by Detective Sergeant John White. In this she says:

**Some time in the morning the telephone rang in our hallway. I answered the phone. It was Roisín McConnell. She asked me for my mother. We did not have any other conversation, that's Roisín and I. I don't know how long my mother spoke to her. Later my mother told me that Roisín was looking for her husband, Mark.**

There was a further interview on the 12th of March, 1997 at Letterkenny Garda Station with Detective Garda Michael J Carroll. The added details are that she says that Roisín McConnell wished her a happy birthday and that she apparently declined to answer a particular question stating: "No, I don't want to get Roisín into any sort of trouble?". Of course, by that stage, as you will hear, Sir, a lot had happened.

The account of Mark and Roisín McConnell is that they retired to bed and, that at the time this phone call was made, he would have been in the room with his baby. If therefore the Dolan account is correct, it is hard to know how Mrs. McConnell could have been ringing up looking for her husband. Strangely, during her time in custody on the 4th/5th of December, 1996, Roisín McConnell was not asked about this telephone call. In a meeting with the Carty investigation team on the 17th of November, 1999 Mark and Roisín McConnell gave a more detailed account of their movements. Additional details included leaving Quinn's pub at 9.00 p.m. in order to set the video to record "Londons Burning" on UTV, Mark McConnell parking his car, and moving it later. Roisín McConnell accepted that she did ring Dolan's house. Her purpose was, however, to see if her brother, Gerard Quinn, was there. She said that she was talking to Darren Dolan and that she never spoke to Irene Dolan. She said that she never asked about Mark, her husband, as he was in Brollys' with her. The only statement that we have from Darren Dolan is one dated the 17th of October, 1996 which does not mention any telephone call or indeed the later party in his home. To add to the complication, Mark McConnell indicates in his statement dated the 4th of December, 1996 to Detective Sergeant Leheny and Detective Garda O'Malley that on hearing about the accident to Richard Barron, as it seems to have been treated at the time, his wife, Roisín McConnell got upset. The words ascribed to him are:

**She is a very emotional person. She started to cry as we left Frankie's, as she was concerned about him due to the words we both had in Quinn's pub...I decided to ring the hospital and enquire about him. I did not give my name and told them I was a relative. The hospital refused to give me any information stating that Richie's relatives were already in the hospital.**

On the 27th of October, 1996 Martin Laird gave a statement to Garda John O'Dowd. All that he says in that statement was maintained in a later interview with Detective Garda Foley on the 2nd of December, 1997. We quote:

**I reside at Tullyvinney, Raphoe. I am a next door neighbour of Mark McConnell and I know him for a number of years. On Monday, the 14th of October I left my house between 7.00 a.m. and 7.15 a.m. I headed off for Raphoe walking. I left from my house and headed down the back lane. I would have passed by the rear of Mark McConnell's house, but I didn't notice any vehicle there. I am saying I don't know whether there was a car there or not. Somewhere along the main road I got a lift from Seamus Campbell's wife. His daughter was along with her. I got off at the Chapel and walked down to my mother's house where I had breakfast. I then went over and opened up the yard at 8.00 a.m. The only one that was there was Billy Strain. Patrick Quinn is supposed to be there also, but he didn't turn up that day. Patrick is a brother of Mark McConnell's wife. Myself and Billy Strain then headed up the town. On our way I met Mrs. McCarron, Magherahane (husband's name Jim RIP) who told me that there was a hit and run in the town. That was the first I knew of it. Further on near the Ulster Bank Sheila**

McBride who lives with Walter Vance told me Richie Barron had been killed and she thought it was [a] hit an run. I continued on and at Sheep Lane I picked up a wheel trim. I would have been in that spot between 8.10 a.m.-8.15 a.m. I later gave the wheel trim to Sergeant Hannigan. A few minutes after that which would put at 8.20 a.m. I saw the door of Quinn's pub open, that is the red door under the Town and Country sign. I actually painted the sign myself. This red door leads into the bar. When the door opened Mark McConnell stepped out. He pulled the door behind him. I saw no one else at the door. When he came out he walked around by the Marathon Hall and up the Close. I am trying to think but I cannot say what Mark was wearing. When I saw Mark he appeared to be walking normal. I didn't notice any sign that he had drink taken. When I saw Mark I was standing at the first window of the Hardware and Grain as one walks from Sheep Lane. He didn't speak and I didn't speak either. I cannot recall what vehicles were around Quinn's pub at the time. Billy Strain was on ahead of me past Quinn's pub when Mark McConnell walked out so he wouldn't have seen him...after I saw Mark McConnell leaving the Town and Country pub on the morning of the 14th October, 1996, I definitely do not recall telling anybody that day...or the next day of this sighting. The stories and rumours of Richie Barron's death had been going around and in the early days an appeal for information was on Highland Radio. I did not mention the sighting of Mark McConnell to any one that I can remember until Garda Dan Curran came to my home along with Garda John O'Dowd to take a statement from me, which I made to them. This sighting of McConnell by me stayed in my mind because Paddy Quinn, Mark McConnell's brother-in-law did not turn up for work that morning and I assumed they had an all night drinking session, celebrating the birth of Mark Quinn's baby.

As far as we know, this is the only suggested sighting of Mark McConnell on that morning. Mark McConnell does not accept that this sighting could have been correct by reason of his movements and his interaction with the Brollys, and later the Peoples, on that morning. We will go into that shortly. However, for the moment, it is important, before going to those accounts, to indicate that some people also claim to have seen Roisín McConnell on that Monday morning, about fifteen minutes later, in a completely different location at a time when, on their account, she, her husband and their baby would still have been sleeping in the Brolly's house prior to their first breakfast.

Three people claim to have seen Roisín McConnell. The first, Collette McGlinchey made two statements on the matter, to Garda John O'Dowd on the 23rd of October, 1996 and secondly to Detective Garda Thomas Kilcoyne on the 21st of December, 1997. The second, Michael McNulty made his first statement, on the same day as Collette McGlinchey, to Garda Philip Collins and this was then followed up by a further statement to Detective Garda J. O'Toole on the 5th of December, 1997, to Detective Garda Thomas Kilcoyne on the 9th of December, 1997 and finally a statement to Detective Garda J O'Toole on the

10th of December, 1997. Gary McCullagh made his first and only statement on the 24th of October, 1996, the day after Collette McGlinchey and Michael McNulty. Collette McGlinchey expresses apparent certainty as to what she saw, according to the account taken by Garda John O'Dowd:

**I reside at Tullyvinney, Raphoe at...On Monday morning the 14th October I walked from my house to St. Bridget's Well sign where I was expecting a lift to take me to my work at McMenamin Engineering at Killygordon. I was waiting at the Well at 8.10 a.m. My lift came between 8.10 a.m. and 8.15 a.m. The lift was from Michael McNulty, Townparks, Raphoe...he was accompanied by Gary McCullagh...I got into this white van shortly before 8.15. We have to be at our work at 8.30 a.m. As Michael drove over the road going in the Killygordon direction I saw Roisín McConnell walking towards Raphoe on Roisín's left hand side of the road. She would have been about a hundred yards from her own house. I am aware that Roisín works in the Fruit of the Loom and the reason that I definitely know it was on the Monday I saw her was because I believed Fruit of the Loom was closed on Mondays and it stuck in my mind. Also on that particular morning I had heard on Highland Radio that there had been a hit and run in Raphoe the previous night in which a man had been killed. I wasn't in Raphoe myself the previous night...after I made the statement to Garda John O'Dowd, Michael McNulty came down to my office the same day and said that he had his doubts about whether it was the Monday or the Tuesday. He said that he did remember seeing Roisín McConnell walking on the road one morning, but could not be sure which day of the week it was. I never discussed seeing Roisín McConnell on the road that Monday morning, the 14th of October, 1996 at Tullyvinney at about 8.15 a.m. with either Michael McNulty or Gary McCullagh except immediately afterwards until the day the Gardaí arrived on the 23rd October, 1996. I personally have no doubt it was the Monday, the 14th October, 1996. The reason being is that I had been standing at St. Bridget's Well every morning at about that time for a year and I would know the same people on the road every morning and I would remember if I saw somebody out of place. I knew Roisín was on a three day a week at the Fruit of the Loom and that I remarked to myself that she would not be going to work on a Monday morning. Also I had never seen her walking or in a car any other morning. However, I have seen her other mornings since in a white car with two girls in the front and her in the back. I know Roisín McConnell well to see and I have met her in her own home and I know that it was definitely her on the road and she looked stressed more or less like someone who did not have much sleep.**

We now turn to the statements of Michael McNulty which we quote in sequence:

**Last Monday week, the 14th October, 1996, it was the morning after Richie Barron was killed in Raphoe I left the house as usual 8.10 a.m. and went towards Killygordon. I picked up Gary**

McCullagh, St. Eunan's Terrace, Raphoe at the Chapel. He works with me. We travelled up the road and lifted Collette McGlinchey from Tullyvinney at Frank McMonagle's house, Tullyvinney. We travelled on up the road and we met Mark McConnell's wife walking along the road. She was about eighty to one hundred yards away from her own house walking on the left side of the road heading towards Raphoe. I passed a comment to Collette that Mark and her must have had a bit of a tiff, or something like that. I never seen Roisín McConnell on the road before this at this hour of the morning. She looked as if she was very upset looking. She was wearing blue jeans. Going past the house I saw Mark McConnell's car there. I am sure of this. It was a white Corolla. When I seen Roisín McConnell she was very distressed looking. She didn't seem to be rushing. I heard about Richie Barron being killed in Raphoe at 2.00 a.m. or after that night when I had gone home. My sister Angela told me...I have heard my original statement read over to me by D/Garda Carroll. I am happy about it. The reason I didn't say anything to the first Guard who asked me about this incident was because I was unsure if it was connected to what happened to Richie. When Phil Collins the Garda called to me on the 23/10/96 I made that statement to him. I was speaking to Collette McGlinchey and I believed it was Tuesday morning when I saw Roisín. I stick to my original statement to Garda Collins. It could have been Monday morning...further to the statements I have made to the Gardaí...to the best of my recollection I saw Roisín McConnell...walking on the road alone to her home on Tuesday, the 15th October, 1996 at 8.10 a.m. even after I made the statement to Garda Collins I immediately went downstairs and spoke to Collette McGlinchey who was in the van with me the morning we seen Roisín McConnell. I told her I was unsure it was the Monday morning. My reasons for that were that I knew the Fruit of the Loom factory were on a three day week and I knew that nobody would be working in the Fruit of the Loom on a Monday morning. This is the only reason I believe it was a Tuesday morning that I saw Roisín McConnell. I am certain that I saw Roisín McConnell walking at Tullyvinney, Raphoe, on either the morning of the 14th October, 1996, Monday or Tuesday, the 15th October, 1996...further to my statement made to the Gardaí on the 6/12/96 I want to clear up the confusion regarding the morning I saw Roisín McConnell at Tullyvinney. I believe that it was Tuesday morning the 15th October, 1996 and not Monday morning as I previously stated.

Finally, of the three people who habitually travel, from Tullyvinney to Killygordon, in Mr. McNulty's car, we quote the statement of Gary McCullagh:

On Sunday night the 13th of October, 1996 I was babysitting my wee brother. On Monday morning the 14th of October, 1996 I got up at 7.45 a.m. to get ready to go to work at Killygordon Engineering Works - McMenamins. I walked up to the Chapel a distance to two hundred yards to a spot where I was to meet Michael McNulty who always carries me to work in his white Opel van. Michael collected

**me at about 8.10 a.m. and then drove on to collect [Collette] McGlinchey at St. Bridget's Well at Tullyvinney. He collected her before 8.15 a.m. She got into the back. I was the front seat passenger. Michael had said to me that there was a man knocked down in Raphoe. When Collette got in we further discussed it. We drove onto our work in Killygordon. As we drove on we met Roisín McConnell walking towards Raphoe walking on her left hand side of the roadway. I want to say I don't know what day of the week this was. I think she was wearing a white top and black ski pants. When we met her she was just about one hundred yards from her house and as I passed her house I don't know whether there was a car parked in front of the house or not.**

In his statement of the 4th of December to Detective Sergeant Leheny and Detective Garda O'Malley, Mark McConnell outlines that at 10.00 a.m. on the 14<sup>th</sup> October, 1996 the phone rang in Brolly's house and it was Eunan Brolly's boss looking for him to go to work. Therefore, because Eunan Brolly was going out, a lift was available to Mark McConnell. He collected his car, then drove and collected his wife and son, and drove to the Peoples house in St. Eunan's Terrace. Michael and Charlotte Peoples were both there and, as it turned out, Michael Peoples was also cooking breakfast. They all sat down together to a fry.

Michael and Charlotte Peoples had earlier been in Quinn's pub, as you will recall, Sir, and had witnessed the incident between Mark McConnell and the deceased. Michael Peoples had left around midnight in order to go to a 'Banklink machine' to get money. Geoffrey Dolan and Michael Peoples went there together and then returned to Quinn's, leaving at around 12.30 a.m. Three of them, Michael and Charlotte Peoples and Geoffrey Dolan went into the Parting Glass/Frankie's Nightclub and had some drinks. The previous night Michael and Charlotte Peoples had heard of a "hit and run" incident involving Richard Barron. They had gone to the scene of the accident. They saw people standing around the scene, but "no Guards, no ambulance, nothing". Geoffrey Dolan accompanied them and they returned home to their residence at 264, St. Eunan's Terrace. They then had tea. Apparently Charlotte Peoples' mother, Dolly Eaton, rang the hospital from her home to enquire about Richard Barron. Apparently she hung up when she got the information that he had died. The Peoples accept that the McConnells came to their house the following morning and had breakfast, staying about an hour or so, the Peoples putting their time of arrival at around midday. While in custody, on the 14th of December, 1996, it was specifically put to Charlotte Peoples that there was some talk of an alibi being discussed. This was denied. She indicates, however, that there was some upset with Mark McConnell due to the fact that the person whom he had just had a row with was now dead. In her statement of the 22nd of September, 1997, Catherine "Dolly" Eaton accepts that she did phone up the hospital. She was, in fact, a relation of the deceased and knew him very well, apparently they were second cousins. Her motivation for ringing was, it seems, her understandable upset at him being in hospital.

A similar account is given by Michael Peoples. Dealing with the phone call he simply says: "if anybody did it, it was probably my mother-in-law Dolly".

Martin and Joseph McCallion worked as doormen at Frankie's Nightclub for two years prior to the events in question. He first made a statement on the 23rd of October, 1996 and in it he indicated that he checked in for work some time after the bus from Strabane came, which was usually around 11.30. He records a number of incidents. The first was in relation to Paul "Gazza" Gallagher who was supposed to have been giving a girl "hassle". He manhandled Mr. Gallagher out of the disco and, he claims, Frank McBrearty, Jnr. opened the door. He doesn't put a time on it. Although he knows Mark McConnell, he cannot remember whether he was there on that Sunday night or not. Later, it seems, after the ejection of Mr. Gallagher "a boy called Porter" was seen arguing with a girl. Because he had been banned a week before, he put him out as well. Frank McBrearty, Jnr., on this account, joined in this ejection also. Martin McCallion was later arrested on the 8th of December, 1996.

The final arrested person to whom we wish to refer is Damien McDaid. He is an electrician who carried out some work installing a new lighting system in Frankie's discotheque. He said that he was in the disco from about 12.30 a.m. on the 14th of October, 1996 and saw Frank McBrearty, Jnr. there. He drives a navy blue transit van which he parked in the car park at the rear of Frankies. He left at 1.00 a.m. and the only people he saw in the car park were one of the bouncers "a baldy headed boy" whom he describes as being "along with a few women". He says that one of these women was getting sick. As he drove out there was some kind of a fight involving, as he thought, prisoners temporarily released over a weekend.

Sir, we have described the foregoing people as "suspects". This is because they were later arrested. On the 4th of December the following people were arrested: Mark McConnell; Roisin McConnell; Frank McBrearty, Jnr.; Catriona Brolly; Michael Peoples; Edel Quinn; Charlotte Peoples and Mark Quinn. On the 5th of December Frank McBrearty, Snr. was arrested. On the 8th of December Martin McCallion was arrested. On the 11th of December Sean Crossan was arrested and on the 17th of December Damien McDaid was arrested. Having given an account of the movements of those so-called suspects we must now return to Raphoe and that Monday morning.

At 3.50 a.m., according to Eircom records, a phone call took place from Raphoe Garda Station (074-54114) to the home of Garda John O'Dowd (074-25858; see appendix 32 of Carty II). When asked about the matter later, Garda John O'Dowd said he could not recall receiving such a phone call. At 6.45 a.m. the C9 form, reporting Mr. Barron's death for the first time, was sent to Garda Headquarters. This indicated a fatality and was something that ought to have been done some hours earlier. Equally, the District Officer should have been informed. This happened at 7.45 a.m. when Superintendent John FitzGerald was told of the incident. His main statement on this matter is dated the 8th of March, 2000. On that particular Monday he was on leave. He says:

I received a phone call at 7.45 a.m. that morning from Garda John McManus, Garda Communications Room, Letterkenny. I was notified by him that a fatal hit and run accident had occurred at Raphoe at about 1.00 a.m. that morning...I immediately made enquiries from Garda McManus as follows. Was the scene properly preserved, who was the Scenes of Crime Examiner, was there proper identification and was that end of things covered, was the injured party's clothing taken possession of, was the matter circulated and the nature of the circulation, was anybody got or were there suspects, was a C9 forwarded, was Superintendent S FitzPatrick who was on call that weekend notified, and why was I not immediately notified...while getting ready to go into the Garda Station at Letterkenny I rang Garda McManus again and expressed my total dismay at not being notified because during my time as Superintendent at Letterkenny for nearly five years all the points raised were emphasised over and over again and were always covered...I contacted Inspector Jim Gallagher, Letterkenny, to ensure that he was properly briefed as he was acting District Officer in my absence. I also immediately contacted Inspector John McGinley, Letterkenny to take charge of the case on the ground and to ensure that everything was covered in total detail, including a detailed postmortem and I also emphasised the importance of use of photography at the postmortem...I learned that Garda Birney and McDwyer, both from Lifford...were on duty that night and that Garda Mulligan, Raphoe was on duty at Raphoe that night and that Garda O'Dowd, Raphoe had joined him then that morning and that they looked after the deceased man's clothing, that they made local enquiries and searches, but that the scene was not preserved and not yet examined by a scenes of crime examiner. I learned that Garda Coady, Castlefinn, now Sergeant Coady, had been contacted by Garda McManus so I rang him myself at 8.30 a.m. and ordered him out to the scene forthwith. I then rang Lifford to order Garda Connolly to get out to the scene forthwith or to leave a member out there...I was very annoyed, disappointed and surprised by the initial actions of the four Gardaí who are all experienced and well used to serious incidents...

In fact at 8.00 a.m. Garda Niall Coady had been told of the incident. At 8.05 a.m. Sergeant Hannigan, the Sergeant in charge of Raphoe, was told of the incident. However, notwithstanding the note of apparent urgency in the statement from Superintendent FitzGerald there was again a considerable delay in anyone arriving at the scene. At 9.00 a.m. Derek "Darcy" Connolly arrived at the McBride's house proximate to the scene. Some ten minutes later Simon McBride, together with "Darcy" Connolly and others, washed the scene where there was blood on the roadway. They thought it was a disgrace that school children might be going up and down and would have to see the human blood on the roadway. It was at 9.20 a.m. when Gardaí Coady and Connolly finally arrived at the scene as the roadway was being washed. Sergeant Coady puts his time of arrival at 9.10 a.m. He says:

**At the scene I saw one Matt McBride, Townparks, Raphoe...there were a number of other persons unknown to me also near the scene. I saw a bucket of water sitting on the roadway near an area where I could see what appeared to be small pools of blood. I did suspect that there were heavy blood stains on the roadway. I also saw one yard brush in Mattie McBride's possession. I removed Mattie McBride and other persons from the area of the blood stains and directed Garda Connolly not to allow any persons or vehicles access to the scene. I can describe the roadway as 16 feet wide at the scene and the roadway was very straight. The main concentration of blood and blood clots on the road were located between the entrance to Matt McBride's house and...yard...from examination of the scene I saw blood, blood clots, hair strands and skin on the roadway approximately one metre from the edge of the road on...McBride's house side...**

Sergeant Coady indicates that he recovered a glass particle, a blood sample and what appeared to be seven paint flakes. He also took samples of hair from the scene. Some time during that day, it would seem around 10.30 a.m., Detective Sergeant J S Henry went to view the body in the morgue. He noted some wounds. In his statement of the 14th of November, 1997 he says:

**I was suspicious as to the cause of death and left the hospital to report to my superiors. I spoke to Inspector Gallagher at the Garda Station and accompanied him back to the morgue to review the body. I was again accompanied by D/Garda Keating. I did not touch the body on the second visit, but remained there while Inspector Gallagher had a look at the body. We left a short time later. I am unable to say whether the marks on the backs of the hands or the injury to his fingers were defence marks. I felt it suspicious that he had these marks on his hands and no other marks or injury to any other part of his body other than his head.**

This account, it seems to us, Sir, raises even stronger reasons than usual why proper postmortem photographs should be taken. One also wonders, in the light of these stated suspicions, why Dr. Harbison was not called in from Dublin. However, it would appear that this is not Detective Sergeant Henry's responsibility. Where that responsibility lies is not a matter for us.

At 11.30 a.m. Garda Kevin O'Malley photographed the scene. He was also the photographer for the postmortem which took place that afternoon. At 3.00 p.m. Dr. David Barry, Consultant Pathologist at Letterkenny General Hospital, performed an autopsy on the body of the deceased. In summary, his opinion was "death was due to...head injuries". Dr. Barry is not a forensic pathologist. In his report dated that day he noted the following:

**A Y-shaped laceration with crushed edges and open end inferior was found extending into mid-line of forehead to behind the hairline. This measured 10 cm max. length. Arms max 4 cm. This wound gaped and measured 3 cm max across. Fractured skull**

**bone visible beneath. Bleeding from left ear. Dermal bruising on both sides of gaping wound in forehead. Abrasions on left side of this wound in an area 4 cm, coming to 4 cm of wound. Scattered abrasions back of right hand and wrist and right index finger. Abrasions knuckle of left hand. Left little finger showed laceration of tip region with partial avulsion of pulp and skin from below the distal phalanx. A straight clean-edged laceration 3.5 cm was found lying in rostral caudal line left posterior parietal area. Limited bruising of skin inner angle right eye.**

There is no note of any bruising or wounds to the torso or leg. Dr. Barry notes fractures of the fourth and fifth ribs on the right, but because there was no bleeding he indicates an impression that they were postmortem injuries, perhaps associated with attempts at resuscitation. The base of the skull showed extensive comminuted fractures extending into the anterior middle and posterior fossae on the left with extensive associated fractures of the left squamous temporal, and occipital, bone on the left. In addition there was a mid-line fracture in the frontal bone which extended up and curved through the anterior parietal to reach the squamous and temporal area on the left. There were extensive blood clots to the brain with traumatic subarachnoid extravasation on the convexities. There was an area of superficial laceration in the left temporal pole and interior surface of the left temporal lobe and the interior surface of the left temporal lobe showed extensive contusion. There was a transection done of the brain stem and there were a number of haemorrhagic foci in the pons. There were also haemorrhages and contusions in other parts of the brain. In a letter to this Tribunal dated the 3rd of September, 2002 Dr. Barry indicates that "two possible causes for the injuries were being considered". The reason that mention is made of a fatal road traffic accident on the test results for blood/urinary alcohol level was because on "general principles" he would have selected the less sensational of the possibilities. It is not understood how, at this stage, anybody could have understood that, apart from a road traffic incident, there was a possibility that Mr. Barron had been murdered. Dr. Barry says that he was not told of any suspicions prior to the postmortem and that if he had been told he would have declined to be involved and would have immediately referred the case to the State Pathologist. Dr. Barry says that this suspicion of murder emerged from the postmortem findings and his comments on them which, he says, were made at the time to the Gardaí. He says that he "pointed out that the findings would be unusual for involvement in a road traffic accident, and a blow from a blunt instrument appeared more likely". He said that later on, he was told of a possible grudge or animosity, which was not specified, towards the deceased which the Gardaí felt could have had a bearing on the case. Dr. Barry was not told of the presence of a piece of flesh with hair attached at a distance of five feet from the body until the 30th of September, 1997. It is not known why he was not told this on the 14th of October, 1996. When Dr. Harbison was told this on the 26<sup>th</sup> of April, 2000, he indicated that a piece of flesh on a roadway was normally suggestive of a traffic accident. At the postmortem examination Dr. Barry accepts that he may have said that the injury was consistent with "being struck with a blunt instrument".

We now move onto the next day, Tuesday, the 15th of October, 1996. In his statement made on the 21st of February, 2000, Chief Superintendent Denis FitzPatrick says this:

**I can recall that on the 15th October, 1996, at approximately 10.00 p.m. Garda John O'Dowd telephoned me at my home to inform me that he had good information to the effect that Frank McBrearty and Mark McConnell killed Mr. Richard Barron and that it was murder and not a hit and run accident. I recollect that I did not discuss the source of the information, but that I assumed it was probably William Doherty. I telephoned Superintendent J J FitzGerald on the night and discussed the matter with him briefly. Subsequently on the next morning, 16th October, 1996, I discussed the investigation, and went to the scene with Superintendent FitzGerald. I have no recollection of discussing the source of Garda John O'Dowd's information with Superintendent J J FitzGerald at that time.**

We now turn to Superintendent Lennon's report on this matter. Under the heading "Investigation into Unlawful Killing" the report reads:

**Following the postmortem examination a full scale Garda investigation was commenced and an Incident Room was established at Letterkenny Garda Station with operations being directed from that centre. An investigation team was assembled which comprised of members of Detective Branch from Letterkenny, Milford and Lifford and uniform personnel from Letterkenny, Raphoe and Lifford. A conference was convened at 6.00 p.m. on Tuesday, the 15th October, 1996 at Letterkenny Garda Station and was chaired by Superintendent John FitzGerald who had visited the scene earlier that morning accompanied by Detective Inspector John McGinley and Superintendent Jim Gallagher who was then an Inspector. The investigation team were advised at this conference to keep "an open mind" as to how the deceased had sustained his injuries and to carry out the investigation accordingly. Some time later that night information came into the possession of Garda John O'Dowd which suggested that this was a case of murder and that two individuals, namely Frank McBrearty Jnr and Mark McConnell were observed approaching "Frankie's Nightclub" from the direction of the scene at a time crucial to the estimated time of the attack on the deceased. By the time the reader comes to the end of this report it will be seen that this information transpired to be both false and misleading. This information came from a source of proven reliability in the past and the investigating members had no reason to doubt the veracity of this information at this time and it was therefore accepted on merit.**

The report goes on to state that a hit and run accident was subsequently ruled out. This is notwithstanding the injuries to the deceased, the finding of a piece of skin with hair attached some five feet away from his body, the recovery of a

piece of glass and flaked paint at the scene and abrasions on the deceased's watch which contained a trace of red paint along its glass face. This paint could perhaps have come from the red Bedford van of Richard Barron, but equally it could have perhaps come from another red vehicle. Investigations by a fresh team of Gardaí, on this issue, are ongoing. In addition, the deceased's dentures were smashed. Unfortunately, there is no description of the entirety of the deceased's body in the pathology report, and no photographs were taken of his unclothed body for the purpose of later analysis. As to the supposedly reliable source this was thought, at the time, by both Chief Superintendent Denis FitzPatrick and Superintendent FitzGerald to be William Doherty. In another statement dated the 2nd of May, 2000 Chief Superintendent FitzPatrick comments:

**In relation to William Doherty, I can recall asking Detective Inspector Lennon to make contact with Garda O'Dowd and meet with Garda O'Dowd and William Doherty to assess his usefulness in relation to his ability to supply information to the Gardaí on Subversive and Criminal matters. I cannot recall the date I made the request, but it was just after he returned from England where he had completed a course. I recall that it took months for him to do the job, and in fact he had been promoted in the meantime and gone on transfer to Buncrana. He was transferred to Buncrana on the 22nd February, 1997. Eventually, around December, 1996, he told me that he had done an assessment on William Doherty and that he was a promising source and that he would keep in touch with him and Garda O'Dowd, my instructions were to put all information on form C77.**

Even if the source was reliable, which as a matter of fact he was not assessed as being in October, 1996, it is difficult to know how a man coming up his own car park with his own first cousin could be the foundation of any reasonable suspicion that he had murdered somebody. As to the information about people coming through the car park it is not understood whether this was relayed orally or whether the conversation with Garda O'Dowd was as blunt as Chief Superintendent FitzPatrick puts it. Nor is it understood how, if the Gardaí genuinely believed that a murder had taken place, they allowed Mr. Barron's body to lie above the ground for a number of days without calling in a forensic pathologist. Superintendent John J FitzGerald was more than annoyed at the way in which the investigation had been carried out to date. He wrote a report to Inspector Gallagher on that day, the 15<sup>th</sup> October, 1996, making a number of points; as to why it took thirty five minutes to respond to the emergency call, why the scene was not preserved; why a scenes of crime examiner was not immediately contacted; why the clothing of the deceased was not immediately secured; why the Superintendent was not notified until the following morning; or why even the Sergeant in charge at Raphoe was not contacted. He also could not understand why Garda Mulligan was not available for radio contact. It might be reasonable to ask, in the light of all of those criticisms of other people, possibly justified, the question as to why an examination by a forensic pathologist was not identified as being the most appropriate next step to take. Superintendent John J FitzGerald in his statement of the 8th of March, 2000

says that there was nothing found at the scene to suggest a hit and run accident. It is difficult to know how this could be said and, more particularly, how a conclusion of murder could have been arrived at given that the scene had been driven over all night in its unpreserved state and had been trampled over that morning and washed by people acting, they assert, out of the best of intentions. We quote Superintendent John J FitzGerald as to the next steps in the investigation:

**I had consultations with Inspector John McGinley, Dr. Barry, Pathologist and the Coroner on Wednesday morning, the 16<sup>th</sup> October, 1996. Resulting in these consultations I contacted Professor Harbison, the State Pathologist. I organised Dr. Barry to fax his pathologist report to Dr. Harbison and both doctors discussed the findings. Dr. Harbison enquired if photographs were taken during the postmortem and it was confirmed positive...I contacted Professor Harbison again in the presence of Inspector MrGinley who stated that Dr. Barry's pathologist report was in great detail and stated that it would be duplication for him to examine the body of Richard Barron deceased and his considered opinion was to bury the body. The photographs were also made available to Professor Harbison as soon as they became available. I contacted the Coroner, briefed him on the up to date position and he directed burial. I prepared a preliminary report and forwarded it on that date, the 16th of October, 1996 to the Chief Superintendent, Letterkenny and this was forwarded to Assistant Commissioner C Branch...in that report I stated that the postmortem revealed heavy injuries to the skull with multiple fractures which was the cause of death. I also referred to an injury caused to his left ring finger. I also referred to my consultation with Professor Harbison as already covered. I also stated "this is a most unusual case and is being pursued with open mind, all avenues are being explored and a full investigation is in place". I recall clearly having a brief conversation with Chief Superintendent Denis FitzPatrick, Divisional Officer, Letterkenny. I went across from the conference room to his office and I believe it was either Tuesday night, the 15th October, 1996 or Wednesday, the 16th of October, 1996, it was certainly I think as early as that. The Chief Superintendent said to me "John, Richie Barron was murdered, Frankie, Jnr. and Mark McConnell did it". My answer was "thanks very much, I'll take that on board, but we must investigate this with an open mind". There was no question or nothing said as to where the information came from, but I immediately assumed myself that it came from Garda O'Dowd or Superintendent Lennon. I assumed that because if it were anybody else I would have been told. I did not give that aspect any thought, but I did consider the information and decided not to mention it at conference, that it would be much better allow the investigation take its course and I emphasised that people must approach that matter with open mind. That information very soon spread and a Mr. X was introduced by Garda O'Dowd as to having been in the car park of Frankie's Nightclub and putting Frankie, Jnr. and Mark**

**McConnell [there] at the vital time. As time went on I specifically requested at conference that a statement would have to be taken from this Mr. X because I wanted corroboration of this information and the best way to do it was to get the statement and to have it fully checked out so that if Mr. X saw somebody in the car park then it was vitally important that somebody saw Mr. X there. I prepared press releases and radio releases...conferences were held almost daily where developments were discussed and further directions given. Various avenues of enquiry were followed up as they arose, cars were forensically examined and every effort was made to have the scene at Raphoe as it actually was at the time of Richard Barron's death at about 1.00 a.m. on the 14th of October, 1996. The inquiry involved hundreds of statements, numerous questionnaires, searching, forensic examinations.**

In this account Superintendent John FitzGerald does not say that he told Dr. Harbison that the Gardaí now had "information" that the deceased was murdered.

On Wednesday, the 16th of October, 1996 after Requiem Mass at 10.00 a.m. Richard Barron was buried. It was to be nearly four years before a forensic pathologist got to look at his remains.

Let us go back to Tuesday, the 15th of October, 1996 because then something else is supposed to have happened. A billhook could slice off a piece of someone's scalp. There is abundant evidence, apart from the phone calls to the Communications Centre in Letterkenny, that Paul "Gazza" Gallagher was driving dangerously around Raphoe on the night in question. It was also him, as it later emerged, who stole the billhook and the chainsaw from Hugh Stewart's house (see his statement of the 10th of September, 1999 when interviewed by D Gardaí Hugh Maloney and Tommy Flynn). Paul Gallagher claimed during this interview in 1999, that two Gardaí had spoken to him on this Tuesday, the 15th of October, 1996 and had asked him about his activities and further told him that he was being blamed by Frankie McBrearty for killing Richard Barron and that McBrearty had made a statement implicating him in the murder. Paul "Gazza" Gallagher claims that the Gardaí gave the impression that they knew who killed Richard Barron and that they told him to get his story right, but that they didn't care how he did it, but "to stitch Frankie up". He claims to have told them details about what he had done in relation to burglaries and in relation to disposing of the billhook. In the course of that interview he named Gardaí. We do not propose to give these names as all available evidence points to the falsity of this aspect of the statement in question. Later on the 10th of September, 1999 Paul Gallagher was again interviewed, but this time by Detective Inspector John O'Mahoney and Detective Garda Richard Caplice. It was pointed out to him that one of the Gardaí, and in particular the one whom he was alleging was the principal, was in fact on United Nations duty in Bosnia. Paul Gallagher then claimed that it must have been somebody else (see the memorandum prepared by Detective Inspector O'Mahoney of that date). What does appear to be the case, however, is that what Paul "Gazza" Gallagher said to the Gardaí was both false and was used as a justification for continuing with the murder enquiries

and specifically against those they already claimed to suspect. Either Paul Gallagher was malicious in making the allegations which he later did make that he had information that Frank McBrearty, Jnr. was involved in the murder or he was both malicious and inspired by somebody to make these allegations. He then constituted the second strand of the foundation of apparent reasonable suspicion against Frank McBrearty, Jnr. As with the first strand, it was later withdrawn. As with all the strands to which reference will be made it is difficult to think of any explanation other than that they were inspired by somebody who was acquainted with the basic facts of the case. Although it was assumed that the information, so called, supplied by Garda John O'Dowd to Chief Superintendent Denis FitzPatrick had come from William Doherty, it will later emerge that it supposedly came from Noel McBride.

Before continuing, let us summarise the available information. William Doherty was in bed in Raphoe on the night in question and therefore could not have been in a car park. Noel McBride was at a christening miles away and could therefore not even have been in Raphoe. Paul "Gazza" Gallagher had stolen the billhook from the home of Hugh Stewart and could therefore not possibly have got it from Frank McBrearty, Jnr.

Before continuing with the general chronology it is as well to deal with Paul Gallagher now. On the 18th of October, 1996 Detective Sergeant J S Henry obtained a search warrant to search for stolen property at the home of Paul Gallagher in Letterkenny. During this search he arrested him. The focus of the later questioning was on burning and stealing cars. Detective Sergeant Henry examined that matter in some depth. During the course of his interviews on the 18th of October, 1996 Paul Gallagher had claimed that he had returned to Frankie's Nightclub in Raphoe and further claimed that he had been told to do so by Mr. McBrearty, Jnr. who he alleges then told him to burn out the car he was then driving. The written statements available to us do not contain such an account. Sergeant Henry became aware from Paul Gallagher, however, that a billhook of some kind was of interest to the Gardaí on the 29th of October, 1996 when Paul Gallagher appeared at Letterkenny District Court. Afterwards he told Sergeant Henry that he wanted to talk to him and asked him for bail. He then stated that he had found a billhook in his car after he returned to it on Sunday night/Monday morning after being thrown out of Frankie's Nightclub. Sergeant Henry was naturally interested in this and on the 19th of November, 1996 he went to Mountjoy Prison where he met Paul Gallagher. He refused to make any statement and would not say anything while there was any paper in front of Sergeant Henry. He continued to press for Sergeant Henry to negotiate some kind of a deal to get him out on bail, overtures which Sergeant Henry rebuffed. He said that he had been put out of Frankie's Nightclub on the night/morning of Mr. Barron's death at 1.10 a.m. He implied that Frank McBrearty, Jnr. knew where his car was and that when he came back to it he found the car turned and the device which he used to start this car was, he said, missing from the dash board where he had left it. When looking in the boot he discovered that the spare wheel was missing, implying that someone had interfered with his car. The implication was that Frank McBrearty, Jnr. had put something in his car. This was, it was implied, the billhook. Explicitly he claimed that he was asked to return the next night when Frank McBrearty, Jnr.

asked him to burn out his car and it was then that he drove away, stopped his car and discovered 'a hook' in the boot. In what appears to us to be a patently ridiculous allegation, he claimed that young Frank McBrearty had given him £500 in the toilets prior to putting him out. The time of this was, however, at 11.30 p.m. on the 13th of October, 1996 when, as we know, Mr. Barron was then alive and would be alive for a further hour and a quarter. It is not known how this could possibly be accepted at face value unless this was turned into some kind of a belief on the part of the investigating Gardaí that as early as 11.30 p.m. a premeditated murder was being planned with the billhook as the chosen weapon of attack. There is nothing to suggest, by the way, that Detective Sergeant Henry did anything other than pursue his enquiries diligently and report what he had discovered to the Incident Room personnel. On the 16th of January, 1998 Paul Gallagher made a statement to Detective Garda Thomas Kilcoyne and Detective Garda J Foley along the lines which he had already outlined to Detective Sergeant Henry. At the end of the statement he also recounts an incident when he claimed that Frank McBrearty had accused him of killing the deceased in the presence of two men, in the bar, on a later occasion. He ends the statement by saying:

**This statement is one hundred percent correct that was only lies I told to Silvie Henry was about getting £500 out of young Frank McBrearty the only reason was because I wanted to get bail. I just want to say I hate lies.**

This statement was recanted by Mr. Gallagher in an interview on the 31st of May, 1999 with Detective Sergeant George Kyne and Detective Sergeant Ken Barker, part of the Carty investigation team. It is reported as follows:

**He was ejected by a bouncer with long hair and a glass eye. He met Frank, Jnr. on the way out and asked why he was being put out. He confirmed that it was in relation to a bottle being thrown the week before. Frank, Jnr. told him to come back and see him and it would be alright. Frank, Jnr. did not tell him that there was anything in the boot of his car. He (McBrearty) did not know where it was parked. He did not tell him to get rid of anything either.**

The memorandum in relation to the interview reads:

**Paul Gallagher is adamant about this. When questioned as to his reasons for alleging in his statements that Frank, Jnr. had asked him to get rid of the item in the boot of his car, he states that he had heard rumours that the McBreartys were alleging that he had been involved in the death of Richie Barron. He made the statement including the allegations in relation to the billhook in order to put the blame back on them.**

In a memorandum of the 25th of April, 2000, Detective Sergeant George Kyne and Detective Sergeant Fergus Traynor record Mr. Gallagher as saying the following: "He confirms that two burglaries that he committed and him calling back to Raphoe on the Wed. night". When he was questioned about why he

said that McBrearty had offered him the £500 and why he had given information (false) about Frank McBrearty he said that he was told by the Gardaí that he was being blamed for the death of Richie Barron and that the Gardaí told him that he had been in Frank McBrearty's pub and that he had used the 50p coins he had stolen from the Border Inn to pay for his drink. He said that this was in fact the truth and this confirmed for him that the Gardaí had in fact been talking to McBrearty and that he then believed that he was being blamed by McBrearty for the death and that he then put the blame back on McBrearty.

Let us again, having dealt with Mr. Gallagher, the second strand to Garda suspicions concerning the McBreartys, return to Raphoe in the aftermath of Mr. Barron's death. It would seem that what Superintendent John J FitzGerald said, in his already quoted statement, about the "information" coming from Garda John O'Dowd quickly becoming more widespread, has some validity. For instance, Jason Porter, who lives in Raphoe says:

**On the day Richie was buried I was working in a chipper and I think it was there that I heard the rumours that he was murdered. I am sure it was that evening anyway. I think it was coming out of the Wake house that Tom Hastings says to me that the mark on Richie was something of an angle iron would do...(Statement of 6/11/97).**

On the 17th of October, 1996 samples from the autopsy and the scene were sent to Liam Fleury in the Forensic Science Laboratory. In his report Mr. Fleury says that he examined the samples to see if there was any support for the allegation that the deceased Richard Barron had been knocked down by a motor vehicle. He came to the conclusion that nothing was found to support the suggestion that Richard Barron was knocked down by a motor vehicle. In a letter to this Tribunal dated the 31st of July, 2002, Dr. James Donovan indicates that it is usually the case that there is a considerable amount of relevant evidence left at the scene of a car accident. This case, he comments "diverges in many ways from any norm". Nothing in the samples indicated a definite assault or a definite hit and run.

On the 21st of October, 1996 Detective Superintendent Joseph Shelly came to Donegal. On the 22nd of October, 1996 Detective Garda Patrick Tague passed on information to Detective Inspector John McGinley. We know that this was the date of the beginning of the third strand of Garda suspicions only because in a section of Superintendent Lennon's report it says:

**Garda Tague stated that John Patton, a thirty eight year old single farmer residing with his parents at Midcut, Drumkeen, Stranorlar, County Donegal, informed him that he had observed two or three men coming down the car park towards the entrance door to "Frankie's Nightclub" on the morning of the 14th October, 1996. These people appeared to be "hurrying as if coming from or going to some kind of a handling". The informant was adamant that he would not make a statement in writing in regard to his observations and insisted on this information be treated as strictly confidential.**

Sir, the word "handling" in this context means a scuffle or some kind of a fight. You will have noted that it was necessary, some time around 12.30 – 12.50 a.m., for the nightclub to eject Paul "Gazza" Gallagher and, later, at around 1.00 o'clock, to eject some other men who seem then to have carried on a fight down the street. As to how this information could form the basis of a reasonable suspicion is at present unclear. What is clear, however, is that there is nothing in the papers supplied to suggest that John Patton gave this information in anything other than in good faith. Regrettably, no statement was taken from John Patton until the 28th of August, 1997. Even more regrettably, even though from this very early stage the investigation was assumed to be into a murder committed by Frank McBrearty, Jnr. and Mark McConnell, steps were not taken to assist Mr. Patton in identifying the person who was with Frank McBrearty, Jnr. In his statement of the 28th of August, 1997, taken by Detective Inspector McGinley, Mr. Patton describes parking beside Sarah's Cafe, almost opposite the McBrearty's premises. He then walked towards the entrance to the disco, which also leads to the entrance to the car park. He says:

**When I was about five or six yards from the entrance to the Parting Glass I looked to my left and saw Frank McBrearty, Jnr. and another man coming from the direction of the car park. They were approaching the corner of the building when I first noticed them. Frank McBrearty, Jnr. was on the inside. I did not know the man who was with him. He was walking alongside Frank McBrearty. I think Frank McBrearty was wearing a black jacket. I did not notice anything else he was wearing. The man who was with him was wearing a white sweatshirt. I did not notice anything else. I would describe him as about the same height as Frank McBrearty (Jnr.) but not as well built. I passed no further remarks on them and I walked on into the disco. Both these men were walking towards me at a normal pace. I paid into the disco...Frank McBrearty and another man did not come into the disco after me and I did not see them again that night.**

Sir, you will note that, in contrast to the paragraph in Superintendent's report, there are now definitely two men, as opposed to "two or three men". There is no mention of them "hurrying as if coming from or going to some kind of a handling". One further matter: our understanding is that at the relevant time Mark McConnell weighed 18 stone. He could not therefore have been "not as well built" as Frank McBrearty, Jnr. When spoken to by Sergeant Fox and Detective Garda Molloy on the 22nd of June, 1999, Mr. Patton repeated his descriptions. The interviewers discovered that Mr. Patton was a regular attender at the disco and would have known most of the staff. He did not recognise the person with Frank McBrearty, Jnr. as being a member of the staff. Sergeant Fox showed Mr. Patton a photograph of Frank McBrearty Jnr. and he readily identified it. Sergeant Fox then showed him a photograph of Mark McConnell and asked him if he knew the man in the photograph. John Patton replied that he did not recognise him and that he had never seen him before. He commented that this could not have been the man he had seen with Frank McBrearty, Jnr. Three months later, on the 28th of September, 1999 the contents of the report made by Detective Garda Pat Tague were read over to

him by Detective Inspector John O'Mahony and Detective Sergeant George Kyne. He denied that he had seen Mr. McBrearty running down the car park. He denied ever saying that Mr. McBrearty, Jnr. was ever in a "rise state". In his final interview on the 14th of October, 1999 with Detective Sergeant George Kyne and Detective Sergeant Fergus Traynor, Mr. Patton indicated that Frank McBrearty may have been a bit "rise" looking. He at all times has abided by his original account of seeing Mr. McBrearty, Jnr. and another man coming from the direction of the car park as he entered the lane way to go to the disco. Again, it is hard to see how there could be anything sinister attached to a person being on or in the vicinity of their family business when they have a reason to be there. Equally, it is hard to see how someone involved in ejecting people from a discotheque could be expected to universally maintain a happy demeanour.

Sir, we are now at a point which is one or two weeks after the death of Mr. Barron. The Gardaí apparently have a murder investigation on their hands, but they do not have a report from a forensic pathologist. The Gardaí apparently believe that Mark McConnell and Frank McBrearty, Jnr. have murdered Richard Barron, but they do not have any evidence that Richard Barron was murdered. Further, it is appropriate to ask what they have in terms of advancing a suspicion, be it reasonable or unreasonable, that Mr. Barron was murdered by Mr. McConnell and Mr. McBrearty, Jnr.? Apparently they have a bald statement to that effect from Garda John O'Dowd. This was made to Chief Superintendent Denis FitzPatrick and repeated to Superintendent John J FitzGerald. It is nothing more than an assertion because it contains absolutely no information as to how the crime was committed. Further, it is completely lacking in any detail whereby a police officer might put himself in the position of the informant and ask himself whether, knowing what the informant purports to know, he would come to the same conclusion. The source of the information was assumed by everybody to be William Doherty who, although described by Superintendent Lennon as a reliable source, had yet to have his reliability checked thoroughly, if at all. A statement from Mr. Paul Gallagher, "Gazza", was in the process of being formulated, and was finally given, as we have seen, to Detective Sergeant J S Henry on the 19th of November, 1996, about sinister behaviour by Mr. McBrearty, Jnr. and a slashhook. One might suspect that the reason why the slash hook was mentioned at all in this context was that a piece of flesh with hair attaching to it had been found some five feet from the deceased's body. Finally, we have the statements of Mr. Patton about which we need not say any more. It is at around this time, some two weeks after the death of Mr. Barron, that Noel McBride first becomes involved in this through the agency, according to Mr. McBride, of William Doherty. Any involvement Mr. Doherty or Mr. McBride may have, we ask you to note, Sir, cannot be real if, as appears to be the case, neither were in Raphoe that night. Let us therefore dispose of that straight away. As to Patrick Doherty, William Doherty's father, he had this to say in a statement taken by Detective Sergeant John White on the 11th of January, 1998:

**I remember the night of the 13th of October, 1996. My wife Mary and myself went to bed at about 10.30 p.m. I was lying in bed, but I did not go to sleep until between 12 midnight and 1.00 a.m. I heard my son William and my daughter leaving the house that night before**

**11.00 p.m. They were gone about fifteen minutes and were back in our house at about 11.10 p.m. I heard them going to bed shortly after that. Nobody got out or left the house after that, I would have heard them if they did. I am a light sleeper. I got up first in the house next morning at about 6.00 a.m. or shortly before it. William got up shortly after that as I called him.**

On Sunday, the 6th and Sunday, the 13th of October, 1996 christening parties took place at the Lantern Inn/Roper's Pub premises in Killygordon. On the 6th of October the baby of Stephanie McBride and Séamus Gallen was christened and there was a party in the lounge at Roper's Lantern Inn. On the following Sunday, the 13th of October the baby of Mary Gallen (nee Alexander) and Michael Gallen was christened and again there was a party in Roper's Lantern Inn; see statements of Kathleen Roper dated the 24th of September, 1997 and the 16th of November, 1997. The connection with Noel McBride is through the Alexander family. We quote the statement of Sharon Alexander, made on the 17th of September, 1997:

**I remember Sunday, the 6th of October, 1996, Stephanie McBride...and Séamus Gallen were having their baby Megan christened...after the christening we went to Roper's pub...At the reception...I met Noel McBride, Stephanie's brother for the first time. He lives in Figart, Raphoe with his mum and dad. We went out together that night and he is my boyfriend since. Myself and Noel and a group at the christening party...got a mini-bus from Roper's to the Parting Glass Nightclub in Raphoe...I was with Noel all night at the disco until roughly 2.00 a.m...I also remember the following Sunday, the 13th October, 1996 I had another christening. This time it was my sister Mary's child who was getting christened...when the christening party was finished the meal [was in Roper's] [and] I asked my sister Mary if I could invite my boyfriend Noel over to the reception. She told me that was okay and I went up to the phone box beside the post office and phoned Noel at home. I told Noel to come over and his brother Gary left him over to Roper's at 2.30 p.m. Myself and Noel spent the day together in Roper's until about 10.00 p.m. or 11.00 p.m. at which time we decided to go to Heaney's. Myself and Noel travelled to Ballybofey with Francis Gallen, his girlfriend Linda Patton and Gary Harvey...Myself and Noel stayed at the disco in Heaney's until about 2.00 a.m...the following morning, Monday, I went up to Noel...Noel did not go to work and we spent the day together in his mobile until 11.00 p.m. During the day I heard on the radio that there was a man killed in Raphoe. I think it said Richard, but now it was Richie Barron...about two or three weeks after I started going out with Noel we were in Killygordon one night walking about and Noel told me that he got a call from a friend of his that he had not heard from in a long time. He said he was William Doherty. That was the first I heard of William Doherty. After that Doherty started ringing my home on a regular basis looking for Noel. Sometimes he would ring twice in the one night. After a couple of months of this Noel would tell run and answer the phone**

**if it was Doherty to tell he was not in...Garda John O'Dowd rang her house a good few times looking for Noel. I answered the phone a few times that John O'Dowd rang and I gave the phone to Noel. Noel would tell me afterwards it was John O'Dowd. The mountainbike which Noel has at the moment was one he bought from my brother-in-law Liam O'Donnell around March of this year. I now remember it was Easter because [he] got double dole and was fit to buy it a week earlier as he had been saving up for it. He paid £190 for it.**

It seems to us, Sir, that the only way to rationally approach the role of Noel McBride in this is to indicate in chronological order the statements which he made, being aware that this statement if ultimately you accept testimony to this effect, indicates that Noel McBride could have had no knowledge of anything in Raphoe at the time of the death of Richard Barron. We will come to that shortly.

On Sunday, the 27th of October, 1996, Frank McBrearty, Snr. accosted Garda John O'Dowd and Garda Dan Curran and told them that people in the village were calling him a murderer. Shortly after that, on the 5th of November, 1996, the McBreartys claim that they received the first of about twenty three hoax bomb and abusive calls. This apparently went on until about the 12th of January, 1998. As paragraph (a) of the Terms of Reference indicates, other phone calls are also of interest to this Tribunal. On the 9th of November, 1996 five phone calls were made to the home of Michael and Charlotte Peoples accusing Michael of having killed Richie Barron and demanding money. On the following day he made a formal complaint to the Gardaí in a statement in writing made to Garda Philip Collins. We will reserve the detail in relation to this matter to a separate section of this Preliminary Opening Statement dealing specifically with this issue.

On the 11th of November, 1996 the death of Richard Barron was featured in the course of the Crimeline programme on Télevis Éireann. Superintendent John J FitzGerald gave an interview which constituted the main part of the programme. It is worth quoting:

**Interviewer: John FitzGerald, originally this was thought to have been a hit and run, but you have changed your mind on that totally now.**

**Superintendent: You must remember that Richie Barron was found at 1.00 o'clock in the morning, the 14th of October last. He was found on the road way with severe head injuries. He was found by a passing motorist who reported the matter as a hit and run.**

**Interviewer: As he would presumably?**

**Superintendent:** And that is correct. As a result of our own investigation, our examination of the scene in the morning, and indeed there was a post mortem, and forensic evidence and our own enquiries, Richard Barron may have been the subject of a severe beating.

**Interviewer:** Okay, so you are not ruling out a hit and run one hundred percent or putting the other one in as one hundred percent, it's still there, but the likelihood is he was the victim of a beating.

**Superintendent:** He may have been the subject of a serious assault.

**Interviewer:** Let's talk about his movements that evening. He came into the town around tea time.

**Superintendent:** Yes, he lives about three quarters of a mile from the village and at about 6.00 o'clock that evening he walked down to the town, he walked down through Townparks, down through Irish Row and into the town itself. Now, he visited a number of licensed premises, about six licensed premises and he would have spoken to quite a number of people in those premises and he would have been on the street of course quite a bit going from premise to premise.

**Interviewer:** Having a few jars?

**Superintendent:** That's right. At about 12.00/12.30 that morning he was making his way up home. He would have met people on the Diamond. He walked along the Diamond, he turned left into Irish Row and then he walked on up home, towards home, to Townparks. Now, people would have seen him on the way up and of course it was at Townparks that he was found in the condition that we have already described.

**Interviewer:** At 1.00 a.m. on a Sunday morning going into Monday, busy time in Raphoe? Many people about?

**Superintendent:** Well, Raphoe in the weekends would be an attractive location because it has discos there. On that night there would have been up to a thousand people extra, shall we say, in the town. Many of those would have attended a local

disco. Now there would have been quite a bit of movement of people around the Diamond, that was the town square, and there would have been quite a number of people, as I said, attending the disco.

**Interviewer:** Okay, well let's be specific. What are you actually looking for? What are you really trying to get out of this tonight?

**Superintendent:** We are looking for anybody who saw what happened. Anybody who was in the area at the time of this incident and anybody that would have seen people go away from that area after the incident.

**Interviewer:** Okay, we can see here now where Richie Barron was found, that's the road to Glenmaquinn. You're looking for anybody who may have been in the following areas; that's the school...

**Superintendent:** That's correct, yes. Well, first of all, an obvious route for people to go afterwards would be up the Glenmaquinn road which would be the direction he was walking anyway or back into the town in the direction from which he came. Now, there are other routes, shall we say. The Close is another area there and then there are two shortcuts back into town: one that would take you to the vocational school and the other would take you back down onto the disco car park where there would have been quite a few people and that would take you out onto the main street again.

**Interviewer:** You are suggesting then, John, that people would have escaped having committed this offence. So, are you saying that he may have been followed or were people lying in wait for him. You don't know, but what would your suspicions be?

**Superintendent:** Well, first of all that his movements would have been very predictable because he would have been a very regular visitor to Raphoe town, but he may have been followed and somebody may have lay in wait for him.

**Interviewer:** Okay, but we're looking for people who were in the area of Raphoe that night and also in those specific areas.

**Superintendent:** That is true and we would also like to speak to people who the Gardaí have not already spoken to and indeed, people who the Gardaí have already spoken to, but who may now have information, may now have seen something or heard something.

**Interviewer:** You've had a good response to date?

**Superintendent:** We have had a tremendous response from the people. A tremendous response from the people even on the telephone and people calling in personally.

**Interviewer:** But do you need more?

**Superintendent:** Well, we do. We need more especially along the lines that I have requested.

**Interviewer:** Okay, John, thank you for that. If you were in the area at the time, if you know anything about this incident that happened in Raphoe, the very suspicious death of Richie Barron, please call us now. Our number here is 1850 405060.

A map was shown in the course of this interview which has two notable features. Firstly, it shows a non-existent road running north to south whereby the Glenmaquinn road is joined to the Convoy road. Secondly, it shows an arrow going from McBride's laneway, southwards, which may denote an assumption that this was used as an escape route after what the Gardaí were treating as a murder.

It emerged for the first time on the 29th of November, 1996 who the confidential informant of Garda John O'Dowd was supposed to be. You will recall, Sir, the theft that occurred of a TV aerial from Raphoe Regional Technical College on the 19th of June, 1996. This was reported to the Gardaí by Mr. Alan Foley. His statement, made to Garda John O'Dowd is dated the 21st of June, 1996. In it, he says that the aerial had been broken off at the stump. As this statement is the beginning of a series of statements implicating the two main Garda suspects in the case, Mark McConnell, Frank McBrearty, Jnr., it is, we feel, appropriate to quote both Noel McBride's words at the time and the statements of the Gardaí who indicate that they were involved in taking that first statement. Garda John O'Dowd, in his statement made on the 20th of November, 1997, says that on the previous day he went with Garda Philip Collins to the home of the Alexanders in Killygordon in order to arrest Noel McBride for an offence of theft. He says:

**I had information in my possession which indicated to me Noel McBride had stolen an aerial from the Technical School in Raphoe some time in June, 1996. I also had important information in my possession relevant to the death of Richard Barron which was derived from the same source. I discussed these matters with the investigation team and they were aware that I intended interviewing Noel McBride in relation to both matters.**

Lest there be any confusion, Sir, the source in question had to be William Doherty. Garda O'Dowd then recounts eventually meeting with Mr. McBride and arresting him. At 7.10 p.m. Garda Collins and he interviewed Noel McBride. He first denied stealing the aerial. After Garda Eamonn Early had been sent to the Noel McBride home to collect this aerial, he changed his mind and admitted stealing the aerial. A written statement was not, however, taken at this time. Garda O'Dowd continued in his statement by saying that while awaiting the arrival of the aerial they discussed the night of Mr. Barron's death. Mr. McBride told them that he was at a christening in Roper's. The Gardaí asked him whose christening it was and he said it was his sister, Stephanie McBride's baby. As we know, if Sharon Alexander's statement is accepted, it was, in fact, her niece. Garda Collins checked this and discovered that the McBride baby was christened on the 6th of October. When confronted with this, the prisoner made no comment, according to Garda O'Dowd. He continues:

**At the time I left the interview room McBride had not volunteered any information in relation to the death of Richard Barron. I then went to my house for a meal break. While there I phoned D/Inspector John McGinley at his home at 9.30 p.m. I informed him of the up to date position with the arrest of Noel McBride and that he was denying he was in Raphoe on the night of 13.10.96 to 14.10.96. I asked him to come in to assist us in relation to the interview of McBride. I had previously discussed the information I had in my possession with D/Inspector John McGinley. He agreed to come down straight away. I then left my house and proceeded to Letterkenny Station arriving there at 9.45 p.m. Outside the station I met Garda Collins who informed me McBride had made an admission to being in Raphoe on the 13.10.96 to 14.10.96 and that he had seen Mark McConnell and Frank McBrearty, Jnr. coming down from the top car park at 1.00 a.m. At 9.55 p.m. Garda Collins and I took McBride to the interview room from the cell. At this stage Garda Early had arrived from Raphoe with the stolen aerial. In the interview room Garda Collins showed McBride the aerial which was taken by Garda Early from his home. He immediately agreed this was the aerial he stole from the Technical School and agreed to make a full written statement admitting to the crime...at the termination of the statement the prisoner was released after consultation with D/Inspector John McGinley. At 9.20 p.m. the member in charge [Garda Martin Leonard] notified Noel McBride he was being released and was free to leave...he agreed to stay on to clear up about the night of the 13.10.96 - morning of the 14.10.96 in the presence of D/Inspector John McGinley, Sergeant Marty Moylan**

and Garda Phil Collins. I asked Noel McBride to tell me what he knew about the death of Richard Barron and to give me an account of his movements on the night...I took down what he said in the form of a written witness statement after carefully reading over the declaration to him that this statement was true to the best of his knowledge and belief and that he was making it knowing that if it was tendered in evidence he would be liable to prosecution if he stated in it anything which he knew to be false or did not believe to be true. During the course of the statement Sergeant Moylan produced an aerial map of the area and asked him to mark out points on the map where he stated in his statement he had observed Mark McConnell and Frank McBrearty, Jnr. on the morning of the 14.10.96 at approximately 1.00 a.m. During this interview Noel McBride volunteered this statement and did not at any stage mention any christening other than his sister, Stephanie's baby's christening which was established at the time was on the 6.10.96. On completion of the statement I read it over...he then signed it. Sergeant Moylan and Garda Collins countersigned the statement.

The statement of Garda Philip Collins made on the 21st of November, 1997 does not materially differ, but adds that when Garda O'Dowd went for a meal break he was joined at 8.35 p.m. by Sergeant Martin Moylan. Garda Collins describes that part of the interview as follows:

We assured Noel McBride that he had nothing to be afraid of and if he had any information to say so...we kept talking to Noel McBride and after a period he admitted to being in Raphoe on the night of the 13th/14th of October, 1996 and seeing Mark McConnell and Frank McBrearty, Jnr. coming down the car park of "Frankie's Nightclub" at 1.00 a.m. that night. He stated that he was going up to break into the tech at the time when he met them coming down. Sergeant Moylan drew a rough sketch of "Frankie's" car park and Noel McBride pointed out where he was at certain times and where he met Mark McConnell and Frank McBrearty, Jnr. He said he was afraid that is why he did not come forward. He said that he had received a threatening phone call "not to go to the Guards or else" and that was why he was afraid to say anything. In the light of this revelation we consulted with Inspector McGinley and it was decided to clear up the other matter first. In the meantime Garda O'Dowd had returned and Garda Early had arrived at the station with the TV aerial...he...made his statement to the effect that he stole the aerial from the vocational school...he signed his statement on completion...he was then released from custody. Noel McBride then volunteered to talk about the incident in Raphoe on the 13th/14th of October, 1996. Garda O'Dowd, myself, Sergeant Moylan and Inspector McGinley were present when he again started to go over the events of the 13th/14th of October, 1996. He stated he was in Raphoe that night and he went over the events again as he had previously with Sergeant Moylan and I. He was shown a

**photograph of the area by Sergeant Moylan and he indicated on it the different locations where he had seen Mark McConnell and Frank McBrearty, Jnr. He again said he had received a threatening phone call and that was the reason he was afraid...he made a detailed statement in relation to the events...Garda O'Dowd took this down. He signed this statement. When he had finished his statement the time was approximately 2.00 a.m. After this I took Noel McBride home in my private car...I reassured him not to be afraid and I told him to tell me or Garda O'Dowd if he got any more threats or telephone calls.**

Sergeant Martin Moylan made three statements, the first of which is short and is undated. The second statement is dated the 26th of January, 1998 and the third is dated the 11th of March, 1998. He refers to the early conferences and Detective Inspector McGinley supplying information, somehow received verbally from a confidential source, that at 1.00 a.m. on the night of Mr. Barron's death he saw two men coming down the car park, one of whom was recognised as Frank McBrearty, Jnr. He says that a Detective Garda was directed to keep in contact with this witness and to obtain a witness statement. He says a statement was subsequently supplied by the witness. This is, apparently, a reference to the information supplied by John Patton to Detective Garda Patrick Tague. He goes on to indicate that a week to ten days later further information was supplied by Garda John O'Dowd which identified both Frank McBrearty, Jnr. and Mark McConnell and placed them up near some barrels at the back of the car park. In relation to the first piece of information he says that a Detective Garda was detailed to obtain a witness statement, and this is presumably a reference to Detective Garda Patrick Tague. In relation to the second witness he says that Garda John O'Dowd was directed to pursue the matter and get a full statement from this witness. He says he learned after one conference that the witness in question "was McBride from Raphoe".

To give a further insight into the issue as to when the various strands of information, supposedly placing Frank McBrearty, Jnr. and Mark McConnell in the car park around the time of Richie Barron's death, came together, I would draw your attention, Sir, to the following statement of Detective Sergeant J. S. Henry, a member of the initial investigating team made to the Carty team on the 4<sup>th</sup> April, 2000:

**On the 14<sup>th</sup> of February, 1998, I made a statement in connection with the suspicious death of Richie Barron in Raphoe on the 14<sup>th</sup> of October, 1996. In that statement, I stated that Detective Garda Pat Tague supplied information to the investigation team at a conference held at Letterkenny Garda Station on the 22<sup>nd</sup> of October, 1996 to the effect that he had a witness who stated he had seen Frank McBrearty, Jnr. and another person coming down the car park at the rear of the Parting Glass pub at 1 a.m. approx. on the night that Richie Barron was killed. The reason I knew it was the 22<sup>nd</sup> of October, '96, I took a rough note of it while I attended that conference...A day or two later Garda John O'Dowd said he had a witness also who saw Frank McBrearty, Jnr., Mark McConnell as the**

**two people who entered the car park from the top and walked down through it and entered the Parting Glass through the Tudor Lounge. I did not make a note of this but I knew it was a day or two later."**

It is perhaps noteworthy, Sir, that this account would suggest that Garda O'Dowd revealed this strand of information at conference more than a month before the statement of Noel McBride on the 29<sup>th</sup> of November. We cannot understand this to be a reference to anyone other than Mr. McBride, who was not yet an informant.

Returning now to the account of Sergeant Martin Moylan of the interview with Noel McBride on the 29<sup>th</sup> November, he says that on the night of the arrest, Garda John O'Dowd arrived at 8.30 p.m., appearing in a hurry, and stated "I need help". Garda O'Dowd identified to Sergeant Moylan that McBride was now in custody. At 8.35 he went downstairs and this is Sergeant Moylan's account:

**I met Garda Phil Collins who was interviewing a prisoner. Garda Collins introduced him to me as Noel McBride from Raphoe and that he was interviewing him about a stolen aerial...at 8.40 p.m. the prisoner was provided with a meal. Garda Collins put various questions to him about the aerial. McBride stated that he stole the aerial and that it was at the side of his house in Figart, Raphoe. Arrangements were then made for Raphoe Gardaí to collect the aerial and bring it to Letterkenny. At 9.40 p.m. the prisoner was placed in the cell. I returned to the investigation office. At 10.15 p.m. I returned downstairs to the interview room. Present were the prisoner, Garda John O'Dowd and Garda Phil Collins. They were finished interviewing him about the aerial...I directed one of the Gardaí present to inform the member in charge, Garda M. Leonard, that they were finished with him as regards his custody. I sat beside Noel McBride and explained to him in ordinary language that he was released from custody and could leave the station at any time. He acknowledged that he understood same. Garda Leonard, member in charge, then entered the room and explained it again to him. Garda O'Dowd and Collins then asked him about the death of Richard Barron and if he knew anything about it. He stated that he knew about his death. Garda O'Dowd asked him if he (McBride) was in Raphoe that night. Noel McBride denied he was in Raphoe that night. I asked him where he was on the night Richie Barron was killed. McBride stated he was at home. I put it to him that I thought it very strange for a young fellow not to go out on a Sunday. I asked him why he did not go out that night, he stated he had no money. I then asked him how he had well over £100 in his possession when he was arrested that evening. He said it was dole money...he stated he got £120 back money and had spent some of it...I asked him what the back money was for, but he did not know. I asked him if he paid any money to his mother for his keep in the house and he said no. I asked him again where he was getting all this money and he stated it was dole money. Garda O'Dowd then put it to him that he was in Raphoe the night Richie Barron was**

killed. Noel McBride denied it. Garda O'Dowd then stated to Noel McBride "sure I seen you there myself". Noel McBride then stated he was in Raphoe on the night of Richard Barron's death. He outlined verbally how he walked into Raphoe from his home that night and stood outside DJ's chip shop for about two to three hours and that he thought about breaking into the technical school. I then asked if he had stood in the one spot all night and he stated that he went up and down the town a few times to keep himself warm...he named some people whom he saw going into the disco...he stated that he walked up through the disco car park at 1.00 a.m. as the town clock struck 1.00 o'clock. As he went up an embankment he saw two men coming towards him from near some barrels. He recognised them as Mark McConnell and Frank McBrearty, Jnr. and he knew them well. He immediately turned and walked back down in case they recognised him. He stated that he stood outside the chip shop again and saw Mark McConnell and Frank McBrearty, Jnr. talking to a bouncer and then they walked down to the street, knocked on the window of the Tudor Lounge and the door opened and they were let in. He stated that he spoke with them as they were walking down. After the verbal account of what he saw that night was given by Noel McBride, Garda Collins asked him if he would make a statement in writing about what he had told us. Garda John O'Dowd had left the room at this stage. I directed Garda Collins to take the statement...Garda O'Dowd then entered the room and stated he wanted to take the statement. Garda O'Dowd then sat at the desk and took the statement from Noel McBride in writing. When he was describing where he was positioned in the car park I drew a very rough sketch of it and asked him to point out where he was. I then produced an aerial photograph...I got Noel McBride to mark out points...

In his last statement, on this issue, Sergeant Moylan indicates that the reason he asked Noel McBride about money was because of his awareness of intimidation in the Raphoe area. As regards the alleged verbal statement by Garda John O'Dowd, "sure I seen you there myself", he indicates that he did not make a note of this at the time. He placed this statement by Garda O'Dowd in the context of his contribution to conferences that he and Garda Mulligan had attended a row outside a chip shop at about 1.10 a.m.

In his first statement of the 29th of November, 1996 Noel McBride describes leaving his home on the relevant Sunday and walking into Raphoe. He claims to have bought a burger and to have stood around until he heard the chimes of the town clock for 11.00 o'clock. He describes speaking with Derek and Sean Crawford and seeing Andy McBrearty and Damien Murphy. He then decided, he claims, that he was going to break into the technical school. He goes on:

**I decided I would go on up through Frankie's car park, on up through the rough ground at the rear of the car park and in through an entrance in the hedge which leads into the technical grounds. As I walked up from DJ's and as I approached the entrance to**

Frankie's I saw one bouncer on the door. I would describe him as big and broad, skinhead type hair cut, black in colour. I walked on up past this entrance. I noticed none of Frankie's staff in the car park. I know Sean Crossan and he wasn't in the car park. I walked on up through the car park through the driveway where the cars coming and going would normally use. Just as I was in the middle of the car park I heard the chimes of the town clock. It struck once for 1.00 o'clock. Just before I came to the top of the car park I noticed a courting couple in a red Opel Escona, old type with the square boot type. There was good lighting in the area...as I walked up the embankment to the top of the car park I saw two men approaching me...the spot where I first saw them, there are a pile of rusty barrels. As these two men approached I immediately recognised them. The first one coming was Mark McConnell. I knew him from school, he was a few years ahead of me and he now lives less than one mile from me at home. I would describe him as heavy stocky build, with black fairly long hair and a goatee type beard. I don't know what he was wearing as I paid no attention to it. Coming behind McConnell and a wee bit to his side was young Frank McBrearty...I don't know what he was wearing as I took no notice. As soon as I had seen them I turned on my heels as I was afraid in my own mind someone might be aware I intended to breaking into the technical school...when I first saw the two of them they were walking at an average pace. I turned and walked straight down the embankment, through the car park, past the entrance to Frankie's and down and stood outside DJ's. As I walked down through the car park I never looked behind me as I was afraid they might see me. As soon as I got to DJ's I turned and faced Frankie's entrance. I saw Frank McBrearty, Jnr. and Mark McConnell speak to the same bouncer I saw earlier on...they spent about two minutes talking together, that is the three of them just outside Frankie's entrance on the tarmac. When they had finished young Frank McBrearty and Mark McConnell walked down to the Tudor Lounge entrance and the skinhead bouncer went back in...Frank McBrearty, Jnr. knocked on the window of the disco...after knocking three times the door opened and [they] went into the Tudor Lounge...as Frank McBrearty and Mark McConnell came down from the main entrance to the disco to the Tudor Lounge entrance, I said hello to them and both of them said how's it going. I stayed for about ten to fifteen minutes outside DJ's and then I walked home to Figart. I got home about 1.45 a.m. as I remember looking at the clock when I went in. I have been shown a photograph...and...I have on the photograph drawn a red line...the point where I saw them walking...I have also marked a point...where I was standing...

Sir, the Gardaí knew of the relationship between Noel McBride and Sharon Alexander. His movements could have been checked beyond a perhaps hurried phone call to the owner of a lounge. This point, however, pales into insignificance beside the detail contained in the statement. How did it get there if you accept that Noel McBride was not in Raphoe on the crucial night?

Garda O'Dowd indicates that on the 4th of December he met William Doherty and Noel McBride and that Mr. McBride claimed that Frank McBrearty, Snr. had given him £500 to keep quiet. After taking a witness statement, and having been directed by the investigation team to find out which bouncer was at the entrance door when Mark McConnell and Frank McBrearty, Jnr. had supposedly entered, he obtained the surveillance van and eventually contacted Noel McBride. He collected him in Raphoe and drove into Frankie's car park where, apparently without identifying him, he named Marty McCallion as the apparently relevant door man. In his statement of the 4th of December, to Garda John O'Dowd, Noel McBride says:

**Further to my statement of the 29/11/96 I now wish to offer the following information in relation to the night of the 13/14 October and the death of Richard Barron. A couple of days after the death of Richard Barron, I would say either the following Wednesday or Thursday, I was walking out home from Raphoe towards Figart. I was walking alone past O'Flannagan's house near the bad bend when a large silvery car pulled up beside me. I immediately recognised the driver of this car as Frank McBrearty, Snr. owner of the place known as Frankie's Nightclub in Raphoe. He offered me a lift and I got in beside him. He was alone in the car. He drove on over half a mile and just past Mark McConnell's house he pulled up. Up till this stage we were talking normal chat. After he pulled up old Frank asked me what did I see the night Richard Barron died. I said I know nothing at all. He asked me was I up in the car park that night. I said I wasn't. Just then Frank put his hand into the glove box in the door and pulled out a cloth bank bag. He reached in and counted out £500...it was all punts. He said to me take that there and say nothing. There is plenty more where that came from and we will look after you from here on in. He put the bundle of notes up in front of me and I refused them at first. He kept pressing me to take the money and after three or four times I eventually accepted the money and put it in my pocket. Old Frank then said to me you are not to tell the Guards or your family anything about this and everything will be alright. When I first got into the car...old Frank was asking me in the car about my financial situation. I told him I had no money, only lying about the house all day doing nothing and that all I had was the dole...the only other contact has been the anonymous phone calls to my house in Figart which I received at 1.00 a.m. On the third Sunday after the death of Richard Barron. Since I have received this money and the anonymous phone calls I am afraid of my life of the McBreartys and that is the main reason why I am staying up in Killygordon since the death of Richard Barron. I don't go into Raphoe either and I am terrified...I bought some clothes, a watch and some things for my girlfriend.**

On the 30th of December, 1996 Edward Moss complained to the Gardaí that he had been assaulted at Frankie's Nightclub by Frank McBrearty, Jnr. Apparently, Frank McBrearty, Jnr. was detained in relation to this on the 4th of February,

1997. Paragraph (f) of the Terms of Reference specifically requires you, Sir, to enquire into this matter. It is more conveniently dealt with under a separate heading.

On the 20th of January, 1997 a further statement was made available to the Gardaí, this time apparently taken as capable of implicating Mark McConnell. This was, potentially, the fourth and last strand of any case to be made by witnesses. That statement was made by Roderick Donnelly to Detective Garda Patrick Flynn of Lifford Garda Station on that date. By the time the Lennon report was submitted, he had been interviewed by Detective Garda Foley of Letterkenny and the entire perspective of his potential testimony had by that time altered. Here is the relevant section of his statement made on the 20th of January, 1997:

**On Sunday, October 13th, 1996 I came into town with Kieran Roulston, Carnshannagh, Raphoe in Kieran's car, a red Vauxhall...we came into town...at about 10.30 p.m. We drove about for a while and then drove to the technical school gates above the Parting Glass at the top of St. Eunan's Terrace. We parked there and sat for a good while. That was after 11.00 p.m. Kieran went to sleep a little later and woke up at about 12.45 a.m. (14/10/1996). He drove the car down to Brolly's Hairdressers and crossed to Reynolds shop and parked. Kieran went off to sleep shortly after he parked. Between 1.00 a.m. and 1.10 a.m. I was still sitting in Kieran's car and he was still asleep. I saw Mark McConnell and two women coming walking up the street from the Diamond direction. They were on the same side of the street as the Parting Glass. Mark looked very scared looking and his hair was wet and tossed. His clothes looked to be wet as well. He was staring straight ahead of him. I don't know the two women with him and cannot describe them either because I paid no attention to them. They were definitely with Mark because there was one on each side of him. The three walked by the Parting Glass and I could see they were going towards Mark's car, a white Toyota Corolla. This was parked near a pole in a small car park opposite Reynolds near the technical school gates. I didn't see them get in the car as I looked round to my front again. We sat in the car in the same place until 2.00 a.m. I never noticed Mark McConnell or the women go past. I didn't see his car either. When Kieran woke up about 1.30 a.m. I told Kieran about Mark McConnell and how he looked scared and shook up like he had been fighting. We drove about a while after 2.00 a.m. and then went home. I saw nothing more that was unusual that night. I didn't hear about [Mr.] Barron being killed until the next day. I never saw Richie at all that Sunday night.**

In his note of the interview, or perhaps more accurately, attempted interview, with Mr. Donnelly, Detective Garda Foley records on the 12th of November, 1997:

**I made an approach to Roderick Donnelly at his home in Ballylennon...this approach was made in an effort to confirm a sighting which he made in Raphoe on 14th October, 1996. I was investigating the validity of this sighting as I considered it crucial as part of the investigation into the suspicious death of Richard Barron on 14th October, 1996. I spoke to Donnelly in the yard at his home. I asked him was he sure about the time of his sighting of Mark McConnell and also about the appearance of McConnell, as stated by him by way of a statement made by him to D/Garda P Flynn on the 20th January, 1997. Donnelly stated he did not wish to speak to me. When I asked him about the appearance of McConnell particularly about his clothing and hair being wet, he stated that having [seen] McConnell on different occasions since he now states that McConnell's hair always looks wet. He then stated that under no circumstances did he wish to speak to me any further in relation to this investigation and asked me to leave. The only other thing he mentioned was that if I wanted to know more go and speak to Darcy Connolly from Raphoe. Donnelly then walked into his house. I then left.**

It was apparently in the aftermath of this last attempt at an interview that Detective Garda Joseph Foley went to Kieran Roulston, because certainly his statement is dated the 19th of November, 1997. In this statement Mr. Roulston gives an account of driving around Raphoe on the night in question, falling asleep and waking up some time around 1.00 a.m., as far as he could remember. He says:

**Roderick Donnelly said he saw Mark McConnell walking up from the town towards the technical school on the opposite side to where [we] were parked. Roderick said he looked to be wet and he might have said something like that Mark McConnell looks scared. I don't remember him saying anything about McConnell's car. I don't remember him saying anything else. I do not remember the times very well now as it is over a year ago. I knew Richie Barron and I did not see him that night. I know Mark McConnell, but I did not see him that night.**

When the Carty investigation team came to this matter they were interested in how Roderick Donnelly came to make his first statement because it was, after all, regarded as being integral to the suspicions which pointed towards Mark McConnell. They were also interested in Kieran Roulston. He was interviewed on the 14th of May, 1999 and stuck by his original statement. He took a similar attitude on the 7th of September, 1999. On the 7th of March, 2000, when interviewed by Detective Garda Tommy Flynn he repeats the details of this night driving around Raphoe with Roderick Donnelly, but changes when he says he was told about the supposed sighting of Mark McConnell. Kieran Roulston says:

**At this stage now, I believe that Roderick Donnelly definitely did not mention Mark McConnell, his wife or Frank McBrearty, Jnr. that**

night, or anything about seeing them that night. I now believe that the comment about seeing them walking down the street with Mark McConnell and looking scared, came from Roderick at a later stage. I remember the following Sunday, Roderick and myself again went to Raphoe and we were stopped at William Street, Raphoe by a Garda checkpoint. We were both asked if we were in town the previous Sunday night and if we saw anything strange. We both told the Guards we were in town that night and he took our names. There was a pile of cars behind us and as I was taking off the car conked out. I could not get it started as I still had the weak battery in the car. I asked the Guards for a push and after a wee push it started. I know now from looking back at it that Roderick hadn't mentioned Mark McConnell to me at this stage. At this time young Frank McBrearty and Mark McConnell were the two main people linked to the murder of Richie Barron. If Roderick had mentioned Mark McConnell to me, that he had seen him, I would have put two and two together. This was not the case.

We now turn to the later statements of Roderick Donnelly. In doing so, Sir, we ask you to note that in the course of them he claims that it was said to him by other parties that there was an advantage in making a statement in relation to a drunken driving case, which he was then facing. We do not repeat that allegation because those who are supposed to have said it, who would have personal knowledge of it, do not repeat it in their statements. Neither was any member of An Garda Síochána interviewed in relation to such an allegation. Finally, the relevant drunken driving case of Roderick Donnelly was, apparently, prosecuted to a positive conclusion and he received a £700 fine. In his statement of the 9th of March, 2000 Roderick Donnelly recites again the details of himself and Kieran Roulston "scooting around the town in Kieran's car". He recalls then being parked in front of the Tudor Bar next to the entrance to Frankie's car park where he could not see the lower end of the Tudor or the Diamond and Kieran Roulston falling asleep. He says:

**Around (1.30 a.m.) I was sitting in the passenger seat...with Kieran asleep and I saw Mark McConnell walking from the direction of the entrance to Frankie's car park. He was on the street directly beside the entrance to the car park of Frankie's Nightclub. He looked as if he walked down from the entrance to the car park/Nightclub. I had full view of the entrance to the car park, but not a view of the entry door to the Nightclub. There were two women with him one on each side of him. I didn't know either of them. I knew Mark McConnell as both of us had worked on different Fás schemes at the same time. I didn't know him well, but I knew him to see. Mark and the two women walked towards the Teck, St. Eunan's Terrace direction. What caught my eye was the two women with Mark, one on each side of him. I knew he was married and the only thing that drew my attention was the two women with him. Mark McConnell looked like a boy that had a good drop of drink taken. That's about the height of it. Mark and the women walked past Kieran's car on the opposite side of the street. I did not look up the street after them, but I**

**remember that there was a white Corolla parked up the street beside the pole at the Tech and I assumed that it was Mark's car.**

Mr. Roulston then goes on to say that after the death of Mr. Barron there were stories around Raphoe firstly of a hit and run accident, but after a day or two rumours started that young Frank McBrearty and Mark McConnell were involved in some way in the death. Sometime later, he cannot put a time on it, he mentioned what he had seen to Kieran Roulston. Then he claims that Paul Roulston came to him asking what he had seen in Raphoe. Then Derek "Darcy" Connolly called to his house, he claims. Shortly after that, Roderick Donnelly was caught for drunken driving in Lifford. Paul Roulston was already up on a reckless driving charge. Paul Roulston asked him what he had seen, having told him it didn't seem to be of importance to him. Paul Roulston then returned and suggested an advantage if he made a statement, the advantage being in relation to his drunken driving charge. He claims that "Darcy" Connolly also urged him to make a statement to the Gardaí. He also claims to have heard from a Garda in Raphoe that young Frank McBrearty and Mark McConnell "were supposed to have gone up through the Nightclub car park and gave Richie a hammering or something". There was mention of a "handling" with one of them in one of the pubs earlier. Derek "Darcy" Connolly seemed convinced of the guilt of Mark McConnell and asked Roderick Donnelly to make a statement "that I seen Mark McConnell on the street that night and that he looked like a fella that had been fighting". He claims that Paul Roulston was urging him to the same effect, but that the final incentive was the thought of getting off on the drunk driving before making a statement to the Gardaí. He claims that he, Paul and Kieran Roulston discussed the statement and then the three of them went to the Garda Station in Lifford where his initial statement was taken by Detective Garda Patrick Flynn in the presence, he claims, of Paul Roulston and Kieran Roulston and with their support as to some details. He also says that he feels that it was at a later stage, and not immediately when Kieran Roulston woke up, that he mentioned to him about having seen Mark McConnell. Roderick Donnelly's last statement of the 10th of March, 2000 does not seem to us to add materially to this account, Sir.

Paul "Pip" Roulston made four statements to the Carty investigation team; on the 25th of February, 2000; the 13th of March 2000; the 4th of April, 2000; and the 4th of May, 2000. In them he recounts a reckless driving episode where he came around a bend between Letterkenny and Lifford on the wrong side of the road and, as he says, "put an unmarked Garda car into the hedge". He fled from the scene, but was later arrested. He claims to have told Derek "Darcy" Connolly that two of his brothers were in Raphoe on the night of Mr. Barron's death and that Mr. Connolly wondered why they would not make a statement to the Gardaí. He then learned about Roderick Donnelly being present and seeing Mark McConnell. This is how he puts it in his first statement:

**While I was asking my brothers about this Roderick Donnelly was present and he said he was on the street in Raphoe that night and he saw Mark McConnell and his wife and young Frank McBrearty walking up the street from McGranaghan's corner. Roderick said Mark McConnell's wife was crying and the two boys were soaking**

**wet. Roderick said he saw Mark and his wife getting into Mark's white car near the Teck and drive away and young Frank went up to the nightclub.**

It was never mentioned in any of Roderick Donnelly's statements to the Gardaí that he had ever seen Frank McBrearty. Paul Roulston claims to have gone back and told Mr. Connolly this. As a result, he asserts, statements were made to the Gardaí. He claims that Mr. Connolly was interested in him making a similar statement; despite the fact that he was at home in his bed in Carnshannagh. He claims to have made a written statement to a Garda as outlined at page 4 of this statement, but there is no record of this. Indeed, the name Paul Roulston does not even feature in the index of statements taken in the course of compiling the Lennon report. He claims to have made a number of statements against the McBrearty family, but, again, there is no trace of these statements. The Carty investigation team noted that there were certain complaints recorded in the Occurrence Book at Raphoe Garda Station, but the Gardaí in question stated that no statements had been taken from Paul Roulston. He also detailed a meeting in the Summer of 1998 at the Barron family home which was attended by Superintendent Lennon. At that meeting, he says, he repeated the lies about threats from the McBrearty family and Superintendent Lennon told him to make a statement to the Guards any time there was such interference. Paul Roulston's view is that Kevin Lennon thought that he was genuine. He claims also to have made a statement to Garda John O'Dowd alleging that Frank McBrearty, Jnr. had driven at Derek "Darcy" Connolly at a roundabout in Letterkenny, another false statement. He claims to have witnessed William Doherty going to a card printing machine in Letterkenny and some one hundred cards being printed up concerning the "murdering McBreartys". He details the distribution of these. At page 10 of the statement he claims to have spoken to a Garda and told him that he was lying.

Sir, the mere fact that a witness makes false and misleading statements to the Gardaí does not of itself indicate that they were involved in a conspiracy. In his statement of the 4th of April, 2000 Paul Roulston claimed that he had told the truth because he was "sick...of lying". He claimed that since the birth of his child he wanted "everything right". He claimed there were ten to eleven statements made to Raphoe Garda Station in relation to complaints against the McBreartys, and in particular Hugo McBrearty. The Carty investigation team were unable to find these. In his last statement, by way of question and answer, he deals with the allegations of dangerous driving made against Frank McBrearty, Jnr. by Derek Connolly.

Derek Connolly made nine statements to the Carty investigation team. He said he was friendly with the deceased. On that particular weekend when Mr. Barron was killed he was at the Curragh racing with a few horses and only arrived back at 3.00 a.m. On the 9.00 o'clock news he heard that a man had been knocked down in Raphoe and, in consequence, on arriving back he went to the McBride's house and helped to wash blood off the road. He puts the time at 10.30 a.m. On the 24th of March, 2000 Detective Garda Hugh Maloney arrested Mr. Connolly for an offence under section 12 of the Criminal Law Act, 1976. Superintendent Joseph McGarty extended his period of detention for a further

six hours. The reason for the arrest was a complaint made on the 25th of January, 1997 about an incident of supposed dangerous driving/assault with a car in William Street, Raphoe and a further such incident on the roundabout in Letterkenny on the 29th of January, 1997 and a subsequent allegedly false statement in relation to this matter on the 30th of January, 1997. Mr. Connolly claimed that Frank McBrearty, Jnr. swerved at him on the 25th of January, 1997 in Raphoe when he was driving one way and Mr. McBrearty was driving the other. On page 4 of the statement he named a Garda who would "get into bother" if he accepted that these incidents were not true. He recalled the same meeting in the Barron house with Superintendent Lennon that Paul Roulston detailed. It seems to us that no negative inference could arise, on the state of the information available, against Superintendent Lennon in relation to this particular meeting. He described the complaints that he had made as to driving as to being "the kind of stuff that wains would be at school, that was between us and the McBreartys". He said that he was friendly with the Barron family.

In his next interview with Sergeant Dermot Flannery and Detective Garda Thomas Flynn he described the alleged incident in William Street, Raphoe on the 25th of January, 1997 as Frank McBrearty, Jnr. making a "jerking motion towards me with his car". He said that he was not in Raphoe on the night that Richard Barron was killed, but some seven or eight days later he claims to have heard that Richard was murdered and described himself as being "even more shocked and upset then when I heard he was dead". He said that Paul Roulston had told me he was in Raphoe, but when he said he had seen nothing he claimed not to have believed him. He said that he wanted Paul Roulston, Kieran Roulston and Roderick Donnelly to go to the Gardaí. He said: "I was sure McConnell and young Frank were involved in Richie's murder". He therefore said that he wished to put pressure on both of them. He claimed not to be interested in Paul Roulston's or Roderick Donnelly's driving charges, but was only interested in getting "the murder solved". He then agreed to make a formal statement, which is dated the 24<sup>th</sup> of March, 2000, which was taken by Sergeant Flannery and Detective Garda Flynn. He said:

**From talking to people around Raphoe I was fully convinced that Frank McBrearty, Jnr. and Mark McConnell were involved in Richie Barron's murder...I had heard rumours around the town about Mark McConnell's movements on the night Richie Barron died, I was fully convinced that Mark McConnell was involved in Richie Barron's murder and it was my wish to help the Gardaí solve the murder of my good friend Richie Barron and it still is.**

He then describes being happy "that Paul Roulston had a story to tell the Gardaí" and therefore arranging for him to speak to Detective Garda Pat Flynn. He also spoke to Kieran Roulston about making a statement to the Gardaí, but claims that he didn't want to get involved. He goes on:

**Roderick Donnelly told me how he seen nothing the night of Richie Barron's death. I would have met Paul Roulston, Roderick Donnelly and Kieran Roulston on a number of occasions where we spoke of Richie Barron's death and where Mark McConnell and Frank**

**McBrearty were on the night. My main aim was to get these three boys to go to the Gardaí and tell their story. There was nothing in it for me other than to help solve the murder of Richie Barron. Any information I had in relation to the death of Richie Barron I gave to Garda John O'Dowd because I knew him best. I felt after Richie Barron's death the only men who were doing anything to get the people responsible for it were John White and John O'Dowd. During the investigation of Richie Barron's death I was involved in a number of handlings on the road with McBreartys. One of these was at William Street, Raphoe, where I met young Frank McBrearty, we were both driving and going in the opposite direction. Frank McBrearty made a jerking motion with his car to me, I continued in a straight line. I reported this to Garda John O'Dowd. Looking back on this now I feel it was foolish behaviour on both our parts. I have been asked about an incident at the roundabout in Letterkenny on 29/1/97, I recall it now that you have mentioned it to me, but I can't recall who was with me in the van as I suffer from epilepsy which causes memory lapse.**

In a further interview with Detective Sergeant Fox and Detective Garda Maloney on the 24th of March, 2000 he was asked what his motivation was in relation to these matters, and he replied "I just wanted to find out who killed Richie Barron". He claimed that Paul Roulston had said there were three people in his car. In relation to the statement he made to Garda John O'Dowd on the 30th of January, 1997, about the two supposed dangerous driving incidents, he declared: "I'd rather it wouldn't be there". On the 17th of May, 2000 he was again interviewed and asked about the allegations of dangerous driving. Here is part of the interview:

- Q. Could you offer any explanation as to why Roulston and Donnelly made false statements to the Gardaí?**
- A. I never saw the statements. I did not know they made false statements.**
- Q. Would you now accept that Paul Roulston, Roderick Donnelly and Kieran Roulston saw nothing the night Richie Barron died?**
- A. They told me they had seen nothing, and I don't know what they said in their statements.**
- Q. In relation to the writing on the road, had you anything to do with it or had you anything to do with the posters?**
- A. I saw the writing on the road alright, but I had nothing to do with it.**

In a statement taken by Detective Sergeant Brennan and Detective Inspector Hogan from the 17th of May, 2000 Mr. Connolly again returned to the question

of how allegations against Mark McConnell had been made to the Gardaí and said:

**Stephen Barron and I went to Roderick Donnelly's house and had a chat with him because we were convinced that he should have seen something. I met him again with Stephen in the White Cross Pub. I asked him what he saw that night and he said he saw nothing, but I was convinced that he had seen something. I told him he had better go and see the Gardaí. He asked us in the pub was it supposed to have happened. I told him what the word was around the town and that it was Mark McConnell and Frank McBrearty, Jnr. that killed Richie Barron. He said that he would go and speak to the Guards. I would have stressed to him the importance of him going to the Guards and giving a statement saying what he had seen. I think Pat Flynn or some other member of the Gardaí called to see him after that. I knew he went to Lifford to make a statement. While I did talk to Pat Flynn saying that he should talk to Roderick, I don't remember talking to Pat Flynn after he made the statement. I don't recall speaking to Kieran Roulston about making a statement, but I could have talked to him about it. I would know Kieran to see, but not well. I encouraged the boys to make a statement to the Guards because I believed that Mark McConnell and Frank McBrearty, Jnr. were involved in Richie's death and they were sitting in the car and must have seen something. The reason I talked with Roderick and Paul was to put pressure on them to make statements to the Guards about what they had seen.**

He then goes on, in this statement, to maintain that the allegations of dangerous driving which he has made against Frank McBrearty, Jnr. were correct.

It is as well, Sir, to draw to your attention the original statement made on the 30th of January, 1997 by Derek Connolly to Garda John O'Dowd concerning the two alleged incidents of dangerous driving by Frank McBrearty, Jnr. on the 25th and 29th of January, 1997. This is what it says:

**Last Saturday morning the 25th of January, 1997 around 10.30 a.m. I was driving my Peugeot 305 van registration number 91 DL 534 at William Street Raphoe. Michael Brown, Coollatee, Lifford was my passenger. That morning as I rounded the bend at McCarron's pub and travelling out of Raphoe towards the Garda Station I met a red Primera 96 DL 2802. It was being driven by young Frank McBrearty. As I met him he jerked his car at me as though he wanted to hit me. He then straightened up his car and drove on. This type of incident has occurred a couple of times. The most recent incident was yesterday the 29.1.97 in Letterkenny. I had approached the roundabout at Quinnsnorth and it was my intention to go around it heading for Oatfields at about 12.00 o'clock. As I entered this roundabout young Frank McBrearty was about to enter the roundabout coming from the Dunnes Stores direction. On this occasion he was also driving the red Primera. He had his wife on**

**board. As I was driving in the roundabout Frank McBrearty, Jnr. made a drive at my van, this was a jerk type action in that I don't know whether he was going to hit me or not. After he made this jerk type movement with his car he stopped, and I continued on with my journey. This type of incident has been happening too much with him in the recent past. A couple of times, at least twice while I have been driving my van past his premises young Frank McBrearty has spat out on the windscreen of my car. I at no stage have gotten into ever any verbal discussion or argument with young Frank McBrearty in the past.**

We now move away from the issue of the role of Derek "Darcy" Connolly in this matter. On the 4th of February, 1997 Frank McBrearty, Jnr. went to Raphoe Garda Station. There he was arrested and questioned by Garda John O'Dowd and Sergeant John White in relation to the alleged Edward Moss incident on the 30th of December, 1996 at Frankie's Nightclub. This is dealt with in a separate section. On the 5th of February of that year Superintendent Kevin Lennon was transferred from Buncrana to Letterkenny. Apparently on the same day Mr. William D Flynn, a private investigator, was brought onto the scene to conduct a private investigation on behalf of Frank McBrearty, Snr. Certainly, on the next day Mr. McBrearty told the Gardaí of his engagement of Mr. Flynn.

Sir, you will recall the request by Chief Superintendent Denis FitzPatrick to Superintendent Kevin Lennon to assess the reliability of William Doherty as an informant and the eventual report some time in December of 1996 of his promising status. You will also recall what the Lennon report says as to the reliability in a positive sense of the source of the information supplied the day after Mr. Barron's death. There was a second meeting on the 7th of February, 1997 and this therefore seems an opportune time to quote what Superintendent Lennon had to say about Mr. Doherty in his statement made on the 23rd of June, 1999:

**I say I have been asked by Chief Superintendent McNally about meetings I had in an official capacity with William Doherty, a suspect in the investigations [of hoax/extortion calls to the home of Michael and Charlotte Peoples on the 9th of November, 1996]. I am to state that during the period I was based in Buncrana and towards the latter part of 1996 I had a telephone call from Chief Superintendent Denis FitzPatrick. He advised me that Garda John O'Dowd had been developing an informer in the subversive field and that it looked promising. I was not advised that the individual was an informant as distinct from an informer. Nevertheless...I did not meet Mr. Doherty in order to assess him and later received a second call from the Chief Superintendent so directing that I meet him...as soon as possible...I never had met William Doherty previously and was not aware of his background. However shortly before Christmas 1996 (after the return of Garda O'Dowd off annual leave). I did by arrangement with Garda O'Dowd meet Doherty at Garda O'Dowd's home at Oaklands Park, Letterkenny...there I had discussions with him on the subject on which I was sent to assess**

him. He knew many of the personalities involved in such activity by name. He said he was not a member of their organisation, but was willing to join Sinn Féin. I said we would not encourage him to join any organisation and that he had free will. I decided that any work he did would be voluntary and of his own free will, but that the criminal law could not be breached in any activity he was or may become involved in. He understood this. I queried his background and he advised that he had one conviction for assault and one case of assault pending. After this meeting I had no further meeting with him until my return from Templemore which was on the 7th of February, 1997 and towards the end of that month. At that second meeting which was again held at Garda John O'Dowd's home I requested that he produce evidence of a factual nature supporting what he was purporting and suggesting as concrete information. He did not and I had no further interest in his information, which was unsupported. I had at this time checked his background to establish any criminal convictions on record and in fact he had lied to me and I told him so. That was the end of my direct meetings with him. I beg to state that I prosecuted Doherty for various offences...including assault...I never had or have I now any friendship with William Doherty or his family and never bartered for any information, which might interfere with the criminal process. The contact I had with him was...truly in the interest of the obligations imposed upon me as a member of the force in the common law obligation to protect life and property...it has been suggested to me by Chief Superintendent McNally that confidential information in the possession of the investigation team suggests that I met Mr. Doherty in or about the time of the investigation into the death of Mr. Richard Barron and that I was upstairs in McGranaghan's Bar in Raphoe with him or words to that effect. I absolutely refute these allegations as vexatious and untrue. I will appreciate if the source of that information can be disclosed and put to proper test as to his or her motive and credibility. I wish to add that William Doherty never misled me in any activity or in my assessment of him. I further state that I never attended a licensed premises in the Raphoe area.

On the 19th of February, 1997 Garda John O'Dowd submitted a confidential report, the effect of which was that there was an arms dump at Dooish Hill, Ardh, St. Johnston. This was supposed to be secreted on a farm, the property of Mr. James "Lofty" Gallagher, a person held in the highest esteem, both in the local community and among members of An Garda Síochána. A further report of the 1st of March, 1997 from Garda O'Dowd claimed that a mortar launch device was being prepared on that land for a possible attack against the RUC Station in Castlederg. On the weekend of the 1st and 2nd of March, 1997 Superintendent Lennon briefed Chief Superintendent FitzPatrick, Detective Superintendent Shelly and Detective Inspector McGinley on information that a "barrack buster" bomb was prepared, and ready to be moved across the border, with a possible target of Strabane or Castlederg. A major security operation was initiated. On the 3rd of March, Superintendent Lennon met with these

officers again and stated that the activity of the previous night "had blown it". Mr. Gallagher's premises were then searched pursuant to a section 29 warrant and nothing was found. On Wednesday, the 5th of March, 1997 Superintendent Kevin Lennon claimed that the bomb had not been found, but that he had gone there and attempted to mark the relevant area with a stick. Here is Superintendent Shelly's account:

**I can recall that at that time both Detective McGinley and I were involved in interviewing candidates for appointment to the Detective Branch for the Donegal Division. Garda John O'Dowd of Raphoe Garda Station was one of the Gardaí who presented himself for interview. I can recall Superintendent Lennon asking Detective Inspector McGinley and myself at one stage how Garda O'Dowd had performed at his interview and we told him that he did not do a good interview. Superintendent Lennon expressed no surprise at that and he went on to tell us that both Garda O'Dowd and himself were out until the early hours of the morning on Dooish Mountain trying to establish the exact location where they believed that the explosives dump was hidden. I can recall at one briefing session that Superintendent Lennon informed the search parties that both Garda O'Dowd and himself had placed a marker (a stick) in the ground where their informant alleged that the arms dump was hidden. The marker was eventually located, but nothing was found in that area. Chief Superintendent FitzPatrick suggested that Detective Inspector McGinley would have to act as agent handler for Garda O'Dowd's informer as he said that Superintendent Lennon could not maintain his level of commitment with this person as he had a busy District to manage in Letterkenny. Garda O'Dowd reported directly to Superintendent Lennon in relation to the intelligence he was obtaining on the activities of the PIRA in the Donegal area. He never to my knowledge reported any of this information through the Detective Branch in Letterkenny. The searches continued until the 6th March, 1997. However, no arms or explosives dumps were discovered and the jeep and trailer that were to be used in transporting what was known as a "barrack buster" to Northern Ireland was never located.**

On the 18th of March, 1997 Noel McBride made his third statement to the Gardaí implicating the McBreartys. In his statement of the 20th of November, 1997 Garda John O'Dowd describes the circumstances leading to this statement. He says that at around the end of February or early March, 1997, his informant contacted him again and told him of a run-in between Frank McBrearty, Jnr. and Noel McBride. The gist of this information was that Noel McBride had been told to check himself into St. Conal's Psychiatric Hospital and to say that everything he had told the Gardaí was false. Garda O'Dowd then contacted Noel McBride and this story was 'confirmed', as far as he was concerned. He had then called to a pre-arranged place and picked up Noel McBride. Garda O'Dowd noted that he had seemed nervous. After the reading over of the witness declaration, Noel McBride made a statement which was later handed to Detective Superintendent Joseph Shelly. This third statement

claimed that on Wednesday morning, the 26th of February, 1997 Noel McBride was asleep at his home in Figart when he got a phone call from young Frank McBrearty who said "I'm going to get you, you touting bastard". On the following Friday he claimed he was walking towards his home when a car repeatedly passed him. It then stopped and young Frank McBrearty demanded that he should "get in". Mr. McBrearty, Jnr., he claims, was interested in the questions the Gardaí had asked him. The statement goes on:

**I said I didn't know anything. Frank said "you do, you touting bastard you". He then said "I'll give you money if you sign yourself into St. Conal's, tell them you were going mad at the time and that the story you told the Guards about me was all bullshit". I then said to young Frank, "how much". Young Frank said "£800 - £1,000". I said "no thanks". Young Frank then went hysterical in the car. He was roaring and shouting at me. He then shouted at me "I heard you were making threatening phone calls to my father". I said to him "I was not", and I then said to him "go and blame someone else you big fat bastard". He then got out of the car and started running after me, but I was too fast for him and he gave up the chase. He shouted after me "if I ever get you in Raphoe...I'll kill you". He then got into his car, banged the door and drove off spinning the wheels.**

Garda John O'Dowd continues in his statement of the 20th of November, 1997 by telling of another encounter "sometime around the middle of April or a little earlier". This concerned a bicycle and more money which Mr. McBride was supposed to have got from Frank McBrearty, Snr. Garda O'Dowd then says that he contacted Noel McBride and asked him to show him the bicycle. He met him one Thursday night and he had a red gent's bike with him. Garda O'Dowd then offered him a lift and on the way Mr. McBride told Garda O'Dowd about getting cash and this bicycle from Frank McBrearty, Snr. Garda O'Dowd said he spoke to him at length about the rights and wrongs of telling "the honest truth". He received an assurance. Garda O'Dowd asked him as to why he was always in McBrearty's premises at the weekend when he claimed to be afraid of them. Garda O'Dowd continues:

**He stated his girlfriend wanted to go there and he often gets free drink from old Frank. I decided not to take any more statements from McBride. I brought this incident to the attention of the investigating team at the Incident Room in Letterkenny. I spoke with D/Inspector John McGinley about this matter and asked him to interview Noel McBride.**

Garda O'Dowd said that two dates were set which were broken by Noel McBride. Then, he says, his informant, meaning William Doherty, contacted him again and arranged for Mr. McBride to wait at an agreed location. When on the 4th of May, 1997 he drove there both Mr. McBride and Mr. Doherty were present. Noel McBride wouldn't get into the car without William Doherty. On arrival at Letterkenny Garda Station, Noel McBride said he wouldn't go into the Garda Station. He then agreed to go to Garda O'Dowd's private house, but only

if William Doherty was with him. In his statement on this matter, Superintendent John McGinley states:

**I was later contacted by Garda J O'Dowd who asked me to come to his house to meet Mr. McBride as he did not want to be seen in the Garda Station. I went to the home of Garda John O'Dowd to meet Noel McBride. On arriving at the home of Garda J O'Dowd, I met Noel McBride and another man who was introduced as William Doherty...I had not known William Doherty and did not know he was going to be present. I indicated to Garda J O'Dowd that I could not take a statement or interview Noel McBride while William Doherty was present, but Garda J O'Dowd stated that William Doherty was friendly with Noel McBride and that Garda J O'Dowd, that he knew him personally and that he would vouch for him. I agreed to meet Noel McBride and hear what he had to say. During the course of the meeting William Doherty stated that he knew Noel McBride since they were both four years old and that they were friends for many years. During the course of this meeting Noel McBride outlined how he had contact with Frank McBrearty, Snr. and junior on a number of occasions. He stated that both Frank McBrearty and junior had given him money and a bicycle. I was also aware that Noel McBride had made statements to Garda J O'Dowd covering other meetings between Noel McBride and Frank McBrearty, Snr. and junior. During the course of the meeting William Doherty occasionally interjected and supported Noel McBride assertions. On one occasion I asked William Doherty how he was aware of these matters, and he said that he had been told by Noel McBride. Following this meeting I had doubts as to the credibility of Noel McBride and his account of events.**

Sir, for what it is worth, the detail of this fourth written statement to the Gardaí by Noel McBride indicates an encounter on the 31st of March, 1997 with Frank McBrearty, Snr. Together they travelled, he asserts, from Noel McBride's home to the nightclub/bar premises where Frank McBrearty, Jnr. joined them. Frank McBrearty, Snr. is said to have told Noel McBride that he would give him "a few grand" to go down to the Gardaí and say that he had been making false allegations against the McBreartys. Young Frank McBrearty is supposed to have asked about William Doherty and when Noel McBride asked why, he said that they were going to "do him in very shortly". He was then given £150 and a promise of a bike. He talks about the proposal to check himself in to St. Conal's. He claimed that Frank McBrearty, Snr. proposed that he should "put on a wire and go to the Guards", in other words to tape-record a conversation. He indicates he had received a total of £750 and a new bicycle. Despite claiming that he bought some items for Sharon Alexander this, it would appear, was never checked out.

In the meantime, other things were happening. On the 20th of March, 1997 at 9.02 p.m. a nuisance call was made to the home of Frank McBrearty. It accused him of murder and predicted that he was going to be murdered "next Monday". On the 21st of April another unpleasant call was made to

Mr. McBrearty, Snr. at 9.48 a.m. The telephone bill suggests that the connecting line was the home of William Doherty. More phone calls were made on the 10th and 18th of May, 1997 to Mrs. Rosaleen White, the wife of Sergeant John White. She says these were of an unpleasant nature. William Flynn was later charged and convicted in relation to these calls to Mrs. White. On the 27<sup>th</sup> of May, Patrick Doherty, the father of William Doherty and the subscriber in respect of their home phone line, spoke to Detective Sergeant Henry about an accusation that had been levelled at him by a third party that he was responsible for the telephone calls to the home of Michael and Charlotte Peoples on the 9<sup>th</sup> of November, 1996. As a result, on the 16th of June, Mr. Patrick Doherty produced his itemised telephone bills to the Gardaí.

Garda John O'Dowd describes his next encounter with Noel McBride. He says:

**I had no further contact with McBride except one day I took D Inspector McGinley and D Sergeant Hugh Smith to Alexander's home in Killygordon to show them where it was and have a word with McBride. On that occasion D/Inspector McGinley made an appointment to meet McBride. On a later occasion one Friday night in June, '97 I spoke with Noel McBride briefly in Raphoe. He was standing alone outside the 'Súile Tavern' pub. He just turned his two wrists up to me and said "look what I did". They were fresh lacerations on both wrists, but were not deep and he wasn't in any danger. I asked him why did he do that. He said he had a row with his girlfriend and that she had gone off with another fella. I saw her standing below the Central Hotel chatting to some fella. I told McBride I would come back as soon as I could as I was dealing with another matter. When I came back both were together again.**

On the 7th of June, 1997 there was a bomb threat to McBrearty's premises. Apparently the threat was phoned to Highland Radio. Garda John O'Dowd dealt with the matter and, as we understand it, indicated to Mr. McBrearty, Snr. that the call was from a serious source. Mr. McBrearty refused to clear the hall. The Carty investigation team indicate that between November, 1996 and January, 1998 the premises of Frank McBrearty, Snr. was the subject of a total of twenty three hoax bomb calls. Ten were made from telephone kiosks in the Raphoe, Letterkenny, Manorcunningham and Carndonagh areas; twelve calls remain untraced so far; and one call was traced to the home of William Doherty: (Carty report, section II page 187).

On the 25th of June, 1997 Mark McConnell was arrested for the second time because of what was alleged to be new information, that is to say the confession supposedly made by Frank McBrearty, Jnr. after his arrest on the 4th of December, 1996. This is dealt with under a separate section.

On the 7th of July, 1997 Noel McBride made his fifth witness statement to the Gardaí, specifically to Detective Inspector John McGinley and Detective Sergeant Hugh Smith. Detective Superintendent McGinley, in his statement on the matter, says that this statement was taken in Letterkenny Garda Station and that he was present for the latter half of the statement and when it was read over

to Mr. McBride. The text of this statement recounts Noel McBride being in the Tudor Lounge on Friday, the 27th of June, 1997, of meeting Frank McBrearty, Snr. and then having a private conversation with him in an office upstairs. He claimed that Frank McBrearty, Snr. said to him "if you withdraw all the statements you made to the Guards I'll give you £5,000 in your hand, cash". Mr. McBride in his statement alleges that Mr. McBrearty, Snr. then said "all you have to do is say Garda John O'Dowd paid you to make a statement in relation to the murder...I want to get that John O'Dowd...and get him the sack". He then claims to have gone outside on the street and met Frank McBrearty, Jnr. who threatened to kill him because he was suspicious that he was co-operating with the Gardaí. He then claimed to have gone back into the nightclub and met his girlfriend Sharon Alexander and to have been given three free pints by Mr. McBrearty, Snr. He then, for the first time in his written statements, mentions William Doherty. He claims to have told William Doherty what had been said to him and claims that William Doherty urged him to go to the Gardaí and report it: sometime later William Doherty rang him and told him that he had made an appointment, which he then kept, resulting in the statement we have just described. He also claimed to have telephoned Garda John O'Dowd after these alleged events to find that he was not there.

On the 31st of August, 1997 there was a raid on the McBreartys' licensed premises by the Gardaí. Bernard Conlon was in a position of being "found on premises" after hours, apparently being served alcohol. The prosecution in relation to this matter was initially listed for February of 1998 with a civilian witness, that is to say Bernard Conlon, as part of the prosecution case. This entire issue will be dealt with under a separate heading.

Detective Superintendent McGinley recounts in his statement that on the 13th of September, 1997 he and Detective Sergeant Smith went to the home of Noel McBride in order to corroborate certain facts in relation to the accounts which he had given. Noel McBride talked about the label on his bicycle and the denominations in which Frank McBrearty, Snr. had counted out the alleged bribery money. Because Noel McBride was unable to offer support for his statements they came to the view that he was lying. Detective Superintendent McGinley comments:

**I had grave doubts as to truthfulness of the statements he was making to the Gardaí. I was also aware that the investigation into the suspicious death of Richard Barron was at an advanced stage and that a great deal of credence was being placed on the information supplied by Mr. McBride who was seen as the principle witness.**

It would appear that earlier on the same day William Doherty had also made a statement. In it he says:

**I think it was a Friday about six weeks after the death of Richie Barron. I phoned Noel McBride...and asked him if he would come for a drink. The time was roughly between 11.30 a.m. and 12 mn. I told him I was in Raphoe and to meet me in Patsy McGranaghan's**

pub. Noel came into the pub at about 12.30 p.m...I bought him a drink. We talked generally. We decided to go to Strabane as I wasn't to get my pay out of the bank. We got a taxi from Raphoe and went to Strabane...I got money out of the banklink machine. We went into Paddy Mac's Bar in Strabane and had a few drinks. We were chatting generally and we spoke of Richie Barron's death and what he had seen that night. Noel then said "I got money to keep my mouth shut from Frankie McBrearty, Snr.". I did not believe him at first and he then said "look" and pulled out a ball of money. I took it off him and looked at it as I thought there was something funny. It was unbelievable to see Noel with that amount of money. The money was made up of £20.00 and there may have been a £50.00. I'm not sure. It was all punts. I counted it and there was approximately £450 in it. I asked him where did he get it or how he got it and he said "that old Frankie got him into the car out the road and asked him what he had seen the night of Richie's murder" and when Noel said he saw nothing - Frankie said that's the way to keep it and pulled out a bag of money from the door of the car and handed him a lally of money saying there's more where that came from. Noel said "that he got £500.00". We drank for the day and got a taxi here. Early this year around January or February Noel McBride showed me a new mountain bike that he maintained Frankie had given him to keep his mouth shut. Noel showed more money he got from Frankie senior around the beginning of January '96. It was before he got the bike anyway. Noel said there was £200 in it. He said he got it from Frankie senior, but he did not say when. I was never with Noel when he received the money, but he showed me jeans, shirts, sweatshirts, trainers and a new watch which he said he bought with the money. He told me he bought jewellery for his girlfriend, but I did not see it. He also told me that Frankie junior gave him money out the road one day, but I cannot remember the details.

On the 16th of September, 1997, Detective Sergeant Henry and Detective Garda McHale interviewed Noel McBride. The Gardaí first called to Mr. McBride's home. They then went to Sharon Alexander's house where they found Mr. McBride "very agitated". They had asked to see the bicycle allegedly given to him by Frank McBrearty at his home, but that he had said it was over in his girlfriend's house. He denied that it was there, but when a bicycle was pointed out at the side of Sharon Alexander's home, Mr. McBride agreed that this was the one he had got from Frank McBrearty. Detective Sergeant Smith then asked to see the jewellery bought for Sharon Alexander with Frank McBrearty's money:

He stated he could not show us the jewellery as he had given it away. I informed him that he was telling us lies and that I was going into the house to speak to his girlfriend. I went towards the door and Noel McBride called me back. He stated he was under a lot of pressure, he repeated that he was under a lot of pressure. He asked him who or what was putting him under pressure and he eventually

**stated that he was under pressure from William Doherty. We again asked what kind of pressure and he stated that all the statements he made to the Gardaí about receiving money and the bicycle from Frank McBrearty were false.**

He was then cautioned and withdrew his first six statements to the Gardaí. He said that he was never in Raphoe on the day or night of the death of Richard Barron. He then gave this account as to how he made what he claims are false statements:

**...on the Monday I heard on the radio that a man had been killed in Raphoe and I later heard his name was Richie Barron whom I know to see. About three days to one week later I got a phone call to my house about 7.00 p.m. from William Doherty...I know him for twenty years...he...asked me "did you hear about Richie Barron being killed". I said I did. He said "if the Guards come questioning you about being in Raphoe that night say you were...Say you were in McBrearty's car park to do a job in the Teck in Raphoe and say you saw McBrearty, young Frank McBrearty, and Mark McConnell coming down through the car park. Say he stopped with a bouncer Marty McCallion and then went to the Tudor Lounge to get in". He told me times 11.00 p.m., 1.00 a.m. and the bell ringing. I was surprised at this. He told me to say I was standing outside DJ's chip shop at 11.00 p.m. and up around the McBrearty's car park at 1.00 a.m. He also told me to say I saw Damien Murphy and Shaun Crawford going into the disco at 11.00 p.m. I said I would think about it. We left it at that and over the next couple of weeks William Doherty rang me several times pressurising me to go along with the story and said "I'll give you another hiding if you don't". By this I knew he was chatting about a beating he gave me about a month before this down behind the Castle in Raphoe. He said at that time that I said something about him. One time when William Doherty was on the phone to me he said "tell the Guards that old Frank McBrearty threatened you on the phone and offered you money". One Friday in November, '96 Garda O'Dowd and Collins from Raphoe called to my girlfriend Sharon's house and arrested me about an aerial I stole in Raphoe. They took me to Letterkenny Garda Station and while I was there I told them I took the aerial. They started chatting to me about the Richie Barron murder and it was put to me that I was in Raphoe that night. I told them about the christening and that I was not in Raphoe. I kept denying I was in Raphoe and they kept saying I was. I eventually told the Guards what Doherty had told me to say. I told them I was in Raphoe and that I had seen Frankie junior and Mark McConnell coming down the car park at the back of Frankie's at 1.00 a.m. This was not true, but I did not tell the Guards that. I also told them I received a threatening phone call from old Frankie. This was not true - William Doherty told me to say this, but I did not tell the Guards he told me. I made a statement outlining all this to the Guards and signed it and I was released...a couple of days after I was arrested William Doherty rang**

me at home and said "I heard you were arrested - what was it about" and I said "you know what it was about". I made further statements to the Guards saying that McBrearty, Snr. and junior offered me money to keep my mouth shut. I also told the Guards that Frankie senior bought me a new mountain bike. William Doherty told me to say all this. Doherty told me to say that old Frankies followed me out the road and gave me a lift. He told me to say Frankie gave him £500 in cash that day from a bag in the door of his car. I made a statement to the Guards about this, but it's not true. Every time Doherty told me to say I got money from the McBreartys the Guards would call to me and I would tell them what Doherty had told me to say. The amounts that he told me to say I got from the McBreartys at different times were £500 from Frankie senior, £150 from Frankie junior and another £50 and a mountain bike from Frankie senior. These were all false reports because William Doherty asked me to say this. The mountain bike...I bought last March for £190...I made up the story about Frankie giving me the mountain bike myself. Before I got work in Nena Models I used to work an odd day with William Doherty. One morning William Doherty picked me up in his lorry at my house in Figart. It was before 11.00 a.m. He was leaving me up to my girlfriends house. He stopped the lorry at the card phone in Killygordon. Both of us went into the phone. Doherty rang McBrearty at the pub and called him a murdering bastard. Doherty then phoned old Frankie's wife at home, but I cannot remember what he said to her. I don't remember what day of the week it was, but it was before 11.00 a.m. I had been under a lot of pressure over all this and I felt like committing suicide over all the lies I told. Since this all happened I cut my wrists three times. The whole thing was never my idea. The last day Doherty rang me was last Saturday about 4.30 p.m. He rang me at my girlfriends house...and said the Guards were with him and asked him how much money had Noel McBride and he told them £400. He said "the pressure is on me" when the money ran out.

Noel McBride's next written statement, his eighth, was made at his girlfriend's home to Detective Sergeant J S Henry. In this eighth written statement, dated the 17<sup>th</sup> of September, 1997, he gives an account of his movements and recounts being told while in custody approximately ten months earlier that he had been seen in the town. He also claimed that William Doherty had, approximately three months before, which would be July, 1997, called to his house and picked him up and told him to make a statement saying that he went to the Tudor Lounge and had been offered £5,000 by Frank McBrearty, Snr. The office was described to him: in fact he was never upstairs in this office at all. He also claimed:

I wish to state that everything I said and everything I did William Doherty told me to say it. He rang me at home and to my girlfriends a lot by that I mean nearly every night. John O'Dowd rang me a lot as well. He always seemed to be putting words into my mouth, like if I said one thing, he would say no, no, it's not that, he would

**change it to say another thing. I also wish to state that I don't know if there is an office upstairs in Frankie McBrearty's or not, I was never in it.**

After this eighth statement, on the 19th of September, 1997, Superintendent Shelly met with Superintendent Lennon at Letterkenny Garda Station and briefed him of developments, which were now to hand, to the effect that Noel McBride had attended two family christenings, meaning the McBride and Alexander families, on the 6th and 13th of October, 1996 and thus was never in Raphoe at the relevant time. They discussed arresting William Doherty in respect of information which had come to hand suggesting that some of the phone calls to the home of Michael and Charlotte Peoples on the 9th of November, 1996 had been made from his line. Detective Inspector John McGinley was also present. The offence suspected was that set out under section 17 of the Criminal Justice (Public Order) Act, 1994. Clarification was obtained, according to Superintendent Shelly, from the Director of Public Prosecutions office. At 5.00 p.m. Superintendent Shelly, who was in fact the 'border Superintendent', made the decision to arrest William Doherty. He said he was also mindful of a further call on the 20th of April, 1997 from Doherty's house which we have already described (see statement of Superintendent Shelly, undated, but numbered 59 in the Carty II report).

Prior to this first arrest of William Doherty, Sir, we would ask you to note that he had made a number of statements to the Gardaí. On the 13th of June, 1997 he had told Detective Garda Stewart Doyle of being called out of bed late at night and seeing a figure standing in the porch of his family home. He described the figure as wearing a baseball cap pulled down over his eyes. He claimed that his sister went hysterical and that there were bangs at the kitchen window. In his statement to Detective Sergeant Smith and Herraghty he said that he had known Noel McBride since he was four years old and that Noel McBride had told him of getting money from Frank McBrearty because of what he had seen on the night of Richard Barron's death. He also made a statement on the 3rd of July, 1997 about a private investigator. On the 20th of September, 1997 William Doherty was arrested by Detective Sergeant Henry at his home in Doorable, Manorcunningham. While searching William Doherty's bedroom, Detective Sergeants Henry and Smith found a "Rino" notebook containing references to Michael Peoples. Mr. Doherty denied ownership of the notebook or having anything to do with the entry. This notebook later transpired to be the property of Garda John O'Dowd and, when asked about the matter, he indicated that he believed it had been stolen from his jacket pocket after a conference in Letterkenny Garda Station (see statement of the 12th of May, 1998 and statement to Inspector Hugh Coll of the 27th of May, 1999, which latter statement claims that the notebook was planted in William Doherty's bedroom). In various memoranda of interview over the 20th/21st of September, 1997, William Doherty indicated that he had never seen the notebook before and that it was not in his writing. In relation to the issue as to whether he had got Noel McBride to manufacture evidence which misled the Gardaí he said: "McBride's a liar - I'll tell the world". He also claimed that he had never met Superintendent Kevin Lennon. With regard to any conversation between him and Noel McBride concerning "the murder" he said:

**One night I met him he told me he saw boys up the car park in Frankies and he was up there, that's what he told me. I told him to go to the Guards...one night he said he was threatened by McBrearty and about getting £500 from McBrearty and a mountain bike - a good one - reddish one...to keep him quiet...not to go to the Guards...he was up the car park - he saw something coming through the car park. He said he saw Frank McBrearty, Jnr. and Mark McConnell coming down through the car park on the night of the murder at 1.00 o'clock.**

He claimed that he had never spoken to Garda John O'Dowd. When phone records were put to him, specifically "these hundred calls to his number" he said: "you said it's John O'Dowd's number. I never had any association with John O'Dowd". He said that Sergeant John White had called to his house about four or five times about different things, including the man "with a balaclava seen out the back". He said that he was at home on the night of Mr. Barron's death. Telephone records were put to him showing a call on the 20th of April, 1997 to Frank McBrearty and a call, three calls before it, to John O'Dowd, and a call after that to Letterkenny Garda Station. He made no reply. He said there was "no way I put Noel McBride up to anything". It was put to him that he made a call threatening Mr. McBrearty and threatening his daughter and about him killing someone in Scotland and he said "I never made the call...I am telling the truth". When Detective Inspector McGinley read extracts from a statement made by Noel McBride blaming Mr. Doherty, he said he was "a liar". He also denied beating him up.

Sir, insofar as this narrative might impact on any member of An Garda Síochána who dealt with Mr. McBride or Mr. Doherty, it is important to point out the stark contrast in the narrative given by each of them and to draw to your attention the issue as to credibility which must automatically arise in relation to these witnesses and their conduct.

On the 30th of September, 1997 Superintendent Lennon and Garda Dillon met Dr. Barry, Consultant Pathologist, at Letterkenny General Hospital; (see page 209-212 of the Lennon report.) Dr. Barry is reported as having said, at this meeting, that from the outset he was of the opinion that the injuries were not at all consistent with normal traffic accident type injuries and that they could only have been sustained in the most exceptional circumstances, such as if the deceased were sitting or lying on the road and received a severe glancing blow from the bumper of a passing vehicle. You will recall, however, Sir, how Mr. Barron's trousers were described as falling down and how he was described by witnesses as holding on to the wall to steady himself, as he made his way home. The Gardaí report him as indicating that other injuries should also have been present. He is reported as finding the absence of injuries to the face difficult to understand in the absence of it being covered; though he did explain that it could happen where a body is swathed in clothing a vehicle could drive over it without causing "that much damage". Dr. Barry is reported as having said, off the record: "he would now be happy that the dead man had either been

pinned down or held rigid when he received a fatal blow or blows". The doctor was then asked if this blow could have been delivered with a stick:

**Dr. Barry immediately ruled out any type of light stick such as a walking stick or similar implement. When asked if a piling post could possibly have been used the doctor stated that this was unlikely as it would not be too easy to get leverage. He stated that the blow was of such a severe nature that something like an iron bar was a much more likely type of weapon to have been used. Dr. Barry was then informed that one of the first Gardaí to the scene had noted the location of a piece of flesh with hair attached at a distance of five feet from the body. He expressed great interest in this and stated that he was not aware of this fact prior to being now informed. Superintendent Lennon asked him if this piece of flesh could contain anything of evidential value and Dr. Barry stated that it could lead to the identity of the weapon used as it might contain wood splinters, paint flakes, rust, etc. Dr. Barry, when asked, completely ruled out the possibility of a billhook having caused the injury received by the deceased. At this point the doctor once again...ruled out a traffic accident as there would certainly have been other injuries present if this man had been struck by a passing vehicle...the doctor did not offer any opinion as to what might have caused the injuries to the fingers and hands stating the he had been carrying out tests on the basis that he was dealing with the victim of a road traffic accident. Superintendent Lennon informed Dr. Barry that he was exploring the possibility of informing the State Pathologist, Dr. John Harbison, with a view to possibly exhuming the body of the deceased man.**

In a letter to this Tribunal dated the 3rd of September, 2002 Dr. Barry said that he had speculated on a number of occasions as to various scenarios in an attempt to explain certain features of the body. One of the things that he had believed was that the head would probably need to have been fixed to sustain the pattern of injury. As to the speculations reported in the foregoing document he says:

**In effect I would have been saying: "if it is given that the injuries result from an assault, then it is likely that they were sustained in the following way...I do not recall the reported discussion...regarding the piece of flesh". Clearly this is potentially important evidence. It is of interest that the possible types of trace evidence mentioned appear to relate to both weapon and vehicle, i.e. both of the mechanisms under consideration.**

Dr. Barry also recalls speculating on the possibility of a crush-type injury through vehicle impact with a head fixed against a stone wall; this refers to the later meeting of the 26th of April, 2000. On the 3rd of October, 1997 Superintendent Lennon met Dr. Harbison in his office. Superintendent Lennon noted Dr. Harbison as saying that it was impossible for him to offer a learned opinion from a distance. He would have to view the body of Richard Barron or to be in

possession of all the facts. In the circumstances he could neither fully agree or disagree with the findings of Dr. Barry. He thought that the photographs taken at the autopsy were inadequate. The marks on the deceased man's hands were not typical of the victim of a road traffic accident. He thought the absence of x-rays on the deceased was a major obstacle to any subsequent analysis, but he felt that the exhumation of the body of Richard Barron might lead to some marginal achievement, but on the other hand, it might also provide answers to some of the questions. One of the speculations Dr. Harbison is reported as having made, in the absence of being invited to view the body, was of Mr. Barron being hit on the top of the head with some large awkward implement.

On the same day as Superintendent Lennon was meeting Dr. Harbison, Noel McBride made his ninth written statement in relation to his role in the Garda investigation to Sergeants Smith and Henry at Raphoe Garda Station. There are a number of additional points of interest in this statement apart from the repetition of assertions from the previous two statements. Noel McBride claimed that William Doherty put him up to this process of false informing on the basis that he was going to make money out of it. He said:

**I never went to the Garda Station voluntary. I was always forced to do so by William Doherty. I only rang Garda John O'Dowd at his home once. I got his number from William Doherty...I also wish to state that after I made my first statement to Garda O'Dowd I was approached by William Doherty that the Guards wanted me to go to McBrearty's to pick out the bouncer at the Parting Glass that I had seen on the night that Frankie junior and Mark McConnell came down the car park. I knew who the bouncer was meant to be. I was supposed to pick out Marty McCallion. I had known this before Garda O'Dowd arrived as Doherty had told me to pick him out. Later that night John O'Dowd picked me up in a white van at Sharon Alexander's house. I should say that William Doherty was in the van driving it when the van arrived. I got into the front along with Doherty at the house. We drove down the lane from Alexanders'. Garda O'Dowd was standing in the hedge, he just popped out. He got in and drove and myself and Doherty got into the back...we went to Raphoe. We sat there at Reynold's house at Raphoe waiting for Marty McCallion to come up in the car. William Doherty knew what type of car McCallion had. Marty McCallion did come. John O'Dowd drove up to the car park so I'd pick him out. William Doherty then said to me "is that him there", I said "ye it was". Then Garda O'Dowd asked me again and I said it was him.**

Sir, you will note the contrast between this method of identification, as asserted by Mr. McBride, and that described by Garda O'Dowd in his statement. In essence, the difference is that Garda O'Dowd says that there was no identification, but that Mr. McBride knew "the fellow at the door that morning was Marty McCallion". Noel McBride was shown the notebook taken from William Doherty's bedroom and said that he had never seen it before. He says: "I never got anything from Frankie McBrearty. I never got a free pint from him". He

describes his statements alleging an attempt to pervert the course of justice on the part of Frank McBrearty, Snr. and Jnr. as "total lies".

Under section 47 of the Coroner's Act, 1962, a coroner may request the Minister for Justice to order the exhumation of a body where he has been informed by a member of An Garda Síochána, not below the rank of Inspector, that the deceased met his death in a violent or unnatural manner. The Minister may then make or refuse to make an order, but if the order is made then the coroner has the same powers as he would have over an unburied body. On the 8th of October, 1997, Dr. Fred Keye, the relevant coroner in County Donegal, wrote to the Secretary of the Department of Justice requesting exhumation. Part of his letter reads:

**A protracted Garda investigation subsequently concluded that the deceased may have met his death by violent means other than the initial theory of Hit and Run accident. I have been informed on this date by Superintendent Kevin Lennon of An Garda Síochána, Letterkenny, County Donegal, that it is his opinion that the death of Mr. Richard Barron occurred in a violent and unnatural manner and that he is further of the opinion that Richard Barron was murdered.**

By letter dated the next day Superintendent Lennon wrote to the Secretary of the Department of Justice attaching the aforesaid letter and adding:

**What I seek to establish here is how the deceased Richard Barron met his death. The initial PM report suggests "head injuries" which is in my opinion inconclusive in establishing the exact cause of death. It is my considered opinion that the deceased met his death by means other than a road traffic, hit and run accident. I am satisfied from consultations with Professor John Harbison that he may be in a position to establish through further examination of the remains, the means whereby the deceased met his death. It is my view that the desired process in achieving comprehensive, conclusive and factual results is by way of exhumation. Accordingly I recommend such course as directed by the coroner.**

Sir, we have examined the exhumation file on this matter which was supplied to us by the Department of Justice. An admirable memo, concisely summarising the law and the facts, was drawn up by Ms. Orla Kenny on the 14th of October, 1997. The relevant orders were prepared, but not signed. A handwritten note on the file reads:

**Superintendent Lennon rang Séamus Hanrahan today 16/10/97 and asked that this order be put on hold until further notice. (Initialled and dated).**

In a document prepared for oral answer to a Dáil question by the Minister for Justice, in answer to a question from Deputy Jim Higgins, the following appears:

**On 10th October, 1997 the Senior Garda Superintendent, charged with the investigation into the death of the Late Mr. Barron, forwarded a request from the coroner for an Exhumation Order, based on a request made by the Superintendent to the Coroner. The necessary papers...were prepared...to authorise the exhumation. However, on 16th October, 1997 the same Garda Officer telephoned the Department and asked that his request for an Exhumation Order be put on hold until further notice. In the circumstances, the deputy will appreciate that it would have been inappropriate for the Department of Justice, Equality and Law Reform to take any further action in relation to the Exhumation Order request. No further action was taken in relation to the request for the Exhumation Order until a further request for an Exhumation Order in this case was received from the Coroner for Donegal South East (associated with a fresh request from the Gardaí) on 27 June, 2001. The Exhumation Order was issued on 3 July, 2001. (Further, action might have jeopardised any investigation being carried out by the Gardaí in relation to the death).**

There is no provision in the legislation for the withdrawal of a request for exhumation. The exhumation file indicates that there are about three requests for exhumation orders made to the Department of Justice on an annual basis. It is difficult to understand, therefore, why this matter was not followed up. We do not know how an exhumation could have "jeopardised" the Garda investigation. Nor do we know where such an idea came from.

On the 14th of November, 1997, Noel McBride made a series of further statements to the Gardaí. There was also another statement concerning the burning of a trailer taken on the 3rd of October, 1997. Noel McBride had been arrested for an offence committed under section 12 of the Criminal Law Act, 1976 and taken from his home at Figart to Letterkenny Garda Station. These statements were taken by Sergeant Sarah Hargadon, with Detective Garda Foley, by Detective Gardaí Hugh Dillon and Thomas Kilcoyne and by Detective Sergeant John White. In essence, Noel McBride claimed that approximately one week to ten days after the murder of Richard Barron, William Doherty had telephoned him and requested to meet him. They met at the Diamond, Raphoe and he recalls school children from the Royal and Prior Comprehensive School going past. He claimed that William Doherty offered him between £400 and £500 in return for making fictitious statements. He was asked as to why Mr. Doherty might want to frame Frank McBrearty, Jnr. and Mark McConnell and he simply answered: "he didn't like them". He claims that when he went to the car park on the 4th of December he had picked out the wrong bouncer. William Doherty is supposed to have said "that's not him", but then he saw the right bouncer and pointed him out. Because Garda O'Dowd was in the front of the van, he said he was not sure as to whether he would have heard him picking out the wrong man and William Doherty telling him that he had picked out the wrong man. He said he was not scared of William Doherty. He said he did not think about whether his statements had been responsible for the arrests made in the Barron investigation, but that he found it "very wrong" the thought that people

could be convicted of the death of Richard Barron and sent to jail. He claimed that William Doherty had offered that he would get off in relation to an offence he was worried about, of burning trailers, if he made statements, because he claimed to know a detective, but did not mention his name. He fully admitted misleading the Gardaí for money.

In a lengthy confidential memo dated the 24th of August, 1999, Detective Sergeant John White outlined to the Chief Superintendent at Letterkenny, his dealings with the Doherty family. He said that on the 23rd of September, 1997, along with several other Gardaí under the direction of Superintendent Kevin Lennon, he became part of the investigation team working on the Barron case. He claimed that when he discovered that Noel McBride had given false evidence he decided that a further interview would be necessary. He claimed that Superintendent Lennon instructed Detective Garda Kilcoyne and himself to attempt to interview William Doherty and if possible to use a recorder "to protect ourselves from possible vindictive complaints". On the 6th of December, 1997 he called to William Doherty and a transcript of this is available at appendix 58 to the Carty II report. Garda Thomas Kilcoyne, in his statement dated the 31st of May, 2000 indicated, that while he was aware that Sergeant White used a tape-recorder frequently, that it was only after the end of this conversation that he realised that the tape was on. In this taped conversation William Doherty claims that the notebook found in his room was not in his room and that he had never touched it at any time. Much of the conversation centres on William Doherty's arrest on the 20th of September, 1997. William Doherty claimed to know people who were up Irish Row that night. These people, Alan Crawford and Eugene Toner were subsequently spoken to. Eugene Toner, in his statement of the 13th of June, 2000 said that he had been questioned by Garda John O'Dowd as to whether he had received money from Frank McBrearty, Snr. However, he places this conversation three months after the death of Mr. Barron. Alan Crawford, in his statement of the 8th of June, 2000, said he recalled Garda John O'Dowd and Sergeant John White calling to his home on a number of occasions about whether he and Eugene Toner had been up Irish Row and had seen anything. He said he was not up Irish Row that night and was never approached by anybody to say that he was up Irish Row the night that Richie Barron died and further that he had not seen Eugene Toner at all on the night in question. He had previously made a number of statements to the Gardaí regarding his movements, which did not include any trip up Irish Row. During the taped interview with William Doherty, Detective Garda Kilcoyne asked him whether he knew of anyone who might have seen something. At one point Sergeant John White says to William Doherty "I wish you would be truthful with me Willie, its a...serious matter". It is fair to say that the conversation meanders.

On the 10th of January, 1998 Olivia Doherty made a statement to the Gardaí indicating that her brother, William Doherty, could not have been in Raphoe at the time of the murder because although they had gone to Raphoe for ten or twenty minutes at 11.00 p.m., they had returned home and that William had retired to bed. On the 3rd of February, 1998 there may have been an incident between Mark McConnell and Stephen Barron, son of the deceased, in the Diamond in Raphoe. This alleged incident was investigated by Gardaí Leonard,

Gillespie and Mulligan. If what is alleged happened then, Sir, it may be indicative of the degree to which bad feeling, and polarisation of view, had become an unpleasant feature of life in the town.

On the 18th of February, 1998 a prosecution against the McBreartys for "after hours drinking" on the 31st of August, 1997 was listed in the District Court. Bernard Conlon was a witness. This matter will be considered under paragraph (d) of the Terms of Reference. On the 2nd of March, 1998 the investigation file in relation to the death of Richard Barron was submitted to the DPP. This lists twenty one reasons why the statement of admission supposedly made by Frank McBrearty junior, following his arrest on the 4th of December, 1996, was not of itself sufficient to sustain a prosecution for homicide. Having diligently set out the problems in relation to the information apparently supplied by Noel McBride, Superintendent Kevin Lennon signed off the report by indicating that a separate criminal file in relation to his activities would be forwarded within a few days.

On the 7th of April, 1998 Detective Garda Joseph Foley, accompanied by Detective Garda A McHale, went to Townparks, near Raphoe. There he met William McBride, who we understand is not related to Noel McBride. William McBride was accompanied by Stephen Barron. Mr. McBride took Garda Foley to a point in the river which runs by the side of his home and which, in turn, runs along by the Killygordon road and ultimately behind the car park of Frankie's nightclub. There they saw a car jack which they recovered for further examination.

On the 12th of May, 1998 Garda John O'Dowd made a statement identifying the notebook found in William Doherty's bedroom as his property. He stated that he discovered this notebook to be missing after attending a conference in Letterkenny Garda Station in mid-1997. It is important to indicate to you, Sir, what he said:

**I have also been shown a notebook by D/Sergeant Henry which is mine. Each and every page is in my handwriting. I had this notebook for the purpose of taking notes on general issues concerning State security and issues relating to the murder of Richard Barron and had it on every occasion at each conference at Letterkenny Garda Station. I had the notebook in mid-1997 in the conference room in Letterkenny the date I cannot be specific on. I discovered this notebook missing after arriving in Raphoe Garda Station after one such conference. I was very concerned at the loss of this notebook. I was very careful at all times with this notebook and always knew where it was. I did not report the loss of this notebook because of the sensitivity of the information contained therein, but I was hoping that it would be returned sooner or later because I did not believe it to be lost. I searched and searched for this notebook, but didn't recover it, but to my shock it was shown to me by D/Sergeant Henry on the 9.4.98 when he told me where he recovered it. I was relieved it had been located. In relation to information regarding the murder of Richard Barron which was contained in this notebook, I forwarded this information to the**

**interview room and all matters were openly discussed with those in charge at the investigation centre who were aware of the identity of my source.**

The investigation file in relation to false reporting to the Gardaí, in the course of the Barron investigation, was forwarded to the Director of Public Prosecutions, having been signed off by Superintendent Kevin Lennon, in June, 1998. In a report Superintendent Lennon informs the Director of Public Prosecutions that the available evidence indicated that Mr. McBride had acted in concert with Mr. Doherty. However, the report also states:

**I am of the view that Doherty by his actions did not breach section 12 of the Criminal Law Act, 1976 in that he gave no direct information or statement as is required by this Section. He was merely a facilitator to the offences of Mr. McBride. In addition, McBride has a mind of his own and yet continued to offer intelligence and false statements until captured by the investigation.**

Superintendent Lennon expresses the view, which is hardly surprising, that there was sufficient evidence to prosecute Robert Noel McBride for offences of giving false information to the Gardaí. If that is so, then an agreement between two people to provide false information is an indictable conspiracy. Mr. Doherty was not prosecuted for conspiracy to supply false information. Superintendent Lennon did not advert to this charge or recommend it. He also made the following recommendation to the Director of Public Prosecutions as to whether Mr. McBride should be prosecuted:

**If I may respectfully suggest there is a balance of consideration to be reached in this matter. Such balance on the one hand suggests that McBride be prosecuted for the offences under section 12 of the 1976 Act. On the other hand, it is my respectful submission that any sanction imposed by the Courts upon the conviction of McBride will be less damaging to his already poor reputation than that visited upon the general Garda force within the Garda District of Letterkenny in adverse publicity. In all the facts of this case, I leave the decision as to criminal proceedings in the hands of the Director of Public Prosecutions.**

There is nothing to indicate that criminal proceedings were initiated against either Noel McBride or William Doherty at that time.

On the 21st of July, 1998 Bernard Conlon, the person found drinking on the McBrearty premises after hours on the 31st of August, 1997, made a claim to the Sligo Gardaí that two men had called to his house and threatened him with a silver bullet. This matter is dealt with under paragraph (d) of the Terms of Reference. However, it may be apposite to mention here that Mr. Conlon alleged that he had been called "Informer Conlon" and that the visitors were described by him as having one silver bullet for himself and the other for "White". Ultimately, Mark McConnell was arrested on the 1st of October, 1998

and Michael Peoples was arrested on the 6th of May, 1998. Bernard Conlon made a number of court appearances at which these men also attended giving him the opportunity to be identified as being involved in the "silver bullet" incident.

We understand that on the 15th of February, 1999 the Commissioner of An Garda Síochána directed an investigation "to examine all aspects surrounding the death of Richard Barron at Raphoe on the 14/10/96 and subsequent developments". The investigation under Assistant Commissioner Carty began on the 19th of February and you will recall, Sir, what we have said about the complaints of Sheenagh McMahon concerning explosives finds which were made shortly thereafter in March. On the 24th of April, 1999, Garda John O'Dowd reported unfit for duty. On the 25th of May, Garda John O'Dowd was transferred from Raphoe to Lifford Garda Station. On the 27th of May, 1999, Garda O'Dowd produced to Inspector Hugh Coll a note claiming that his notebook was stolen and planted in William Doherty's bedroom and that false memoranda in respect of William Doherty had been prepared. He also said he was nervous of the investigation into the extortion phone calls to the home of Michael and Charlotte Peoples on the 9<sup>th</sup> of November, 1996. He claimed that he suspected that Detective Inspector McGinley and Detective Sergeant Henry were trying to frame him for something which he did not have anything to do with. In relation to this allegation, Sir, it is appropriate to state that there is nothing in the papers which tends to support this. He also handed Chief Superintendent McNally a tape which he claimed was of a conversation between himself and Noel McBride.

On the 4th of June, 1999, Garda O'Dowd was interviewed by Superintendent John F O'Connor and Inspector H Coll. He said that he had been advised by his solicitor, Mr. Paudge Dorrian, to make no statement to the Gardaí. When reminded that he was a member of An Garda Síochána he said: "maybe I'm wrong but that is the legal advice I go on and I am making no statement". Superintendent John F O'Connor rang Mr. Dorrian and told him that Garda O'Dowd was a member of An Garda Síochána and obliged to assist in the investigation, which at this point was focusing on the calls to the Peoples' home. Mr. Dorrian said: "he is making no statement and that is it". Inspector Coll then asked Garda O'Dowd to make a further written statement concerning his written statement alleging that his notebook was stolen from the conference room in Letterkenny Garda Station. Garda O'Dowd said that he had supplied a statement on the matter and that they should "start with the people mentioned in the statement". He then speculated as to who might have stolen, as he was claiming, the notebook. At 3.15 p.m. on the 10th of June, 1999, Inspector Hugh Coll informed Garda John O'Dowd that he was being suspended in accordance with the Garda Disciplinary Regulations by Chief Superintendent Denis FitzPatrick for a period of one day. He was then arrested at 3.20 p.m. in respect of the extortion phone call on the 9th of November, 1996 to Michael Peoples, under section 17 of the Criminal Justice Public Order Act. On the same day Noel McBride was arrested and William Doherty was also arrested. The questioning focused on the phone calls to the home of Michael and Charlotte Peoples.

William Doherty said, in the course of interviews, that he was only in Garda John O'Dowd's house on one occasion and that was with Noel McBride who went there to make a statement to Inspector John McGinley. He claimed that Noel McBride had asked him to be there with him. He said he did not know how the notebook of Garda John O'Dowd had ever got into his bedroom. He said that he never telephoned Garda John O'Dowd at his home or place of work. In the next interview he said that he had met Garda John O'Dowd four or five years previously when arrested under section 30. He denied having any dealings with Garda John O'Dowd except on the one occasion when he was in his house. After being confronted with Garda John O'Dowd while both were in custody, he was once asked for his version of events. In September of 1999, William Doherty approached Detective Garda Richard Caplice who was on duty at the Diamond in Raphoe with Detective Garda Sean Heraghty. He indicated that he wished to speak to Detective Garda Caplice alone and claimed he had information in his possession which could be of assistance to the Carty investigation team. On the 3rd of March, 2000, Detective Garda Caplice and Sergeant Bell met William Doherty at Carrickmacross Garda Station. He gave a history of being stopped for no insurance by Garda O'Dowd and as a result of that became his informant in relation to minor crime. He claimed that he spent the night of Mr. Barron's death completely away from the scene of the incident. The next day he claimed to have met Gerard Mulrine in McGranaghan's shop. Mr. Mulrine, he claimed, told him that Richard Barron was murdered and that he had seen somebody following him up the road. In consequence of this he contacted Garda John O'Dowd. When interviewed by the Carty investigation team on the 19th of April, 2000, Mr. Mulrine says that on Sunday, the 13th of October, 1996 he was in the Parting Glass, playing cards or watching a football match on the television. He said that he was at home well before 11.00 o'clock. He had no recollection of meeting William Doherty inside or outside McGranaghan's shop on the next day, when he heard about Mr. Barron's death, and did not make any comment to him to the effect that anyone was involved in the death of Richard Barron. On the 10th of June, 1999 William Doherty continued by claiming that he was approached by Garda John O'Dowd who told him that he had the murder "wrapped up". He then accused Garda O'Dowd of having asked him would he be able to say that he saw Frank McBrearty junior and Mark McConnell coming down the car park at the back of Frankie's from the murder scene. He claims to have told Garda John O'Dowd that he could not, because his family knew he was at home that night, but that he might know of somebody who would do it. The original statement of Noel McBride made on the 29th of November, 1996 was read over to him. He claimed that this was the story told to him by Garda O'Dowd which he relayed to Noel McBride, going over it three times until he had it "inch perfect". He claimed that he had met Detective Sergeant White who had told him that Noel McBride would have to point out the bouncer in order to make the story credible. He claimed that Sergeant White was then in the party which travelled to the car park of Frankie's Nightclub on the 4th of December, 1996. He claimed that Garda O'Dowd had given him Frank McBrearty's private telephone number so as to allow him to start abusing him. William Doherty claimed that defamatory leaflets were printed and given to him by Sergeant White to distribute. These were the leaflets about "the murdering McBreartys". He claims to have distributed these.

In relation to the phone calls to the Peoples he claims that Noel McBride made some phone calls that he did not know about on the night in question from his, Doherty's, phone. He claims they went to John O'Dowd's home and William Doherty stood by while Noel McBride made a phone call and that O'Dowd got into a panic. He claimed that Garda O'Dowd then phoned Garda Philip Collins.

In a second statement on the 3rd of March, 2000, William Doherty claimed that he had supplied Garda John O'Dowd and Superintendent Kevin Lennon with information on subversive activity. He claims to have gone with Garda O'Dowd and Superintendent Lennon in a white Transit van to check out a location at Ardagh, St. Johnston where they wanted to plant explosives, on Mr. Jim Gallagher's land. They agreed a location, but had no time to do it because a huge search operation was commenced. He claimed to have got money from Sergeant White, in the form of a stolen bank draft, for the purchase of a car. Mr. Kieran Boyle, from whom he purchased the car, was indeed paid £4,000 by William Doherty with a bank draft, but was later contacted by the bank and informed that the draft was a counterfeit. Mr. Boylan then recovered the car in a garage owned by Mr. James Connolly in Sion Mills where it had been left in for repairs by William Doherty. William Doherty also claimed that he was involved in the larceny of £25,000 worth of beef from Artigarvin, Strabane with Sergeant White. He claimed that Detective Sergeant White was involved in the purchase of stolen cars. He claimed that Sergeant White had taken his car 96 W 1010 and despite the fact that there was hire purchase money due on it he sold it. The car is missing and there is no evidence to show that Detective Sergeant John White was involved in this sale. He claims that another car was purchased by Sergeant White, which was stolen from Belfast. He claims that Sergeant White wanted him to go and pick up two cheques for Emmet Coyle, who in fact had sold sheep for £39,000 to find that there was no money lodged in the name of the person who had bought them. He also repeated the story about Gerard Mulrine. The Carty report comments:

**On dates between 20/10/1999 and 25/10/1999 Detective Garda Richard Caplice and Sergeant Gabriel Bell made contact with William Doherty. They noted all the contacts and all the pre-arranged meeting times with him. As can be seen from their notes, William Doherty led them on a merry dance over this period. It is clear that William Doherty is a compulsive liar and totally unreliable as a witness.**

On the 21st of October, 1999, William Doherty outlined how he first got to know John O'Dowd again. He claimed that he was also collecting packets of money and handing them over to Sergeant John White. He claimed that he had broken the passenger window in Garda John O'Dowd's car and taken his notebook. This possibility was examined by Detective Garda John Higgins who examined the car and noted that all the window glass was etched with the original number of the car when Garda O'Dowd had purchased it in the United Kingdom. The window could therefore not have been broken and replaced. William Doherty claimed that he moved explosives for Kevin Lennon, John White and John O'Dowd, that he bought cars for these members of An Garda Síochána and that

these were stolen across the border. The man he names as being the vendor of the cars, Johnnie Donegan has denied any involvement with Doherty. He also claimed to have purchased barrels for Garda O'Dowd, Superintendent Lennon and Sergeant White. He claims that Garda John O'Dowd and Sergeant White gave over uniforms to Gerard "the Gaffer" Foley in return for guns. Mr. Foley described William Doherty as "a psycho". On the 11th of April, 2000, William Doherty was re-arrested for possession of firearms. During the course of interviews he denied selling or supplying any firearms to a man in St. Johnston, County Donegal. He admitted knowing this man and selling him clothes. He then described an incident where he was in a white Transit van with Superintendent Lennon and Garda O'Dowd out near a farm belonging to Mr. Jim "Lofty" Gallagher. He claimed that they were there to find a spot upon which to plant stuff, but on the way back discovered that a search was being conducted in this area. On the return journey he claims to have been stopped by Sergeant John Conaty. Sergeant Conaty was interviewed by the Carty investigation team and stated that he never stopped nor spoke to Supt. Lennon, Garda O'Dowd or William Doherty in any car or van. In relation Garda John O'Dowd's notebook being in his bedroom he changed the story about breaking a window of Garda O'Dowd's car and simply said that he was in the car one night and just took it. He also named two people who he claimed were responsible for painting slogans on the roads in Raphoe in relation to the supposed murder of Mr. Barron. He claimed that there was an altercation on the 28th of June, 1997 with Frank McBrearty junior. When interviewed by the Gardaí he claimed that he was involved in criminal activities in Scotland. When summoned to court on the 28th of June, 1997 he had given evidence on oath that he was in Scotland, which had been false. He claimed that Sergeant John White told him to stick to his story in court, but had later warned him that if he ever spoke to the investigation team again he would be prosecuted for perjury. During a subsequent interview he admitted cashing forged cheques. He blamed Detective Sergeant John White and Garda John O'Dowd for what he claimed were all of his troubles. The Carty investigation team comment:

**A failure to properly evaluate William Doherty as a source of information by Kevin Lennon and John O'Dowd has caused untold damage to the reputation of An Garda Síochána in the Donegal Division.**

At one point, William Doherty was brought in to where Garda John O'Dowd was being held while both were in custody. The allegations made by Noel McBride that Garda O'Dowd concocted all the information was put to him and he, in effect, denied this as ludicrous by laughing. When William Doherty was brought into the room William Doherty said: "I am no informer. I don't know why he said that about me. I'd like him to tell me why he said I was an informer - I'm not. Why am I here - why is all this happening". Garda O'Dowd exercised his right to silence in relation to this confrontation. He indicated the following early on:

**I have been advised not to answer questions or make a statement by my solicitor. I have co-operated...this is not right. I have done nothing wrong and that's that.**

He further said that he had given all the information he had in his possession in good faith to the Chief Superintendent first and then to Inspector McGinley. He said his arrest was a disgrace. Noel McBride, in his interview, again blamed William Doherty for what he described as "the whole mess". He denied having anything to do with making any extortion phone calls to the home of Michael and Charlotte Peoples. He denied ever giving information to the Gardaí about crime and stated that Garda O'Dowd did not know that he was telling lies. He again described the circumstances of the identification of Marty McCallion, but claimed this time that "John O'Dowd should have seen or heard me pointing out the wrong man". He claims to have done all this for William Doherty as he had promised him money. In a later interview with Detective Garda Hugh Maloney and Detective Garda Thomas Flynn he said that he never stole an aerial from the technical school in Raphoe and that his admission, in that regard, was lies. He said that when questioned by Gardaí O'Dowd and Collins in relation to the death of Richard Barron he got tired of the questioning and wanted to go home and in consequence admitted being in Raphoe, guessing the names of a few people who would most likely be around on a Sunday night. He then added the detail about seeing Frank McBrearty, Jnr. and Mark McConnell walking down the car park. Some days after his arrest, he alleged, William Doherty asked him whether he wished to make some money and told him that all he had to do was to make a statement to Garda O'Dowd about Frank McBrearty, Snr. offering him money to keep his mouth shut about what he had seen in the car park. He claimed that he was schooled for an hour by Doherty in this prior to making any statement to Garda John O'Dowd.

It is probably sensible now to deal with later interviews with Noel McBride. On the 21st of September, 1999 he confirmed to Detective Inspector John O'Mahoney and Sergeant Fergus Traynor that the interviews which he had given in Manorhamilton Garda Station, on his arrest on the 10th of June, 1999, were the truth. Three days later on the 24th of September, 1999 he was again interviewed by the same Gardaí in relation to a newspaper article which he denied having any involvement with. He was then interviewed by Sergeant Fergus Traynor and Detective Sergeant George Kyne with a view to clarifying when Noel McBride had met Marty McCallion previous to his identification of him. He said that one night he was in McBrearty's pub and spoke with Michael McConnell and told him the truth about his involvement in relation to the investigation of the death of Richard Barron and the statements he had made to Garda John O'Dowd and his association with William Doherty. Mr. McBride claimed that this was then brought to the attention of Mr. McBrearty, Snr. which resulted in Noel McBride being summoned by Frank McBrearty outside where they sat into his car with Marty McCallion and John Mitchell. During this meeting Noel McBride claims that he told Marty McCallion that he had made a false identification of him at the behest of William Doherty and that Frank McBrearty, Snr. made notes of this.

On the 1st of December, 1999, Detective Garda Hugh Maloney and Detective Garda Thomas Flynn met with Noel McBride at his home in Figart. He again outlined the chain of events which he claims led to a meeting with Frank McBrearty, Snr. and Marty McCallion. He claimed that it was John Mitchell who was making the notes. He also said that he in fact did steal the aerial from the

roof of the technical school, but that the aerial recovered on the night of his arrest, the 29th of November, 1996, was not the correct aerial because the aerial from the school had been already disposed of. On the 1st of March, 2000, Sergeant Fergus Traynor and Detective Garda Edward Whelan met with Noel McBride in order to discuss the statement made to the Gardaí on the 29th of November, 1996. At this meeting he claimed: "I told the Guards I was not in Raphoe that night, but they said I was there, I was tired and it was late at night, I went along with the story". Arrangements were made to meet him the next day, but these fell through because he was required to return to work. He was again interviewed on the 7th and 8th of March, 2000 by Detective Sergeant George Kyne and Sergeant Fergus Traynor. He said that it was William Doherty who procured him to make false statements through an offer of money. He said that he had known William Doherty and that they had committed crimes together over the years. He further alleged that William Doherty had also claimed that he could get Noel McBride off charges in relation to burning a trailer for which he was then before the courts. He was again interviewed on the 15th of March, 2000 by Detective Sergeant Kyne and Sergeant Traynor. He affirmed that his initial statements pre-September, 1997, which we have called 1, 2, 3, 4, 5 and 6 were false and claimed they were made at the behest of William Doherty. Statements 7, 8 and 9 were read to him and he claimed that these were correct. A number of previous interviews were read over to him. He again reiterated that William Doherty had promised him money and that he would get him off the charge of malicious damage in relation to burning trailers.

Garda Philip Collins was again contacted on the 22nd of June, 2000 with a view to going over the circumstances of the statement of the 29th of November, 1996 made by Noel McBride. He said that he had been told by Garda John O'Dowd that he had information that Noel McBride was going up the car park on the night in question and had met Frank McBrearty, Jnr. and Mark McConnell. He said the aerial theft was a reason to get him into the Station in order to talk to him about this.

On the 21st of March, 2000 Sergeant John White was arrested in relation to the silver bullet incident, that is in relation to allegedly procuring Bernard Conlon to make a false statement in relation to same. While the focus of the questioning on this occasion was in relation to Bernard Conlon, it is implicit in Sergeant White's statements that he would not condone any illegality such as those described by William Doherty. All of those allegations by William Doherty must be seen to be strenuously denied. You must also have regard, Sir, to the numerous self contradictions of William Doherty. On the 24th of March, 2000, Derek "Darcy" Connolly was arrested. We have already told you, Sir, that he claimed to have acted 'in the public spirit' and alone. On the 11th of April, 2000 William Doherty was re-arrested in respect of a firearms offence at Castledooey, St. Johnston, County Donegal. He claimed that the notebook in his house, Garda O'Dowd's notebook, was stolen by him one night from O'Dowd's car.

On the 26th of April, 2000, Dr. Barry and Dr. Harbison met and discussed the case with the Gardaí. These included Detective Chief Superintendent McNally, Detective Sergeant McGarty, Detective Inspector Foley and Detective Inspector O'Loughlin. They examined a number of possible murder weapons. The

billhook, referable to the Paul "Gazza" Gallagher allegations was regarded as being inconsistent with the injury. The carjack discovered by William McBride on the 7th of April, 1998 near the scene was regarded as capable of causing similar injuries to those on the deceased, but it was dismissed as being "unlikely". On the 11th of May, 2000, Garda Patrick Mulligan submitted his car to the Technical Bureau. There was a damaged wing and some hair was recovered. That did not match the hair of Mr. Barron. On the 12th of May, 2000, Detective Inspector O'Loughlin and Detective Sergeant Henry met Garda John O'Dowd and handed him a list of twenty seven questions which they wished him to answer. Those questions have never been answered. On the 15th of May, 2000, Garda John O'Dowd handed over his car for technical examination. This car also had a damaged bumper and there was some hair on it. A paint sample was taken. The hair did not match the hair sample from the deceased. On the same day Garda O'Dowd was shown the notebook taken from William Doherty's home and agreed that it was his. On the 17th of May, 2000, Detective Inspector O'Loughlin rang Garda John O'Dowd. He asked him where did he get the initial information in relation to the involvement of Frank McBrearty, Jnr. in the death of Richard Barron. Garda O'Dowd said that he got the information first from William Doherty and rang the Chief Superintendent in Letterkenny on Tuesday, the 15th of October, 1996. On the 18th of May, 2000, Detective Inspector O'Loughlin and Detective Sergeant Gerry Healy met Garda John O'Dowd in a car park in Letterkenny where he handed them the original statement which he had taken from Derek "Darcy" Connolly in 1997. They pressed him for a statement of evidence which he said he would have "tonight or tomorrow". He said he had accepted what William Doherty had told him in good faith, that he did not think that Doherty would let him down in this fashion, but that he now accepted that Doherty had told him lies.

On the 19th of May, 2000, Garda Patrick Mulligan reported unfit for duty. Mr. Podge Dorrian, solicitor for Gardaí O'Dowd and Mulligan, then made a representation to the Carty investigation team that they were "intimidating" his clients. On the 23rd of May, 2000, Garda John O'Dowd spoke to Detective Inspector O'Loughlin on the telephone. He referred the letter from Mr. Dorrian and said that he would have to follow, what he put was, his advice. On the following day at 6.10 p.m. Garda O'Dowd telephoned Detective Inspector O'Loughlin. The Inspector told him he had a number of questions for him. Garda O'Dowd wanted to know was he under investigation. He then said that he would meet him only with his solicitor. On the 25th of May, 2000, Garda Mulligan was called on at home by the Carty investigation team. He was in an upset state so no statement was taken. On the 7th of June, 2000, Detective Superintendent McGarty recommended "disciplinary action" in respect of Garda John O'Dowd.

On the 13th of June, 2001, Assistant Commissioner Carty and Detective Inspector Foley met with Dr. Harbison who said that the only way to resolve any of the matters in relation to the death of Mr. Barron was to examine the skull fractures. On the 3rd of July, 2001 an order to exhume the deceased was signed by the Minister for Justice. On the 6th of July, 2001 the deceased was exhumed and a report was written by Dr. Harbison. The deceased was largely decomposed. The skull was removed and, after chemical cleaning, was reconstructed. Dr. Harbison noted two groups of fractures involving the left side

and left skull base and those involving the right frontal area, that is the right side of the forehead and the right side of the orbit and the right side of the upper jaw. He comments:

By far the greatest area of bone damage was on the left side, where there was severe fragmentation of the bone, extending back from the left temple to the mid-line at the occiput...and downwards to the foramen magnum...over twenty bone fragments could be counted. There can be no doubt that this left side fragmentation was the result of very considerable force, though the absence of frictional lines on the outer surface, would suggest that this was due to one massive impact, such as the left side of the back of the head striking the ground, though vehicular impact at that point cannot be totally excluded. This left sided fracture with its severe fragmentation must have been the result of a severe inward depression of the left side of the head and adjacent base of the skull. Nowhere on these fragments could I find any external friction injury. Quite different is the area on the right side of the forehead or right frontal impact, which corresponded with a large laceration or wound on the right side of the forehead. Here the main feature is a major crack fracture, with neither fragmentation of bone nor depression of the skull...this fracture can be traced from the upper margin of the uppermost bone fragment on the left side of the head, thence diagonally forward and to the right, across the front of the vault of the skull to a point almost two inches above the centre of the right eyebrow. From there the fracture runs downwards into the right orbit, down along its medial...wall, into the right nasal bone, thence inward into the right side of the heard pallet where it terminated. A fine crack extended vertically upwards and backwards into the vault of the skull, for one and three quarter inches where it petered out. The most striking feature of this right-sided forehead fracture and its difference from the "fragmentation" [of] the fracture on the left side, is the presence of some nine or ten gently curving parallel scuff marks on the bone surface. These are one and three quarter inches long and curve from below right, upwards and towards the left. They begin one and a quarter inches above the brow and curve upwards and towards the mid-line, to a point two and a half inches above the bridge of the nose. The principle fracture extends along virtually the same curving pathway, backwards and to the left as the scuff marks, but goes much further, so that it reaches the "crazy paving" appearance of the left-sided "fragmentation" fracture. I have not found any scuff marks on this fragmented area, implying that its impact was not either a glancing one nor perhaps sustained at as fast a pace as on the forehead. The point of impact of the force causing this fracture was one inch above the most prominent part of the right orbital prominence or brow. I state this because the scuff marks are deepest there. I have searched the bone fragments from the shattered left side of the skull and cannot find any scuff marks on any of the bone fragments. These bone marks could not have been

seen easily at the time of the original injury because of the overlying soft tissue.

1. The cause of the Late Mr. Barron's death, remains as before, i.e. laceration of his brain and fractures of his skull.
2. I am of the opinion that the primary impact to Mr. Barron's skull was from a moving object, against Mr. Barron's forehead on its right side, most likely a motor vehicle. Movement of the inflicting force relative to the deceased is indicated by the nature of the bone injury, namely abrasion or scuffing on the surface of the bone, at the sight of impact of the forehead.
3. The movement was from below, upwards, backwards and to the deceased's left. The upwards component is indicated by the gradual decrease in depth of the grooves upwards, because the scrapping force of the bone was greatest at the deeper, lower ends of the scuff marks. These scuff marks took the form of a series of some ten gently curving, parallel grooves.
4. The bone fragments beneath the more extensive head injuries at the back of Mr. Barron's head, on its left side does not show any scuff marks. Therefore these bone injuries lack the high velocity grazing component seen on the forehead, even though they were more extensive. The skull is also somewhat thinner and therefore weaker in the temporo-parietal area.
5. Had Mr. Barron's impact with the ground been of his face, I would have expected widespread abrasions there. Instead the skin laceration on the right side of his forehead was accompanied by a minimum of abrasion and there was no other facial injury.

In April, 2002, Dr. Marie T. Cassidy, the Deputy State Pathologist, also examined the relevant materials and the partial remains, which continue to be held above ground, in relation to the examination of the deceased. Her interpretation accords with that of Dr. Harbison. She indicates that in her view there are two sites of impact to the head. In her report she says:

**The forehead laceration and grooves on the skull indicate movement of the head over a rough surface, such as the road. The linear fracture would have been caused at the moment of impact and the grooving could have been caused as the head continued across the road surface. It is much less likely that the forehead injury could be caused by a blunt object, which would have to have an irregular surface, striking the head, as there would be expected to be some more extensive fracturing of the skull in relation to this**

**type of impact. This type of injury is also described in persons sitting in the front seat of a vehicle which is involved in a collision, their heads contacting with the jagged or irregular surround of the broken windscreen.**

Whereas Dr. Cassidy says that the accused could have been hit a glancing blow or a side swipe by something projecting from the vehicle, and be then propelled to the ground, causing the frontal injury, we again feel we need to draw to your attention, Sir, to the descriptions of Richard Barron walking home and having difficulty, because of drink, in holding himself up. Because of the extensive difficulties that have been occasioned by the burial of Mr. Barron's body and its exhumation only at an advanced stage of decomposition, we, Sir, have requested Dr. Harbison to arrange another examination of the relevant papers, photographs and partial remains. A report is expected from Professor Helen Whitwell, a forensic pathologist in the neighbouring Kingdom. Ongoing investigations are being conducted by the Gardaí in relation to the death of Mr. Barron as a result of an impact with a motor vehicle.

Sir, it seems to us that the major questions which arise in relation to the investigation into the death of Richard Barron are very simple. They are:

1. Was the investigation carried out competently? At any level, in relation to the scene, in relation to the failure to call Dr. Harbison from Dublin, in relation to the checking out of the stories told by informers, were these issues followed through on and disposed of competently?
2. What is the point at which a supposition, or a bare suspicion, can be translated legitimately into a reasonable suspicion which justifies the exercise of Garda powers? What was acted on here?
3. How does it emerge that a full scale murder hunt can be launched in the absence of forensic pathological evidence of even the fact that a murder had been committed?
4. How can such a murder investigation be directed at particular people merely on the basis of the word of an anonymous informer, of untested reliability, and relayed by a Garda to a Chief Superintendent?
5. How can anyone who purports to be an informer in this case have had anything to do with receiving knowledge in relation to the death of Richard Barron when they were nowhere near the scene of his death on the night in question?
6. How does the statement of John Patton come to be taken in a form with which he later expressed dissatisfaction, and then apparent satisfaction?
7. Where did the detail in the informers' statements come from and, if they were set up, who set them up and why?

8. How could a murder investigation be directed on the basis of a person, together with his first cousin, perhaps looking annoyed, being in the vicinity of a family business, at least three hundred metres from what was supposed to be the crime scene?