

## THE 'SILVER BULLET' ISSUE

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The next Term of Reference to which we wish to refer is the Term of Reference (d) in respect of which you are to enquire into

**(d) the circumstances surrounding the arrest and detention of Mark McConnell on 1<sup>st</sup> October, 1998 and Michael Peoples on 6<sup>th</sup> May, 1999.**

Sir, in your explanation of this Term of Reference on the 15<sup>th</sup> July, 2002 you said

**The information which is available to the Tribunal suggests that there was an arrest and detention of the persons named on the date set out in the Terms of Reference. An arrest is a deprivation of a citizens liberty. An arrest is justified where there is a suspicion on good faith, against the person proposed to be arrested, that he committed an offence which carries with it, in law, a power of arrest. Following the exercise of a power of arrest the detention of the person arrested may be sought under the provisions of Section 4 of the Criminal Justice Act, 1984, for the proper investigation of the offence in respect of which the person has been arrested. These principles apply where an arrest is considered in the context of any of the Terms of Reference, with necessary modifications. The Tribunal understands that the complaint here is that the arrests and detentions should not have been made and occurred for reasons other than those permitted by law.**

**The Tribunal will:**

- (i) Establish in so far as possible the facts surrounding these arrests and detentions and the treatment of the two men whilst in custody;**
- (ii) Ascertain, in so far as possible, the material available to the Garda Síochána when the arrests and detentions were made,**
- (iii) Enquire into and establish the reason for such arrests and detentions and whether such reasons were based on correct legal grounds;**
- (iv) Enquire into and establish whether members of An Garda Síochána when making the arrests and detentions acted reasonably or in good faith or on any or any sufficient, reasonable suspicion;**
- (v) Enquire into whether the two individuals had become the focus of unfounded or unreasonable suspicion and, if so, how and why this occurred;**
- (vi) Enquire into whether there was any or any legal justification for seeking to extend or extending the period of detention of**

**either of the parties;**

**(vii) Enquire into whether in making these two arrests members of An Garda Síochána proceeded with the arrests only when satisfied that in respect of each arrested person their suspicions were reasonable and/or that they exercised all appropriate care, caution, and diligence in deciding to make an arrest with due regard to the presumption of innocence attaching to these two persons and their rights to fairness of procedures;**

**(viii) Enquire into the motive for any conduct which may be disclosed;**

**(ix) Consider the circumstances in which the Garda Síochána came into possession of the material available to them at the time when the arrests were effected and in this regard consider the use of informants, if relevant, using the same approach as set out in relation to Term of Reference (B)(3);**

**(x) Enquire into and consider the relationship, if any, between the material arising in this Term of Reference and any other Term of Reference.**

The central event which resulted in the arrest of Mark McConnell and Michael Peoples, on the dates referred to, arose from a complaint made by one Bernard Conlon of 61 Cartron Bay, Sligo that on the 20<sup>th</sup> July, 1998 two men had attended at his home and, when he opened the door, addressed him as “informer Conlon” and showed him a silver bullet. He said words to the effect that “there is one for you and one for White” and “White has a trailer missing and he will be missing too” were spoken to him by the man with the silver bullet. The same man, it was alleged, told Bernard Conlon before he left that if he turned up in Court to give evidence in a prosecution under the Liquor Licensing Acts against the McBreartys, in Letterkenny District Court, he would get the contents of this man’s pocket; meaning bullets. Bernard Conlon on the evening of 20<sup>th</sup> July, 1998 requested his flat mate, Mr. Tony Doyle, to phone the Gardaí in respect of the attendance at his home by these two men and the threats which they had made. As a result, D/Garda Michael Reynolds and D/Sgt. (now Inspector) Gerard Connolly (Sligo Garda Station) attended at his home and initiated an investigation which involved the taking of a more detailed statement from Mr. Conlon on 21<sup>st</sup> July, 1998. Ultimately, this led to the two arrests which are the focus of this Term of Reference. Eventually Mr. Conlon told Gardaí that his complaints were false and, he claimed, had been made at the instigation primarily of D/Sgt John White.

The events relevant to this Term of Reference appear to date back to the Summer of 1997. In order to understand the extensive deceit which was apparently maintained, in respect of Mark McConnell and Michael Peoples, it is necessary for us to chronicle the events and the very numerous statements made relating to these events by those allegedly involved and especially by Bernard Conlon. This will include reference to the statements which were the means of his alleged deceit and those statements which, bit by bit, led to the unravelling of it. If this narrative therefore appears somewhat disjointed at times, this is because the unpicking of what is alleged to be this tangle of lies

took place only by degrees. We will now attempt to outline this from the papers made available to us.

In the mid 1990s, Bernard Conlon attended on a number of occasions as a patron of Frankie's Nightclub, Raphoe. For some reason, he developed a grievance in respect of the failure of the owner/licensee of Frankie's Nightclub to provide him with a meal, as he would have been obliged to do in order to comply with the terms of his license when serving alcohol to clients or customers outside the normal statutory hours. At 2.54 a.m on 31<sup>st</sup> August, 1997, as you will recall, Sir, Bernard Conlon was found to be on this licensed premises after hours with a number of drinks on the counter. He identified to the Gardaí the barman who, he said, had served him the drinks and on the 8<sup>th</sup> September, 1997 he made a statement to Garda John Nicholson at Sligo Garda Station about how he had been served this alcohol after hours. A prosecution arose out of these events. On the 19<sup>th</sup> February, 1998 Bernard Conlon was summonsed as a witness to the District Court, Letterkenny in order to give evidence on behalf of the prosecution in respect of a breach of the licensing hours by the licensee. On the 11<sup>th</sup> December, 1998 he gave evidence to the Court in respect of this prosecution.

Initially, Sir, it is appropriate to consider how Bernard Conlon came to be a prosecution witness and to examine his relationship with the Garda Síochána. According to the information available to us, Mr. Conlon is a native of Trim, County Meath and was born on the 14<sup>th</sup> April, 1956. Without any disrespect to Mr. Conlon, we note that some of the materials available to us describe him as a person of limited education and intelligence. Between 1981 and 1989 he was convicted of a number of criminal offences including offences of dishonesty. In or about 1990 Mr. Conlon came to Sligo town and was convicted of larceny, from the hostel in which he worked, on 3<sup>rd</sup> October 1992. Between that date and Summer of 1997 he did not incur any other convictions. Sometime before 1996 Bernard Conlon had become a tenant of Mr Bernard McGuire who resides at 3 Cartron Bay, Sligo. According to Mr. McGuire, Bernard Conlon did not work for him but was on disability payments. He denied that Mr. Conlon had worked for him in the collection of rents from people in other flats though these tenants may have handed Mr. Conlon rent, which he then gave on to Mr. Maguire as a favour or convenience. Mr. Bernard McGuire worked with his brother Thomas Maguire in a Company called Nappa Developments which apparently built houses in the Sligo area.

Mr. Conlon had a number of other friends, Mr. Tony Doyle, with whom he resided, and Mr. Anthony Kearns and Miss Catherine McGovern who went with him from time to time to Raphoe for a night out. They used to stay, on those outings, in Mary and Jim McGranahans, Raphoe for bed and breakfast before returning to Sligo by bus the following day. Bernard Conlon apparently had visited Frankie's Nightclub as a patron six or seven times before he was found on the premises after hours on 31<sup>st</sup> August, 1997. The early paperwork in relation to his being on the premises on that date consists of a statement made on the 8<sup>th</sup> September 1997 to Garda John Nicholson in the presence of the then student Garda Eamon Gallagher. In this statement, Mr. Conlon

describes how he arrived in Frankie's Nightclub at approximately 12.10 a.m. to 12.15 a.m. on the morning of the 31<sup>st</sup> August, 1997. He states that on arrival he paid an entrance fee to a man at the door and Anthony Kearns and Catherine McGovern paid £6 each also. A country and western band was playing and had just come on to the stage when they got into the Nightclub. Mr. Conlon recites his complaint as follows:-

**When we went inside I received no meal ticket and the only ticket I got going in was a small cloak room ticket when I gave my £6. As I went into the ballroom one of the bouncers took this ticket as he was collecting them. I knew when I was going into the place that I was entitled to a meal after 12 midnight but I got no meal and none of my two friends got one either. A few times previous to this I complained to the bouncers about getting no meal and they told me that I was alright, that there was plenty of drink there for me. They told me if I was hungry that I could go out into a chipper across the road and return back into the Nightclub. I did this on one previous occasion and returned to the Nightclub after getting grub in the chipper.**

He goes on to recite how he had purchased 7 pints of beer between 12.15 a.m. and 2.25 a.m. At 1.00 a.m. a female Garda Sergeant was described as arriving in the Nightclub accompanied by a male Garda and the barman pulled down the shutters in front of the bar in the ballroom. He alleges that as soon as the two Gardaí left, the barman opened the shutters again and began serving drink. Then at 2.25 a.m. he alleges that he purchased two pints of Smithwicks for himself, in case the bar would close down. The band finished at 2 00 a.m. but after the two Gardaí left the Nightclub after 1.00 a.m. he states that there was a lot of drink served and a lot of people were buying up at the bar. He also commented that there were about four or five bar staff serving drink and they were all very busy. Serving of drink allegedly continued up to approximately 2.55 a.m. when two male Gardaí came into the nightclub again. A number of people who were at the bar at that time, having bought some drink, left their drinks on the counter and walked away. He remained at the bar drinking a pint of Smithwicks and Catherine McGovern was standing beside him and he had another pint in front of him. Both drinks had been purchased at about 2.25 a.m. A Garda took his name and address and he informed the Garda that a barman, whom he identified to the Garda, served him the drink. Mr. Conlon became annoyed when the Garda took his name and left the Nightclub at about 3.05 a.m. with his two friends. On his way out of the Nightclub he states that a man whom he thinks was a bouncer told him to go back and tell the Garda that he did not know which barman had served him. Mr. Conlon stated, "I am finished here and I was in bad humour and would not come back to the premises again. I think Frankie's is a rip off, paying £6 without a meal and the drink was top price. I would say the place was overcrowded and not a lot of comfort but the music was good". He states, in this account, that he knows that he was on licensed premises during prohibited hours and requests that no prosecution be taken against him.

It should be noted that this statement is taken in the form of a witness statement and not that of a person under suspicion likely to be charged in respect of a criminal offence, arising from his being on the premises consuming alcohol outside the permitted hours, contrary to the provisions of the liquor licensing laws.

How this statement came to be taken is described by Garda John Nicholson in a statement dated 1<sup>st</sup> February, 2000. He states that sometime between 6.00 p.m. and 10.00 p.m. on 8<sup>th</sup> September, 1997 Inspector Bernard Lyden asked him to take a statement from Bernard Conlon. He had known this man for years. He brought him up to the crime office. Garda Nicholson stated that the man had a complaint to make and that Inspector Lyden asked him to take the complaint as other members in the station were busy. He goes on to outline how Mr. Conlon felt he was being ripped off and was getting no meal after paying admission which should have included food and he was “very high about the fact”. He stated that he had on a previous occasion complained to the doorman and to unnamed Gardaí in Raphoe who were on duty outside the nightclub. He was asked why he had not made a statement to Gardaí in Raphoe and he simply said that he wanted to make the statement in Sligo. He made the statement and he was asked whether the two persons named as his companions on the evening, Mr. Kearns and Miss McGovern, would verify his story. Later both of them were asked to make statements but refused according to Garda Nicholson.

Garda Nicholson was adamant in this statement that his first knowledge of Bernard Conlon being caught in a pub was when he called into Sligo Garda Station to make the statement. The Garda who was with him was Garda Eamon Gallagher. Inspector Bernard Lyden in his statement dated 25<sup>th</sup> April, 2000 confirms that Mr. Conlon had attended the Station and made a statement to Garda Nicholson. Inspector Lyden stated that he read the statement made by Bernard Conlon and the following Wednesday when asked for advice by Garda Nicholson advised him to forward the original statement to Raphoe Station and retain a typed copy. As far as he could recall, he thought Garda Nicholson attached a minute to the original statement with a typed note and handed it to him. Inspector Lyden forwarded it to the Sergeant-in-charge of Raphoe, who was personally known to him.

On 19<sup>th</sup> February, 1998 Bernard Conlon was summonsed as a witness to the District Court at Letterkenny. He attended at various adjourned dates in Letterkenny, and Donegal, District Courts in respect of the liqueur licensing prosecution against the McBreartys.

In the midst of these adjourned hearings, on 20<sup>th</sup> July, 1998 the alleged event which we will refer to as “the silver bullet incident” allegedly occurred. In an initial statement, in respect of this incident made on 21<sup>st</sup> July, 1998 to D/Garda Michael Reynolds and D/Sergeant Gerry Connolly, Bernard Conlon stated that he was at home at 61 Cartron Bay Estate, Sligo at 11.45 p.m. on 20<sup>th</sup> July alone when he heard a knock on his front window. He went to the front door

and put on the porch light. As soon as he opened the door he alleged that he saw two males standing outside. His statement continued:

**One of the fellows said to me “are you informer Conlon? I seen you in the Court in Letterkenny on a few occasions. You are a state witness against Frank McBrearty snr.”.... I said to them “it was none of your business” and he said back to me “it is our business”. I was very frightened at this stage as I was on my own and I had no phone in the house. The spokesman took a silver coloured bullet from his jacket pocket and held it up to me and said “there is one for you and one for White and that White has a trailer missing and he will be missing too”. I knew straight away that those boys were serious and knew what they were talking about. I knew White was a plain clothes Garda in Letterkenny. I started going into a trance and the fellow that was doing all the talking said “I saw your statement”. I could feel myself shaking and getting weaker at the legs. I banged out the door and as I was doing this one of them shouted if you turn up in Court the next day you will get the contents of what I have in my pocket. I then went into the living room and turned down the television and sat on the couch.**

Sir, if this had happened it was shocking. That is apparent from Mr. Conlon’s statement where he goes on to relate how he was terrified and that when Tony Doyle, his flat mate, arrived, Mr. Doyle asked him if he was all right. He informed Mr. Doyle that he was upset and frightened and so asked him to ring for the Gardaí. He apparently did so and the investigating Detectives, D/Garda Michael Reynolds and D/Sgt Gerard Connolly, arrived at 12.50 a.m. They found Bernard Conlon seated on a couch in the living room and he appeared to them to be frightened and distressed. He was sitting in the dark. He told them the story of the two callers and D/Garda Reynolds noted this in his notebook. D/Garda Reynolds also noted that Mr. Conlon’s voice was “trembling and he appeared breathless at times”. A description of the two males who had called was given to the Gardaí and they arranged to call back the following morning to take the statement already referred to which was made between 6 and 7 p.m. on 21<sup>st</sup> July, 1997 at Sligo Garda Station.

The descriptions furnished to the Gardaí are as follows:

**The fellow that did all the talking, I’d describe him as a stout lump of a lad with scraggy hair and a goaty whisker, about 5’ 7” and aged between 22 and 25 years. His hair was black. He had a rough appearance and spoke with a rough northern accent. He was wearing a tea shirt which I would describe as brown to darkish and he had a black longish leather jacket. This is the man that produced the bullet. I am almost certain I saw this lad in the Courthouse in Letterkenny the last time I attended. He appeared to be with a gang that was at the Court. I’d say I’d know him again if I saw him. He also wore a pair of white and blue runners which I clearly remember observing.**

The other male is described as:

**between 29 years and 30 years and somewhat taller about 5' 9" having black hair cut tight. He wore blue jeans and shoes and a shirt with no collar which I describe as a grandfather shirt. He also wore a leather jacket which was zipped up half way. He kept his hands in his pockets of the jacket and stared me straight into the eyes. He wore an ordinary pair of shoes..... he had a stud ear ring in one of his ears ....I never saw this guy before but I feel that I would recognise him again.**

He went on to say that he had no doubt that this was connected to a case to come before the courts in Letterkenny where he was to give evidence on behalf of the state i.e. the after hours drinking case against the McBrearty's.

At 1.00 a.m. on 21<sup>st</sup> July, 1997 Sgt. Gerry Connolly contacted Letterkenny Garda Station and informed Letterkenny to bring the incident "to the immediate attention of Supt. Lennon". Sgt. Connolly had a further phone conversation with the Superintendent some days later when he read out the descriptions of both suspects. Supt. Lennon stated that he thought one of the descriptions fitted Mark McConnell from Raphoe. This appears to be so. Sgt. Connolly asked with whom he could verify this and Supt. Lennon told him to contact D/Sgt. John White as he had worked in Raphoe. Sgt. Connolly later spoke to D/Sgt. White on his mobile phone and informed him of the conversation with Superintendent Lennon. He informed him that Superintendent Lennon thought one of the descriptions fitted Mark McConnell. D/Sgt. White confirmed this and Sgt. Connolly informed D/Sgt. White that he wished to arrange an informal identification parade. Sgt. Connolly asked D/Sgt. White whether he could find out where McConnell might be viewed in the presence of a number of people. D/Sgt. White informed him that he would let him know. There were follow-up phone calls between them. This culminated in a call in the last week of September 1998 made to Sgt. Connolly by D/Sgt. White who informed him that Mr. McConnell was attending Letterkenny District Court on the morning of the 1<sup>st</sup> October, 1998 as a witness in an assault case.

It should be noted that the narrative to which we now refer relates to the course of an investigation which resulted in the preparation of two files which were referred to the Director of Public Prosecutions for consideration in relation to the prosecution of Mark McConnell and Michael Peoples arising out of the silver bullet affair. Having completed the narrative, in relation to the course of that investigation, we will return thereafter to an account of a further investigation carried out by Assistant Commissioner Carty and his team into suspicions which arose in respect of the truthfulness of Bernard Conlon in respect of his allegations against Mr. McConnell and Mr. Peoples.

On the 1<sup>st</sup> October, 1998 Sgt. Gerard Connolly arranged to convey Bernard Conlon to Letterkenny with D/Garda Reynolds and describes that when they arrived in Letterkenny they went to a restaurant for breakfast. As they were

leaving he saw D/Sgt. John White sitting on a seat near the window and spoke to him. D/Garda Reynolds and Mr. Conlon left ahead of them. He arranged to meet D/Sgt. White in order that he could point out the location of the courthouse, as apparently Sgt. Connolly did not know where it was situated in Letterkenny. D/Sgt. White drove ahead in his own car. He drove down by the courthouse and then apparently came back to them and pointed out the door of the courthouse which, for some reason, was not obvious to them from where they were sitting. They then remained in the car for thirty minutes.

At 10.30 a.m. they all got out of the car and stood across the road from the courthouse and at 11.05 a.m. Mr. Conlon apparently became very excited and pointed to a man across the street who was walking towards the courthouse. He identified this man as the person who had threatened him with the bullet at the door of his home on 20<sup>th</sup> July, 1998. It was apparently Mark McConnell.

At 11.07 a.m. Sgt. Connolly arrested Mark McConnell under Section 30 of the Offences Against the State Act 1939 “on suspicion of being concerned in the commission of a firearm’s offence under the Firearms Acts, 1925 as amended (namely) possession of a bullet at 61 Cartron Bay Sligo on 20<sup>th</sup> July, 1998”. He was cautioned and informed that he was being taken to Letterkenny Garda Station for questioning and remained in custody until 11.00 p.m. on the 2<sup>nd</sup> October 1998. The period of detention was extended beyond the initial 24 hours pursuant to a direction of Chief Supt. Denis Fitzpatrick. Over this period Mr. McConnell was interviewed by a number of members of An Garda Síochána. He gave accounts of his movements on the 20<sup>th</sup> and 21<sup>st</sup> July, 1998. During the course of his presence in the station he met Supt. Lennon whilst being brought to various locations and put to the Superintendent in trenchant terms that this was “another one of his tricks”. His solicitor at 6.45 p.m. on the 1<sup>st</sup> October, 1998 objected to an identification parade being held and asked the member in charge to note this in the custody record; such an exercise would be a waste of time, according to the solicitor, having regard to the manner in which the initial identification procedure had been conducted. This objection was restated at 8.15 p.m. by Mr. McConnell in respect of the identification parade and he declined to stand in one because he had already been picked out “so if you pick me out once what is the purpose of standing in an ID parade again. Did you look at the description that was given. You can search my house, you can look for a long leather coat. I never had a long leather coat”.

At this point he maintained that D/Sgt. White and another had set Bernard Conlon up to make a false allegation against him. He said he would give the Gardaí an itemised phone bill, whatever it showed. He speculated out loud that Bernard Conlon had been put up to making the statement and that it had to do with the Gardaí being defeated in the District Court cases against his uncle. He thought this was another way of getting at his uncle in order to “blur the Judges eyes”. He invited the Gardaí to “take a good read of the statement. It doesn’t stand up. The description is wrong”.



In a further interview, at 9.20 p.m. on the 1<sup>st</sup> October, with D/Sgt. Connolly, Mr. McConnell reiterated that he believed that D/Sgt. White was behind Bernard Conlon. He asked was Bernard Conlon ever in trouble and declared that the Gardaí would be proved wrong about the allegations. He emphasised in interviews that he only had one charge against him at Letterkenny Court in relation to a public order offence concerning Garda John O'Dowd; once it was heard he would be gone out of the court.

Once again, on 2<sup>nd</sup> October, 1998 he declared that he thought Mr. Conlon was setting him up for some financial gain. He noted that Mr. Conlon was not a state witness against him and had nothing whatsoever to do with him. He reiterated his belief that Bernard Conlon must have had a dodgy background if, as he put it, he could concoct a bundle of lies. He added, "you would want to be an idiot to go to Sligo and do what this man Conlon alleges. You must think I am an idiot to go down to Sligo....anyway this man has nothing to do with me".

Mr. McConnell's detention was extended by Chief Supt. Fitzpatrick at 11.00 a.m. on 2<sup>nd</sup> October, 1998. This extension was granted to Sgt. Connolly who states that he told Chief Supt. Fitzpatrick the circumstances of the arrest and detention and "how the detention was progressing". Chief Supt. Fitzpatrick states that he regarded McConnell's further detention as "necessary for the purpose of the investigation". On being told of the extension, Mr. McConnell said that he thought that the Gardaí were "a disgrace". Further interviews took place and the detention terminated at 11.00 a.m. on 3<sup>rd</sup> October, 1998.

On 4<sup>th</sup> February, 1999 Binchy's Solicitors wrote to the Garda Complaints Board and enclosed a four page handwritten statement from Mr. McConnell complaining about his arrest and detention on 1<sup>st</sup> October, 1998. This complaint (Board Ref. No. 990128) was ultimately deemed by the Board to have been constructively withdrawn by reason of the failure of Mr. McConnell to sign a statement to the investigating officer appointed by the Board. He had made a statement which was unsigned. Because of the manner in which the complaint was dealt with, further enquires need to be carried out in relation to this complaint before addressing it in substance. Regrettably, the Garda Complaints Board did not do this.

On the 27<sup>th</sup> January, 1999 D/Sgt. Gerard Connolly wrote a report in which he recommended that no further action be taken in respect of the allegation of Bernard Conlon against Mark McConnell. He did so on the grounds that Mark McConnell had no previous convictions but Bernard Conlon had convictions. He believed no Court would convict Mr. McConnell of the alleged crime "while there may be grounds to prosecute McConnell". This report was furnished to the State Solicitor by Supt. J. Sheridan. In the course of his report he stated:

**You will be aware from this file that Mark McConnell would have every reason to intimidate Conlon and to attempt to prevent him from giving evidence against the owner of the Nightclub Frankie**

**McBrearty. You will note that Mark McConnell is a nephew of Mr. McBrearty's.**

He says the question is simply whether or not there is evidence on file to suggest a charge of coercion against Mark McConnell contrary to Section 9 of the Non Fatal Offences against the Person Act, 1997. He states the only evidence on file to sustain the prosecution is the informal identification of Mr. McConnell by Bernard Conlon. He added that if the State Solicitor thought that the informal identification was sufficient "then obviously I would be recommending that Mark McConnell should be prosecuted for coercion".

This report was furnished to the Director of Public Prosecutions. By letter of 24<sup>th</sup> February, 1999 to Mr. Hugh Sheridan, State Solicitor for Sligo, Mr. Michael Mooney, Professional Officer with the Director of Public Prosecutions wrote that

**...it seems extraordinary that anybody would go to such lengths to threaten a prosecution witness over a minor prosecution for breach of the Licensing Acts. It is all the more extraordinary when one considers that Conlon himself was an accomplice to any alleged breach of the Licensing Acts since he too was apparently found on after hours. Since the Gardaí inspected the premises it is not clear why or in what capacity Conlon's evidence is required on behalf of the prosecution. Since the Gardaí who inspected the premises could presumably prove their case without resorting to Conlon it is not clear why the license holder or anybody on his behalf would bother threatening Conlon. The injured party's statement reads somewhat theatrically and has not the ring of reality about it. Mark McConnell's replies in the course of interview on the other hand are compelling and further call into question Conlon's credibility McConnell unlike Conlon has no previous convictions.**

In a further letter concerning this case dated 14<sup>th</sup> December, 1999, Mr. Mooney wrote to Mr. Sheridan stating that the interviews of Mr. McConnell and Mr. Peoples:

**Have a ring of truth about them which I cannot dispatch. Their accounts are to the effect that Conlon is ill disposed towards them and that his complaint is false and maliciously inspired. Having considered their interviews in detail I have been unable to satisfy myself that the suspects are being other than truthful. Accordingly I would agree with you that there is not a prima facie case against either suspect and, therefore, there is to be no prosecution.**

As can be seen from the reference in Mr. Mooney's letter of the 14<sup>th</sup> December, 1999, an investigation had also been carried out in respect of Michael Peoples. On the 8<sup>th</sup> December, 1998 Bernard Conlon attended Letterkenny Courthouse in respect of the McBrearty liquor licensing case. Garda Thomas Ward, of Ballybofey Station, was also in attendance. He was

seated at the back of the courthouse and received a tap on his shoulder. When he turned around a man whom he apparently did not know, but was Bernard Conlon, informed him that one of the men that was down at his house in Sligo when he was threatened on 20<sup>th</sup> July, 1997 was present in the court room: he then purported to point him out. This man was Michael Peoples. Garda Ward did not know who the man was and enquired of his colleague Garda Noel Keaveny who apparently identified him by name as Michael Peoples. As a result of this, on 6<sup>th</sup> May, 1999, some six months later, D/Sgt. Gerry Connolly, along with his colleague D/Michael Reynolds and D/Garda E. McHale, arrested Michael Peoples at Liskey, Ballindrait, Lifford. Again he was arrested under Section 30 of the Offences Against the State Act and he was informed that he had been picked out at the court house at Letterkenny on 8<sup>th</sup> December, 1998 as being one of the two men involved in the silver bullet incident. He was interviewed at considerable length about his alleged involvement in the incident and he denied all knowledge of it. Peculiarly, Gardaí Caplice and Hunt at 9.05 p.m. on 6<sup>th</sup> May, 1999 also interviewed him extensively about the Richard Baron death. At 1.50 p.m. Mr. Peoples agreed to stand in an identification parade to which Bernard Conlon was brought. Mr. Peoples was picked out by Bernard Conlon as one of the two men who called to his house on 20<sup>th</sup> July.

Mr. Peoples gave his view that Bernard Conlon was put up to it and speculated that D/Sgt. White definitely had something to do with it. He also believed other Gardaí were involved. Mr. Peoples denied all the allegations made by Bernard Conlon. In his report ultimately destined for the Director of Public Prosecutions, D/Garda Michael Reynolds concluded that while it was suspected that he accompanied McConnell to Mr. Conlon's house at Cartron on 20<sup>th</sup> July, 1998 there was no evidence to suggest that he made any threat to Mr. Conlon. No prosecution was recommended. The report is stamped 30<sup>th</sup> November, 1999 and directed to D/Sgt. Cryan. However, as already noted Mr. Mooney concluded that the interviews with both Mr. McConnell and Mr. Peoples had a ring of truth about them which he couldn't ignore and therefore, as in the case of Mr. McConnell, directed that there be no prosecution in respect of Mr. Peoples.

By the 8<sup>th</sup> December, 1998 Bernard Conlon had made four statements to the Garda Síochána in respect of the breach of the liquor licensing laws at Frankie's Nightclub and the silver bullet affair. It will be recalled that on the 8<sup>th</sup> September, 1997 Mr. Conlon made his original statement of complaint to Garda John Nicholson in the presence of student Garda Eamon Gallagher concerning the 31<sup>st</sup> August, 1997. Then on 21<sup>st</sup> July, 1998, Bernard Conlon complained regarding the silver bullet threat allegedly made to him on the 20<sup>th</sup> July, 1998 to D/Garda Reynolds in the presence of D/Sgt. Connolly. On the 10<sup>th</sup> November, 1998 Mr. Conlon made a statement regarding his identification of Mark McConnell at Letterkenny courthouse on the 1<sup>st</sup> October, 1998 to D/Garda Michael Reynolds. On the 8<sup>th</sup> December, 1998 Mr. Conlon made a further statement regarding the identification of Michael Peoples in Letterkenny courthouse to Garda Thomas Ward. Subsequently, on the 7<sup>th</sup> May, 1999 he made an additional statement concerning his formal

identification of Michael Peoples at an identification parade at Manorhamilton Garda Station.

On 27<sup>th</sup> April, 1999, Bernard Conlon made a further statement of complaint, this time in relation to Mr. William Flynn, a private investigator, who had worked on behalf of the McBrearty family on matters relating to the death of Richard Barron. In his statement of complaint of that date, made at his home, to Inspector Michael J. Barrett and Sgt. P. J. Gallagher, Mr. Conlon complained that at 5.30. p.m, on Thursday, 22<sup>nd</sup> April, 1999 whilst at his home in 61 Cartron Bay, Sligo a man called to his front door, whom he described, and introduced himself as Mr. Flynn from Enfield County Meath a private investigator. He alleged that Mr. Flynn asked him whether he would be interested in changing his statement to the Gardaí about McBrearty's Nightclub. He said that if he cooperated with Mr. Flynn he would make one phone call to Frank McBrearty and that he could have £10,000 in his pocket if he went to a solicitor with him and made a statement about D/Sgt. White and a Garda O'Dowd in Letterkenny. Mr. Flynn was said to have stated that Mr. McBrearty wanted to get D/Sgt. White moved. Mr. Conlon told the two Gardaí that he wasn't going to tell lies and wanted no money. Mr. Flynn was said to have stated that he would write to Bernard Conlon but that he was not to mention anything to the Gardaí about his visit. Bernard Conlon went on to allege that on Monday 26<sup>th</sup> April, 1999 he had received a typed letter addressed to him from William J. Flynn, private investigator which he handed over to the Gardaí. He said he was very upset about Mr. Flynn calling to his house and that he contacted Garda Nicholson in Sligo for his help. He also alleged that this Mr. Flynn had told him that D/Sgt. White had had him (Mr. Flynn) up in court for making abusive phone calls. He appeared to Mr. Conlon to have a grudge against D/Sgt. White and Garda O'Dowd. It was alleged that Mr. Flynn had said that the Minister for Justice was dealing with D/Sgt. White and that he was going to be shifted.

Further reference will be made to this statement, which was ultimately stated by Mr. Conlon to be a fabrication on 17<sup>th</sup> February, 2000. It will be noted that the complaint in respect of William Flynn was made some eight days before the arrest of Michael Peoples in respect of the silver bullet affair.

Sir, whilst it might be thought that the supposed evidence against Mark McConnell and Michael Peoples in respect of the silver bullet affair was weak, and that the observations of Mr. Michael Mooney leading to his conclusion that no prosecution should be initiated against either Mr. McConnell or Mr. Peoples were well founded, it is not exactly clear from the papers as to why Bernard Conlon became the focus of a Garda inquiry or why suspicions were aroused about the veracity of his statements in respect of Mr. McConnell and Mr. Peoples. Witnesses may make mistakes. Identification, though honestly made may be mistaken. This does not necessarily mean that the witness who purports to make the identification is dishonest. There is reference in the papers available to us to a number of phone calls made to various Garda Stations but no elaboration as to how such calls caused suspicion to fall on Mr. Conlon or if they did or why. Members of Assistant Commissioner Carty's investigation team interviewed

Bernard Conlon over a number of months. This process culminated in his admissions that his allegations concerning the silver bullet were lies. In the course of his retraction he implicated D/Sgt. John White, and to a lesser extent Garda John Nicholson, as the persons who procured lying statements from him with a view to prosecuting Mark McConnell and Michael Peoples wrongfully for offences which they knew had never been committed.

These investigating officers were also informed by Bernard Conlon that he had received money in respect of his Letterkenny and Donegal town District Court appearances. He had attended both Letterkenny and Donegal town District Courts on approximately twenty three occasions and received a total of £1,443.60 in witness expenses. He also contended that he had received other sums in cash from D/Sgt. John White. Though the total, which may exceed £2,000, may appear to be relatively small it was, perhaps, to a man of Bernard Conlon's limited means, a significant amount of money.

On the 20<sup>th</sup> January, 2000 D/Inspector Tadgh Foley and D/Sgt. James Fox met Bernard Conlon at Manorhamilton Garda Station by arrangement. The allegations made by Bernard Conlon in respect of the silver bullet incident were discussed. During the course of the meeting both officers formed the opinion that Bernard Conlon was not telling the whole truth in relation to these matters.

On 27<sup>th</sup> January, 2000 D/Sgt. Fox met with Supt. John Fitzgerald at Sligo Garda Station and briefed him on the situation. He informed the Superintendent that he was of the belief that Bernard Conlon was in possession of information regarding the commission of a schedule offence under the Fire Arms Acts and he requested him to issue a search warrant under Section 29 of the Offences Against the State Act 1939 in order to carry out a search of Mr. Conlon's residence. This warrant was issued. A search was carried out later that evening at 5.15 p.m. involving a number of Gardaí. At 6.24 p.m. on the same evening Sgt. Fox arrested Bernard Conlon pursuant to Section 30 of Offences Against the State, Act 1939. He was conveyed to Manorhamilton Garda Station and during the course of his detention was interviewed on a number of occasions.

In an interview on 27<sup>th</sup> January, 2000 with D/Sgt. J. Fox and D/Garda H. Moloney, Bernard Conlon gave an account of his first ever meeting with D/Sgt. John White which he recalled was about a month before he had his name taken in Frankie's. D/Sgt. White had been on duty outside the nightclub with another Garda at about 2.30 a.m. He complained of not getting food in McBrearty's and D/Sgt. White wrote down his name in his notebook and asked him did he want to make a complaint. He said he did not.

In a further interview on 28<sup>th</sup> January, 2000, with D/Sgt. D. Flannery and D/Garda T. Flynn, Bernard Conlon alleged that D/Sgt. White asked him if he was willing to be caught on the premises after hours by arrangement with D/Sgt. White and become a State witness for him against the proprietor Mr. McBrearty. D/Sgt. White said he could arrange for him to be seen late drinking in the nightclub and that he would send in members of An Garda

Síochána to the ballroom. Mr. Conlon agreed to do this and was asked to do it the following Saturday.

Mr. Conlon goes on to give a lengthy account of how the following Saturday Garda John Nicholson pulled up beside him in a motor car, when he was coming out of his driveway at 11.30 a.m., and told him that he got a phone call from Raphoe informing him that D/Sgt. White had the matter arranged for that evening. He understood this to mean that he was to travel to Raphoe that night and be in Frankie's when the Gardaí inspected the premises. Garda Nicholson supposedly told Mr. Conlon how D/Sgt. White had told him that Mr. Conlon should have as much drink as possible in front of him when the Gardaí came in to inspect the nightclub. He was to be in the low bar in the dancehall.

Following this conversation with Garda Nicholson, Bernard Conlon alleges that he had phoned D/Sgt. John White who said that he would meet him in Raphoe in plain clothes outside McGranahans shop in the Diamond at 9.30 p.m. He did so and D/Sgt. John White drove him out past the ballroom and told him he was "but a man after his own heart": he was to have as much drink as he could in front of him between 2.30 a.m. and 2.45 a.m. There would be Gardaí going into Frankie's but he wasn't to take any heed of them. He then describes how a male and female Garda came into the premises at 12.30 a.m. and the shutters came down but that the shutters went up after the Gardaí left. He did as requested by D/Sgt. John White and when the Gardaí were inspecting the premises he pointed out the barman who had served him. He was most annoyed, he asserted, to have his own name taken.

The following Wednesday, Mr. Conlon contends that D/Sgt. White called to his home in Sligo and asked him to go to Sligo station and ask for Garda John Nicholson to whom he was to make an official complaint. He gave him, he claims, two fifty pound notes in a brown envelope which he understood was payment for what he had done in Raphoe. Bernard Conlon then describes going to Sligo Garda Station the following Monday and looking for Garda John Nicholson to whom he gave the statement on the 8<sup>th</sup> September, 1997. He describes also how Garda Nicholson subsequently came to his home and gave him a copy of the statement he had made and asked him to give D/Sgt. White a call. When he did phone D/Sgt. White at Letterkenny Garda Station he claims that D/Sgt. White told him there would be more money coming to him but also that if any members of An Garda Síochána from Sligo or anywhere else came to him he was not to say he knew D/Sgt. White or Garda Nicholson.

Mr. Conlon also alleges that, a few days after this conversation, on a Sunday morning (he thought) D/Sgt. White came to his house to tell him that he would be getting a summons by registered post in connection with being 'found after hours' in Frankie's. He was not to mention D/Sgt. White's name at all, especially if cross-examined by Mr. McBrearty's barrister. Mr. Conlon contends that D/Sgt. White gave him another £100, in five by twenty pound notes, from an envelope. Again he was advised not to tell anybody else about his dealings with D/Sgt. White.

Bernard Conlon was further interviewed by D/Sgt. Fox and D/Garda H. Moloney. He was asked to tell the truth about the incident at 61 Cartron Bay and he asked who would look after him if he did and he was told D/Sgt. Fox would.

Then, he gave an account of events in which he describes how D/Sgt. John White spoke to him about setting up Mr. McConnell and Mr. Peoples shortly before Monday 20<sup>th</sup> July, 1997. Mr. Conlon states that the suggestion was made by D/Sgt. White when D/Sgt. White met him at the toilets near the stairway of Letterkenny Courthouse at a time when D/Sgt. White was on his own and had a file with him. Mr. Conlon alleged that D/Sgt. White stated that he was under a bit of pressure and asked Mr. Conlon if he would do him a turn. Mr. Conlon alleges that D/Sgt. White then pointed to two men in court with the McBrearty's who were a number of feet away from them. He thought he mentioned both men's names and recalled one as Martin O'Connell but could not remember the second name mentioned. D/Sgt. White wanted Mr. Conlon to "set them up". Mr. Conlon alleged that D/Sgt. White indicated that he would look after him and pointed two fingers at him which Mr. Conlon understood to mean that he would get £200 from D/Sgt. White. The detective sergeant said that he would call to Mr. Conlon's house but did not tell him at that stage what exactly he wanted him to do.

On a date which may have been Friday the 18<sup>th</sup> July, 1998, D/Sgt. White called to 61 Cartron Bay in an unmarked Garda car. This was the Friday before the alleged silver bullet incident was reported to the Gardaí. Bernard Conlon alleges that D/Sgt. White referred to the two men whom he had pointed out to Mr. Conlon in the Courthouse and said he was going to describe them to him. He allegedly indicated that he wanted to take Mark McConnell out of circulation, that he had a grudge against him, as he had had him in on several occasions, and that Messrs. McConnell and McBrearty were the main suspects for the murder of Mr. Barron in Raphoe.

More particularly, Mr. Conlon alleged that D/Sgt. White told him to let on that "the two boys", Mr. McConnell and Mr. Peoples, called to his house. He goes on to allege that D/Sgt. White told him to ring the Gardaí and tell them that the two men had called to his house and produced a silver bullet and to say that they threatened him and called him an informer. D/Sgt. White told him to say that Mr. McConnell produced the bullet and added that he (White) was totally against Mr. McConnell and that he would have him behind bars during his service in Raphoe and in Letterkenny. About the second man, D/Sgt. White said to Bernard Conlon that he had a tight haircut and gave him a description of the second man that he was to give to the Gardaí. Mr. Conlon indicated that he wrote nothing down, in relation to either of the descriptions which he was to give, or what he was to say. He went on to say that D/Sgt. White had also mentioned about his car being burnt and that he was suspicious of Mark McConnell and he told him that he had two trailers stolen – one a horse box and the other an ordinary trailer. D/Sgt. White allegedly told Bernard Conlon that he suspected Mr. McConnell of stealing the trailers and that he was to tell the Gardaí that Mr. McConnell had said to him that D/Sgt. White's trailer was missing and that

D/Sgt. White would go missing himself. Mr. Conlon went on to state that he did not make up any of the story, that he had told the Gardaí, and he only told them what D/Sgt. White told him to say. He said “I co-operated with them in every way. He called me his star witness”. He also told the Gardaí that D/Sgt. White had allegedly called him “Detective Garda Conlon”, as a joke on the phone. He stated that D/Sgt. White had told him to get somebody else to ring the Gardaí and that he should “be sitting on the couch terrified when the guards come up”.

He told the interviewers how he had put on an act for the Gardaí who called to the house.

When interviewed on 29<sup>th</sup> January, 2000 Bernard Conlon continued his disturbing allegations. He described occasions upon which he attended at Letterkenny Courthouse on the 1<sup>st</sup> October, 1998 and at Manorhamilton Garda Station on 7<sup>th</sup> December, 1998 in order to identify Mark McConnell and Michael Peoples. He acknowledged that the identifications were false.

He reported that he first came to know Garda John Nicholson when he came to live in Sligo. He had spoken of his acquaintance with Garda Nicholson to D/Sgt. White when he first met him outside Frankie’s Nightclub in Raphoe. In a further statement to D/Inspector Tadhg Foley and D/Garda Moloney and Sgt.J. Fox on 29<sup>th</sup> January, 2000, he stated that, in relation to the after hours drinking case, he rang D/Sgt. White on the Monday after the after hours drinking episode to tell him that he had his name taken. D/Sgt. White told him he would be in contact with Garda Nicholson and thanked him for what he had done. Mr. Conlon stated that he called to Sligo Station thereafter and made the statement described; he was then summonsed as a witness to give evidence on behalf of the State in relation to the after hours drinking in McBrearty’s on 31<sup>st</sup> August, 1997. He goes on to allege that Garda Nicholson came to see him and gave him £100 (two fifty pound notes). He stated that subsequently he gave evidence in court and ‘told the truth’ about what happened on the night but did not tell the court that the whole thing had been a ‘set up’.

Bernard Conlon was released from detention at 6.21 p.m. on 29<sup>th</sup> January, 2000.

Subsequently he made a very detailed statement to Detective Inspector Tadhg Foley, Sgt. Dermot Flannery and D/Sgt. James Fox when he met them by appointment at Manorhamilton Garda Station on 15<sup>th</sup> February, 2000. In this statement he covered initial meetings with D/Sgt. White in which he informed D/Sgt. White of his acquaintance with Garda John Nicholson and gave an account of his involvement in the after hours drinking episode on 31<sup>st</sup> August, 1997 and the setting up of Mark McConnell and Michael Peoples.

It is perhaps important, Sir, to have regard to this shocking statement. In relation to his initial meeting, he confirmed that his first meeting with D/Sgt. White was when he complained to him about getting no food when coming out of McBrearty’s one night. He met D/Sgt. White and another Garda who had inspected the night-club earlier. He gave D/Sgt. White his name, which he believed was taken down in D/Sgt. White’s notebook. He told him that he



knew Garda John Nicholson in Sligo. He had visited Frankie's on a number of occasions after this. He was asked if he would like to make a complaint and he said he would see about it. About three weeks later he again met D/Sgt. White in Raphoe. Again, this was an occasion upon which he had received no supper in Frankie's though he knew that he had been entitled to one. D/Sgt. White started to talk to him about Frank McBrearty. He told him he was investigating the murder of Richie Barron and asked him whether he knew Mr. Barron or whether people were talking about it. Mr. Conlon said the only thing that he had said that he had heard was that Frank McBrearty was being hounded since the murder. D/Sgt. White said that young Frank McBrearty was involved. Bernard Conlon told him about what happened in the pub that night and that the shutters had gone up after the Gardaí had left the premises. He was then asked by D/Sgt. White if he could arrange to be in there late drinking and become a state witness for him against Frank McBrearty. Two Gardaí would be sent to the ballroom and he, Bernard Conlon, would be caught there: there would be money in it for him.

He goes on to describe then the arrangements made for the 30<sup>th</sup>/31<sup>st</sup> August, 1997 between Garda Nicholson and D/Sgt. White. His statement describes what happened, at page 5, on Saturday, 30<sup>th</sup> August, 1997:

**John Nicholson approached me in the unmarked silver patrol car. He had been knocking at my door. He said jump in here Bernard. I sat in. He told me he had been speaking to Sgt. White and how John White had told him that had been arranged for tonight. I knew what he meant. I knew that I had to go to Frankie's in Raphoe and I was to be drinking after hours. He told me that Sgt. White wanted me to be in the lower bar of the dance hall and to have as much drink in front of me when the guards came in. I told him I wasn't fussy about the band that was playing there. He said don't be too interested in the band if you don't go you will be leaving down Sgt. White. I said o.k. John I'll be there. He said he would convey the message to Sgt. White. I rang John White and I had a chat with him. He told me he would meet me at the Diamond at 9.30 p.m. and he would be sitting in his own car in plain clothes.**

He related that Garda John Nicholson asked him if he was alright for money before he left him and he said that he was. Having travelled to Ballybofey, by bus, and taken a taxi to Raphoe, he booked into McGranahans at about 8.30 to 8.40 p.m. He allowed his friends Anthony Kearns and Catherine McGovern to go on ahead of him and he went and sat into a car with D/Sgt. White who knew he had been talking to Garda Nicholson. D/Sgt. White apparently took a note of what he was wearing and he goes on to describe the evening and the attendance by the Gardaí at Frankie's in the early hours of the morning to which reference has already been made. He noted that "I was happy enough doing what I did because I knew I had someone in authority behind me. D/Sgt. White told me he would look after me".

He states that on Monday, the 1<sup>st</sup> September, 1997 he phoned D/Sgt. White and told him that he was a bit upset that his name had been taken. He was told not

to worry about this and D/Sgt. White told him that he would call down and sort him out on Wednesday afternoon. On Wednesday afternoon D/Sgt. White called and told him to go to Sligo station to make a statement to Garda John Nicholson. He told him that all this must be kept very confidential and he said “that if you look after me I’ll look after you”. He was given £100 (two fifty pound notes).

Thereafter he attended at Sligo Garda Station on 8<sup>th</sup> September, 1997 and made his statement to Garda John Nicholson. He alleges that Garda John Nicholson said to him “you have a problem Bernard. I said I have, he said I know all about it”. Garda Nicholson drove him home that evening and, outside his house, Garda Nicholson asked him if his friends Mr. Kearns and Ms. McGovern would mind making a statement relating to Raphoe. Ultimately, Sir, they did not make a statement.

He alleges Garda John Nicholson, some three weeks later, called down to his house to enquire whether he had been in touch with D/Sgt. White. He handed him a copy of his statement and told him he would be needing it. He told him not to show it to anybody and left. Afterwards, Mr. Conlon phoned D/Sgt. White who congratulated him on his statement and told him he would be down in a day or two to see him and that he had something for him. He told him that there was more money coming to him and not to mention it to any Garda in Sligo. A number of days later D/Sgt. White arrived at his home and told him a witness summons would be coming to him by registered post. He said that “McBrearty’s barrister would be tearing me apart but to take no notice and to stand up to him and not to mention his name”. He handed him a brown envelope with five twenty-pound notes. Bernard Conlon continued:

**I thought it was good crack. I had plenty of money and I enjoyed myself. I was getting a buzz out of working with the guards, driving round with the patrol car and being called Detective Garda Conlon.**

Approximately a month later, he received a registered letter containing the witness summons for Letterkenny District Court relating to Frank McBrearty’s premises. Garda Nicholson came to see him and he showed him the witness summons. He alleges Garda Nicholson said that it was nothing to worry about and that he should stick to his statement. He states that he was in regular contact with Garda John Nicholson and was brought on numerous occasions to sittings of the District Court in Letterkenny and Donegal. He was told that Garda John Nicholson would look after all his expenses. In respect of witness expenses he said the following, at page 12:

**John Nicholson looked after all my expenses. He done the paper work. He told me he’d fax it up and then send it by post. John White and John Nicholson told me they would look after my expenses through the court clerk in Letterkenny. I never applied for expenses. John Nicholson did all that for me. I only signed a receipt when I got the cheque. Both parties told me they would get me £40 a day, a night over stay and travelling expenses. I went along with them. John White would bring me home some evenings.**

**The first cheque I got Sgt. White would have given it to me in Sligo Garda Station. He told me he was going to a wedding.....**

He alleges that at one of the court appearances in Letterkenny in early July 1999 D/Sgt. White approached him and asked him would he do him a favour in relation to two fellows who were sitting in the court. He stated as follows:

**I seen them and I said alright John. He put two fingers towards the ground. I said right John, I knew it meant £200. I had a good look at the two men. He told me one was Mark McConnell and other was Peoples. I seen them later in the courthouse and I had another good look at them. He told me he wanted to discuss it with me again. On the following Saturday I rang him from 64 Cartron Bay and he told me he would be down the following Sunday morning. He arrived down the following morning in an unmarked car.....I opened the door and he came in. He said Detective Garda Conlon how's it going. He started talking about what he wanted me to do. He told me (he) had Mark McConnell in about the murder in Raphoe and he was like a wall, he could get nothing out of him. He said I was the only man he could depend on. He wanted McConnell off the streets of Raphoe. He was convinced that Mark McConnell and young McBrearty had killed Richie Barrons. He said to me to say that Martin McConnell and Peoples called to my home and threatened me. He described to me Mark McConnell. He was a stout lump of a fellow with a goatee beard and bushy hair. He said to me to say that Martin McConnell produced a silver bullet from his pocket and to say I have seen your statement, I've seen you in court, you are a State informer. I was to say back to him it's none of your business. He would then produce the bullet and say to me there's one for you and one for White, that White had trailers missing and he would go missing himself. To say that Pimples (Peoples) put his hand in his pocket and stared me in the face. He never opened his mouth. I was to say that Martin McConnell was wearing tracksuit bottoms and a leather jacket and runners and the other fellow was wearing a black leather jacket as well. To say I just slammed the door in their face. He told me to get into a bit of a state and to get someone else to report it. He also told me he had a car burnt out and he suspected Martin McConnell and Peoples (Pimples). He reached to his inside pocket and took out his cheque book. He said that's no good to you. He put it back in his pocket. He took an envelope from his back pocket and handed it to me. He said there's a right few pound in that. He left saying he would see me the following morning in Letterkenny. I opened the brown envelope then. There was £200 in new twenty-pound notes. I was delighted. He told me I was to do it the following night when I returned from the Courthouse.**

He then goes on to describe how he met D/Sgt. White on the Monday morning at Letterkenny courthouse who told him it was on for tonight and "you know what the story is". He was returned to his home in Sligo, after the court proceedings

and later in the evening carried out the plan which ultimately resulted in the Gardaí being called to his house by Tony Doyle, as referred to earlier. He recalled, Sir, making the statement the following day to D/Garda Reynolds and confirmed that it was “false and misleading”:

**A day or two later I would have rang John White and told him I had made a statement. He said he would get the statement transferred up to Letterkenny and get it sorted out quickly. John Nicholson also called to my house around the Thursday or Friday after making the statement. He told me he had seen the statement. He spoke to me in the kitchen. He was accompanied by a female guard and he left her in the sitting room. I have seen the statement you made to Mick Reynolds stick to it. He gave me the impression that he knew that it was a false statement. He left the premises accompanied by the female Garda.**

He then describes how the arrangements were made for him to travel to Letterkenny to identify the two men.

He states:

**In mid September 1998 John White called as arranged by previous telephone call to him. He told me that I would be calling up to Letterkenny in about a week or two, that it was all arranged upstairs in Letterkenny, that I would be travelling up to Letterkenny to identify the two men. I think he was travelling in a branch car. He told me to have a look at my statement. I had got a copy from Mick Reynolds. About two weeks later Gerry Connolly called, would I be ready the following morning to travel to Letterkenny to identify somebody. (Page 28)**

He goes on to describe travelling to Letterkenny, on what appears to be 1<sup>st</sup> October, 1998, meeting with D/Sgt. White at a cafe, and the journey into Letterkenny. D/Sgt. White travelled with the party then, from Letterkenny Garda Station to the courthouse, and left them after an interval. He then describes how he pointed out Mark McConnell and how Mark McConnell came to be arrested. He then goes on to give an account of his attendance at Letterkenny District Court, on a date in December, 1998, as follows:

**In early December I was attending Letterkenny District Court, I was sitting in the court and John White came over and sat down beside me. He said that's Peoples (Pimples) I said I know. He had his arm in a plaster as far as I can recall. White told me to identify him to the Ban Garda. He called her Sarah. She took over in Raphoe when he was transferred. She was sitting up beside the Judge. John White moved away. After a few minutes I got up, there was a guard sitting near me and I approached him. I told the guard there was a fellow over there with his arm in a plaster that was at my home and the guard looked over at him. I told him the Sligo guards would be looking to interview him. The guard got up and went to speak to**

**Sgt. White. He came back down and sat beside me. I saw Sgt. White talking to Sarah. I then saw her looking at Pimples (Peoples). I had seen (Pimples) Peoples in court previously, but I hadn't intended to identify him until I was prompted by Sgt. White. I was unhappy about the whole thing; it was playing on my mind. The only reason I did it was because I was paid to do it. I didn't want to fall out with John White.**

Sgt. Sarah Hargadon has been interviewed in relation to this matter and she indicated that she was not approached in the manner suggested in this statement by Bernard Conlon. However, an incident of a similar type is confirmed by Garda Thomas Ward and Garda Noel Keavney, in that Garda Ward recalls being approached by Mr. Conlon and Garda Keavney recalls being approached by Garda Ward enquiring as to the identity of a person who turned out to be Mr. Peoples on the same date at Letterkenny District Court.

At page 20 of his statement, Bernard Conlon alleges that a few days after the identification by him of Mr. Peoples in Letterkenny District Court, he received notice from D/Garda Michael Reynolds that he was required in court the following day. On the same evening, D/Sgt. White phoned and told him that he would be in the witness box the following morning and that he wanted to have a chat with him that night. He told him that Garda John Nicholson would be down to see him. Later that evening

**There was a knock on the window. I knew it was John Nicholson. I got up and went out. John Nicholson beckoned me out. I went in and got my coat and headed off with John Nicholson. He said to me what's going on. I told him I didn't know but I was for the box the following morning. We drove up and collected his girl from school. He said she was learning music. The school is up around the Ballytivnan area. He was driving his estate car... We then drove to the Petrol Station on the Bundoran road. He told me he had got a phone call from White and he was on his way down. We drove up the garage and we were there about ten minutes when White arrived in a red unmarked patrol car. He drove in around the back. John Nicholson got out and sat in with White. He was there for about five minutes. I was sitting in the car with Nicholson's daughter. John Nicholson came back to the car. He called me, he said John White wants to see you. I went over and got into the patrol car beside John White. John Nicholson got into the back of the car. We were talking, I said to John Nicholson I am not happy here and he said to John White go down to the back of the station. John Nicholson left and John White drove down and parked at the back of Sligo Garda Station. He pressed the buttons and the white pole went up. We were there a short time and John Nicholson came and sat in the back of the car. John White had a folder. He had the statement I made and my previous convictions on a computer print-out that had green stripes on it. We discussed the case fairly seriously for the best part of 20 minutes. They were saying stick to your guns and don't be afraid of the Judge or the Barrister. White said the first**

**thing the Barrister will tear into you will be your previous conviction. He told me to say that I have turned over a new leaf and I have put them all behind me. He told me to keep looking up at Judge. He told me if I was asked about guards I was to say I have a belly full of them and I know what their made of. I forgot to say that when I got the phone call from White he told me there was a special escort coming down for me. He told me that if I was asked about him I was to say that I knew nothing about him and that he was just a member of the Garda Síochána like the rest of them. John White handed my statement to John Nicholson and he read my statement and bits and pieces I had to stick to. John White left but before he did he said under no circumstances say you saw me tonight. John Nicholson said if you are asked in court how did you find out an escort was coming from Letterkenny for you say a uniform guard came from Sligo to tell me. John Nicholson and I got out of the patrol car and John White drove away.**

A uniformed escort duly collected him the following morning, which we believe was December 11<sup>th</sup>, and brought him to Letterkenny District Court where he gave evidence. Following this, he was driven home he says by D/Sgt. John White. He alleges that D/Sgt. Gerry Connolly phoned and that D/Sgt. White told D/Sgt Connolly he “was a star witness the best I have ever seen”. Garda Nicholson phoned on the same journey and he congratulated him and wished him a happy Christmas and told him that he would see him at Christmas with a hamper, which he did. When D/Sgt. White dropped him home he allegedly gave him a twenty-pound note and a bottle of Paddy whiskey wrapped in festive Christmas paper.

Bernard Conlon maintains that in 1999 he was still attending court and was in contact with D/Sgt. John White at the courthouse. He also states that he had regular contact with Garda John Nicholson in relation to ‘bits and pieces’ around the estate where he was living. Then, he alleges that in early May 1999, D/Sgt. John White called to his home at 61 Cartron Bay:

**He arrived down in the afternoon. He told me that (Pimples) Peoples would be arrested and taken to Manorhamilton and I would be finished with Letterkenny for identification parades. A couple of days later Gerry Connolly arrived and he said to me that he was going to have someone in Manorhamilton Garda Station and would I mind going down to identify someone in the Garda Station. He asked me for my phone number. He said he would ring me.**

He then goes on to describe being brought to Manorhamilton station, on what appears to be the 7<sup>th</sup> May, 1999, and going into a room where he identified Michael Peoples to Sgt. Flannery. He states:

**I know when I pointed out Peoples it was a stick up. I left and went to Gurns for a cup of coffee. Mick Reynolds then took me home. I was very upset on the way home. I knew there was nothing I could do about it. I could see it ending up in the High Court in Dublin.**

He states that he then phoned D/Sgt. White but he said ‘fair play to you, and stick to your guns’.

The next incident, with which he deals in this statement, is related to the giving of evidence against the McBrearty’s in the Liquor Licensing Acts prosecution and therefore the course of events under consideration under Terms of Reference (b) but which is also relevant to the Term of Reference (c) in respect of allegations of harassment. It will be recalled, Sir, that in the statement of the 27<sup>th</sup> April, 1999 Bernard Conlon made an allegation that William Flynn, the private investigator, attempted to bribe him on 22<sup>nd</sup> April, 1999 at 61 Cartron Bay. In pages 23 – 25 he outlines how his allegations in this regard were false. He states the true account to be that he got a letter from Mr. Flynn, which stated that he was interested in talking to him about an incident that happened in Navan and that there was ‘money in it’ for him. The letter was on a single sheet of paper. He indicated an interest in meeting with Bernard Conlon and requested that he phone him. Mr. Conlon thought the letter strange and phoned D/Sgt. White and asked him whether he knew Mr. Flynn. D/Sgt. White indicated that he did; Mr. Conlon was then asked for the letter. D/Sgt. White allegedly called down in the afternoon when it was shown to him:

**He told me he had him up in the Court for making obscene phone calls to his wife. He had him in Letterkenny Court and was fined and bound over to keep the peace. He said he was a private detective for the McBreartys investigating Richie Barron’s murder. He said he wanted me to stitch him up. He told me there was a few pound in it if I did it for him. I agreed to do it. He took away the letter and came back a few hours later. There was a second sheet attached to the letter. John White told me he had added a bit to it. He told me not to take it out of the envelope. I didn’t obey his orders. I had a look at it. There was a second sheet, but there was no heading in the second sheet. I cannot remember what was on it. He gave me a description of Flynn that was supposed to have called to my home a few days before I got the letter. He picked the day. He said he would be wearing a suit with a flashy shirt and tie, stout blocky build fortyish with a beard. I was to say that he offered to take me to a Solicitor.....**

Before D/Sgt. White left that evening he allegedly told Bernard Conlon to report the incident as he had described it to Garda John Nicholson. He gave him five twenty pound notes out of his wallet . He told him he wanted to get Mr. Flynn put out of circulation and that it was all over Mr. Flynn making phone calls to his wife. Bernard Conlon said he was happy enough to do it and felt that he did not have much option. We do not know, Sir, whether this statement is indicative of the strength of character, or lack of it, of Mr. Conlon or of his credibility. As a result of this conversation, Mr. Conlon alleges that he phoned Sligo Garda Station and left a message for Garda John Nicholson to call. When he did, Garda Nicholson, he alleges, said

**I know you're looking for me you got an old letter. I says that right John .... Tony Doyle was in the sitting room watching television and John Nicholson walked into the kitchen. He sat down at the table and I handed him the envelope. He put on his glasses. He took out the letter and read it. He turned it over and looked at the other page and he was smiling. He asked me when I got the letter. I told him I got it on this Monday. I told him what White had told me to say. He said, "I am already briefed". He stayed about 10 minutes. He took the letter away with him. He said that there would be someone calling and, to make a statement.**

The following morning Garda Nicholson arrived back with two people, an Inspector Barrett and a uniformed Sergeant. Garda Nicholson left and Inspector Barrett asked Mr. Conlon would he like to make a statement and he agreed. He made and signed what he now states was a false statement for he had never met and did not know William (Billy) Flynn.

It is important for us, Sir, to equally attempt to balance this account by setting out the responses of Garda John Nicholson and D/Sgt. John White to these allegations.

A number of interviews were conducted between members of An Garda Síochána, investigating the claims of Bernard Conlon, and Garda John Nicholson and D/Sgt. John White.

Garda John Nicholson's account of his dealing with Bernard Conlon concerning the after hours drinking case at Raphoe may be put in this way. He acknowledges that on 29<sup>th</sup> August, 1997 D/Sgt. White phoned him asking him to pass on a message to Bernard Conlon to be in Raphoe the following night as he was helping the Gardaí there with "a little matter". This was not discussed with him. He accepts that he went to Mr. Conlon's address and passed on the message. Mr. Conlon said to him that he was helping some Gardaí in Raphoe. He contacted D/Sgt. White and told him that he had delivered the message. He accepts that he took the statement from Bernard Conlon on the 8<sup>th</sup> September, 1997 in relation to the 'after hours drinking' complaint at McBrearty's on the 30/31<sup>st</sup> August, 1997. He does not accept that he told Bernard Conlon that D/Sgt. White wanted Bernard Conlon to be in the lower bar of the dance hall and to have as much drink as he could in front of him when the Gardaí came in, or that he should be not too interested in the band, or that if he didn't go he would be letting D/Sgt. White down. He denies asking Bernard Conlon whether he was alright for money on 30<sup>th</sup> August, 1997 or leaving Bernard Conlon home, in a silver unmarked patrol car, following the making of his statement on the 8<sup>th</sup> September, 1997. He denies that he called three weeks later to Bernard Conlon and handed him a copy of his statement. He acknowledged that, approximately twelve months later, he gave a typed copy of the statement to him as a matter of urgency and at the request of D/Sgt. John White. Sir, Garda John Nicholson denies ever telling Bernard Conlon not to show the statement to anybody. He also denied that he called to Bernard Conlon having been contacted at Sligo Garda Station by Mr. Conlon about the witness summons, which he had received. He states he never saw the witness summons and he never told



Bernard Conlon to 'stick to' his statement. He denies that he was in regular contact with Bernard Conlon.

When questioned about meetings, which he was alleged to have had with Bernard Conlon involving D/Sgt. John White prior to the giving of evidence by Bernard Conlon at Letterkenny District Court in respect of the after hours drinking case against the McBrearty's, he acknowledged that one evening at approximately 7.45 p.m. some months after September, 1997 he had received a phone call from D/Sgt. White requesting him to pass a message on to Bernard Conlon to meet D/Sgt. White at the Statoil Filling Station in Sligo at 8 p.m. He was in town, off duty, in his private car and immediately went to Cartron Bay to deliver the message. He met Bernard Conlon coming very fast towards the Bundoran Road. He stopped briefly and spoke to him and before he could say anything Bernard Conlon informed him that he was in a hurry and was meeting D/Sgt. White at the Statoil Filling Station at 8.00 p.m. He sat into the car and Garda Nicholson states that he drove Mr. Conlon fifty to eighty yards to the filling station where Mr. Conlon got out. D/Sgt. White pulled up in his car two minutes later and Mr. Conlon sat into the front. Garda Nicholson states that he immediately left. He did not speak to D/Sgt. White at the filling station.

On another occasion some months after the taking of this statement on the 8<sup>th</sup> September, 1997 between 8.00 and 11.00 p.m. he states that he received a telephone call from D/Sgt. White who told him that he was sitting in a car at the rear of Sligo Garda Station with Bernard Conlon and asked him to meet them for a minute. He went to the yard at the rear of the Station and met with D/Sgt. White and Bernard Conlon and he was asked to try and make arrangements for a lift for Mr. Conlon from Sligo to attend a court case in Letterkenny to give evidence. Something was said about Mr. Conlon's previous convictions being handed over to the defence counsel. He said he spent approximately two minutes, or less, in their company and left. This is an account which he gave in a statement of evidence made on the 10<sup>th</sup> February, 2000.

He was asked further, by D/Supt. Joseph McGarty and D/Inspector Joseph McHugh on the 4<sup>th</sup> April, 2000 at Santry Garda Station, about the alleged meeting the night, of what we believe to be December 10<sup>th</sup>, 1998, before Bernard Conlon gave evidence in Letterkenny District Court. When asked whether he made arrangements to have Mr. Conlon collected at the filling station in the Bundoran Road and taken to Letterkenny District Court, he replied that he had made an arrangement at Bernard Conlon's request to be collected outside the General Post Office at Sligo and taken to Letterkenny District Court. He was not aware that he had called to see Bernard Conlon on the night before he was due in Letterkenny District Court to give evidence. When asked specifically about whether Mr. Conlon went in his car to collect Garda Nicholson's daughter, who was learning music, Garda Nicholson replied that Mr. Conlon had sat into his car for less than a minute, that his niece was in the car and that he was taking her to the cinema. He stated that he met Bernard Conlon less than 100 yards from the Station and Mr. Conlon told him he was meeting D/Sgt. White. Garda Nicholson states that he drove him less than 100 yards and dropped him off at the Statoil Station on the Bundoran Road. He was going down to deliver the message to Bernard Conlon when he met him

near the filling station. He states that he never sat into D/Sgt. John White's car when D/Sgt. White arrived and didn't speak to him. He states that he did not get into the back of the car with D/Sgt. White and Bernard Conlon and Mr. Conlon did not say to him that he was 'not happy' to be there. When asked whether he got out of the car and drove down to the yard, behind Sligo Garda Station, he stated that on a date which he could not remember he met Bernard Conlon and D/Sgt. White at the back of Sligo Garda Station but this was a later occasion. He denied discussing the court case with Mr. Conlon and asking him to 'stick to his guns'. He accepted that he overheard a discussion between D/Sgt. White and Bernard Conlon concerning his criminal record and that it would be brought up in court. D/Sgt. White discussed Mr. Conlon's attendance at court and that the defence was going to have a go at him about his convictions. He did not have Bernard Conlon's statement and he did not accept that he read it in the car to him. He said "the statement was never mentioned". He denied telling Bernard Conlon that if he were asked in court how he found out there was an escort coming from Letterkenny to say that a uniform guard came from Sligo to tell him. He further denied dropping Bernard Conlon off and denied speaking to him after the court case in Letterkenny at which Mr. Conlon had given evidence in order to congratulate him and wish him a happy Christmas. He was aware Mr. Conlon had given evidence from D/Sgt. White. He did not see Mr. Conlon at Christmas and did not give him a hamper. He accepted that some three years prior to this Bernard Conlon would have received a hamper from the Social Services with which Garda Nicholson was involved. He denied any regular contact with Mr. Conlon in relation to crime in the housing estate in which he lived, as he regarded him as untrustworthy.

He also denied a conversation which Bernard Conlon had said had taken place after his identification of Mark McConnell on the 1<sup>st</sup> October, 1998 where he was alleged to have said "you done the business in Letterkenny I will fill in the certificate of lost earnings and give it to Mick Reynolds. He will get you a days wages". He describes this as a tissue of lies.

He also denies any discussions with Bernard Conlon about a statement made in respect of the silver bullet affair or indeed that incident. He also denies the incident in which Mr. Conlon alleges he attended at his house with a Ban Gharda and discussed the silver bullet statement with him.

He denies ever making any cash payments to Bernard Conlon but was concerned in the applications made for his witness expenses which we will refer to shortly.

Garda Nicholson acknowledged that he called down to Bernard Conlon in respect of the 'Flynn letter'. He denied saying to Bernard Conlon when he called "I know you are looking for me you have got an old letter". He did call down to him and collected the letter. He acknowledged that he more than likely received the envelope but could not honestly say one way or the other. Whatever he got, he gave to C/Supt. Austin McNally on the same date. He only vaguely glanced through the letter and did not read it. He could not recall any second page but it was quite possible that it was there - there was something about offering money to him if he withdrew the evidence in court. Bernard

Conlon did not tell him what D/Sgt. White had told him to say and he did not say to Mr. Conlon that he (Nicholson) was already briefed. In respect of the letter produced to him he said “the only page I saw was the first page. I did not see the second page”. He did not tell Bernard Conlon that someone would be calling to take a statement. However, he accepts that he called to Mr. Conlon the following morning with Inspector Barrett and Sgt. Gallagher on the instructions of C/Supt. McNally. He did not tell Bernard Conlon that he was to say what D/Sgt. White and he (Nicholson) had told him to say to these Gardaí.

In respect of the investigation carried out by the Carty inquiry team, into the false allegation made by Bernard Conlon, Garda Nicholson stated in his statement of evidence made 10<sup>th</sup> February, 2000 that on Friday, 28<sup>th</sup> January, 2000 he spoke with Supt. Lennon on the phone and discussed with him the arrest of Bernard Conlon who was at the time detained at Manorhamilton Garda Station. On the same date, he also received a phone call from D/Sgt. White and discussed the same topic. The following day he received a telephone call from D/Sgt. White who again enquired if he knew anything further about the arrest of Bernard Conlon or whether he had been released. Garda Nicholson informed him that he knew absolutely nothing except what he had read on a telex message concerning the arrest. D/Sgt. White stated that he would try to contact Bernard Conlon through a contact number in a nearby house. Within fifteen minutes, he telephoned back and informed Garda Nicholson that Bernard Conlon was not at home. After receiving the call on 29<sup>th</sup> January, 2000, Garda Nicholson decided to try and contact Mr. Conlon the next day. The following day, Sunday, 30<sup>th</sup> January, 2000 Garda Nicholson telephoned a neighbour’s house in Cartron Bay and asked to speak to Bernard Conlon. A short time later he saw Mr. Conlon walking and pulled up beside him in his car a short distance away but Mr. Conlon muttered something like “I cannot talk”.

The following day, he received a telephone call from Supt. Lennon who informed him that he was in the Sligo Park Hotel and asked him to call to see him. He did so. Superintendent Lennon stated that he was completely honest and clean in relation to investigations in County Donegal and that he fully intended to be back as Superintendent in Letterkenny. Garda Nicholson was asked about Bernard Conlon by Superintendent Lennon and he informed him that he tried to speak with him the previous day and that Bernard Conlon had walked away. On 1<sup>st</sup> February, 2000 Garda Nicholson received two calls from D/Sgt. White on his mobile phone and he told him that he could not talk to him. The following day at 8.20 a.m. Garda Nicholson telephoned Supt. Lennon from Dublin Airport and requested him to speak to D/Sgt. White and request that D/Sgt. White not telephone him or speak to him again in the future. Since that date, Sir, he claims that he had no contact by telephone or in person from either Supt. Lennon or D/Sgt. White.

On the 21<sup>st</sup> March, 2000 at Newline Road, Letterkenny, County Donegal D/Inspector T.F. Foley arrested D/Sgt. John White under Section 4(3) of the Criminal Law Act, 1997 on suspicion of procuring the commission of an offence under Section 12 of the Criminal Law Act, 1976 in that between the 1<sup>st</sup> July, 1998 and 21<sup>st</sup> July, 1998 at Cartron Bay, Sligo he procured Bernard Conlon to make a false statement to the Gardaí at Sligo that a criminal offence had been

committed. He was detained at Letterkenny Garda Station from 7.05 p.m. on 21<sup>st</sup> March until his release without charge at 12.15 on 22<sup>nd</sup> March, 2000. He was suspended from duty, by Chief Supt. Denis Fitzpatrick, from 7.15 p.m. on 21<sup>st</sup> March, 2000.

The sequence of events which led to this arrest commenced, it would appear, on 17<sup>th</sup> March, 2000 when D/Supt. Joseph McGarty and D/Inspector Tadhg Foley met with D/Sgt. White. D/Sgt. White asked to tape the interview but the Superintendent declined this request. D/Sgt. White invited them to put the allegations to him and D/Supt. McGarty said it would be appropriate to caution him at which point D/Sgt. White consulted with his Solicitor. The advice which he claims he received was to 'say nothing'. The interview was terminated and at it's conclusion D/Sgt. White told D/Supt. McGarty that he had tapes and notes of conversations with senior officers and then said there was no need to go searching his house "you won't find them. Everything is with my Solicitor". D/Sgt. White then left the room. It was 10.25 a.m.

On 20<sup>th</sup> March, 2000 D/Sgt. White reported to Sgt. Michael Foy that his personal locker in Letterkenny Garda Station had been interfered with and a number of items removed from it. This alleged interference occurred between 11.30 a.m. on 17<sup>th</sup> March, 2000 (within an hour of his interview with D/Supt. McGarty and Inspector Foley) and 6.10 p.m. on the 20<sup>th</sup> March, 2000. The arrest then took place on 21<sup>st</sup> March, 2000 at 7.03 p.m. Whilst being processed by Sgt. Michael Foy, in relation to his detention, D/Sgt. White complained that Sgt. Fox had taken possession of his keys to secure his car at 7.03 p.m. He complained his arrest was 'illegal and unlawful' and explained that he had attended a meeting with Assistant Commissioner Carty at Hillgrove Hotel, Monaghan in which he brought to his notice certain aspects of the current investigation in Donegal which were as follows:

- (1) that the statement taken from Frank McBrearty Jnr. On 4<sup>th</sup> December, 1996 was false and
- (2) that the arrest of Michael Peoples on 6<sup>th</sup> May, 1999 was unlawful.

He stated that he had informed Chief Supt. McNally and D/Insp. John McGinley of "three very valid reasons why Michael Peoples should not be arrested for allegedly threatening Bernard Conlon". He stated that, at this time, both officers were asking him to carry out confidential enquiries into the whereabouts of Michael Peoples and to put surveillance on his house. He stated that he did this, and reported his findings by mobile phone to D/Insp. McGinley. He stated that Assistant Commissioner Carty advised him that Chief Supt. Fitzpatrick and D/Supt. John McGinley had informed Assistant Commissioner Carty that they strongly suspected him of being involved in a number of serious offences including the present allegation in respect of Bernard Conlon. He had assured the Assistant Commissioner that he was not involved in any criminal activities relating to the accusations. And he stated that the Assistant Commissioner did not believe that he had anything to do with any of the crimes. He stated that he believed "that this arrest was simply to discredit him in relation to any future court cases".

In the course of his detention, D/Sgt. White consented to Chief Supt. McGarty examining his personal diary. The envelope containing this was opened by Sgt. Foy and handed to D/Supt. McGarty in the presence of D/Sgt. White. D/Sgt. White said that he was not satisfied that D/Inspector Foley should examine his diary because there “may be reference to himself and his team in relation to criminal wrong doings on their behalf”. At 12.13 a.m. D/Sgt. White was released from custody but objected to the seizure of his diary as a ‘serious invasion’ of his privacy. He repeated that it contained reference to wrong doings and possible criminal actions on behalf of the investigation team prior to this date.

It is of some importance to know that a complaint made to Sgt. Foy in relation to the alleged removal of materials from D/Sgt. White’s locker at Letterkenny Garda Station relates to the alleged removal of all his official notebooks including all notebooks which he used in the case of DPP - v – McBrearty and others. There were apparently also several notepads in which he had taken notes of happenings at court cases. A notepad in which he had noted all dates and times of telephone conversations with members (serving and retired) who had dealings with Bernard Conlon was missing and perhaps other paper work, he claimed. A black/grey Sanyo dictaphone with tape inside and two videocassette tapes with covers were also missing.

In the course of his detention, D/Sgt. White was interviewed at length. In response to most questions concerning the Bernard Conlon silver bullet affair he had nothing to say or did not reply allegedly on the advice of his solicitors. At the conclusion of one of the interviews, with D/Supt. Joseph McGarty and D/Insp. Foley on 21<sup>st</sup> March, 2000, he stated, and this, Sir, is most important: “I wish to categorically deny any wrong doing in relation to my dealing with Mr. Conlon that’s all”. He had also indicated that he had nothing more to say but would forward a statement through his solicitor in the very near future. In respect of the second page of the ‘Flynn letter’ and the suggestion that he had supplied the second page of that letter and that it was in essence a forgery, he stated that he had never invented any typing on any typed document and certainly had not typed the second page. He goes on to say: “I have never in my life invented the typing on any typed correspondence” and referred to the miss spelling of McBrearty on the second page. Each of the allegations made by Bernard Conlon was put to D/Sgt. White in the course of interviews while he was detained. A reference was made to the fact that a statement would be furnished by his solicitor in the very near future. No such statement has been forthcoming in relation to the allegations of Bernard Conlon and the silver bullet issue to date of which we are aware.

Bernard Conlon has described two types of payment which he received in the course of his dealings with the Garda Síochána. The first are undocumented and mostly related to cash payments. These allegedly were made in the course of his dealings with D/Sgt. White and to an extent Garda John Nicholson. The second type of payment is documented and relates entirely to payments made by cheque to Bernard Conlon, for his attendances at Letterkenny and Donegal District Courts, as a witness and were dealt with in the form of seven separate claims.

In summary Bernard Conlon's account of the first type of payments are as follows:

- (1) Mr. Conlon alleges that he received the sum of £100.00 (2 x £50.00 notes) from D/Sgt. White on what he believes to have been a Wednesday after 31<sup>st</sup> August, 1998 in return for making a statement concerning the alleged breach of the liquor licensing laws on 30<sup>th</sup>/31<sup>st</sup> August, 1998 at McBrearty's but before he made that statement on the 8<sup>th</sup> September, 1998.
- (2) Some days after making the statement on the 8<sup>th</sup> September, 1998, but before he received the summons to appear in court as a witness in respect of the charge against the McBrearty's arising out of the 30<sup>th</sup>/31<sup>st</sup> August, 1998 Bernard Conlon alleges he received a further £100.00 (5 x £20.00 notes) from D/Sgt. White at his own home on what he thought was a Sunday morning.
- (3) Mr. Conlon alleges that a payment of £200.00 in cash was received from D/Sgt. White on a Friday night before he reported the silver bullet incident to the Gardaí at Sligo. He has also given an account in which he states that this money was given to him on the Sunday before he reported this matter. This money was paid to him for making the false allegation against Mr. McConnell and Mr. Peoples in advance of making the allegation.
- (4) Having given his evidence to the District Court in December, 1998 he alleges he was driven home by D/Sgt. White and given £20.00 and a bottle of Paddy whiskey.
- (5) In April, 1999 Bernard Conlon received, he claims, a letter dated the 21<sup>st</sup> April, 1999 from William Flynn, Zimmerman & Company International Ltd. D/Sgt White then allegedly asked him to assist in making the false allegations against William Flynn which he agreed to do. These were made by him in a statement dated the 27<sup>th</sup> April, 1999 to Insp. Barrett. Mr. Conlon alleges he agreed to do this and was given £100.00 on the same occasion at his home by D/Sgt. White from D/Sgt. White's wallet (5 x £20.00 notes).

The balance of the payments received by Bernard Conlon were by cheque in respect of witness expenses, which were the subject of a number of claims. Bernard Conlon alleges that Garda Nicholson and D/Sgt. White told him that they would get him witness expenses for attending Letterkenny and Donegal District Courts against the McBrearty's. He had acknowledged that he was not employed in the sense of not working during these appearances. When asked why he was given money for loss of wages he said it was because:

**John Nicholson and D/Sgt. White said they would sort this out and not to worry about it. John Nicholson said he would put me down for £40 a day and a night overstay and dinner after that and plus travelling expenses.**

He said that Garda John Nicholson told him that loss of wages certificates were sent in for him signed by Ben McGuire. He knew he was not entitled to loss of wages but he “went along with the other two men. I was happy to get the extra money”. Because he was travelling up and down to Letterkenny for weeks he stated “I felt I was entitled to get what they (meaning D/Sgt. White and Garda Nicholson) agreed on”. One of the payments made was for his attendance at Letterkenny for the purpose of identifying Mark McConnell. He admitted he was not at any loss of wages and took the money because “it was money and it was offered to me as part of the agreement in relation to Letterkenny” – an agreement he said was made with him by D/Sgt. White and Garda Nicholson. He said he had not looked for expenses immediately after attending court in Donegal because he knew they would arrive fairly quickly. In fact, according to Rita Harmon a clerical officer who dealt with claims for expenses, he made at least one phone call to her in respect of each of the claims submitted. From the papers, it appears that 7 claims for witness expenses were made on behalf of Mr. Conlon supported by documentation. Inquiries have been made as to the appropriate level of payment, which ought to have been made by way of witness expenses to Bernard Conlon in respect of his attendances at court and at the identification procedure on the 1<sup>st</sup> October, 1998 and in relation to the authenticity of supporting documentation.

Supt. D. F. Walsh of the Finance Section, Garda Headquarters has made a statement, outlining the procedure which normally applies to witness expenses. Ordinarily, witness expenses for persons attending court on criminal cases are paid by the local Superintendent if they come within the agreed schedule of various fees. Headings under which the fees are payable, by way of witness expenses, are laid out in Garda Headquarters circular 97/89 of 18<sup>th</sup> October, 1989. A claim is initiated by the completion of a form A80 by the Garda member involved in the case. The form contains the name address and occupation of the witness and under various headings provides details of the case in which the witness was involved, including the place and date of court attended, the amount of time (in respect of a witness’s time) required in order to attend, and the amounts to which it is claimed the witness is entitled. This document is signed by a member of An Garda Síochána declaring that the information given by him on the form is correct. It is submitted to the local Superintendent who certifies that the witness attended court as stated, that he was necessarily absent from home or business for the period shown, that he was entitled to the amount paid or payable to him and that such amount is in accordance with the authorised scale and has not previously been paid or claimed.

Ms. Rita Harmon, outlined the procedure applicable to the processing of these claims at Letterkenny Garda Station. The form A80, Certificate of Loss of Earnings and other related documentation, if appropriate, (for example travel

tickets if the witness travelled from overseas) is submitted to the District office at Letterkenny Garda Station by either the member in charge of the particular case or a member having the rank of Sergeant. As part of her duties, she would check each claim, to ensure that the relevant documentation was attached and that the amounts of money claimed were in accordance with the current rates. If the claim was deemed to be correct it was forwarded to the Superintendent, or the Inspector who was the acting Superintendent, for signature. No cheques were made out or issued until the claim was returned signed by the Superintendent or the acting Superintendent. They signed the claim in the space provided on form A80. If the claim was in order, a cheque was made out for the witness and returned to the Superintendent, or acting Superintendent, for signature accompanied by two letters, one addressed to the witness, the other addressed to the Sergeant in charge of the Station or Section from which the prosecution was brought. When the cheque was signed it was posted to the Sergeant in charge and accompanied by the letter addressed to the witness. Both letters were signed by the Superintendent, or acting Inspector. Details of the cheque payment were recorded in a cheque payment book and on the cheque stub.

At the end of every month, the original of all claims paid from the Garda Síochána account for the particular month are forwarded to the Finance Section, Department of Justice Equality & Law Reform, Deerpark, Killarney County Kerry as part of a monthly return. This is required so that the Department can reimburse the local Superintendent's account with the sum extended in the previous month. Included in the return are the original claims in respect of payments made to State witnesses. Supt. Walsh has carried out an examination of the claims made and the amounts paid in respect of Bernard Conlon: having regard to the fact that the loss of earnings certificates submitted were allegedly fraudulent has come to the conclusion that the Superintendent's account is at a loss, as a result of the submission and payment of bogus claims for loss of earnings, taking due account of the level of payment which would have been applicable to somebody (like Mr. Conlon) who was unemployed. The total amount paid out in respect of witness expenses claims to Bernard Conlon was £1,443.60. The total amount, which was due and which might properly have been paid, was £810.10. Therefore there was an overpayment or loss to the account of £633.50.

The focus of inquiry in this regard is primarily upon the claims made in respect of loss of wages certified in respect of each claim and attached to each claim form submitted. To take the various claims which are in issue.

The first of the claims made on the 29<sup>th</sup> May, 1998 was in respect of three attendances at court on the 9<sup>th</sup> March, 1998, the 27<sup>th</sup> April, 1998 and the 25<sup>th</sup> May, 1998. Attached to this claim, was a certificate that Mr. Conlon had been absent for five days from work at a rate of £40 per day due to his being a witness at Letterkenny District Court. It was dated 28<sup>th</sup> May, 1998 and signed by Bernard McGuire. Mr. McGuire denies that Mr. Conlon was working for him, that he issued this certificate, wrote it or signed it. A cheque was issued in the amount of £390.00 as a result of this claim, which was ultimately given to Bernard Conlon by D/Sgt. White. The claim was submitted



by D/Sgt. White. Mr. Conlon denies that he produced the certificate and says that in respect of all certificates, Garda Nicholson was to take care of all the paperwork. When all adjustments were made the Superintendent's account was at a loss of £144.00 in respect of this claim.

The second claim submitted by Sgt. Sarah Hargadon contained a certificate purportedly signed by Thomas McGuire dated the 24<sup>th</sup> June, 1998 and certifying that Bernard Conlon had attended court in Letterkenny on the 22<sup>nd</sup> and 23<sup>rd</sup> of June as a witness and was at a loss of £40 per day from his employment as a housing caretaker and gardener. Thomas McGuire in a statement states that Bernard Conlon was never employed by him as a caretaker or gardener. When shown the certificate he stated that he had never seen it before and had not signed it. Sgt. Sarah Hargadon, she claims, had some discussion over the phone in relation to this claim for witness expenses for the 22<sup>nd</sup> and 23<sup>rd</sup> June, 1998 with Mr. Conlon and she advised him to speak to Garda Nicholson at Sligo Garda Station. She states that Garda Nicholson informed her that he would send on the certificate by post and some days later as she had not received it, she contacted Garda Nicholson again who informed her that he would have it in the post as soon as possible. Some days later, she received the written certificate for loss of earnings of £40 per day purportedly signed by T. McGuire. She attached it to the claim and submitted it.

Garda Nicholson was interviewed in respect of this certificate and indicated that it was possible that Sgt. Hargadon requested a certificate from him on the 22<sup>nd</sup> or 23<sup>rd</sup> June, 1998. He denied writing out the certificate of earnings in respect of Mr. Conlon for those dates on a half sheet and when the certificate was produced to him could not recall seeing the certificate before. The total claim is for £132 and when all due allowances to Mr. Conlon were made the Superintendent's account was at a loss of £53 in respect of this claim.

The third claim submitted on the 14<sup>th</sup> November, 1998 by D/Sgt. White was a claim for £312 in respect of attendances by Mr. Conlon as a witness at Letterkenny District Court from the 7<sup>th</sup> to the 11<sup>th</sup> December, 1998. A reference to November on the face of this document is in error. The loss of earnings claim for £200 based on a certificate, which is undated, was purportedly signed by Ben McGuire and was attached to this claim. When all due allowances were made Mr. Conlon was entitled to £175 and therefore the account was at a loss of £137 in respect of this claim. Mr. McGuire again denied all knowledge of this certificate as he did of all these certificates. D/Sgt. White had no reply to make in respect of any alleged dealings with form A80 or other questions relating to the claims. In respect of whether he delivered the cheque to Bernard Conlon, he had no reply on the alleged advice of his solicitor and stated that "I will answer all this in a full statement which I will forward to you in the near future".

The fourth claim was in respect of appearances at Donegal town District Court from the 1<sup>st</sup> to 4<sup>th</sup> June, 1999 in the case of DPP v Frank McBrearty Snr. and others. This claim was accompanied by a letter from D/Sgt. White which stated that "Mr. Conlon was present in court on behalf of the State on the

explicit instructions of Judge O' Donnell". The total claim in respect of this appearance was £220. A certificate of loss of earnings was furnished in support of the claim, purportedly signed by Ben McGuire and claiming a loss of £40 per day for four days in respect of Mr. Conlon. With all due allowances, Mr. Conlon would have been entitled to £110.20 and accordingly the Superintendent's account was at a loss of £112. D/Sgt. White had nothing to say in respect of this claim, but, Sir, you have noted that he has denied any wrongdoing, or the acceptance of any illegal behaviour.

The fifth claim was allegedly submitted by D/Sgt. White on the 31<sup>st</sup> August, 1999 and was in respect of a court appearance at Letterkenny District Court against Mark McConnell brought under the Criminal Justice Public Order Act, 1994 on the 24<sup>th</sup> June, 1999. The amount claimed was £75. Once again a certificate of loss of earnings (undated) was submitted purportedly signed by Ben McGuire claiming £40 by way of loss of earnings as a housing caretaker for the 24<sup>th</sup> June. Mr. McGuire did not issue any such certificate. D/Sgt. White had nothing to say in relation to this matter when interviewed. The same comment as to his attitude applies in each instance.

The sixth claim was really a joined claim submitted on the 13<sup>th</sup> December, 1999 by D/Sgt. White apparently and was in respect of expenses for Mr. Conlon for attending at Letterkenny District Court on the 18<sup>th</sup> November, 1999 and then in a second claim of the same date there is a claim in respect of attendances at Donegal town District Court on the 6<sup>th</sup> and 7<sup>th</sup> September, 1999 and the 23<sup>rd</sup> November, 1999. This claim was accompanied by a loss of earnings certificate which was undated and purportedly signed by Ben McGuire for the respective dates of the court appearances purporting to certify a loss of earnings of £160. The Superintendent's account suffered losses allegedly of £19 and £84 respectively in respect of the two claims.

The seventh claim was somewhat different, in that Mr. Conlon attended as a witness at what was termed an informal identification parade, held outside Letterkenny District Court on the 1<sup>st</sup> October, 1998. This was a claim by D/Sgt. Connolly in respect of the occasion upon which Mr. Conlon travelled from Sligo to Letterkenny to make the false identification of Mark McConnell outside Letterkenny District Court as part of the alleged plan to accuse him wrongfully in relation to the silver bullet affair. D/Sgt. Connolly in respect of loss of earnings, believed that Mr. Conlon was employed by Ben McGuire and looking after cattle. He was also aware that Mr. Conlon supervised tenants in houses owned by Ben McGuire at Cartron Bay, Sligo. He asked D/Garda Reynolds to contact Bernard Conlon and request a receipt for any loss of wages from his employer that he wished to claim. D/Garda Reynolds obtained a receipt for £80 for loss of wages in respect of Bernard Conlon's attendance in Letterkenny. Form A80 was then completed and together with a typed report and the attached receipt for loss of earnings was forwarded on the 22<sup>nd</sup> November, 1998 to the Superintendent at Sligo.

This receipt was furnished to D/Gda Reynolds in the following way. D/Garda Reynolds called Bernard Conlon and requested a certificate regarding his loss of wages and Bernard Conlon told him that he would leave it in for him at the

Garda Station. He received a call from Bernard Conlon complaining that he had not received payment and Reynolds asked if he had sent his certificates. Bernard Conlon said he had not. He was told he would get no payment until the certificate was attached to the claim. Bernard Conlon complained and Reynolds told him he could do nothing for him. Shortly afterwards D/Garda Reynolds received a white envelope in his correspondence and on opening it he discovered the requested certificate. He left the certificate and correspondence for D/Sgt. Connolly. This was purportedly another loss of earnings certificate signed by Bernard McGuire who denies ever signing it or completing it. Making all due allowances, the Superintendent's account in Sligo was at a loss of £56.50. Of course, if this trip was part of a conspiracy, Bernard Conlon deserved nothing for it. People in Ireland are not paid by the State for framing people.

Bernard Conlon in a statement to D/I Joseph McHugh and D/Sgt. G. Giblin on the 25<sup>th</sup> April, 2000 answered a number of questions in respect of this claim. He stated that Garda Nicholson came down to him at his home at Cartron Bay, the day after the identification i.e. the 2<sup>nd</sup> October, 1998 and told Bernard Conlon that he was going to put in expenses for him travelling to Letterkenny i.e. expenses for "buses, grub and a days wages which were all lies". Bernard Conlon said that it was all lies in the sense that Garda Nicholson knew that Bernard Conlon hadn't got the bus. He was shown the certificate concerning loss of earnings in respect of this claim and said that he hadn't seen it before. When asked what he knew about it he said that Ben McGuire had not signed it at all and that Garda John Nicholson was looking after this and was sending all these up to D/Sgt. White in Letterkenny.

He stated that he had never asked either Ben or Thomas McGuire for the loss of wages certificates because he was not working for them. He had told D/Sgt. White and Garda Nicholson that he was not working. Garda Nicholson said not to worry about it that D/Sgt. White and himself would look after him because he had gone along with them. He was never asked by Garda Nicholson to ask Ben McGuire to get a receipt for him for loss of wages. All of the cheques issued were encashed by Bernard Conlon.

In a statement of evidence, made on the 28<sup>th</sup> March, 2000, Garda Nicholson stated that after Bernard Conlon's first court appearances he had telephoned Garda Nicholson at Sligo Garda Station stating that he urgently required his court expenses for attending Letterkenny as he was going away. Bernard Conlon apparently had spoken to D/Sgt. White who had informed him that the only way he would get his expenses was when he obtained a receipt from his employer Ben McGuire. D/Sgt. White had told Bernard Conlon to telephone Garda Nicholson and ask him to arrange a receipt from the employer and that he in turn would receive his expenses immediately. Garda Nicholson asked Bernard Conlon to go to Ben McGuire and get a receipt but he refused me and "informed me in a very surly manner that if we could not arrange this for him that he would never go down to court in Donegal again to give evidence". Bernard Conlon rejects this proposition and said that he never made such a threat. Garda Nicholson alleges that he informed D/Sgt. White by telephone of the position and:

**White was most anxious that I or someone else in Sligo Garda Station would get a receipt to cover Conlon's expenses. D/Sgt. White informed me that he was seeking £40 per day as loss of earnings for attending court and stressed how important and vital a witness he was for the State. He stated that they could not afford to lose him or to do without him and that he was the only and most important civilian witness for the State against the Parting Glass Nightclub for the night of the 30<sup>th</sup>/31<sup>st</sup> August, 1997. I immediately set out looking for Ben McGuire in Sligo as I then realised the importance of the matter and that Conlon needed to get his expenses fast or that the State would lose him as their witness.**

He then states that he spent over an hour looking for Ben McGuire to get a receipt from him and visited a number of places but failed to locate him. He discovered that he was in Northern Ireland, where he owned land and lived part time. He alleges that he contacted Bernard Conlon and informed him that he could not locate McGuire. Mr. Conlon stated that if they could not get money to which he was entitled fast that he would wash his hands of the Gardaí and never attend court in Donegal again. Garda Nicholson explained that he was only trying to help him and D/Sgt. White and that it should not be his problem but he would do all he could to resolve it. He goes on to state as follows:

**That day I discussed the matter and the great urgency attached to it with a close friend which I do not wish to name. As a result this person stated to me I would have a receipt fast, just give the particulars and the dates of Conlon attending court. Within half an hour this person handed me a receipt, which I did not question and immediately faxed it from Sligo Garda Station to Letterkenny Garda Station for the attention of either D/Sgt. White or Supt. Lennon. At no time did I write any of those receipts or request anybody to do so. In turn I would have forwarded a few similar receipts so that Conlon would receive his court expenses and on each occasion it was the same procedure as the first receipt.**

He states, Sir, that on all occasions there appeared to be the greatest urgency and as soon as Bernard Conlon returned from court he wanted immediate payment. He states that Bernard Conlon would contact him and he would contact D/Sgt. White. Then D/Sgt. White would request him to sort out the receipt and he, Garda Nicholson, would tell D/Sgt. White that he wasn't happy about this but was assured that everything was totally honest and above board in relation to the payments. Such was the urgency of payment, that D/Sgt. White agreed to send a patrol car from Letterkenny to Sligo on one occasion with the closed envelope addressed to Garda Nicholson within which was another closed envelope addressed to Bernard Conlon which he believed contained a cheque for expenses for attendance in court. D/Sgt. White telephoned him the previous evening and informed him that Bernard Conlon was on his back again for money and that he had made an

arrangement with him to send a cheque by car and asked Garda Nicholson to meet Bernard Conlon at the District Court the following morning to give the cheque to him. This Garda Nicholson did. Indeed, Bernard Conlon describes such an occasion in his interviews with the Gardaí.

Garda Nicholson in a further interview on the 4<sup>th</sup> April, 2000 denied that he looked after all the expenses and paperwork for Mr. Conlon. He accepted that he faxed and posted receipts for recovering expenses in court to Letterkenny Garda Station but denied telling Bernard Conlon that he would look after his expenses through the court clerk in Letterkenny. He did not phone Bernard Conlon to inform him to meet D/Sgt. White at Sligo Garda Station to collect cheques for expenses. He acknowledged meeting him at Sligo District Court in the circumstances already outlined. He agreed with D/Sgt. White's statement that he, Garda Nicholson, produced certificates of earnings for Bernard Conlon after each case and sent them by post to D/Sgt. White. He was not prepared to name 'the friend' who prepared the forged certificates. It was the same 'person' who arranged six certificates of earnings for Bernard Conlon but not 'the T. McGuire' one.

The question of this 'close friend' was further pursued in an interview between Garda Nicholson and D/Supt. Joseph McGarty and D/I. McHugh at Sligo Station on the 11<sup>th</sup> May, 2000. He said he was not prepared to name his 'close friend' who returned to him with the certificates of earnings in respect of Bernard Conlon when requested. He stated that he did not know they were forged and wasn't told that they were forged. They were given to him. He said he never made out a claim for witness expenses and did not question his close friend when he got the forged certificate because "he would be a very genuine friend and I did not see any reason to ask any questions". He did not ask his close friend to get a forged certificate of earnings for him in respect of Bernard Conlon.

He said his 'close friend' knew the date to put on the certificate and the amount he was claiming because the dates were given to Garda Nicholson by D/Sgt. White who in turn gave the dates to his close friend and he was sure that he was told the amounts by D/Sgt. White as well. He had spoken to Bernard McGuire once who had no problem with Bernard Conlon going to court and claiming expenses if he was attending court. He says that he was not aware at the time the certificates were supplied that they were forged but he believed now at the time of interview that they were. He was given no authority by Bernard McGuire to issue a certificate of earnings for Bernard Conlon for £40 when he was not working for him. Nothing like this was ever discussed with Bernard McGuire. He did not give any name for his close friend in respect of the certificate of earnings but his close friend would have been aware that Bernard Conlon was working for McGuire. He could not recall whether he said he wanted some of the certificates signed by Ben McGuire. He would not have said Thomas McGuire "I didn't say any name". He also added that he never had any conversation with Thomas McGuire.

Bernard McGuire states that Garda Nicholson never discussed anything about the certificates with him. Garda Nicholson was also asked why if he believed

the certificates were genuine he went to Bernard McGuire to tell him that he, Garda Nicholson, had sent on certificates in his name claiming witness expenses for Bernard Conlon. He replied that he went out to Mr. McGuire knowing that he was Bernard Conlon's boss "to let him know that Bernard Conlon was going to court in Donegal".

It should be noted that Bernard Conlon does not make any allegation of impropriety on the part of Sgt. (now Inspector) Connolly or D/Garda Michael Reynolds in relation to their inquiry into the silver bullet affair, in any respect, or indeed Inspector Barrett or Sgt Gallagher in respect of the 'Flynn letter'.

Garda John Nicholson was charged with a number of offences arising out of the bogus loss of earnings certificates attached to the witness expenses claims and the payments made on foot thereof to Bernard Conlon. On the 26<sup>th</sup> July, 2002 Garda Nicholson was charged with and pleaded guilty to three counts of uttering forged documents contrary to Section 6 of the Forgery Act, 1913 at Riverstown District Court, Sligo. He was dealt with by Judge Anderson under Section 1(1)(i) of the Probation of Offenders Act, 1907. Under the 1907 Act the Judge found the facts proved but did not record a conviction against Garda Nicholson. These charges related to uttering forged documents, namely documents purporting to be certificates of loss of earnings for Bernard Conlon and purported to be signed by Bernard Maguire, with intent to defraud. Garda Nicholson applied for retirement which took effect from the 4<sup>th</sup> September, 2002. On retirement he was recommended for classification as "very good" by Superintendent John J. Fitzgerald. Evidence of his good character was given to the District Court by Chief Superintendent J.W. Sheridan and Others.

We also understand that D/Sgt. John White though suspended during his detention was reinstated. He requested a transfer, which was granted and took effect on the 24<sup>th</sup> March, 2000 from his position in Donegal to the Special Detective Unit, Harcourt Square in Dublin. He failed to turn up for duty at his new post and at 1.30 p.m. on the 26<sup>th</sup> March, 2000. He reported unfit for duty suffering from 'severe stress' and has remained off duty since that time.

We propose to continue the inquiry and investigation in relation to the events surrounding the silver bullet affair and would be happy to receive further assistance from those having knowledge of these events.