



The Death of Terence Wheelock:  
Report Pursuant to Section 103  
Following Investigation

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# The Death of Terence Wheelock: Report Following Investigation

## 1. Background

Terence WHEELOCK was born on the 23<sup>rd</sup> of March 1985 and lived in the Summerhill area of Dublin.

At 12.10 pm on the 2nd June 2005, he was arrested with three other young males for an offence under Section 112 of the Road Traffic Acts (Unauthorized taking of a vehicle). The vehicle, which was a disabled driver vehicle, had been stolen some time earlier in the Donnybrook area.

Two of those arrested, Gary GIFFORD and Noel HUDSON, were detained at Mountjoy Garda Station, while Terence WHEELOCK and Simon DOHERTY were taken to Store Street Garda Station arriving there at 12.20 pm.

Garda accounts state that at 14:40 pm on the 2<sup>nd</sup> of June Terence WHEELOCK was found in his cell with a ligature tied around his neck. He was unconscious.

Terence WHEELOCK was rushed to hospital. He never recovered consciousness and remained in a coma for three months until he died at the Mater Hospital on the 16<sup>th</sup> of September 2005.

A Garda Síochána investigation into the death of Terence WHEELOCK was carried out by Detective Superintendent Oliver HANLEY and Detective Sergeant Sean CAMPBELL.

A file in the matter was forwarded on the 19<sup>th</sup> of December 2005 to the Office of the Director of Public Prosecution. No charges were directed against any member of An Garda Síochána in relation to the death of Terence WHEELOCK.

On the 17<sup>th</sup> of February 2006 the inquest into the circumstances of the death of the late Terence WHEELOCK was formally opened. The inquest was adjourned to allow legal argument and discussion and on Monday the 20<sup>th</sup> of November 2006 at The Coroner's Court in Dublin, Dr. Brian FARRELL, the Dublin City Coroner, commenced the inquest in front of a jury.

Sean GILLANE B.L. appeared for the Wheelock family instructed by Yvonne BAMBURY of Ferry's Solicitors. Michael O' HIGGINS B.L. appeared on behalf of the Garda Commissioner instructed by the Chief State Solicitor.

On the 13<sup>th</sup> of July 2007 the inquest jury returned a majority verdict of '4:3 Death by Suicide'.

The verdict was recorded by the Coroner as follows: "Terence WHEELOCK died at the Mater Hospital, Dublin on the 16<sup>th</sup> September 2005. The cause of death was bronchopneumonia due to neck compression caused by hanging. Terence WHEELOCK was in Garda Custody at cell 7 Store St Garda Station on the 2<sup>nd</sup> June 2005 when the incident occurred. Death of suicide".

The inquest jury made the following recommendations:

"No (1) That CCTV security cameras be in operation in all Garda stations within this State, monitoring all relevant areas within the stations, and that this be implemented as soon as possible.

No (2) In all Garda stations within the State that those held in custody be checked every 15 minutes, regardless of how they present themselves, and that this be implemented immediately.

No (3) In all Garda Stations within the State that (disposable) clothing be provided to those in custody to avoid any future attempts at self-harm, and that this be implemented with urgency.

No (4) In all Garda Stations within the State that external independent health and safety officers carry out health and safety audits with immediate effect.”

**The Garda Síochána Ombudsman Commission Investigation under Section 102(4) of the Garda Síochána Act 2005:**

On the 27<sup>th</sup> of July 2007, the Garda Síochána Ombudsman Commission, having considered submissions made by the family of Terence WHEELLOCK commenced an investigation under section 102(4) of the Garda Síochána Act 2005 into the circumstances surrounding the death of Terence WHEELLOCK as it was considered a matter of public interest.

Section 102(4) of the Garda Síochána Act 2005 states as follows:

The Ombudsman Commission may, if it appears to be desirable in the public interest to do so and without receiving a complaint, investigate any matter that appears to it to indicate that a member of the Garda Síochána may have-

- a) committed an offence, or
- b) behaved in a manner that would justify disciplinary proceedings.

The purpose of the Garda Ombudsman investigation, as designated under section 98 of the Garda Síochána Act 2005, was to establish whether or not any member of An Garda Síochána caused the death of or serious harm to Terence WHEELLOCK, specifically:

‘The Garda Ombudsman takes the view that it is necessary to investigate any possibility of any failure by any member of the Garda Síochána in allowing for the presence of the cord/ligature in the cell and any act or omission by member(s) surrounding Mr. Wheelock’s arrest and detention that may have contributed to the death of Mr. Wheelock.’

**Statement Made by Larry Wheelock on Behalf of the Family of Terence Wheelock:  
Allegations and Issues**

On the 7<sup>th</sup> of August 2007 a meeting was held with the family of Terence WHEELLOCK. In attendance were Terence WHEELLOCK's parents Lawrence and Esther WHEELLOCK and his two brothers Larry and Robert WHEELLOCK.

It was agreed at this meeting that Larry WHEELLOCK, the brother of the deceased, would act as the spokesperson for the family and would provide a statement outlining their areas of concern and any points they wished to raise concerning Terence WHEELLOCK's death.

On the 26<sup>th</sup> of January 2008 a signed statement was taken from Larry WHEELLOCK concerning the arrest and detention of his brother Terence WHEELLOCK. Larry WHEELLOCK outlined areas that were of concern to the family. He also made specific allegations.

Larry WHEELLOCK alleged that his brother, Terence WHEELLOCK was assaulted during his arrest, that whilst in custody Garda members taunted Terence WHEELLOCK about the content of his mobile phone, that Terence WHEELLOCK was unconscious for part of his detention and that there was a delay in ringing an ambulance to assist his brother at Store Street Station.

Larry WHEELLOCK also alleged that his brother may have been sexually assaulted during his detention. In making this allegation Larry WHEELLOCK stated that Dr. Carl GREY, an independent pathologist who had conducted a post mortem on Terence WHEELLOCK, had stated that there may have been an 'injurious anal trauma' of some kind which was the cause of blood staining found in Terence WHEELLOCK's underwear and clothing.

Larry WHEELLOCK also expressed concerns about the custody record in relation to the detention of Terence WHEELLOCK and the Garda investigation into his brother's death.

**An Garda Síochána**

On the 29<sup>th</sup> of August 2007 Superintendent Raymond BARRY of Store Street Garda Station appointed Inspector Fergus DWYER as Liaison Officer. Inspector DWYER acted as the single point of contact for An Garda Síochána and liaised directly with the Garda Síochána Ombudsman Commission investigation team regarding access to material held by the Gardaí. Inspector DWYER also facilitated requests for access to Store Street Station for the purpose of inspecting the custody facilities.

### **Summary of the Garda Síochána Ombudsman Commission Investigation**

The Garda Síochána Ombudsman Commission has conducted a comprehensive independent investigation of the circumstances surrounding the death of Terence WHEELLOCK.

The investigation has extensively reviewed existing documentation from the original investigation undertaken by An Garda Síochána relating to the arrest, detention and medical treatment of Terence WHEELLOCK.

The Garda Ombudsman investigation has received and reviewed documentation from numerous other sources including the Mater Hospital, the Coroner for Dublin, the Prison Service and the solicitor for the WHEELLOCK family.

Extensive enquiries have been made identifying and tracing witnesses who have been able to assist the investigation.

Extensive and thorough house to house enquires were undertaken in the Sean O'Casey Avenue/Summerhill area of Dublin to identify any witnesses who may have seen the arrest of Terence WHEELLOCK and the three other males. Several witnesses were identified who had not previously provided accounts of the arrests and statements were taken from them.

Several of the witnesses interviewed in the original Garda investigation had to be traced as no current addresses were held for them. A number of witnesses had left the country. Two witnesses had re-located to Australia.

Where possible, all of the original witnesses were re-interviewed and fresh accounts obtained from them. This included all the medical staff involved in the resuscitation and emergency care of Terence WHEELLOCK.

All of the Garda members involved in the arrest and detention of Terence WHEELLOCK have been re-interviewed by Garda Ombudsman investigators and where appropriate certain allegations have been put to the members for comment.

A detailed time line of the arrest and detention of Mr. WHEELLOCK was created by a crime analyst the Garda Síochána Ombudsman Commission using all available and relevant material.

Several expert opinions have been sought in relation to technical aspects of the evidence. Expert opinion has been sought on the ligature thought to have been used by Terence WHEELLOCK and on the cell alarm switch in cell 7 at Store Street Station. Expert opinion has also been sought in relation to the extensive available medical evidence relating to the treatment of Terence WHEELLOCK.

Forensic analysis of Terence WHEELLOCK's clothing was undertaken. Terence WHEELLOCK's mobile phone was also analysed.

The original video tapes of an after caution interview of another prisoner unconnected to the arrest of Terence WHEELLOCK that was being carried out in an interview room at Store Street Garda Station during the time Mr. WHEELLOCK was in detention was requested and received from An Garda Síochána. This tape was enhanced by forensic experts to improve the quality of the audio track. The audio track contains a recording of background noise from the cell area of Store Street Garda Station at the time Mr.



WHEELLOCK was found in his cell. This audio track was not previously examined for evidence relevant to the death of Terence WHEELLOCK and was not available to the jury at the inquest.

## **2. The Circumstances of the Arrest and Detention of Terence WHEELLOCK:**

The circumstances of this case are divided into three sections in chronological order for ease of reference.

These sections are:

- 1. Events Prior to the Arrest of Terence WHEELLOCK**
- 2. The Arrest of Terence WHEELLOCK, GARY GIFFORD, Noel HUDSON and Simon DOHERTY**
- 3. The Detention of Terence WHEELLOCK**

In describing the circumstances, reference will be made to four main sources of evidence.

These are:

- Evidence gathered by the original Garda Síochána investigation undertaken by Detective Superintendent HANLEY,
- Evidence provided by the family of Terence WHEELLOCK or their representatives.
- Evidence provided at the Coroner's inquest.
- Evidence gathered by the Garda Ombudsman investigation team.

## **Section One:**

### **Events Prior to the Arrest of Terence Wheelock**

#### **The First Anonymous Call**

Garda accounts state that on the 2<sup>nd</sup> of June 2005 at around 10.30 am an anonymous female caller rang the public office of Fitzgibbon Street Garda Station.

The call was answered by GARDA 01 who was stationed in Fitzgibbon Street at that time.

The female caller informed GARDA 01 that she had seen Simon DOHERTY in the back yard of his home at 41, Sean O'Casey Avenue covering a black car with a sheet.

The caller stated that Simon DOHERTY had brought the car in earlier that morning.

The female caller would not identify herself.

GARDA 01 was on duty with GARDA 02 as the crew of Uniform Alpha One (UA1), the Fitzgibbon Street patrol car.

GARDA 01 and GARDA 02 went immediately to Sean O'Casey Avenue and went to the rear of number 41. From the laneway GARDA 01 was able to see a black car in the back yard of number 41. GARDA 01 was also able to identify the make of the car as a Toyota Yaris and the registration as 02 D 27490. There was no one in the car at this time.

The laneway is locally referred to as 'Pig's Lane'.

GARDA 01 and GARDA 02 parked their patrol car in a position that allowed them to observe access to the laneway and then requested personnel at Fitzgibbon Street station to check whether the car had been reported stolen.

The car had not been reported stolen at that point but GARDA 01 stated that he was still suspicious and requested that a car from Donnybrook be dispatched to contact the owner of the car to confirm that the car wasn't stolen. As this was being done GARDA 01 and GARDA 02 stayed in position and kept the laneway under observation.

The registered owner of the vehicle was identified. The owner suffered from Multiple Sclerosis and the Toyota Yaris was an automatic transmission model adapted to suit a disabled driver.

At approximately 11.00 am on the 2<sup>nd</sup> of June 2005 Gardaí from Donnybrook Garda station called to the address of the owner and enquired whether anyone had been given permission to use the car. They had not.

### **The Theft of the Car**

In a statement provided to Gardaí on the 18<sup>th</sup> of June 2005 the owner explained that on the 1<sup>st</sup> of June 2005 she had parked her car outside her apartment at around 5 p.m. She further stated that she had had difficulty sleeping that night and could remember looking out her window at about 04.30 am on the 2<sup>nd</sup> of June and seeing her car parked outside her door.

She then went to sleep.

At some point after 04.30 am on the 2<sup>nd</sup> of June 2005 the car was stolen and transported to the rear yard of 41, Sean O'Casey Avenue.

Simon DOHERTY, 20, date of birth 24<sup>th</sup> of December 1984, then of 41, Sean O'Casey Avenue, provided a statement to the Garda Ombudsman investigation team on the 6<sup>th</sup> of August 2008. In this statement Simon DOHERTY admitted stealing the Toyota Yaris.

Noel HUDSON, 20, date of birth 11<sup>th</sup> of December 1985, of 19 Sean O'Casey Avenue also provided a statement to the Garda Ombudsman investigation team. He also admitted to stealing the vehicle in Donnybrook.

Both Noel HUDSON and Simon DOHERTY state that Terence WHEELock was not with them during the theft of the vehicle.

### **Whereabouts of Terence WHEELock Prior to the Arrest**

Evidence exists as to the whereabouts and activity of Terence WHEELock in the hours prior to his arrest at Sean O'Casey Avenue.

In his statement to the Garda Ombudsman dated the 26<sup>th</sup> of January 2008, Larry WHEELock, stated as follows, "First of all, the arrest of my brother Terence, I believe he was arrested unduly. He had no part in the stealing of the car or any part in dealing with the car. He only left the house five minutes before his arrest and the car was stolen the night before."

Later in the statement, Larry WHEELock states that Terence 'was not long after getting up at nine o'clock.' He continues to describe the morning of the arrest, 'I was in my house that morning with Terence when the car had been stolen. I was reading law books. Terence was in his bedroom which was directly facing mine. Two weeks previously Terence had been arrested and he had injured his elbow.'

GARDA 03 and GARDA 04 were on patrol in the Summerhill Area in the early hours of the 2<sup>nd</sup> of June 2005 and have provided statements to An Garda Síochána which state that they met Terence WHEELock during their patrol.

GARDA 03 made his statement on the 3<sup>rd</sup> of January 2007 and GARDA 04's statement is undated.

At approximately 5 am GARDA 03 and GARDA 04 were attending a call on the North Circular Road when they were approached by a taxi driver who reported a male acting suspiciously in the area. The taxi driver reported that he thought the male was attempting to break into a car.

When the two Gardai had finished attending the call, GARDA 03 drove the patrol car up Summer North Street where he observed a male walking towards them. GARDA 03 states that the male appeared to drop something from his hands when he saw the Gardai approaching. GARDA 03 and GARDA 04 established that the man had dropped a pair of black cotton gloves.

GARDA 03 reports that the male gave his name as Terence WHEELLOCK, date of birth, 23<sup>rd</sup> of March 1985 of 34, Sean O'Casey Avenue, Summerhill, Dublin 1.

GARDA 03 states, "He appeared intoxicated but I got no smell of intoxicating liquor from his breath. He was not intoxicated enough to be a danger to himself or others in his vicinity."

GARDA 03 states that Terence WHEELLOCK denied going near any of the cars in the area and stated that he had come over the fence from Sean O'Casey Avenue and was just going for a walk.

The Gardai directed Mr. WHEELLOCK to leave the area and he walked off in the direction of the North Circular Road.

Following this GARDA 04 and GARDA 03 did a further check of the area where they recovered a set of bolt cutters in a white plastic bag on top of a child's pram that had been left in the street.

Investigators from the Garda Síochána Ombudsman Commission interviewed both GARDA 04 and GARDA 03.

GARDA 03 stated that prior to this incident he knew Terence WHEELLOCK as he had met him on a few occasions. He states that on this occasion Terence WHEELLOCK gave the impression that he 'was not 100%.' GARDA 03 stated, "I thought that he may have taken a legal or illegal substance because I could not smell any alcohol coming from him." GARDA 03 also states that he does not remember seeing any visible injuries on Terence WHEELLOCK at this time.

GARDA 04, in his statement to the Garda Ombudsman investigation, said, "During the early hours of the morning that I spoke to Terence WHEELLOCK, he appeared to be in an intoxicated state, I could not smell alcohol from him though, but he did appear to be under the influence of an intoxicating substance. He seemed drowsy."

Later on the 2<sup>nd</sup> of June 2005, GARDA 04 entered the details of the incident on the Gardaí PULSE recording system. The incident is recorded as having taken place at 05.00 am on the 2<sup>nd</sup> of June 2005. The exact details recorded on the PULSE system are as follows, "Following a complaint from a passing taximan that he observed a male checking out cars stopped and searched Terence Wheelock d.o.b. 23/03/85 of 34 Sean O'Casey Avenue on Summer Street North. The search proved negative but a pair of black cotton gloves were found very close to suspect and a pair of bolt cutters were found hidden in a pram at the top of summer street. The bolt cutters were also wrapped in a white plastic bag."

WITNESS 01, a friend of Terence WHEELLOCK, provided a statement to the Garda Ombudsman investigation on the 25<sup>th</sup> of June 2009. She states that on the 2<sup>nd</sup> of June 2005 at around 3.30 am Terence WHEELLOCK phoned her mobile phone. She states, "He was saying he couldn't sleep and was asking me what I was doing. I said he had woke me up. He said he was just going to go downstairs to see if he could rob a few smokes off his Da and that was it. He asked me to give him a ring in the morning when I woke up. I sent

him a text message at about 9.30-10 am and he phoned me back to my mobile about 15-20 minutes later. He was saying he asked his Mam for money but I don't know what it was for. He was saying that he had taken all his posters down off the walls in his room and asked me to get him new curtains for the room while I was in town. He said he was going to tear his room apart and start painting it. I remember he wanted to change it around by moving the furniture about. He said he was up from about 8 am because he couldn't sleep. I asked him was he washed and dressed and he said no. I think he was cooking something down in the kitchen which is why it took him 15-20 minutes to get back to me from the time I text. I think he left his phone upstairs. I said that I would see him when I finished work at 9 pm that night and that I would bring the curtains around to his house so that we could put them up. This was the last time I spoke to Terence. He was a bit narky that he hadn't had much sleep but he was really looking forward to getting his room done, he had his music blaring and it was a lovely sunny day. Overall he was in grand form."

Simon DOHERTY in his statement to the Garda Ombudsman states that on the morning of the 2<sup>nd</sup> of June 2005 he rang Terence and asked him to come round to his house. He states that Terence was painting his bedroom at the time. He describes that Terence then called around to number 41, Sean O'Casey Avenue.

In his evidence to the Coroner on the 22<sup>nd</sup> of November 2006, Simon DOHERTY stated as follows, "I had taken a lot of sleeping tablets the night before. The name of the tablets were Zimovane, Zimos. Myself Terence and my two friends had taken the Zimos. We took them the night before. Terence had nothing to do with the robbed car. I rang him that morning, he was painting his room. I rang him and he came out and I told him I had a car and all of that."

As the clock setting on Terence WHEELLOCK's mobile phone does not appear to have been set properly, the analysis of Terence WHEELLOCK's mobile phone was not able to corroborate whether the phone call from Simon DOHERTY to Terence WHEELLOCK took place.



In a statement provided by Noel HUDSON to Garda Ombudsman investigators on the 15<sup>th</sup> of May 2008, Noel HUDSON states as follows, “Between 10.00 am and 12:00 pm, I was with Simon DOHERTY in his back garden. We were looking at the jeep that we robbed the night before in Donnybrook. We had put the jeep into the back of Simon’s garden. Simon DOHERTY lived in 41, Sean O’Casey Avenue in Summerhill. It was a sunny morning so we decided to go for a walk around the estate outside Simon’s front garden. We were just walking around the estate when we met Gary GIFFORD; he was in the front of his garden at 36, Sean O’Casey Avenue. We told Gary that we had a car in the back of Simon’s garden and we asked him if he had any tools or a vice grip.”

Noel HUDSON continues, “We walked back to Simon’s house then and Gary came with us. We rang Terence to tell him to come and have a look at the jeep. He missed our call and he must have had no credit as a ‘call me’ message came to one of our phones from Terence. We rang him back and he asked us what we were doing. Simon and I spoke to him and we told him about the jeep that we had taken and to come out to Simon’s back garden and have a look at the jeep. If you looked out the back window of Terence’s house you could see the jeep in Simon’s back garden. We asked him what he was up to and he said that he had been up all night painting his room. I think he was doing his room up for a change.”

The analysis of Terence WHEELLOCK’s phone has not been able to corroborate whether these calls and texts took place.

Noel HUDSON then states that a couple of minutes later Terence WHEELLOCK climbed over the back gate of 41, Sean O’Casey Avenue and came into the back garden. He continues, “I think he was wearing a grey hoody top and navy bottoms with Adidas written on it. When he came in we asked him what he was doing and he said that he was up all night painting his room. Terence was laughing at us saying what made you’s rob that car; he knew what kind of car it was. He was telling us that we would be better off

getting rid of it because of the fact that it was a disabled driver's car. I think the jeep was a specially built Toyota Yaris.”

Noel HUDSON describes Terence WHEELLOCK wearing a grey hoody top and navy bottoms with Adidas written on them. The outer clothing recovered from Terence WHEELLOCK following his admission to the Mater Hospital were a light blue t-shirt and a pair of Navy Blue Adidas Track Suit Bottoms with ‘Adidas’ embroidered on the lower left leg.

Gary GIFFORD, date of birth 14<sup>th</sup> January 1979, was a neighbour of Terence WHEELLOCK. He lived at 36 Sean O’Casey Avenue and was 26 years old at the time of this incident.

Gary GIFFORD in his statement to Garda Ombudsman investigators stated that between 10:00 am and 12:00 pm on the 2<sup>nd</sup> of June 2005, he was getting washed when Simon DOHERTY and Noel HUDSON knocked on his front door. He stated that they wanted to borrow some tools to take something from the back of a car. He said that he wouldn’t loan them the tools but instead offered to remove whatever it was they wanted from the back of the car.

Gary GIFFORD then states that Terence WHEELLOCK then called to his house to borrow a bicycle pump which he gave him. Gary GIFFORD then went to Simon DOHERTY’s house and began to remove the electronic wheelchair lift from the car. He states that whilst he was removing the lift, Terence WHEELLOCK arrived at the back garden through Simon DOHERTY’s house. Terence WHEELLOCK informed Gary GIFFORD that he had returned the bicycle pump to his house.

Subsequent finger print analysis carried out by the Gardaí found Terence WHEELLOCK’s fingerprints on a disabled wheelchair that had been removed from the stolen car and was found inside number 41, Sean O’Casey Avenue. The fingerprints of Simon DOHERTY and Noel HUDSON were also found on the Toyota Yaris.

## **Garda Preparation for the Arrest Operation**

Shortly after 10.30 am, as Gary GIFFORD was attempting to remove the electronic lift from the stolen Yaris, Gardaí were gathering in the area.

GARDA 01 and GARDA 02 had parked their patrol car on North Great Charles Street opposite Matt Talbot Court Flats facing onto the North Circular Road keeping the entrance of Sean O'Casey Avenue in view.

GARDA 01 estimates that it took about at least an hour for Donnybrook Gardai to speak to the car owner and establish that the Yaris was in fact stolen. Once it had been established that the Yaris was a stolen vehicle, GARDA 01 and GARDA 02 requested back up.

GARDA 05 and GARDA 06 joined GARDA 01 and GARDA 02 in the patrol car. GARDA 05 and GARDA 06 had been on beat patrol in the area.

GARDA 06 provided a statement to Detective Sergeant Sean CAMPBELL and Detective Superintendent Oliver HANLEY in which he states that on the morning of the 2<sup>nd</sup> of June 2005 he was on beat duty with Community Police Officer GARDA 05. GARDA 06 states that as a result of a radio message they went to North Great Charles Street to meet with the crew of UA 1, the Fitzgibbon Street Patrol car.

GARDA 06 estimates that this took place at approximately 11.50 am. He stated that they sat in the back of the patrol car for about '10 to 12 minutes' as they awaited further assistance.

SERGEANT 01 was on duty on the 2<sup>nd</sup> of June 2005 attached to Mountjoy Station. He had taken the patrol van to Fitzgibbon Street Station to collect stationary supplies when at

the request of another Sergeant he went to Sean O'Casey Avenue to assist the Fitzgibbon Street Patrol which was dealing with a suspected stolen car.

SERGEANT 01 drove the patrol van to the area. He was accompanied in the van by GARDA 07 and GARDA 08.

Also in the area at the time were GARDA 09 and GARDA 10 of Fitzgibbon Street who were on beat duty in Summerhill.

There were now nine Gardaí in the immediate area available to deal with the suspected stolen car.

These were GARDA 01, GARDA 02, GARDA 05 and GARDA 06 in car Uniform ALPHA 1; SERGEANT 01, GARDA 07 and GARDA 08 in the Garda van and GARDA 09 and GARDA 10 on foot patrol in the area.

### **The Second Anonymous Call**

At around midday on the 2<sup>nd</sup> of June 2005 a second anonymous call was made to Fitzgibbon Street Station. This call was taken by GARDA 11.

In her statement of the 21<sup>st</sup> of June 2005 Garda 11 said that the female caller refused to give her name. She states that the female caller said, "The lads are smashing up that car in the back yard in Sean O'Casey Avenue".

The use of the phrase 'that car' would suggest that the same female caller made both anonymous calls to Fitzgibbon Street Garda Station.

Despite extensive enquiries, including all the houses that overlook the scene, it has not been possible to identify the anonymous female caller.

Garda 11 stated that she gave out the contents of this call on the radio exactly as she had received it and estimates that the call was received by her at mid day.

## **Section Two:**

### **The Arrest of Terence WHEELLOCK, Noel HUDSON, Simon DOHERTY and Gary GIFFORD**

#### **The Pursuit**

GARDA 11 estimates that she received the second call to Fitzgibbon Street Garda Station from an anonymous caller in relation to the car in the back yard in Sean O'Casey Avenue at around midday.

In his statement to Garda Ombudsman Investigators made in January 2009, GARDA 02 stated that he was in the Fitzgibbon Street Patrol car with GARDA 01, GARDA 05 and GARDA 06 when the information was relayed to them that the car in the yard at number 41, Sean O'Casey Avenue was being vandalised or broken up.

GARDA 02 immediately drove the Fitzgibbon Street patrol car down the lane to the back of number 41. The members all got out of the car and approached the gate at the rear of number 41.

GARDA 02 states that as he was the driver of the vehicle he was the last one out of the car.

He describes how the other three Gardaí were looking in the gap at the gate at the rear of number 41. He states that he jumped up on the gate and was able to see the stolen Yaris and the occupants. He states, "As the lads looked in the gap in the gate I jumped up on the gate at that time I saw the occupants of the car. I witnessed the driver in the Yaris revving the engine and there was music playing from the car radio."

GARDA 02 states that almost immediately he heard someone shout 'Guards' and the four occupants of the car jumped out.

GARDA 02 states that he witnessed Simon DOHERTY alight from the front driver side of the vehicle and Terence WHEELLOCK get out of the front passenger seat. He states that Noel HUDSON alighted from the rear driver's side and Gary GIFFORD from the rear passenger side.

GARDA 01 and GARDA 05 provided evidence to Detective Sergeant Sean CAMPBELL and Detective Superintendent Oliver HANLEY in June of 2005 in relation to the position of the four males in the car that is consistent with the account provided by GARDA 02.

GARDA 06 also provided a statement to Detective Sergeant CAMPBELL and Detective Superintendent HANLEY in June of 2005. He confirmed that he saw Gary GIFFORD and Noel HUDSON in the rear of the Yaris but was unable to identify the male in the driver seat or the male in the front passenger seat as he was unfamiliar with them.

The Gardaí all state that once the four males were alerted to their presence in the laneway, all four alighted from the car and then ran in through the back door of number 41, Sean O'Casey Avenue.

GARDA 02's three colleagues immediately ran around to Sean O'Casey Avenue. GARDA 02 jumped down from the gate and followed them.

The accounts of Simon DOHERTY, Noel HUDSON and Gary GIFFORD differ as to their positions in relation to the car prior to them becoming aware of the Garda presence.

In his statement to the Garda Ombudsman, Simon DOHERTY, states that he was listening to music in the garden from the car and drinking bottles of Bulmers cider with Noel HUDSON and Gary GIFFORD. He describes how Terence WHEELLOCK had returned to his own home, leaving Noel HUDSON, Gary GIFFORD and himself in the Toyota van. He states that Terence had returned to the yard and must have noticed the

Gardaí. Simon DOHERTY describes Terence WHEELLOCK as shouting, “Sketch there’s the Gardaí”

He states, “We had our backs to the fence. The car was robbed so all four of us ran through the house from the back to the front.”

Noel HUDSON told Garda Ombudsman Investigators that he had taken tools from Gary GIFFORD and was working on the car when, ‘Just in the corner of our eye we saw the police and one of us shouted ‘There’s the police’. All four of us ran through Simon’s house. We were laughing because we couldn’t get the front door open.”

Gary GIFFORD’s account to the Garda Ombudsman states that when the Gardaí arrived he was inside the car working on it and the other three were standing outside the car. He states that he was removing the last nut from the electric hoist when he looked to the back gate and saw ‘some guy with red hair roaring at us’. He states that Simon DOHERTY then ran to the back door of the house, followed by Noel HUDSON, then Terence WHEELLOCK and then Gary GIFFORD.

From the available evidence it is likely that Gary GIFFORD is describing GARDA 02 climbing the gate at the rear of number 41, Sean O’Casey Avenue.

As GARDA 05 ran from Pigs Lane onto Sean O’Casey Avenue, he radioed for assistance.

GARDA 09 and GARDA 10, who were in Summerhill on beat duty, heard over the radio that a number of males were being pursued by Gardaí. They immediately proceeded up the steps from Summerhill to Sean O’Casey Avenue.

At the same time, SERGEANT 01 arrived at Sean O’Casey Avenue in the Garda patrol van. Also in the van were GARDA 07 and GARDA 08. As SERGEANT 01 stopped the van, he saw some of the four Gardai running in the opposite direction.



GARDA 07 and GARDA 08 got out of the van and joined the pursuit on foot.

SERGEANT 01 turned the van around and headed in the direction the Gardaí had run.

In his statement to the Garda Ombudsman Simon DOHERTY describes how when he and the other three males left the front door of number 41, Sean O'Casey Avenue, they were "surrounded". He states, "We ran out through the front door in to a neighbour's front garden. We were surrounded. The police were coming towards us from everywhere."

Noel HUDSON states as follows, "All four of us came running out of Simon's House to the front garden. We looked to the left and we looked to the right and the police were coming in from the Summerhill side and Sean O'Casey Avenue side. There were also Gardaí that had followed us through from Simon's back garden. There were loads of Gardaí on foot and then the police cars started to arrive. I ran to the left and I didn't get far."

Garda accounts would indicate that no Garda members entered number 41 or pursued the four males through the house.

Gary GIFFORD stated as follows, "I could not get through the front door as the porch had a lock on it. It took about 40 seconds before Simon could open the lock. After the door was open, all four of us ran out of the house. We all proceeded to run to the right towards my house. The Gardaí had surrounded the whole place and the house. The Gardaí ran towards us. All four of us were stopped in the garden, about three houses to the right of Simon's house. We were all laughing and did not say anything. All four of us were arrested."

GARDA 02 describes the pursuit in his statement to the Garda Ombudsman as follows, "My other three colleagues had a head start on me. On arrival into the Square at the front of Sean O'Casey Avenue, I witnessed the four youths running from a house number 41.

As the youths came out they took a right turn in the direction of the railings towards Summerhill trying to make their getaway. I remember GARDA 09 and a second Garda, possibly a student Garda, I never found out who, had come up from Summerhill up to the railings and they were meeting the youths coming the other way. We had been arranging with Fitzgibbon Street for assistance so they have been called from the station or one of the other lads may have put a call on the radio. All four youths were surrounded. I witnessed the four youths turn into a garden on my right hands side and stop running.”

In a statement made to the Garda Ombudsman on the 6<sup>th</sup> of March 2009 GARDA 09 said, “I was on Summerhill, Dublin 1. I was with GARDA 10 and as we walked up the steps on Sean O’Casey Avenue, the four males Simon DOHERTY, Noel HUDSON, Terence WHEELLOCK and Gary GIFFORD were being pursued on foot by a number of Gardaí. When they saw us, they made no effort to run past us and they just ran into the front yard of a house and stopped. They appeared to be out of breath and they gave themselves up to be arrested.”

### **Accounts of the Arrests**

Accounts of the arrests are available from three main sources; the three males who were arrested along with Terence WHEELLOCK, the Gardaí involved in the arrest and civilian witnesses in the area at the time of the arrest.

The three males who were arrested along with Terence WHEELLOCK at Sean O’Casey Avenue, Simon DOHERTY, Gary GIFFORD and Noel HUDSON have provided accounts of the arrests on more than one occasion.

Noel HUDSON provided an account to the solicitor representing the WHEELLOCK family. This account is not signed or dated and was provided to the Garda Ombudsman by the solicitor for the family.

Noel HUDSON did not provide an account to the original Garda investigation and did not give evidence at the Coroner's inquest.

Noel HUDSON provided a statement to investigators from the Garda Ombudsman on the 15<sup>th</sup> of May 2008. He was subsequently re-interviewed and a further statement taken from him on the 29<sup>th</sup> of July 2008.

Gary GIFFORD provided an account to the solicitor representing the WHEELLOCK family. This account is not signed but is dated the 1<sup>st</sup> of July 2005. The typed account was provided to the Garda Ombudsman by the solicitor for the family.

Gary GIFFORD did not provide an account to the original Garda investigation and did not give evidence at the Coroner's inquest.

Gary GIFFORD provided a statement to investigators from the Garda Ombudsman on the 15<sup>th</sup> of May 2008. He was subsequently re-interviewed and a further statement taken from him on the 29<sup>th</sup> of July 2008.

Since June 2005 Simon DOHERTY has provided an account of the arrest on several occasions. He has provided an undated statement to the solicitor for the WHEELLOCK family which has been provided to the Garda Ombudsman investigation.

Simon DOHERTY also provided a statement to Detective Sergeant CAMPBELL on the 21<sup>st</sup> of November 2006 which was subsequently used as the basis of Simon DOHERTY's deposition before the Coroner's inquest on the 22<sup>nd</sup> of November 2006. On that date Simon DOHERTY also gave direct evidence at the Coroner's Inquest.

On the 6<sup>th</sup> of August 2008, Simon DOHERTY provided a statement to investigators from the Garda Ombudsman.

All nine of the Gardaí involved in the arrest provided statements to the original Garda enquiry. Three of the Gardaí, GARDA 01, GARDA 02 and SERGEANT 01 also provided evidence at the Coroner's inquest.

All nine were re-interviewed by investigators from the Garda Síochána Ombudsman Commission.

All nine of the Gardaí provide descriptions of the arrest which suggest that it was free of incident and that no force was used.

Extensive house to house enquiries were undertaken in the Sean O'Casey Avenue area. Several witnesses were identified who provided statements to the investigation.

### **The Accounts of Simon DOHERTY, Gary GIFFORD and Noel HUDSON**

The descriptions of the arrests provided by Simon DOHERTY, Gary GIFFORD and Noel HUDSON differ from those of the Gardaí in that they portray the Garda members as being aggressive, verbally abusive and using excessive force during the arrest. The Garda members state that the arrest was peaceful and without incident.

In relation to the treatment of Terence WHEELLOCK by Gardaí during his arrest, Simon DOHERTY, Noel HUDSON and Gary GIFFORD have made two main allegations that excessive force was used. In summary, these are that Terence WHEELLOCK was handcuffed despite complaining of an injury to his arm and that Terence WHEELLOCK was struck off one of the Garda vehicles by one or more Garda members.

The first recorded account of Noel HUDSON of the arrest was provided to the solicitor for the WHEELLOCK family. The account is undated but it predates the interview of Noel HUDSON by investigators from the Garda Ombudsman.

In this account, Noel HUDSON states, “I remember the 2<sup>nd</sup> of June. Myself and Simon DOHERTY were out all night. We were in a car in the back of Simon’s house listening to music. Terence came over and was looking for a paintbrush as he was painting his room. We were having a laugh and a smoke. Gary GIFFORD came over as well (nickname Boo). Terence said, ‘There’s the police’. We ran through Simon’s house. There were Guards everywhere. They said, ‘You bastards, that’s a disabled person’s car.’ Terence was laughing at them. They handcuffed him and he was roaring at them to loosen the cuffs as his shoulder was sore. They were beating his head and shoulder off the side of the van. Myself and Gary were put in a police van and put in Mountjoy.”

In this account, Noel HUDSON makes a clear allegation that Terence WHEELLOCK was mistreated during his arrest stating, “I saw a guard actually holding his head to hit him off the side of the van. They hit him off the side of the van three or four times and were bending his sore arm as far up as possible behind his back.”

In his statement to the Garda Ombudsman dated the 15<sup>th</sup> of May 2008, Noel HUDSON describes the arrest as follows “The police had their batons drawn and they were screaming at us all, saying you fucking scumbags and you’s will pay for this, the usual stuff. We were surrounded and they were telling us to stop and not to run. The four of us stopped and then they started to grab at us. I think there was about 2 or 3 police for each of us. Then they started to get rough.”

In the accounts provided by Gary GIFFORD, he does not refer to any verbal abuse by the Gardaí. In his account provided to the solicitor for the WHEELLOCK family he also makes no reference to any verbal abuse by the Gardaí during his arrest.

In his account provided to the Garda Ombudsman on the 15<sup>th</sup> of May 2008, he stated, “After the door was open, all four of us ran out of the house. We all proceeded to run up to the right towards my house. The Gardaí had surrounded the whole place and the house. The Gardaí ran towards us. All four of us were stopped in the garden about three houses to the right of Simon’s house. We were all laughing because we thought it was funny that

we all ended up in one garden. We were just laughing and did not say anything. All four of us were arrested.”

In a further statement taken by Garda Ombudsman investigators, Gary GIFFORD described the arrest stating, “Two Gardaí grabbed Terence WHEELLOCK and Simon DOHERTY. Two Gardaí grabbed Noel HUDSON and me.”

In his statement to the Garda Ombudsman Simon DOHERTY also does not refer to any verbal abuse from the Gardaí at this point and stated, “We were in the front garden of a neighbour’s house when the police came, arrested us all. Two or three Gardaí grabbed me. They put handcuffs on me on the back. None of us resisted arrest. The Gardaí had surrounded us and we knew we were caught. They were dragging me into the van.”

In his account prepared by the solicitor for the WHEELLOCK family, Simon DOHERTY’s allegation in relation to the treatment of Terence WHEELLOCK during the arrest is as follows, “We were handcuffed behind our backs. Our hands were lifted as far as they could behind our backs, up two steps and down two steps and we were flung in the back of the van. Terence had a bad shoulder from the previous week and was asking them to loosen the cuffs but they wouldn’t. They were sitting in the front of the van and they were slagging us. They were saying, ‘Wait until we get you back to the station.’ We were laughing at them. We were brought in the back of the station and reeved out the back of the van. Both of us were slapped and hit out of the van. Our hands were still behind our backs.”

Later in this statement Simon DOHERTY also alleges that he was assaulted as he was placed in the cell at Store Street stating, “I was hit and punched when I was put in the cell. It was more like being roughed up.” Simon DOHERTY does not make this allegation in any of his subsequent statements, in fact he states in his Coroner’s Deposition, “That day, the only time that the Garda was a bit rough was when they were putting me in the van, nobody touched me in Store Street, which is unusual. I seen Terence getting assaulted getting into the van but I didn’t see him hit after that.”

In the account provided to his solicitor Simon DOHERTY does not allege that Terence WHEELOCK was struck off a Garda vehicle in Sean O'Casey Avenue. He does allege that both he and Terence WHEELOCK were assaulted at the rear of Store Street station when they were getting out of the police van. In none of his subsequent statements does Simon DOHERTY repeat or refer to this allegation.

In his statement to Detective Sergeant CAMPBELL and in his subsequent deposition to the Coroner's Inquest, Mr. DOHERTY stated as follows, "They took me and Terence separate. The other 2 went to Mountjoy in a car and the two of us were put into a van. Me and Terence were handcuffed with our hands behind our backs. I knew why I was being arrested I just knew why. When they were putting Terence into the van they were hurting him. He had a sore arm. His arm was broke or fractured or something from Police brutality 2 nights before. When they were putting him into the van he was complaining about his arm and they whacked his head against the side of the van. Then we just drove off to the Police Station. They were saying to us and threatening us that we were going to be sectioned. They kept on saying to us that we were going to be sectioned... Terence was in good spirits laughing and singing when we got to the station. He wasn't no where near suicidal. When we got to Store Street we went in the back way. I'm not totally sure if we went in the back way. We may have gone in the front way." He later clarifies, "I just wish to add that I now know that we were brought in through the front door and not the back door of Store Street."

In relation to the allegation that Terence WHEELOCK complained of a sore arm during his arrest, Simon DOHERTY gave evidence to the Coroner's Inquest as follows, "Myself and Terence were handcuffed behind our backs... When they were putting Terence into the van they were hurting him. He had a sore arm. His arm was broken or fractured or something before two nights previously. When they were putting him into the van he was complaining about his arm and they whacked his head off the side of the van."

In response to questions put to him at the inquest, Simon DOHERTY confirmed that Terence WHEELLOCK's arm was not in plaster on the morning of the arrest.

Simon DOHERTY stated to Garda Ombudsman Investigators in August 2008, "I remember Terence was getting dragged and I heard him say you are hurting my arm. The copper told him to shut up and that he was a little scumbag. I was already in the van at this stage so I couldn't really see Terence WHEELLOCK being put in the van until he got to the door but I could hear him complaining about his arm. I was arrested with Terence WHEELLOCK two weeks earlier and he got beaten by the police then. He had hurt his upper arm and I had stayed with him in hospital the night it happened. The way they were holding him was pulling his already injured arm back. The Gardaí were getting him into the van and they smacked his head off the doors of the van when he was getting in. I saw the scuffle as Terence WHEELLOCK was getting in and I heard the smack of his head. It wasn't bleeding. I didn't see which Gardaí it was. I am not even sure which Gardaí arrested me. I think there were two Gardaí arresting Terence."

In his statements to the Garda Síochána Ombudsman Commission, Gary GIFFORD does not mention Terence WHEELLOCK having an injured arm or making any complaint that his arm was sore to the Gardai present. In relation to Terence being struck against the van, Gary GIFFORD stated, "I heard some women screaming. The women were saying, 'Leave him alone.' As I turned around and looked, I saw Terence Wheelock being pushed aggressively by one Garda into the back of the Mariah van before being put into it."

In a further statement taken from Gary GIFFORD in July 2008, he stated, "I stated that Terence WHEELLOCK was taken to a Black Mariah van. I describe the van as a black Mariah van because it is known as that by the people in Sean O'Casey Avenue. The proper description is a white Ford Transit Garda Van. The woman I mentioned screaming in the statement is WITNESS 02... On the 2<sup>nd</sup> of June 2005, she was at 32 Sean O'Casey Avenue and she was talking with WITNESS 03 and her daughter WITNESS 04 in their front garden. I think they witnessed the arrest of Terence WHEELLOCK. Terence WHEELLOCK was taken to the Mariah Van. Noel HUDSON and I were taken up Sean



O'Casey Avenue towards Summer Place. I then heard WITNESS 02 screaming at the Gardaí. When I heard her scream, I turned around and caught a glimpse of Terence WHEELLOCK being pushed aggressively against the side of the van. The Garda, who had arrested Terence WHEELLOCK, had banged his head against the side of the Mariah van. WITNESS 02 saw this assault and screamed at the Gardaí. Next I saw the side door of the Mariah van being opened and I saw a scuffle between Terence WHEELLOCK and the Gardaí. Terence WHEELLOCK had his hands handcuffed behind his back and he could not properly get into the van. The Gardaí were trying to get Terence WHEELLOCK into the Garda van. I then saw the Gardaí grabbing Terence and they flung him into the van.”

Noel HUDSON provided a statement to the Garda Ombudsman investigation on the 15<sup>th</sup> of May 2008 in which he said, “Terence had sustained an injury to his collar bone when he was in the custody of police a couple of weeks previously. The police were grabbing Terence’s shoulder and slamming him off the side of the police car. Terence was saying to them to go easy with his injured shoulder. The police grabbed both his hands and put it behind his back and then bashed him against the car again. The police bashed Terence about three to four times against the police car.”

A further clarification statement was taken from Noel HUDSON on the 29<sup>th</sup> of July 2008. In this statement Noel HUDSON stated, “In my previous statement I mentioned that Terence WHEELLOCK was bashed against the Garda car. I am not sure what type of vehicle Terence was bashed against. I think it was a Garda car but it could have been a Garda van... I did not pay much attention to the description of the Garda who had arrested Terence WHEELLOCK and who bashed Terence WHEELLOCK against the vehicle. I was worried about what was going to happen to me next. The Gardaí knew that Terence WHEELLOCK had sustained injuries to his shoulder. The Gardaí were punching Terence WHEELLOCK on his shoulder and the two Gardaí held his hands and were banging Terence WHEELLOCK against the side of the vehicle.”

### **Gardaí Accounts of the Arrest**

The nine Gardaí involved in the arrest of the four males in Sean O'Casey Avenue on the 2<sup>nd</sup> of June 2005 all provided statements to the original Garda Síochána investigation and all nine were subsequently interviewed by investigators from the Garda Síochána Ombudsman Commission.

Of the nine, GARDA 01, GARDA 02 and SERGEANT 01 provided evidence to the Coroner's inquest.

All nine Gardaí deny that any force was used in the arrest and all describe the arrest as peaceful and without incident. None of the Garda members accept that Terence WHEELLOCK was assaulted in any way during the arrest.

In his statement to the Garda Ombudsman GARDA 02 stated, "Despite the fact that they had run, it was an easy arrest that had gone off without incident."

At the Coroner's Inquest in response to questions from the Coroner GARDA 02 described the arrest as follows:

"They had initially ran from the house into the square of the front of Sean O'Casey but again having been kind of surrounded by members, with the aid of the other Members, they had nowhere to run at this time and Mr. WHEELLOCK and the others just stopped and pretty much handed themselves up... There was no altercation."

GARDA 02 stated that he had arrested Terence WHEELLOCK on his own and had not been assisted by any other Garda.

Mr. GILLANE, barrister for the WHEELLOCK family, questioned GARDA 02 in relation to the fact that GARDA 01 was recorded on the custody record as being the arresting officer. GARDA 02 stated that he was aware of this and stated, "There was a subsequent discretion in the custody records." GARDA 02 insisted, however, that GARDA 01 did not assist in the arrest and that he was the arresting officer.

GARDA 02 accepted that despite being the arresting officer he did not accompany Terence WHEELLOCK to Store Street Garda Station and was not involved in the presentation of Terence WHEELLOCK to the member-in-charge at Store Street nor in the processing of Terence WHEELLOCK. He stated emphatically that he did not go near the custody area in Store Street Garda Station while Terence WHEELLOCK was present.

Mr. GILLANE for the Wheelock family asked GARDA 02 to clarify that handcuffs had been used on Terence WHEELLOCK. In response to questions concerning the arrest, GARDA 02 stated as follows:

“Again, Mr. WHEELLOCK, he pretty much stopped and swerved, he had ran into the front garden of the house. I approached Mr. WHEELLOCK, quite literally he had his hands out just to be arrested...”

At a later point in his testimony, in response to questions from Mr. O’HIGGINS on behalf of the Garda Commissioner, GARDA 02 described the arrest as follows, “When he gave himself up he wasn’t struggling he stood there, the hands were there and he was happy to be handcuffed... there was no difficulty from the prisoner.”

GARDA 02 was questioned by Mr. GILLANE about the use of handcuffs on Terence WHEELLOCK. He confirmed that he handcuffed Terence WHEELLOCK because it was “normal procedure that a prisoner would be handcuffed.” He also confirmed that Terence WHEELLOCK was handcuffed behind his back but that he did not resist arrest or threaten the Gardaí in any way.

GARDA 02 stated in response to questions from Mr. GILLANE that he had been taught to handcuff a prisoner behind the back when in transit, “especially when, you know, they’re going into the back of van.”

Mr. GILLANE asked whether Terence WHEELOCK had complained about having a sore arm or that the handcuffs being applied behind his back were hurting him. GARDA 02 stated that Terence WHEELOCK hadn't complained of his arm being sore to him.

In relation to the arrest of Terence WHEELOCK, GARDA 01 gave evidence that as he was concentrating on the arrest of Simon DOHERTY, he did not see GARDA 02 handcuff Terence WHEELOCK. He also stated that he did not hear Terence WHEELOCK say anything during the arrest. The Coroner asked GARDA 01 if he heard Mr. WHEELOCK complain of his arm being hurt and GARDA 01 responded, "Absolutely not, no."

The Coroner asked GARDA 01 to describe how Terence WHEELOCK and Simon DOHERTY were put into the Garda van. GARDA 01 stated as follows, "I can't remember who was first, but I just know that they were both placed in the van. There was no resistance offered at all." GARDA 01 was asked if he remembered Terence WHEELOCK banging his head off the van to which he replied, "He did not bang his head off the van... No, most definitely not. Mr. WHEELOCK did not bang his head."

In an interview by Garda Ombudsman Investigators, GARDA 02 stated, "In relation to the arrest of Terence WHEELOCK, he was arrested up at the barrier and was handcuffed there. I then walked him down over the cobbled area to the Garda van. He offered no resistance and no force was used. I totally deny that Terence WHEELOCK was mistreated in any way. I did not punch him to the shoulder as has been alleged and he got into the van without any difficulty. At no point did I hit him against the van or anything of this nature. He made no complaints to me about his treatment and did not mention his arm being sore."

"In relation to the allegation that Terence WHEELOCK was mistreated, I deny this. If he had struggled or had to be restrained whilst handcuffed I would have no difficulty in saying it but this was not the case."

GARDA 02 went on to say, “In my dealings with Terence WHEELLOCK he was not injured in any way and he did not complain of any injury. Sean O’Casey Avenue is a community that would turn against you if you were to mistreat anyone during an arrest there. They all look out their windows and it is a very small square.”

GARDA 01 stated, “We had to walk the lads about 40-50 yards from where they were arrested to the van. A few women had come out of their houses and saw the arrest. Plenty of people saw it and didn’t complain or come forward about it.”

GARDA 01 states, “In relation to the arrest of Terence WHEELLOCK; once the four lads had stopped running and saw they were caught red handed, they put their hands up. There was no struggle and no force was used. No violence or resistance was offered to us and no force was used by the Gardaí.”

SERGEANT 01, who was the senior officer present, describes the arrest as follows, “I have never seen such a quiet and calm arrest. When the lads ran through the house and came out the other side the Gardaí were waiting for them. They were caught flat footed. When they arrived out the front door of the house they had nowhere to go. They put their hands up and were arrested.”

GARDA 08 was a probationer Garda at the time of the arrest having been attested on the 12<sup>th</sup> of May 2005. He stated to the Garda Ombudsman, “I didn’t see anyone resist arrest or cause trouble while I was present.” GARDA 10 who was also attested on the 12<sup>th</sup> of May 2005 stated to the Garda Ombudsman, “It was an extremely peaceful arrest. They all looked tired. No force was used. Nothing about the arrest sticks in my head. I remember it was an easy arrest.

GARDA 05 stated to the Garda Ombudsman, “In relation to this arrest, the four males gave themselves up. It was not necessary to use force and none was used”. GARDA 09 stated, “They gave themselves up to be arrested. There was no struggle whatsoever. I did

not see any force being used to effect the arrest.” GARDA 06 stated, “All 4 prisoners were arrested without any difficulty. There was no resistance they came quietly.”

Although, the identity of the arresting officer for Terence WHEELLOCK became an issue at the Coroner’s Inquest, all the available Garda accounts state that GARDA 02 arrested Terence WHEELLOCK.

The Garda accounts further indicate that GARDA 01 arrested Simon DOHERTY, GARDA 06 arrested Gary GIFFORD and GARDA 05 arrested Noel HUDSON.

None of the Gardaí present have referred to any complaint of a sore arm by Terence WHEELLOCK during the arrest and deny that he complained of having a sore arm while he was being arrested.

The allegations made by Simon DOHERTY, Noel HUDSON and Gary GIFFORD were put to all of the Gardaí involved in the arrests during interview by Garda Ombudsman Investigators. All of the Gardaí deny that Terence WHEELLOCK was mistreated in any way during his arrest.

### **Civilian Accounts of the Arrest of Terence WHEELLOCK**

Extensive enquiries were carried out by Garda Ombudsman investigators to identify anyone in the area who may have witnessed the arrests.

Several potential witnesses were identified and statements were taken from them. The accounts provided differ from those of the Garda members and also of Simon DOHERTY, Noel HUDSON and Gary GIFFORD.

WITNESS 03 stated that she remembered the day that Terence WHEELLOCK was arrested. She describes the arrest stating, “I looked out my lounge window and I saw a

couple of Gardaí holding about three or four boys in the middle of Sean O'Casey Avenue, in front of house number 38. This area was about 12 to 15 metres from my lounge window. I then saw about three Gardaí run past my house towards the Gardaí who were holding the boys. I saw there was a scuffle and one of these boys was brought to the ground by the Gardaí. I did not remember which boy was brought to the ground. The four boys were being arrested by the Gardaí. I recognized these boys from Sean O'Casey Avenue. One of the boys was 'Boo' GIFFORD, the second boy was the young WHEELLOCK boy, the third was Simon and fourth was another boy who I did not remember his name. I saw the Gardaí placing the handcuffs to the back of these boys."

WITNESS 3 goes on to say, "During 2005, there was a lot of arrests taking place in Sean O'Casey Avenue. This arrest involving these four boys was not new to me. I had seen many arrests before. Nothing in this arrest stands out to me. I did not see anything out of the ordinary. I did not see any of the arrested boys being assaulted or injured by the Gardaí. I heard someone screaming but I do not know who was screaming and I can not remember what was said. After I saw the handcuffs being placed on these four boys, I walked away from the window. I went to the kitchen to finish my cup of tea."

WITNESS 05 describes an incident which she remembers as the day Terence WHEELLOCK was arrested. She states that she was looking out the window of her home to check on her children who were playing on Sean O'Casey Avenue.

She states that she saw a Garda Mariah Van and a Garda car drive up Sean O'Casey Avenue and describes an arrest that she witnessed of 'a few young fellows' who were outside numbers 40 and 41 Sean O'Casey Avenue.

She states, "Some of these young fellows were put into the back of the Mariah van and some were put into the Garda car. When the young fellows were put into the back of the Mariah van, I heard them screaming and shouting. They were saying, "Ah, stop it, leave me alone." I also heard some of the ladies in Sean O'Casey Avenue shouting at the Gardaí. They were saying "Leave the young fellows alone, they done nothing"

WITNESS 05 describes going looking for her children and being in the lane behind Sean O'Casey Avenue as Gardaí were jumping into the yard of one of the houses. She states that she got her children and then walked back towards her house. As she did so she walked past the Garda 'Mariah van'. She states, "As we walked past the Mariah van on the way to my house, my children got free from me and they ran around the Mariah van, I heard the young fellows, in the Mariah van, kicking the Mariah van and shouting in the Mariah van. After this I got my kids and I went into the house. When I saw the Gardaí arresting these young fellows, I did not see the Gardaí hitting or assaulting these young fellows. I did not see any of these young fellows with any injuries."

WITNESS 06 provided a statement on the 20<sup>th</sup> of August 2008 in which she described an arrest taking place in Sean O'Casey Avenue in June of 2005. She states that she was cleaning upstairs in the house when she heard a commotion outside. She describes seeing two Garda vehicles, a Mariah van and an unmarked Garda car parked in the square in Sean O'Casey Avenue.

She goes on to state that she went downstairs and went out to the front of the house where she spoke with Gary GIFFORD. She states that she then saw Terence WHEELLOCK and another male, whom she did not know, being arrested.

She states, "The Gardaí had arrested Terence WHEELLOCK outside Simon DOHERTY's house. I remember Terence clearly. His hands were handcuffed behind his back. The Gardaí had Terence's hands raised up, his head was leaning forward and the Gardaí walked him towards the Garda vehicle. I noticed that Terence looked sick and he was not walking properly. Terence was looking grey in the face and he appeared to be really sick."

WITNESS 06 goes on to say, "People from the area had gathered around to see what was going on. They were shouting at the Gardaí saying 'leave them alone'. The Gardaí lifted Terence up and they took him off and he was put into the Mariah Garda van. The Gardaí



then left the area. Terence was looking sick and unwell and he should have been in hospital or provided medical assistance.”

WITNESS 06 describes the arrest of Terence WHEELLOCK as follows, “The Gardaí were rough with Terence but I did not see the Gardaí assault Terence.”

In his statement to the Garda Ombudsman, Gary GIFFORD stated that during the arrest WITNESS 02 was present and shouting at the Gardaí ‘Leave him alone.’ A statement was taken from WITNESS 02. In this statement she describes an arrest of a male, whom she believes to be Larry WHEELLOCK. She further states that she gets the WHEELLOCK boys names confused. She states that she cannot remember the date but remembers it was a sunny day and that she saw Larry WHEELLOCK arrested with ‘one of the GIFFORD boys’. She states that she did not see any injuries on him or see any Gardaí assaulting him, but does state that she remembers the person she refers to as Larry WHEELLOCK complaining of having a sore arm.

It is likely that the arrest WITNESS 02 is describing is the arrest of Terence WHEELLOCK and not Lawrence WHEELLOCK. The details of her account are vague but she does state that, although she did not see the Garda members assault the male, she did think that they were too rough.

### **Medical Evidence**

The medical evidence in this case will be dealt with in detail later in this report. It should be noted, however, that there is no medical evidence to support the allegation that Terence WHEELLOCK was assaulted during his arrest in the manner described by Simon DOHERTY, Noel HUDSON and Gary GIFFORD.

No injury to Terence WHEELLOCK’s head or shoulder was recorded whilst he was in detained at Store Street Garda Station or whilst he was under treatment in the Mater Hospital.

In relation to the pre existing injury to Terence WHEELLOCK's arm, Simon DOHERTY stated to the Garda Ombudsman Investigators that he and Terence WHEELLOCK had been arrested two weeks previously and that Terence WHEELLOCK had been beaten up by the police on that occasion. He stated, "He had hurt his upper arm and I had stayed with him in the hospital the night it happened." The evidence would indicate that Simon DOHERTY is referring to Terence WHEELLOCK's attendance at the Mater Hospital on the 16<sup>th</sup> of May 2005.

In the Coroner's inquest Simon DOHERTY gave evidence as follows, "He had a sore arm. His arm was broken or fractured or something before two nights previously."

GARDA 01 provided evidence to the Coroner that he had spoken with Terence WHEELLOCK concerning the injury to his arm whilst en route to Store Street Garda Station. He stated, "I was aware his arm was broken and I was asking him how was his arm and stuff like that." Later in his evidence to the Coroner GARDA 01 stated, "I suggested that I seen him with a cast the week before and that was it."

GARDA 01 later stated to the Coroner, "I am adamant that he never said his arm was sore ... certainly not to me... not in the van or not while he was in my presence."

In his statement to the Garda Ombudsman, Larry WHEELLOCK stated that, "Two weeks previously Terence had been arrested and he had injured his elbow. He spoke to nurses and mentioned in his patient charts that the cause for the damage on his arm was that he was assaulted by the Gardaí the previous night."

In relation to the injury to Terence WHEELLOCK's arm, the medical evidence is not clear. No GP records have been found for Terence WHEELLOCK. Terence WHEELLOCK's GP has retired and all attempts made to gain access to any GP records that may exist have proved negative.

There are documents from the medical records held at the Mater Misericordiae University Hospital which refer to an injury to Terence WHEELLOCK's arm in May 2005. They indicate that on the 16<sup>th</sup> of May 2005 at 00:18 am Terence WHEELLOCK attended the Emergency Department of the Mater Hospital. The Nursing Care sheet in relation to his attendance, records that he complained of an assault by Gardaí. It states under 'Patient Problem, "16/05/2005 00:54 Limb problems, was arrested last night and states his (*sic*) been assaulted by the Gardaí, now C/O (*complaining of*) pain on rt (*right*) arm also with bruising on the LT (left) side of his forehead." Please note that the words in italics and brackets have been added for the purposes of this report.

It appears that Terence WHEELLOCK's injured arm was put in a sling and that he was given the pain killer and anti inflammatory Difene, which is commonly used to relieve painful conditions with bones or joints and to treat sprains, strains and the bruising of tendons and ligaments.

There is no reference to Terence WHEELLOCK's arm being x-rayed or to any fracture being diagnosed.

On the 27<sup>th</sup> of May 2005 at 18.40 Terence WHEELLOCK again attended the Mater Hospital. He again was complaining of pain to his right arm. Under 'Patient Problem' the following history is recorded, "Limb problems, pt (Patient) fell on right arm approx 1 week ago, elbow area painful". On this occasion no painkillers are recorded as having been prescribed and under the section 'Nursing Action' only the word 'Elevation' is recorded. It would appear that on this occasion Terence WHEELLOCK's arm was not fractured and not injured badly enough to require pain relief.

WITNESS 01, a friend of Terence WHEELLOCK who was interviewed on the 25<sup>th</sup> of June 2009 as part of the Garda Síochána Ombudsman Commission investigation, stated that the last time she had seen Terence WHEELLOCK prior to the 2<sup>nd</sup> of June 2005 was on the 31<sup>st</sup> of May 2005. She states, "The last time I seen Terence was the 31<sup>st</sup> of May 2005, I could not see any injuries on him at that time, other than he was complaining of a sore

wrist or sore fingers because he had fallen at football. He had gone to the Mater Hospital about this with Simon DOHERTY about a week before the 2<sup>nd</sup> of June but he didn't want to wait any longer at the hospital as he had already been waiting hours so he left. From what I can remember, his thumb was swollen from this but I cannot remember which hand it was."

The Garda Ombudsman investigation has found no further records that would suggest that on the 2<sup>nd</sup> of June 2005 Terence WHEELLOCK was recovering from a fracture to his arm or had a significant arm injury.

## **Conclusions**

The three males arrested with Terence WHEELLOCK have made allegations in relation to the force used during the arrest.

In the four different accounts provided by Simon DOHERTY, he has made allegations that are lacking in consistency. He initially alleged to the solicitor for the WHEELLOCK family that at Sean O'Casey Avenue Terence WHEELLOCK had asked for handcuffs to be loosened but this was refused. He also alleged in this statement that Terence WHEELLOCK was 'slapped and hit out of the van' at Store Street Garda Station. He did not repeat this allegation in any subsequent statement.

When interviewed by Detective Sergeant Sean CAMPBELL in November 2006, Simon DOHERTY changed this allegation and instead alleged that Terence WHEELLOCK complained about his arm being sore and then his head was 'whacked against the side of the van.' In his statement to Garda Ombudsman investigators he indicated that Gardaí putting Terence WHEELLOCK into the Garda van struck his head off the doors of the van. He stated that he saw the scuffle and heard the smack of his head. He further states that it wasn't bleeding.

Gary GIFFORD's account differs from that of Simon DOHERTY. Gary GIFFORD alleged originally to the solicitor for the WHEELLOCK family that a tall bald Garda whacked Terence WHEELLOCK's head off the corner of the van before throwing him into the van where he ended up on the floor. Gary GIFFORD states that Terence was complaining about a sore shoulder. In his statement to the Garda Ombudsman Gary GIFFORD described this event as Terence WHEELLOCK being pushed aggressively by one Garda into the back of the Mariah van. He stated, "It was like Terence was hit against the van before being put into it". In a subsequent statement Gary GIFFORD describes seeing Gardaí banging Terence WHEELLOCK's head against the side of the van.

Noel HUDSON's description of the alleged assault differs from that of Simon DOHERTY and Gary GIFFORD. He alleged to the solicitor for the WHEELLOCK family that the Gardaí held Terence WHEELLOCK's head and hit him off the side of the van three or four times. In his statement to the Garda Síochána Ombudsman Commission Noel HUDSON expanded on this and alleged that the Gardaí grabbed Terence WHEELLOCK's shoulder before slamming him off the side of a police car. In a later statement Noel HUDSON changes this allegation and states the Gardaí were punching Terence WHEELLOCK on the shoulder.

It is further alleged by Noel HUDSON that Terence WHEELLOCK then complained about his shoulder and that Gardaí put his hands behind his back, held his neck and then 'bashed' him up against the car three to four times.

The allegations therefore range from the assault having taken place outside Store Street Garda Station to Terence WHEELLOCK having been struck against the Garda van at Sean O'Casey Avenue at least four times.

There is insufficient evidence to corroborate these allegations.

No CCTV footage of the arrest exists. None of the witnesses identified during enquiries in the Sean O'Casey area have provided accounts which corroborate the allegations made by Simon DOHERTY, Gary GIFFORD and Noel HUDSON. One of the witnesses does describe the arrest of Terence WHEELLOCK as 'rough' but also states that she saw no assault take place. Another witness describes seeing a male being 'brought to the ground' by Gardaí. This has not been alleged by Simon DOHERTY, Noel HUDSON or Gary GIFFORD and is not supported by any of the other witness evidence.

One of the witnesses states that she heard a male believed to be Terence WHEELLOCK complain of having a sore arm during the arrest. This is denied by the Garda members present.

Furthermore, there is no medical evidence to support the allegation that Terence WHEELLOCK's shoulder or head was injured during the arrest.

### **Terence WHEELLOCK's Frame of Mind**

Several of the person's present for the arrest of Terence WHEELLOCK provided a description of Terence WHEELLOCK's frame of mind from the morning of the 2<sup>nd</sup> of June 2005.

Simon DOHERTY stated to the Coroner, "Terence was in good spirits, laughing and singing when we got to the station. He was nowhere near suicidal."

In his statement to the Garda Síochána Ombudsman Commission in August 2008, Simon DOHERTY stated, "I still can't believe that Terence would harm himself in any way. He always loved life and was always out and about. He was never depressed or anything. I have known and grown up with Terence WHEELLOCK since we were in Kindergarten and he loved life, football and music for as long as I knew him."

Noel HUDSON describes Terence WHEELLOCK laughing and joking on the morning of the 2<sup>nd</sup> of June 2005. He also states, “I would describe Terence WHEELLOCK as a lovely person never sad, always cheerful. His hobbies and interests were football and cars. He wasn’t in a serious relationship but he was seeing a girl ... that lived on North Strand. He had a few girlfriends though.”

Noel HUDSON goes on to state, “Terence took things as they came and never got down. We were all in the same situation and we all hung around every day and Terence WHEELLOCK was not upset about anything in particular on that day. The previous night, the 31<sup>st</sup> of May, I had been with Terence drinking at a party. We had a few drinks and a few joints of hash. Terence was in good spirits, he was loved by all who knew him.”

Gary GIFFORD states, “Terence was a happy go lucky fellow. He was always smiling. On this day the 2<sup>nd</sup> of June 2005, he was very happy. He was dancing because the music in the stolen car was very high. He was laughing.”

### **Transport to Store Street Garda Station**

Following their arrest at 12.10 pm Noel HUDSON and Gary GIFFORD were placed into a Garda car and taken to Mountjoy Garda Station. They were accompanied by GARDA 05 and GARDA 06.

Terence WHEELLOCK and Simon DOHERTY were placed in the patrol van driven by SERGEANT 01.

GARDA 02, the officer who according to Garda accounts arrested Terence WHEELLOCK, stayed at Sean O’Casey Avenue to arrange for recovery of the Toyota Yaris.

Garda accounts indicate that GARDA 01 and GARDA 08 got into the patrol van with Terence WHEELLOCK and Simon DOHERTY while SERGEANT 01 drove the van to Store Street Station.

GARDA 01 gave evidence at the Coroner's inquest in relation to the arrest and transport of the prisoners to Store Street Garda Station. When asked to comment on the demeanour of Terence WHEELLOCK when he was being transported to the station, GARDA 01 stated, "He seemed fine to me, I can't really say." At a later stage in his evidence GARDA 01 states, "As I said in my statement, Coroner, he [Terence WHEELLOCK] seemed fine he certainly wasn't – he didn't seem unhappy."

GARDA 01 described being in the back of the Garda van with Terence WHEELLOCK, Simon DOHERTY and GARDA 08. He stated that he was sitting opposite Mr. WHEELLOCK in the back of the van. GARDA 01 describes the conversation in the back of the van as follows, "There was light conversation with Simon DOHERTY and Terence WHEELLOCK ... it was just light conversation, that's all."

When asked by the Coroner did he mean to suggest there was 'banter', GARDA 01 stated, "Not banter, but it would be normal practice that when you do take prisoners in the van in order to ... you keep conversation going in order to sort of open up some form of communication so that if they were becoming aggressive that you would sense that, that's all."

The Coroner questioned why GARDA 01 had made no note of the conversations with the two accused to which GARDA 01 replied, "It wasn't in relation to you know, proceedings. It was just general conversation about how he is keeping, and I was aware his arm was broken and I was asking how his arm was and stuff like that."

GARDA 01 was then pressed on the issue of Terence WHEELLOCK's broken arm. GARDA 01 clarified that he had seen Terence WHEELLOCK with his arm in plaster the



week before and that he mentioned this to him in the van. Mr. GILLANE pressed GARDA 01 in relation to this as follows:

Mr. GILLANE: "I just want to get this straight in my own head; he is handcuffed in the back of a van with his hands behind his back and you engage in conversation with him about seeing his arm in plaster, and this was light-hearted?"

GARDA 01: "It was light conversation, not light-hearted conversation. Mr. WHEELLOCK was in the back of the van with handcuffs on, as I said before I don't know whether they were behind his back or front of his back but the conversation was light conversation in order that he would communicate between myself, Simon DOHERTY and Terence. It would be normal practice to do that as to keep some sort of conversation between us."

Mr. GILLANE: "Who chose the topic of the sore arm?"

GARDA 01: "I can't remember."

Mr. GILLANE: "Were you winding him up?"

GARDA 01: "Oh, absolutely not."

GARDA 01 in response to questioning stated the following, "I am adamant that he never said his arm was sore, Coroner, certainly not to me."

SERGEANT 01 states that there was nothing in the drive to Store Street that 'stuck in his head'. He states that he was concentrating on driving safely. He also states that there was a Perspex glass between the front and back section of the van and says, "You could hear muffled voices but you couldn't make out exactly what was being said. There was nothing that caused me concern. It was a slow drive and everyone was safe and well when I stopped at Store Street. If anything had caused me concern, I'd have stopped to make sure that everyone was all right."

In the Coroner's Inquest hearing on the 22<sup>nd</sup> of November 2006, Simon DOHERTY stated that on the journey to Store Street Station, "They [The Gardaí] were saying to us that we were going to be sectioned. They kept on saying to us that we were going to be sectioned. Terence was in good spirits."

During his evidence to the Coroner's inquest Simon DOHERTY was asked to explain what he meant by the word sectioned. He explained that he meant, "When you get sectioned, you get tortured basically for the hours... more or less saying 'you're going to get it now when we get you in there'. It is possible that Mr. DOHERTY has misunderstood the term. It is a term frequently associated with involuntary admissions under Mental Health legislation.

Contrary to the account provided to Detective Sergeant Sean CAMPBELL and to the Coroner's inquest, when he was interviewed by investigators from the Garda Síochána Ombudsman Commission in August 2008 Simon DOHERTY recalled the trip as follows, "It was just Terence and I in the back of the van. Nothing really happened on the way to the station."

## **Section Three:**

### **The Detention of Terence WHEELLOCK**

#### **Arrival at STORE STREET GARDA STATION**

Following the arrest of Simon DOHERTY and Terence WHEELLOCK at 12.10 pm, SERGEANT 01 drove the Garda van to Store Street Garda Station. He parked the van at the front of the station and got out and opened the van door.

GARDA 01 and GARDA 08 then walked the prisoners in through the front entrance of Store Street Garda Station.

At 12.20 pm on the 2<sup>nd</sup> of June 2005, ten minutes after their arrest in Sean O'Casey Avenue, Terence WHEELLOCK and Simon DOHERTY were brought into Store Street Garda station custody area by GARDA 01.

At this time GARDA 12 was on duty as gaoler and the member-in-charge was SERGEANT 02.

At the same time another prisoner WITNESS 07 was brought to the Custody Area by GARDA 13.

WITNESS 07 refused to provide a statement to the original Garda investigation but did indicate that he had seen or heard nothing unusual. WITNESS 07 did provide an account to the Garda Ombudsman investigation in which he stated, "While I was in the cell, I did not hear or see anything out of the ordinary that would have attracted my attention." He further stated, "I wish to state that neither while I was in the custody area nor while I was in the cell, I heard anything unusual. I can not remember."

GARDA 01 presented both Simon DOHERTY and Terence WHEELLOCK to GARDA 12.

GARDA 12 then began to complete a custody record for the prisoners. She began to complete the record for Terence WHEELLOCK first.

### **The Custody Record**

GARDA 12 completed the custody record details for Terence WHEELLOCK.

In section A ‘Details Concerning Person in Custody’ of the Custody Record GARDA 12 recorded Terence Wheelock’s name and his address as 35 Sean Casey Avenue Dublin 1. She recorded his date of birth as ‘23/3/85’. She completed section A 14 which refers to ‘Any Distinguishing Marks/Deformities/Amputations/Scars/Facial Oddities/Alerts (Personality and Possible Tendencies) where GARDA 12 recorded ‘Birth mark on left arm + bruises.’

In her statement of the 8<sup>th</sup> of June 2005 to Detective Sergeant Sean CAMPBELL, GARDA 12 stated, “When I asked him if he had any tattoos or marks he replied No. I noticed he had a birth mark or bruise on his lower left arm. I asked him what it was and he ignored me. I noted this on the custody record.”

In her statement to the Garda Síochána Ombudsman Commission GARDA 12 clarified, “In relation to section 14 of the custody record relating to distinguishing marks etc., I have written ‘birth mark on left arm + bruises.’ By this I meant that the bruises were on his left arm. Normally I would ask the prisoner if he had any marks, scars or tattoos and I would note the response in brackets on the custody record. I would ask this in case they had any marks or anything not visible under his clothing. In this case Terence WHEELLOCK either didn’t answer me or said no as I have nothing written in brackets on the record. He had no other physical marks to his face or to his other arm. If they had been visible I would have recorded them... if any injury had come to light during the search of Mr. WHEELLOCK or at any point in his detention I should have been told about it and I would have recorded it.”

## **The Arresting Member**

GARDA 12 completed the section B 'Details of Arrest' in the custody record details for Terence WHEELLOCK indicating that he was arrested at 12. 10 pm.

In section B 'Details of Arrest' at part B 16 which asks for 'Name of Arresting Member' GARDA 01's name has been written on the printed line. This has then been scored through with a single line. Above this is written 'U102'. There is a further word which is also scored through and then the name of GARDA 02 is written.

Due to this correction to the custody record in the section relating to arresting officer, the issue was raised at the Coroner's Court as to the identity of the officer who arrested Terence WHEELLOCK.

GARDA 12 has explained that she mistakenly made the assumption that as GARDA 01 was present with the prisoners, he was the arresting officer for both of them. She wrote GARDA 01's name as arresting member on the custody record for Terence WHEELLOCK.

In relation to the recording of GARDA 01 as the arresting officer on the Custody Record, GARDA 01 stated at the Coroner's inquest that as the gaoler, GARDA 12, was completing the custody record she must have assumed that he was the arresting officer and recorded him as such on the record. He stated, "I quickly informed her and at what stage I don't know, but it was definitely before I brought him to the cell, that I was not the arresting guard, GARDA 2 was the arresting guard. I also informed GARDA 12 I was the arresting guard of Simon DOHERTY."

GARDA 12 then amended the record by crossing out GARDA 01's name and inserting GARDA 02's.

GARDA 01 was interviewed by Garda Ombudsman investigating officers and stated as follows, “In relation to the correction on the custody record at the section on the arresting officer. This was an innocent mistake by GARDA 12. For operational reasons GARDA 02 remained at Sean O’Casey Avenue and I accompanied both prisoners to Store Street. I did not work in the same station as GARDA 12 and did not know her. She mistakenly put my name as the arresting officer and this was later corrected. GARDA 02 was not present during the processing of Terence WHEELock at Store Street.”

GARDA 12 stated in her statement of June 2005 to Detective Sergeant Sean CAMPBELL that there was “a small bit of confusion about the naming of the arresting member” on the custody record for Terence WHEELock. Having originally put down GARDA 01 as the arresting member, she was then asked to change this to GARDA 02, which she did.

At the Coroner’s inquest GARDA 12 stated, “I didn’t know any of the two Guards personally. There was actually a mix up at the start because I had assumed, when I asked who the Guard was, there were two Guards that entered the public office and I was under the undertaking (sic) that one was GARDA 02 and one was GARDA 01. Now I thought GARDA 01 was actually GARDA 02, I had never spoken to these Guards before, they are in Fitzgibbon Street Garda Station, and when he said “Oh that’s not the name” I assumed that he meant that’s not his name, but obviously I was completely wrong. I had taken up GARDA 01 as GARDA 02; so that’s where the confusion was caused.”

Later in her evidence to the Coroner, she stated “I didn’t know any of the two Guards, I must have gotten them mixed up. The deposition was made two days after the incident occurred, I still did not know who those two Guards were because I still didn’t have any dealings with them after the incident. I know now who they are, but at the time I did not, so I might have confused matters there.”

In her statement to the Garda Ombudsman, GARDA 12 provided an explanation of the confusion, “In relation to the mistake on the custody record relating to the arresting

officer of Terence WHEELLOCK on the 2<sup>nd</sup> of June 2005 I would like to state the following. When GARDA 01 attended Store Street with the prisoners I did not know his name. In section 16 of the Custody Record under Name of Arresting Member' I originally just wrote his shoulder number U162 and then continued to complete the rest of the Custody record. I had assumed as he was with the prisoners, Terence WHEELLOCK and Simon DOHERTY, that he was the arresting officer. The entry at 12.25 on the Custody Record also refers to the member as U162. I still did not know the members name at this point and was referring to him by his shoulder number. At some point after this I asked someone his name and was told. I then entered this name at section 16 as the arresting member. At 1.10 p.m Aine FLYNN from LYONS solicitors rang and asked to speak to the arresting member, I approached GARDA 01 and informed him of this. It was at this point he told me that he was in fact, not the arresting member, but that it was GARDA 02. I corrected the custody record to reflect this but on the first attempt I spelt GARDA 02 incorrectly and crossed this out and re-wrote it. Prior to the 2<sup>nd</sup> of June 2005 I only knew GARDA 02 and GARDA 01 to see. I did not know their names. They worked in Fitzgibbon Street and I worked in Store Street. I had only come on to 'Unit D' regular two months prior to the incident. Prior to that I was on Boulevard Unit which means I did not do duty in the station. This is eight hours continuous beat duty. So I'd have little or no opportunity to know these two members."

In his statement to Garda Síochána Ombudsman Commission investigators GARDA 02 stated, "In relation to GARDA 12 I did not know her prior to this incident. A lot of prisoners would have gone to Mountjoy and not Store Street. Prior to the 2<sup>nd</sup> of June 2005 I did not know her. I was friendly with a cousin of hers who's stationed in Rathfarnham but I did not know GARDA 12 prior to the 2<sup>nd</sup> of June 2005. My time in Store Street on the 2<sup>nd</sup> of June 2005 was short and I never went past the public office and I wasn't in the cell area." GARDA 02's shoulder number was U102. GARDA 01's number is U162.

In relation to the arresting officer, Simon DOHERTY stated to the Garda Síochána Ombudsman Commission, "I didn't see which Gardaí it was. I am not even sure which Garda arrested me." At the Coroner's inquest the issue was raised with Mr. DOHERTY

and he was asked whether the same Garda member who had arrested him, had brought him to the station. In response he stated, “I couldn’t be sure, yeah. There was other Guards as well though.”

## **Conclusion**

The Garda Ombudsman investigation is satisfied that GARDA 02 was indeed the member who arrested Terence WHEELLOCK. The errors made on the custody record have led to confusion and a suspicion of wrong doing. Whilst the errors appear to be innocent in nature, their effect has been to create doubt as to the integrity and accuracy of the details recorded on the custody record.

## **The Remainder of the Custody Record**

GARDA 12 completed the remainder of section B of the custody record to indicate that Terence WHEELLOCK was arrested at Sean O’Casey Avenue and arrived at the station at 12.20 p.m. She noted the offence for which Terence WHEELLOCK had been arrested as ‘112 RT Act’.

Section B 20 of the Custody Record asks for ‘Any relevant particulars relating to physical or mental condition’. This section has been left blank.

In her evidence to the Coroner’s Inquest GARDA 12 described Terence WHEELLOCK’s mood saying, “He was grand, he was talking away to the members present, he wasn’t agitated, he was calm, they were just talking generally there was just normal conversation.”

The Coroner asked GARDA 12 if she had any concern regarding Mr. WHEELLOCK’s well being at this stage, to which GARDA 12 replied, “No Coroner, there was no concern there.”



In her statement to the Garda Síochána Ombudsman Commission she stated, “Terence WHEELLOCK never suggested or complained about his treatment on that day. There was nothing about Terence WHEELLOCK’s arrest or detention that would have caused me concern.”

In section ‘C22’ of the Custody Record relating to ‘Initial Action Taken’ GARDA 12 has recorded that at 12.22 pm she provided Terence WHEELLOCK with the ‘Information given to arrested person in accordance with Regulation 8(1)’ of the Custody Regulations.

Section ‘C23’ of the Custody Record notes the time that the Notice of Rights is provided to a prisoner. GARDA 12 records this occurring at 12.24 pm for Terence WHEELLOCK.

Section ‘C24’ of the Record allows for the person in custody to sign the custody record acknowledging receipt of the notice of rights. In the section for the ‘Signature of the person in custody’ GARDA 12 has written ‘Refused’ indicating that Terence WHEELLOCK refused to sign the Custody Record.

In his statement to the Garda Síochána Ombudsman Commission, Larry WHEELLOCK has noted this as being significant. He states, “The Custody Record shows that Terence refused to sign the custody record that day and requested a solicitor, I had always told Terence never to sign the pink book unless he had been given his rights and treated with respect. That says to me that something went wrong that day. That document exists to remind you that you have rights and signing that sheet indicates that you received those rights.”

None of the four males signed section 24 of their Custody Records acknowledging receipt of their rights. There is no record of any complaint being made by any of the four males during their detention.

The Custody Records in respect of the previous recent arrests of Terence WHEELLOCK were reviewed by the Garda Síochána Ombudsman Commission investigation. The custody records related to Terence WHEELLOCK's arrests on the 15<sup>th</sup> of May 2005, the 24<sup>th</sup> of May 2005, the 26<sup>th</sup> of May 2005 and the 30<sup>th</sup> of May 2005. On all four custody records it is recorded that Terence WHEELLOCK refused to sign the record to acknowledge the receipt of the notice of rights.

At 12.25 p.m. Terence WHEELLOCK was brought to the cell area for a search. The Custody record contains an entry by GARDA 12 "12.25 Taken to cell and searched by U162". U162 refers to the shoulder number of GARDA 01. He was assisted in this search by GARDA 14.

The Custody Record also records that Terence WHEELLOCK requested his solicitor be notified of his detention. The request is timed at 12.26 p.m.

However, GARDA 12 has recorded in her statement to Detective Sergeant Sean CAMPBELL in June 2005 that prior to being brought to the cell for the search Terence WHEELLOCK requested that GARDA 12 contact Solicitor TERRY LYONS and Co. It is likely that the request was made close to the time recorded but prior to Terence WHEELLOCK being taken to the cell for the search.

GARDA 01 stated in his statement to Detective Sergeant CAMPBELL on the 8<sup>th</sup> of June 2005, "I searched Terence WHEELLOCK in the cell. I did not find anything on Terence WHEELLOCK with which he could harm himself. Terence WHEELLOCK removed his T Shirt runners and track suit bottoms and socks. I searched all these items and found nothing unusual in them. Terence WHEELLOCK also shook out a pair of shorts he was wearing under the track suit bottoms which revealed nothing. Terence WHEELLOCK put back on his clothes. I removed his runners placed them outside the cell door which is normal practice. I then left his phone into prisoner's property. Under the circumstances WHEELLOCK appeared in good spirits."

In his evidence to the Coroner GARDA 01 stated that the purpose of the search was as follows, “The purpose of that procedure is to ensure that there is nothing concealed on the prisoner that they might hurt themselves ... shoes are taken from the prisoner. If there were laces or shoes, just in case they’d harm themselves with shoe laces.”

GARDA 01 also gave evidence that the purpose of the search was also to look for anything dangerous or any weapons that the prisoner might have.

In response to questions from Mr. O’HIGGINS, GARDA 01 stated that he had no recollection to there being a visible band around the tracksuit bottoms worn by Terence WHEELLOCK.

In his statement to the Garda Síochána Ombudsman Commission, GARDA 01 stated, “In relation to the search of Mr. WHEELLOCK. Myself and GARDA 14 were present for the search. I asked Terence WHEELLOCK to remove each item of clothing and then to shake it out. He was wearing tracksuit bottoms and we checked the pockets of these. He was wearing shorts and we checked the pockets of these. He took off his runners and his socks. He put the clothing back on. I can’t remember if the chord from the track suit was visible outside of the track suit bottoms. If he’d have been wearing a belt we’d have taken that off him.”

Forensic examination of the tracksuit bottoms by Forensic Scientist Michael NORTON would indicate that the drawstring of the tracksuit bottoms could have been visible to the Garda members carrying out the search. This is discussed at length later in the report.

In relation to the tracksuit chord GARDA 01 stated, “It wouldn’t have been standard practise for us to remove tracksuit bottoms from prisoners. We wouldn’t have considered taking all Terence WHEELLOCK’s clothing and giving him a forensic suit.”

In relation to the training that he has received as a Garda member in carrying out searches, GARDA 01 stated, “There is training in Templemore on searches generally. I

don't remember any specific instruction in relation to prisoners having possible ligatures or anything like that. We would always refer to the Treatment of Persons in Custody Regulations and I don't remember any other instructions in this area. Once Terence was put in the cell we didn't go near him again."

GARDA 14 stated in his statement to the Garda Ombudsman investigation, "I escorted Terence WHEELOCK with GARDA 01 from the custody area to the cells to be searched. Terence WHEELOCK was in perfectly fine spirits and he did not make any complaints to me or GARDA 01. There was no difficulty with him. GARDA 01 asked Terence to remove his clothing to be searched. Terence had no problems with this and he complied with the instructions. He removed his t-shirt, tracksuit bottoms and runners. I did not notice any injuries on Terence. I did not notice any blood on Terence's clothing or on him."

The available evidence would suggest that Terence WHEELOCK was placed in Cell 7 of Store Street Garda Station. His 'runners' were removed from him and were placed outside the cell. He was wearing socks, a t-shirt, shorts and a pair of tracksuit bottoms. The Garda members present state that he was uninjured and was in good spirits.

While Terence WHEELOCK was being searched by GARDA 01 and GARDA 14, GARDA 12 completed the custody record for Simon DOHERTY. She recorded completing the C22 section of Simon DOHERTY's custody record at 12.26 and the C23 section at 12.28.

In his statement to his solicitor Simon DOHERTY stated, "Three of them dragged [Terence] down to the cells and left me at the desk. They left one Guard with me. They were gone a while. I tried to walk to the corridor to see what was going on but they wouldn't let me. I was waiting ages for them to come out. They left both of us in the cells with our runners and our belts on us."

In his statement to Detective Sergeant Sean CAMPBELL in November 2006, Simon DOHERTY said, “The next thing I remember was Terence being taken down to the cells. Of course they took down his custody records. I was left standing at the custody hatch for ages longer than usual. It had me thinking I should go to the corner and have a look to see what was going on but I thought better of it. Then the Guards came back up for me and they just flung me into the cell. I was searched just me pockets searched everywhere the usual. Searched like.”

In his statement to the Garda Síochána Ombudsman Commission in August 2008, Simon DOHERTY stated, “Terence gave his information first and then two Gardaí took him to the cell. I was still standing in reception. Then they took my name and information. I was waiting for the Gardaí to come back and search me and take me to the cell. I was standing on my own with a Garda behind the desk watching me. I was just waiting for those Gardaí to come back. I remember thinking that they were taking an awful long time to search Terence and put him in the cell. I thought it was a bit unusual that they were taking such a long time, but I decided against looking around the corner. I didn’t want any more shit from the Gardaí at this time. The same two Gardaí came back and took me down to the cells. I was put in a cell and I think Terence’s cell was straight across from me because when I was taken out there was police tape on the outside of that cell. Before putting me in the cell they searched me. I don’t think they took any clothes when I went into the cell, they might have taken my runners. I just went into the cell and flaked out.”

GARDA 01 and GARDA 14 state that following the search of Terence WHEELock they returned to the custody area and then escorted Simon DOHERTY to a cell to be searched. GARDA 01 states that he searched Simon DOHERTY in the same manner as he had searched Terence WHEELock.

GARDA 12 has recorded checking Simon DOHERTY in his cell at 12.30 pm and another prisoner WITNESS 08 at 12.31 pm. In relation to WITNESS 08 she recorded, “Prisoner asleep on cell bed. All is well.”

The Custody Record for prisoner WITNESS 07 records that the C22 section was recorded at 12. 32 pm and the C 23 section was completed at 12. 34 pm.

GARDA 12 has recorded contacting the solicitor for Simon DOHERTY at 12.35 pm and leaving a message for them to attend the station.

GARDA 12 has recorded WITNESS 07 being taken to the cell to be searched at 12.36 pm.

Also at 12.36 pm GARDA 12 has recorded contacting Terry Lyons Solicitor for Terence WHEELLOCK and leaving a message for them to attend the station.

In her statement to Detective Sergeant Sean Campbell, GARDA 12 has recorded that she went down to the cell and spoke with Terence WHEELLOCK at this point. She states, “I went down to the cell and I told the prisoner that I had left a message for his solicitor to contact us and that when the solicitor had called or phoned I would bring him to speak with the Solicitor. The phone in the cell area was out of order and I had to bring 4 or 5 prisoners up to the public office to use the phone.”

This contact with Terence WHEELLOCK is not recorded on the Custody Record by GARDA 12.

She states, “As I left WHEELLOCK after telling him about the solicitor the bell from one of the cells rang. I went back to the cell area and I checked all the prisoners again. I spoke to most of the prisoners. Nobody had any complaints.”

GARDA 12 has recorded that at 12.42 pm she checked on Simon DOHERTY and he was sleeping on the cell bed.

At 12.46 pm. GARDA 12 has recorded that WITNESS 07 was taken from the cell and released following a negative search.

Also at 12.46 pm GARDA 12 has recorded that she checked on Terence WHEELLOCK. She noted in the custody record, "Prisoner asleep in cell bed. All is well."

GARDA 12 has noted checking on prisoner WITNESS 08 at 12.48 pm recording, "Prisoner asleep on cell bed."

At 12.49 pm GARDA 12 records that WITNESS 08 is charged in his cell by SERGEANT 03.

At 12.55 at Gardiner Street Lower WITNESS 09 was detained under section 23 of the Misuse of Drugs Act by GARDA 15. At the same time WITNESS 10 and WITNESS 11 were also detained under the Misuse of Drugs Act by GARDA 16 and transported to Store Street Garda Station.

At 13.00 pm GARDA 17 checked on prisoner WITNESS 08 and notes that he was okay.

At 13.02 pm GARDA 12 recorded that she has checked on both Simon DOHERTY and Terence WHEELLOCK and that they are both okay. In relation to Terence WHEELLOCK, GARDA 12 made the entry, "Prisoner asleep in cell bed, all is well."

At 13.10 pm GARDA 12 recorded that she began the Custody Record for WITNESS 09. She recorded providing the information in accordance with Regulation 8(1) in section C22 of the Custody Record at 13.10 pm.

At 13.10 pm WITNESS 11 is recorded by GARDA 12 as arriving at the station.

Also at 13.10 pm GARDA 12 recorded on Terence WHEELLOCK's custody record that she had received a phone call from Terence WHEELLOCK's solicitor. The entry reads, "Solicitor phones station Aine (Terry Lyons) on *TELEPHONE NUMBER RECORDED.*" Text in italics has been added.

At 13.12 pm GARDA 12 recorded that WITNESS 09 was provided with his notice of rights under section C 23 of his Custody Record.

At 13.15 pm WITNESS 09 is recorded by GARDA 12 as having been taken to a cell by GARDA 15 to be searched.

At 13.18 pm GARDA 12 recorded that WITNESS 11 was provided with the information in accordance with Regulation 8(1) in section C22 of the Custody Record.

At 13.20 pm at Penneys in Mary Street WITNESS 12 and WITNESS 13 were arrested by GARDA 18.

At 13.21 pm GARDA 12 recorded that WITNESS 11 was provided with his Notice of Rights and 13.22 pm he was taken to a cell to be searched by GARDA 19.

At 13.24 pm GARDA 12 recorded that prisoner WITNESS 10 was provided with the information in accordance with Regulation 8(1) in section C22 of the Custody Record.

At 13.26 pm GARDA 12 recorded that prisoner WITNESS 09 was taken from his cell and released following a negative search and also that prisoner WITNESS 10 was provided with his Notice of Rights.

At 13.28 pm GARDA 12 recorded WITNESS 10 was taken to a cell to be searched by GARDA 19.

Also at 13.28 pm GARDA 12 recorded that WITNESS 11 was taken from his cell following a negative search.



GARDA 17 in his statement to Detective Sergeant CAMPBELL stated that he took up duty as gaoler at approximately 1. 45 pm as GARDA 12 had to go to court. At the same time GARDA 20 took over duty in the public office.

However, it is likely that GARDA 17 took up duty earlier than stated, because at 13.30 pm GARDA 17 recorded checking on prisoner WITNESS 08 and noted on the custody record for the prisoner that all was in order.

At 13.36 pm GARDA 19 noted that WITNESS 10 was released from custody but at 13.38 pm GARDA 12 records that he is re-arrested having never left the station.

At 13.38 pm GARDA 12 recorded a check on Simon DOHERTY noting, "Prisoner lying on cell bed all is well."

At 13.39 pm WITNESS 10 received the information under Regulation 8(1) and his notice of rights at 13.42 pm. He was taken to a cell at 13.43 pm.

At 13.43 pm GARDA 12 has recorded a check on Terence WHEELLOCK in his cell noting, "Prisoner asleep in cell bed."

GARDA 17 in his statement to Detective Sergeant CAMPBELL stated that he took up duty as gaoler at approximately 1. 45 pm as GARDA 12 had to go to court. At the same time GARDA 20 took over duty in the public office.

At 13.50 pm at Penney's on Mary Street WITNESS 14 and WITNESS 15 were arrested by GARDA 18 and transported to Store Street Garda Station.

At 13:53 pm GARDA 12 recorded a check on Terence WHEELLOCK and noted, "Prisoner asleep on cell bed."

The entry at 13.53 pm is the last entry made by GARDA 12 on any of the custody records. At this point at 13.53 pm on the 2<sup>nd</sup> of June 2005, Terence WHEELLOCK, Simon DOHERTY, WITNESS 10 and WITNESS 08 were all in custody at Store Street Garda Station.

The Garda Custody Records would indicate that Terence WHEELLOCK was in cell 7, Simon DOHERTY was in cell 5, WITNESS 10 was in cell 6 and WITNESS 08 was in cell 3.

At 13.55 hours SERGEANT 04 took over as Station House Officer.

At 14.00 pm GARDA 17 recorded checks on WITNESS 08, WITNESS 10, Simon DOHERTY and Terence WHEELLOCK. All prisoners are recorded as being okay. In relation to Terence WHEELLOCK GARDA 17 recorded, "Prisoner in cell all okay."

At 14.00 pm GARDA 21 commenced duty as gaoler.

At 14.05 pm approximately, GARDA 21 met with GARDA 20 and received a handover update as regards the prisoners in custody. She stated to Detective Sergeant Sean CAMPBELL, "I enquired how many were in custody and checked if they needed any special attention i.e. drunk, drugged etc., A drunk or drugged prisoner require to be visited every 15 minutes. There were no prisoners requiring special attention." GARDA 21 also recalls checking the cell alarms at this time, "I glanced at the cell alarms. There was no lights on the alarm board which indicated no prisoner was looking for attention."

At this point in her statement of the 3<sup>rd</sup> of June 2005, GARDA 21 states to Detective Sergeant Sean CAMPBELL, "There were three prisoners in custody. I went to each cell and I looked through the glass in the door and I checked to see that the prisoners were breathing and that I could see the prisoners faces. All of the prisoners were lying down on their bunks. I returned to the public office and I made an entry in the custody record of all of the prisoners."

The available evidence would suggest that there were four prisoners in custody at Store Street at this point: Terence WHEELLOCK, WITNESS 08, Simon DOHERTY and WITNESS 10.

It would also suggest that GARDA 21 made entries on only two of the custody records at 14.10 p.m. She noted on both Terence WHEELLOCK and WITNESS 08's record, "In cell all ok" at 14.10 p.m.

This is the last recorded check on Terence WHEELLOCK before he is discovered in his cell with a ligature around his neck.

GARDA 20 in his statement to Detective Sergeant Sean CAMPBELL makes the same mistake stating, "There were three prisoners in custody when GARDA 12 the gaoler left to go to court."

SERGEANT 04 who was the Station House Officer on duty at Store Street Station from 14.00 on the 2<sup>nd</sup> of June 2005 correctly notes in her statement that there were four prisoners in custody at this point.

It is likely that the release and re-arrest of WITNESS 10 is the explanation for the confusion in this regard. He was released from custody at 13.36 pm and then re-arrested at 13.38 pm having never left Store Street Garda Station. He was then brought back to the custody area at 13.39 pm and placed in a cell at 13.43 pm.

At 14.10 pm four prisoners, one of them a Romanian national accompanied by a child were brought into the custody area by GARDA 18. The prisoners were WITNESS 12, WITNESS 13, WITNESS 14 and WITNESS 15.

GARDA 21 began to process WITNESS 14 giving the required information under 8(1) of the Treatment of Persons in Custody Regulations 1987 (hereinafter 'the Regulations')

and recording this at 14.11 pm on the C22 section of the Custody Record and the notice of rights under C23 at 14.12 pm.

At 14.16 pm SERGEANT 05 took WITNESS 14 to a cell for a search. GARDA 21 then processed WITNESS 15 giving the required information under 8(1) of the Regulations and recording this at 14.17 pm on the C22 section of the Custody Record and the notice of rights under C23 at 14.18 pm.

SERGEANT 04 has recorded in her statement to Detective Sergeant Sean CAMPBELL that at approximately 14.20 pm she spoke with Aine FLYNN from Terry Lyons & Co., Solicitor. SERGEANT 04 states, “She [Aine FLYNN] was enquiring about a prisoner in custody Terence WHEELock. I went to the Custody Record. I spoke with GARDA 21. I asked if we had a Terence WHEELock in custody and what was the position with him. I was informed he had been arrested by a member from Fitzgibbon Street Station. I told her if she did not hear from me that he would be getting bail.”

At 14.21 pm SERGEANT 05 took WITNESS 15 to a cell for a search. GARDA 21 then began to process WITNESS 12 giving the required information under 8(1) of the regulations and recording this at 14.22 pm on the C22 section of the Custody Record and the notice of rights under C23 at 14.23 pm. WITNESS 12 was brought to the cells for a search at 14.26 pm by GARDA 16.

GARDA 21 then began to process WITNESS 13 giving the required information under 8(1) of the regulations and recorded this at 14.27 pm on the C22 section of the Custody Record and the notice of rights under C23 at 14.28 pm.

At 14.31 pm WITNESS 16 was brought into Store Street Station by GARDA 23 and GARDA 24 having been arrested. GARDA 21 commenced processing WITNESS 16 and provided him with the required information under 8(1) of the Regulations at 14.32 pm.

At 14.32 pm WITNESS 17 was detained for the purposes of a drugs search in the Eden Quay/Liberty Hall Area of Dublin City Centre. Also arrested at 14.33 pm were WITNESS 18, WITNESS 19, WITNESS 20 and WITNESS 21. They were arrested as part of an ongoing Garda Operation. The members involved were GARDA 22, GARDA 13 and SERGEANT 06. The five prisoners were then transported to Store Street Station

At 14.33 pm WITNESS 16 received his Notice of Rights recorded in section C23 and WITNESS 13 was taken to a cell for a search by GARDA 16.

As GARDA 21 was completing the Custody Record for WITNESS 16. SERGEANT 06, GARDA 13 and GARDA 22 arrived with their five prisoners.

At this point there were now 14 prisoners in Store Street Station. In the cells are Terence WHEELOCK, Simon DOHERTY, WITNESS 08, WITNESS 10, WITNESS 14, WITNESS 12 and WITNESS 15. WITNESS 13 has been placed in the medical room at the Store Street Custody area because she had an infant child with her.

WITNESS 16 was taken at 14.40 pm to an interview room at this point to be interviewed by GARDA 23 and GARDA 24. This is recorded in the custody record for WITNESS 16 by GARDA 21.

Also in the Custody area are WITNESS 17, WITNESS 18, WITNESS 19, WITNESS 20 and WITNESS 21. They are supervised in the Custody area by GARDA 22, GARDA 13 and SERGEANT 06.

Before she started to complete the five custody records, GARDA 21 informed SERGEANT 06 that she was going to check on the prisoners. GARDA 21 has recorded this in her statement and this is confirmed in the statements of GARDA 22 and GARDA 13.

Due to the events that occur at this point, the timings in the Custody Records for the prisoners are not accurate for the next period. The explanations for the inaccurate timings will be dealt with later in the report.

The interview of WITNESS 16 is recorded on the video tapes used for the interview as commencing at 14:43.

However, it should be noted that at some point either before she checked on Terence WHEELOCK or shortly after GARDA 21 checked the time on her wrist watch and recalled it as being 14.35 pm.

GARDA 21 stated in her statement of the 3<sup>rd</sup> of June 2005 to Detective Sergeant Sean CAMPBELL that she then went to check on the prisoners. She said, "I took the keys of the cells and I went to check the prisoners. I looked through the glass on each door and all the prisoners were okay. The Romanian woman who had the child had been placed in the medical room. I checked on her. I went to the last cell. Cell no. 7 it was the last cell closed. I looked in the glass and I could not see anything. I opened the door. I saw the prisoner who I now know to be Terence WHEELOCK. He was half lying and half sitting with his back against the wall. His head was slanted back his eyes were closed and his face was yellow. I could see a black chord around his neck and this was attached to the cell buzzer."

GARDA 21 continues, "I got an awful shock. I stumbled out of the cell out of instinct I closed the door and I ran for help. I ran to the public office. I shouted at SERGEANT 04. I ran back to the cell area followed by SERGEANT 04.

SERGEANT 04 stated in her statement to Detective Sergeant Sean CAMPBELL and Detective Superintendent Oliver HANLEY, "I noticed five prisoners being brought into the station for drug searches by SERGEANT 06 and GARDA 22 and GARDA 13. I didn't see GARDA 21 complete the Custody Records. The next thing I remember is looking up GARDA 21 had run into the office she called my name and said Prisoner. I

knew by her face and demeanour that something was wrong. I ran out of the public office past the prisoners who had just come in down to the cell area.”

GARDA 22 stated in his statement of the 3<sup>rd</sup> of June 2005, “I then saw GARDA 21 walk down to the cell area. About less than a minute later GARDA 21 ran up to the public office and called to SERGEANT 04 for help. SERGEANT 04 and GARDA 21 ran down to the cell area. I thought that they may have been in difficulty. I followed and I heard SERGEANT 04 calling for GARDA 25 I ran down to the cell area.”

SERGEANT 04 stated to Detective Sergeant Sean CAMPBELL, “GARDA 21 opened the door of cell 7 I saw a young man lying back against the wall. There was what appeared to be a black lace around his neck which was suspended from the Buzzer fixture on the wall. The prisoner was unconscious and was grey in the face. I said to GARDA 21 to lift him up. I shouted for help. While help was arriving myself and GARDA 21 tried to lift the prisoner up to take pressure off the ligature.”

In her statement to the Garda Ombudsman, SERGEANT 04 stated, “He was leaning back against the wall with the ligature around his neck. He was unconscious or appeared to be at that stage. He was yellow in the face. There was no blood in the cell. There was no blood on his body or on his clothing. The only injury that I noticed was the ligature mark on his neck.”

GARDA 21 described to Detective Sergeant Sean CAMPBELL, “I heard SERGEANT 04 say Oh Jesus lift him up. Both SERGEANT 04 and I lifted the prisoner up to take the weight off his neck. SERGEANT 04 shouted for help.”

GARDA 22 described arriving at the cell to Detective Sergeant Sean CAMPBELL, “I saw GARDA 21 and SERGEANT 04 holding up a male who had a navy lace which was tied around his neck and attached to the cell alarm. I went down to the cell I picked up the young male GARDA 21 had his right arm. SERGEANT 04 ran off to get a sharp object to cut the lace.”

SERGEANT 04 stated to Detective Sergeant Sean CAMPBELL, “GARDA 22 arrived and I said to GARDA 22 lift him up. I came out of the cell to see if there was anything I could use to cut the ligature from around the neck. At that stage GARDA 25 came running around the corner to the cell area. I shouted at him to get me a knife or scissors. I saw the first aid kit and I emptied it out looking for a scissors but there was none in it.”

In her statement to the Garda Ombudsman, SERGEANT 04 explained, “The First Aid kit that I refer to in my statement of the 3<sup>rd</sup> of June 2005 was across the corridor from Cell 7. I was only a few yards away.”

GARDA 22 stated in his account for the An Garda Síochána investigation on the 3<sup>rd</sup> of June 2005, “At that point I held up the young male and removed the lace from around his neck. I laid him on the ground and I slapped his face hoping for a reaction. I got no reaction. I tried for a pulse and to listen for breathing. I could not locate a pulse.”

GARDA 21 stated to Detective Sergeant Sean CAMPBELL, “We lay him down in the doorway of the cell and tried to revive him.”

In her evidence to the Coroner GARDA 21 in November 2006 stated, “We lay him on the ground ... Coroner, initially it was half inside the cell, half outside the cell. It was just basically, lie him down to try and find out if there’s a pulse to begin medical treatment on him.”

In her evidence to the Coroner in July 2007 GARDA 21 expanded on this stating, “When GARDA 22 removed the ligature from his neck, he, say, lifted him down on to the ground and he was pulled out into the hallway, as the cell is so confined there would be no way of any movement in the cell. That he moved him out on to the corridor, and SERGEANT 04 began AR.”



In response to a question from Mr. O' HIGGINS GARDA 21 explained, "Coroner, it was an emergency situation, he was kind of half dragged out on to the hallway to be quite honest with you. Just literally to get him down and try to perform some form of first aid on him to try revive him."

Mr. GILLANE then questioned GARDA 21 as regards the suggestion that Terence WHEELOCK was 'dragged' from the cell. GARDA 21 apologised for the use of the word. She also accepted that the word 'pulled' would be more appropriate.

In her statement to the Garda Síochána Ombudsman Commission, GARDA 21 stated, "In relation to the word 'dragged' which I used in the Coroner's Court in relation to taking Mr. WHEELOCK from the cell once we found him. This was just an unfortunate word. Mr WHEELOCK was pulled from the cell in an attempt to save his life. The cell was too small for us to attempt any first aid and he was taken from the cell so that we could try to save him."

SERGEANT 04 stated to the Garda Síochána Ombudsman Commission, "He would have had to be lifted as he couldn't move himself. The only reason he was moved was to give him medical attention." SERGEANT 04 explained that GARDA 22 slapped Terence WHEELOCK on the face to get a reaction but got none. SERGEANT 04 then splashed water on his face but again got no reaction.

SERGEANT 04 then began mouth to mouth resuscitation on Terence WHEELOCK. She was unable to locate a pulse and then tried mouth to mouth for a second time.

GARDA 26, INSPECTOR 01 and GARDA 27 arrived into the cell area at this time.

GARDA 25 requested that GARDA 28, who was on duty at the 'command and control consul' to get an ambulance to the station. GARDA 28 estimates that this took place 'sometime between 2.30 pm and 2.40 pm. GARDA 28 states that he dialled 999 and was put through to DFB Ambulance. He states that he asked for an ambulance urgently for

Store Street and then ran to SERGEANT 04 to inform her that an ambulance was on the way.

The Dublin Fire Brigade's records state that at a telephone call requesting services in respect of an incident at Store Street Station was received at Fire Brigade Control (DFB) at 14.44.27 pm hours.

Also at about this time SERGEANT 05 approached GARDA 29 in the Communications Room at Store Street Station and asked whether he had a vent aid. GARDA 29 confirmed that he did and went immediately to the cell area and provided SERGEANT 04 with the vent aid pack.

SERGEANT 04 took the vent aid pack and continued mouth to mouth on Terence WHEELOCK.

GARDA 29 returned to the public office and dialled 999. He spoke with someone at ambulance control who confirmed that an ambulance had already been called and that it was on its way. This call is recorded at Dublin Fire Brigade at 14.44.29 pm

At cell 7 INSPECTOR 01 took over mouth to mouth from SERGEANT 04. GARDA 27 commenced chest compressions and INSPECTOR 02 counted the compressions. GARDA 25 held Terence WHEELOCK's legs straight.

These attempts continued until personnel from the Dublin Fire Brigade attended Store Street Garda Station and took over.

GARDA 21 has stated that at this point she made an entry onto the Custody Record of Terence WHEELOCK. In her evidence to the Coroner's Inquest in November 2006, she stated as follows, "Coroner when the ambulance crew came into the station, when CPR was being performed on Mr. WHEELOCK, I went back up with one of the members of the ambulance crew to give details to the ambulance crew of Terence WHEELOCK's

name, his date of birth, and address, and any other relevant details they might need. I noted 2.35 pm immediately on the custody record, but I didn't get a chance to fill it out as I went immediately back down to the cell area to see if I could help in any way."

At 14:45 pm hours Fire Appliance D102 from Tara Street Fire Station responded.

At 14:46 pm Ambulance D44 from North Strand Fire Station responded to the call. At the same time Fire Appliance D102 arrived at Store Street Garda Station.

At 14:49 pm Ambulance D44 arrived at Store Street Garda Station

The five members of the Dublin Fire Brigade who attended Store Street Garda Station provided statements to Detective Sergeant Sean CAMPBELL. They were all re-interviewed as part of the Garda Ombudsman investigation.

FIRE FIGHTER 01 was on day duty on the 2<sup>nd</sup> of June 2005 on Fire Appliance D 102. In his statement to Detective Sergeant Sean CAMPBELL FIRE FIGHTER 01 described a call coming in just after 2.30 pm. FIRE FIGHTER 01 stated that the Fire Appliance was on College Green when the call came in and they were able to attend Store Street Station in about 90 seconds.

In his statement to the Garda Síochána Ombudsman Commission he stated, "When I arrived at Store Street Garda Station, I saw a male lying on the ground across the corridor and the Gardaí were performing CPR on him. I now know this male to be Terence WHEELOCK. I remember Terence WHEELOCK had a t-shirt on and this t-shirt was cut to expose his chest. This was done as a standard procedure when we need to use the defibrillator. I can not remember what type of t-shirt Terence was wearing."

FIRE FIGHTER 01 goes on to say, "I did not see any action by any Garda member that caused me concern. I did not notice anything strange. The Gardaí did not prevent us from carrying out our duties."

In his statement to Detective Sergeant Sean CAMPBELL, FIRE FIGHTER 01 stated that he noticed a pair of white runners outside the cell door on the floor. He also described the attempts at CPR and the removal of Terence WHEELLOCK to hospital by ambulance staff.

In relation to any possible injuries that Terence WHEELLOCK may have had, FIRE FIGHTER 01 stated to Detective Sergeant CAMPBELL, “When I examined the patient at Store Street Garda Station ... there was a deep ligature mark on his neck. The patient’s chest was exposed because I had to apply the defibrillator pads. One pad goes just under the clavical on the right side and the other on the left hand side of the ribcage under the arm. There was no bruising abrasion swelling or redness on the arms face or chest. The patient received approximately 8 minutes of CPR from DFB personnel... There was no signs of blood on the patient.”

In his statement to the Garda Síochána Ombudsman Commission investigation, FIRE FIGHTER 01 stated, “Apart from the ligature mark around Terence WHEELLOCK’s neck. I did not notice any old or new injuries on Terence WHEELLOCK’s body. There was no blood on his body or on his clothing. I think Terence WHEELLOCK was wearing a track suit bottoms. From what I remember, I did not see any blood on his track suit bottoms. We did not examine the lower part of Terence WHEELLOCK’s body as there was no need for us to do so because we were told by the Gardaí that Terence WHEELLOCK had hung himself. I do not think his tracksuit bottoms were removed. Terence WHEELLOCK was lying outside the cell and a Garda had told us that Terence WHEELLOCK was in the cell he was lying in front of.”

FIRE FIGHTER 01 later stated, “While we were at the Garda station performing CPR to Terence WHEELLOCK, no femoral line was inserted into this femoral artery on the inner side of his leg. I think this could have been done at the hospital.”

FIRE FIGHTER 02 stated to the Garda Síochána that on arrival at Store Street Station a Garda led them to the custody area where he observed a number of Gardaí performing CPR on a man lying on the floor. He outlined attempts made at CPR and also the removal of Terence WHEELLOCK by ambulance.

He also stated, “While in Store Street Station I asked someone how did the patient hang himself? A black lace type chord was pointed out to me. This was hanging inside the cell door on the right hand side at about light switch level.”

In his statement to the Garda Síochána Ombudsman Commission, FIRE FIGHTER 02 stated, “While we were performing CPR on Terence WHEELLOCK his chest was exposed. I am not sure who removed his upper body clothing and I do not know what type of upper body clothing Terence was wearing. I did not notice any old or new injuries on Terence WHEELLOCK’s upper body. I did not examine Terence WHEELLOCK’s lower body because there was no need to examine this part of his body. As far as I can remember, I did not see any blood on Terence WHEELLOCK’s body on his clothing or on the floor of the corridor.”

In his statement to Detective Sergeant Sean CAMPBELL, FIRE FIGHTER 02 stated, “I wish to add that the patient’s chest was exposed in order to put on defibulator pads. I saw a deep ligature mark on the patient’s neck. I did not notice any other bruising or abrasions. He was not bleeding that I saw. Part of my training is patient assessment. I did not see any other injuries on the body of the patient.”

FIRE FIGHTER 02 stated to the Garda Ombudsman investigation in his statement of the 4<sup>th</sup> of February 2009, “I needed to find out how Terence WHEELLOCK had sustained his injuries and I was told by Gardaí that Terence WHEELLOCK tried to hang himself from a light switch in the cell. I went into the cell and I saw a flat metal plate had been bent and this plate appeared to be covering an existing light switch fitting on the cell wall. I did not find anything suspicious in the cell and there was no blood on the cell floor or walls. The

Gardaí did tell me that the cell was a crime scene but did not prevent me from going into the cell.”

FIRE FIGHTER 02 stated, “We did not carry out any medical procedure on Terence WHEELLOCK that would result in him bleeding from the lower part of his body. There was no femoral line inserted on the femoral artery of Terence WHEELLOCK. This femoral line insertion is normally performed by a paramedic and no paramedic was called out to the Garda station.”

FIRE FIGHTER 03 was also in Fire Appliance D 102 and also attended Store Street Garda Station. In a statement to Detective Sergeant Sean CAMPBELL in June 2005 he stated, “While performing CPR on the patient I noticed an obvious ligature mark around the front of the patient’s neck. It appeared to have come from a shoe lace. The ligature mark was very narrow and deep. Previous experience with this kind of injury indicated to me that it was a shoe lace or something similar. I did not see any other injury other than the ligature mark on the patient. He was not bleeding and there was no other obvious signs of injury”

FIRE FIGHTER 03 also gave evidence at the Coroner’s inquest. He confirmed in this evidence that no ligature was present on Terence WHEELLOCK when he was being treated. He also indicated that other than the ligature mark there was no other obvious sign of injury.

He also stated that when he arrived at Store Street Garda Station there were a number of Gardaí in the hallway and two were performing CPR. He states that they looked like ‘they were well into it’ and ‘they were doing their best at the time.’

He states that Terence WHEELLOCK remained unconscious throughout.

FIRE FIGHTER 03 also provided a statement to the Garda Ombudsman on the 4<sup>th</sup> of February 2009. He states, “When I arrived at the Garda Station and while I was at the Garda station, I did not see any action by any Garda member that caused me concern. Apart from the ligature on the neck, I did not notice any old or new injuries. I was on my knees supporting Terence WHEELLOCK’s head. Terence WHEELLOCK’s upper torso was exposed. I did not see any injuries or any blood. I think Terence WHEELLOCK was wearing dark track suit bottoms. I did not see any blood on this track suit bottoms. I did not see any blood on the floor in the corridor.”

He goes on to state, “I did not go into the cell because Terence WHEELLOCK was lying in the corridor. I was not restricted from moving around the cell and I was not informed by the Gardaí that this was going to be a crime scene.”

In relation to the insertion of the femoral line, FIRE FIGHTER 03 said, “At the Garda Station, there was no femoral line inserted into the femoral artery. This procedure is done by a Doctor. I can not remember if Terence WHEELLOCK’s track suit bottoms were pulled down a bit to check a pulse at the femoral artery... At hospital a doctor would perform a sphincter reflex test. This procedure would entail forcing a gloved finger into the rectum of the patient to feel for a reaction. The insert of a femoral line into the femoral artery or a sphincter reflex test can cause the bleeding which may result in the pooling of blood in the anal area.”

FIRE FIGHTER 04 was one of the crew of Ambulance Delta 44. In his statement to Detective Sergeant CAMPBELL, he outlined the attendance at Store Street and the removal of Terence WHEELLOCK to the Mater Hospital.

He also stated that when he attended the cell area of Store Street Station, the fire crew had already applied a stiff neck collar to the patient which would have obscured any ligature mark. He states that he did not observe any injury whatsoever on the patient. He also states that there was no signs of blood or bruising on the patient.

In his statement to the Garda Ombudsman FIRE FIGHTER 04 stated, “While we were attending to Terence WHEELLOCK, the Gardaí stood back and they allowed us to carry out our duties. I did not see any action by any Garda members that caused me concern. I did not see any ligature marks around the neck of Terence WHEELLOCK. I did not notice any old injuries or dry blood on Terence WHEELLOCK. I did not look into the cell area because I did not have any reason to go into the cell. I did not see if there was any blood in the cell. The Gardaí did not prevent us from moving around the cell area and corridor. As far as I am aware, a femoral line was not inserted or used on Terence WHEELLOCK while he was at the Garda station.”

FIRE FIGHTER 05 was the driver of the ambulance. He attended Store Street Station but did not render any medical assistance to Terence WHEELLOCK. He stated to the Garda Síochána Ombudsman Commission, “At one stage I was standing next to the patient and I did not notice any injuries on him. I do not remember seeing any blood on the patient or on the floor.”

Dublin Fire Brigade records indicate that at 14:54 pm the Mater Hospital was placed on standby by DFB Central Control in relation to the receipt of the patient Terence WHEELLOCK.

At 14:56pm Ambulance D 44, transporting Terence WHEELLOCK, arrived at the Mater Hospital.

### **The Other Prisoners At Store Street Garda Station**

The original Garda investigation team interviewed the other prisoners who were in custody at Store Street at the time of the detention of Terence WHEELLOCK. None of them recall hearing any taunting by Garda members of anyone in the cell area.

Investigators from the Garda Síochána Ombudsman Commission also interviewed a number of the prisoners who were in custody at the time of the incident. To trace a number of these witness enquiries were made through the Social Welfare authorities,



Garda PULSE records, the Garda National Immigration Bureau, the Prison Authorities and local solicitors. Due to the passage of time two of these witnesses, both foreign nationals, could not be traced. Two of the witnesses were traced but declined to assist the investigation.

Where statements have been made to either the Garda Síochána investigation or the Garda Ombudsman investigation they have been summarised below.

In her statement to the Garda Síochána taken in June 2005, WITNESS 14 recalls being arrested with WITNESS 15 in a 'Penney's' a High Street Store in Mary Street in Dublin. She was taken to Store Street and placed in a cell with WITNESS 15. She recalls hearing girls shouting but doesn't recall hearing any male voices shouting. She states that when she was released from the cell there was tape from one side of the cell area to the other side. WITNESS 14 was contacted by investigators from the Garda Síochána Ombudsman Commission. She stated that she could hardly remember the night in question and could not assist further. WITNESS 15 was also contacted and she stated that she too could not remember anything of her detention at Store Street on the 2<sup>nd</sup> of June 2005. In her statement to the Garda Síochána WITNESS 15 recalls hearing roaring and shouting about 10 or 15 minutes prior to being released from the station. She does not provide any detail of what was shouted. The custody record of WITNESS 15 records her release at 15.10 pm. It is unlikely then that what she describes as 'shouting' is the incidents of 'taunting' as alleged by Simon DOHERTY. It is more likely that WITNESS 15's recollection of shouting relates to the Gardaí discovering Terence WHEELCOCK in his cell and the subsequent attempts to resuscitate him.

WITNESS 13 a Romanian national was arrested in 'Penney's' Shop on the 2<sup>nd</sup> of June 2005 and brought to Store Street station. She had her baby with her and was not placed in a cell but instead was put in a room off the custody area. In her statement to the Gardaí she stated that she heard no shouting. Garda Ombudsman investigators were not able to trace the witness.

WITNESS 07 declined to make a statement to the original Garda Síochána investigation. He was spoken to by Detective Sergeant CAMPBELL who recorded a Memo of Interview regarding his conversation with WITNESS 07. Detective Sergeant CAMPBELL noted that WITNESS 07 had not seen or heard anything unusual. WITNESS 07 was interviewed by investigators from the Garda Ombudsman and provided a statement. In the statement he recalls the 2<sup>nd</sup> of June 2005 saying, “While I was in the cell, I did not hear anyone talking outside the cell door nor did I see anyone outside the cell door. I did not hear or see anything out of the ordinary that would have attracted my attention.”

A further statement was taken from WITNESS 07 by Garda Ombudsman investigators. In this statement he describes being brought to the custody area of Store Street Garda Station. He states that there was a male prisoner there with one Garda member. He describes the male as being in his late 20's or early 30' but was unable to provide any further details. WITNESS 07 states that he cannot remember any conversation between the male and the Gardaí and also stated that he did not hear anything unusual whilst he was in custody.

WITNESS 10 was in custody at Store Street on the 2<sup>nd</sup> of June 2005. In his statement to An Garda Síochána he recorded that he did not hear ‘screaming or nothing’. He does state that he was brought to court and when he returned and was placed back in a cell, “I heard some shouting and I heard people running. I looked out the door and I saw a man being placed on a stretcher. This man was in the cell to my left. It was very difficult to see something because there was so many people around at this time. It was all quiet before I heard people running like I said.” Despite considerable efforts by investigators from the Garda Síochána Ombudsman Commission it has not proved possible to trace WITNESS 10.

WITNESS 12 was arrested at 13.20 pm on the 2<sup>nd</sup> of June 2005. She was brought to Store Street Station arriving at 14.10 pm. She did not provide a statement to the original

investigation and when interviewed by Garda Ombudsman investigators denied having been arrested.

WITNESS 09 did not provide a statement to the Garda Síochána investigation but was interviewed and provided a statement to the Garda Ombudsman. In his statement he states that following his arrest for shoplifting he was treated well by the Gardaí at Store Street Station. He does not remember anything of note but does mention a male in the cell area who was shouting for medication. He was not able to identify who this male was.

WITNESS 11 provided a statement to the Garda Ombudsman. He states that his memory of his arrest is not exact due to the passage of time but that he remembers seeing a young male in his 20's with dark hair and that he appeared to be crying. WITNESS 11 also states that he did not see anything unusual during his time in custody. He states that he did not hear anyone screaming but does remember some shouting but didn't understand it at the time as his English was poor.

WITNESS 17 provided a statement to the Garda Ombudsman. She describes a male being 'dragged' into a cell by Gardaí. She states that she knew Terence WHEELLOCK to see but does not state that the male she saw was Mr. WHEELLOCK. She does not describe anything else of relevance.

Of the remaining witnesses, WITNESS 20 and WITNESS 19 declined to make a statement to either the Gardaí or the Garda Ombudsman and WITNESS 08 was not able to assist the investigation.

## **WITNESS 21**

WITNESS 21 was detained for the purpose of a search under section 23 of the Misuse of Drugs Act 1977. The custody record completed for the detention of WITNESS 21 notes that he was arrested at 14.33 pm at Custom House Quay and arrived at Store Street Garda

Station at 14.40 pm. He was taken to a cell for the purpose of a search at 15.01 pm and released from custody at 15.10 pm.

Detective Sergeant CAMPBELL interviewed WITNESS 21 on the 24<sup>th</sup> of July 2005. During this interview WITNESS 21 declined to provide a statement to Detective Sergeant CAMPBELL and said that he did not want to get involved.

During this interview WITNESS 21 made allegations to Detective Sergeant Sean CAMPBELL regarding the treatment of Terence WHEELLOCK by the Gardaí. Detective Sergeant CAMPBELL made a record of the interview of WITNESS 21 in his Garda notebook which WITNESS 21 signed. Detective Sergeant Sean CAMPBELL subsequently made a statement outlining the interview of WITNESS 21. Detective Sergeant CAMPBELL recorded WITNESS 21's allegations as follows, "He was put in a cell beside where the fella was hung. He saw everything didn't want to get involved. I asked what he saw. He saw Garda going into the cell with a rope and hanging the poor fella. He says he saw it all. I asked what cell was he in he said the one beside the young fella. The Guards killed him he said. He didn't want to make a statement didn't want to be involved. All he wanted was to get out of the fucking cell."

Detective Superintendent HANLEY noted in his report that Garda accounts would indicate that WITNESS 21 was not brought to the cell area in Store Street Garda Station until after Terence WHEELLOCK had been removed by ambulance and at no stage was he in a cell beside Terence WHEELLOCK.

WITNESS 21 was arrested with four other prisoners, WITNESS 20, WITNESS 17, WITNESS 18 and WITNESS 19. None of the other prisoners made allegations of this type.

Detective Superintendent HANLEY concluded that the allegations made by WITNESS 21 were 'obviously false and fabricated'.

Investigators from the Garda Síochána Ombudsman Commission took a statement from WITNESS 21 on the 2<sup>nd</sup> of September 2008. In this statement WITNESS 21 made a different set of allegations. In this instance he alleged that on a date in June 2005, he was in Store Street station when he saw Terence WHEELLOCK being removed from a cell in what he describes as ‘some sort of body bag’. WITNESS 21 goes on to state that he was then put into the same cell by Gardaí and that the cell was “covered in blood.”

In this statement WITNESS 21 also stated that he had never been interviewed by Gardaí in relation to his time at Store Street on the 2<sup>nd</sup> of June 2005.

This version of events is not supported by any of the available evidence. The custody record for WITNESS 21 would indicate that he was not in the cell area at the time he states and none of the medical emergency personnel who attended Store Street have stated that there was blood in the cell or cell area. In addition there is no evidence to support the suggestion that a ‘body bag’ was used to carry Terence WHEELLOCK out of the cell.

A further statement was then taken from WITNESS 21 by investigators from the Garda Síochána Ombudsman Commission to clarify the allegations he had made. In this statement he said that he did not see Terence WHEELLOCK being removed from the cell. He also stated that he had not seen ‘a body bag’ but had seen Terence WHEELLOCK being carried down a corridor in ‘a white suit or something similar’. He stated he was put in a cell that had blood on the floor and that he assumed that this was the cell that Terence WHEELLOCK had been in. He also stated, “I didn’t see Terence WHEELLOCK being beaten whilst I was in Store Street and I cannot be sure that the cell I went into was the one he came out of.”

WITNESS 21 has provided three different accounts on three different occasions. None of the accounts he has given are supported in any way by the available evidence. The allegations he has made are entirely without foundation or credibility and can be discounted.

## **WITNESS 18**

WITNESS 18 was also detained on the 2<sup>nd</sup> of June 2005 for the purposes of a drugs search. He was arrested at 14.33 pm and arrived at Store Street Garda Station at 14.40. He was released from custody at 15.25 pm.

In a statement to Detective Sergeant CAMPBELL on the 13<sup>th</sup> of June 2005, WITNESS 18 said as follows, “I remember the 2/6/05 I was brought into Store Street Station for a drug search. There was about 7 of us arrested for searches. We were standing at the hatch a ban Garda ran up from the hallway where the cells are. She was shouting ‘Get a knife’. They all started running down to the cells. We were pushed in the opposite direction towards the entrance you go in when you are under arrest. I didn’t see anything else.”

On the 20<sup>th</sup> of November 2006 WITNESS 18 gave evidence at the Coroner’s inquest into the death of Terence WHEELLOCK. During his evidence to the inquest he stated as follows, “Well, it’s just that that day they arrested loads of people and unfortunately I got arrested there a good few times but they arrested loads of people and they were very quick to get them into the van and to get to the station and when we got to the station they left us hanging around, where you are usually brought in fairly quick, for about 10 or 15 minutes, before this Ban Garda came running up, it seemed to be very, in hindsight, it looked very staged.”

WITNESS 18 confirmed that at no time did he see Terence WHEELLOCK during his detention at Store Street on the 2<sup>nd</sup> of June 2005.

In a statement to the Garda Ombudsman, in May 2008, WITNESS 18 stated as follows, “I was coming out of the clinic in Pearse Street, the methadone clinic. I came across the bridge to Custom House Quay. I was speaking to a couple of people there. A policeman came flying up to where I was standing. They dragged everyone into the van, about ten

people. They rushed us all to Store Street for a drugs search. Everyone was brought in including about two women with buggies. There were about two or three guards in the van, they were in uniform. It was about midday.”

He then states, “We were left standing at the processing area unattended for about ten minutes. There was nobody watching us which flies in the face of a drug search. A ban Garda came running up the corridor from the cell area screaming get a knife. We were told move down the corridor by a Guard who came out of the main reception area. We were taken out of earshot. I do not know what happened afterwards if we were searched or not, it would have been very quick if we were. There was nobody detained.”

WITNESS 18 also stated, “The next day when I was back at the clinic in Pearse Street, I heard from conversation that a young fellow had been brought to the Mater Hospital from Store Street Garda Station that he had been put on a life support machine and that the police had seriously injured him and pretended that he hung himself.”

Evidence indicates that WITNESS 18 and the other prisoners detained for the purposes of a drugs search were arrested as part of an ongoing Garda operation.

GARDA 13 provided a statement to the Garda Ombudsman outlining as follows, “On the 2<sup>nd</sup> of June 2005 I was involved in either Operation Eden Quay or Operation Boardwalk. This was an operation to target drug abuse and drinking on the boardwalk. Basically, you went out on a plain clothes foot patrol and you rounded up people you believed to be involved in the sale or use of controlled substances. As far as I know it had been going on for the week.”

GARDA 13 describes the operation as follows, “The idea was to disrupt the activity of drug users in the area. It would have been a community policing operation.”

In relation to WITNESS 18’s allegations that the arrests were ‘staged’, GARDA 13 also stated, “Any suggestion that the searches were organised for the purposes of witnessing

this event are not correct.” GARDA 13 also states that the prisoners were kept under observation by him at all times and that at no stage did he or the prisoners enter the cell block while Terence WHEELLOCK was being treated.

SERGEANT 06 expands on the description of the Garda Operation explaining, “This was an operation that commenced around April 2005. I was personally supervising this operation alongside Superintendent BARRY. It was targeting open drug dealing and drunkenness in the areas of Liberty Hall, Busaras, Eden Quay and Boardwalk... Every day two or four Gardaí in plain clothes would be deployed generally under my supervision. They would identify known drug users or persons suspected of being involved in criminal activity. These targets would be brought to Store Street Garda Station and be searched under section 23 of the Misuse of Drugs Act and various checks including bench warrants would be completed.”

SERGEANT 06 also states, “It was not unusual for this operation to generate a high volume of prisoners daily. I would estimate that approximately 500 persons were arrested throughout this operation which ran for 2-3 months.”

Other documentary evidence provided by An Garda Síochána would indicate that the arrest of WITNESS 18 was part of an ongoing operation. Indeed, records exist which show multiple arrests on a daily basis. The allegation that WITNESS 18 and others were arrested so that they could witness a ‘staged’ event, is without foundation.

### **The Interview of WITNESS 16**

WITNESS 16 was arrested by GARDA 24 at Store Street Garda Station at 14.30 pm on the 2<sup>nd</sup> of June 2005 for an offence under section 12 of the Criminal Justice (Theft and Fraud Offences) Act 2001.

The custody record for WITNESS 16 was completed by GARDA 21. SERGEANT 04 authorised his detention at 14.34 p.m.



The custody record notes that at 14.40 pm WITNESS 16 was taken to an interview room by GARDA 24 and GARDA 23 to be interviewed. The interview is recorded as terminating at 15.01 pm.

Of this interview GARDA 24 recalled to Detective Garda Sean CAMPBELL, “While conducting the interview I heard a lot of noise coming from the corridor outside. I became aware that something was happening, however, I did not know exactly what it was. At 3.01 pm the interview was terminated and WITNESS 16 was brought to a cell.”

GARDA 23 stated to Detective Garda Sean CAMPBELL, “The interview commenced at 2.40 pm and terminated at 3.01 pm. During the interview I heard a commotion outside in the cell area but paid no attention to it.”

WITNESS 16 provided a statement to the Garda Ombudsman. He states, “I was on an interview at the time it was in the evening. I heard a number of coppers running by the window. One of the guards, a detective who was interviewing me went out of the room to see what was happening. When he came back in a few minutes later, I asked what was happening, he said that young WHEELLOCK hung himself.”

WITNESS 16 also confirmed that he knew Terence WHEELLOCK and did not see him during his time in custody.

The interview of WITNESS 16 by GARDA 23 and GARDA 24 was video taped.

Following a request from investigators from the Garda Síochána Ombudsman Commission, An Garda Síochána provided the original video tapes used to record the interview of WITNESS 16 on the 2<sup>nd</sup> of June 2005.

The original video tapes were then brought to Infra Tech Forensics, a company which provides expertise in forensic evidence. Infra Tech Forensics were able to provide an

enhancement of the audio track of the video tapes of the interview. The forensic enhancement attempted to separate the background noise from outside the interview room that can be heard on the video recording and increase the volume and clarity of the background noise.

Although Infra Tech was unable to completely isolate the noise from outside the interview room that was picked up on the interview recording they were able to enhance the audio track to a degree.

As Garda video interviews are carried out the equipment used to record the videos creates a time and date stamp on the videotapes. As such there is a digital clock readout on the videos.

Whilst a lot of the background audio is indecipherable, as the microphones in the interview room are designed to pick up the ongoing interview of WITNESS 16, some details can be heard.

The interview commences at 14.43 p.m. on the 2<sup>nd</sup> of June 2005, by the clock on the video recording. The Custody Record records that the prisoner had been taken to the interview room at 14.40 p.m.

At 14.43:20 a female voice can be heard shouting what sounds like, "Get a knife, get a knife."

At 14.43:22 a commotion can be heard outside the interview room. It is difficult to understand what it said but it sounds as though a male voice is shouting.

At 14.44:27 a male voice can be heard shouting, "He's down, he's down".

At 14.45.17 a male and female voice can be heard talking. The female can be heard to say, "I didn't think he was ..." and the phrase, "He seemed grand."

At 14.45.17 a female voice can be heard asking, “Can somebody get the door?”

A lot of the remaining audio is indecipherable. SERGEANT 04 and GARDA 21 were re-interviewed by Garda Ombudsman investigators and the tape was played for them.

SERGEANT 04, having listened to the recording stated to investigators from the Garda Síochána Ombudsman that she believed it was her voice shouting ‘Get a knife’. She stated as follows, “At 14:43:21 I think it is me shouting ‘get a knife’. I called for a knife or scissors so that I could cut the ligature from around Terence’s neck. I have referred to this in my previous statement. There was only GARDA 21 and myself in the cell area at this point. There was no alarm system outside of the cells at that time so I had no other way of looking for assistance.”

She continued, “14:44:27 ‘he’s down, he’s down’ to me sounds like GARDA 22. GARDA 22 and GARDA 21 had lifted Terence WHEELLOCK up and taken the ligature from his neck.”

SERGEANT 04 also stated that at 14:51:29 she thinks she can hear a male voice say ‘Spinal board and stretcher’ which may be one of the medial team. At 14:55:39 approximately SERGEANT 04 thinks she hears INSPECTOR 01 voice instructing “Will you get a tape across that” and later instructing “The whole area.” This may refer to the scene being sealed off.

GARDA 21 also listened to the tape. She was unable to assist in clarifying much of the recording.

### **Calls to Dublin Fire Brigade**

Statements from the Garda members present in Store Street Garda Station on the 2<sup>nd</sup> of June 2005 would indicate that two Garda members called for an ambulance on two separate occasions.

GARDA 28 recalls in his statement to Gardaí that he rang '999' from a phone in the Command and Control console after GARDA 25 requested him that he get urgent assistance.

GARDA 29 also rang '999' from the public office of Store Street and records in his statement to the Garda investigation that he confirmed that a cardiac ambulance was on the way to the station. He stated, "I then spoke with an individual from ambulance control who confirmed to me that an ambulance had already been called and that it was on the way."

The Dublin Fire Brigade provided the Garda Ombudsman with the times of both calls from Store Street Garda Station to the '999' emergency response number.

The first call Dublin Fire Brigade have recorded is at 14.44:22 on the 2<sup>nd</sup> of June 2005. This is the call from GARDA 28.

The second call Dublin Fire Brigade have recorded is five seconds later at 14.44:27. This is the call made by GARDA 29.

In a letter to the solicitors for the WHEELLOCK family dated the 23<sup>rd</sup> of September 2005, John O'NEILL Staff Officer of Dublin Fire Brigade stated that, "At 14.44 hours on 2/6/05 a call for services was received by telephone at Fire Brigade Control in respect of an incident at Store Street Garda Station." This letter does not refer to the fact that two calls were received from Store Street Garda Station within five seconds of each other.

This letter also sets out the response of the emergency vehicles. John O'NEILL states, "Fire Appliance D102 from Tara Street Fire Station with Sub Officer F. LAWLOR in

charge responded at 14.45 hours and arrived at the scene at 14.46 hours approximately three minutes before the ambulance.”

The ambulance is recorded as responding at 14.46.

It further records that appliance Delta 44 carrying Terence WHEELLOCK left Store Street Garda Station at 14.53.

The letter states that the patient was removed to the Mater Hospital and that the hospital was placed on standby at 14.54 hours by DFB Central Control and that the time of arrival at the hospital was 14.56 hours.

## **CONCLUSIONS**

The Garda members involved in the attempts to resuscitate Terence WHEELLOCK all deny that there was any delay in requesting an ambulance. There is clear evidence that two different Gardaí both requested the assistance of the emergency services from two different parts of the station. These two calls were made from Store Street within five seconds of each other at 14.44:22 and 14.44:27. The two separate calls made by two different Garda members from two different parts of the station would indicate a genuine attempt by Gardaí to request medical assistance.

On the audio track of the video interview of WITNESS 16 a commotion can be heard at 14.44.22 and a male voice saying, “He’s down, he’s down” at 14.44:27. This male voice is most likely GARDA 22 who removed the ligature from Terence WHEELLOCK’s neck and assisted in laying him on the ground.

The clock on the video recording of the interview of WITNESS 16 is clearly not calibrated with the clock used by Dublin Fire Brigade Central Control; therefore some discrepancy in the timing is understandable. However, these timings provide evidence

that GARDA 21 discovered Terence WHEELOCK at approximately 14.40-14.45 and that there was no delay in calling for an ambulance.

### **Aine FLYNN**

Garda Ombudsman investigators interviewed Aine FLYNN, a solicitor with Terence Lyons and Co., in relation to the events of the 2<sup>nd</sup> of June 2005 as she was contacted by Gardaí from Store Street at the request of Terence WHEELOCK.

Aine FLYNN provided the Garda Ombudsman investigation with a copy of her original contemporaneous notes made at the time of Terence's arrest. These state as follows, "There was a message on the pager at 13.03 hours "Attention Solicitor on Call Re Terence WHEELOCK at Store Street Garda Station. Offence 112. GARDA 02."

Aine FLYNN has clarified that, "When I recorded 'There was a message on the pager at 13.03 hours' I mean that this is the time I received the pager message. I recall I was having lunch in Smithfield when I got the message and returned the call to the Garda Station very shortly after as I was the 'on-call' solicitor at the time. The way the system usually works, is that the phonecall comes through to the office, a member of staff in the office takes the message and then calls the paging service ... which is based in Cork... They then take the message. It is transmitted on to the pager and the message comes up on the pager in script."

"I received the message on my pager at 13.03 on the 2<sup>nd</sup> of June 2005, however, the call could have come through the office earlier than that. It is possible there may have been a short delay in the office in contacting the paging company or it is possible that there could have been a delay in transmission."

"I rang the Garda Station at 13.07 hours. The Garda to whom I spoke said that she would phone me back with more information. A Fitzgibbon Street Garda (not GARDA 02) rang

me back at 13.20 hours. He confirmed that Terence had been arrested for an offence under section 112. He confirmed that Terence was not being detained for questioning and at this stage it looked as if he was going to be charged and released shortly. (I was aware myself that there were two outstanding Bench Warrants for Terence, one from 27<sup>th</sup> of May in court 44) I did not mention this.

I asked if I could speak to Terence and the Garda said that he was calling from the Public Office and said it would take some time to have Terence brought to the phone. We agreed that I would phone back at 2 o'clock when we knew what was happening to him.

I rang back at 2.07 hours and this time spoke to SERGEANT 04 who had just come on duty. She said that at that stage it looked as if Terence was going to be charged and released. She said that she would need to check this with the Gardaí as it was a Fitzgibbon Street matter. We agreed that I would take it that he was going to be charged and released soon and that SERGEANT 04 would phone me back if anything else happened.

SERGEANT 04 rang at 3.30 pm to say that Terence had been rushed from Store Street to the Mater Hospital as he had tried to hang himself in his cell. She said that CPR had been performed and they had got a heartbeat. His family had been notified. She said that it seemed that he had used the draw string from the top of his tracksuit to hang himself. Everything else with which he could harm himself had been taken from him before he was placed in the cell.”

## **CONCLUSION**

The available evidence would suggest that appropriate attempts were made to notify the solicitor nominated by Terence WHEELLOCK as per Regulation 9 of the Criminal Justice Act 1984 Treatment of Persons in Custody Regulations 1987.

### **Terence WHEELLOCK's Mobile Phone**

Simon DOHERTY has alleged that he heard Garda Members taunting Terence WHEELLOCK regarding the content of his mobile phone.

In his statement to his solicitor Simon DOHERTY alleged that as he and Terence were at the desk in Store Street providing their details to the Custody Sergeant, “They took his phone out of his pocket and were reading his messages and he tried to grab his phone. There was a bit of banter and Terence was giving as good as he got.”

Later in this statement he said, “When I went into the cell he [Terence WHEELLOCK] was opposite me. I could hear a guard with Terence’s phone outside his cell reading out Terence’s girlfriend’s messages which were private stuff. Terence was giving out to the guards.” He later states, “I went to sleep and they started up again about Fuzzy’s phone. He was singing 2 Pac in the cells.” Terence WHEELLOCK was referred to as ‘Fuzzy’ by his friends.

In this account Simon DOHERTY alleges that the Gardaí taunted Terence WHEELLOCK about the content of his mobile phone on three occasions. The first occasion is at the desk in the custody area when they were processed, the second is when Simon DOHERTY was initially placed in his cell and then a third occasion when Simon DOHERTY had slept for a period of time.

In his account to Detective Sergeant CAMPBELL Simon DOHERTY alleges that when he was initially placed in the cell, he was trying to go to sleep when he heard noises outside the cell. He stated, “I can hear a commotion outside on the landing or the strip way something about a mobile phone. I think the coppers were slagging Terence about his girlfriend. I couldn’t see them because I was lying on the concrete slab, I actually did go asleep.”

In the statement provided to the Garda Ombudsman, Simon DOHERTY alleges that he had been placed in his cell and had been in there for about five minutes when he heard



something about mobile phones and laughter. He states, “I believe the Gardaí were saying things to Terence about his girlfriend and his mobile phone. They were winding him up and wouldn’t turn off the phone. I heard Terence say to the Garda to knock off his mobile phone, but I didn’t pay attention to this noise. I didn’t think anything of it. I was semi-conscious during this time.”

The allegation that Terence WHEELLOCK was taunted about the content of his mobile phone was put to the Garda members involved in the detention of Terence WHEELLOCK and Simon DOHERTY by investigators from the Garda Síochána Ombudsman Commission. All of the members have denied that Terence WHEELLOCK was taunted in any way or that his mobile phone was accessed.

GARDA 12 stated as follows, “In relation to the allegation made by Simon DOHERTY about Gardaí taunting Terence WHEELLOCK about his mobile phone text messages. I know nothing about this. I would state that you can hear very little through a cell door when it is shut which is why you have to open them to talk to the prisoners. I did not see or hear anyone taunting Mr. WHEELLOCK during his time in custody.”

GARDA 12 outlined how a prisoner’s property is dealt with. She stated, “Each cell has a property box. As soon as someone comes to the counter you ask them to empty their pockets and then generally the Garda that’s with them does a general search patting them down to see what’s in their pockets. The property would be left on the desk until the Garda would come back and tell me what cell they put them into. In this case GARDA 01 would have come up and said he’s in cell number 7. I would have put whatever property I had into locker number 7 and that locker is underneath the desk I was writing the custody record on.”

GARDA 12 also explained a note on the custody record relating to Terence WHEELLOCK which reads, “Cell 7 Prop 7” was written by her. Another note that reads “mobile phone” was not written by GARDA 12. She states, “I would not normally have itemised the property placed in a locker as this property would have been returned to the

prisoner on release.” She later states, “I did not handle Mr. WHEELLOCK’s mobile phone or have any dealings with his mobile phone. It would be normal practice if a mobile phone is part of a prisoner’s property it would be turned off because they will ring.”

GARDA 01 has recorded that when he searched Terence WHEELLOCK at Store Street Station he removed his mobile phone and then left it in the prisoner’s property. He states that Terence WHEELLOCK’s phone would have been removed from him and given to the gaoler to be placed in the pigeon hole allocated to each cell. He goes on to state, “In relation to the allegation that Terence WHEELLOCK was taunted about his mobile phone and its content, this did not happen. We did not need his phone as evidence and we did not access his phone or go through the phone messages. The taunting did not happen. I was not even aware that he had a girlfriend. I did not say anything to him and I didn’t see or hear anyone else do so. We were happy enough with our evidence and there was no need to antagonise him or anything like that.”

GARDA 14 assisted GARDA 01 with the search of Terence WHEELLOCK. He does not recall whether GARDA 01 removed Terence WHEELLOCK’s mobile phone during the search but does state, “While I was in the cell area, I did not taunt Terence WHEELLOCK nor did I hear any other member taunting Terence while he was in the cell.”

INSPECTOR 01 states that once Terence WHEELLOCK was removed to hospital he retrieved the mobile phone from the prisoner’s property locker and handed it to Detective Sergeant Sean CAMPBELL.

None of the other prisoners in custody at Store Street Station at the same time as Terence WHEELLOCK on the 2<sup>nd</sup> of June 2005 have mentioned hearing Terence WHEELLOCK being taunted by Gardaí.

Terence WHEELLOCK’s mobile phone was provided to the Garda Síochána Ombudsman Commission by the solicitor for the WHEELLOCK family.

The phone was analysed by Heather GRILLS Forensic Scientist and Senior Scientific Officer with Forensic Science Northern Ireland.

The purpose of the analysis was to see if the phone contained any text messages that would support the allegations made by Simon DOHERTY that members of An Garda Síochána taunted Terence WHEELLOCK about the content of his mobile phone. The analysis could also provide information as to Terence WHEELLOCK's behaviour prior to the arrest on the 2<sup>nd</sup> of June 2005.

The analysis showed that the messages stored on the phone were not readily identifiable as having come from a girlfriend of Terence WHEELLOCK. Terence WHEELLOCK had stored the mobile phone numbers in his contact list repeatedly and under different names. For example the contact listed as 'Bimbo' was stored in one location on the SIM card memory of the mobile phone and in nine locations of the handset memory.

The messages stored on the phone were not listed against the name of the person who had sent them but were instead listed against the mobile number from which they had been sent. Therefore it is not obvious to anyone reading the messages whether they came from a girlfriend or merely an acquaintance.

At the time the phone was analysed only three messages were stored in the Inbox. The three messages are all dated as having been received to the phone after the 2<sup>nd</sup> of June 2005.

Heather GRILLS commented in her report, "The date and time of text messages associated with the Inbox or received text messages are set by the network. The dates and times associated with the Outbox, Sent or any other form of stored SMS (*Short Message Service*) are set by the date and time settings on the handset and therefore are only as accurate as the handset settings at that time." Italicised section added.

It can be concluded then that these three messages were not stored on Terence WHEELLOCK's phone at the time of his arrest and detention at Store Street Garda Station. In any event all three of these messages are innocuous in nature and they would not in themselves support the allegations made by Simon DOHERTY.

Fifteen deleted text messages were recovered from the SIM card of the phone. The majority of these fifteen messages are innocuous in nature. Two of the messages could be described as personal messages.

One message is listed as being received by Terence WHEELLOCK at 06.53 am on the morning of the 2<sup>nd</sup> of June 2005. The message was sent from a phone on the Meteor network and reads, "The person at *mobile phone number listed* has no credit and would like you to ring them. Mesg left at 2005-06-02 06:53." Italicised portion has been added in place of the actual mobile phone number.

As this text message was received by Terence WHEELLOCK on the morning he was arrested, attempts were made to trace the person who caused the message to be sent. The mobile phone number was identified as being listed to female who is believed to have been a friend of Terence WHEELLOCK. Orla WHEELLOCK, sister of the deceased, stated that she believed that they may have been involved in a sexual relationship.

Due to the timing of the message considerable efforts were made to trace this person. Unfortunately all attempts to trace them have proved unsuccessful.

## **CONCLUSION**

The only evidence relating to the alleged taunting of Terence WHEELLOCK is that provided by Simon DOHERTY. Simon DOHERTY's accounts of the taunting have been inconsistent.

No other prisoner has recalled any inappropriate taunting of Terence WHEELLOCK. All the Garda members have denied that any taunting took place.

The text messages stored on Terence WHEELLOCK's phone do not serve to corroborate the allegation made by Simon DOHERTY.

The allegations made by Simon DOHERTY are not supported by credible evidence.

### **Signing Off of the Custody Record**

Once Terence WHEELLOCK had been removed to the Mater Hospital, and the scene preserved, INSPECTOR 01 went with SERGEANT 04 and GARDA 21 and examined the custody record. INSPECTOR 01 stated that he took possession of the custody record at this point.

INSPECTOR 01 states that he signed the custody record on the left hand side column. He also entered the date.

INSPECTOR 01 stated to Detective Sergeant Sean CAMPBELL, "The last entry in this column was 2.10 p.m. and was signed by GARDA 21. In my presence GARDA 21 wrote the details of the occurrence stating the time as 2.35 p.m. Myself and SERGEANT 04 observed the entry by GARDA 21. I immediately took possession of the custody record of Mr. Terence WHEELLOCK. No person interfered with the custody record while it was in my possession. I handed the custody record of Terence WHEELLOCK to D/Superintendent Oliver HANLEY at approximately 5.30 p.m. on that date at Store Street Garda Station."

This account differs slightly from that of GARDA 21 who contends that she had entered the time of 2.35 p.m. at some time prior to this meeting and completed the entry in the presence of INSPECTOR 01.

INSPECTOR 01's signature is in the date column to the left of the time entered as 2.35 p.m.

In a statement to the Garda Ombudsman investigation, INSPECTOR 01 stated, “GARDA 21 then completed the custody record at my request. The content of these entries are from her recollection. The reason I initialled the custody record where I did, was to indicate that from that point on I had control of the custody record.”

SERGEANT 04 has confirmed that INSPECTOR 01 took control of the custody record.

### **The Wrong Hospital**

INSPECTOR 01 stated in his original statement to the Garda investigation, “I was informed that Mr. WHEELLOCK was being taken to St. James Hospital.” He later states, “At 3.19 p.m. I detailed GARDA 30 to call to the home of the family of Terence WHEELLOCK at Sean O’Casey Avenue and inform them that their son had been taken to St. James’ Hospital. I instructed him to arrange transport for the family to travel to the hospital should they need it.”

However, Terence WHEELLOCK had, in fact, been taken to the Mater Hospital.

INSPECTOR 01, in his interview with the Garda Ombudsman stated, “I can’t remember which Garda member provided me with the information but I was told he had been taken to St. James’ Hospital. I then spoke with the Command and Control Operator and asked him to task a member to arrange for transportation for Terence WHEELLOCK’s family to St. James’ Hospital. My intention was to inform the family of Terence WHEELLOCK’s condition and the hospital to which he had been taken to as quickly as possible and provide them with official Garda transport in which to be conveyed to the hospital.”

The Command and Control entry in relation to the incident reflects this sequence of events. At 15.21 pm an entry has been logged as follows, “Inform family that Terrance has been taken by ambulance to St James Hospital, if transport needed Gardaí will supply.”

At 15.58 an entry has been made correcting the location of the hospital. The entry reads, “Ambulance went to Mater Hospital, Family being brought to the Mater at the moment.”

The misinformation surrounding the whereabouts of Terence WHEELLOCK which ultimately led to INSPECTOR 01 arranging for Mrs. WHEELLOCK and her daughter to be taken to the wrong hospital caused great concern and upset for the WHEELLOCK family, who have stated that, as a result of this mistake, Mrs. WHEELLOCK lost precious time with her son.

INSPECTOR 01 goes on to say, “There was no intent on my part to mislead the family. This was a genuine mistake. Once it was discovered that Terence WHEELLOCK had been taken to the Mater Hospital the same Garda van conveyed them to the Mater Hospital.”

### **Family Liaison**

INSPECTOR 01 appointed two Sergeants to act as Family Liaison Officers with the family of Terence WHEELLOCK. These were SERGEANT 05 and SERGEANT 07.

SERGEANT 05 has recorded attending with the family on two separate occasions. She provided a statement to the Garda Ombudsman on the 20<sup>th</sup> of December 2008 which states, “On the 3<sup>rd</sup> of June 2005 INSPECTOR 01 spoke to myself and SERGEANT 07 and asked us to liaise with the WHEELLOCK family and assist them in any way we could. On two different days SERGEANT 07 and myself called to 25 Sean O’Casey Avenue and spoke to different members of the WHEELLOCK family. The family were extremely upset and didn’t want any help or assistance from the Gardaí and on both occasions we were not admitted any further than the front door and were asked to leave.”

SERGEANT 07 provided a statement to the Garda Síochána Ombudsman Commission investigation on the 24<sup>th</sup> of April 2009 which records a visit to the WHEELLOCK family she made in the company of SERGEANT 05 on the 7<sup>th</sup> of June 2005. She states, “We

arrived there at 12.30 p.m. We were met at the door by a number of the members of the WHEELLOCK family. The situation was very volatile with family members shouting abuse at both SERGEANT 05 and I. Terence WHEELLOCK's mother was also there. I tried to speak with her but I was not allowed to do so. Elaine WHEELLOCK, aged 21 years at this time; a sister of Terence WHEELLOCK, took it upon herself to speak on behalf of the family. SERGEANT 05 and I explained who we were and explained the purpose of our visit to Elaine WHEELLOCK. We asked them if there was anything we could do to assist the family in their difficult time. Elaine WHEELLOCK said that they wanted to see the cell in which Terence was hanging from. SERGEANT 05 and I told Elaine WHEELLOCK that we would return to Store Street Garda Station and arrange this for them. We told her that we would be back to them when we had this organised. SERGEANT 05 and I returned to Store Street Garda Station and where we spoke with INSPECTOR 01 and INSPECTOR 03. We outlined the WHEELLOCK's request and SERGEANT 05 and I were told to make arrangements to have whatever family members who wished to visit the cell area at Store Street Garda Station and in particular the cell in which Terence WHEELLOCK was hanging. On the 7<sup>th</sup> of June 2005 at 5 p.m. SERGEANT 05 and I returned to 35 Sean O'Casey Avenue, the home of Terence WHEELLOCK. The situation was still very volatile with lots of shouting. SERGEANT 05 and I spoke with Elaine WHEELLOCK, Orla WHEELLOCK and Simon DOHERTY. We informed them that we were there to bring them to Store Street Garda Station to inspect the cell in which Terence WHEELLOCK was found hanging. Elaine WHEELLOCK indicated that she did not wish to go to Store Street or to see the cell. Both Simon DOHERTY and Orla WHEELLOCK said that they wished to see the cell. Simon DOHERTY, Orla WHEELLOCK, SERGEANT 05 and I left Sean O'Casey Avenue and walked together to Store Street Garda Station... We arrived at Store Street Garda Station, and on the steps of the station, Orla WHEELLOCK said that she did not want to go in. At this point Simon DOHERTY also said that he did not wish to see the cell. SERGEANT 05 and I informed them that this was their right and to contact us if they changed their minds."



On the 9<sup>th</sup> of June 2005 the Superintendent at Store Street received a letter from Ferry's Solicitors on behalf of the family requesting that any contact with the family should be through them.

### **3. The Medical Evidence**

#### **Available Medical Evidence**

The notes of Terence WHEELLOCK's GP, Dr. Eithne FLOOD have not been accessed as Dr. FLOOD has since retired and attempts to access any records that she may have retained have not been successful. Dr. WALLY who took over the practice has not been able to find any records relating to Terence WHEELLOCK.

On the 2<sup>nd</sup> of June 2005 Terence WHEELLOCK was brought to the Accident and Emergency (A&E) Department of the Mater Hospital by Medical Emergency Personnel. The first note recorded by medical staff at the hospital is timed at 14.57 pm on the 2<sup>nd</sup> of June 2005. Later on the 2<sup>nd</sup> of June Terence WHEELLOCK was moved from A&E to the Intensive Care Unit (ICU). On the 24<sup>th</sup> of June 2005 a Tracheostomy, a surgical procedure to open a direct airway through an incision in the trachea, was carried out on Terence WHEELLOCK.

On the 27<sup>th</sup> of June 2005 Terence WHEELLOCK was moved to the High Dependency Unit (HDU). On the 30<sup>th</sup> of June 2005 Terence WHEELLOCK was transferred to Ward SCU. On the 18<sup>th</sup> of July he was transferred to St Raphael's Ward and, almost a month later, was transferred again to St. Teresa's ward on the 16<sup>th</sup> of August 2005.

He never regained consciousness and at 13.15 p.m. on the 16<sup>th</sup> of September 2005 life was pronounced extinct.

Hospital records relating to Terence WHEELLOCK's entire stay in hospital have been provided to the Garda Ombudsman. The Mater Hospital has provided copies of all the records held by them. The medical personnel directly involved in the care of Terence

WHEELLOCK have been interviewed by Garda Ombudsman staff and statements taken from them.

### **Photographs Taken by the Senior Clinical Photographer for the Mater Hospital**

On the evening of the 3rd of June 2005, at the request of a Doctor, the Senior Clinical Photographer of the Mater Hospital, took a number of photographs of injuries found on Terence WHEELLOCK. She states in a report dated the 15<sup>th</sup> of December 2006 that she “took a number of views of the any (sic) bruising which was obvious to myself and the ITU sister who assisted me.”

Copies of these photographs were provided to the investigation.

The Senior Clinical Photographer for the Mater Hospital, provided a statement to the Garda Ombudsman investigation on the 28<sup>th</sup> of April 2009. She described the circumstances in which she photographed Terence WHEELLOCK at the Mater Hospital.

She stated, “At the time I was working as a senior clinical photographer in the clinical photography department at the Mater Hospital, Dublin. This department provides a diagnostic and monitoring service for patients that have various diseases. We also provide a service for patients with non accidental injuries, this service includes taking photographs of any bruising, swelling etc for investigations which comes under the remit of the National Trust and Care Policy.”

She states, “On Friday the 3<sup>rd</sup> of June 2005 I left work at around 5.30 pm. I received a call at approximately 6 pm from the Mater Hospital Switch board; they put through a female non consultant hospital doctor from the ICU department. She told me that there was a patient admitted to ICU who had attempted to hang himself and that there was some bruising on his body, and that the ICU consultant had requested photographs to be

taken. I asked if this could wait until Monday but they preferred it to be done now if possible. I agreed to come back into work and go to the ICU unit, as requested.”

The Senior Clinical Photographer continues, “I arrived at ICU within 10-15 minutes where I met the sister in charge at the time. My role at this time would be to consult with the sister and identify any bruising on the patient. I didn’t touch the patient but I requested the nurses to remove clothing, to move the patient etc., Normally I would communicate with the patient to locate the bruising however Mr. WHEELLOCK was unconscious and intubated. As there was no carer or next of kin with the patient, I asked the sister in charge where the bruising was located. Both of us with the assistance of 2 or 3 nurses, then viewed the patient for any obvious bruising, it took 2 or 3 nurses as we had to roll Mr WHEELLOCK to view his back. We followed normal procedures which required viewing the patient from head to toe with no gown present for obvious bruising, this included the buttock and genital areas as per normal protocols in these circumstances. Any identified bruising was photographed, and any other area was not. Any area that was not photographed was not deemed to have obvious bruising in my judgement.”

The Senior Clinical Photographer also stated, “Mr. WHEELLOCK displayed no open wounds. Mr. WHEELLOCK was dressed in a hospital gown and there was no clothing visible underneath him.”

The Senior Clinical Photographer has provided evidence that she photographed all the visible external injuries visible on Terence WHEELLOCK on the 3<sup>rd</sup> of June 2005. She did not note or photograph any wound or bleeding injury.

### **Post Mortem Examinations**

Professor Marie CASSIDY performed a post mortem examination on the body of Terence WHEELLOCK on the 19<sup>th</sup> of September 2005 and prepared an initial report dated the 16<sup>th</sup> of December 2005 and a supplemental report of the 9<sup>th</sup> of May 2007. Dr.

CASSIDY also gave evidence as to her findings at the Coroner's Inquest on the 22<sup>nd</sup> of November 2006 and again on the 12<sup>th</sup> of July 2007.

Dr. Carl GREY, a Consulting Forensic Pathologist, acting on the instructions of Ferry's Solicitors for the WHEEOCK family, performed a second post mortem on Terence WHEELLOCK and prepared a report dated the 1<sup>st</sup> of October 2005. He has provided subsequent medical opinion in correspondence with the solicitor for the WHEELLOCK family.

Reports are also available from Dr. Brendan KEOGH Consultant Physician with the Mater Hospital and Mr. Patrick PLUNKETT Consultant in Emergency Medicine.

Forensic reports of Dr. Michael NORTON, Dr. Maureen SMYTH and Forensic Scientist Lee FAGAN are also referred to.

### **Medical Condition**

Using the available evidence this section will set out Terence WHEELLOCK's medical condition both prior to arrest and at the time of his arrest and detention on the 2<sup>nd</sup> of June 2005. It will also outline the medical treatment he received at Store Street Station and his medical condition following admission to the Mater hospital.

### **Medical Condition Prior to the Arrest**

The medical evidence available would suggest that Terence WHEELLOCK had a history of drug use. Family members disclosed a history of use of Cannabis, Cocaine, and the sleeping tablet Zopiclone. There is also a reference to Mr. WHEELLOCK taking E tabs in the past. Simon DOHERTY has reported that in the days preceding their arrest on the 2<sup>nd</sup> of June 2005 that he and Terence WHEELLOCK had taken 'Zimos' together. This most probably refers to the sleeping tablet Zimovane.

In the 2 weeks prior to his arrest Terence WHEELLOCK had attended hospital twice in relation to pain in his right arm. On the 16<sup>th</sup> of May 2005 this was treated with a anti-inflammatory painkiller and the use of a sling and on the 27<sup>th</sup> of May 2005 he was advised to keep the arm elevated.

In the early hours of the 2<sup>nd</sup> of June 2005 GARDA 04 and GARDA 03 state that they met Terence WHEELLOCK in the area of Summerhill. GARDA 03 described Terence as follows, “He appeared intoxicated but I got no smell of intoxicating liquor from his breath. He was not intoxicated enough in my opinion to be a danger to himself or to others in his vicinity.’ GARDA 04 does not describe Mr. WHEELLOCK’s demeanour.

There is no other medical evidence to suggest that Mr. WHEELLOCK was in anything other than good health prior to the 2<sup>nd</sup> of June 2005.

**Medical Condition at time of arrest:**

Evidence from Simon DOHERTY, Gary GIFFORD and Noel HUDSON describe Terence as being in good spirits, laughing and singing on the morning of his arrest. The evidence of all present indicates that he was in a fit enough state to run through number 41, Sean O’Casey Avenue when the Gardaí arrived.

None of the arresting Gardaí noted any injury to Terence WHEELLOCK at the time of the arrest.

Simon DOHERTY, Noel HUDSON and GARY GIFFORD all state that Terence had a pre-existing injury to his arm and that he was struck off a Garda vehicle during the arrest. Despite the fact that they have each provided differing accounts of the incident, all three accounts would indicate that Terence WHEELLOCK suffered injury to either his head or his right shoulder. However, the only injury recorded is the injury noted by GARDA 12 on the custody record which states, “birth mark on left arm + bruises.”

The accounts of Simon DOHERTY, Noel HUDSON and Gary GIFFORD indicated that they were drinking cider before the arrival of the Gardaí. Toxicology screening carried out after Terence WHEELLOCK was admitted to the Mater Hospital was positive for cannabis and benzodiazepines. Simon DOHERTY described taking ‘Zimmos’ with Terence WHEELLOCK the night before the arrest stating, “The name of the tablets I took were Zimovaine (zimmos), me Terence and me two friends had taken the Zimmos we took them the night before.”

This is likely to refer to Zimovane which is a prescription sleeping drug. The listed side effects of this drug include Drowsiness and light-headedness the next day.

### **Medical Treatment at Store Street Garda Station**

At Store Street Garda Station there is evidence that several Garda members attempted to revive Terence WHEELLOCK prior to the arrival of the medical emergency crew. Garda accounts refer to Terence WHEELLOCK being taken down from the ligature and placed in the recovery position, two different Gardaí describe giving Mouth to Mouth, and Cardio Pulmonary Resuscitation was also attempted. The members describe slapping Terence WHEELLOCK in the face and splashing water on him in an attempt to get a response from him.

This sequence of events began when GARDA 21 checked cell 7 and found Terence WHEELLOCK hanging from a ligature. She describes him as follows, ‘He was half lying and half sitting with his back against the wall. ...His head was slanted back his eyes were closed and his face was yellow. I could see a black chord around his neck and this was attached to the cell buzzer.’

GARDA 21 ran and got SERGEANT 04 for assistance.

Both SERGEANT 04 and GARDA 21 lifted Mr. WHEELLOCK to relieve the pressure on his neck from the ligature. GARDA 22 arrived and began to assist. SERGEANT 04 left to get a knife or scissors. GARDA 22 managed to remove the ligature and with the help of GARDA 21, Terence WHEELLOCK was then laid on the floor in the doorway of the cell.

GARDA 22 slapped Terence WHEELLOCK on the face to get a response but was unsuccessful. SERGEANT 04 returned and splashed some water on Terence WHEELLOCK to get a response.

SERGEANT 04 checked for a response, but was unsure of whether there was one. She put Terence WHEELLOCK's head back and gave Mouth to Mouth resuscitation. She couldn't find a pulse so did Mouth to Mouth again. A vent aid arrived and SERGEANT 04 gave Mouth to Mouth again using the vent aid.

GARDA 26 found a slight pulse and placed Mr. WHEELLOCK into the recovery position.

INSPECTOR 01 tried to find a pulse but couldn't. He describes as follows, "I asked had Mr. WHEELLOCK got a pulse and GARDA 09 responded that he believed he had a faint pulse. I suggested that if he had a pulse he should be put into the recovery position. We moved him to the recovery position on his left side but he did not respond. I checked for a pulse but couldn't feel any when checking for a carotid pulse. We immediately placed him on his back and pulled him out of the open cell doorway of cell no 7 and further into the cell walkway...I again checked for pulse and for signs of breathing but neither were present. I immediately commenced artificial respiration using a vent aid"

Following this, INSPECTOR 01 continued to give mouth to mouth resuscitation whilst GARDA 27 did chest compressions until the ambulance crew arrived and took over.

Upon the arrival of the medical emergency personnel they attached a defibrillator but did not shock. They also continued with Cardio Pulmonary Resuscitation (CPR).



The statements of the medical personnel indicate that they observed the ligature wound but did not see any other injury. They all state that Terence WHEELLOCK was not bleeding and there were no other obvious signs of injury.

### **Treatment of Terence WHEELLOCK at the Accident and Emergency Department of the Mater Hospital**

Following emergency medical care at Store Street Garda Station by the ambulance personnel in attendance, Terence WHEELLOCK was transported to the Mater Hospital where he was admitted to Accident and Emergency Department and then to the Intensive Care Unit

DOCTOR 01, Consultant Anaesthetist, was one of the doctors on call at the Mater Hospital who treated Terence WHEELLOCK.

She has been interviewed by investigators from the Garda Ombudsman and provided a report to the investigation. In this report she outlines the methods used in attempting to resuscitate Terence WHEELLOCK including the insertion of a femoral line.

She stated, “The resuscitation of Mr. WHEELLOCK was multi disciplinary and unfortunately ... it is unclear who placed the central line on this occasion. He had been successfully resuscitated and intubated prior to my knowledge of his presence in our A and E Department. I can’t say who placed the central line but I can give you an account of my usual practice in a situation such as this.”

“This is my account of my usual practice when inserting a femoral central line in an adult. Insertion of a central venous line is done in a sterile fashion. The patient is positioned and the area is exposed and disinfected. Position for a femoral line is lying on ones back. Exposure involves removing all clothing from the area. This can be done by cutting or removing clothing depending on the circumstances. The aim would be to

minimise movement of the patient particularly if they may be at risk of spinal injury. This can be done by any of the resuscitation team members, medical or nursing. It would not be unusual, depending on the urgency and spinal precautions, to leave a patient lying on his clothes as the line is being inserted.”

She continues, “A sterile trolley is flushed with heparinised saline or plain saline. The vein is located and punctured using a needle and syringe. The needle is fixed using one hand and the syringe is removed. A guide wire passed up the needle. This is known as the “Seldinger Tehnique...”

She states, “The needle is removed and the hole in the vein is dilated using a dilator threaded over the guidewire. The guidewire is held at all times (to prevent it embolising-travelling into the patient). A small cut in the skin is made to facilitate passing the dilator to minimise bending the guidewire. The line is now inserted over the wire into the femoral vein. The wire is removed. There are usually 3 ports or lumen. Each lumen is checked for blood return and subsequently flushed with saline. The tops are placed on each of the 3 lumen. The line is fixed in position by sutures. A sterile dressing is placed over the insertion site and the line.”

DOCTOR 02 also provided an account as part of the investigation. In it he states, “I was one of the Intensive Care Registrars on duty and involved in the care of Terence WHEELLOCK on the day of his admission to the Mater Hospital ... I was involved in his initial resuscitation as he was received into the Emergency Department. It is unclear who placed his central line on this occasion, and I cannot say who placed same and do not remember who performed same. However, placement of a femoral central line is performed in a sterile fashion by a Seldinger technique using a sterile guidewire and a central line with a three lumen port usually. It is possible for bleeding to occur during the insertion of central lines.”

**Professor Marie CASSIDY**

Professor Marie CASSIDY carried out a post mortem on the body of Terence WHEELLOCK on the 19<sup>th</sup> of September 2005.

She recorded the cause of death as follows:

- 1 a. Bronchopneumonia
- b. Hypoxic brain damage
- c. Neck compression (c/w ligature strangulation/hanging)

Professor CASSIDY gave evidence at the inquest of Terence WHEELLOCK on the 22<sup>nd</sup> of November 2006. In her initial evidence she stated, “There was no evidence of any significant marks or injuries, but then I was examining him 2 and a half months or so after him being brought into hospital. So most of the marks, fresh or recent marks would relate to his stay in hospital.”

At the inquest hearing, Mr. GILLANE representing the WHEELLOCK family produced photographs taken by the Senior Clinical Photographer for the Mater Hospital on the 3<sup>rd</sup> of June 2005. These photographs were taken by Florence GREHAN at the request of the family whilst Terence WHEELLOCK was being treated in the Mater.

This was the first occasion that Professor CASSIDY had seen these photographs as they had not been previously released by the family.

Professor CASSIDY’s evidence was deferred to allow her to consider the photographs and further medical records that were available.

Professor CASSIDY then produced a supplementary report dated the 9<sup>th</sup> of May 2007 which lists the injuries photographed on the 3<sup>rd</sup> of June 2005.

Professor CASSIDY subsequently completed her evidence to the Coroner's Inquest on the 12<sup>th</sup> of July 2007. During that evidence Professor CASSIDY was also asked to comment on higher quality copies of the photographs taken by the Senior Clinical Photographer for the Mater Hospital on the 3<sup>rd</sup> of June 2005 in the Mater Hospital. These higher quality re-prints were provided to the Coroner by Inspector Sean CAMPBELL. Professor CASSIDY stated in her evidence that she was able to make out the injuries clearer in the re-printed photographs.

**Dr. Carl GRAY**

Dr. Carl GRAY at the request of the WHEELLOCK family performed a second post mortem on the body of Terence WHEELLOCK on the 20<sup>th</sup> of September 2005. Dr. GRAY listed the cause of death as

1a: Hypoxic-ischaemic brain damage

1b. Hanging by ligature.

In preparing his report, Dr. GRAY had access to the photographs taken by the Senior Clinical Photographer for the Mater Hospital and commented on them in his report. Dr. GRAY provided a follow up report on the 23<sup>rd</sup> of January 2007 responding to questions from the solicitor for the family.

In relation to providing medical and forensic opinion based on the photographs both Dr. GRAY and Professor CASSIDY outlined caveats to their evidence. Dr. CASSIDY summarised the position in her report noting three points:

1. Photographs may not be an accurate representation of the injuries as viewed by the naked eye.
2. The light filters used in flash photography may affect the appearance of the injury.
3. Only those injuries photographed can be commented on. There were no photographs taken of the upper arms, wrists or anterior trunk. There were no photographs of the head, other than the lower part of the face including the ears and the mouth.

Dr. GRAY noted in his report that no scale was employed in the photographs.

The Mater Hospital records provided to the Garda Síochána Ombudsman Commission investigation include the ICU (Intensive Care Unit) chart for the 2<sup>nd</sup> of June 2005 and the ICU notes from the 3<sup>rd</sup> of June 2005. The ICU chart for the 2<sup>nd</sup> of June includes a body diagram which indicates a graze to the back and bruising on the knees and shins. ICU notes dated the 3<sup>rd</sup> of June 2005 show the graze to the back and bruising on the left arm and over both knees and shins.

**Dr. Brendan KEOGH**

Dr. Brendan KEOGH, Consultant Respiratory Physician, of the Mater Hospital prepared two reports on the admission and subsequent treatment of Terence WHEELLOCK at the hospital. In the first report dated the 22<sup>nd</sup> of June 2005 he lists the injuries noted when Terence WHEELLOCK was admitted on the 2<sup>nd</sup> of June and subsequently photographed on the evening of the 3<sup>rd</sup> of June 2005.

Dr. KEOGH states, “A number of skin marks were noted and in fact were photographed at the time. The most striking one which I observed myself was the ligature mark around his neck. It extended at the level of the Adam’s apple and ran on the right hand side, more or less in a direct line at that level around his neck and on the left hand side it ran up towards his ear, below the angle of his jaw. There was no other bruising on his neck, the ligature mark was very clear and defined with no other injury to his neck at the skin level. He was noted to have some bruising below his knees. The Doctors involved at the time did not note any break of the skin. I personally did not see those injuries, although I have seen photographs, they show some bruising below both knees which seems slightly yellowish and suggests that it is a little old, however, I would certainly have to defer to a forensic opinion as to the exact date of timing of those. There are also some abrasions on his knees, which again would strike me as being a little older than hours at least because there is some scab formation on them. I would stress that this is not very heavy bruising but nonetheless it does exist.”

Dr. KEOGH continued, “He also has some abrasions on his hands, on the knuckles and these are more like minor lacerations, again they are not very striking but nonetheless are very definitely present. He also had a laceration on his lower back which is about two inches long and seemed fairly fresh. The areas of skin where difficulties arose, were both hands, areas of his leg, just below his knees, his elbows and his neck. All of these were photographed.”

In a report dated the 30<sup>th</sup> of November 2006, Dr. KEOGH states in relation to the injuries, “He was noted to have some bruising below his knees, though there was no break of the skin. I have seen photographs, they show some bruising below both knees which seem slightly yellow and suggest that it is a little old, however, I would certainly have to defer to a forensic opinion as to exact date and timing of those. These were not heavily bruised by any means but they did exist as small bruises. He also had some abrasions on his hands and on his knuckles. They looked more like minor lacerations, they weren’t very striking but again they were definitely present. He also had a laceration on his lower back which was about two inches long and seemed fairly fresh to me. All of these areas were photographed.”

Using these sources and the records provided by the Mater Hospital, it is possible to list the injuries that, available evidence would indicate, were present on Terence WHEELLOCK when he was admitted to the Mater Hospital. It is also possible to outline the opinions of both Professor CASSIDY and Dr. GRAY as to the extent and causation of the injuries.

The injuries are listed as follows:

- 1) The Ligature Wound
- 2) Abrasion on Right Lower Back
- 3) Faint Bruising to Back
- 4) Bruising and abrasions to Right and Left Hands
- 5) Bruising and abrasions to Right and Left Elbows
- 6) Bruising to Right and Left Legs

## **The Head and Neck Area**

### **The Ligature Wound**

Both Dr. CASSIDY and Dr. GRAY comment on the ligature wound visible in the photographs taken by the Senior Clinical Photographer for the Mater Hospital on the night of the 3<sup>rd</sup> of June 2005. Dr. CASSIDY describes the photographs of Terence WHEELLOCK's neck and head, "These showed a narrow ligature mark on the neck. It was identified from the right posterior neck behind the ear, running almost transversely around the right side of the neck just below the prominence of the thyroid cartilage (Adam's apple) to the right side of the Adam's apple. It continued across the midline of the neck upwards and at an angle, and continued upwards around the left side of the neck, petering out below and behind the left ear."

Dr. GRAY described the mark as "Ligature mark around the neck: a single band of brown dried [parchmented] abrasion about 0.5 to 1.0 cm wide; approximately horizontal on the right side of the neck and crossing the front of the neck diagonally, rising upwards to behind the left ear and jaw, neck generally swollen."

Dr. CASSIDY goes on to say, "This was a well delineated narrow mark due to a narrow ligature and would be consistent with a shoe lace or narrow cord being used. The surface of the mark appeared to be drying and scabbing over suggesting that it was a day or so old. There was no difference in colour between the skin above and below the level of the ligature mark and there were no close-up photographs of the eye to determine whether or not there were asphyxial signs i.e. pinpoint or petechial haemorrhages in and around the eyes."

In her evidence to the Coroner's court on the 12<sup>th</sup> of July 2007, Professor Marie CASSIDY stated, "Death was directly due to complications of attempted hanging. And his death was due to bronchopneumonia, a chest infection; consequent upon hypoxic

brain damage due to neck compression, which is consistent with ligature strangulation or hanging.”

The Coroner asked whether the neck injuries were consistent with the method of hanging described by the witnesses. Professor CASSIDY responded, “When people think of hanging they think of someone being suspended, and suspended from a high point with a full body lifted off the ground. That does happen and it can happen, but fairly common nowadays people will attempt to hang themselves from low levels. So, for example, from a door handle, even from the top of the door. In doing so the body is not lifted from the ground, and often the feet and even the knees are resting on the ground. In some cases most of the body may be on the ground. In those cases the pressure on the neck is normally across the neck, and the force is really due to ... the weight of the head. As the head drops forward, that force is then pulled on to the neck. As a result of that, death often is due to the blockage of the airway, which is in the middle, or the blood vessels at either side.”

Professor CASSIDY continued, “In those persons who die from hanging where the body is fully suspended they often die very, very rapidly and it’s just due to a sudden pressure on the side of the neck, which may cause a cardiac arrest. However, low level suspension, unfortunately death may take a little longer. And often it’s due to a lack of oxygen to the brain.”

At the Coroner’s inquest Professor CASSIDY was shown the ligature removed from Cell 7 of Store Street Station on the 2<sup>nd</sup> of June 2005. She agreed that the ligature she was shown was consistent with the marks shown in the photograph.

The Coroner asked Professor CASSIDY whether anything could be deduced from ‘the fact there were no attempts by Terence to remove the ligature.’ Professor CASSIDY stated, “Unfortunately I deal with many hangings, and I really cannot think of any one where I have seen attempts made by the person to pull at the ligature. And that’s – so that’s something I don’t see, I don’t know if that is because they are unconscious



immediately or because they have decided on this course and therefore there is really no turning back. But it's not something I see in any of the cases I deal with."

Mr. O'HIGGINS asked Professor CASSIDY whether the fact that it was possible to resuscitate Mr. WHEELOCK enabled her to offer any view as to how quickly he was discovered. Professor CASSIDY stated, "It was suggested he was discovered fairly rapidly, very soon afterwards."

Dr. GRAY in his report stated in relation to the ligature mark, "The ligature mark around the neck was a typical mark from a ligature placed around the neck in a hanging. The mark is horizontal on the right side of the neck and rises towards the point of suspension behind the left ear and jaw as the weight of the suspended body pulls down. There were no other marks to the neck suggesting multiple applications of a ligature or marks from the fingers or the nails of the Deceased himself or any assailant."

Professor CASSIDY expressed a similar opinion in her report of the 9<sup>th</sup> of May 2007 stating, "There was a recent ligature mark around the neck, consistent with having occurred in the circumstances as described. There were no marks around the ligature mark to suggest that he had been struggling to remove the ligature. In particular there were no finger nail scratches or other bruises around the neck visible in the photographs."

Dr. GRAY further stated, "In my opinion, from the evidence seen so far, it was possible for the Deceased to have suspended himself as alleged from a low point of suspension on the cell wall- such as the call button unit bolts- and to have hanged himself in a kneeling position with his body against the wall in an unknown direction. I have seen other such cases in prisoners in custody in cells; prisoners can be ingenious in finding points of suspension. Low points of suspension are often employed in fatal hangings- the body does not have to hang clear of the floor for damage and death to occur. The ligature mark and the nature of his brain damage were in keeping with asphyxia caused by hanging."

Dr. GRAY concluded, “The other marks on his body were in keeping with hanging [knees and shins] or were of no persuasive significance. There is no evidence positively to suggest assault or abusive treatment of the Deceased. The mark on his back was unexplained but did not prove assault.”

### **Other Injuries in the Head and Neck Area**

Professor CASSIDY lists no other injuries to Terence WHEELLOCK’s head or neck area.

Dr. GRAY comments that there was ‘facial congestion and petechial red spotty [petechial] marks on the skin above the ligature marks’ and also notes that Terence WHEELLOCK had ‘swollen lips’. Of these injuries Dr. GRAY later noted, “Facial congestion and pin-point haemorrhages [petechial haemorrhages] in the skin of the face were consistent with asphyxia – the blood is confined in the head and bursts minor blood vessels above the ligature.

### **Abrasion on the Right Lower Back**

Professor Marie CASSIDY noted an injury to Terence WHEELLOCK’s right lower back seen in the photographs taken on the 3<sup>rd</sup> of June 2005 by the Senior Clinical Photographer for the Mater Hospital.

Professor CASSIDY described it as follows, “On the right lower back, just above the pelvis, there was a rectangular abrasion approximately 2 to 3 cm long and 1cm wide. This had the same general appearance as the ligature mark on the neck i.e. the surface, although pink, was drying and scabbing over consistent with a day or so old and consistent with being caused at the same time as the ligature mark around the neck.”

Dr. GRAY describes the injury as follows, “Lumbar spine: red/brown mark shaped like a fish or key-hole, about 6 x 3 cm, probably an abrasion/bruise caused by pressure upon a similarly shaped object.”

Later in the same report Dr. GRAY states, “The mark on the back was oddly shaped like a fish or a key hole. This appeared to be a mark of impression: there had been a blow from or pressure against a similarly-shaped object.”

Dr. GRAY stated, “The most likely cause was the Deceased lying upon some object for some time. This sometimes happens in the recovery of unconscious people on stretchers. This mark cannot be explained with certainty but it did not necessarily suggest assault.”

He also stated, “The mark on the back was difficult to explain. It does look fresh – that is about 24-48 hours old- but its causation remains unexplained. In my view, it was caused by an impact from an object or pressure upon object under the body of the Deceased as he lay on his back for some time. This cannot be determined with certainty and will remain a puzzle.” He also concluded, “The mark on his back was unexplained but did not prove assault.”

In her report of the 9<sup>th</sup> of May 2007, Professor CASSIDY put forward a different explanation than that of Dr. GRAY, stating, “The grazing to the back was due to the surface layers of skin being scraped off due to contact with a rough or irregular surface. Either the body moving across the surface or a roughened surface moving over the body. This could have occurred when he was being moved or moved at the scene of the incident.”

In her evidence to the Coroner in relation to injuries on Terence WHEELLOCK Professor CASSIDY stated, “Yes, there was just one over the lower back and it was probably just a small rectangular injury, but it certainly looked, had the same kind of appearance in the photograph of the ligature mark.”

When asked to account for the cause of the mark, Professor CASSIDY stated, “It’s just a scrape on the back, now whether that was caused when he was being moved after he had been found, if it had been caused during the hanging, I really don’t know.”

When shown the reprinted photographs provided to the Coroner by Detective Sergeant Sean CAMPBELL, Professor CASSIDY agreed that the injury was very rarely shaped and was shaped like a fish. She described it as follows, “It’s very bright in colour in comparison to the other injuries, and it looks very similar to the colour of the mark on the neck ... that looks very fresh to me.”

Mr. GILLANE for the WHEELLOCK family asked Professor CASSIDY, “it seems to be discretely contained, it doesn’t appear to have a scraping mark leading to it or from it or anything like that?” Professor CASSIDY stated, “No, it is, but there is little skin tags on the surface, so it is a scraping injury... Why it should be so small, why it should be, you know, I really can’t explain how it got there.”

In response to further questioning from Mr. GILLANE, Professor CASSIDY stated, “It looks as if it’s more like a skin tag. Do you know, if you run your fingers across it you would pull the surface layers out, they would become kind of ruffled. I can see what you’re saying is that you can get a pressure mark which is almost like a branding mark, if you press something, you know, the back up against something of a particular shape. I couldn’t say it wasn’t that, but just with the unevenness of the surface I thought it was more of a scraping mark.”

Professor CASSIDY later said in relation to the injury, “I am against it being a blow because there is no bruising... The back being pressed in against something, you know, just being forced up against something, and pressing on it, it’s possible. But I think I’m favouring more the scraping, you know, something being pulled across the back or when he was moved he just happened to catch something that was sticking out and just caught the back.”

The assistance of the UK National Injuries Database was requested by the Garda Síochána Ombudsman Commission investigation team. They searched their database for

wounds of a similar size and nature to see if a possible cause could be identified. They were unable to find a wound of similar size and shape.

### **Other Injuries to the Back**

Dr. Carl GRAY noted in his report, “Lower back: line of four faint bruises, approximately horizontal, at level of posterior iliac crests, two on left and two on right sides.” Dr. Carl GRAY makes no further mention of these injuries except in reference to Dr. Brendan KEOGH’s report which notes, “Older bruises on lower back.”

Professor Marie CASSIDY refers to grazing to the back and possible explanations in the section above.

### **Injuries to Terence WHEELLOCK’s Hands**

Dr. Carl GRAY listed the injuries to Terence WHEELLOCK’s right hand as follows, “Right hand, brown bruising to knuckles [1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> finger MCP joints]; scabbed abrasions on backs of index and ring fingers and thumb.”

Dr. Carl GRAY listed the injuries to Terence WHEELLOCK’s left hand as follows, “Brown bruising of knuckles [1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> finger MCP joints]; scabbed abrasions on palm, thumb, and backs of index and middle fingers.”

Dr. Carl GRAY comments on the injuries stating, “Bruises to the hands and elbows and healing [scabbed] abrasions were of similar age and were caused by impacts, pressures or contacts with rough surfaces which could have been many different types of things. The Deceased could have struck blows, been in contact with bushes, fallen to the ground or whatever. There was nothing in the cell to suggest the causation of the abrasions to the hands.”

In her report of the 9<sup>th</sup> of May 2007, Professor Marie CASSIDY commented on the photographs taken by the Senior Clinical Photographer for the Mater Hospital on the 3<sup>rd</sup> of June 2005. She described the condition of Terence WHEELLOCK's right hand visible in the photographs as follows,

“There was thickening of the skin of the palm. There were several small healing abrasions, 0.1m to possibly 0.3 cm in diameter, down the ring finger from proximal interphalangeal joint to the nail bed, over the knuckle of the middle ring finger, over the distal interphalangeal of the index finger and the thumb.”

In this report Professor Marie CASSIDY timed the cause of the injuries to the right hand, “These were all healing scabbed abrasions therefore in excess of a day old. However, these could have predated the ligature mark and the mark to the back of the trunk.”

Later in the same report Professor Marie CASSIDY commented on Terence WHEELLOCK's right hand although the available evidence would suggest that it is very likely that Professor Marie CASSIDY is referring to the left hand.

Professor Marie CASSIDY described the photographs as follows, “There was dried blood on the palm of the hand (? related to intravenous line inserted into wrist vessel.) There was blue staining of the skin of the palm at the base of the ring finger. There were healing, scabbed abrasions over the radial half of the hand, around the knuckles of the index and middle fingers and on the dorsum and proximal joints of the index and middle fingers. These injuries were in excess of a day old. There was blue staining on the nails of the middle and ring fingers.”

In her evidence to the Coroner's Court in relation to the injuries to Terence WHEELLOCK's hands, Professor Marie CASSIDY was shown the photograph of Terence WHEELLOCK's right hand and commented on the improved quality copy photographs provided to the inquest by Inspector CABBELL. She stated, “These are actually much better quality photos than the ones I've been sent, and it actually shows much more injury than in the photos I had initially been given.”

She later states, “But obviously these photographs show very different type of picture and there is much more extensive – it’s obvious now that there is bruising over the knuckles, not just abrasions and bruising over the other joints. So there is more extensive damage than was apparent from the photographs that we had been given.”

The Coroner proposed at this point allowing Professor Marie CASSIDY a night to consider the improved quality photographs, however, Professor Marie CASSIDY was prepared to comment on them at that point. She stated, “You can clearly see that there is reddening over the knuckles. Not only the injuries which are obvious, these are small grazes or abrasions as they are on the index finger. Now, these are obvious on the other photographs, but certainly the quality of the photograph didn’t actually show in detail the bruising over the knuckles and you also have these grazes over the fingers.”

Professor Marie CASSIDY was then shown the photograph of Terence WHEELLOCK’s left hand from the copy set of photographs produced by Inspector CAMPBELL. She stated, “Now, this photograph, there is not such a dramatic difference from the other one, but you have these small grazes, tiny little spots on all of these or where the surface of the skin has been taken off... There is some discolouration of the knuckles but I’m not quite so convinced on this photograph as on the other one... It’s not to say it’s not bruising, but it’s not quite so convincing as the others ... but you have again all these minor little injuries mainly over the joints... Over here, you’ve got one or two tiny little dots which are abrasions over an area of reddening which might be a little area of bruising.”

Later in her evidence, Professor Marie CASSIDY stated that the enhanced quality of the photographs did not lead her to change her evidence in chief to the inquest. She stated, “They’re just better represented, particularly the hands. The hands were obviously showed bruising over the knuckles and over the joints that wasn’t apparent in the initial photographs.”

The opinion of Dr. Carl GRAY that the injuries to the hands and elbows of Terence WHEELOCK were caused by impact pressure of contact with structures which ‘could have had been many different types of things’ was put to Professor CASSIDY and she stated she agreed in general terms with Dr. GRAY.

Later Professor Marie CASSIDY stated, “The injuries to the hands, however, they’re slightly less common, and therefore require further explanations. Therefore they could occur in an assault situation, but by themselves are not indicative of an assault on him.”

### **Right and Left Elbows**

Dr. Carl GRAY recorded ‘Diffuse brown bruising’ to the right elbow and noted ‘Healing scabbed linear abrasions on inner aspect of left elbow and forearm’.

Of these injuries he stated, ‘Marks on the elbows could have been from pressure against the wall whilst hanging.’

Professor Marie CASSIDY noted ‘discolouration of the skin around the left elbow’ and stated, ‘There was a healing abrasion adjacent to the point of the elbow and a healing abrasion below the point of the elbow. These were scabbed and in excess of a day old.’

She noted in her report of the 9<sup>th</sup> of May, “The injuries to the arms and legs were minor injuries, bruises and abrasions, most showing evidence of healing.”

### **Right and Left Legs**

Dr. Carl GRAY noted the following injuries to the right knee and shin in the photographs taken by the Senior Clinical Photographer for the Mater Hospital, “Six areas of purple and brown bruises on and below right knee; further bruises along shin.” He noted the following injuries on the left leg of Terence WHEELOCK, “Purple bruising on knee,



brown bruising below knee, healing abrasions over bruises outer [lateral] edge of knee; pale scars on the knee; brown bruises along shin.”

In this report Dr. Carl GRAY stated, “Bruises to the knees and shins were in keeping generally with impacts or pressures against a hard floor as in kneeling whilst hanging. Alternatively they could have been caused by any manner of bumps and knocks.”

In determining the age of the bruises, Dr. Carl GRAY continued “Yellowish tints first appear in bruises at around 18 hours at the earliest [Langloise NEI, Gresham GA The ageing of bruises: a review and study of the colour changes with time. Forensic Sci Int 1191; 50: 227-38] and brown change follows yellow tones usually. The yellowish and brownish coloured bruises were therefore older than 18 hours at the time of the photography. Bruises sustained at the same time can change colour at different rates. If the photographs were taken as suggested by Dr. KEOGH on the 3<sup>rd</sup> of June then they could have been done 24 hours after the incident in the cell. These bruises therefore could have been sustained at the time of the incident in the cell but they could also have been older and have pre-dated the incident.”

Professor Marie CASSIDY noted the leg injuries visible on the right leg in the photographs as follows, “There were bruises around the right knee and on the right shin. These ranged from 1 cm up to possibly 4 cm across. The bruises around the knee were reddish colour with a faint yellowing rim, whereas those on the shin appeared to be brown and yellow in colour. The reddish bruises around the knee may be recent and 24 hours or so old. The injuries on the shin possibly older, healing bruises.”

On the left leg, Professor Marie CASSIDY records, “There was bruising and healing grazes around the left knee and on the left shin. The grazes were on the outside and below the kneecap. The grazes were scabbed and in excess of a day old. The reddish colour over the kneecap may indicate a fresh bruise a day or so old, whereas the bruising on the upper shin, below the kneecap and on the mid-shin showed yellowing suggesting that these were possibly a few days old. There was also a reddish coloured lesion over the left shin

a centimetre or so across which may have been a fresh injury occurring within a day or so.”

In her report Professor Marie CASSIDY concluded, “The injuries to the arms and legs were minor injuries, bruises and abrasions, most showing evidence of healing. The grazes were due to contact with rough or irregular surfaces, whereas the bruises indicated impacts or impact sites. It is therefore possible that the left arm, left knee, and the hand were in contact with rough or irregular surfaces, whereas the injuries to the knees and the shins could have been due to falls, his leg striking against other surfaces, or his legs being struck. These were minor injuries and would not have caused or contributed to his death.”

In relation to dating the injuries, Professor Marie CASSIDY stated, “It’s very difficult to date injuries, even when you are actually examining the person. And particularly once the injuries start to show evidence of healing, it can be, you really have to just give a broad guide to how old they could be. And certainly most of these were showing evidence that they were healing, and all you can say then is that they are a day or so old, and I can’t really be more specific than that.”

As to the cause of these injuries, she stated, “There’s a number of different ways, and if people could put particular scenarios to me I could say yes or no. But there are nothing specific about these injuries, I mean, injuries around the knees and shins are very common, and they could be caused by falling, by bumping into things. But also injuries to the shins can be caused by somebody kicking someone in the shins. So there is a number of different ways how these could come about, and all we can say is that they’ve occurred presumably before he came into hospital, and they could have occurred at or around the time he was brought into custody, but they may well have occurred slightly earlier. But there is no way of me knowing exactly when they did occur.”

The Coroner asked Professor Marie CASSIDY to comment on whether the injuries could have occurred during the hanging incident or during resuscitation, to which she replied, “None of them were particularly related to resuscitation. Whether they could have

occurred during the hanging, I am not sure. The injuries to the knees, possibly. The ones to the shin, I don't think so. It would depend very much on, again, how he actually was at the time and what he was, what furniture or fittings were beside him."

Later in her evidence, Professor Marie CASSIDY stated, "The research has been done on the aging of injuries which suggest that within 18 hours you can start to see some yellowing. Now, of course it's extremely variable as we've already discussed, that people heal at different rates, even in the same person may heal an area, an injury in one part of the body may heal quicker than another. But all we can really say is once we see yellowing, that is probably, you know, at least 18 hours old and possibly it could be days old."

Towards the conclusion of her evidence, Professor Marie CASSIDY stated, "All of the injuries that are shown in the photographs are small injuries, minor injuries and non-specific, and so they could occur in a number of different ways. The bruising in particular is just, they are just indications of sites of impact. So they could have been due to a leg knocking against something, for example, a car, they could have been caused if the person tripped over and fell on the ground, they could have been caused if somebody, you know caught them and they had a blow to the leg or the knee. So certainly in a struggle situation or in some kind of melee and you don't know what's going on, yes these injuries could occur."

It was put to Professor Marie CASSIDY whether the injuries could have occurred when Terence WHEELLOCK was removed from the ligature or when attempts were made to resuscitate him. Professor Marie CASSIDY stated, "Well, my understanding from the evidence I just heard as I came in was that he was actually, he wasn't fully suspended and he was on, you know, partly on the ground, and I think he was on his knees, I think I heard... Therefore I wouldn't have expected any of these injuries to have occurred during that phase. Could they have occurred during that phase. Could they have occurred during attempts of resuscitation, there is no injuries there which would be specific to that... These injuries are all to the periphery, to the hands and the lower legs, so they're

peripheral injuries and therefore, I say, they are very non-specific, but not specific to him being taken down from the ligature or for resuscitation.”

### **The Report of Mr. Patrick K PLUNKETT**

Mr. Patrick PLUNKETT is the Consultant in Emergency Medicine for St. James’s Hospital, James’s Street, Dublin. At the request of the Chief State Solicitor, Mr. PLUNKETT produced a report on the Terence WHEELLOCK case.

In relation to the injuries in the photographs taken by the Senior Clinical Photographer for the Mater Hospital, Mr. PLUNKETT concluded as follows, “Most of the bruising and scabbing in these pictures has altered to imply an age of more than one day. In the images marked 1,2 and 3 there is a mark on the back of Terence WHEELLOCK which starts with a straight transverse edge, runs towards the right shoulder at an angle of approximately 15 degrees, and terminates in a short tail. This is consistent in my view, with a shear injury, or friction burn, with the person being pulled by the feet over a distance of approximately 3 cms (or 2 fingers breadth). Alternatively, he may have been pulled feet first for a greater distance, with his skin protected by clothing which later rucked up, exposing his skin to damage for a very brief period of time, or distance.”

Later in the same report Mr. PLUNKETT states that he disagrees with Dr. GRAY as to the possible causation of the injury to the back. He states, “I would agree with his description of the lesion. I would not agree in relation to the probable causation. My opinion is that this is probably due to dragging of Terence WHEELLOCK, feet first, along a rough surface for a short distance. It COULD be due to his scraping his back on a rough wall, whilst sliding down the wall.”

It is possible that what Mr. PLUNKETT is describing is the removal of Terence WHEELLOCK from the cell into the cell corridor by the Garda members attempting to resuscitate him.

In relation to the ligature mark, Mr. PLUNKETT recorded, "I have seen only a limited number of ligature marks in my practice but can say, based on my undergraduate forensic training and subsequent experience and interest in the area, that the ligature mark seen in images 17, 18, 19 and 20 appears to be fresh and, is in keeping with a hanging, with the point of suspension being on the left side of the patient."

### **Evidence of Injuries to the Anal Region**

In his statement to the Garda Ombudsman dated the 26<sup>th</sup> of January 2008, Larry WHEELOCK, brother of the deceased, stated, "My brother may have been sexually assaulted. Dr. Carl GRAY, the independent pathologist has stated that there may have been 'an injurious anal trauma of some kind' which was the cause for the blood in Terence's underwear. Lee FAGAN the independent forensic expert ruled out that the blood happened in a medical emergency situation."

Larry WHEELOCK continued, "I think this is very important. I think this is very important, the state forensic scientist was told by Sean CAMPBELL that a femoral line burst in Terence's groin. This was very suggestive, trying in my opinion, to throw her off the real cause."

This issue is dealt with later in this report.

### **The Presence of Blood on the Clothing**

On the 2<sup>nd</sup> of June 2005 at 6.40 pm, Detective Sergeant Sean CAMPBELL attended at the Mater Hospital ICU ward where he received from NURSE 01 the clothing of Terence WHEELOCK. The clothing was contained in a green hospital bag. Detective Sergeant Sean CAMPBELL took this bag and placed it in an evidence bag which he labelled SC3.

On the 7<sup>th</sup> of June 2005, Detective Sergeant Sean CAMPBELL again went to the ICU where he met with NURSE 02 who provided him with a yellow hospital bag which contained a t-shirt belonging to Terence WHEELock. Detective Sergeant Sean CAMPBELL labelled this exhibit as SC8.

On the 8<sup>th</sup> of June 2005 D/Sergeant CAMPBELL submitted both exhibits to the Forensic Science Laboratory.

### **The First Report of Michael Norton, Forensic Scientist**

Michael NORTON, Forensic Scientist at the Forensic Science Laboratory of the Department of Justice, produced a report in relation to the clothing of Terence WHEELock.

In his report he outlines receipt of several items at the Forensic Science Laboratory 'sealed in a brown paper sack'. He lists four items which include the ligature and a 12 volt battery found at the scene. He also lists exhibit SC2 which is described as, "A blue 'Adidas' tracksuit bottoms, grey 'Adidas' boxer shorts, pair of white sports socks, in a green plastic hospital bag contained inside a sealed paper sack labelled "ICU Mater Hospital 2/06/05 D/Sgt S Campbell A/Suicide of Terence Wheeler (sic)."

The fourth item is not referred to by an exhibit number but is listed as 'Pale blue 'Nike' brand t-shirt in a yellow plastic hospital bag, contained inside a sealed paper sack labelled "ICU Mater Hospital 7/6/5 D/Sgt. Campbell A/Suicide, shirt of Terence Wheeler."

Mr. NORTON stated the purpose of his examination as follows, "I examined the items received to address the issue of whether or not there was a connection between the cord and the tracksuit bottoms."

Mr. NORTON described the tracksuit bottoms as follows, "Two slits were observed in the middle of the front area of the central elasticated band through which a draw cord

would originally have been passed to enable the wearer to tighten the waistband. No draw cord was present in the waistband.”

In his report Mr. NORTON described the procedure for comparing the fibres from the inside of the waistband with those found on the alleged ligature and concluded as follows, “In my opinion, the above findings very strongly support the suggestion that the cord in item 1. SC1 originated from the waistband of the tracksuit bottoms, item 3 SC 3.”

It should be noted that ‘very strongly support’ is the highest indicator available on the scale employed by Mr. NORTON.

At no point in his report does Mr. NORTON address or refer to the fact that the clothing, specifically the tracksuit bottoms and the shorts referred to as SC3 were blood stained.

It should be noted that the same items were examined by Mr. Duncan Colin WOODS, Forensic Biologist, with Keith BORER Consultants at the request of the solicitor for the WHEELLOCK family, In his report dated the 4<sup>th</sup> of December 2006, he concluded as follows, “The findings strongly indicate that the cord SC1 had originally been threaded through the waistband of the tracksuit trousers SC3. While the possibility that the cord originated from some other garment cannot be eliminated, the scientific findings do not suggest so.”

Mr. NORTON attended to give evidence at the Coroner’s Inquest on the 22<sup>nd</sup> of November 2006. In his testimony he delivered his conclusion that there was a very strong support for the contention that the cord originated in the waistband of the deceased’s tracksuit bottoms.

In questioning by Mr. GILLANE for the WHEELLOCK family, Mr. NORTON was asked to produce the tracksuit bottoms, the boxer shorts and the white sport socks. It was at this point that Mr. NORTON stated that he could not produce the clothing in court as there

were, what he believed to be, blood stains on some of the clothing. He stated that he had not tested the staining but, in his opinion, it was what appeared to be blood staining.

Later in his evidence Mr. NORTON stated that although the items had not been examined by any other scientist, that a solicitor for the family had viewed the items with a Garda member present.

The inquest was subsequently adjourned to allow the items to be tested.

### **The First Report of Lee FAGAN, Forensic Scientist**

Lee FAGAN is an independent Forensic Scientist with Keith BORER Consultants employed by the family of Terence WHEELLOCK to examine the clothing of Terence WHEELLOCK.

He was instructed to examine the clothing to determine three things:

1. Whether or not the items were blood stained.
2. If blood stained, whether the blood could have originated from Terence WHEELLOCK.
3. Whether or not there was any evidence to suggest these items had recently been cleaned.

In his report of the 8<sup>th</sup> of December 2006, he stated that he had found blood staining on the tracksuit bottoms as follows:

Blood stain 1: "A heavy soaked stain (3cm diameter) on the upper inside centre back. Yellow fluid staining was associated with the edges of this blood staining, the nature of which is unclear. This blood had soaked through to the outside of the tracksuit bottoms. On brief examination of the shorts, that I understand Mr. WHEELLOCK wore as underwear, I noted that there was a similar stain on the inside back. In my opinion it is



likely that this blood soaked through the shorts and tracksuit bottoms from the inside and while the items were worn. It would fit, for example, with blood loss from Mr. Wheelock's anus.”

He found six other smaller stains which are listed below:

2. A series of light and moderate intensity smears on the inside front of the right leg (top and bottom).
3. A collection of four 1-5mm spots on the lower front of the left leg. These stains are the result of projected blood droplets landing on the tracksuit bottoms.
4. A heavy 6 x 2.5 cm contact stain on the upper front of the right leg. In my opinion this stain had formed from a volume of blood being introduced to this part of the tracksuit bottoms.
5. A small splash on the inner aspect of the right leg (close to knee height). This stain is the result of a projected blood droplet landing on the tracksuit bottoms.
6. A collection of downward directional blood splashes on the outside back of the left thigh. These stains are the results of projected blood droplets landing on the tracksuit bottoms.
7. Two small spots on the outside back of the right calf. These stains are the result of projected droplets landing on the tracksuit bottoms.

Bloodstains 1, 2 and 3 were sampled for DNA profiling. No DNA profile was available from bloodstain 1. Mr. FAGAN stated that this was either because the bloodstain had degraded to such a degree that it was unsuitable for DNA profiling or ‘there is some inhibitory substance present that prevents successful DNA profiling.’”

DNA profiles were obtained from bloodstains 2 and 3. They matched and were likely to originate from the same source.

No reference profile was available from Terence WHEELLOCK for comparison.

Bloodstaining on the T-Shirt was catalogued as follows:

1. A 4 x 2.5 cm diluted stain on the upper front centre, associated with the vomit like staining. In my opinion this staining is likely to have been deposited at the same time as the vomit-like fluid.
2. Three areas of light contact staining on the chest, which are the results of contacts with a limited source of wet blood.
3. A small stain on the cuff edge on the front of the right sleeve. This stain is the result of direct contact with a source of wet blood.
4. A series of contact stains and smears on the inside front of the left sleeve, which are the result of moving contact between the sleeve and a surface upon which there was a small amount of wet blood.
5. A 5 mm spot on the centre front. In my opinion this could either be the result of an airborne droplet landing on the t-shirt or the shirt coming into contact with a blood droplet (e.g. as blood started to flow from a small wound.)
6. A series of smeared stains on the lower right front (inside and outside). In my opinion this staining has the appearance of what is sometimes encountered when clothing is handled by a person with wet blood on their hands, for example when removing the garment. It could, however, have been deposited in any number of other situations.

Bloodstain 5 was sampled and a DNA profile was generated. It found that the sample differed from the profile generated from the samples on the tracksuit bottoms. Mr. FAGAN concluded, "The level of similarity is such that it is possible, though not certain, that the blood sources could be closely related."

Lee FAGAN listed seven comments as his findings:

1. The tracksuit bottoms and t-shirt have received wear since they were last washed.
2. Blood staining was present on Mr. WHEELOCK's tracksuit bottoms, shorts and t-shirt.
3. Blood staining on the track suit bottoms has been deposited through a combination of contacts with a source or sources of wet blood, and from projected

- blood droplets landing on the tracksuit bottoms. Blood staining on the t-shirt could all be from direct contact with a source or sources of wet blood.
4. There is no pattern to any of the staining to suggest the circumstances surrounding blood transfer, i.e. there is nothing about the distribution or pattern of stains that would assist in determining whether blood transferred during an assault or in some other situation.
  5. DNA profiling of two stains from the tracksuit bottoms (one contact stain and one projected stain) has shown that they are likely to originate from the same source.
  6. DNA profiling of a single stain on the t shirt has shown that this blood originated from a different man to that who donated the test blood to the tracksuit bottoms.
  7. Based on the information in the supplied depositions and the injuries Dr. GRAY outlines in his report, there would currently be no explanation for any of the blood on Mr. WHEELLOCK's clothing.

#### **Dr. Hilary CLARKE**

Dr. Hilary CLARKE of the Forensic Science Laboratory also examined the clothing of Terence WHEELLOCK. The examination took place on the 6<sup>th</sup> of December and Dr. CLARKE reported on the 21<sup>st</sup> of December 2006.

She stated the purpose of her examination as follows:

1. To examine Terence WHEELLOCK's clothing for the presence of blood and faecal staining
2. To send selected blood stains for DNA profiling in order to determine if there was more than one source of this staining.

In her report Dr. Hilary CLARKE stated, "There was blood staining on the inside back of his shorts and tracksuit bottoms. This staining in both garments was located predominately at the back right seat area. There was also blood staining located on the front right hip with smaller blood stains on both of the legs of the tracksuit bottoms. There was a small amount of blood staining on the front of his blue t-shirt on both the

body and the sleeves. Some of this blood staining was located on the inside front body and inside of the left sleeve of the T-shirt.”

Dr. Hilary CLARKE further noted, “There was yellow coloured liquid-type staining on the inside of the tracksuit bottoms and the shorts. This yellow staining was located in numerous areas including the right seat area of the shorts and tracksuit bottoms. This yellow liquid staining may be an antiseptic product used during the medical treatment of Terence WHEELLOCK.”

She also noted the following, “I did not find faecal staining on the inside of his shorts or tracksuit bottoms.”

In the additional observations, Dr. Hilary CLARKE found, “I did not find semen on the inside or outside seat areas of the pair of shorts or the tracksuit bottoms. There was what appeared to be vomit on the neck, shoulder and chest of the t-shirt.”

Dr. Hilary CLARKE took 6 samples from the blood stained areas and submitted them to Dr. Maureen SMYTH of the DNA section for profiling.

At the request of the Garda Ombudsman investigation Dr. Hilary CLARKE re-examined the clothing that had not previously been tested for the presence of semen. None was found.

### **Dr. Maureen SMYTH**

Dr. Maureen SMYTH is a forensic scientist with the Forensic Science Laboratory of the Department of Justice in Phoenix Park.

Dr. SMYTH examined the clothing of Terence WHEELLOCK to generate DNA profiles from the blood staining on the clothing.

Dr. SMYTH reported her findings on the 9<sup>th</sup> of March 2007.

Dr. SMYTH was also provided with a tissue sample from the post mortem of Terence WHEELLOCK. She was unable to generate a DNA profile from the sample for comparison purposes.

Dr. SMYTH reported, “Identical DNA profiles were obtained from the blood stains on the clothes on the shorts and tracksuit bottoms. It is my understanding that medical intervention may have led to bleeding in this area, so it is reasonable to assume the DNA profile from these stains is that of Terence WHEELLOCK.”

Dr. SMYTH continued, “Identical DNA profiles were obtained from the stains on the t-shirt. The profile did not match that from the shorts and tracksuit bottoms. There is a high degree of similarity between the profiles; it is possible that the second profile is from a close blood relative (male) of Terence WHEELLOCK.”

### **The Second Report of Michael Norton, Forensic Scientist**

Michael NORTON of the Forensic Science Laboratory provided a second report examining the shorts and tracksuit bottoms ‘to see whether or not yellow staining on the lining of the tracksuit bottoms and the fabric of the boxer shorts could have originated from the disinfectant solutions supplied.’ The disinfectant solutions referred to were samples of ‘Videne’ and ‘Bethadine’ received from the Mater Hospital.

Mr. NORTON’s conclusion was, “In my opinion the above findings establish that the yellow staining on the clothing of Terence WHEELLOCK was caused by a disinfection solution such as Videne or Bethadine or another disinfectant product based on an Iodine and Polyvinylpyrrolidone solution.”

## **Dr. Carl GRAY**

Dr. Carl GRAY was instructed by the family to address questions raised by the blood staining found on the clothing. He completed a further report in the form of a letter on the 23<sup>rd</sup> of January 2007. The relevant questions and answers contained in the letter are outlined fully as follows:

### **Question 2**

“The forensic scientists indicate that there was vomit on his t-shirt. Again is this consistent with hanging as alleged?

Vomiting is not a usual feature of hanging cases. Vomiting may occur from an initial hanging attempt which would be nauseating. There was no double ligature mark, however, to suggest repeated attempts at hanging. The likeliest explanation is that the T-shirt was previously vomited upon.”

### **Question 3**

“There is evidence of bleeding from the anus. Is there any possible explanation for this in a death by hanging as alleged?

Anal bleeding is not a usual feature of hanging cases and I have never seen this in many various hanging cases in my experience. The standard textbook of forensic pathology makes no mention of anal bleeding in hanging. There was no evidence of any specific anal lesion- such as piles [haemorrhoids] or an anal tumour- at post mortem examination some weeks after the incident. Anal bleeding could come from minor anal trauma or a fissure which are commonplace from constipation. Alternatively, there could have been injurious anal trauma of some kind. If the shorts were not often washed then blood staining could have pre-dated the incident. The blood staining of the shorts remains unexplained.”

### **Question 4**

“If underclothing was blood stained in the manner alleged would the hospital on admission normally carry out tests to establish the cause of the bleeding?

No and yes. The clothing was removed [Cut off him] in the Accident and Emergency Department. It would have been set aside and probably ignored in favour of dealing with the collapsed patient. The hospital would not have investigated the clothing in the forensic sense.

After resuscitation and hospital admission, however, continued rectal bleeding would have been noticed on changing sheets and so on during nursing care. Continued rectal bleeding would have been regarded by the doctors as an abnormal medical sign and would have been investigated by medical tests to establish its cause. There was no mention of rectal bleeding in the medical records or statements.”

It should also be noted that when Dr. GRAY carried out his post mortem, some two and a half months following the incident at Store Street, he recorded, “There was no evidence of sexual assault, abuse or ano-genital injury.”

### **Dr. Brendan KEOGH**

Dr. Brendan KEOGH, Consultant in Respiratory Medicine, of the Mater Hospital provided a report by way of correspondence to the solicitor for the WHEELLOCK family on the 8<sup>th</sup> of January 2007. In this report Dr. Brendan KEOGH commented on the possible origin of the blood staining. He stated, “I have reviewed his hospital chart and the A & E notes at the time of his admission on 02/06/05. The A&E notes make no reference to any injuries other than the neck injury and the subsequent need for resuscitation. There is reference to blood coming from his endo-tracheal tube. This might reflect trauma from the tube itself, which of course is inserted into his trachea or the efforts to resuscitate him might have caused bleeding, in any event this likely does not imply any additional injuries to those about which we already know.

In addition he had venous and arterial lines inserted which of course could have caused some bleeding. I specifically note that he had an arterial line inserted into his left forearm and right groin. Obviously such insertions can cause some local bleeding and staining. I don't know if his clothing had been removed prior to the insertion of the arterial line,

particularly the one in the groin. I should stress that none of this is my direct knowledge, it is simply taken from notes and my direct knowledge is reflected in my initial report.”

### **The Second Report of Lee FAGAN, Forensic Scientist**

On the 29<sup>th</sup> of March 2007, Lee FAGAN produced a second report on his examination of the blood staining on the clothing of Terence WHEELLOCK.

In the preparation of the report, Mr. FAGAN had access to the letters from Dr. KEOGH and the statements of Dr. CLARKE, DR. SMYTH, Mr. NORTON, Dr. GRAY and the Senior Clinical Photographer for the Mater Hospital

In his report he noted Mr. NORTON’s findings in relation to the yellow/orange staining to the clothing of Terence WHEELLOCK.

He also noted as follows, “I also understand that in the course of Mr. WHEELLOCK’s treatment an arterial line was inserted into his left forearm and right groin. Dr. KEOGH states that he is not certain whether or not Mr. WHEELLOCK was clothed at the time. I am informed by instructing solicitors that Mr. WHEELLOCK’s family dispute that arterial lines were used.”

In preparation of this further report, Mr. Lee FAGAN explained that the purpose of his report was to:

- “1. Provide my opinion as to whether or not blood on the upper back of the shorts and tracksuit bottoms could have been the result of medical intervention in the manner suggested by Dr. KEOGH. Clarification is specifically sought in light of my comment that staining on the tracksuit bottoms ‘would fit, for example, with blood loss from Mr. WHEELLOCK’s anus’.
2. Provide my opinion as to whether any of the blood on Mr. WHEELLOCK’s clothing was deposited with him orientated anywhere other than horizontal.”



In his report Mr FAGAN described the blood staining on the shorts as:

“1. A series of heavy clotted smears and stains on the centre/right back. This staining is present over an area of approximately 9 x 9 cm and was 14.5 cm from the gusset seam. Associated with this staining was orange/yellow staining similar to that seen on the tracksuit bottoms. This staining was less extensive than seen on the tracksuit bottoms. I understand that the material from the inside back was tested by Mr, NORTON and determined to be a disinfectant material such Videne or Bethadine.

2. A series of heavy discrete stains on the upper centre back on the underside of the manufacturer’s label.

3. A few light smears on the upper right front and outside back.”

In considering whether the staining on the upper back of the tracksuit bottoms and shorts was as a result of medical intervention, Mr, FAGAN noted that the tracksuit bottoms had been cut away from the wearer by cutting up the centre front of both legs but that the shorts were not cut.

Mr FAGAN noted that, “Orange/yellow staining, which Mr. NORTON confirms could be the disinfectant used by the hospital was present predominantly on the inside of the tracksuit bottoms. The location and features of this staining suggests that the tracksuit bottoms remained underneath Mr. WHEELLOCK’s legs when this substance was administered.”

He continues, “The disinfectant staining was present on the inside upper back of the tracksuit bottoms and on the back of the shorts. Staining on the tracksuit bottoms was more extensive and therefore the disinfectant could not have soaked through the shorts to the tracksuit bottoms. Staining on the shorts was, however, confined to a similar location to that on the tracksuit bottoms. This could indicate a common means of deposition, or

that the disinfectant staining on the shorts had, in part, transferred from the tracksuit bottoms.”

“Blood staining on the back of the shorts and the back of the tracksuit bottoms was also present and in similar relative positions. In each case the blood had been deposited on to the inside of the garment and soaked through to the outside. This does not, however, appear to have happened simultaneously as the two areas of staining are different sizes.”

Mr. FAGAN puts forward the following explanation for the staining, “In my opinion, when the pattern of blood and disinfectant staining is considered together it would seem likely that the shorts were pulled down when antiseptic was applied to Mr. WHEELLOCK’s groin or anal area causing this fluid to run in some volume along the buttock crease and onto the tracksuit bottoms. Either prior to or after this blood has followed the same path causing the staining on the inside back of the tracksuit bottoms. I would suggest that following this the shorts were pulled back up. Residual disinfectant from both Mr. WHEELLOCK’s person and from the tracksuit bottoms then transferred to the shorts. The injury causing blood on the back of the tracksuit bottoms has then continued to bleed, resulting in staining on the inside back of the shorts.”

Mr. FAGAN continues, “In the above scenario it is not possible to determine the source injury for the blood staining and any site from the front of the groin to the anus would seem feasible. There is no evidence to suggest Mr. WHEELLOCK stood while bleeding from the injury.”

He then concludes, “Assuming the arterial line described by Dr. KEOGH could have bled and could have been administered in such a way that Mr. WHEELLOCK’s shorts could be replaced, I would view this as a reasonable explanation for the findings.”

In relation to the second question as to whether there is any evidence to suggest that the wearer of the tracksuit was orientated other than horizontally when blood was deposited, Mr Lee FAGAN stated, “The majority of the blood staining on the tracksuit bottoms and

shorts appears to have been deposited when Mr. WHEELLOCK was lying down. There are, however, blood splashes on the back of the tracksuit bottoms that in my opinion are not easily explained by blood loss with Mr. WHEELLOCK lying on the tracksuit bottoms after they had been cut open.”

He continues, “That said, these stains show varying orientation, and at least one is not typical of an injury to Mr. WHEELLOCK with him standing or kneeling. In my opinion, whilst some of the blood on this item could have been transferred with the tracksuit bottoms vertically orientated, there is nothing to suggest they were worn at the time.”

Mr FAGAN then concludes his report stating, “When the findings for Mr. WHEELLOCK’s t-shirt are also considered I am of the view that there is no scientific evidence to suggest that he was assaulted to the point of bleeding when he was standing or kneeling. Accepting that there may have been blood loss caused during medical intervention it is possible that staining on the tracksuit bottoms and shorts was deposited at this time.”

**Mr. Patrick K PLUNKETT**

Mr. Patrick PLUNKETT, Consultant in Emergency Medicine at St. James’s Hospital prepared a report for the Chief State Solicitor in relation to blood staining found on the shorts of Terence WHEELLOCK.

Mr. Patrick PLUNKETT in his report states, “I note from the ICU notes of the 2<sup>nd</sup> and 3<sup>rd</sup> of June 2005 that he [Terence WHEELLOCK] had a number of intravenous lines, both peripheral and central, as well as an arterial line. I will focus on the right femoral central venous line. Central venous access via the femoral vein is used almost exclusively in resuscitation, or for critically ill patients with no peripheral, or other central, venous access.”

Mr. Patrick PLUNKETT states that there are three predominant reasons for this:

“Firstly, the risks of infection, and of deep vein thrombosis, are greater in femoral access, rather than subclavian or internal jugular venous routes. Therefore, it is avoided unless absolutely essential.

Secondly, access is relatively easy, as the femoral vein is large and it lies in a constant anatomic position, with clear bony landmarks to identify its position.

Finally, although central venous access in critically ill patients is more commonly via the internal jugular or subclavian routes, neither of these is readily available during cardio-pulmonary resuscitation, most particularly when a cervical collar is in situ. This was the case during the resuscitation of Terence WHEELLOCK.”

Mr. Patrick PLUNKETT continues, “The right femoral venous line was present on his arrival in the ICU. Although there are no notes to indicate precisely when, and where, the right femoral venous line was inserted, the balance of probabilities would indicate that this occurred in the Emergency Department during, or immediately after resuscitation. This would be in keeping with common practice.”

“The presence of povidone-iodine solution ... on the seat of the shorts, and on the track suit bottom, would be in keeping with an attempt to clean the right groin prior to insertion of such a line, in order to reduce the risk of subsequent infection, whilst the clothing remained beneath the patient. This is also in keeping with the blood staining on the front right hip, which was noted by Dr. Hilary CLARKE.”

“In my personal professional experience, during emergency femoral venous cannulation, there tends to be a collection of both povidone-iodine solution and blood in the groin crease, which then tracks its way down into the cleft between the thighs and pools between the buttocks and beneath the buttock creases, where they meet the upper thighs.”

Mr. Patrick PLUNKETT then states, “This is by far the most likely scenario painted by the presence of both these substances on the clothing of Terence WHEELLOCK, which clothing I understand was removed following his resuscitation.”

Mr. Patrick PLUNKETT concludes, “I am satisfied, from the evidence available to me in the clinical notes, and with my expert knowledge of resuscitation, that the blood and povidone-iodine solution, found on the clothing of Terence WHEELock, is probably due to the resuscitation efforts in the Emergency Department of the Hospital, and not from another cause. In particular, it is not likely to be due to the abrasion on his back. There is no evidence that it emanated from his anus or adjacent areas.”

### **The Photographs taken by the Senior Clinical Photographer for the Mater Hospital**

In the Senior Clinical Photographer for the Mater Hospital’s original statement she recorded that she “took a number of views of the any (sic) bruising which was obvious to myself and the ITU sister who assisted me.”

None of the images taken by the Senior Clinical Photographer on the 3<sup>rd</sup> of June 2005 record any sign of injurious anal trauma.

No bleeding injuries are recorded in the photographs.

### **Medical Personnel**

The Emergency medical personnel of the Dublin Fire Brigade who attended Store Street were interviewed. All of them state that they did not see blood on Terence WHEELock or a bleeding injury whilst he was being treated.

The medical staff that treated Mr. WHEELock in the Intensive Care Unit have also been interviewed and none of them recall a bleeding injury on Mr. WHEELock. As noted in Dr. GRAY’s second report, “After resuscitation and hospital admission, however, continued rectal bleeding would have been noticed on changing sheets and so on during nursing care.”

There is no record of any signs of anal bleeding being noted or treated in any of the records provided by the Mater Hospital.

NURSE 02 is a clinical nurse manager in the Intensive Care Unit of the Mater Hospital. In her statement to Garda Ombudsman Investigators she stated, “With regards to the allegation that Mr. WHEELLOCK may have suffered an anal injury or trauma in Garda custody, I have no comment to make and was not aware of it at all. With regards to blood stained sheets, Mr. WHEELLOCK would have come to the Intensive Care Unit from casualty. Any blood on the bed sheets could have come from a selection of medical procedures, such as taking blood or lines being inserted, but I have no recollection of blood being on his sheets.”

DOCTOR 03 was the medical registrar on call at the Mater Hospital when Terence WHEELLOCK was admitted. DOCTOR 03 provided a statement to an Investigator from the Garda Ombudsman. DOCTOR 03 did not give evidence at the Coroner’s inquest but a deposition had been prepared and not used. When interviewed by the Garda Ombudsman DOCTOR 03 confirmed the content of the previously prepared deposition and also provided a further clarification statement.

In her deposition she recounted the events of the 2<sup>nd</sup> of June 2005. She stated “On my arrival to the emergency department, cardiopulmonary resuscitation was being carried out by the emergency department staff. A cervical collar was in situ. A ligature mark was visible on the anterior aspect of Mr. WHEELLOCK’s neck. The cardiac monitor attached to Mr. WHEELLOCK showed asystole. CPR continued and 1mg of adrenaline was administered.” She also notes that Terence WHEELLOCK was intubated by the anaesthetist and commenced on a propofol infusion.”

In her statement to the Garda Ombudsman DOCTOR 03 explained her role as follows, “As the medical registrar on call I am the leader of the cardiac arrest team. We are the first responders to any cardiac arrest in the hospital. This team consists of one anaesthetist, one medical registrar, one medical SHO and one medical intern. In my role

my primary function is restoration of spontaneous cardiac rhythm and output, airway management is normally conducted by the anaesthetist along with administration of anaesthetic drugs. They would also be responsible for any arterial and central venous access if needed.”

She noted, “In order for CPR to take place the anterior aspect of the patients chest would be exposed, this would involve either removing, opening or cutting his top which would have been performed before I arrived. I have documented a ligature injury in my notes, however, I have not documented any other injuries. I have no direct recollection of other external injuries.”

### **Accident and Emergency staff**

Statements were taken from three Doctors involved in the efforts to resuscitate Terence WHEELLOCK. None have indicated that Terence WHEELLOCK was suffering from injurious anal trauma when he was admitted to the Mater Hospital.

### **Garda Members**

The Garda members involved in the resuscitation attempts of Mr. WHEELLOCK at Store Street Station were also all interviewed and none of them recall any blood or bleeding injury present on Terence WHEELLOCK.

No blood is present in any of the photographs of the cell or was found during the examination of the scene performed by Garda scenes of crime examiner GARDA 31 at the request of INSPECTOR 01.

The allegation that Terence WHEELLOCK was sexually assaulted whilst in the care of Gardaí was put to the Garda members responsible for his arrest and detention. They all strenuously denied that he was mistreated in any way.

## **The Report of Dr. Jason PAYNE-JAMES**

The Garda Ombudsman commissioned a report from an expert in forensic medicine, Dr. Jason PAYNE JAMES of Forensic Healthcare Services Ltd. Dr. Jason PAYNE-JAMES was provided with a comprehensive package of all the material that was available. This included all the medical records relating to Terence WHEELLOCK, the original Garda Investigation file, the statements taken by Garda Ombudsman personnel, the transcript of the inquest into the death of Terence WHEELLOCK and all the reports available in the case.

Dr. Jason PAYNE JAMES was asked to comment specifically on a number of areas. These included the possible origin of injuries recorded in the photographs taken of Terence WHEELLOCK by the Senior Clinical Photographer for the Mater Hospital on the 3<sup>rd</sup> of June 2005, whether the medical evidence supported the allegation that Terence WHEELLOCK was assaulted or mistreated in any way during his arrest and detention, and whether there was any evidence to support the allegation that Terence WHEELLOCK had been sexually assaulted in some way during his detention. Dr. Jason PAYNE JAMES was also asked to comment on the available evidence relating to the blood staining on Terence WHEELLOCK's clothing.

Dr. Jason PAYNE JAMES completed his report on the 22<sup>nd</sup> of July 2009.

In relation to the possible origin of the injuries recorded in the photographs taken by the Senior Clinical Photographer for the Mater Hospital on the 3<sup>rd</sup> of June 2005 Dr. PAYNE-JAMES stated, "The bruises seen on Mr. WHEELLOCK cannot be dated- those on his knees and shins are caused by blunt contact and are non-specific- they could be caused in many different ways and are in typical sites of accidental knocking- or in sites where injury may be seen after contact sport such as football."

He continues, "The injuries to the hands suggest that the hands had been in contact with blunt surfaces. Such injuries may be seen for example, when walls or doors are punched



or kicked or when fists have been used in an assaultive manner. The red probable abrasion in the middle of the back is consistent with the back being in contact with rough surfaces, e.g. during resuscitation. The bruises over the posterior rim of the pelvis could also be caused by pressure (back/pelvis) on floor during resuscitation. However, they could be caused by a wide range of blunt contact.”

In relation to the allegation that Terence WHEELLOCK was assaulted or mistreated in anyway during his arrest and detention Dr. Jason PAYNE JAMES stated, “it is not possible to exclude bruises being caused by assaultive kicks or punches or impacts with blunt objects, but the sites of injury are further discussed in the preceding paragraph (above) and there are no typical defence type injuries.”

In relation to the allegation that Terence WHEELLOCK may have been sexually assaulted, Dr. Jason PAYNE JAMES stated, “I have seen no evidence to support this (in the assumption that such an assault refers to anal penetration)”.

On the issue of the blood staining on Terence WHEELLOCK’s clothing Dr. Jason PAYNE JAMES concluded, “I believe that the blood staining to the shorts is explained by insertion of a femoral central venous cannula ... In a resuscitation setting, where intravenous and arterial lines are being placed, it is common to have blood contamination or spillage during placement.”

In relation to as to whether there is any indication in the available evidence that Terence WHEELLOCK would have been a medical or suicide risk Dr. Jason PAYNE JAMES comments, “Not in the materials that I have been provided. Unfortunately impulsive self-injurious behaviour may be unpredictable ... and there may be no warning factors.”

In relation to the drug usage history of Terence WHEELLOCK, he states, “We do not have any quantitative analysis of the amount of drugs present- drug intake and intoxication can result in disinhibition and impulsive behaviour and poor judgement.”

Dr. Jason PAYNE JAMES also stated in relation to the preventative measures taken by the Gardai, “According to the accounts given there was no indication that additional measures were required. CCTV presence in a cell would have probably prevented this event happening as his actions are more likely to have been observed- the absence of CCTV for ‘privacy’ in cells is in contrast to many cells in England & Wales. The failure to recognise a typical potential suspension point raised questions of safety of cell design and understanding of important risk factors.” Elsewhere in the report he also states in relation to the cell alarm panel that “Having reviewed the images of the panel, this is a typical example of a potential suspension point.”

Dr. Jason PAYNE JAMES further noted, “According to the variety of accounts given, Mr. WHEELLOCK’s detention care appears to have been appropriate and according to the Criminal Justice Act 1984 relevant section and Guidance Notes. The system of Custody Records appears very basic with regard to documentation of events and recording of risk assessment.”

## **CONCLUSIONS**

Other than the obvious ligature mark none of the other injuries found on Terence WHEELLOCK on the 3<sup>rd</sup> of June 2005 were of more than a minor nature and all medical opinion would indicate that these minor injuries did not contribute to his death.

In relation to the allegations that Terence WHEELLOCK was assaulted during his arrest, the medical evidence does not support the accounts of Simon DOHERTY, Noel HUDSON or Gary GIFFORD in that there are no recorded injuries to Terence WHEELLOCK’s head or shoulder area. Independent evidence from the other residents of Sean O’Casey Avenue would also not support these allegations.

In relation to the allegation that Terence WHEELLOCK was sexually assaulted whilst in custody at Store Street Garda Station, there is no evidence to support this allegation. There is over whelming evidence that the blood staining found in the clothes of the

deceased was caused as a result of medical intervention and is not indicative of an assault.

The emergency response staff from Dublin Fire Brigade who attended Store Street Garda Station have all provided statements to say that no blood was present on Terence WHEELLOCK when he was being treated at Store Street Garda Station and then removed to the Mater Hospital.

No blood was found in the forensic examination of the cell area and no Garda member has reported seeing blood in the cell area or on Terence WHEELLOCK.

None of the A and E staff of the Mater Hospital have recorded Terence WHEELLOCK having a bleeding injury upon his admission to the hospital.

Indeed, no anal bleeding, anal injury or bleeding of any kind was recorded by the trained emergency medical staff who attended Store Street Garda Station or during Terence WHEELLOCK's treatment at the Mater Hospital.

The Senior Clinical Photographer for the Mater Hospital stated to the Garda Ombudsman investigation on the 28<sup>th</sup> of April 2009 that she had examined the buttock and genital areas of Terence WHEELLOCK on the 3<sup>rd</sup> of June 2005 and that no obvious bruising was present.

All the Garda members deny that an assault of any kind took place.

The underwear of the deceased was examined on two occasions for traces of semen. No semen was found on the underwear worn by the deceased.

Expert opinion, including that of Mr. Lee FAGAN the Forensic Scientist employed by the family to examine the blood staining on the clothing of the deceased, agreed that medical intervention and specifically the insertion of an arterial line into the groin area

may have caused the bleeding which resulted in the blood stained clothing. Mr. FAGAN concluded, “There is no scientific evidence to suggest that he was assaulted to the point of bleeding when he was standing or kneeling.”

It is the conclusion of this investigation that Terence WHEELLOCK was not sexually assaulted during his arrest or detention at Store Street Garda Station.

## **7. Expert Opinion and Forensic Analysis**

### **Engineers Reports**

J. Desmond KIRWAN BROWNE was requested by the solicitor for the WHEELLOCK family to examine the cell area in Store Street where Terence WHEELLOCK was detained.

He attended with Yvonne BAMBURY, solicitor for the WHEELLOCK family, on the 21<sup>st</sup> of September 2005 to examine and measure the cell. He provided a report in the matter on the 13<sup>th</sup> of October 2005.

In relation to the cell alarm switch located on the right wall inside the door, Mr. KIRWAN BROWNE observed as follows, “The centre of the switch is at a height of 4’ 8.25” above floor level. The panel of same is approximately 4.25 inch square. The centre button is a half an inch in diameter. The plate is secured by 4 No. allen type headed screws. The floor to ceiling height in the cell is 10’11”. The approximate height to the top of the plate of the call button is 4’-11.5” ”

On this occasion Mr. KIRWAN BROWNE found that repair works had been carried out on the cell alarm and that a further examination would be necessary in which the plate could be removed from the wall.

On the 16<sup>th</sup> of May 2007 Mr. KIRWAN BROWNE again attended Store Street Station to examine the cell.

Mr. KIRWAN BROWNE recorded in his report of the 10<sup>th</sup> of July 2007, “The plate screws were removed and the plate prised out. Some of the filling attached to the plate. It was noted that there was no obstruction behind the top centre of the plate or debris behind. It is my understanding this is the first time this plate had been removed since the

time of the incident. My understanding is that post incident, the area around the plate was filled and painted over.”

Mr. KIRWAN BROWNE removed the area of filling around the plate, “to achieve the condition that pertained prior to the filling being placed around the plate, i.e. the condition that most probably pertained at the time Mr. WHEELLOCK was in the cell.”

Mr. KIRWAN BROWNE attempted to thread the string from his spectacles behind the plate. He found that although there was adequate clearance at the top centre of the plate, he could not thread the glasses string behind the top left of the plate.

Mr. KIRWAN BROWNE requested that the tracksuit cord, the suspected ligature, be provided for use in the examination.

Mr. KIRWAN BROWNE again attended Store Street Station on the 24<sup>th</sup> of May 2007 when the tracksuit cord was provided to him by Detective Sergeant Sean CAMPBELL.

Mr. KIRWAN BROWNE described the tracksuit cord length as follows, “The tracksuit cord length is approximately 1.2 m... it has a loop with a fixed knot, also a smaller loop with a fixed knot which as presented, forms a sliding noose. The cord is soft and limp, essentially cylindrical in cross section. It can be ‘flattened’ to some extent. It is considered to be reasonably ‘strong’.”

In his report Mr. KIRWAN BROWNE describes how the tracksuit cord could be pushed into position by fingernail on the top right hand corner of the cell alarm and that there was more than adequate clearance above and behind the top of the plate which allowed the cord to readily fit. He also stated that the cord could then be brought down onto the interface between the top of the black box and the face plate.

Mr. KIRWAN BROWNE describes that the insertion of the cord around the top left corner of the plate proved to be very difficult. He describes that pushing the cord by finger nail was not sufficient to get the cord to fit but that he was successful when he, “Applied some reasonable tension on the cord to stretch and flatten it out and used a

sawing action left to right and downwards (like using dental floss) and by this process managed to get the cord to bypass this point of restriction.”

He stated that the ‘sides and bottom of the plate had adequate clearance to readily and easily get the cord behind.’ He also found that the retaining box for the call button was capable of supporting a force well in excess of 45kg.

Mr. KIRWAN BROWNE also commented on another issue in relation to the photographs taken by GARDA 31 on the 2<sup>nd</sup> of June 2005.

Mr. KIRWAN BROWNE describes one of the photographs as follows, “It shows a gap around the plate which is similar to that achieved by the writer (i.e. Mr. KIRWAN BROWNE) on removal of the filling material. It can be clearly seen that the gap is narrow on the left hand side. In particular, it can be seen that **the cord protrudes above the plate at top centre**. This is considered unusual.” (Mr. KIRWAN BROWNE’s emphasis)

Mr. KIRWAN BROWNE goes on to say that, “The cord under even small tension will pull down behind the plate and form a ‘straight line’, resting on top of the box behind the plate and fully out of view. Because the cord is limp, releasing the tension on the cord or endeavouring to push the cord upwards from the bottom of the plate is highly unlikely to push it up proud of the plate.”

He also states, “The photograph would suggest that the gap around the plate was present for some considerable time as it can be seen in the photograph as it having been refilled and painted over. It is evident that the surround to the bell push plate had been subjected to vandalism and that the surround render was ‘gouged out’ and at times painted over. Examination of the other cells showed similar sealed surrounds to bell push plates.”

In relation to the placement of the tracksuit cord over the plate, he states, “While the cord is relatively easy to get over the right hand top corner of the plate, a much more dedicated effort is required to get it over the top of the left hand edge of the plate: thereafter it is

easy to pull the cord down behind the plate and if one does so, then the top of the cord is out of view.”

In relation to this photograph, Mr. KIRWAN BROWNE concludes, “It is my opinion that it is most highly probable that Garda Photograph G is a reconstruction. It does not represent the situation that would pertain if the cord after being put in position was subjected to some relatively small downward tension. It may be the case that instead of removing the cord from Mr. WHEELLOCK’s neck by loosening the noose, (which would be the expected emergency response), that the cord was first removed from the bell plate and repositioned subsequently for the photograph.”

Mr. KIRWAN BROWNE also concludes as follows, “The bell plate was in a condition that it posed a hazard with regard to it being an object that could be used for suspension purposes. It was foreseeable that the bell push was a serious hazard in this regard. It is my understanding that those being incarcerated should be stripped of anything they could use to, ‘self-harm’, i.e. ties, shoe laces, etc., I consider cords of tracksuits are in a similar category and should not be allowed to be retained by cell occupants.”

He also states, “The writing on the wall, gouging out around the bell plates and cell occupants being allowed to retain the means to do so together with retention of tracksuit cords indicates a lax attitude to good, safe, practice with regard to the health and safety of persons retained in these cells.”

On the 24<sup>th</sup> of May 2007, when Mr. KIRWAN BROWNE attended Store Street Station, the bell indicator light for cell 7 was not working. As he pointed out in his report this would mean that although an audible alarm would sound, a Garda member would have to check the public office control board to see in which cell the alarm had been activated.

GARDA 31 was the scenes of crime examiner for the Gardaí tasked with the technical examination of cell 7 at Store Street Station on the 2<sup>nd</sup> of June 2005. He provided a statement in relation to the examination to the original Garda investigation into the death of Terence WHEELLOCK.



GARDA 31 attended at Store Street Station at 6.55 pm on the 2<sup>nd</sup> of June 2005 where he met with INSPECTOR 01. He states that he was taken to cell 7 which was being preserved by GARDA 32.

GARDA 31 describes the scene on the 2<sup>nd</sup> of June 2005 as follows, “The scene itself was a single cell containing a concrete base for a mattress and a toilet in the floor. There was no other furniture in the cell. On the wall on the right hand side as you enter the cell is situated an alarm bell measuring 4ft 6” from the ground. The purpose of this alarm bell is that when pressed an alarm bell would ring in the public office. I noticed that some of the plaster around the alarm bell was partly damaged leaving a small gap between the alarm bell and the wall itself. This damage did not appear to have been done recently.”

In relation to the ligature he stated as follows, “I noticed a black cord tied around this alarm bell fitting between the alarm and the wall. I first took a number of photographs of the cell, the alarm bell and the cord. I then measured the cell and the alarm box.”

He then states, “I took possession of the black cord from around the bell and I labelled it DC1. I then handed over the cord to Detective Sergeant Sean CAMPBELL of Blackrock Garda Station who had just arrived in the company of Detective Inspector Oliver HANLEY.”

According to the evidence gathered by the Garda investigation the ligature was not removed from the cell alarm plate and remained in situ until GARDA 31 took possession of it and then provided it to Detective Sergeant Sean CAMPBELL.

GARDA 31 also comments that he tested the alarm bell and found it not to be working.

GARDA 31 was interviewed by investigators from the Garda Ombudsman investigation. In this interview he clarified that he could remember that there was no plaster or debris on the floor of the cell that would have come from recent damage to the cell alarm. He stated that he thought the cell was in good condition and had been recently painted. He also stated that there was no blood on the floor or walls of the cell or in the corridor of the

cell area. He stated that if blood had been present in the cell, he would have taken samples of it.

He states that all the photographs that he took on the 2<sup>nd</sup> of June 2005 were of the scene as he found it on the day. He stated, “The ligature was present and in the position shown in the photographs when I arrived. I deny any suggestion that the photographs shown are a reconstruction of the scene. I resent the suggestion. I had not moved or touched the ligature prior to taking the photographs of the cell.”

He continues, “After photographing the cell, I did remove the ligature, packaged it in an exhibit bag and provided it to Inspector Sean CAMPBELL. I remember that the ligature was very difficult to remove. It was particularly tight along the sides of the alarm fitting. It was as if the ligature was in as far as the bolts behind the fitting.” During this interview GARDA 31 produced his Garda original notebook entry from the 2<sup>nd</sup> of June 2005 which contains his notes of the scene examination. These notes would indicate that the ligature was in situ when he examined the cell.

All the Gardaí who were present at Store Street Station on the 2<sup>nd</sup> of June 2005 who were interviewed by the Garda Ombudsman investigation team, deny that they removed the ligature from the cell alarm fitting or interfered with the scene in any way.

INSPECTOR 01 provided a statement to the Garda Ombudsman investigation in which he states that he took control of the scene when Terence WHEELLOCK was removed to the hospital; “I had control of the scene. When I took control of the scene the ligature was in place. The scene that I preserved after the incident was kept intact and not interfered with until I introduced GARDA 31 who conducted a technical examination. No one interfered with the scene at any time.”

INSPECTOR 01 stated in his original statement made on the 3<sup>rd</sup> of June 2005 that once Terence WHEELLOCK was removed from the station by the ambulance personnel he “then observed the black cord hanging around the metal alarm box on the wall beside the cell. The alarm box which is normally recessed in the wall was millimetres pulled out of the plaster.” He also states “At this time SERGEANT 06 was present and directed him to

obtain scene of crime tape and to preserve the scene. GARDA 33 was placed to maintain preservation of the scene. Mr. WHEELLOCK left the station at approximately 2.48 pm and the scene was preserved within minutes by GARDA 33.”

GARDA 33 provided a statement to the original Garda investigation in relation to his duties preserving the scene. He indicated that he preserved the scene as instructed by Inspector JOHNSTON until 19.30 pm. During this time he was relieved by Garda Mary DORAN to allow him to take a refreshment break.

GARDA 33 was interviewed by investigators from the Garda Ombudsman and stated, “When I was tasked to preserve the scene I was instructed to treat the area as a crime scene. When I arrived in the cell area a cordon was in place.” He continues, “I sat on the right side of the cordon. I could see the outside of the cell and I could see the ligature in the cell. The only people who crossed the cordon line while I was on duty were Detective Superintendent Oliver HANLEY, Detective Sergeant Sean CAMPBELL and INSPECTOR 01. Whilst I was on duty at the cordon no one interfered in any way with the scene or touched the ligature in any way.”

GARDA 32 was also interviewed by investigators from the Garda Ombudsman and stated, “When I relieved GARDA 33 at the scene I observed a navy lace hanging from the metal plate of the emergency bell in cell 7. During my time preserving the scene no one interfered with this lace in any way.”

The Dublin Fire Brigade staff who attended the incident at Store Street Station and who removed Terence WHEELLOCK to the Mater Hospital were also interviewed in relation to the incident by both the Garda Síochána investigation and the Garda Ombudsman investigation. FIRE FIGHTER 01, FIRE FIGHTER 03 and FIREFIGHTER 04 stated that they did not look into the cell area as they were dealing with Terence WHEELLOCK in the corridor of the cell area. FIRE FIGHTER 02, however, indicated in his statement of the 8<sup>th</sup> of June 2005 to the Garda Síochána investigation that while at the scene in Store Street Station, he asked how the patient had hung himself and was shown the ligature in

situ. He stated, “A black lace type cord was pointed out to me. This was hanging inside the cell door on the right hand side at about light switch level.”

GARDA 22 was the Garda member who removed the ligature from Terence WHEELLOCK’s neck. He stated in his original statement to the Garda Síochána investigation, “At that point I held up the young male and removed the lace from around his neck.” In a later statement provided at the request of the Garda Ombudsman investigation, he stated, “I held WHEELLOCK under both arms and lifted him up creating slack on the lace and taking the pressure off of his neck. I then used my right arm and loosened out the lace and removed from around his neck.”

He later states, “The last time I saw the lace that WHEELLOCK used to hang himself, it was still on the wall attached to the cell alarm. I did not notice any blood in the cell area. After handling WHEELLOCK I did not have any blood on my hands or uniform.”

GARDA 21 was with GARDA 22 when he removed the ligature, she states, “GARDA 22 and I were lifting the prisoner while at the same time GARDA 22 tried to take the cord from around the prisoner’s neck. GARDA 22 managed to get the cord from around his neck.”

Dr. Neal MURPHY, of the Faculty of Engineering at University College Dublin, was commissioned by the Garda Ombudsman to review the available evidence and examine the conclusion of Mr. KIRWAN BROWNE that the photographs taken by GARDA 31 were a ‘reconstruction’. Dr. MURPHY has previously provided technical evidence in the capacity of an expert witness in a Central Criminal Court trial involving ligature strangulation.

Dr. Neal MURPHY inspected the cell area at Store Street and was given access to the original tracksuit cord from Terence WHEELLOCK’s tracksuit bottoms.

Dr. Neal MURPHY was given the opportunity to remove the filler from around the switch in cell 7 of the Store Street cells and was given access to all relevant material gathered in the Garda Ombudsman investigation.

He provided a final report on the 6<sup>th</sup> of September 2009.

He notes that, “The only reasonable approach is to remove the whitish coloured filler material until the grey concrete beneath is reached. This was the approach taken by Mr, KIRWAN BROWNE and by myself in a later inspection, but it should be remembered that the filler is relatively difficult to remove, requiring a hammer and chisel. The precise manner in which the filler is removed (the size of the chisel, the force of the hammer blow, etc) will influence the final depth of the gap. Since the key points of interest relate to the ease at which the tracksuit cord could be inserted behind the front plate, this is an important consideration. While both the previous and current inspections were carried out in good faith, the depth of the gap in both instances were no doubt slightly different to each other and probably also different to the situation which prevailed originally on the day the incident occurred.”

Dr. Neal MURPHY examined the switch at cell 7 in Store Street but found that the repairs and alterations to the cell in the time since 2005 ‘made accurate reproduction of the conditions which prevailed during Mr. KIRWAN BROWNE’s inspection very difficult to achieve.’

Using a cord with similar characteristics as the ligature as described by Mr. KIRWAN BROWNE, Dr. MURPHY found in agreement with Mr. KIRWAN BROWNE that the cord could be placed into position but that, “the gap between the front plate and the wall on the upper left hand corner was indeed considerably tighter than the corresponding right hand corner.”

Dr. Neal MURPHY found that the back box of the cell switch was not as solidly fixed as it was during the inspection by Mr. KIRWAN BROWNE and as such ‘no further definite conclusions could be drawn from this inspection as to the ease with which the tracksuit cord could be fully drawn down behind the top plate on the day of the incident.’

In order to study the behaviour of the tracksuit cord under controlled conditions Dr. MURPHY then developed and manufactured a 'custom designed test rig' which 'would allow a range of conditions to be reproduced in a highly controllable manner'. In doing so, Dr. MURPHY recreated as far as was possible the prevailing conditions in cell 7 Store Street at the time of the incident on the 2<sup>nd</sup> of June 2005. Dr. MURPHY then performed a series of tests using the actual cord from Terence WHEELLOCK's track suit bottoms suspended from the test rig and using weights to recreate the effect of the suspension of a body from the ligature.

Dr. MURPHY repeated the tests for different weights and for different sizes of gap behind the simulated switch.

Following the tests Dr. MURPHY concluded when the gap between the switch and the wall was 1.0 mm 'that even after the application of 20 kg the cord is only pulled down slightly at the upper corners and the majority of the cord that was originally located above the front plate remains above the plate.'

Dr. MURPHY stated "The tightness of fit at the corners is sufficient to support any load exerted while the section of cord along the top central region of the front plate remains protruding upwards despite a gap of over 7mm in the test rig in this region."

Dr. MURPHY concluded, "Upon removal of the filler material around the actual call switch during the inspection of June 2009, it was found that the condition of the back box had deteriorated considerably since Mr. KIRWAN BROWNE's previous inspections in May 2007. The concrete packing on the left hand side of the box had fallen out, and as a result the screws holding the box to the wall pivoted easily about this axis."

"When the screws were tightened and the box positioned so that the front plate was parallel to the face of the wall it was found that the gap on the top left hand corner was considerably smaller than the top right. It was also found that adequate clearance was available behind the top central portion of the plate, all in accordance with Mr. KIRWAN BROWNE's findings."

Dr. Neal MURPHY went on to state, “I would therefore accept the accounts of the previous inspections by Mr. KIRWAN BROWNE as accurate and reasonable. **However, I do not agree with his allegation in section 5.6 of his July 2007 report that “it is most highly probable that Garda Photograph G is a reconstruction.”** (His emphasis.)

Dr. Neal MURPHY concludes, “It may be strongly concluded therefore that Mr. KIRWAN BROWNE’s very serious allegation of Garda interference with the scene of the incident based purely on the protusion of the cord above the top of the call switch is completely unfounded. No evidence was provided to back up this opinion and in my view the allegation should be disregarded.”

### **Conclusion**

Mr. KIRWAN BROWNE has expressed the opinion that at least one of the scene photographs taken by GARDA 31 on the 2<sup>nd</sup> of June 2005 is a ‘reconstruction’.

GARDA 31 has denied any suggestion that he reconstructed the scene or that it was interfered with in anyway.

Garda accounts would indicate that the scene was preserved appropriately following the incident in the cell area.

A witness from the ambulance crew personnel would also indicate that the ligature was in situ when they were in the cell area.

All the Gardaí members interviewed deny any interference with the ligature.

Dr. MURPHY’s expert opinion concludes that the basis on which Mr. KIRWAN BROWNE reaches his conclusion is unfounded.

There is insufficient evidence to indicate that any Garda member interfered with the ligature or the scene in any way.

### **The Ligature:**

### **Mike Lucas- Forensic Knot Analyst**

The Garda Ombudsman commissioned independent Knot Analyst and Expert Witness Mike LUCAS to examine the ligature.

The family of Terence WHEELLOCK were asked if they retained any item belonging to Terence WHEELLOCK that may have had a knot that could be used for comparative analysis. The family provided a bracelet worn by Terence WHEELLOCK, however, the cord was frayed and no particular knot was evident so no comparative analysis was possible.

Mr. LUCAS was provided with copies of the photographs of the cell, witness statements, the post mortem reports.

The main objectives of the analysis were as follows:

- a) To analyse the hanging ligature,
- b) To determine the nature of the ligature knot and the method of attachment to the wall fixture,
- c) To conclude whether the ligature was likely to have been tied by the deceased on his own, or with assistance, or tied by a third party.

Mike LUCAS reported, “The method of tying the ligature around the alarm bell fixture was to form a loop of fixed size 18” circumference using Z/Z half hitches (Granny knot shape). This clearly fitted easily over the alarm bell fixture and being at a height or 1.2 m, it was able to be attached with no difficulty. The other end of the ligature would have had the preformed noose, with a knot comprising Z/Z half hitches (Granny knot shape) and the noose formed was passed over the head and tightened around the neck, either before or after attachment to the alarm bell fixture- the sequence of events would have made little difference to the final result.”



He concluded as follows, “Having examined the ligature used, it is my opinion that due to the similarity of the two knots, used being both Z/Z of Granny knot shape, there is a high level of probability that both ligature knots were tied by the same person. I am also of the opinion that the deceased could have tied both knots, formed the ligature and attached this to the alarm bell fixture on his own, bearing in mind that the fixture was at a convenient height. There is therefore a high probability that no other person was involved.”

## 5. The Presence of the Ligature in the Cell

### **Terms of Reference**

The terms of reference for this investigation specifically state that the investigation was to consider how the ligature used by Terence WHEELLOCK was brought by him into the cell at Store Street.

The terms of reference state “The Garda Ombudsman takes the view that it is necessary to investigate any possibility of any failure by any member of the Garda Síochána in allowing for the presence of the cord/ligature in the cell.”

It is clear from the investigation that on the 2<sup>nd</sup> of June 2005 Terence WHEELLOCK was detained in cell 7 of Store Street Garda Station whilst wearing a pair of tracksuit bottoms with a drawstring cord in the waist. This cord was used by Terence WHEELLOCK to form a ligature.

It is further clear that within cell 7 on the 2<sup>nd</sup> of June 2005, during the detention of Mr. WHEELLOCK a clear accessible point of suspension for a ligature existed in the form of the cell alarm switch.

### **The Search of Terence WHEELLOCK**

Terence WHEELLOCK was searched twice by Gardaí as a result of his arrest on the 2<sup>nd</sup> of June 2005. The first search took place in Sean O’Casey Avenue at the time of the arrest

and the second search was carried out at Store Street Garda Station immediately prior to Terence WHEELLOCK being put in a cell.

It is clear from the available evidence that the first search of Terence WHEELLOCK at the time of his arrest was perfunctory in nature.

SERGEANT 01 referred to this in his statement of the 9<sup>th</sup> of June 2005 when he stated, “Moments later I saw the Gardaí arresting four youths and putting handcuffs on each of them. The Gardaí brought the youths back to the van and then searched them.”

In his evidence to the Coroner, SERGEANT 01 stated, “I thought they were searched outside the door of the van, the back door of the van and the sliding door on the side of the van was opened and I looked across out and I could see the guards, I thought, frisking them, just to see that they hadn’t any weapons on them or anything like that and then they were stepped into the van.”

Mr. O’HIGGINS for the Garda Commissioner asked SERGEANT 01, “We’ve heard from other witnesses that there was a more comprehensive search at the Garda station. Drawing upon your knowledge as a member of Garda Síochána is it a matter of remark or is it unusual in a situation like this for a person to be searched, frisked initially and then subsequently when they come back to the station to undergo a more searching search, if I can use that expression?”

SERGEANT 01 replied, “It wouldn’t be unusual no, because when a person is taken into custody they’re thoroughly searched and all their clothing thoroughly searched in case there’s needles or sharp implements concealed on them... They’re told that it would be for their own safety and for the safety of the guards.”

GARDA 01 searched Terence WHEELLOCK in Store Street Garda Station accompanied by GARDA 14. The search is recorded as taking place at 12.25 pm on the custody record.

In his statement taken on the 8<sup>th</sup> of June 2005, GARDA 01 recorded as follows, “The custody record of Terence WHEELLOCK was filled in first when the custody record was

completed I brought Terence WHEELLOCK to a cell accompanied by GARDA 14 from Store Street. I searched Terence WHEELLOCK in the cell I did not find anything on Terence WHEELLOCK with which he could harm himself. Terence removed his T-shirt runners and tracksuit bottoms and socks. I searched all these items and found nothing unusual in them. Terence WHEELLOCK also shook out a pair of shorts he was wearing under the track suit bottoms which revealed nothing. Terence WHEELLOCK put back on his clothes. I removed his runners placed them outside the cell door which is normal practice. I then left his phone into prisoner's property."

During his evidence to the Coroner's inquest on the 20<sup>th</sup> of November 2006 and in response to a question from Mr. GILLANE for the WHEELLOCK family, GARDA 01 stated that he had the primary role in effecting the search of Terence WHEELLOCK. GARDA 01 stated that he spoke with Terence WHEELLOCK during the search but denied that he had attempted to 'wind him up'. He described Terence WHEELLOCK as being in good spirits.

Later in GARDA 01's evidence, Mr. O'HIGGINS for the Garda Commissioner asked him what the purpose of the search procedure was. GARDA 01 answered, "The purpose of that procedure is to ensure that there is nothing concealed on the prisoner that they might hurt themselves." GARDA 01 explained that this was the reason why shoes were removed from prisoners, "Shoes are taken from the prisoner. If there were laces or shoes, just in case they'd harm themselves with shoe laces." Later in his evidence he clarifies, "It would be the laces would be important to be removed rather than taking off the shoes and having the person put them back in, the whole shoe is removed ... Rather than taking out the laces out of the shoes and having the person to put them back in, the shoes are removed out of the cells."

Later, Mr. O'HIGGINS asked GARDA 01, "In terms of the purpose of the exercise, you're looking for anything that might be used for self-harm?" GARDA 01 stated, "Yeah, generally you know, maybe small penknives or stuff like that, sharp objects."

The exchange continued as follows:

“Mister O’HIGGINS: Apart from the taking of the shoes, what other items did you remove?”

GARDA 01: We asked him to remove his tracksuit bottoms and generally we would search them, and sometimes we also ask him to remove the socks and ask him to remove his t-shirt to make sure there was nothing concealed underneath his t-shirt.

Mister O’HIGGINS: I see. Apart from looking out for the risk of self harm, presumably there is a self preservation aspect from a guards point of view as well?

GARDA 01: Oh there is, yeah.

Mister O’HIGGINS: Again that’s not specific to Mr. WHEELLOCK?

GARDA 01: No, that’s standard procedure.”

GARDA 01 went on to explain that Terence WHEELLOCK’s upper garment was removed, shaken out and then returned to him. He also explained that at no time was Terence WHEELLOCK naked and that he was wearing shorts instead of boxer shorts.

In relation to the tracksuit bottoms GARDA 01 was asked whether there was a visible band around the tracksuit or a tie of some sort. He replied, “Not to my recollection, no.”

GARDA 01 estimated that the search took between five and ten minutes and when it was over they left Mr. WHEELLOCK in the cell and closed the door.

GARDA 01 was interviewed by investigators from the Garda Ombudsman in relation to the search of Terence WHEELLOCK. Parts of this statement have already been referred to earlier in this report. In relation to the search of Mr. WHEELLOCK, GARDA 01 stated, “Myself and GARDA 14 were present for the search. I asked Terence WHEELLOCK to remove each item of clothing and then to shake it out. He was wearing tracksuit bottoms and we checked the pockets of these. He was wearing shorts and we checked the pockets of these. He took off his runners and his socks. He put the clothing back on. I can’t remember if the chord from the track suit was visible outside of the track suit bottoms. If

he's been wearing a belt we'd have taken that off him. It wouldn't have been standard practice for us to remove tracksuit bottoms from prisoners. We wouldn't have considered taking all Terence WHEELLOCK's clothing and giving him a forensic suit."

In relation to the training given to Garda Members on the searching of prisoners, GARDA 01 stated, "There is training in Templemore on searches generally. I don't remember any specific instruction in relation to prisoners having possible ligatures or anything like that. We would always refer back to the Treatment of Persons in Custody Regulations and I don't remember any other instructions in this area."

GARDA 14, who accompanied GARDA 01 during the search of Terence WHEELLOCK, provided a statement to the Garda investigation on the 8<sup>th</sup> of June 2005. He stated, "We brought WHEELLOCK to a cell. I was present when GARDA 01 searched Terence WHEELLOCK. I took no active part in the search. I saw GARDA 01 search Terence WHEELLOCK's clothing thoroughly. He removed the prisoners T-shirt, tracksuit bottoms and runners. WHEELLOCK was wearing shorts under his track suit bottoms. I remember saying to him do you not wear boxers. He said something to the effect that he liked wearing shorts or he preferred shorts. I remember that there was paint on the track suit bottoms. The prisoners runners were removed from the cell and placed outside of the door. The cell door was locked. I had no further dealings with Terence WHEELLOCK."

On the 21<sup>st</sup> of November 2006, GARDA 14 gave evidence during the inquest into the death of Terence WHEELLOCK. In relation to his role in the search he stated, "Well, GARDA 01 took the, sort of the lead in the search; I more or less witnessed the search. GARDA 01 was the person who carried out the search. I was in the cell area observing more so than searching the prisoner."

Mr. GILLANE for the family of Terence WHEELLOCK asked GARDA 14, "Was it you that brought up the topic of Mr WHEELLOCK's undergarment?" GARDA 14 replied, "That's correct. I just found it quite strange he had a pair of three-quarter length shorts, just above knee length, and I just commented, 'How come you're wearing shorts, not boxer shorts?' That's just one thing that struck out at the time."

GARDA 14 denied that this was said in an attempt to belittle or demean Terence WHEELLOCK.

GARDA 14 was interviewed by investigators from the Garda Ombudsman and stated, “I escorted Terence WHEELLOCK with GARDA 01 from the custody area to the cells to be searched. Terence WHEELLOCK was in perfectly fine spirits and he did not make any complaints to me or GARDA 01. There was no difficulty with him. GARDA 01 asked Terence to remove his clothing to be searched. Terence had no problems with this and he complied with the instructions. He removed his T-shirt, tracksuit bottoms and runners. I did not notice any injuries on Terence. I did not notice any blood on Terence’s clothing or on him. I do not recall if GARDA 01 had taken Terence’s mobile phone during the search in the cell. Terence’s T-shirt and tracksuit bottoms were returned to him after the search. I saw GARDA 01 placing Terence’s runners outside the cell.”

In relation to the purpose of the search he stated, “The search was for the safety of the prisoner and for the safety of the Garda members.”

### **The Tracksuit Bottoms**

Michael NORTON Forensic Scientist of the Forensic Science Laboratory examined the tracksuit bottoms of Terence WHEELLOCK in July 2005.

In his report in relation to the examination of the tracksuit bottoms in July of 2005, Michael NORTON described them as follows, “The tracksuit bottoms were labelled as being a UK size of thirty two inches. The waistband was observed to consist of three separate bands of elasticated material. Two slits were observed in the middle of the front area of the central elasticated band through which a draw cord would originally have passed to enable the wearer to tighten the waistband. No draw cord was present in the waistband.”

Michael NORTON’s analysis of fibres from the ligature and the tracksuit bottoms ‘very strongly supported’ the suggestion that the ligature originated from the tracksuit bottoms. This was on a scale ranging from no support to very strongly support.

The presence of the two slits in the middle of the front area of the tracksuit bottoms would also indicate that there is a possibility that the cord was visible outside the waistband of the tracksuit bottoms when Terence WHEELLOCK was searched.

Regardless of whether the cord was visible outside the slits on the front of the tracksuit bottoms, draw string cords are a common feature in clothing of this kind.

### **Instructions to Gardaí Regarding Searches**

The relevant sections of the Regulations and Garda Code covering the searches of prisoners that were in place in June 2005 are listed below.

Regulation 17 of the S.I. 119/1987 Criminal Justice Act 1984 (Treatment of Persons in Custody in Garda Síochána Stations) Regulations 1987 states as follows:

17(1) A member conducting a search of a person in custody shall ensure, so far as practicable, that the person understands the reason for the search and that it is conducted with due respect for the person being searched.

17 (2) A person in custody shall not be searched by a person (other than a doctor) of the opposite sex.

17 (3) Where a search of a person in custody involves removal of clothing, other than headgear or a coat, jacket, glove or similar article of clothing, no person of the opposite sex shall be present unless either that person is a doctor or the member in charge considers that the presence of that person is necessary by reason of the violent conduct of the person to be searched.

17 (4) A search of a person in custody involving removal of underclothing shall, where practicable, be carried out by a doctor.

17 (5) Where clothing or footwear of a person is retained, replacements of a reasonable standard shall be provided.

17 (6) A record shall be made of a search of a person in custody including the name of the person conducting the search and the names of those present.

17 (7) Particulars of any property taken from or handed over by a person in custody shall

be recorded. The person shall be asked to sign the record of such property as being correct. If he refuses to do so, the refusal shall be recorded at the time of refusal...

An Garda Síochána Guidance notes on The Criminal Justice Act, 1984 and the Treatment of Persons in Custody in Garda Síochána Stations Regulations, 1987 provided the following explanatory note in relation to 17(5) above, “**Paragraph (5)** Where clothing or footwear is retained, the reason for retaining it should be explained to the person in custody. The member in charge should endeavour to procure a change of clothing and/or footwear from the family or friends of the person in custody. Failing this, he should purchase suitable garments of a standard reasonably comparable to that taken from the prisoner.”

Section 25.4 of the 4<sup>th</sup> Edition of the Garda Code was in force at the time of the arrest and detention of Terence WHEELLOCK.

Section 25.4 (1) sets out the rights of the Gardaí in searching a prisoner. It states, “The right of searching the person of a prisoner is derived from the Common Law Act, 1976 and the Misuse of Drugs Act 1977/84.

This section goes on to discuss an English court decision on searches of prisoners, Lindley and Rutter (1981) Q.B, 128 in relation to the requirement to inform the prisoner of the reason for the search. It quotes Donaldson L.J. stating, “With respect to searching a prisoner, there is no doubt that a man when in custody may so conduct himself, by reason of violence of language or conduct, that a police officer may reasonably think it prudent and right to search him in order to ascertain whether he has any weapon with which he might do mischief to the person or commit a breach of the peace; but at the same time it is quite wrong to suppose that any general rule can be applied to such a case.”

Later in the section it states, “Depending on the circumstances of each individual case and bearing in mind the contents of the previous paragraphs a person arrested on a criminal charge may be searched and deprived of anything suspected to be connected



with the charge or article which might be used by the prisoner to inflict injury on others or to inflict self-injury.”

Apart from this reference to articles which may be used to inflict self injury, at the time of Terence WHEELLOCK’s death there did not appear to be any specific direction or training to Garda members in relation to searching prisoners for items that could be used as a potential ligature.

On the 29<sup>th</sup> of August 2005 Garda HQ Directive 135/05 entitled Re: Criminal Justice Act, 1984 (Treatment of Persons in Custody in Garda Síochána Stations) Regulations 1987 Search and Detention of Prisoners in Garda Custody was released. The directive reminds members of their obligations under Regulation 17 and 19 of the Treatment of Persons in Custody Regulations. The HQ Directive also states, “The instructions regarding the search of prisoners and seizure of property contained in An Garda Síochána Code Vol. 1 Chapter 25.4(1) should also be adhered to.”

HQ Directive 135/05 summarised the instructions in the Code as follows, “Persons arrested on criminal charges may be searched and deprived of anything suspected to be connected with the charge or article which might be used by the prisoner to inflict injury on others or to inflict self injury. Persons who are arrested in a state of intoxication or insanity may be deprived of all their property.”

The HQ Directive continues, “Great care should be exercised when searching prisoners to ensure that articles are not concealed in their clothing which may be of evidential value or which may be used to inflict injury on others or to inflict self injury. This includes the removal of belts or the removal of clothing which contains in part or in whole cords/strings, e.g. hooded tops and tracksuit bottoms.”

This HQ directive was brought in two months after Terence WHEELLOCK was found unconscious at Store Street Station. It states that Garda members should remove from prisoners any item that contains a cord/string that could be used to form a ligature.

It is unfortunate that no such direction was in place on the 2<sup>nd</sup> of June 2005.

Chapter 26 of the 5<sup>th</sup> Edition of the Garda Code relates to ‘Prisoners and Escorts’. Section 26.3(1) states

“Every person brought to a Garda Station must be searched. Members of An Garda Síochána have a common law power to search an arrested person and take possession of articles:

- (a) Which they believe to be connected with, or evidence relating to the offence charged or some other offence.
- (b) Which might be used by the prisoner, to injure persons or property, or to effect his/her escape.
- (c) Which might assist in the identification of the person arrested.”

Section 26.3(7) states, “Great care should be exercised when searching prisoners to ensure that articles are not concealed in their clothing, e.g. folds in the sleeves of their shirts, etc.”

On the 10<sup>th</sup> of April 2008 HQ Directive 58/2008 introduced The Guidance Notes on the Implementation of the Criminal Justice Act, 1984 (Treatment of Persons in Custody in Garda Síochána Stations Regulations, 1987 and 2006). This replaced previous instruction issued in April 1987 entitled “The Criminal Justice Act, 1984 (Treatment of Persons in Custody in Garda Síochána Stations) Regulations 1987.

The Guidance Notes set out provisions for replacement clothing to be issued to prisoners when their clothing has been taken from them. It states, “This specification relates to detainee clothing. Such clothing will be worn when a detainee’s clothing has been taken for forensic examination or is unwearable (e.g. wet) or where it is necessary to retain the detainee’s clothing in order to ensure the safety of the detainee or other person (self harm). The clothing will be worn once and then discarded. (It will not be re-used). The clothing will be suitable for wear for both sexes. No part of the clothing will enable a

detainee to do themselves or others harm e.g. a drawstring or removable components etc.”

The stated specification for replacement garments indicates that trousers will be ‘jogger trouser bottoms’ with an elasticated waist and elasticated cuff ankles. It further specifically states, ‘No drawstring permitted.’

### **The Alarm Call Button**

The evidence provided by GARDA 31 would indicate that the area around the alarm call button had been damaged prior to the 2<sup>nd</sup> of June 2005. In his statement to Garda Ombudsman Investigators he stated, “I can remember that there was no plaster or debris on the floor of the cell that would have come from recent damage to the area around the cell alarm fitting. I remember the condition of the cell was quite good and it looked like the cells had been painted recently. By recently I mean in the previous months. The damage looked to as if it had been recently painted. The fact that I couldn’t find any debris on the floor would indicate to me that the damaged area at the top of the alarm fitting was not recent.”

In his report, J. Desmond KIRWAN BROWNE, Consulting Engineer for the WHEELOCK family, examined the photographs taken of cell 7 on the 2<sup>nd</sup> of June 2005 by GARDA 31 and concluded, “It is evident that the surround to the bell push plate had been subjected to vandalism and that the surround render was ‘gouged out’ and at times painted over.” He goes on to state, “Examination of other cells showed similar sealed surrounds to bell push plates.”

J. Desmond KIRWAN BROWNE concluded, ‘The bell plate was in a condition that it posed a hazard with regard to it being an object that could be used for suspension purposes. It was foreseeable that the bell push was a serious hazard in this regard.’

He goes on to state that cord of tracksuits should not be allowed to be retained by cell occupants and also that the evidence indicated a 'lax attitude to good, safe practice with regard to the health and safety of persons retained in these cells.'

Dr. Jason PAYNE JAMES commented in his report prepared for the Garda Ombudsman investigation that the cell alarm panel was 'a typical example of a potential suspension point.'

**Regulation 19(6) of the Criminal Justice Act 1984 (Treatment of Persons in Custody in Garda Síochána Stations) Regulations 1987**

Regulation 19(6) of the Criminal Justice Act 1984 (Treatment of Persons in Custody in Garda Síochána Stations) Regulations 1987 states as follows, "Where a person is kept in a cell, a member shall visit him at intervals of approximately half an hour. A drunken person or a person under the influence of drugs shall be visited and spoken to and if necessary roused for this purpose at intervals of approximately a quarter of an hour for a period of two hours or longer if his condition warrants it."

Terence WHEELLOCK was taken to cell 7 for the purpose of a search at 12.25 pm on the 2<sup>nd</sup> of June 2005.

Twenty one minutes later at 12.46 pm GARDA 12 checked Terence WHEELLOCK in the cell and recorded, "Prisoner asleep in cell bed all is well".

Sixteen minutes later at 13.02 pm GARDA 12 checked Terence WHEELLOCK in the cell and again recorded, "Prisoner asleep in cell bed all is well".

The next recorded check is at 13.43 pm, forty one minutes later. On this occasion GARDA 12 recorded, "Prisoner asleep on cell bed."

GARDA 12 recorded a check on Terence WHEELLOCK ten minutes later at 13.53 pm as "Prisoner asleep on cell bed."

Seven minutes after that at 14.00 pm, GARDA 17 recorded a check on Terence WHEELLOCK with the line, “Prisoner in cell. All okay.”

Ten minutes later at 14.10 pm GARDA 21 recorded her first check on Terence WHEELLOCK with the words, “in cell. All ok.”

There is conflicting evidence as to the length of time before the next check on Terence WHEELLOCK in which he was found with the ligature. GARDA 21 originally estimated that the check took place at 14.35 pm. This would have allowed for a twenty five minute gap from the previous check on Terence WHEELLOCK.

GARDA 21 later revised this estimated time and stated that the correct time was 14.40 pm approximately. This would mean that there was a thirty minute gap between checks.

The timings on the video tape of the Garda interview with WITNESS 16 at Store Street Garda Station would indicate that Terence WHEELLOCK was discovered in his cell at shortly after 14:40.

The video of the interview commences at 14:43 according to the clock on the video itself.

At 14:44.45 a commotion is heard outside the interview room and a female voice is heard shouting. Though it is not possible to make out what the female is saying, it is very likely that this is either the discovery of Terence WHEELLOCK unconscious in his cell or the subsequent actions that ensued very shortly afterwards.

All the Gardaí interviewed who were present in Store Street on the 2<sup>nd</sup> of June 2005 would state that there was no delay in requesting an ambulance. Dublin Fire Brigade have reported that the first call was received by them at 14.44:22 on the 2<sup>nd</sup> of June 2005.

The evidence outlined above would therefore indicate that Terence WHEELLOCK was discovered by GARDA 21 after 14:40 on the 2<sup>nd</sup> of June 2005.

GARDA 21 has provided an explanation for the inaccurate timings on the Custody Record and these have been summarised elsewhere in this report. The lack of accurate and consistent standards of time recording on the custody record of Terence WHEELLOCK and the other prisoners in Store Street has led to speculation about the treatment received by Terence WHEELLOCK.

By the timings originally recorded by GARDA 21 on the Custody Record Terence WHEELLOCK was discovered at 14.35 pm. The timings from the DFB indicate that the call was received by them at 14.44. This has given rise to media reporting that there was a delay by Gardaí in calling an ambulance to assist Terence WHEELLOCK. All the other available evidence would indicate that there was no delay in calling an ambulance. In fact, such was the rush to call an ambulance that two Garda members rang from two different phones five seconds apart.

### **Errors on The Custody Record**

The errors made by Garda members whilst completing the custody record for the detention of Terence WHEELLOCK have led to suspicion from the family of Terence WHEELLOCK that he was mistreated whilst in custody.

GARDA 12 initially recorded the wrong name for the arresting member. This entry on the custody record was scored out and re-written. The family of Terence WHEELLOCK have contended that it is suspicious that the name of the person who arrested Terence WHEELLOCK was recorded incorrectly.

The Custody Record also records that Terence WHEELLOCK requested his solicitor be notified of his detention. The request is timed at 12.26 p.m. However, at 12.25 p.m. the custody record records that Terence WHEELLOCK had been taken to a cell for the purposes of a search.

GARDA 12 has recorded in her statement that prior to being brought to the cell for the search, Terence WHEELLOCK requested that she contact Solicitor TERRY LYONS and Co. It is likely that this request was made close to the time recorded but prior to Terence WHEELLOCK being taken to the cell for the search.

At 12.36 pm GARDA 12 has recorded contacting Terry Lyons Solicitor for Terence WHEELLOCK and leaving a message for them to attend the station.

In her statement to Detective Sergeant Sean CAMPBELL, GARDA 12 has recorded that she went down to the cell and spoke with Terence WHEELLOCK at this point. She states, “I went down to the cell and I told the prisoner that I had left a message for his solicitor to contact us and that when the solicitor had called or phoned I would bring him to speak with the Solicitor. The phone in the cell area was out of order and I had to bring 4 or 5 prisoners up to the public office to use the phone.”

None of this contact with Terence WHEELLOCK is recorded on the Custody Record by GARDA 12.

GARDA 21’s inaccurate timing of the discovery of Terence WHEELLOCK has also created the suspicion that Terence WHEELLOCK was mistreated in custody or that the Gardaí neglected in their duty of care for him.

### **File to the Director of Public Prosecutions**

A file outlining the evidence gathered in the Garda Síochána Ombudsman Commission investigation was sent to the Director of Public Prosecutions.

On the 20<sup>th</sup> of January 2010 the Director of Public Prosecutions wrote to the Garda Síochána Ombudsman Commission stating that no criminal proceedings were warranted against any party arising out of the investigation.



## **6. The Statement of Larry WHEELOCK**

On the 26<sup>th</sup> of January 2008, Garda Ombudsman investigators took a signed statement from Larry WHEELOCK, the content of which outlined his concerns regarding the arrest and detention of his brother Terence WHEELOCK. The provision of this statement was preceded by a number of meetings between Garda Ombudsman investigators and Larry WHEELOCK, during which time, his concerns were also expressed.

The issues raised by Larry WHEELOCK are listed below. Where possible, direct quotations from Larry WHEELOCK's statement have been included.

### Concerns:

- 1) That Terence Wheelock was arrested 'unduly'

Larry WHEELOCK stated that his brother Terence, "had no part in the stealing of the car or any part in dealing with the car. He only left the house five minutes before his arrest and the car was stolen the night before.'

Terence WHEELOCK was arrested with others in possession of a stolen car and whilst attempting to flee Gardaí. His arrest was not unlawful.

There is evidence to suggest that Terence WHEELOCK was not involved in the theft of the car. Both Simon DOHERTY and Noel HUDSON insist he was not involved in the theft.

The statements from GARDA 04 and GARDA 03, the Garda members who met Terence WHEELOCK whilst on patrol in the early hours of the 2<sup>nd</sup> of June 2005, indicate that Terence WHEELOCK was on his own when he was seen by them at 05.00 a.m.

However, there is evidence to suggest that Terence WHEELLOCK was present with the stolen car and there is fingerprint evidence that he had interacted with the Disabled Electric Wheelchair that was found inside 41, Sean O'Casey Avenue.

2) That Terence Wheelock was assaulted at the scene of the arrest.

Larry WHEELLOCK stated, "His co-accused, Simon DOHERTY, mentioned how rough the police had been during the arrest. Apparently Terence requested not to be handcuffed behind his back as his arm was sore but it was done anyway... They banged Terence's head off the van."

The only evidence of an assault at the scene is the evidence of Simon DOHERTY, Noel HUDSON and Gary GIFFORD.

The accounts that they have provided are inconsistent.

Independent witnesses state that no assault took place.

There is no medical evidence to support the allegation that Terence WHEELLOCK was assaulted during his arrest.

The nine Garda members involved in the arrests all deny that Terence WHEELLOCK was mistreated in any way.

It is the view of the Garda Ombudsman Commission that no such assault took place.

3) That the custody record did not accurately reflect the injuries present on Terence Wheelock when he arrived at Store Street.

Larry WHEELLOCK states, "No reference was made on the custody record to any injuries on his body, only on his elbow... It is standard on the Custody Record that they would

want to record every mark and injury on your body so that they can link you with past or future crimes.”

It is incorrect to state that every mark and injury would be recorded on the Custody Record. There is no requirement under the Treatment of Persons in Custody Regulations for the recording of injuries on a person when they arrive into custody. The suggestion that this information is used to assist with the investigation of future crimes is also incorrect.

There is evidence, however, that GARDA 12 did record the injuries that were visible on Terence WHEELLOCK. GARDA 12 made an entry at part A 14 of the Custody Record under Any Distinguishing Marks/Deformities/Amputations/Scars/Facial Oddities/Alerts (Personality and Possible Tendencies) which states, “Birth mark on left arm + bruises.”

4) That Terence Wheelock was unconscious during his time in custody.

Larry WHEELLOCK stated, “Terence was checked every seven to ten minutes when he was in the cell. He was asleep all during this time. This was during midday. Why was he asleep for a couple of hours? He was not long after getting up at about nine o’clock. I don’t believe he was asleep. I believe he was unconscious...I have trouble with this as these are hardly the actions of a suicidal man to sleep in the hours before he takes his life.”

The evidence would not support this proposition. There is no medical evidence to indicate that Terence WHEELLOCK had suffered any injury that would have rendered him unconscious, prior to him being found with the ligature around his neck.

There are several different sources of evidence to suggest that Terence WHEELLOCK had not had a full nights sleep the previous night.

There is also witness and toxicology evidence that he had taken sleeping tablets prior to the period of detention. His co-accused Simon DOHERTY also slept during his time in custody.

- 5) That Terence WHEELLOCK was strip searched at Store Street and that no injuries were found on him by the two Garda members who observed the search. Larry WHEELLOCK states that these Gardai gave evidence to this effect in the Coroner's court.

This is correct and remains the position of the Garda members GARDA 01 and GARDA 14 who performed the search. It was not the purpose of the search to record the injuries present on the prisoner.

The injuries to Terence WHEELLOCK's arms and legs which can be seen in the photographs taken by the Senior Clinical Photographer for the Mater Hospital were described as 'minor injuries' by Professor Marie CASSIDY. The marks on Terence WHEELLOCK's hands were described as 'minor lacerations' and 'not very striking' by Dr. KEOGH.

The injuries are discussed in detail elsewhere in this report.

It would have been helpful if GARDA 01 and GARDA 14 had methodically recorded the injuries present on Terence WHEELLOCK during the search, however, this was not the purpose of the search and the failure to do so would not amount to a neglect of duty.

- 6) That Simon DOHERTY heard an argument between Terence WHEELLOCK and Gardai over Terence's Mobile Phone. Larry WHEELLOCK states that Gardai taunted Terence WHEELLOCK by reading out his phone messages to him.

The only evidence that suggests that this may have taken place is the statements made by Simon DOHERTY. His evidence in this regard is again inconsistent and contradictory.

No other prisoner corroborates Simon DOHERTY's account and the available Mobile Phone evidence would not corroborate it.

All of the Garda members present in Store Street Garda Station on the 2<sup>nd</sup> of June 2005 interviewed as part of the Garda Ombudsman enquiry deny that any such taunting took place.

- 7) Lawrence WHEELLOCK has alleged that there was a delay in an ambulance being called to Store Street Garda Station. He states, "It took them about fourteen minutes to ring an ambulance."

GARDA 21 entered an incorrect time on the custody record as to when she discovered Terence WHEELLOCK. This incorrect entry has led to speculation that there was a delay in calling the ambulance. All other evidence, the timings of the calls to Dublin Fire Brigade, the timings on the interview of WITNESS 16 and the accounts of the Garda members, would indicate that no such delay took place.

- 8) Lawrence WHEELLOCK stated, "None of the phones in the station were working that day."

This is not correct. The phone in the cell area wasn't working but there is evidence that other phones in Store Street were operational. Among the calls made from Store Street on the 2<sup>nd</sup> of June 2005 that have been verified are the call at 12.36pm which GARDA 12 made to Solicitors Terry Lyons & Co on behalf of Terence WHEELLOCK and the calls by GARDA 29 and GARDA 28 for the ambulance.

- 9) “They got through to the paramedics and when they arrived they were not allowed inside the cell for whatever reason.”

This is not correct. None of the emergency personnel have stated they were restricted in any way by the Gardaí. One of the emergency personnel, FIRE FIGHTER 02, has indicated that he entered the cell and saw the ligature in situ.

- 10) Lawrence WHEELLOCK stated, “The family was told that Terence WHEELLOCK was at St. James Hospital when he was at the Mater.”

This is correct and this unfortunate incident did take place. The issue has been covered in the body of the report.

- 11) Lawrence WHEELLOCK alleged that Detectives Oliver HANLEY and Sean CAMPBELL removed Terence WHEELLOCK’s clothes from the hospital unlawfully.

This is incorrect. Detective Superintendent Oliver HANLEY and Detective Sergeant Sean CAMPBELL were investigating the attempted hanging and seized the clothing lawfully.

- 12) Lawrence WHEELLOCK states, “I have never had a satisfactory explanation from the Guards about the blood on Terence’s clothes.

The origin of the blood staining has been covered elsewhere in this report. It is the view of the Garda Síochána Ombudsman Commission that the bleeding occurred as part of the medical care of Terence WHEELLOCK at the A and E Department of the Mater Hospital.

- 13) Lawrence WHEELLOCK alleged that the Gardaí were pre-disposed to consider Terence’s death a suicide and did not consider any other scenario.

No formal complaint was made in relation to the treatment of Terence WHEELLOCK at the time of his arrest and detention. Detective Sergeant Sean CAMPBELL attempted to interview Simon DOHERTY, Noel HUDSON and Gary GIFFORD as part of his investigation but all three declined to be interviewed.

Detective Sergeant Sean CAMPBELL also requested access to medical records in relation to Terence WHEELLOCK but the solicitors for the WHEELLOCK family declined. Furthermore, the photographs taken by the Senior Clinical Photographer of the Mater Hospital on the 3<sup>rd</sup> of June 2005 were also not supplied to the Gardaí until they were released to the Gardaí by the Coroner. As such they were not taken into account in the investigation.

In the absence of any evidence to indicate to the contrary the logical conclusion was that Terence WHEELLOCK had attempted to take his own life.

In the circumstances, the investigation by Detective Superintendent Oliver HANLEY and Detective Sergeant Sean CAMPBELL was appropriate and thorough.

14) Lawrence WHEELLOCK states, “My brother may have been sexually assaulted.

Dr. Carl Grey the independent pathologist has stated that there may have been an ‘injurious anal trauma of some kind’ which was the cause for the blood in Terence’s underwear. Lee Fagan the independent forensic expert ruled out that the blood happened in an emergency medical situation. I think this is very important, the state forensic scientist was told by Sean CAMPBELL (*Detective Sergeant Sean CAMPBELL of An Garda Síochána*) that a femoral line burst in Terence’s groin. This was very suggestive, trying, in my opinion, to throw her off the real causes.”

There is no evidence to support the allegation that Terence WHEELOCK was sexually assaulted during his arrest and detention on the 2<sup>nd</sup> of June 2005. There is no evidence that he suffered an injurious anal trauma or that anal bleeding occurred.

15) Lawrence WHEELOCK asked, “Why the Garda never liaised with us during the course of their internal investigation or made any documents available to us?”

There is evidence that Gardaí did in fact attempt to liaise with the WHEELOCK family. Two Garda members were appointed as Family Liaison Officers in an attempt to foster relations with the family. All attempts were refused by the family.

16) Lawrence WHEELOCK asked, “Why the Gardaí seized Terence’s clothes with no intention of examining the blood on them until the family had them examined?”

The clothes were submitted for examination. This examination centred on the origin of the ligature. The Forensic Scientist who carried out the examination made no mention of blood staining in his report. He did, however, indicate that there was blood staining on the clothing when he gave evidence at the Coroner’s inquest on the 22<sup>nd</sup> of November 2006. Following this evidence the clothing was subsequently re-examined.

17) Larry WHEELOCK has asked how GARDA 21 was in two places at one time. He stated, “The custody records of the other prisoners detained show that she couldn’t have been checking Terence when she said that she did at 2.10 p.m.” Later in the statement he asks, “Why it took Garda 21 18 months to rectify her time lapse in putting the wrong time on the custody record?”

Examination of the custody records do not indicate that at 2.10 p.m. GARDA 21 was not able to check on Terence WHEELOCK. There are entries that indicate that



several prisoners arrived at Store Street Station at 2.10 p.m. but this in itself would not have precluded GARDA 21 from performing the check on Terence WHEELLOCK.

It did not take GARDA 21 18 months to report the mistake in time recording on the custody record. On the 15<sup>th</sup> of June 2005 GARDA 21 provided a statement to Detective Sergeant CAMPBELL and Detective Superintendent HANLEY indicating that the times on the custody record for the two entries made after Terence WHEELLOCK was removed to the hospital were incorrect.

18) Lawrence WHEELLOCK expressed concern as to why the cell in which Terence WHEELLOCK was detained was renovated almost immediately after the incident?

On the 2<sup>nd</sup> of June 2005, following his examination of the scene, GARDA 31 informed GARDA 33 that preservation of the scene was no longer required. GARDA 33 opened the cell area again and he informed SERGEANT 05.

From this point cell 7 at Store Street Station was available for use as a cell for detained persons. It had been established that the cell alarm call button was a potential ligature point and in the interests of the safety of those detained in the cell repairs were necessary. The cell could not be used until the potential ligature point had been removed.

These repairs were carried out on the 3<sup>rd</sup> of June 2005. Repairs were also carried out to the cell alarm bell system itself.

On Wednesday the 21<sup>st</sup> of September 2005 J. Desmond KIRWAN BROWNE and Yvonne BAMBURY went to Store Street Garda Station and discovered that substantial works had been carried out at the cell and could not inspect the cell.

On the 12<sup>th</sup> of October 2005, Brendan COURTNEY Ltd contractors were contracted by An Garda Síochána to carry out renovation work in all cells at Store Street Garda Station. The Contractors removed all stainless steel plates fitted within cells and cut grooves in

walls to lower fascia plates below wall surface. They refitted the same plate and filled the gaps around plates with car body filler. They painted the wall surfaces around the push button plates.

19) Lawrence WHEELLOCK asked why Terence's clothes were held in a locker at Blackrock Garda Station when there was critical forensic evidence on them that had degraded over time?

The Garda Ombudsman investigation would indicate that these items were stored appropriately and that there was no degradation of critical forensic evidence.

20) Lawrence WHEELLOCK asked "Why did Sean CAMPBELL say in the Coroner's court that Terence's t-shirt was found under Terence's body in intensive care seven days after the incident? Was he suggesting any impropriety on our behalf, suggesting that we, the family, had planted it there? It transpired that there were two blood types found on the shirt, one from Terence and one possibly from a close family relative. In Terence's medical notes from the day of the incident there is information that the t-shirt and the clothes were present in A and E."

In his evidence to the Coroner on the 12<sup>th</sup> of July 2007 in relation to seizing the T shirt of Terence WHEELLOCK, Detective Sergeant Sean CAMPBELL said, "It was a couple of days later that I got a call from another nurse, NURSE 02, who informed me that a t-shirt had been found and it had been found under Terence WHEELLOCK". Later he clarifies that he received the call on the 7<sup>th</sup> of June 2005 and states, "I was surprised when I got the clothing the first time that there was clothes still outstanding. So I would have, because of the nature of things I didn't open the bag that I received from Nurse LARKIN, I kept possession of it until I brought it to the forensic science laboratory. So I was surprised when I actually received a phone call to say that a t-shirt had been found underneath Terence WHEELLOCK... the call might have been made and I was not available to take the call or it might have been a message that was left for me, I don't

remember specifically, but what I do specifically remember is that I had to go to the Mater Hospital and to collect another item of clothing.”

Later he states, “I went, I collected it, put it in an evidence bag, brought it up to the forensic science laboratory on the same day as I brought up the other item.”

Three of the nurses, including NURSE 01, were interviewed concerning this issue. None were able to assist as they did not recall the incident.

The Intensive Care Unit (ICU) chart from the 2<sup>nd</sup> of June 2005 has an entry recorded at 03.00 am on the 3<sup>rd</sup> of June 2005 which reads as follows, “Store Street Garda Station Rang Re T-Shirt remaining in unit, they will collect today.”

This would indicate that the T-shirt had been found and the Gardaí notified within approximately 12 hours of Terence WHEELLOCK being admitted to the Mater Hospital.

Whilst it has not been possible to fully confirm the circumstances surrounding the discovery of the T shirt in the Mater Hospital and its provision to the Gardaí, there is no evidence of any offence having been committed in the handling of the T-shirt.

21) Larry WHEELLOCK asked, “Why did the Garda not question anyone in A and E regarding the femoral leak? The first reference to a femoral line being inserted was later on that night when a femoral line was inserted when Terence was in intensive care. There was an arterial line placed On Terence Wheelock earlier but this was in a different part of the body.”

The Garda Ombudsman investigation indicates that the femoral line was inserted while Terence WHEELLOCK was being treated in A and E Department at the Mater Hospital. Furthermore the evidence does not suggest that there was a “leak”. Instead,

it suggests that the normal insertion of a femoral line can naturally cause some blood loss.

This has been covered elsewhere in this report; however, DOCTOR 01 records a central venous pressure reading in her notes. This reading could only have been available following the insertion of a central line.

It follows then that the line was inserted in the Accident and Emergency Department of the Mater Hospital.

22) Lawrence WHEELLOCK asked, “Why did Inspector Sean CAMPBELL give blurred photographs to the State Pathologist of the injuries to Terence? Yvonne BAMBURY gave Sean CAMPBELL the original photographs but he gave copies to Marie CASSIDY.”

The transcript from the Coroner’s Inquest evidences that the opposite is actually correct and Detective Sergeant Sean CAMPBELL [now promoted to Inspector] provided the higher quality images to the Coroner’s inquest.

23) Larry WHEELLOCK asked, “How did GARDA 12 mix up the names of the arresting officer and the Garda who brought Terence to the station? She works in the same police station as them. “

This has been covered in the body of the report.

## 7. CONCLUSIONS

The death of Terence WHEELLOCK was a tragedy. That he died following a period of detention at Store Street Garda Station has always been a source of concern for the WHEELLOCK family. The circumstances of the arrest and detention of Terence WHEELLOCK have been examined and all available evidence has been considered.

The investigation of the Garda Síochána Ombudsman Commission concludes as follows:

There is insufficient evidence to support the allegation that Terence WHEELLOCK was assaulted by Garda members during his arrest at Sean O'Casey Avenue on the 2<sup>nd</sup> of June 2005.

There is no credible evidence that Terence WHEELLOCK was mistreated in any way during his detention at Store Street Garda Station.

The allegation that Terence WHEELLOCK was sexually assaulted during his detention at Store Street Garda Station is wholly without foundation in evidence.

The allegation that Garda members taunted Terence WHEELLOCK during his detention is not supported by credible evidence.

Systemic failures and the lack of clear instruction led to the presence of a ligature suspension point in Cell 7 of Store Street Garda Station on the 2<sup>nd</sup> of June 2005.

A lack of clear instruction and process allowed Terence WHEELLOCK to bring a ligature with him into the cell during his detention.

The recording of the details of the custody of Terence WHEELLOCK on the 2<sup>nd</sup> of June 2005 fell below appropriate standards.

## **8. RECOMMENDATIONS**

- 1. That An Garda Síochána commence an immediate State wide review of all custody facilities to ensure that no ligature points exist within cells that are used for the detention of prisoners.**
- 2. That An Garda Síochána initiate a process of regular documented ligature reviews of all cells.**
- 3. That An Garda Síochána commence a study of the feasibility of the installation of CCTV cameras in all custody areas, including cells, used for the detention of prisoners on a regular basis.**
- 4. That An Garda Síochána introduce a specialist role for Garda members charged with the responsibility for the custody of prisoners. This dedicated custody officer role should be given to members with the necessary experience and ability to carry out such a function. The role should only be carried out by members trained to a high standard in all areas of the custody function.**
- 5. That An Garda Síochána issue consolidated, clear and comprehensive instruction as to the need for prisoners to be searched for potential ligatures and the removal of cords etc., from clothing.**
- 6. That An Garda Síochána issue clear and comprehensive instruction as to the need for Custody Record entries to be accurate and complete.**
- 7. That An Garda Síochána issue a reminder to all members as to the need for accurate recording of the time on Custody Records. A single digital custody clock should be used in each station by all members for the recording of the times on custody records.**
- 8. That An Garda Síochána commence a review of the provision of safety equipment within custody areas. The review is to specifically address the provision of First Aid Equipment, including Vent Aids, in custody areas.**
- 9. That An Garda Síochána commence a review of the First Aid Training and First Aid refresher training provided to its members. Specifically, the review**

**should address the provision of First Aid Training to Garda members deployed in the role of Member in Charge or Gaoler.**

- 10. That An Garda Síochána review the feasibility of providing ligature cutting equipment to each station designated for the custody of prisoners.**