TRIBUNAL OF INQUIRY INTO PROTECTED DISCLOSURES MADE UNDER THE PROTECTED DISCLOSURES ACT 2014 AND CERTAIN OTHER MATTERS FOLLOWING RESOLUTIONS PASSED BY DÁIL ÉIREANN AND SEANAD ÉIREANN ON 16 FEBRUARY 2017

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CHAIRMAN OF DIVISION (P): MR. JUSTICE SEAN RYAN,
FORMER PRESIDENT OF THE COURT OF APPEAL

HELD IN DUBLIN CASTLE
ON MONDAY, 15TH OCTOBER 2019 - DAY 100

100

Gwen Malone Stenography Services certify the following to be a verbatim transcript of their stenographic notes in the above-named action.

GWEN MALONE STENOGRAPHY SERVICES

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1	THE HEARING RESUMED, AS FOLLOWS, ON TUESDAY, 16TH
2	OCTOBER 2019:
3	
4	CHAIRMAN: Good morning. Thank you. Yes, Mr. Kelly.
5	MR. KELLY: Chairman, just before we begin, can I raise 10:32
6	an issue, it is about the press report.
7	CHAIRMAN: Make sure you are on sound, Mr. Kelly. Yes,
8	sorry.
9	MR. KELLY: Can I raise an issue about press reporting
10	yesterday? There was an article which appeared on line 10:32
11	on breakingnews.ie, which Paul Neilan, timed at 13:51,
12	which reads, the relevant passage reads:
13	
14	"He also alleges a series of harassments that relate to
15	car tax, sick leave, back pay, delays in his case,
16	micro-supervision of his work by three sergeants in
17	Athlone, the changing of the status of his sick leave
18	within An Garda Síochána after he turned up drunk for
19	work - due to work-related stress - general criticisms
20	of his work and his "confinement" to the duty desk as
21	"making an example" of him.
22	
23	That latter bit is obviously very clearly damaging,
24	turned up drunk for work. It wasn't in the evidence at
25	all. All I am asking you, Chairman, at this stage to 10:33
26	do, is remind to the press that reporting must be not
27	only be fair but also accurate
28	CHAIRMAN: Thank you. Well, Mr. McGuinness, have you
29	anything to say about that?

1	MR. McGUINNESS: Yes, Chairman. Mr. Kelly drew the	
2	article to my attention. I don't obviously want to	
3	take sides, as it were, for or against either the	
4	reporter or the complainant, as it were. Obviously it	
5	relates to an issue that was alluded to yesterday,	10:3
6	Garda Keogh ringing in off sick at a time when he	
7	wasn't actually on duty in the station and wasn't as	
8	such drunk at work. Obviously the obligation is there	
9	in the most general terms to report fairly and	
10	accurately. I think, Chairman, that's really the only	10:3
11	essence of the central point that should be made.	
12	CHAIRMAN: Okay. Yes, I must say, I sympathise with	
13	Mr. Kelly's point and with Garda Keogh's concern, I	
14	sympathise with that. Obviously we all agree that	
15	reporting should be fair and accurate. Obviously we	10:3
16	also accept that in the heat of the moment people will	
17	make mistakes, people will misunderstand and so on. I	
18	am reluctant to get into a situation, and I am not	
19	suggesting, I am not imputing this to Mr. Kelly for a	
20	moment, but I don't want to be in a situation where I	10:3
21	have to monitor, either at invitation of parties or of	
22	my own motion, where I have to monitor coverage.	
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I should remind people, and I will remind public and press, that we endeavour to put and will continue to endeavour to put the full transcript on the Tribunal's So, there should really be little enough -while in other circumstances it may be more understandable that errors can creep in, it's possible

1	to check these things by looking at the transcript.	
2	That will usually be there by maybe about seven o'clock	
3	in the evening. Obviously if somebody is doing this on	
4	an ongoing, midday basis, that's not possible. But it	
5	does rather indicate or emphasise the obligation to be $^{-1}$	0:36
6	fair and accurate.	
7		
8	Other than those general comments, that's all I will	
9	say. I don't propose to deal with the accuracy of	
10	reporting because I think I have enough to do without	0:36
11	taking that on. Although I do sympathise, I have to	
12	say, with the position of somebody who says, look, the	
13	situation may have been, I may have been apparently	
14	criticised by something somebody said, but at least get	
15	it right in the way that I was being criticised.	0:36
16		
17	So, I have some sympathy, but I am not going to enter	
18	into that particular fray. I am grateful to Mr. Kelly	
19	for raising the matter now so I can actually make that	
20	and say what my general view is.	0:36
21		
22	All right. Thanks very much. Thanks, Mr. Kelly. Now,	
23	Mr. McGuinness.	
24	MR. McGUINNESS: Yes, if I can ask Garda Keogh to	
25	return to the witness box.	0:37
26	CHAIRMAN: Yes. Thanks very much.	
27		
28		

1			GARDA NI CHOLAS KEOGH, CONTINUED TO BE QUESTIONED BY	
2			MR. MCGUINNESS, AS FOLLOWS:	
3				
4	1	Q.	MR. McGUINNESS: Garda Keogh, good morning.	
5		Α.	Morning.	10:37
6	2	Q.	Just to tidy up and finish the issue we were dealing	
7			with yesterday. I don't know if you became aware that	
8			some time after you put the entry on Pulse relating to	
9			Ms. B, Garda A became aware of it and raised concerns	
10			about it?	10:37
11		Α.	Yes.	
12	3	Q.	Could I just direct you to where he did that? He did	
13			that in writing on 27th July 2014, at Volume 29, that's	
14			page 8307 of our documents.	
15		Α.	I recall reading that, yeah.	10:38
16	4	Q.	You do recall reading that. We will just bring that up	
17			on the screen there. It's there, it says:	
18				
19			"With reference to the above, I wish to report on the	
20			above intelligence record which is created by Garda	10:38
21			Nicholas Keogh on 18/5/14. I am obviously the senior	
22			member of the drug squad referred to in this report as	
23			Garda Keogh has recently made a number of complaints	
24			against me which I believe are a result of a personal	
25			grievance which Garda Keogh holds against me. I	10:38
26			previously verbally reported my dissatisfaction with	
27			this intelligence record to my superiors in Athlone. I	
28			was told the matter would be dealt with. The matter	
29			has not been dealt with. The intelligence records	

still in existence has not been reviewed. I am aware this intelligence record is widely viewed and discussed by members on national scale and been the brunt of many a joke. I do not believe that the Garda intelligence system is the forum for members to make scurrilous standards and unfounded allegations against other members in order to settle personal grievances. I wish to express my severe disappointment that this matter has not been dealt with in a more timely fashion. If the situation is not resolved, I will be forced to take 10:39

legal advice on the matter, which is causing me great

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upset."

Now that went to Sergeant Curley, who sent it up to Superintendent McBrien on the 30th. Superintendent 10:39 McBrien sent it on to the chief superintendent and the chief superintendent sent it on, on the 10th September. But I am just drawing it to your attention from the point of view of management, with whom you hadn't shared or discussed the intelligence in any way. 10:39 those circumstances, where they have a guard who has put on Pulse in, I am not suggesting it is a public way but it's available to members of the force, was it not reasonable for that reason alone to query you about the nature of the information you have and to ask for a 10 · 40 report about it?

A. No. My argument is the same as the intelligence report. I reported criminality in relation to the Westmeath division. The chief in Westmeath is writing

1		down to me in relation to all this stuff. All of that	
2		should have been handed over to the investigation team.	
3		I am complying fully with the investigation team at	
4		this period, I have handed everything over to them and	
5		all those letters really should have gone to the	10:40
6		investigation team and they could have then dealt with	
7		them.	
8	5 Q	. Yes. I don't want to go over old ground, but you were	
9		informed by the investigation team that they were not	
10		concerned with the propriety or otherwise of inputting	10:41
11		it onto Pulse?	
12	А	. Yeah.	
13	6 Q	. They were looking at the substance of it, isn't that	
14		right?	
15	А	. I understand that, yeah.	10:41
16	7 Q	. That, according to Chief Superintendent Curran, still	
17		left him with the problem of squaring up what he	
18		considered to be his obligations under CHIS, in	
19		relation to you handling an informant. You understand	
20		that?	10:41
21	А	. Sorry, again, this person is not an informant as per	
22		se, as what we would call an informant.	
23	8 Q	. That's your view. Obviously I just should clarify, I	
24		suggested to you yesterday that Assistant Commissioner	
25		Ó Cualáin had phoned you on the 14th, four days before	10:41
26		you put it the entry on, in fact he appears to have	
27		phoned you on the 16th, do you recall that, the 16th	
28		May?	
29	А	. I know there was a number of brief phone calls in that	

Τ			period.	
2	9	Q.	Just finally at this stage on this issue, the creation	
3			of the entry, did you consider that there might be any	
4			detrimental effect to any proposed investigation by, as	
5			it were, tipping off people that this was now going to	10:4
6			be the subject-matter of an inquiry?	
7		Α.	That issue didn't come up. This was public knowledge	
8			and had been public knowledge in the town for years.	
9			So there was no that wasn't an issue.	
10	10	Q.	Well, in the sense that you made your protected	10:4
11			disclosure, you knew there was going to be an	
12			investigation and then you put this on Pulse. Did you	
13			consider whether it could have any consequences within	
14			the investigation?	
15		Α.	I didn't believe it would have had any consequences	10:4
16			within the investigation.	
17	11	Q.	Okay. Well, let's pass from that then to the next	
18			issue, if we may, which is issue number 2, which	
19			relates to your complaints concerning the investigation	
20			of the Pulse check that you carried out on Garda A. I	10:4
21			think at Volume 1, page 122 of the book, you describe	
22			in your statement:	
23				
24			"I was asked why I checked the Pulse system on Garda A	
25			by letter dated 1st October 2014. It was evident to	10:4
26			senior management that an independent investigation was	
27			in train in respect of my complaint relating to Garda	
28			A I had checked Garda A on the Pulse on 18th May	

2014, following specific intelligence received from X

1			on 10th May 2014, which was the subject of my	
2			forthcoming statement to the internal investigator. I	
3			was entitled to check the Pulse without such attempted	
4			interference by the said letter (which demanded a	
5			report that conflicted with my obligations to the	10:44
6			internal investigation) and also in the light of what I	
7			had been advised by the source."	
8				
9			The letter you're referring to there is at appendix 2,	
10			which is page 160. Perhaps we will just look at the	10:44
11			letter there. While we are looking at the letter	
12			there, it's fairly simple, it's from the superintendent	
13			to Sergeant Haran, directed to you. It just asks:	
14				
15			"Garda Nicholas Keogh is to provide a report as to the	10:45
16			reasons this enquiry was made in relation to personal	
17			data."	
18				
19			You received that?	
20		Α.	Oh yes.	10:45
21	12	Q.	Now, in the paragraph I have read out, you said that	
22			you were entitled to check the Pulse without such	
23			attempted interference by this said letter. Now, I am	
24			just wondering, is there a slight illogicality in that	
25			issue, in that the letter came to you on the 1st	10:45
26			October, it's dated the 1st October, but you had made	
27			the Pulse check way back in May. So the letter had	
28			nothing to do with it, it didn't impede you making the	
29			check, isn't that right, logically?	

- 1 A. Was the check not done before --
- 2 13 Q. Exactly. Yeah. So the letter, I suggest to you, am I
- 3 not right, couldn't interfere with the check that you

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10.47

- 4 had already made, isn't that right?
- 5 A. Yeah. It couldn't have interfered with what was
- 6 previously done, yeah.
- 7 14 Q. Yes. I wonder can you help me on this issue: The
- 8 check was done on the 18th May, can you recollect what
- 9 time you did that check?
- 10 A. I can't, it should be on -- it'll be on the Pulse
- 11 system, the exact time would be there. I can't
- 12 recollect off hand.
- 13 15 Q. Was it perhaps 5:30 on the morning of the 18th?
- 14 A. I can't remember. I don't know what time I put it. If
- that's what's in there, I don't dispute that.
- 16 16 Q. Okay. Well, I mean, you had the sighting of Ms. B and
- that appears, if the Pulse record is right, to be at,
- 18 was it 3:39am?
- 19 CHAIRMAN: 3:09.
- MR. McGUINNESS: 3:09, thank you, Chairman.
- 21 17 Q. Presumably the Pulse check was done after you sighted
- Ms. B at the petrol station?
- 23 A. Right.
- 24 18 Q. Is that right?
- A. As I said, I can't recall the sequence on that night.
- 26 19 O. Yes.
- 27 A. But I'm not disputing.
- 28 20 Q. Yes.
- 29 A. Yes.

- 1 21 Q. But can you confirm that it was done before you created 2 the entry later?
- A. I just can't remember the sequence of what I checked first back in 2014 on that particular night.
- Okay. I mean, I am not a member of the Guards, so I am 10:47 not clear about what you can check about a colleague.
- 7 What can you check about a colleague on Pulse?
- 8 Just to clarify one thing: This is criminality I am Α. dealing with. That's the criminal intelligence. This 9 is the criminal intelligence stuff. The colleague term 10:47 10 11 is not relevant in this case, because I am dealing with 12 criminality here. Anybody, anybody else, again, we 13 will gave the example of Tesco or whatever yesterday, 14 or any other profession, it could be the legal -- any 15 profession. I was dealing with criminality. I checked 10:48
- and was entitled to check -- in fact, it's the first thing any guard would do when they're dealing with any form of -- they're researching for information. The
- first thing any guard would do is go on to Pulse and see is there anything else on Pulse.

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- 21 23 Q. Well, you see, that's what I wasn't quite clear about 22 in my own mind, as to how Pulse works.
- 23 A. Oh sorry.
- 24 24 Q. That's why I want you to help me on this?
- 25 A. I apologise, yeah.
- 26 25 Q. Yes. I mean, let's call this guard Mr. X, let's call him Mr. X.
- 28 A. We were calling him Mr. A already.
- 29 26 Q. No, but I mean, in the sense that you seem to object to

- 1 my question, suggesting that you were checking a
- colleague. But you can check a colleague on Pulse,
- 3 isn't that right?
- 4 A. Yes.
- 5 27 Q. Is that how you went about doing the check that you did 10:49 on the 18th?
- A. Whatever was going through my head on the 18th, on that particular evening, I cannot remember. I know I was annoyed when the lady, Ms. B stuck her tongue out at me
- in the petrol station in absolute defiance, as I said.

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10:50

- 11 So obviously I was annoyed over that.
- 12 28 Q. Yes.
- A. But I did check Garda A on the 18th. That was it. I
 mean, I had to check it as well, because I have to go
 in a number -- I think it's two weeks time, to the
 investigation team. So I went to see for myself is
- there anything else there that might be relevant that I
- 18 could -- you know, a lot of the background work I had
- done since 2012 into this was on Pulse. So I just had
- 20 never checked Garda A. I had done a lot of work on
- Ms. B and other persons involved. But at some point I
- 22 would have to check Garda A, to see was there was
- something, another piece of the jigsaw there. There
- 24 wasn't but...
- 25 29 Q. Garda Keogh, don't misunderstand me, I am not and I
 26 can't obviously make any judgment on why you did it, I
- 27 am just trying to understand the mechanism of what you
- can do and what you were checking for?
- 29 A. As I have stated, I was checking to see if there was

- anything and there wasn't anything of relevance on

 Pulse. But I had to look for myself to see, because I

 may have twigged something, if it was there, that other

 people mightn't have twigged.
- 5 30 Q. I think it's my failure to understand. What could you 10:51 6 be looking for? I mean, what could you find if you 7 were doing a Pulse check on somebody?
- A. Exactly, you could find anything. You don't know until
 you -- seek and you will find. I mean, I had to look
 to see. As it happened, there wasn't anything of
 relevance there. But I mean, at least I can sit here
 now and say there wasn't. If I didn't look at it, I
 wouldn't have known, you know.

- 14 31 Q. Yes. But I mean, as I understand it, and this may be completely wrong, but if I were to check you perhaps, would I get a record of the suspects that you had arrested and the search warrants that you had been involved in executing or applying for?
- A. It would depend on the tabs that you'd go in. If you
 were to go into my work, let's say, and check, you
 would find all that. But if you were to check me as a
 person, I am sure you would find very interesting
 things on Pulse there.
- 24 32 Q. That's what I am trying to get to. Are there files on
 25 Pulse relating to each guard so that I could go in and 10:52
 26 say Garda Nicholas Keogh and can see what you reported
 27 and who you have arrested?
- 28 A. No. I checked him -- sorry, just to clarify, you can 29 check Garda personnel, I didn't check Garda personnel,

- 1 I checked just under the normal persons check.
- 2 33 Q. As if he wasn't a guard?
- 3 A. Yeah, correct.
- 4 34 Q. What would you expect to find, sightings of such a

5 person or?

6 A. No. Well that could have cropped up, but it would be

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10:53

- 7 very unusual there. For example, now this is
- 8 hypothetical, Garda A could have been, let's say, in a
- 9 traffic accident at some stage, and Ms. B may have been
- a witness in the car or something at the time. This is 10:52
- just me giving an example.
- 12 35 Q. Yes.
- 13 A. This did not happen and it's not on the system. But I
- could have found something like that, that would have
- been relevant then later on to the investigation, to
- say, here, look, lads, at this, you know. But, as I
- said, that's only an example and that was not on the
- Pulse system. There was nothing on the Pulse system.
- But I had to check myself to see what was there.
- 20 36 Q. Okay. And you found nothing?
- 21 A. I found nothing.
- 22 37 Q. So asking you to confirm that you had found nothing
- couldn't interfere with the Ó Cualáin investigation
- then, I take it?
- 25 A. Well, you see, I checked that prior to meeting the
- investigation team.
- 27 38 Q. I understand, yes.
- 28 A. I wasn't going to go in to meet an investigation team
- 29 without having checked out the likes of that on Pulse

myself.

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Q.

on Pulse.

2 But, you see, the other way you have characterised the 39 Q. 3 request from Superintendent McBrien was that, you know, demanding the report conflicted with your obligations 4 5 to the internal investigation. I am just struggling to 10:54 6 understand how you perceived that request, particularly 7 where you had found nothing, conflicted with your 8 obligations?

Yeah. Once again, you see, this is coming from --Α. where I am due to make my complaint about criminality 10:54 in the Westmeath division and the chief in the Westmeath division looking for all this information and they are bouncing all this paperwork down to me. I met the investigation team, I complied with everything. The chief in Westmeath could have 10:54 corresponded with the investigation team very simply. There was no need to be sending me out all this stuff. The investigation team, and, indeed, they did at some point ask why did I check and I explained, the same answer I have given to you there now; that obviously I 10:54 wanted to see was there anything else, you know, there

Okay. Well, I mean, Superintendent McBrien, it would appear that her request was triggered by a report from Garda A. We might look at that, it's in Volume 30, at page 8619. That's a report directed to the sergeant in charge, Athlone, on 24th September 2014. It seems to be a complaint relating to you and another guard performing a check on him. It says:

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"On the 20th September 2014, I noticed that the above named two gardaí checked my personnel details on the Garda system. I can think of no good reason as to why these guards have been checking me. Garda (BLANK) gives his reasons for checking as incident inquiry, and Garda Keogh offers no reason at all for his using the Pulse system to check me. I believe both these Gardaí were using Pulse for personal reasons and these checks were in no way garda related matters and that they may have breached the Data Protection Act while carrying out these checks.

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10:56

10:56

Garda blank performed his check on the 9th May 2014 and Garda Keogh performed his check on the 18th May 2014. In light of allegations that both of these members are accusing me of, I find this very sinister, that both are checking me on the Pulse system and am worried as to who they might be passing this information on to.

I would like this matter fully investigated please."

- A. Sorry, what is the date on that report?
- 24 41 Q. It's the 24th September. So it's the week before 25 Superintendent McBrien writes to you.

A. Okay. Well I have already made my statement. It's
gone beyond now a check. I have already made a formal
criminal statement, which is a criminal investigation
it has gone into at this stage. So, I mean, obviously

- Garda A is entitled to write a report there on that. I mean, that's it.
- 4 Yes. I mean, I suppose it's hard to envisage a situation being different, but if some guard, if you discovered some guard had checked on you without giving 10:57 a reason, you might be inclined to enquire or ask your superior to enquire why is this being done?
- A. I'd say if you were to look at the amount of guards
 that checked on me on Pulse, it would go over the -- it
 goes down to 50, you've to go into a new page. You're
 probably talking a couple of hundred guards that have
 checked on me, on Pulse. To be honest, it doesn't
 bother me, because I haven't done anything wrong, so...
- 14 43 Q. Yes. You did characterise Superintendent McBrien's request as an investigation into to you?

- 16 Again, I never accused superintendent -- I always --Α. 17 she just got caught up in the middle. It was never to 18 do with Superintendent McBrien. It was the chief's 19 office in Westmeath. I am reporting criminality in relation to the Westmeath division. Of all people, the 10:58 20 chief in Westmeath should not have got involved. 21 22 accept he may have had obligations. All he has to do is send a letter, make a phone call to Assistant 23 24 Commissioner Ó Cualáin and all that could be sorted out 25 very quickly. There's no need to be firing this out 10:58 all this stuff to me. And I did address the 26 27 investigation team.
- 28 44 Q. Yes. I mean, I can understand why you might well have 29 told them that had you done it, but there was no fruit

1	to bear of your Pulse check. You had found nothing.
2	presume you must have told Ó Cualáin that you found
3	nothing?

- Well, that's correct. 4 Α.
- 5 45 Yes. Q.

6 But when we go back to how we character Tutankhamen's Α. 7 tomb, he has to go and look, you know.

8 46 But was there a problem, and if so, what was the Q. problem with responding to your superintendent, saying, 9 I did make the check and, in fact, I found nothing, and 10:59 10 11 I reported that to...

10:59

10:59

- 12 I have no difficulty with replying to Superintendent Α. 13 McBrien, I knew it was going to the chief's office in 14 Mullingar. I also was under -- I was advised to just 15 deal with the Ó Cualáin investigation team. So at that 10:59 16 point it would have been Detective Superintendent 17 Mulcahy that I was dealing with it. I recall he asked 18 me that and, as I say, I answered the same way, that I 19 had to just look to see was there anything there and that was it, you know. And for clarification, I don't 20 think there is a guard in the county that had ever 21 22 conducted an investigation into anything without 23 checking the subject of what they are to look at on 24 Pulse. It's the very first step any guard would take.
- 25 Well, I mean, Superintendent McBrien has said in her 47 Q. statement that her interaction with you as regards both 26 27 matters cannot be considered instances of targeting. 28 Chief Superintendent Curran in his statement, at page 29 1783, said:

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"In the context of the intelligence report and the data protection issues that arose, Garda Keogh was asked by Superintendent McBrien to explain why the checking another Garda member on Pulse. I continue to consider it reasonable for Garda management to query Garda Keogh on his rationale for checking Garda A on the Pulse system and to establish the source of the intelligence he was creating on Pulse. Enquiries carried out are in keeping with the duties and responsibilities of a divisional officer and I reject Garda Keogh's assertions that such enquiries were an attempt to target and discredit him.

The request put forward as to why Garda Keogh had checked Garda A on Pulse was initiated and dealt with locally. It is often the case that Pulse enquiries on members of the public and specific instances are audited to ensure that all Garda members making such enquiries have a lawful purpose for doing so."

11:01

11:01

11 · 01

- Now, is that not a reasonable position?
- A. No. Sorry, can I just get the date on that letter, please?
- 25 48 Q. This is the statement of Chief Superintendent Curran?
- 26 A. Okay.
- 27 49 Q. Yes.
- A. No, no. At this stage, at this stage it's a criminal investigation, okay? Everybody in An Garda Síochána

Т			would know at this stage what's going on. So he really	
2			should have passed all that just over to the	
3			investigation team. It has actually nothing at this	
4			stage to do with him. I am dealing with Detective	
5			Superintendent Mulcahy, who is conducting the	11:0
6			investigation under Assistant Commissioner Ó Cualáin.	
7			Again, my point is, it's criminality that I reported in	
8			the Westmeath division and here I have the chief in the	
9			Westmeath division who is looking for names of sources,	
10			who is looking for why I checked this person. Nothing	11:0
11			to do with him. It should have been the investigation	
12			team. They did ask me and I did answer and that was	
13			it. So all this stuff, you know it's just stuff, they	
14			kept firing down all this Mickey Mouse paperwork at me,	
15			when I was already fully complying with the	11:0
16			investigation team.	
17	50	Q.	Well, I mean, this is an action that you took before	
18			you spoke to the investigation team, that's obviously	
19			clear?	
20		Α.	Correct, and I have explained why.	11:0
21	51	Q.	Yes. Pardon?	
22		Α.	I have explained why.	
23	52	Q.	Yesterday I was asking you about the information that	
24			you did put on relating to Ms. B?	
25		Α.	Correct.	11:0
26	53	Q.	And so, that's on her, as it were, personal Pulse file?	
27		Α.	Yes.	
28	54	Q.	You told me yesterday at question 222:	

1			"Q. Did you intend it to relate to any other person, a	
2			member of the guards and to go on file in relation to	
3			them?	
4			A. Obviously it had crossed my mind, because only	
5			eight days previous I had received the information, the	
6			confidential information in Galway."	
7				
8			I then asked you:	
9				
10			"Q. Sorry, are you telling me you did contemplate	
11			putting it on somebody else's Pulse record?	
12			A. I mean, it probably went through my mind for a	
13			moment.	
14				
15			Q. Okay.	
16			A. The fact is I didn't."	
17				
18		Α.	Yeah.	
19	55	Q.	Is it possible that you checked Garda A's Pulse record	
20			at the time you did, before you created the other	11:0
21			record and contemplated putting the intelligence on	
22			relating to him?	
23		Α.	No. Because, as I stated, if there was anything of	
24			relevance on Garda A, anything, look, I mean	
25			hypothetical, we're in hypothetical territory here	11:0
26			again, I didn't know.	
27	56	Q.	Yes.	
28		Α.	But there was nothing on Garda A's intelligence	
29			sorry, on the persons tab. So, as I say, it would have	

- 1 crossed my mind, I obviously had to look to see what
- 2 there was.
- 3 57 Q. Yes.
- 4 A. There was nothing on it. Therefore, I didn't. What is

11:05

11:05

- on the intelligence is on the intelligence.
- 6 58 Q. Yes.
- 7 A. We can argue until the cows come home what I might or
- 8 what I would have or could have, but what is done is
- 9 done and it's there.
- 10 59 Q. Yes. Now, just keeping the two issues separate, let's
- 11 assume you opened the Pulse query on Garda A before you
- created the entry on Ms. B. In this answer that you
- gave me yesterday, was Garda A the other person whom
- 14 you contemplated putting this intelligence entry on
- 15 Pulse in relation to?
- 16 A. As I did say, I would be lying if I said it didn't
- 17 cross my mind.
- 18 60 Q. Yes.
- 19 A. But the bottom line is I didn't do that.
- 20 61 O. I understand that.
- 21 A. Yes.
- 22 62 Q. But is that the reason that you looked at his pulse
- record, as to whether you might do it?
- A. No. Well, I mean, I would have to check Garda A
- 25 regardless before I went to the investigation team. I 11:05
- 26 had to check him at some stage.
- 27 63 Q. Yes.
- 28 A. I mean the iron is hot then.
- 29 64 Q. Yes. I suppose there's probably nothing stopping the

1		investigation team from doing it themselves?	
2	Α.	That's correct, but I also was the person to go and	
3		provide all the information to the investigation team.	
4		I had a lot of other stuff. You see, unfortunately I	
5		knew a lot of stuff, there's so much of the actual	11:06
6		investigation, circumstantial, it was all different	
7		strands of circumstantial evidence, I may have twigged	
8		something that other persons may not have twigged	
9		because if you're starting off into such a massive	
10		quagmire of an investigation as this, I would have had	11:06
11		a good lot of it in my head. So if there was anyone	
12		who was going to spot it at that period of time. It's	
13		not until later on that persons in the investigation	
14		team really become get perhaps even more	
15		knowledgeable about it than me, because they are	11:06
16		investigating it at the start. They have to work on	
17		what I give them. So I have to get the maximum amount	
18		of information, correct and as accurate as I can	
19		information to supply the investigation team. So I had	
20		to check Garda A at some stage. That was the date I	11:07
21		did it. I would accept there was probably dead mist	
22		with Ms. B sticking her tongue out me in defiance,	
23		because obviously I put her on the next day, I was	
24		stewing over it all that day, that this individual is	
25		threatening more or less that she was untouchable, you	11:07
26		know, and I was determined to prevent determined	

28 65 Q. Yeah.

27

29 A. I think you understand what I mean.

to -- I don't know what the terminology is.

1	66	Q.	I do, I do.	
2		Α.	Yeah.	
3	67	Q.	Now, you ultimately came to make a statement to	
4			Assistant Commissioner Finn, a statement of complaint,	
5			is that right?	11:08
6		Α.	Assistant Commissioner Finn appeared much later now.	
7	68	Q.	Yes.	
8		Α.	That's much later.	
9	69	Q.	Yes. But I just wanted to ask you about what you said	
10			to him in that statement about this check?	11:08
11		Α.	I can't remember.	
12	70	Q.	It's at Volume 14, it's appendix 5, it's page 4145.	
13			It's down the page there. In the last sentence there	
14			you say:	
15				11:09
16			"I was entitled to check the Pulse without such	
17			attempted interference by the said letter, which	
18			demanded a report that conflicted with my obligations	
19			to the internal investigation and also in the light of	
20			what I had been advised by the said source."	11:09
21				
22			You refer to appendix 2, which is the letter from	
23			Superintendent McBrien. You are complaining that that	
24			letter was an example of bullying and harassment, isn't	
25			that correct?	11:09
26		Α.	Certainly that and all the documents. As I stated	
27			yesterday, when we're looking at these individually	
28			it's very hard to say, oh this is bullying, but when	
29			you put them all together, you know, I would say it is	

1			harassment. And even looking at these individually,	
2			the chief in the place where I am complaining about	
3			criminality is writing down to me about this	
4			criminality that's going on in his division. I mean	
5			this should not have happened. It should have all been	11:10
6			dealt with by the investigation team. Like, there was	
7			nothing to stop I think it was Chief Superintendent	
8			Curran and just for clarification, he was not the	
9			chief, the senior officer that is in any way involved	
10			in the criminality or anything like that, but still, he	11:10
11			should have passed this on: Look, we have problems	
12			here with Pulse and different things, to the	
13			investigation team, can you just deal with that. End	
14			of story, that's it.	
15	71	Q.	I'm not sure I understand that answer, in this sense:	11:10
16			They had nothing to pass on to the investigation team,	
17			because you hadn't given an explanation as to why you	
18			had done the check, isn't that right?	
19		Α.	To them, correct.	
20	72	Q.	Yes.	11:11
21		Α.	But to the investigation team I did.	
22	73	Q.	In fact, you never responded to Superintendent	
23			McBrien's request for a report, isn't that correct?	
24		Α.	As I said, at the time I was dealing with the	
25			investigation team and I was complying with them.	11:11
26			There was no the chief in the division where the	
27			criminality was going on, or at the time alleged	
28			criminality, has really nothing to do with the he	
29			should have just passed it on onto the investigation	

- team and said, here lads, ye deal with this.
- 2 74 Q. I am just trying to establish the facts for the benefit
- 3 of the Chairman?
- 4 A. Absolutely, yes.
- 5 75 Q. I think it seems to be the case that you never replied $_{11}$

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11:12

- 6 to Superintendent McBrien?
- 7 A. That's no disrespect to Superintendent McBrien.
- 8 76 Q. Yes.
- 9 A. But I mean, I would have -- that was dealt -- as I
- said, I am pretty certain Detective Superintendent
- 11 Mulcahy asked me about that, I just told him straight
- out why I did it. That really -- that was it.
- 13 77 Q. Yes, but in terms of bullying and harassment, you
- included this was a separate item in your bullying and
- 15 you did characterise it as one of five investigations
- that had taken place into to you, that you were
- 17 complaining about.
- 18 A. Yeah.
- 19 78 Q. Isn't that right?
- 20 A. Yeah. I mean, I would have carried out thousands of
- 21 Pulse checks on individuals over, what, 19 years that I
- have had access to Pulse, thousands of them, I never
- ever once got a letters down to say: Why did you check
- this person? Ever.
- 25 79 Q. Well, I am not arguing about that one way or the
- 26 anther?
- 27 A. Yes.
- 28 80 Q. But I am just trying to help establish the facts.
- 29 Nobody ever pursued you about your failure to furnish a

report, isn't that right? You were never spoken to or
written to by any senior guard about why you hadn't
responded to Superintendent McBrien or why you had
checked on Pulse?

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I cannot recall, but I would have -- I do recall over Α. different other matters I was called to the office with Superintendent McBrien and I would have -- I am sure I would have said, look, this is all being investigated by the western region, guards in the western reason, Ó Cualáin's investigation team and all this really 11:13 should be looked at there. Because, you know, they did this in Donegal as well before, mounting all nearly little investigations, even though there is a main investigation over here dealing with all this stuff. Again, they didn't get an outside chief, outside the 11:14 division or anything like that, to look at it. the chief in the division where I am reporting this stuff and really, you know, it kind of -- look, he was probably in an awkward position, but he was also compromised in a way, because the criminality is 11:14 happening in his division and, fair enough, he may not have wanted to believe it at the time or anything, that's fine. But there was an investigation team set up. There was an investigation in track and all that stuff should have gone to them. There was no pounding 11:14 me with all these different letters. And again, this is roughly in around the first few months, you know, and then there's other things come into play. there's no real need for this.

- 1 81 Q. CHAIRMAN: This is a simple letter?
- 2 A. Yeah.
- 3 82 Q. CHAIRMAN: Garda A protests to the superintendent, she
- 4 writes to you?
- 5 A. Yeah.

- 11:15
- 6 83 Q. CHAIRMAN: Why did you make the check?
- 7 A. As I said, I'm sure --
- 8 84 Q. CHAIRMAN: Sorry, that's what she says, why did you
- 9 make the check?
- 10 A. Yeah, as I said, I am sure --

- 11 85 Q. CHAIRMAN: No, hold on.
- 12 A. Sorry.
- 13 86 Q. CHAIRMAN: How is that bullying?
- 14 A. I didn't say -- I said harassment. I didn't say
- bullying.

11:15

- 16 87 Q. CHAIRMAN: Okay. How is it targeting, discrediting,
- bullying, harassment, anything you like. Why did you
- make the check, that is what she says?
- 19 A. Yes.
- 20 88 Q. CHAIRMAN: That's really one of the things that we have 11:15
- 21 to look at?
- 22 A. Correct. Okay.
- 23 89 Q. CHAIRMAN: Do you know what I mean?
- 24 A. Yes, Judge.
- 25 90 Q. CHAIRMAN: Are you understanding me?

- 26 A. My answer is --
- 27 91 Q. CHAIRMAN: Hold on, are you understanding me?
- 28 A. Yes. Yes, Judge.
- 29 92 Q. CHAIRMAN: Okay. So, the superintendent writes a

1			letter, 1st October, she's got a protest from Garda A
2			and she writes and says: Why did you make the check?
3			Was she entitled to make that enquiry?
4		Α.	Yeah, I would accept she was, yeah.
5	93	Q.	CHAIRMAN: Okay. So is it targeting or discrediting to 11:16

- say, why did you make the check?

 A. You see, my point is, it really should have gone in to the whole -- the investigation, the main investigation.
- 9 94 Q. CHAIRMAN: Who should she have written to? Whom should 10 she have written to with her query? What should she 11:16 11 have done?
- 12 A. To the investigation team. She could have --
- 13 95 Q. CHAIRMAN: Superintendent McBrien?
- 14 Α. It's not Superintendent McBrien, Judge, this is coming from the chief's office in Mullingar and Superintendent 11:16 15 16 McBrien obviously had to write this letter but from the chief's office in Mullingar, they should have just 17 18 wrote to Assistant Commissioner Ó Cualáin and said, 19 look, we have a couple of these things, they're all 20 into what you are investigating. 11:16
- 21 96 Q. CHAIRMAN: What would they have done?
- 22 A. Well, that's their call.
- 23 CHAI RMAN: Okay. You say, because it came from the 97 Q. 24 chief superintendent, so you say Superintendent McBrien 25 had nothing to do with this -- sorry, had little to do 11:17 with this, she was following orders. Rightly or 26 27 wrongly, that's your understanding of it. What did the chief superintendent do that was wrong? He had a 28 29 complaint from Garda A, we saw the letter. He says

1			Garda Keogh is checking me out on Pulse, that's not	
2			legitimate or proper, that's what he says. It doesn't	
3			mean he is right. And the chief superintendent says,	
4			write a letter to Garda Keogh and ask him why he made	
5			the query?	11:17
6		Α.	I would have	
7	98	Q.	CHAIRMAN: What's wrong with that?	
8		Α.	There's not a whole lot wrong with it, but it really	
9			should have been to the assistant commissioner, they	
10			could have brought the letter to the assistant	11:18
11			commissioner.	
12	99	Q.	CHAIRMAN: But the assistant commissioner didn't make	
13			the query on Pulse?	
14		Α.	Correct.	
15	100	Q.	CHAIRMAN: You were the person who made the query. I	11:18
16			am not getting this.	
17		Α.	Because the assistant commissioner at the time is	
18			dealing with this. I have already made the statement	
19			of criminality in relation to Garda A. This is a	
20			couple of months, it was done at the start	11:18
21	101	Q.	CHAIRMAN: Okay. So that was your state of mind	
22			anyway. You said, look, I have made my protected	
23			disclosure, I have made a statement, we have been over	
24			all that, and you regarded this as sort of trivial?	
25		Α.	Yeah.	11:18
26	102	Q.	CHAIRMAN: Bothersome stuff?	
27		Α.	Correct.	
28			CHAIRMAN: Okay.	
29	103	0.	MR. McGUINNESS: It would appear that Superintendent	

_			Meditent forwarded the report refacing darda A 3 concern	
2			to the chief superintendent. On foot of that, she	
3			wrote this memo to you. But you were never pursued	
4			thereafter for a reply, factually, isn't that correct?	
5		Α.	From what I can recall, yeah.	11:19
6	104	Q.	There was no follow up in the sense that nobody wrote	
7			to you and said, look, you haven't replied to	
8			Superintendent McBrien. Chief Superintendent Curran	
9			didn't say, look, I need an answer to this. There was	
10			no further step taken beyond the request of 1st	11:19
11			October, isn't that correct?	
12		Α.	Yeah. I think at that stage they did then hand it over	
13			to the investigation team, like with the intelligence	
14			stuff yesterday, eventually it goes there and it's	
15			dealt with very quickly then.	11:19
16	105	Q.	I just wanted to draw your attention to one part of a	
17			submission that your solicitor Mr. Cullen made in the	
18			course of the de Bruir inquiry. That's in Volume 47,	
19			at page 1314546. While that's coming up, this in the	
20			course of the appeal that you lodged against Assistant	11:20
21			Commissioner Finn's findings that this was not bullying	
22			and harassment. That was still being disputed on your	
23			part and Mr. de Bruir was an expert called in to give	
24			an independent sort of audit or review of the papers.	
25			This is an extract from a submission made by Mr. Cullen	11:21
26			on your behalf and obviously pursuing it.	
27				
28			If we go down there to (d), you see:	

1			"The finding says that Superintendent McBrien was	
2			asking Garda Keogh to explain why he was checking	
3			another Garda on Pulse. The answer is that it was	
4			because Garda Keogh was an active guard carrying out	
5			i nvesti gati ons. "	11:21
6				
7			Is that the reason why you were checking on Pulse; that	
8			you were in fact doing some investigations into the	
9			matter that Assistant Commissioner Ó Cualáin had been	
10			tasked to do?	11:21
11		Α.	Since 2012 I was conducting my own, if you want to call	
12			it, investigation into this and I don't get to hand it	
13			over until, really around I think 7th June 2014, is	
14			when I get to hand everything over.	
15	106	Q.	No, I am not obviously concerned at this question about	11:22
16			what you had been doing, but this is a question	
17			directly related to the checking of Pulse. Did you do	
18			that because you were carrying out your own	
19			investigation?	
20		Α.	That's a parallel question to what I've already earlier	11:22
21			answered, in that, I mean I have to check Pulse prior	
22			to meeting the investigation team. If, for example, I	
23			am investigating yourself, your good self, it's the	
24			first thing I would do, I would go on to Pulse and see	
25			what's on, what's there, you know. That's just	11:22
26			standard policing, it's the first step any guard would	
27			take.	
28	107	Q.	Okay. If we go down to page 13147, going on to 48.	
29			Just scroll un there. These were the meanle who were	

Т			nominated in your bullying and harassment claim, three	
2			particular persons. But he says:	
3				
4			"Garda Keogh did not specifically identified	
5			Superintendent McBrien as a person who allegedly	11:23
6			bullied and harassed him. Yet it was Superintendent	
7			McBrien who on 1st October directed Garda Keogh to	
8			explain why he on 18th May 2014 had checked Garda A on	
9			Pulse system."	
10				11:23
11			It then describes the background, which we don't need	
12			to go into. It goes into what Assistant Commissioner	
13			Finn had concluded there and it goes into the appeal	
14			submissions. It comes to a conclusion then, if we go	
15			down. Just go back up to the following back up the	11:24
16			page. At 5.8 there, it says:	
17				
18			"A comprehensive investigation was carried out in	
19			relation to this matter. The findings of Assistant	
20			Commissioner Finn Leading to a decision of AC O'Brien	11:24
21			arose from a fair and partial investigation."	
22				
23			So, you apparently failed to convince Mr. de Bruir that	
24			there was anything improper in the request. Do you	
25			still want the Tribunal to regard the request that was	11:24
26			made to you to be regarded as targeting and	
27			discrediting?	
28		Α.	Sorry, there's two questions there?	
29	108	Q.	All right. Yes.	

1		Α.	Firstly, I never got to meet Mr. de Bruir. Mr. de	
2			Bruir based his findings on Mick Finn, Assistant	
3			Commissioner Finn's investigation, which yesterday I	
4			think I should have clearly stated, I outright reject -	
5	109	Q.	I think you did?	11:25
6		Α.	- that whole investigation.	
7	110	Q.	CHAIRMAN: We will be coming to that in due course.	
8		Α.	Yeah, sorry.	
9	111	Q.	CHAIRMAN: But you did undoubtedly make that clear,	
10			don't worry.	11:2
11	112	Q.	MR. McGUINNESS: Another point of view is being put to	
12			you by someone who isn't an assistant commissioner	
13			really, that he saw nothing in the request being made?	
14		Α.	If I was to have conducted that investigation and	
15			presented Mr. de Bruir my report and findings, he might	11:25
16			have had a very different viewpoint of that.	
17	113	Q.	I think we will pass on from that, onto the third issue	
18			then. This is an issue relating to the visit of Olivia	
19			O'Neill to Athlone Garda Station on 28th May. This	
20			commenced really with a report from Garda Treacy, which	11:26
21			is to be found at 8684, which is Volume 30. You've	
22			probably seen Garda Stephanie Treacy's report before?	
23		Α.	Yes.	
24	114	Q.	You're familiar with it. It states:	
25				11:26
26			"In relation to the above, I wish to report Ms. Olivia	
27			O'Neill attended at Athlone garda station with her	
28			daughter Cheyanne to report threats against her family	
29			by a neighbour Ms. B. Cheyanne is 17, so her mother	

1			Olivia accompanied her to interview room to make a	
2			statement. Ms. O'Neill went to the hatch, reported the	
3			matter to the public officer Garda Nick Keogh. Garda	
4			Keogh was unable to leave the office to take a	
5			statement so Sergeant Haran asked Garda Treacy to	11:27
6			obl i ge.	
7				
8			At the beginning of this statement Olivia O'Neill told	
9			Garda Treacy that her and her daughter Cheyanne were	
10			advised that Ms. B was friendly with certain gardaí in	11:27
11			Athlone Garda Station and that she is phoned prior to	
12			any search of her property so she can get rid of	
13			weapons or drugs. She also alleged that Ms. B is told	
14			when anyone makes a complaint or statement against her	
15			that the Gardaí cover up offences for Ms. B.	11:27
16			Ms. O'Neill informed Garda Treacy that she was told to	
17			make sure that the above information goes into her and	
18			Cheyanne's statement. Garda Treacy asked Ms. O'Neill	
19			who advised her of this and Ms. O'Neill she said Garda	
20			Nick just now at the counter downstairs."	11:27
21				
22			It then goes on to say what Garda Treacy did. Now, it	
23			seems clear that Ms. O'Neill did present herself with	
24			her daughter in the station?	
25		Α.	That's correct.	11:28
26	115	Q.	And that she spoke to you.	
27		Α.	Yes. Sorry, just one second. It wasn't that she	
28			presented herself, there was an incident occurred just	
29			moments previously, up in a particular estate in the	

1 town. There was guards dealing with the incident and they sent her down to the Garda station. That's how it 2 3 happened. Okay. I am not sure there's anything material in that, 4 116 0. 5 but she had come from an incident, is that the point 11:28 6 you are making? 7 Yes. Α. 8 117 Had you know Ms. O'Neill before, did you know of her? Ο. I vaguely knew who she was. I had perhaps only one 9 Α. dealing with her and that was probably when I -- I 10 11 · 28 11 wasn't even long in Athlone, perhaps 2007, I would say. 12 Other than that, no, I had no nothing. To my knowledge 13 and recollection I had no real dealings ever with her. 14 118 Q. Now, this report on its face appears to be a 15 contemporaneous record of what Garda Treacy said that 11:29 16 Olivia O'Neill said to her? 17 Α. Yes. Obviously you weren't there at the time yourself? 18 119 Q. 19 Correct. Α. They had gone off to an interview room. 20 120 Q. 11:29 Mr. McGuinness, can I ask you to scroll 21 22 It doesn't sound like it is Garda Treacy's down. 23 actual statement. It sounds like it's somebody else's 24 statement as to what Garda Treacy did. 25 MR. McGULNNESS: It's written in the third person but 11 · 29 26 as you over the page it's "for your attention".

Not at all.

27

28

29

CHAI RMAN:

MR. McGUI NNESS:

Sorry.

Sorry, that's my mistake, absolutely right.

1			MR. KELLY: Chairman, I wonder whether this would be a	
2			welcome break at this point for the Garda for a short	
3			period.	
4			CHAIRMAN: Yes. Sure. What do you suggest, if we	
5			broke for 15 minutes, is that all right? Is that okay	11:29
6			with you?	
7			MR. KELLY: Yes.	
8			CHAIRMAN: I understand. It's quite a session and so	
9			on. So, is everybody happy with that? All right.	
10			Very good.	11:30
11			MR. KELLY: Thank you very much, Chairman.	
12			CHAIRMAN: We will take a break for 15 minutes. Okay.	
13				
14			THE HEARING THEN ADJOURNED BRIEFLY AND RESUMED, AS	
15			FOLLOWS:	11:30
16				
17	121	Q.	MR. McGUINNESS: Garda Keogh we just looked at Garda	
18			Treacy's report there, I think you didn't become aware	
19			of that for time sometime, is that correct?	
20		Α.	That's correct.	11:46
21	122	Q.	Was it sometime later when Superintendent McBrien	
22			called you into her office, is that right?	
23		Α.	I am not sure if the paper came down first and then I	
24			was called up to the office or whether I was called	
25			I can't recall what the sequence of events was.	11:47
26	123	Q.	We will perhaps go through it. Garda Treacy's report	
27			was sent by Inspector Farrell, I think in	
28			Superintendent McBrien's absence at the end of May, to	
29			Chief Superintendent Curran?	

1		Α.	Mm-hmm.	
2	124	Q.	Chief Superintendent Curran, in a direction on the 29th	
3			May, it's at page 514, we don't need to get it, but	
4			it's perhaps appropriate to look at Inspector Farrell's	
5			report at page 8686, it's two pages on from where we	11:47
6			have just been looking there. It refers to the events	
7			as outlined in Garda Treacy's report. It doesn't seem	
8			to deviate from it. On the second page, in the first	
9			paragraph, it says:	
10				11:48
11			"Garda Treacy sought advice from Sergeant Sandra Keane	
12			and Inspector Farrell. Inspector Farrell instructed	
13			that a statement relating to the complaint concerning	
14			Ms. O'Neill's daughter should be taken without	
15			reference to the advice given. Inspector Farrell then	11:48
16			instructed Ms. O'Neill should be invited to make a	
17			statement outlining her concerns relating to the advice	
18			given by Garda Keogh and she would also have been made	
19			aware of the options made available to her in respect	
20			of bringing her concerns to the superintendent at	11:48
21			Athlone and/or the Garda Ombudsman Commission.	
22			Ms. O'Neill made a statement of complaint in respect of	

Now, in fact the statement was taken from her daughter on that date. I think you have seen that subsequently?

complaint in respect of the advice received."

her daughter but declined to make a statement or formal

11:49

28 A. Yeah.

29 125 Q.

23

24

1 "The advice allegedly given by Garda Nicholas Keogh was 2 not appropriate in the circumstances and projects the 3 image of An Garda in an unfavourable light. leaves Ms. B in a vulnerable position from persons 4 5 currently under investigation in the Athlone area. 11:49 6 attach report of Garda Treacy for your information. 7 Forwarded for your attention." 8 So, I suppose two points to note there. 9 I know this did feature as one of your complaints, obviously that's 11:49 10 11 why we are looking at it. Obviously it seemed to stem from Garda Treacy's account of what Olivia O'Neill told 12 13 her, whether it was correct or otherwise. 14 Α. Yeah. 15 126 We will come to that. Q. 11:49 16 Sure. Α. 17 127 We will come to that. It doesn't appear to stemmed Q. 18 from, as it were, senior management in the first place, 19 you would agree with that, I would take it? 20 It doesn't stem but it's not until senior Α. 11:50 management get involved that we start now, that 21 22 things -- this is the start of a more vindictive side 23 I agree, Garda Treacy in this did nothing of things. 24 wrong, I would have done exactly the same if I was in 25 Garda Treacy's -- if I dealt with that position she was 11:50 26 in. 27 128 Yes. Q. But it's not until senior 28 I have no issue there. Α.

29

management then start getting involved in this that

- things start getting -- it becomes more interesting.
- 2 129 Q. You will have seen that Garda Treacy said that at some
- 3 stage you had a phone call with her and you seem to be
- 4 querying why she had gone to management with this?
- 5 A. I may have. Look, I probably -- I can't recall that,

11:51

11:51

11:51

- 6 but if Garda Treacy says that, I accept that.
- 7 130 Q. All right. I mean, you will note there, Inspector
- 8 Farrell is saying the advice allegedly given by you?
- 9 A. Actually, I was just going to say, he doesn't actually
- say allegedly in what I have read there. It says, just 11:51
- on what was there, allegedly should have been there,
- but it doesn't say allegedly on what I've just seen a
- minute ago.
- 14 131 Q. Well, I wonder. Do you see, it's five lines up from
- the bottom of the screen that we're looking at, I hope
- the same screen.

17

"The advice allegedly given by Garda Nicholas Keogh."

19

- Is that on the screen in front of you?
- 21 A. It's not what was on the screen just before we broke
- 22 anyway, because -- okay.
- 23 132 Q. Well, we were looking at Garda Treacy's report and this
- is Inspector Farrell, he is not taking it one way or
- another, he's says this is advice allegedly given?
- 26 A. Okay.
- 27 133 Q. I mean, you wouldn't quarrel with that obviously?
- A. No, not with the word allegedly, that's fair enough.
- 29 134 Q. Chief Superintendent Curran, perhaps we should look at

1	it, page 514, gives a direction which seems very simple	
2	on its face, on the 29th May, in the middle there:	
3		
4	"Please have D sergeant Curran meet with Ms. O'Neill	
5	and obtain a statement in relation to the information	11:52
6	divulged to Garda Treacy on 28th May 2014."	
7		
8	Sergeant Curley reports back at page 488. He says, in	
9	the middle of that paragraph:	
10		11:53
11	"On 30/5/2015 I met with Olivia O'Neill, asked her to	
12	make a statement, outlined the details and give	
13	permission to divulge and she declined. I was aware	
14	what such information as divulged was, as per a copy of	
15	the report of Garda Treacy."	11:53
16		
17	He refers to that. Then appendix 5 is the copy of the	
18	report that he sent back. That's at page 519, just to	
19	follow the trail there. The substance of it is:	
20		11:53
21	"The whistleblower met with Olivia O'Neill at 3:50pm	
22	today, 30/5/2014. I informed her I was conducting	
23	enquiries into the information she had divulged to	
24	Garda Stephanie Treacy received by her from Garda Nick	
25	Keogh in Athlone Garda Station on the 28th. I	11:54
26	explained to her that I wished to record a witness	
27	statement from her outlining what she was told by Garda	
28	Keogh. She replied she didn't wish to make any	
29	statement at all and she now couldn't really remember	

Τ			what was said in the station that night at all. Ulivia	
2			O'Neill declined to consent to the recording a witness	
3			statement from her."	
4				
5			That went back obviously to the chief superintendent.	11:54
6			In Volume 5, at page 1176, he says in the middle	
7			paragraph:	
8				
9			"In the light of the decision of Ms. O'Neill not to	
10			make any statement in this matter owing to the contents	11:54
11			of the discussion she engaged in with Garda Treacy in	
12			which she outlined that Garda Keogh made certain	
13			disclosures to her while in the public office in	
14			Athlone Garda Station on 28th May 2014, you should now	
15			request a report from Garda Keogh setting out the	11:54
16			nature of the conversation engaged with Ms. O'Neill, if	
17			any, on the occasion of her visit to Athlone Garda	
18			Station on that date.	
19				
20			A report is required in this matter to establish the	11:55
21			veracity of claims of Ms. O'Neill during her	
22			conversation with Garda Treacy on 28th May 2014."	
23				
24			Again, that appears to be making no assumptions about	
25			what was said, would you agree with that?	11:55
26		Α.	Yes.	
27	135	Q.	That goes down to Superintendent McBrien, page 167,	
28			which is your appendix 4 to your statement. Again,	
29			Superintendent McBrien says there, at the end of the	

1			first sentence:	
2				
3			"It is alleged that during this visit she had a	
4			conversation with Garda Keogh. A written report is now	
5			requested from Garda Keogh setting out the nature and	11:55
6			content of the conversation he had with Olivia	
7			O'Neill."	
8				
9			Again, there's nothing untoward, I suggest, about any	
10			of those requests to date, would you agree with that?	11:56
11		Α.	Yes.	
12	136	Q.	Okay. Then, Sergeant Haran I think endorses that. At	
13			the next page I think you give an explanation. It's in	
14			handwriting. There is a typed version of your report	
15			too, I think, isn't that right? Perhaps we better read	11:56
16			that, at 1174. This is what you report:	
17				
18			"I wish to report I was on duty as Member in Charge an	
19			Athlone Garda Station between 4pm to 9pm. At some	
20			point during this, Ms. Olivia O'Neill arrived at the	11:57
21			public counter to make a complaint regarding	
22			Ms. B and her daughters. As she outlined her	
23			allegations, she stated to me that Ms. B did favours	
24			for guards. I advised Ms. O'Neill to put everything	
25			into her statement, I said, name names and name guards.	11:57
26			At no point during the conversation did either	
27			Ms. O'Neill or I mention the name of any particular	
28			guard. There were members of an An Garda Síochána in	
29			the public office behind me and members of the public	

Т			benind Ms. O'Neill. I asked Sergeant Haran to	
2			designate a garda to take a statement due to the fact	
3			that the public counter was busy."	
4				
5			That's what you reported up, is that right?	11:57
6		Α.	Yeah.	
7	137	Q.	Now, you were queried at a later stage, because in your	
8			statement, which is part of NK1, you say, you said you	
9			didn't take a statement because you were involved in	
10			the matters and conflicted?	11:57
11		Α.	Obviously when this lady arrived in to me and when she	
12			was complaining about Ms. B and what was going on,	
13			obviously I couldn't get involved in it. And I was	
14			busy anyway.	
15	138	Q.	Yes. But the matter wasn't taken further after that,	11:58
16			as regards you, isn't that correct?	
17		Α.	I'm not sure. I think a good few correspondence came	
18			after that. No, I was called up to the super's office	
19			a number of times in relation to this incident and	
20			another even more sinister incident. This is	11:58
21			actually just to clarify, this is a very simple	
22			thing, instead of wasting the Tribunal's time on this.	
23	139	Q.	Yes.	
24		Α.	If I could explain this.	
25	140	Q.	Yes.	11:58
26		Α.	Very simply.	
27	141	Q.	Please.	
28		Α.	Can I mention this person's name, she's before the	
29			the persons that we are the subject of the conversation	

1			that came in to me.	
2			CHAIRMAN: Olivia O'Neill?	
3		Α.	Yes.	
4	142	Q.	CHAIRMAN: Oh yes, she is going to be a witness.	
5		Α.	Okay. When Olivia O'Neill came in to me at the	11:59
6			counter, I was already aware of an incident from	
7			listening to the radio up in part of Athlone, but I	
8			didn't know who was involved or whatever because I just	
9			heard the radio in the background, I was obviously busy	
10			and I just vaguely would have known there was a patrol	11:59
11			car up there dealing with something, end of story.	
12			Ms. O'Neill then came down to the station, was sent	
13			down to the station. I don't say that vindictively or	
14			anything, the guards at the scene say go down to the	
15			station and whatever, make a complaint, that would be a	11:59
16			common thing.	
17				
18			So, when she came and she started speaking about	
19			whatever assault or whatever was going on up there, I	
20			presume she may have known who I was, either way she	12:00
21			did say something about in relation to there was	
22			an assault, something to do with the kids or something	
23			on those lines. She said about Ms. B doing favours for	
24			guards. And I told her, name names and name guards,	
25			put everything into your statement. That was it. So	12:00
26			she went into the, obviously she named said whatever	
27			she said and named Garda A. Garda Treacy, from what I	
28			read, obviously said, who told you to say that and	
29			Ms. O'Neill obviously said Garda Nick Keogh or	

1 whatever. Which is in a sense correct, I did say go in 2 and name names, but I didn't say name the name of the 3 quard, which they're trying -- which Garda management are implying the whole way throughout this. 4 5 really the thing there, it's sort of like a Chinese

12:01

12:01

12:01

12:01

- 6 whisper in a way.
- 7 143 Okay. Q.
- 8 There was nothing -- that kind of emanates out of Α. something fairly innocent. That's why I say Garda 9 Treacy didn't do anything wrong, it was only just the 10 11 way, who told you to say that. And it was me that said 12 name names and put names of the guards. So when Garda 13 Treacy said, who told you to do that, yes, in effect it 14 was, of course it was me that said name names and name 15 guards or name, you know -- sorry.
- 16 It doesn't appear from Garda Treacy's report that Ms. B 144 Q. 17 named Garda A, she just said a friend of the guards and 18 certain gardaí?
- 19 Again, you've to go to the elephant in the room, which Α. is -- I mean, I would have known who Ms. O'Neill was 20 talking about and again it comes back to the matter, I 21 22 wouldn't have had to have named a particular guard, I 23 knew exactly also what was going on.
- 24 But I mean, you appear to be putting forth a view of 145 Q. 25 the evidence, which may well be right, I am not 26 gainsaying you?
- 27 Α. I asked for permission just to speed it up, to show 28 that it was actually just a simple little kind of 29 a thing.

1	146	Q.	Yes.	
2		Α.	That's all. I am just trying to be of assistance	
3			there.	
4	147	Q.	No, indeed. But as I understand it, you are suggesting	
5			that obviously you knew whom she might be talking	12:02
6			about, but you didn't name them?	
7		Α.	Yes.	
8	148	Q.	She probably knew who she was talking about, but she	
9			doesn't appear to have named them to Garda Treacy	
10			either?	12:02
11		Α.	I think I said yesterday, this was no secret back then.	
12			Like, I mean, in the town this was this was pretty	
13			much the talk of the town. So, there was no this	
14			was there was nothing in secret, kind of, this was a	
15			public knowledge thing.	12:03
16	149	Q.	But when was the first time then that you were, as it	
17			were, called to account? I think Superintendent	
18			McBrien probably told you in early June that a report	
19			had been made relating to the conversation, is that	
20			right?	12:03
21		Α.	Yes.	
22	150	Q.	Have I got that right?	
23		Α.	I wrote back and I mean	
24	151	Q.	You noted in your diary, 8th July, 9pm:	
25				12:03
26			"Met with superintendent to inform me she is sending	
27			people out to try and get statements from 0 0' Neill."	
28				
29			That's Olivia O'Neill?	

- 1 A. Correct yes.
- 2 152 Q. You had earlier recorded in your diary some entries in
- 3 relation to it, isn't that right, on the 28th and the
- 4 29th?
- 5 A. Yes. Yeah, I see the one on the 28th is written in the 12:03
- 6 side. Sorry, just a clarification, I may have had the
- 7 date in that diary entry, I'm not a hundred percent
- 8 certain about it, but the date of when Ms. O'Neill
- 9 actually calls into the station, can you just clarify.

12:05

- 10 153 Q. The 28th May?
- 11 A. The 28th, yeah, that's correct. And I see I have it
- 12 written -- I had other written in the 28th. So I
- obviously put that up on the next page, it runs up to
- 14 29th, my diary entry there should be for the 28th,
- which, also on the 28th, I have a side note about that, 12:04
- 16 yeah.
- 17 154 Q. Yes. It seems to read:
- 18
- "Olivia O'Neill, Inspector Farrell directs statement
- 20 not to be taken. Plus starts complaint."
- 21
- 22 Is that right?
- A. Well that would be the way I see it.
- 24 155 Q. I mean, I thought you hadn't known of the reports or
- 25 the complaint, as you allege, at that time on the day.
- 26 Was this entry written afterwards?
- 27 A. Oh, I would imagine, yes.
- 28 156 Q. Right.
- 29 A. Yeah.

1	157	Q.	Okay. Then the entry on the 29th May 2014:	
2			"P0. "	
3			P0.	
4 5			Presumably that's public office, is it?	12:05
6		Α.	Yes.	12.00
7	158	Q.		
8	230	۷.	"29th May 2014. PO, Olivia O'Neill at station to make	
9			complaint about Ms. B. She states "I know she's done	
10			favours for a guard. Nights."	12:05
11				
12			Is that right~?	
13		Α.	That's just I was on night shift.	
14	159	Q.	You were on nights.	
15				12:05
16			"I tell her put everything into a statement and name	
17			peopl e. "	
18				
19			Is that something then, you would have entered that at	
20			a later stage?	12:05
21		Α.	No. I would imagine, just from looking at it, I think	
22			I would have wrote oh yeah, it wouldn't have been of	
23			any relevance to me at the start, not until I am	
24			interviewed or paper comes around, then I have to put	
25			it back in in retrospective.	12:06
26	160	Q.	CHAIRMAN: And it stretches over a little beyond the	
27			actual date of the 28th.	
28		Α.	Yeah.	
29	161	Q.	CHAIRMAN: Your account that you write in?	

Т		Α.	rean. when someone has come in, I am obviously not	
2			going to be taking a note of every person that comes to	
3			me over whatever	
4	162	Q.	CHAIRMAN: Well, when the issue arises, you go back in	
5			your diary and you note that on the relevant date	12:06
6		Α.	Yes.	
7			CHAIRMAN: Okay, thanks.	
8	163	Q.	MR. McGUINNESS: It's perhaps a small point, but in	
9			your statement you say at one point:	
10				12:06
11			"I was advised by Olivia O'Neill that the guards would	
12			not take her statement of assault unless she made a	
13			complaint about me."	
14				
15			Do you remember saying that?	12:06
16		Α.	Yeah. That was the impression I got, yeah.	
17	164	Q.	I mean in fairness, you've recorded it in your diary	
18			slightly differently, you don't use the word complaint.	
19			This is on the 26th June in your diary, it's page 13262	
20			in the volumes, and it reads, as I see it:	12:07
21				
22			"Informed judge and D/Super my notebook missing."	
23				
24		Α.	Well that's clearly a different thing completely	
25	165	Q.		12:07
26			"5: 30. Olivia O'Neill calls to station, asks to speak	
27			to me in private. Sated D Sergeant Curley and T	
28			Higgins called to her house, then to her in another	
29			house to try to get her to make statement about me but	

1 2			refused to take her statement of assault."	
3		Α.	That is what I have noted.	
4	166	Q.	Yes. That seems to be a fairer reflection of what	
5	100	Q.	Sergeant Curley said he was doing. He was trying to	
6			get her to make a statement as to what had been the	12:07
7			interaction between you when you came to the station.	
8			But you're interpreting as the making of a complaint,	
9			is that right?	
10		Α.	Well that's the way, to take a statement is to take a	12:08
11		۸.	statement of complaint.	12:08
12	167	Q.	Well, it's a statement as to what happened, what events	
13	107	Q.	occurred, surely. You seem to have recorded it	
14			neutrally at the time and then in your statement of	
			•	
15			complaint to the Tribunal you are describing it as a	12:08
16			statement of complaint?	
17		Α.	Well, I do see that where I go back retrospectively on	
18			the 28th, on the side note I have written, and this is	
19			only just a note, a quick note, under Olivia O'Neill:	
20				12:08
21			"Inspector Farrell directs statement not to be taken	
22			and starts complaint."	
23				
24	168	Q.	You see, it seems to be an assumption on your part that	
25			when Olivia O'Neill came in with her daughter, the	12:08
26			guards didn't take a statement from either of them	
27			about the assault because they were focused on you.	
28			Now, that's not correct, in fact, they did take a	
29			statement from Cheyanne?	

- 1 A. I understand that now, yeah.
- 2 169 Q. Was that a misunderstanding on your part because you
- just didn't know it at the time.
- 4 A. You see, I didn't know what the assault was about.
- 5 170 Q. Well, a number of witnesses have said in their
- 6 statement that Cheyanne did make a statement, and, in

12:09

12:09

12:10

- fact, Olivia O'Neill confirms that in her statement to
- 8 the Tribunal investigators, you have probably seen
- 9 that?
- 10 A. Yes.
- 11 171 Q. In fact, she goes on to say that Cheyanne actually then
- 12 withdrew her statement a number of weeks later?
- 13 A. Right.
- 14 172 Q. Because they had sort of settled their differences?
- 15 A. That's right.
- 16 173 Q. That may have caused you to believe, not knowing that a
- 17 statement had been taken, that may have caused you to
- 18 believe that they weren't willing to take a statement
- 19 about the assault or the threats and that they wanted
- to focus on you, is that the way you saw it?
- 21 A. Yeah. Because at some point Ms. O'Neill I think calls
- in to me in the station, wants to speak to me in
- private, this is from recollection, and she states to
- me, more or less, something like, they don't want to
- take a statement about -- basically they are only
- interested in getting a statement from her about me and
- 27 what I said to her or allegedly said at the counter.
- Like, I have already replied, you see, to
- 29 Superintendent McBrien in relation to this. It's a

- 1 very simple thing that this emanates from.
- 2 174 Q. Yes.
- A. But they fairly get -- they get honed in on this and this becomes -- yeah.
- 5 175 Q. I need to be clear in my own mind.
- 6 A. Sure.
- 7 176 Q. When you say "they become honed in on this" who are you talking about?

12:11

12.12

- 9 A. When I say Garda management, I don't want to include
 10 everyone in Garda management, a certain core of persons 12:11
 11 that I would have classed in diaries as I suppose a
 12 cabal within Garda management.
- 13 177 Q. It's just your statement that the guards weren't

 14 interested or wouldn't take a statement of her assault

 15 unless she made a complaint about you. Sergeant

 16 Curley, in his statement, denies that was ever said or

 17 intimated to Ms. O'Neill. I don't know whether you

 18 want to comment on that?
- 19 A. I can't comment on that.
- 20 178 Q. Sergeant Curley, that's page 4088 of the documents, 21 said no such action took place in refusing to take a 22 statement from Ms. O'Neill when they went out to see 23 her, on the basis that they only wanted a statement of 24 complaint against you. He said that didn't happen?
- 25 A. I can't comment on that.
- 26 179 Q. It is true that the only reason he went out was to seek 27 a statement relating to the conversation. That's 28 obvious, isn't it?
- 29 A. Oh yeah.

- 1 180 Q. But when Ms. O'Neill was interviewed by the
- 2 investigators, she doesn't make the case in her
- 3 statement that the guards had refused to take a
- 4 statement about the assault, at any stage?
- 5 A. That's fair enough.
- 6 181 Q. As far as Chief Superintendent Curran is concerned, he

12:13

12.14

- obviously seems to have had a role in directing that a
- 8 statement taken from Ms. O'Neill, no such statement was
- 9 provided. He then took the alternative course, which
- seems logical, to seek a statement from you, and he got 12:13
- 11 a report from you, isn't that right?
- 12 A. That's correct.
- 13 182 Q. Is that not where it was left then, after the date that you provided that statement?
- 15 A. You see, unfortunately this, it's not as simple as even 12:13 16 doing out a report here, I had called up to the super's
- office, Superintendent McBrien on a number of occasions
- and it was about my conversation with Ms. O'Neill and
- then the next subject-matter we will be getting onto.
- The two of them were kind of -- I would have being
- asked in relation to the two of them at the one the
- time. But there was correspondence obviously. I
- explained what happened, very simple. Again, you know,
- if it was the case that I had said -- that I had told
- Ms. O'Neill, oh, put in Garda A's name into your
- statement, again that should have gone to Assistant
- Commissioner Ó Cualáin, because if he's investigating
- this and the allegation is that I am rounding up all
- these witnesses to make complaints, I mean, it's part

Τ			of their investigation. It's again not the chief in	
2			Mullingar that because at the end of the day, really	
3			that's what they're going at, is that I tried to	
4			persuade Ms. O'Neill to name Garda A, as I've	
5			explained, that there is just no point, because it was	12:15
6			obviously the elephant in the room, as I've said, of	
7			course.	
8	183	Q.	I mean you did speak with Superintendent McBrien, she	
9			records in her statement, at page 6254, that you said:	
10				12:15
11			"He had heard members were asking to make complaints	
12			against him. I outlined to him that asking someone if	
13			they wanted to make a statement was different to a	
14			person making a complaint."	
15				12:15
16			She said that you accepted that. The mere fact that	
17			somebody was being asked to form a statement didn't	
18			mean that we were being encouraged or induced to make a	
19			statement of complaint against you, that you accepted	
20			that in that interview with her?	12:15
21		Α.	Perhaps, perhaps at the time, and you see, I'm not	
22			sure, I just can't remember.	
23	184	Q.	Yes.	
24		Α.	But perhaps at the time. But this does become rolled	
25			into the next thing that we are going to visit and it	12:15
26			does become more sinister then, you know, and there's	
27			the two of these then rolled together in the same week.	
28			They happen in the same week. This was the first, it	
29			was just an innocent thing. I hope I clarified that at	

- 1 the start.
- 2 185 Q. I think I understand.
- 3 A. Yeah.
- 4 186 Q. I mean, she does obviously acknowledge that in relation

12:16

12:16

12:17

12.17

- 5 to this. You said you had brought this to the
- 6 attention of Assistant Commissioner Ó Cualáin and you
- 7 had done so?
- 8 A. Oh I would have, oh yeah, of course.
- 9 187 Q. But they confirmed on the 15th July that they weren't
- 10 concerned to investigate allegations against you and
- 11 wouldn't be investigating the Olivia O'Neill incident
- as part of their --
- 13 A. I do understand that.
- 14 188 Q. Yes.
- 15 A. My point, my problem there is, I mean, it is really
- part of their investigation if the allegations are that
- I am rounding all these people to make complaints about
- Garda A, who is the subject of my main complaint, which
- 19 Assistant Commissioner Ó Cualáin is investigating, like
- if that is the case my argument is, they should have
- 21 looked at that.
- 22 189 Q. I hear what you are saying and we will look at it very
- closely, I am sure the Chairman will pay close
- 24 attention to it, but in relation the Olivia O'Neill
- 25 matter, I just want to deal with this issue of getting
- 26 Assistant Commissioner Ó Cualáin involved in
- investigating that. You know your report was made
- 28 under the confidential reporting regulations?
- 29 A. Yeah.

- 1 190 Q. Isn't that right, of 2007?
- 2 A. Correct.
- 3 191 Q. You know that under regulation 8, when the Commissioner
- 4 appoints someone to investigate a protected disclosure,
- 5 they are investigating the allegations in the protected 12:18
- 6 disclosure, isn't that right?
- 7 A. Yes.
- 8 192 Q. I shudder to think what would happen if a judicial
- 9 review were taken, if an officer appointed to
- investigate allegations in a protected disclosure made
- by a confidential reporter turned it into an
- 12 investigation into allegations made against a
- confidential reporter. I mean, wouldn't that be
- 14 clearly outside the powers?
- 15 A. Correct. I do understand where you're coming from.
- 16 193 Q. Yes.
- 17 A. My argument again, I did nothing wrong in this, and
- that's why I was saying, lads, this is what's going on,

- 19 I didn't do anything wrong here, can you look at it.
- 20 194 Q. Yes. But in terms of your justification for seeking to 12:18
- 21 have this put in to the assistant commissioner's
- investigation, you seem to be putting it in a class of
- they drumming up allegations to affect your
- credibility; is that more or less...
- 25 A. It appears to be, yeah. And again, where is it
- 26 emanating from? It's emanating again from the chief's
- office in the Mullingar. Again, this is the same
- 28 place, Westmeath division that I originally reported
- the collusion with the heroin, you know, and again it's

- the chief's office in Mullingar that is, you know,
- 2 behind this, in stirring this, getting this into
- 3 motion.
- 4 195 Q. I am wondering is that necessarily so, where it arises
- as a result of a citizen coming into the public office. 12:19
- 6 I am not passing judgment as to whether or what sort of
- 7 misunderstanding may have taken place, but certainly
- 8 Garda Treacy appears to have written her report in
- 9 complete good faith?
- 10 A. Oh yeah, absolutely. No issue. No issue whatsoever.

- 11 Yeah.
- 12 196 Q. So that all that then happens is that there's a desire
- to get a statement from each side of the parties to the
- conversation. In the event, you're the only one who
- provided one and it went no further. Am I missing some 12:20
- 16 piece?
- 17 A. I'm not sure, I just know I was called an awful lot of
- times up to the superintendent's office. You see, that
- then was rolled in, even on the -- from recollection, I
- think there's documents there where they roll Olivia
- O'Neill in with the next allegation and person they
- were going to be dealing with and they are kind of
- rolled in together. You know, so it's not as simple as
- Ms. O'Neill, just the one thing was dealt with, very
- 25 simple. It rolled in with the next thing, which I will 12:20
- be arguing is very sinister. So I can't agree with you
- fully on that.
- 28 197 Q. Okay. I think in fairness to Superintendent McBrien,
- 29 you have referred to a number of meetings with her and

- 1 your diary does refer meeting with her on the 8th July
- and on the 16th July, where she was asking you about
- the last contact that had you with Olivia O'Neill, is
- 4 that right?
- 5 A. Yeah. Again, we're going on here to July here now,
- 6 May, June, July, this is a couple of months now going

12.22

12:22

- 7 on.
- 8 198 Q. Yes. But you yourself were phoned by the assistant
- 9 commissioner on the 16th and you were told that he felt
- it wouldn't be appropriate to investigate the Olivia
- 11 O'Neill matter as part of his investigation?
- 12 A. Yes.
- 13 199 Q. So, I mean, consequently you did have no difficulty in
- 14 providing the report and you stand over the report as
- to what happened at the counter, isn't that right?
- 16 A. Of course, yeah.
- 17 200 Q. It seems to me, and perhaps I am missing it, was the
- requirement to provide that report, that was bullying
- and harassment, is that...
- 20 A. You see, as I said, they roll in this to the next thing 12:22
- 21 we're going to come to. So the roll is where I am
- 22 being asked -- I just see on that note there, where you
- 23 mention on the 8th July.
- 24 201 Q. Yes?
- 25 A. Will I read this out?
- 26 202 Q. If you think it's relevant and it helps you, of course.
- 27 A. It's from the date previously.
- 28 203 Q. Yes.
- 29 A. It has "9pm met with superintendent", that would be

1			Superintendent McBrien,	
2				
3			"Informed me she is sending people out again to try to	
4			get statements from Olivia O'Neill."	
5				12:23
6			And then there's the next character we will be coming	
7			to. So that's it, like. They rolled it into the next	
8			thing. It will become clearer when we get to the next	
9			thing I think.	
10	204	Q.	Yes. They were rolled together in the sense that these	12:23
11			were issues that, if I can use the phrase, were	
12			bubbling along, that had come to the surface at	
13			different stages in the same period, isn't that right?	
14		Α.	They arrived in the same week.	
15	205	Q.	Yes. I mean, don't take this the wrong way, the first	12:24
16			two issues were created by you in terms of the Pulse	
17			issue, the two. This third one was created by	
18			Ms. O'Neill walking in and whatever conversation?	
19		Α.	Mm-hmm.	
20	206	Q.	The fourth one that we will come to was created by a	12:24
21			report from a guard?	
22		Α.	Yeah.	
23	207	Q.	Isn't that right?	
24		Α.	That's correct.	
25	208	Q.	But you did yourself segregate this out individually as	12:24
26			a ground of complaint of bullying and harassment	
27			against the members, the senior members concerned?	
28		Α.	Yeah.	
29	209	Q.	That's the fact?	

- A. As I said this, this is rolling on a couple of months,
- this Olivia O'Neill thing. I have already written on
- it and I am still being called up to answer questions

12:25

12:25

- 4 and stuff like that in relation to this. It would
- appear to me they tried to roll it in with the next
- 6 thing. Because there, you would have strands in the
- 7 same week of where it implies that I am trying to
- 8 roundup persons to make complaints.
- 9 210 Q. Yes. But I mean, you characterised it as an attempt to
- interview and influence the independent investigation.
- 11 How do you see that this requirement of you to make a
- 12 report could have done that?
- 13 A. You see, what they are trying to do here is to
- discredit me in relation to the main investigation.
- 15 Because if they can get off the ground that I was
- 16 getting people in to make complaints against Garda A,
- it puts everything in the main investigation into
- 18 question on credibility, you see.
- 19 211 Q. I don't want to go through all of the allegations that
- 20 were in your protected disclosures?
- 21 A. Sure.
- 22 212 Q. But you weren't really a witness to any of them except
- perhaps one, a couple of issues relevant to one of
- them. I mean, is that not right?
- 25 A. Sorry, can you re phase that? I just don't understand. 12:26
- 26 213 Q. I mean, you're talking about an attempt perhaps to
- 27 destroy your credibility in relation to the main
- investigation.
- 29 A. Yeah.

1 214 Q. But I mean, you had set the investigation train going 2 but you weren't a crucial witness of credibility in

12:26

12:26

12:27

12 · 28

- 3 relation to most of those allegations?
- 4 A. In the main investigation?
- 5 215 Q. Yeah.
- 6 A. Oh yeah, I just passed on.
- 7 216 Q. Yeah.
- 8 A. Correct.
- 9 217 Q. I am not going to labour the point in any way, but you
- raised the issue obviously in the context of the appeal 12:26

 against Finn when it went to Mr. de Bruir about this,
- 12 trying to substantiate that you were coaching the
- 13 witness. He seems to have taken the view that it was
- 14 appropriate to seek a report and it was reasonable for
- them to investigate what had occurred at the public
- 16 counter in a Garda station?
- 17 A. Again we're going back to -- again, this is coming from
- the chief's office in Mullingar, in the place in
- 19 Westmeath where I reported this criminality and we have
- 20 more of these, reams of paperwork coming down to me.
- In the first month as well, all of this is coming in
- the first month since I made the disclosure. You know,
- you have to understand the way I view it.
- 24 218 Q. You spoke to Detective Superintendent Mulcahy about it
- on the 26th June, do you remember that?
- 26 CHAIRMAN: Just help him as to what happened. He had
- given a statement, as I understand it, that was
- completed.
- 29 219 Q. MR. McGUINNESS: Detective Superintendent Mulcahy says

- that you outlined that you had spoken to Olivia O'Neill in the station?
- 3 A. Sorry, I see here out of the corner, D super, yeah.
- 4 220 Q. What advice did he give you?
- 5 A. I can't, I just can't remember.
- 6 221 Q. Okay. He said he advised you not to get involved with those people?

12.29

- 8 A. Yes, I understand there is a reason he said that and I can explain that.
- 10 222 Q. Yes.

28

29

11 I went into work one day, and this is after -- we have Α. 12 had all this craic of me going up to the office and all 13 the rest to Ms. O'Neill and I am aware and I have been 14 told that they're sending guards out to take a 15 statement, I think the first time. Again it comes from 12:29 16 the chief, a second time they are being sent out to 17 take statements from Ms. O'Neill. A second time, okay. And then I went into work one day and I saw a message 18 19 from Olivia O'Neill, it was actually to Garda Treacy. I thought all this Ms. O'Neill stuff was finished. And 12:29 20 then, when I saw the message, it just happened to be in 21 22 the message book, I just saw it by accident. 23 went up to Ms. O'Neill's house and I said, are these 24 looking for a third attempt to have a go, already had 25 two attempts to have a go to try get a statement in 12:29 26 relation to this. I have written on it. Very simple 27 what happened. So, I went up to Ms. O'Neill, to her

house, and I just asked, what's the story. I think she

said, no, that's to do with something else. That was

1			why oh, out of that, something cropped up in	
2			relation to something in the main complaint, which I	
3			reported to superintendent Mulcahy and from	
4			recollection, he obviously asked me where did you hear	
5			this and I told him and obviously he was aware it was	12:30
6			the issue, the allegation about myself and Olivia	
7			O'Neill. He did say, you shouldn't be and I think I	
8			told him, that's how I ended up there. I thought they	
9			were looking for a third set of statements in relation	
10			to this. Two is bad enough.	12:30
11	223	Q.	On your own account, she had already called back in to	
12			the station. She details calling to the station a	
13			number of times and speaking to you, is that right?	
14		Α.	No, I can only remember twice at the station speaking	
15			to her.	12:30
16	224	Q.	All right. Well, thanks for that, we will leave it at	
17			that on this issue. If we can turn to the next issue,	
18			if you wouldn't mind. This issue is the investigation	
19			into Liam McHugh's complaint to Garda Aidan Lyons on	
20			the 31st May. That was given a Pulse number that we	12:31
21			don't need to go into. You saw events	
22		Α.	Sorry, that was given a Pulse number?	
23	225	Q.	Yes.	
24		Α.	Right, okay.	
25	226	Q.	This arose out of a report written by Garda Lyons,	12:31
26			isn't that correct?	
27		Α.	Oh yeah.	
28	227	Q.	That was read out to you by Superintendent McBrien	
29			sometime subsequent to her receiving it?	

- 1 A. Again, that's --.
- 2 228 Q. We will come to that in due course.
- 3 A. They were writing down to me about my interactions
- 4 with -- can I say this person's name.
- 5 229 Q. Mr. McHugh?
- 6 A. Yes.
- 7 230 Q. Indeed, yes.
- 8 A. They were writing down to me firstly about my
- 9 interactions with Liam McHugh, I didn't know what they
- 10 were talking about. Eventually, at some period through 12:32

12:32

12:32

- the word of mouth in the station I heard obviously
- there was some allegation in the background and that's
- 13 why they were writing out to me. But I don't actually
- get to know what the allegation is, until what you
- referred to as Superintendent McBrien, yes.
- 16 231 Q. We will come to it in due course,
- 17 A. Okay.
- 18 232 Q. We might just look at the Lyons report first.
- 19 A. Yes.
- 20 233 Q. It's in Volume 5, 1029. It's there. It's dated 2nd
- 21 June:
- 22
- "With reference to the above, I wish to report that on
- the 31/5/15 at approximately 9pm I was approached by
- Li am McHugh at Bastion Street Athlone. Mr. McHugh
- brought up a general topic of whistleblowers and we had
- a general conversation for a few minutes during which
- he informed me as follows: "The bald guard came over
- to me the other day and asked if I could remember the

Т			time I was searched by three guards and \(\xi\)ou storen	
2			from me I spent drinking in the castle, the pub, the	
3			bookies and the casino."	
4				
5			He said if I wanted to make a complaint about it, then	12:33
6			they would back me up. They asked Liam McHugh if he	
7			was alleging that this had actually happened and his	
8			answer was, "no, not at all, I'm not going to bring	
9			trouble on myself." I asked him was it referring to	
10			Garda Nick Keogh and he confirmed that it was. He then	12:33
11			went on to say he told me he was there himself when it	
12			happened and would back me up if I wanted to make a	
13			statement."	
14				
15			So that was the report in writing put in by Garda	12:34
16			Lyons. That went to Superintendent McBrien. Were you	
17			informed then by Superintendent McBrien on the 9th June	
18			that she was investigating an issue relating to you	
19			concerning Liam McHugh?	
20		Α.	Yes.	12:34
21	234	Q.	Yes.	
22		Α.	Yeah, I have a note here of it.	
23				
24			"Meet with Superintendent McBrien. Conversation	
25			informs me that another complaint, Liam McHugh to be	12:34
26			approached to take statements. I informed her I wasn't	
27			happy. "	
28				

Yeah, okay.

29

235 Did she ask you about contact with Mr. McHugh? 1 Q. 2 Just for clarification. Α. 3 236 Yes. Ο. 4 They start sending me down paper, just from Α. 5 recollection, first, before I am even called up, they 12:35 look for stuff in writing, from recollection, and 6 couldn't I be incorrect on that. I think they start --7 8 it comes down in writing first about my communications or conversations or whatever. Oh, when did I last meet 9 him, or something like that. At the time, of course, I 12:35 10 11 don't know what this is about, but, yeah. 12 Superintendent McBrien, yeah. 13 Ultimately Superintendent McBrien had, I think was it a 237 Q. 14 telephone conversation with you on the 23rd, and she 15 sent a report, a request for a report to you on the 12:36 16 23rd July. Perhaps we will look at page 8712 in Volume 17 13. 18 I have read Superintendent McBrien's notes and they are Α. 19 pretty accurate. 238 20 Q. Yes. 12:36 21 So I have no issue there. Α. 22 239 It says: Q. 23 24 "Further to our telephone call, can you provide me with 25 a report outlining your contact with Mr. Liam McHugh as 12:36 to the nature of such interaction." 26

2829

27

Then you have endorsed on that handwritten report.

- 1 "I wish to report I met Liam McHugh at 21:50 19/7/14,
- 2 Church Street Athlone while on the beat. Prior to that
- I had no contact or dealings with Liam McHugh over the
- 4 past three months."
- 5
- 6 That meeting with Mr. McHugh, that was subsequent to
- 7 your first interview with Superintendent McBrien, isn't

12:37

- 8 that right?
- 9 A. I have had a lot of meetings with Superintendent
- 10 McBrien in relation to this and the previous matter.
- 11 240 Q. Yes.
- 12 A. They are rolled in around kind of the same thing.
- 13 241 Q. Yes. But I mean, you met her on the 9th June and you
- met her on the 8th July, and you say in your statement
- on the 16th she asked you about the last meeting with
- 16 him. She is asking for a report here. You put in that
- 17 report, isn't that right?
- 18 A. Are we in June or July?
- 19 242 Q. Pardon? July.
- 20 A. July. Okay. This is the 16th.
- 21 243 Q. Yes.
- 22 A. Okay. Yes, the superintendent calls me and asks me
- about meeting with Liam McHugh and Olivia O'Neill and
- intelligence, do I have an informant. Yeah
- 25 244 Q. You sent her a text then I think the next day, was it? 12:38
- 26 A. Oh yeah. Yeah.
- 27 245 Q. That's at page 8713. If we just look at that.
- 28 A. Yeah.
- 29 246 Q. You say Mr. McHugh came over to you?

1		Α.	Judge, I have already been explaining to Superintendent	
2			McBrien, I had nothing to do with Liam McHugh, I	
3			haven't seen him in ages, blah-blah-blah. I went on	
4			the beat just for from recollection, I went on the	
5			beat, walked out of the station and turned right, there	12:39
6			was only one person on the street, this was just	
7			outside the station and it was McHugh. Obviously I'm	
8			after telling the superintendent, you know, I've	
9			nothing to do with McHugh, and here I am outside the	
10			station talking to McHugh. He came over to me, you	12:39
11			see. So obviously, which was interesting, he was	
12			asking me what was going on, that there was guards up	
13			to him to try and get a statement about me.	
14	247	Q.	Yes.	
15		Α.	Obviously I asked him, what's this about. He didn't	12:39
16			know what it was about and I was asking him. But I had	
17			to text the super then, because as I said, I was	
18			already in saying I had nothing to do with I hadn't	
19			met this fella for ages and here I am outside the	
20			station the next day or whatever talking to him.	12:39
21	248	Q.	I did notice that there was an entry in your or is	
22			an entry in your diary for the 31st May, which is the	
23			date of the encounter or the alleged encounter?	
24		Α.	Yeah.	
25	249	Q.	Contained in Garda Lyons's report?	12:40
26		Α.	Yeah.	

"Liam McH meet guard 9pm. Alleges section 23. €800.

It seems to read:

27

28

250 Q.

1			Three cops castle."	
2				
3			Presumably you put that entry in afterwards?	
4		Α.	Yes.	
5	251	Q.	When you got the details?	12:40
6		Α.	Correct, because it's not until when Superintendent	
7			McBrien actually shows me Garda Aidan Lyons' report	
8			that I actually get to see for myself what they're	
9			looking for in relation to this Liam McHugh matter.	
10			Also, the name, the author of that report was withheld	12:40
11			from me, so I didn't know who wrote the report.	
12	252	Q.	Yes.	
13		Α.	I was then obviously aware of what all this Liam McHugh	
14			stuff is about, that they writing to me about, called	
15			up to the super's office and the super ringing me about	12:41
16			it and all the rest.	
17	253	Q.	Yes.	
18		Α.	What I did note on the report was the date of the	
19			report. Because they hadn't named the guard or	
20			anything. The date of the report I memorised. Then I	12:41
21			went back into my diary to see what was going on at	
22			that period of time.	
23	254	Q.	Yes.	
24		Α.	And what was interesting is, the night before that	
25			incident I was on nights, which would have been the	12:41
26			30th, the 30th of June, Garda A was in an unmarked	
27			patrol car with a different guard, another guard who	
28			himself under investigation for serious matters,	

29

separate to all this. They were driving, I was dealing

1			with a thing to do with a fella who jumped out in front	
2			of car or whatever. But anyway, they were driving up	
3			and down, driving. I remember, I clearly remember,	
4			they just kept driving up and down, it was on the main	
5			street of Athlone. Like McHugh could have been in the	12:42
6			crowd when people had gathered around. This fella had	
7			to be pulled off the street and there was ambulances	
8			there and whatever. But I believe that's the night	
9			that that complaint was conceived. I don't even	
10			believe there was a meeting with Garda Aidan Lyons and	12:42
11			Liam McHugh. I don't believe there was a maybe. I	
12			just personally don't believe there was even I	
13			believe that night, the night before was the night that	
14			whole thing was contrived. Because both the guards in	
15			the patrol car were under big investigations	12:42
16			themselves, they couldn't commit to paper. Aidan Lyons	
17			at the time was a guard that would have been a clean	
18			pair of hands and they got him to write this nonsense.	
19	255	Q.	Well, I mean we are going to hear from Garda Lyons	
20			obviously, he has given a statement and we have seen	12:43
21			his statement obviously. But can I just ask you about	
22			a couple of entries in your diary which relate to	
23			Mr. McHugh?	
24		Α.	Right.	
25	256	Q.	You have an entry then on 20th July 2014, it says:	12:43
26				
27			"19/7/14 Church Street. On beat. Met LMH. I heard	
28			they ran you out of town."	
29				

1 Is that right? 2 That's what he said to me, I heard they ran you out of Α. 3 town. 4 257 Q. Okay. 5 12:43 6 "I asked about when I saw him." 7 8 Α. Yeah. 9 258 Q. "one to two years, informed me." 10 12:43 11 12 Is that what he said? 13 I can't remember if I asked, when's the last time I Α. Now, when I saw him is different to when I met 14 him because this fella wanders around the town a lot. 15 12:44 16 So seeing him and meeting him are two very different 17 things. 18 259 Yes. Q. 19 So I made have said, whatever, so I wrote it down. Α. 20 Oh, then he informs me that they approached him 21 again, yeah, for a statement. I don't know where in 22 the contacts, if that's the first or the second time or 23 how many times they're after him for a statement there, 24 but anyway. 25 It would appear that quite a number of the guards in 260 Q. 12.44 26 Athlone knew Mr. McHugh? 27 Yeah. Α. 28 It was an initially --261 Q. 29 Sorry. Α.

- 1 262 Q. You had a discussion with Superintendent McBrien about
- 2 suggesting Sergeant Curley would take a statement from
- 3 him, isn't that right?
- 4 A. That I suggested?
- 5 263 Q. You had some discussion with Superintendent McBrien?
- A. I was up in the office a good bit, I could have had my own chair up there at that stage.

12 · 45

12:45

12:45

- 8 264 Q. It was decided that Garda Higgins would be asked or 9 tasked to see if Mr. McHugh would make a statement, did
- 10 you know that?
- 11 A. I know Superintendent McBrien did inform me that in
- 12 both the Liam McHugh and Olivia O'Neill matters that
- she was sending people out to take statements. I think
- 14 that was -- again that was a second -- there were
- 15 already efforts, but one to get statements off the
- ground from these, and from recollection this is round
- 17 two of trying to get statements in relation to this and
- 18 the previous matter.
- 19 265 Q. Yes. But it was reported back that Mr. McHugh wasn't
- willing to make a statement, isn't that right?
- 21 A. I mean, make a statement about what?
- 22 266 Q. Yes.
- 23 A. Is my answer to that.
- 24 267 Q. Yes.
- 25 A. Yeah.
- 26 268 Q. All right. In that context then, Superintendent
- 27 McBrien called you back to her office and read the
- report to you?
- 29 A. Yes. With the exception of the --

- 1 269 Q. I understand that.
- 2 A. Yeah, yeah, that's correct.
- 3 270 Q. You denied knowing anything about it?
- 4 A. As I said, I don't knowing anything -- to my knowledge,

12:47

12 · 47

- there was never such an incident, to my knowledge.
- 6 271 Q. Yes.
- 7 A. I certainly wasn't involved. If I was or if there was
- 8 anything like that, I would have put it in, I would
- 9 have told Detective Superintendent Mulcahy because
- there are things in the main stuff where I have to sort 12:46
- of incriminate myself in certain things in order to
- progress the main, let's say, thing. So it would have
- been no bother to me to include that with everything
- else. But I'm not going to go in and put my hands up
- to something that's completely fabricated and false and 12:46
- vindictively made up.
- 17 272 Q. You made it clear that you had nothing to do with what
- 18 was alleged in the report?
- 19 A. Oh yeah.

25

- 20 273 Q. Superintendent McBrien wrote a report then up to the
- 21 chief superintendent on the 5th August. That's at
- Volume 5, page 1157. As I say, these other things were
- being reported on but if we can just go down the page
- there. She sends up your report, she records that:
- "He states that apart from meeting Liam McHugh on the
- 27 19th July, had not met him in the last three months.
- On the night.... Garda Keogh sent me a text message
- stating he was out on the beat and McHugh came over to

me."

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Then, if we go down to the next page:

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"In addition, I met with Garda Keogh by arrangement on 12:48 This was the earliest opportunity. out the allegation outlined in the report of Garda Aidan Lyons's taken 2nd June 2014. He requested to view the allegation. I allowed him to do so without disclosing the identity of the member making the 12 · 48 complaint. He was informed it was a member in Athlone Garda Station. Garda Keogh states that he knows nothing about this or any part of it, even the content of the story. He said if he had the information alleged he would put it with his complaint to the 12:48 He said Liam McHugh's name was confidential recipient. not on the complaint made to the confidential Garda Keogh said he does not know anything about this alleged meeting with Liam McHugh and if he had such information he would have used it when making 12:49 his complaint. Garda Keogh said that apart from his meeting with Liam McHugh on 19th July 2014 when he was on the beat, he had not spoken with Liam McHugh for a He said that this meeting was not arranged. long time. I read my notes on meeting with Garda Keogh back to 12 · 49 hi m. He was invited to make any changes or alterations he considered necessary. He did not with to do so. also invited him to sign the notes. He declined this. His assertion that he had not been in contact with Liam

1			McHugh is consistent with his conversation with me on	
2			the 9th June, which is covered in my correspondence to	
3			you on the same date."	
4				
5			So, would you be satisfied that that's a perfectly	12:49
6			reasonable report to make of what occurred there?	
7		Α.	I accept it's accurate. I think have clarified the	
8			thing about where I meet him on the same date and how	
9			that happened. That was just that was just the way	
10			it was.	12:49
11	274	Q.	Yes. In relation to Garda Curran, I am sorry, Chief	
12			Superintendent Curran, do you accept that it was	
13			reasonable for him to consider, as any other senior	
14			officer would be entitled to consider, whether the	
15			matter required some investigation?	12:50
16		Α.	Here we go, here we are back to the chief in Mullingar	
17			again. There's a pattern, a clear pattern occurs at	
18			this stage.	
19	275	Q.	Can we deal with this	
20		Α.	Sorry, sure, yeah.	12:50
21	276	Q.	Can we deal with this in this way perhaps, Garda Keogh,	
22			on the level of principle. If a garda files a report	
23			which suggests that something untoward may have	
24			happened, in the sense of some sort of shake down,	
25			let's use the vernacular, would you not expect him,	12:50
26			would the public not expect the police to consider and	
27			actually investigate it to see was there anything to it	
28			or could any light be thrown on what's alleged to have	
29			happened?	

- 1 A. Yeah.
- 2 277 Q. Is there anything objectionable with that in principle?
- 3 A. You see, again I have to clarify.
- 4 278 Q. Yes
- 5 A. There's the other investigation going on, okay, where
- there's numerous, let's say, allegations of criminality

12:51

12:52

- 7 being investigated in relation to Garda A, okay. And
- 8 here we have the chief in Mullingar trying to get this
- 9 craic off the ground. This is the second one, this is
- 10 back in May 2014, it's in the same week that --
- 11 279 Q. CHAIRMAN: What should he have done?
- 12 A. He should have --
- 13 280 Q. CHAIRMAN: What should the chief have done?
- 14 A. Judge, I would suggest he should have passed this on to
- 15 Ó Cualáin and the investigation for the purposes of the 12:51
- 16 fact there's now two --
- 17 281 Q. CHAIRMAN: Okay?
- 18 A. In particular this one, Judge.
- 19 282 Q. CHAIRMAN: But I thought Ó Cualáin had said, we're not
- investigating complaints against you, we are
- investigating complaints made by you?
- 22 A. I understand.
- 23 283 Q. CHAIRMAN: We have been over that ground?
- 24 A. Correct. I understand what he said, Judge, but the
- 25 thing is --
- 26 284 Q. CHAIRMAN: So what should the chief superintendent have
- 27 done with this?
- 28 A. He should have brought --
- 29 285 Q. CHAIRMAN: Notwithstanding the fact that the assistant

1			commissioner is dealing with complaints made by you, he	
2			should have insisted that the assistant commissioner	
3			take over this complaint, is that correct?	
4		Α.	Well, he should at least have said, you have to look at	
5			this, because here's an allegation now that I'm	12:52
6			rounding up in the same week, a second person	
7	286	Q.	CHAIRMAN: Absolutely, sorry, there's no doubt about	
8			the seriousness of this, yes, there's no doubt about	
9			that. But Mr. McGuinness is asking you, if that report	
10			is made, doesn't it have to be investigated?	12:52
11		Α.	It does.	
12	287	Q.	CHAIRMAN: And isn't the first way to do it, to send	
13			out somebody to say, let's get a statement from the	
14			person who allegedly made the original complaint?	
15		Α.	Well.	12:53
16	288	Q.	CHAIRMAN: Isn't that the first thing to do?	
17		Α.	No, Judge, I would say the first thing to do is I	
18			apologise if I'm	
19	289	Q.	CHAIRMAN: No, I am asking the question for you to	
20			and not to tell you, but you to ask you. Well, you	12:53
21			disagree with that, what was the first thing to do?	
22		Α.	The first thing I would do is, I would look for a	
23			statement off Garda Lyons, because the report involves	
24			criminality. My argument is, the first thing they	
25			should have done is	12:53
26	290	Q.	CHAIRMAN: I thought they had one. He had made a	
27			report?	
28		Α.	I don't think he made one at that stage. If he has	
29			made one I'm not sure about it I don't know I don't	

- 1 know perhaps that can be clarified.
- 2 291 Q. CHAIRMAN: Sorry, isn't that what the superintendent
- 3 showed you?
- 4 A. No. No, it was a report, Judge.
- 5 292 Q. CHAIRMAN: Okay. So here was a report and you say the

12:54

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12:54

- first thing was to get a statement from him. Okay.
- 7 A. Yes, Judge.
- 8 293 Q. CHAIRMAN: If the statement said the same thing as in
- 9 the report, what would happen then?
- 10 A. Well then, of course then they are obliged to go and do 12:54
- an investigation, of course.
- 12 294 Q. CHAIRMAN: Okay.
- 13 A. Just to clarify, I would suggest that Garda management
- 14 were obliged to ask Garda Lyons for the statement. A
- guard doesn't have the same rights of silence as a
- normal civilian, he would have been also obliged to
- give them that statement as well. I don't know
- anything about a statement at that period of time. My
- 19 understanding is they dealt with this by way of
- 21 CHAIRMAN: Okay.

reports.

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- 22 295 Q. MR. McGUINNESS: I mean, I think it may be correct in
- the sense that it doesn't appear that there was any
- further investigation into the alleged theft of monies,
- but would you agree with me, if the person won't make
- the complaint or make a statement at all, it can't even
- be established whether a crime is committed?
- 28 A. But again -- well, of course, but I mean, the guard who
- reported this is obliged to make a statement. Garda

1 management were obliged to get a statement from him. Ι 2 don't think they did that, Judge. 3 296 0. Can I turn it on its head in this way: Garda Lyons 4 made a report. Now on one view that might be 5 considered to be enough to trigger an inquiry as to 12:55 6 what had happened? 7 Mm-hmm. Α. 8 297 The inquiry might lead to a formal establishment of an Q. 9 investigation, where the guard who made the report would have to make a statement, isn't that right? 10 12:55 That's --11 Α. 12 And you're complaining that there was no statement 298 Ο. 13 taken from Garda Lyons? 14 Α. Sorry? 15 299 You do seem to be complaining no statement was taken Q. 12:55 16 from Garda Lyons? 17 That is my understanding, I have never seen one and I Α. 18 have not seen one in those documents. But equally, you were the person supposedly identified 19 300 Q. 20 in the report? 12:55 21 Just for clarification, I am one of three persons. Α. 22 301 Q. Yes. 23 And the other two, we don't know who they are. Α. 24 Indeed, we don't. 302 Q. 25 Two other quards. Α. 12:56 26 303 But the point is this: You were asked to furnish a Ο.

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report in response to the report and you weren't

required to make a statement in support of your report.

You seem to have been treated equally in the sense that

Τ			Garda Lyons filed a report, it triggered lines of	
2			inquiry, you made a report and it didn't go any	
3			further. Now, what further ought to have been done?	
4		Α.	Sorry, which report are you referring to there?	
5	304	Q.	well, your handwritten report, reporting back?	12:56
6		Α.	In reply to this, is it?	
7	305	Q.	Yes.	
8		Α.	Okay.	
9	306	Q.	Should that have been disregarded and should you have	
10			been asked for a formal statement under caution or	12:56
11			otherwise at that time? I mean, wouldn't that be worse	
12			from your point of view?	
13		Α.	They had no statement.	
14	307	Q.	Pardon?	
15		Α.	They didn't appear to have any statement from anybody.	12:57
16	308	Q.	Well you didn't make a statement either?	
17		Α.	A statement about what? There was nothing for me to	
18			make a statement about. As I have stated, I don't even	
19			believe this conversation happened. The incident	
20			certainly never happened.	12:57
21			MR. McGUINNESS: Chairman, I see it is just approaching	
22			one o'clock.	
23	309	Q.	CHAIRMAN: Thank you. You've said, I haven't met this	
24			chap for ages.	
25		Α.	Yeah.	12:57
26	310	Q.	CHAIRMAN: well beyond the three months and so on, I	
27			haven't met him. It then transpired, as it happened,	
28			the next thing that happened you did meet him, purely	
29			by chance, and you reported that?	

- 1 A. I immediately --
- 2 311 Q. CHAIRMAN: I know, you reported that. But that was
- 3 your response to it. Okay.
- 4 A. Judge one, I apologise.
- 5 312 Q. CHAIRMAN: No. no.
- 6 A. Another thing is, Garda -- I read all the de Bruir
- 7 reports and Mick Finn reports and everything, it has in

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12:58

- 8 every one of them that Garda Lyons received this
- 9 information in good faith and that's all accepted.
- There's not one mention in any one of these reports
- that Garda Lyons was Garda A's partner at this time.
- 12 313 Q. CHAIRMAN: But you say this was not a true report. You
- say, Mr. McHugh never made this, this was trumped up.
- I suppose what we are concerned about was the response
- to that. And you don't say, they should have known it
- was trumped up, you don't say that. You say, no, they
- should have dealt with it differently. One, you said
- they should have given it to Ó Cualáin, and, I have to
- say, I am having difficulty with that, because I
- 20 understand Ó Cualáin or the assistant commissioner to
- be saying what he said, I am difficulty with that one.
- 22 A. Yeah.
- 23 314 Q. CHAIRMAN: Mr. McGuinness is saying to you, look, they
- 24 got this report, whatever its credibility, here was a
- report. They went off to you, you gave a report and
- that seems to have been the end of it. Mr. McHugh was
- approached, apparently would not make a statement?
- 28 A. Approached a number of times.
- 29 315 Q. CHAIRMAN: Approached a number of times. Whatever the

1			nature of the approach or the nature of the request, it	
2			didn't result in a statement from Mr. McHugh?	
3		Α.	Yeah.	
4	316	Q.	CHAIRMAN: Okay. So that's the factual situation at	
5			least we have there.	12:59
6		Α.	Yeah.	
7			CHAIRMAN: You want to ask some more questions about	
8			that, Mr. McGuinness?	
9			MR. McGUINNESS: Yes, I will be wrapping up that issue.	
10			CHAIRMAN: Thanks very much. Very good. Thank you	12:59
11			very much. We will leave it there until whatever it	
12			is, two o'clock. Thanks very much.	
13				
14			THE HEARING THEN ADJOURNED FOR LUNCH AND RESUMED, AS	
15			FOLLOWS:	12:59
16				
17			CHAIRMAN: Thank you very much.	
18	317	Q.	MR. McGUINNESS: Good afternoon, Garda Keogh. Just on	
19			the last point we were discussing, I won't go back over	
20			it but a failure to take a statement as such. You	14:00
21			probably will have seen that Inspector Minnock	
22			confirmed in his statement to the Tribunal, page 688,	
23			that:	
24				
25			"I believe Garda Keogh was correct in stating that no	14:0
26			investigation took place in relation to the alleged	
27			theft of monies."	
28				
29		Α.	Mm-hmm, yes.	

1	318	Q.	I think that was a point you were anxious to make and
2			you did make in different submissions that were put in
3			isn't that right?
4		Α.	Yeah, that's correct. They appear to have just

investigated whether I allegedly reported or got Mr. McHugh to report something and totally seemed to bypass the fact that there was a theft which involved three members of An Garda Síochána, allegedly me being And there's no attempt made at all, whatsoever, to identity who the other two members of An Garda Síochána were, because that's their allegation.

12 On the other side of the coin, Chief Superintendent 319 0. 13 Curran said at page 1790 of the papers, you don't need 14 to open it, but he said this:

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14.02

"Given the serious nature of the information contained within the report, it was necessary and incumbent on me to cause enquiries to be carried out in respect of the matter. I reject Garda Keogh's assertion this was an attempt to target him or discredit him. The absence of 14:02 additional detail that was required in this instance in the form of a statement from Liam McHugh to cause further investigative steps to be taken was negated by Mr. McHugh's lack of engagement in this matter despite a request for same."

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So that is where he seems to be saying it rests because it couldn't go further. You say that steps might have been taken to try and identify the other quards, to get

- a statement from Garda Lyons, to set up an
- investigation team, perhaps?
- 3 A. That would be the obvious thing to do. They seem to
- 4 just go down whether I would have got him to do that.
- 5 Totally ignore -- they really do initially ignore the

- 6 thing with the theft. And then, when I am interviewed
- 7 by Superintendent McBrien in relation to it, I don't
- just say this is not true. I can't remember what way I
- 9 worded it but I leave Superintendent McBrien, to my
- recollection, in no doubt that I was being set up here. 14:03
- 11 320 Q. Yes.
- 12 A. And again, the withholding of the identity of the
- person that made this report, again, I can't then make
- any -- let's say, I can't make a statement to say I am
- being set up here or whatever, because I don't even
- know who the person is. In fact, I will go further: I
- 17 actually at that time and for months and months after
- 18 believed it was one of the guards in the patrol car
- from the night before was the author of it. I never
- suspected it was Garda Lyons at all that actually wrote 14:04
- 21 that report.
- 22 321 Q. But you suspected there was somebody behind it?
- 23 A. Oh, of course.
- 24 322 Q. Yeah. One of the points, I mean obviously this did
- form a separate part of your complaint of targeting and 14:04
- bullying and harassment in the first instance and
- 27 targeting and discrediting?
- 28 A. Yeah.
- 29 323 Q. You're standing over that?

Τ		Α.	This is targeting as far as I'm concerned. They were	
2			certainly negligent as to whether the possibility. The	
3			fact this was Garda A's partner that authored this	
4			report and the fact that they don't go into the	
5			criminality, go after the alleged criminality. It's	14:04
6			just whether I got Mr. McHugh to report whatever or	
7			that. So I definitely would stand by targeting on this	
8			one.	
9	324	Q.	I mean, the point you were making before lunch, I mean	
10			it's obviously of importance to your case, that while	14:04
11			we are looking at them separately, they do need to be	
12			taken together. You know, each different limbs of your	
13			case, but together they shouldn't be disarticulated,	
14			they form a whole body of	
15		Α.	I agree.	14:05
16	325	Q.	That was the point you want to make?	
17		Α.	Yes, certainly with Olivia O'Neill and Liam McHugh,	
18			they themselves rolled this into the one kind of	
19			they're on the same documents, they are interviewed at	
20			the same time about both of these incidents, yeah.	14:05
21	326	Q.	Your solicitor put it at one stage in correspondence,	
22			referring to the procrustean bed, that these things	
23			shouldn't be separated limb from limb; they should be	
24			looked at together. That's an important part of your	
25			view of how you were treated?	14:05
26		Α.	Yes.	
27			CHAIRMAN: You're a procrustean bed man, are you? I	

annoyed that I had to look it up.

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had to look it up myself the first time and then I was

- 1 A. Judge, they are certainly not my words.
- 2 327 Q. MR. McGUINNESS: But the point is a worthy point, in
- the sense that it's like a form painting, pointillism,
- 4 you do one little dot in red, it may mean nothing but

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- with lots of other dots it can make a beautiful
- 6 picture. In the case of you, an ugly picture of
- 7 targeting?
- 8 A. Yes.
- 9 328 Q. You want the Judge to look at the whole picture in the
- 10 round?
- 11 A. Yes. Again, lie this is all -- bear in mind, this is
- 12 all within the first month so far of what we --
- probably even less than a month, because I make the
- complaint, the disclosure on the 8th May and like all
- of this stuff is flying around then. That's again back 14:06
- to my point, that first month was very difficult. It
- gets slightly easier when I do meet the investigation
- 18 team and that, but that first month was awkward.
- 19 329 Q. Yes. You may have seen Mr. de Bruir in his report on
- this allegation actually taking a sort of similar view, 14:06
- 21 that it was appropriate to look at all of these issues
- interlinked, because looking at it from the response of
- 23 An Garda Síochána, they were all occurring at the same
- time. He thought it was appropriate for the Garda
- authorities to look at it in terms of whether there
- 26 might be some interlinking pattern, but he concluded
- 27 that it was appropriate for them to require the matters
- to be investigated. So he is looking at it from that
- side. You couldn't disagree with that, perhaps?

- A. You see, unfortunately I never got to meet Mr. de Bruir.
- 3 330 Q. I know, you said that already.
- 4 A. Look, I think is there -- correct me if I'm wrong, I'm
- 5 not a legal expert, but I think former Minister Shatter 14:07

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14:08

- 6 I think took a High Court case in a similar situation,
- 7 I think they were the grounds that he -- the Guerin
- 8 Report or some of them, that he should have been
- 9 interviewed in relation to that. Am I right?
- 10 CHAIRMAN: We are pretty familiar with the case.
- 11 WI TNESS: Right.
- 12 CHAIRMAN: It came before the Court of Appeal.
- 13 331 Q. MR. McGUINNESS: The Chairman presided I think in that?
- 14 CHAIRMAN: So we are pretty familiar with that.
- 15 332 Q. MR. McGUINNESS: But that's Mr. de Bruir's remarks at
- paragraph 8.18 of his report. In that context, do you
- see that the enquiries in this case don't have an
- innocent purpose and can't have an innocent purpose?
- 19 CHAIRMAN: Which ones now are you talking about?
- MR. McGUINNESS: The enquiry made of...
- 21 A. I'm sorry.
- 22 333 Q. Was the enquiry made of you done to target and
- 23 discredit you?
- 24 A. On this one?
- 25 334 Q. Yeah.
- 26 A. On this one, I believe so. I have no doubt whatsoever.
- The way it was done, where it's done by reports, not
- 28 statements. There's an allegation of criminality and
- they deal with it just subtly with reports internally,

1	nο	statements.
_	110	statements.

- 2 335 Q. Yes. But on your analysis of it, is it not caused by the person who made the report rather than those who receive it and have to act on it?
- 5 A. Unfortunately, Judge, that person, like that person
 6 obviously was a friend of mine. As I said, I thought
 7 it was -- I would have bet my house on it, there was
 8 someone else that made that report, but... Yeah.
- 9 336 Q. Well, I mean, I think in fairness I should ask you,
 10 have you any evidence to suggest that that member 14:09
 11 maliciously invented that?
- 12 A. I believe, but evidence, I mean, no statements in relation to it.
- 14 337 Q. I think I was going to pass on from that issue then and 15 go on to the next issue. Before I do, I think one of 14:10 16 the points you were making earlier, as I understand it, 17 the effect of these on you at that time, would you like 18 to describe that? I mean, they did all come in a 19 sequence, albeit, I will acknowledge, the first two related to actions of yours, the third one related to a 14:10 20 civilian and the fourth one a report that you just 21 22 But in the state of mind you were in at the related. 23 time, what effect did they have on you?
- A. It was extremely difficult, because I was on my own.
 As I stated I think yesterday, some of the younger
 guards would not have known what was going on. Even
 most of the older guards in the station wouldn't have
 known the detail of what was going on and to the
 extent, but a lot of them would have had a fair idea as

1	to so it was an extremely difficult time until I
2	actually got to meet Detective Superintendent Mulcahy
3	and actually just hand everything over to him. It was
4	off my back kind of then, they were able to deal with
5	i+

14:11

6 338 Q. Okay. So there that was a relief, to get it off your back, as it were?

8 A. Yes.

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9 339 Q. In creating the Pulse entry, did you see these other subsequent events as a sort of a strike back?

Α. In fairness, in the Olivia O'Neill matter, I think I have explained, that was kind of just a Chinese whisper I think they sort of -- look, on that one, it thing. was nearly springboard into the other one, the next The Liam McHugh thing I absolutely always have 14:12 argued was completely vindictive, it was false. tried to set me up. Garda management rolled the two of these into one, because it is -- they're coming at me there for discrediting when there is this other investigation ongoing at the time. Because if they can 14:12 knock me or discredit me for that -- oh a very important thing, Judge, Mr. McHugh and Ms. O'Neill had nothing to do with my main disclosure, they had absolutely nothing to do with it. If, for example -they jumped the gun, I believe on this. If they had 14 · 12 actually used those same allegations with some of the persons in my main disclosure, then I may be in right trouble or have a much -- you know, luckily, the people they went to had nothing to do with anything.

- 1 340 Q. CHAIRMAN: You draw a distinction between the two,
- between the Olivia O'Neill and the Liam McHugh, if I
- 3 understand it. You say the authorities lumped them
- 4 together?
- 5 A. Yes.
- 6 341 Q. CHAIRMAN: To discredit you, okay. But you draw a

14:13

14:13

14:13

- 7 distinction between the two?
- 8 A. Yes.
- 9 342 Q. CHAIRMAN: Tell me more about the distinction. I am
- 10 understanding that you think that there is room for
- 11 misunderstanding in the -
- 12 A. The first one.
- 13 343 O. CHAIRMAN: Olivia O'Neill one?
- 14 A. Yes.
- 15 344 Q. CHAIRMAN: But you say there's no room for
- misunderstanding in the Liam McHugh case?
- 17 A. Yes.
- 18 345 Q. CHAIRMAN: They're different as far as you're concerned
- in their awfulness, their seriousness, because one
- could be a misunderstanding but the other -- so that's
- 21 on distinction you make?
- 22 A. Yes.
- 23 346 Q. CHAIRMAN: The second point is, you say that the guard
- 24 wrongly, let's just use as neutral a term as possible,
- 25 mixed the two up together, brought the two together as
- if they were the same kind of thing. Am I getting
- 27 that?
- A. Yes, they do. The reports that are in the documents.
- 29 347 Q. CHAIRMAN: Yes, I understand?

Т		Α.	Are there with both their names on these reports and	
2			when I am being interviewed in the super's office, I am	
3			asked about conversations with Ms. O'Neill and the	
4			craic with Liam McHugh.	
5	348	Q.	CHAIRMAN: Okay. But I am understanding that	14:1
6			correctly: You draw a distinction between the two, one	
7			is much more serious than the other?	
8		Α.	Yes.	
9	349	Q.	CHAIRMAN: One is possibly a misunderstanding, or	
10			there's room for a misunderstanding, and there is no	14:1
11			doubt, you say, in number four. And also, that it's	
12			wrong to mix the two up together, because that sort of	
13			militates against you, makes it more difficult for you,	
14			is that right?	
15		Α.	Judge, they both arrived, you see, in the same week.	14:1
16	350	Q.	CHAIRMAN: I understand. So there is a time connection	
17			between them as well?	
18		Α.	Also, yes, Judge.	
19			CHAIRMAN: Okay.	
20	351	Q.	MR. McGUINNESS: Can I ask you before we move on to the	14:1
21			next episode: Had you developed a great suspicion of	
22			management then by this time now that we are talking	
23			about, September/October?	
24		Α.	Yes. Yeah. Judge, I came out on the 8th May, I made	

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29

my disclosure on 8th May 2014. So, on the 9th May

disloyalty, whistleblowers will be supported.

fair enough and that, you know. I was Nóirín

2014, the Commissioner made a statement, dissent is not

like anyone else, I would always give the benefit, say

1			O'Sullivan's first, let's say, whistleblower. All this	
2			stuff came within that timeframe, within that first	
3			month when she was in charge. You know, it all	
4			appeared to be emanating from the chief's office in	
5			Mullingar. I would accept, fair enough, there's	14:15
6			certain things he has to he has obligations, like	
7			this is Chief Superintendent Curran, would have	
8			obligations to do some things. But, you know, it	
9			starts to roll on fairly heavy. By the time we get to	
10			the Liam McHugh matter, I think as well where I say	14:16
11			this is absolutely false, just nobody even looks at the	
12			possibility that this could have been made as a	
13			vindictive sort of complaint to discredit me in	
14			relation to what's being investigated by Assistant	
15			Commissioner Ó Cualáin.	14:16
16	352	Q.	Were your directly in line supervisors, the sergeants	
17			and inspector and Superintendent McBrien in particular,	
18			were they not in fact solicitous towards your support?	
19		Α.	Yeah, I'm not saying anything about them, like you	
20			know.	14:16
21	353	Q.	I mean, it is a fact that you haven't made a complaint,	
22			as it were, at any stage that you were unsupported or	
23			that you didn't get assistance from the force as a	
24			whole. You developed a very good relationship with	
25			your employment assistance man. It changed from one	14:17
26			guard to another in that, isn't that right?	
27		Α.	Yes.	
28	354	0.	That has been of no doubt of great help to you over the	

29

years?

1		Α.	Oh yes. That's one thing, definitely I would	
2			compliment the Guards on, is that particular aspect.	
3			Yeah.	
4	355	Q.	Moving on to issue number 5, the issue of alleged micro	
5			supervision and the appointment of sergeants, three	14:17
6			sergeants to supervise you. You detail in your	
7			statement that on the 26th March Superintendent Murray,	
8			who had now come in, in place of Superintendent	
9			McBrien, said he was placing Sergeant Martin over you.	
10			You say in your statement:	14:17
11				
12			"This would be the third sergeant now supervising me.	
13			He gave no reason."	
14				
15			You say you were subjected to implied criticism to	14:18
16			oppressive levels of supervision. That's the essence	
17			of the complaint, is it?	
18		Α.	Yes. That's to do with the report. I don't actually	
19			say that the sergeants did anything wrong.	
20	356	Q.	Yeah. That is relating to the sick report, is that	14:18
21			what you are talking about?	
22		Α.	It's the report where they appoint a third sergeant to	
23			monitor me, my work, they want my notebook checked, my	
24			pulse incidents checked, crime files checked. I never	
25			ever had that before in the guards, ever.	14:18
26	357	Q.	Perhaps we will look at that at page 187 of the book.	
27			At this stage, as we mentioned, Superintendent McBrien	
28			has moved on, and so has Chief Superintendent Curran,	
29			isn't that right?	

A. Yes.
 358 Q. Didn't Chief Superintendent Wheatley come in?
 A. Yes.
 359 Q. So you had sort of new management, as it were?
 A. Yeah.

with you?

- 6 360 Q. Now, Superintendent McBrien has explained in her 5 statement how she left a file for Superintendent
- 8 Murray, how she spoke to him about you and gave him, as 9 I understand it, all of her notes relating to you,

14:19

14 . 20

- which I think you have accepted are pretty
 comprehensive in terms of note taking, her interactions
- A. And also, from what I read of Superintendent McBrien's notes, they were very accurate.
- 15 361 Q. Yes. She, it would seem, briefed Superintendent Murray 14:19
 16 as part of the handover about your particular
 17 situation. You have no reason to believe, as I would
- understand it, that she had anything but proper intentions as far as you were concerned?
- 20 A. Correct.
- 21 362 Q. But in any event, this is the instruction then. It's 22 headed "sick report". Had you put in a sick report 23 just around that time, the 2nd April, you had? Or had 24 you just come back on duty?
- 25 A. I just can't recall.
- 26 363 Q. I think there was some discussion, perhaps earlier, the 27 week before this, of your work related stress, is that 28 right?
- 29 A. Oh yeah.

12

- 1 364 Q. With Superintendent Murray?
- 2 A. At the time like I was going intermittently sick.
- There is, of course, another massive factor in this,
- 4 like I'm during this, while all this investigation is
- going on, I'm working in the same station a lot of the

14 · 21

14:21

14.22

- 6 time on the same shift as Garda A.
- 7 365 Q. Yes.
- 8 A. That is undescribable. Garda management would have
- 9 known that. They could have not known that.
- 10 366 Q. We will come to that.
- 11 A. Sorry.
- 12 367 O. Because there is another feature. We will hear what
- you have to say, fear not, in that regard. As of the
- other investigations, the four that we have gone
- through, none of them were sort of alive, as far as you 14:21
- were concerned, you weren't being taxed about any issue
- in relation to them since the beginning of October,
- isn't that a fact, the last four we've looked at?
- 19 A. Yeah.
- 20 368 Q. They weren't live and bubbling issues, you weren't
- being pursued by management over them from October to
- this time in April?
- 23 A. No. I think each of them ran I think a couple of
- 24 months and then they died off or they either went into
- 25 the Ó Cualáin investigation or whatever way, they did,
- yeah, they seemed to -- those ones seemed to -- they
- were, yeah.
- 28 369 Q. Yeah. Then you have the new personnel coming in. Here
- it says:

- 2 3
- 4 5
- "I have allocated Sergeant Martin as a liaison person for Garda Keogh to allow him discuss any work related issues he may having with a view to solving any issues that might arise. Both Sergeant Martin and Garda Keogh 14:22

7

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- 10 11 12 13
- 14 15 16
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19

20 21

Α.

- 22
- 23 24
- 25
- 26
- 27
- 28 370 Q.
- 29 Garda management. Α.

- have been informed of this workplace support. 2. Sergeant Moylan and in his absence Sergeant Haran
- supervised unit C, to which Garda Keogh is attached. Both of these sergeants will continue to supervise the 14.22 member in the normal way in relation to any work output required of the member resulting from incidents he attends or matters he's investigating. Sergeant Moylan should sit down with Garda Keogh to go through his notebook posts and crime file lists and ascertain if he 14:22 requires help with any ongoing cases. As he mentioned, an harassment case may be in difficulty. Any issues arising should be immediately reported."
- difficulty with the harassment case, with that case. Ι said something along the lines of it was an awkward case because the person had previously made loads of these complaints about the partner and every time withdrew them. It wasn't that I needed help in it.

14:22

14 · 23

Just for clarification, I never said I was in

- Obviously, you see, a bit like badger baiting, they changed the dogs, they put in fresh dogs.
- Well, who is they again?

1	371	Q.	Well, who precisely now	? We have to be clear about
2			this?	

- 3 Α. Right. Well, I mean the persons at the top are the 4 people that I hold responsible. Nóirín O'Sullivan is 5 the Commissioner, and ultimately she is the person in 14:23 6 charge of An Garda Síochána at the time and this is all 7 going on. There's a change, a total change, everything 8 changes after Superintendent Murray writes that. it was difficult enough to work, working alongside a 9 quard that you have accused of what you have accused 10 14 · 24 11 them of, but when Superintendent Murray arrives, things 12 become much, much more difficult, just even going into 13 work and that. Now like, again, I do turn to drink, I 14 was drinking very heavily. I go into binges. 15 sick quite a lot. The investigation, of course, is 14:24 16 ongoing in the background. I am determined at the time 17 and also I am suspicious with what's going on in the 18 investigation as well. So I know I have to try and 19 stay in work as long as possible to try and prevent any 20 -- make sure any evidence that I get goes towards 14:24 Detective Superintendent Mulcahy and it doesn't go 21 22 missing or anything like that. So it's a difficult 23 time.
- 24 372 Q. You referred there to Superintendent Murray, he seems
 25 to be a new broom and different broom. But he seems to 14:25
 26 have been very vigorous in introducing or trying to
 27 introduce higher standards, greater visible
 28 accountability. His statement, you will have seen his
 29 statement in which he sets out in great detail how he

Τ			was intending to and did deal with his divisional	
2			responsibilities, district responsibilities?	
3		Α.	But sure if I was to write a statement about myself,	
4			I'd put in that I am a great fella as well.	
5	373	Q.	Well, it's really about the responsibilities that fell	14:25
6			upon him and which he was trying undertake when he	
7			became superintendent?	
8		Α.	Superintendent McBrien had all those, you know. It was	
9			a very difficult time there because there was numerous	
10			investigations going on in Athlone separate to this,	14:25
11			this craic. There was other things as well going on.	
12	374	Q.	Well, I mean, it's no fault, but Superintendent McBrien	
13			had been out for some period towards the end of that	
14			year and then was moving on at this point in time. But	
15			Superintendent Murray took a note or kept notes	14:26
16			throughout his tenure?	
17		Α.	I have read a lot of them, a lot of those notes are not	
18			accurate.	
19	375	Q.	Okay. Well, perhaps we will look at his note of the	
20			meeting that he had with you on 26th March 2015. It's	14:26
21			at page 2187. The context for this is set out in his	
22			statement at page 4042, where he had a prior discussion	
23			with Sergeant Haran, who thought that he wasn't being	
24			supported enough in a particular role and he wanted to	
25			move on from supporting you and felt that it would be	14:26
26			appropriate to assign a new sergeant for that purpose.	
27			In that context, he met you for the first time on the	
28			26th March, isn't that correct?	

A. That's correct.

29

2	3/6	Q.	He says:	
3			"We are reticent to discuss the ongoing investigation	
4			and his part. He explained that he was anxious re his	
5			in and out sick days since he came. Told him it wasn't	
6			•	14:27
7			satisfactory re work, organisation, his colleagues etc."	
8			etc.	
9			Do you agree with that?	
10		٨	Do you agree with that?	
	277	Α.	Yeah, that part. Yeah.	14:27
11 12	377	Q.	He goes on, reporting you saying:	
13			"lle coid be didn't like to be bere when cortain need o	
13 14			"He said he didn't like to be here when certain people were here."	
1 4 15			were here.	
16			To that comment?	14:28
			Is that correct?	
17	270	Α.	That would be me saying.	
18	378	Q.	Yes.	
19	270	Α.	Yeah, yeah.	
20	379	Q.	And you didn't identify who that was as such?	14:28
21		Α.	Not at that stage, I do at another point in time, where	
22			he rings me to do with an incident that we will be	
23			getting to. Yeah.	
24	380	Q.		
25			"He said he went sick last Sunday evening after a	14:28
26			certain member who was off came into the station. I	
27			asked who and he wouldn't say."	
28				
29			Ts that right?	

1		Α.	That's probably correct.	
2	381	Q.		
3			"I told him anyone working here can come in at any time	
4			and nothing can be done about that. I discussed work	
5			related issues in terms of coming to work today, if	14:28
6			work related stress was the issue. He said he had	
7			certs from his doctor. I asked him if he had been to	
8			thehe said no andto assess his stress because the	
9			ins and outs appearances do notsupport what he is	
10			sayi ng. "	14:28
11				
12		Α.	That's incorrect. Sorry, excuse me.	
13	382	Q.	Go ahead.	
14		Α.	He said to me the first day, and he said it twice,	
15			you're under no stress.	14:28
16	383	Q.	All right. It goes on then:	
17				
18			"He declined answering questions re points he was	
19			making and instead asked me to contact the D Super	
20			Mulcahy and Superintendent McBrien. I said I won't	14:29
21			contact anyone for anecdotal information but will ask	
22			him, it was up to him whether to answer or not."	
23				
24		Α.	I'm sorry, I can't hear you.	
25	384	Q.	I am sorry, I beg your pardon.	14:29
26		Α.	Yeah.	
27	385	Q.	I am just reading the paragraph there in the middle.	
28			Do you see that:	
29				

Τ			"He declined answering questions re points he was	
2			making and instead asked me to contact the D	
3			Superintendent Mulcahy and Superintendent McBrien, I	
4			said I won't contact anyone for anecdotal information	
5			but would ask him, it was up to him whether to answer	14:29
6			or not. I asked him if he was doing any work. He	
7			said, what do you mean? I said, you're getting wages,	
8			are you doing garda work, enforcement, investigations,	
9			community engagement etc? He said he was doing very	
10			little."	14:29
11				
12			Is that right?	
13		Α.	I mean	
14	386	Q.		
15			"I said I couldn't condone that and then asked him what	14:30
16			was he doing, was he following up on incidents being	
17			reported to him. He mentioned an assault harassment	
18			case he said he had been neglecting. He agreed that	
19			wasn't fair to the victim."	
20				14:30
21		Α.	Yeah, that's absolutely false, absolutely false.	
22	387	Q.		
23			"I asked if there was a sergeant available for him to	
24			link into. He didn't really answer. I said I was	
25			asking Sergeant Yvonne Martin to link in with him in	14:30
26			relation to all workplace related issues. He asked why	
27			her as he didn't know her. I said for that very	
28			reason, that she was new here, like I am, she would be	
29			a support him to allow him attend work regularly. I	

1			advised he discuss the shortfalls in the assault case,	
2			harassment case with her, she would put some	
3			(Inaudible) in place to ensure thoroughness in the	
4			investigation. He agreed to same and to use her."	
5				14:30
6			Is that right?	
7		Α.	From my recollection look, from my recollection, he	
8			just said he was putting Sergeant Martin there and that	
9			was it. I don't think there was any I just have to	
10			look at my if you can just give me one second,	14:31
11			please.	
12	388	Q.	Of course?	
13		Α.	Yeah.	
14	389	Q.	Do you think there was no discussion about your role or	
15			her role with you, is that what you are	14:31
16		Α.	Look, is it okay if I read out what I wrote down.	
17	390	Q.	Yes, do that.	
18		Α.	Okay. "5pm" this is the 26th March.	
19				
20			"5pm met new Superintendent Pat Murray. Conversation	14:31
21			re sick/stress. Told to do with the investigation. He	
22			asked me about legal advice and I said I couldn't	
23			who is my solicitor and I said I couldn't discuss that	
24			with him. He said he'd have to send me to the CMO."	
25				14:31
26			Which is the chief medical officer.	
27				
28			"And that he was appointing Sergeant Yvonne Martin to	
29			liaise with me. He asked me who my solicitor was. I	

Т			tord firm that S private. He then said there S a	
2			problem with your car tax, it's commercial, you're	
3			using it private. I told him I paid it the same way	
4			over the last few years and wasn't the only one in the	
5			station. He then made a comment"	14:32
6				
7			Now, I misheard him on this. I took it up that he had	
8			been personally down to the motor tax office looking	
9			for declarations. I presume what he meant to say is, I	
10			had been on to the tax office looking for declarations	14:32
11			or something. Yeah.	
12	391	Q.	Yes. The discussion goes into his travel claims and	
13			the car tax and he details then in his note. But at	
14			the bottom, towards the bottom of 2188, he says:	
15				14:32
16			"I went over three issues I brought him up to discuss	
17			agai n.	
18				
19			1. His ad hoc appearances at work and referral to CMO	
20			as I was skeptical re his excuse and felt the CMO could	14:33
21			put supports in place for him	
22				
23			2. Sergeant Martin to be his contact re work issues to	
24			support his renewed attendance at work.	
25				14:33
26			3. The connection of his car tax and payment of his	
27			claims and I would deal with him myself re regulation	
28			10. "	
29				

Τ			Do you agree with those?	
2		Α.	No, I don't. Three of two of those are correct. The	
3			middle one, 2 is correct. Can we go back up to the	
4			middle one, please.	
5	392	Q.	Yes.	14:33
6		Α.	On the first matter he says "as I was sceptical re his	
7			excuse". My excuse was work related stress. I have	
8			already said he said to me twice in that meeting,	
9			you're under no stress. Onto number 3, if we can just	
10			go to number 3. Yeah,	14:33
11				
12			"Correction of his car tax, the amount of his claims	
13			and I would deal with him under regulation 10".	
14				
15			He brought up the issue of car tax, that's correct. He	14:34
16			said there's an issue with your car tax, go and get it	
17			sorted. He never once mentioned to me anything about	
18			discipline. The first time again, as I said, with	
19			anyone else, I'd be fair with them and all the rest. I	
20			shook hands with him when I went in to meet him at the	14:34
21			start of that meeting and we left the room at that	
22			meeting I also shook hands with him going out the door.	
23			Then, of course, there's the next meeting I'm sure we	
24			will be getting onto.	
25	393	Q.	Yes.	14:34
26		Α.	So two out of those three I would say are false.	
27	394	Q.	Well, the paragraph we are looking at on the screen	
28			there, "He tried to say other members had issues with	
29			cars", did you raise that?	

Τ		Α.	I did, yes. I did.	
2	395	Q.		
3			"I told him not to worry, I was going to have	
4			everything checked."	
5				14:34
6			I think he did that?	
7		Α.	It wasn't done in the same way that I	
8	396	Q.	Not to your satisfaction?	
9		Α.	Sorry, everyone else gets an amnesty for two months in	
10			relation to have their cars in order, I don't.	14:35
11	397	Q.	Okay. He then records you as saying:	
12				
13			"He withdrew his allegations, then saying he didn't	
14			want to as people would know about his tax and blame	
15			them. I said I would make a decision, take his views	14:35
16			on board but I would treat everyone the same and	
17			fairly. We shook hands and he left."	
18				
19		Α.	That part is correct.	
20	398	Q.	Okay. Well, he did report up to the chief super on the	14:35
21			2nd April, following your meeting. That's the day of	
22			the allocation of the sergeants. His report to the	
23			chief superintendent is at page 2191. He refers to	
24			what he has recorded as the points of his discussion	
25			there. At the top of the next page, 2192, he refers to	14:36
26			your sick record and says:	
27				
28			"The member has a total of 184 sick days in the last	
29			four years. 48 of those occurred since January 2014,	

1			and 52% in early tours of duty. The member has had 34	
2			days annual leave from 1st March 2014 to 31st March	
3			2015, with 92% of leave taken on early tours alone."	
4				
5			You've referred yourself to your drinking at one stage?	14:36
6		Α.	Yes.	
7	399	Q.	Presumably that was a factor of some degree	
8		Α.	Oh yeah, yes.	
9	400	Q.	in your attendance I suppose?	
10		Α.	Yes.	14:36
11	401	Q.	Maybe contributing to how you were feeling about	
12			everything?	
13		Α.	Yes, that's correct, yeah.	
14	402	Q.	But the instruction, as it were, to the sergeants, in	
15			practical terms what did that give rise to, the micro	14:37
16			supervision?	
17		Α.	In fairness, the sergeants, they were okay. The three	
18			sergeants that were allocated to me didn't change.	
19			There was no difference as to the way they were	
20			treating me prior to that or anything. So there was no	14:37
21			if you look at the instructions, read the	
22			instructions at the bottom of that report, you will	
23			see, check his notebook, check his pulse entries, check	
24			everything. He can't obviously word it in a way where	
25			you have to find any mistake that this guy makes so we	14:37
26			can hammer him. So he words it in a way, you know, see	
27			if he needs help or something like that. But that's	
28			you know, why would a person say check all his pulse	
29			entries, files, his notebooks, you know, everything	

1			like that. He is looking for microscopic management to	
2			try and find something.	
3	403	Q.	Yes.	
4		Α.	In fairness, the sergeants don't, from recollection	
5			they never checked my notebook or anything like that,	14:38
6			from recollection.	
7	404	Q.	Chief Superintendent Murray says in his statement to	
8			the Tribunal that Sergeant Moylan was your unit	
9			sergeant initially, but he was away frequently due to	
10			his role in the AGSI?	14:38
11		Α.	Yes.	
12	405	Q.	And that Sergeant Haran provided cover for Sergeant	
13			Moylan when he was away. He didn't change anything in	
14			relation to that, isn't that right?	
15		Α.	Oh yeah.	14:38
15 16	406	A. Q.	Oh yeah. He is responding here to your complaint and he says:	14:38
	406			14:38
16	406			14:38
16 17	406		He is responding here to your complaint and he says:	14:38
16 17 18	406		He is responding here to your complaint and he says: "What he says as criticism, I would say is guidance and	14:38
16 17 18 19	406		He is responding here to your complaint and he says: "What he says as criticism, I would say is guidance and advice. I fell he is completely exaggerating this	
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16 17 18 19 20 21 22 23 24 25	406		"What he says as criticism, I would say is guidance and advice. I fell he is completely exaggerating this situation. I outline in my statement, page 4, how Ia form of support for Garda Keogh. I think it's an exaggeration for him to say he had three sergeants supervising him. To put it into context, the supervising situation that applied was in place before my arrival. Sergeant Moylan and Sergeant Haran	14:39

1			He refers to the assignment of Sergeant Martin, to	
2			which you didn't have any objection. But you wrote	
3			negatively, he points out that you wrote negatively	
4			about Sergeant Martin to the Minister for Justice in	
5			2017, arising out of some suspicion.	14:39
6		Α.	That's correct. In hindsight I should not have	
7			there was an incident to do with what was dealt with in	
8			the previous module of the Tribunal, where Sergeant	
9			Martin was there was an allegation there and I	
10			understand she was totally vindicated in that. I	14:39
11			perhaps jumped I did jump the gun on that and I	
12			shouldn't have. But at the time it was handed around	
13			and I mean, look, I wasn't to know any different.	
14	407	Q.	Yes. No, I understand that, I understand that	
15			completely. But just factually on the ground, it led	14:40
16			to you not interacting really with Sergeant Martin at	
17			all?	
18		Α.	In fairness to her, she didn't bother me kind of.	
19	408	Q.	Okay.	
20		Α.	She didn't	14:40
21	409	Q.	I mean, she wasn't micro managing you then?	
22		Α.	No, she wasn't no. No, no. The sergeants, as I said,	
23			were okay. But Superintendent Murray was trying to get	
24			them to micromanage me.	
25	410	Q.	Sergeant Haran says in his statement to the Tribunal,	14:40
26			at Volume 3, page 589, that he got this minute naming	
27			him as sergeant who would supervise in the absence of	
28			Sergeant Moylan and he said this wasn't unusual in his	
29			view as he would expect to be supervising the entire	

Τ			unit in the absence of their primary sergeant.	
2		Α.	That's correct, yeah. Just for clarification.	
3	411	Q.	Yes.	
4		Α.	He was the sergeant in the community policing unit,	
5			which rested with unit C, as we discussed at the very	14:4
6			start of this. So, yeah, that's where he would he	
7			would have been on duty when we were on duty. So, if	
8			the regular Sergeant Moylan, as regular unit	
9			sergeant, wasn't around, Sergeant Haran would obviously	
10			step in there, yeah.	14:4
11	412	Q.	At paragraph 3.15 of his statement, he says:	
12				
13			"In general terms I was glad to assist Garda Keogh in	
14			doing files or reports. He readily admitted it was a	
15			weakness on his part. On occasion I had to sit with	14:4
16			him and he would literally empty out his post box and	
17			between us we would tidy it up, I put shape on his	
18			correspondence and advised him how we might deal with	
19			some files in order to clear his desk."	
20				14:4
21			Is that something you would agree with?	
22		Α.	Yeah. I'm not saying I'm Einstein or anything, but I	
23			think he had a similar desk. I knew where everything	
24			was.	
25	413	Q.	Yes.	14:42
26		Α.	Paperwork would not be you know, look, I would have	
27			always been one of these guards that would have been	

29

mad to, let's say, cap someone or whatever, but when it

came to doing the file, I was just going, oh God. But

Τ			look, on the other side of the coin, I am not too bad	
2			at gathering evidence.	
3	414	Q.	Yeah, okay. Sergeant Moylan then, in his statement to	
4			the Tribunal, at page 606 says:	
5				14:42
6			"The correspondence from Superintendent Murray also	
7			requested I sit down with Garda Keogh and go through	
8			his notebook, Pulse crime file and DPP list. I duly	
9			did go through Garda Keogh's Pulse crime file and DPP	
10			list. I do not recall going through his notebook. I	14:42
11			believe I was satisfied that all relevant incidents	
12			were recovered in relation to Garda Keogh. I remember	
13			showing him prior to submitting, before submitting same	
14			to ensure he was satisfied with the line being taken.	
15			I wish to state that I did not criticise or	14:42
16			aggressively supervise Garda Keogh and have I no	
17			knowledge of such practices."	
18				
19			Do you agree with that?	
20		Α.	Just for clarification, I have not made an allocation	14:43
21			of bullying and harassment against any of those three	
22			sergeants. Just for clarification.	
23	415	Q.	All right, okay. He goes on to say at page 607:	
24				
25			"I would regularly question any member of the unit in	14:43
26			respect of their work. The reality is that I was Garda	
27			Keogh's unit sergeant on and I treated him no	
28			differently than any other member under my supervision.	
29			I never subjected Garda Keogh to my penalisation as a	

1 result of his making a protected disclosure." 2 3 Would you agree with that? 4 Α. 5 416 It would appear from the answers that you have given to 14:43 Q. 6 me that you were quite unhappy at, I suppose, the fact 7 of Superintendent Murray's instruction and what it 8 conveyed to you, but that it didn't in fact affect you really, is that unfair? 9 10 You see --Α. 14 · 44 11 417 In practical terms? Q. 12 In practical terms it mightn't have affected me, but I Α. 13 was aware of what he was up to. And also, the fact 14 that he -- like, he did lie -- in a way lie to me the 15 first time that he met me, when he said there was the 14:44 16 issue with the car tax, that's fair enough, but he 17 says, in what I have read, that he would deal with it 18 by way of discipline. He never said that to me. 19 wasn't until I met him I think on the second time he said, did you get your car sorted, tax sorted and I 20 14:44 21 said, yes, I did. He said, can you go and get me the 22 I remember going down, at that stage I was documents. 23 still -- you know, I had given him -- I was still in --24 I was giving him the benefit of the doubt, you know. 25 But I do remember walking down, out to the car to look 11.15 26 for the tax disk, was it, and a couple of other -- a 27 receipt from the thing to do with the --28 Tax? 418 Q.

Tax bracket thing.

29

Α.

- 1 419 Q. Yes.
- 2 A. So, when I went back up to his office, the first thing
- he did, was he said, can I see them. Instead of just
- 4 taking my word, I got that thing sorted. He said, can

14 · 45

14:46

14:46

14 · 46

- I see them. The minute he had them, ran over to the
- 6 photocopier, and that's when I knew this boy -- what
- 7 he's up to.
- 8 420 O. We will come to that in a minute, because it is the
- 9 next issue. This allegation of micro supervision was
- and remained one of the points in all of your claims,
- bullying and harassment, part of the complaints of the
- 12 Minister, I think it got published in the Dáil by
- Deputy Wallace as well, isn't that right?
- 14 A. Yeah.
- 15 421 Q. Did you complain to Deputy Wallace about the car tax?
- 16 A. I am sure I did.
- 17 422 O. Assistant Commissioner Finn concluded there was no
- 18 evidence to suggest that the instruction or what
- happened to you resulted in bullying and harassment?
- 20 A. Yeah, even if -- this goes into Assistant Commissioner
- 21 Finn's investigation, it's crystal clear I made no
- 22 allegations against any of those three sergeants.
- 23 423 Q. Yes.
- 24 A. What Assistant Commissioner Finn does is an
- investigation, he pulls it all apart and blurs it, you
- know, and then it's kind of like I have made the
- 27 allegation against these three sergeants, which I
- 28 didn't do. It was clearly Superintendent Murray I was
- pointing the finger at, not the three sergeants.

Obviously when Mr. de Bruir was asked for his view and 424 1 Q. 2 your solicitor made submissions to him, he took into account I think the fact that Superintendent McBrien 3 had given Superintendent Murray her notes, he took into 4 5 account the sick record and he expressed the view that 6 it appeared to him to be a proper use of authority to 7 put supports of these sergeants in place and that it 8 didn't appear to him that there was bullying or harassment involved in that? 9

14:47

14 · 48

- If he was genuine about that, that would have been 10 Α. 14 · 47 11 okav. But he wasn't. If you look at the way that 12 letter was carefully constructed, go through his 13 notebook, go through his crime files, what he is 14 looking for there is any sort of little Mickey Mouse 15 thing that he can -- we will see that as we go on, the 14:47 16 pattern where he starts sending out -- every possible 17 piece of paper that I send up comes back down with 18 questions all over it. I am sorry, I'm skipping, but 19 yeah.
- 20 425 Q. It's okay. Right. So is it fair to say that you
 21 regard this as not improper on its face but because it
 22 was motivated by a desire to get you on something?
- A. Oh yes, absolutely. Just the motive for that, Judge,
 is: I believe that because I was finding stuff, I was
 still working, there was certain things I was finding
 in relation -- and I was hearing everything that was
 going on in relation to the main investigation in the
 station, I knew who they were, I knew pretty much what
 was going on. Also, because I would have done a lot of

beat duty, I was hearing stuff around the town and	
everything. I always believed Ó Cualáin wanted me out	
of Athlone so they could he'd have a bit more	
freedom to do what he wanted to do with the	
investigation. Superintendent Murray came to Athlone	14:49
then and I always believed he wanted just me out of	
Athlone and away from there, so that they could from	
day one, I think, from recollection actually, yeah, he	
asked me I think on the first day about a transfer, did	
I want a transfer to Birr. You know, it was to get me	14:49
out of Athlone no matter what. It didn't matter	
like, you know, okay, if it was going, I was going sick	
a lot, I was under serious pressure. But, you know, it	
was, yeah, but sure, we will give you another station	
and it'll be grand. My problem was I had to stay in	14:49
Athlone. I was sort of caught because obviously, you	
know, I am a guard and I have a duty as a guard but	
then I am in effect double jobbing because I have to	
watch what's going on with this main investigation,	
which does become my priority really over the few	14:50
years. In fact, it becomes to my life for the last,	
whatever number of years. I mean look, the last number	
of years, six years I think since the complaint was	
made.	
MR. KELLY: Chairman, I wonder whether that would be a	14:50
convenient time to take a short break.	
CHAIRMAN: Yeah. I think we are nearly finished with	
this item. Can I just clarify, your understanding,	
what you are saying, if I understand correctly, I am	

- only asking you this to make sure that I have it right.
- 2 A. Yes.
- 3 426 Q. CHAIRMAN: A question I was wondering about was, did
- 4 the sergeants micromanage you?
- 5 A. NO.
- 6 427 Q. CHAIRMAN: You say no, that's not the case?
- 7 A. Yeah.
- 8 428 Q. CHAIRMAN: That allegation, to use as neutral a term,
- 9 that you say is that Superintendent Murray wrote an
- instruction that sounded supportive and sympathetic but 14:51
- that when properly understood in its context and
- circumstances, meant keep an eye, keep a close eye, in
- effect micromanage this member?
- 14 A. Yes.
- 15 429 Q. CHAIRMAN: That's the complaint you make. That 's in a 14:51

14 · 51

- 16 nutshell?
- 17 A. Correct.
- 18 430 Q. CHAIRMAN: In fact, that's the complaint you make?
- 19 A. Judge, the thing with the sergeants, I think this is
- 20 part, another part of the problem.
- 21 431 Q. CHAIRMAN: Take your time.
- 22 A. The Finn investigation.
- 23 432 Q. CHAIRMAN: We will get to the Finn investigation in due
- 24 course?
- 25 A. Right.
- 26 433 Q. CHAIRMAN: That's another area that you complain about
- and from our point of view, if only from my point of
- view, it's better to take them sort of separately. I
- know you have a complaint about that, a series of

1			complaints about that. But I have that right; it's the	
2			order that was given and notwithstanding the words	
3			used, the true meaning you say was	
4		Α.	Yes.	
5			CHAIRMAN: Okay. Thank you very much.	14:52
6			MR. McGUINNESS: One question and then perhaps a break.	
7	434	Q.	I should have suggested, Sergeant Minnock, in a	
8			statement at page 695 rejected your proposition that	
9			you were subject to supervision by three sergeants or	
10			that it was in any way extraordinary. You don't	14:52
11			disagree with that?	
12	435	Q.	CHAIRMAN: You agree with that, you say nothing	
13			changed. You have no complaint about the three	
14			sergeants. Nothing changed from what had gone before?	
15		Α.	The three sergeants didn't do anything.	14:52
16	436	Q.	CHAIRMAN: Okay.	
17		Α.	Like I never made any allegation. Yet in reading	
18			certain stuff, it's like I did make it.	
19	437	Q.	CHAIRMAN: That's okay.	
20		Α.	It's not me that brought them into this.	14:52
21			MR. McGUINNESS: That's all.	
22			CHAIRMAN: Thanks very much. So we can reduce that	
23			issue to one question.	
24			WI TNESS: Yes.	
25			CHAIRMAN: Okay, thank you very much. I mean, subject	14:53
26			to what anybody else says, you know what I mean, but	
27			for the moment we can do that. So, what do you think,	
28			Mr. Kelly, about 10 minutes?	
29			MR. KFLLY: Yes. I would have thought that is about	

1			right.	
2			CHAIRMAN: Okay, very well. All right. Very good.	
3			Thank you very much.	
4				
5			THE HEARING ADJOURNED BRIEFLY AND RESUMED, AS FOLLOWS:	14:53
6				
7			CHAIRMAN: Thanks very much. Off we go again. Just	
8			while you are settling in, I just want to say something	
9			about documents when they are put up on the screen,	
10			photographing those documents or scanning them is not	15:08
11			permitted. That is prohibited, not allowed, verboten.	
12			So all present please note. Thank you very much. Yes,	
13			Mr. McGuinness.	
14	438	Q.	MR. McGUINNESS: Garda Keogh, I am going to move on to	
15			issue number 6, which you may recall is the	15:08
16			disciplinary investigation in relation to the motor tax	
17			on your vehicle?	
18		Α.	Yes.	
19	439	Q.	You deal with this in your statement at page 126. You	
20			draw attention to the Pulse enquiries that originally	15:09
21			had been made the previous September from different	
22			sources. One entitled "caller to office", "caller to	
23			superintendent office" and then "caller". But just to	
24			start with the facts, you had a jeep, isn't that	
25			correct?	15:09
26		Α.	Yes.	
27	440	Q.	A land rover?	
28		Α.	A free Lander, two seats.	
29	441	Q.	Two seats. You had, according to one of your other	

1 earlier explanations, been taxing it at a commercial 2 rate? 3 Α. Yes. 4 442 I know nothing about these matters, but what would 0. 5 entitle you to do that? 15:09 6 Just to clarify, the vehicle I had prior to that was Α. 7 the very same, two seats, and I had that one taxed 8 commercially. It's a commercial vehicle. Now, look, when I would have bought -- we're talking about the 9 10 second one, so when would I have bought that, I would 15:10 11 have just renewed the tax on it. 12 443 Yes. Q. Already, whoever had it before me had it taxed as 13 Α. 14 commercial. 15 444 Okay, so you carried on taxing it as it had been taxed? 15:10 Q. 16 Yes. Α. 17 445 Nobody had ever raised an issue? Q. 18 Oh never. Α. 19 446 Is that right? Q. 20 Α. Never. 15:10 21 447 Q. Okay. 22 To clarify, when I became, let's say, made a disclosure Α. 23 or, if you want to call it, a whistleblower, I put new 24 wheels onto the car and everything, because knowing 25 policing, it would be police tactic to go into -- a car 15:10

an issue.

26

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28

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would be the first thing you would look at if you were

going after someone. So I had everything perfect. I

never actually even thought of the tax bracket as being

- 1 448 Q. Okay. I think, you've probably seen that it was
 2 Superintendent McBrien who first looked at the issue of
 3 your car tax or had it looked at?
- 4 A. Yes.
- Isn't that right? She explains at page 842 that she recalls Detective Superintendent Mulcahy commenting to her in relation to your car tax when they were walking back from having a coffee in Athlone. Did you see that in her statement?

15:11

15:11

10 A. I did, ye.

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11 450 He said something to the effect "you should consider Q. 12 having a look at Nick Keogh's car tax". She asked was 13 there something of concern and he replied "No, but it 14 might be worth having a look at the time". She said 15 she didn't receive any report from Detective 16 Superintendent Mulcahy, but it seems to have got entangled up in the issue of an audit of members' 17 18 travelling expenses and what cars they were using for

A. I'm not sure, I'm not sure if I can accept it because
there's a couple of complications in this and a couple
of -- What they are trying to say, I think, if I am
correct, is do with claiming sub allowances and it gets
tangled up in this. But the first sub allowances that
I submit, let's say, that they are basing this on, they
go missing, they disappear and they're gone for a
couple of years and actually the next thing I found
them, they are in the Tribunal documents. So, were

travelling expenses as well. Would you accept that?

- 1 451 Q. Sorry, can I just stop you there?
- 2 A. Yeah.
- 3 452 Q. Are you talking about the claims for your visit to meet 4 Deputy Flanagan and the confidential reporter?
- 5 A. It could be.
- 6 453 Q. Because Superintendent McBrien arranged for those two 7 to be paid to you?
- 8 A. Yeah. But there's one batch -- you see, I'm not sure,
 9 there's one batch of subsistence claims that go
 10 missing.

- 11 454 Q. Yes.
- 12 I then wrote to the lady, Cathriona Quirk, who worked Α. 13 in there, God rest her, she is deceased since. 14 remember I asked her about the car, the claims. 15 verbally told me she never got any. I actually wrote 15:13 16 to her, I think, and she wrote back in her own 17 handwriting. She had never got them. I think 18 Superintendent Minnock later writes a letter verifying But those claims, from my recollection, go 19 the same. Someone has them in An Garda Síochána. 20 missina. course, at the time am suspicious of what's going on, 21 22 so I then -- my sub claims have never gone missing 23 before, ever. So all this other stuff, I get 24 suspicious about this. So I have to reapply for the 25 subsistence allowances, but on the forms I actually 15:14 write "resubmission" because I was afraid that they 26 27 were withholding the first batch. So if I claimed the 28 second batch, that they would try and do me for fraud. 29 That's what I was thinking at the time. So the second

1			batch and I wrote "resubmission". They're the ones	
2			ultimately I got paid for.	
3	455	Q.	Yes. Now we will come to that.	
4		Α.	Okay.	
5	456	Q.	In terms of people going after you, I just want to see	15:14
6			whether you agree that the sequence described by	
7			Superintendent McBrien is correct, because what she	
8			goes on to say on page 842, a little further down, she	
9			talks about attending a training seminar and then a few	
10			lines in, she says:	15:15
11				
12			"I recall Detective Superintendent Mulcahy's comments	
13			about Garda Keogh's car tax. I considered including	
14			subsistence and travel claims and all associated issues	
15			in my forthcoming audit in line with the training I had	15:15
16			received. In the following days I discussed this	
17			matter with my finance officer, Ms. Cathriona Quirk and	
18			requested that she prepare a sample list of members who	
19			had claimed travel and subsistence claims in the	
20			preceding months. This was to include Garda Keogh.	15:15
21			She provided me with a list of members. As far as I	
22			can recall this was discussed with Ms. Quirk and Garda	
23			Gerry White, my district clerk."	
24				
25			If I can just pause there. He's one of the persons who	15:15
26			checked your car on Pulse at that time?	
27		Α.	Yes.	
28	457	Q.	Isn't that right? We have a statement from him.	

1	"I requested the vehicles of the members' listed were	
2	checked. It was during this process I became aware	
3	there was an issue with the type of tax on Garda	
4	Keogh's car. A copy of the checks of these members by	
5	me is contained in DC document N McB 7."	15:16
6		
7	She has provided those. She goes on to say on the next	
8	page then, page 843 of her statement, that:	
9		
10	"During these checks it was identified that there was	15:16
11	an issue with Garda Keogh's class of car tax. I	
12	advised that Garda Keogh's outstanding claims be	
13	withheld until I investigated the matter."	
14		
15	She describes then in the next paragraph, as it were,	15:16
16	the handover where she left Superintendent Murray	
17	before she was leaving the district. She goes on in	
18	the next paragraph then to say:	
19		
20	"There was no management conspiracy to refuse Garda	15:17
21	Keogh his claims. He informed me on 16th July 2014	
22	that he had yet to submit some claims so therefore he	
23	had not had his claims submitted by that date. Also I	
24	had paid his claims for May 2014."	
25		15:17
26	That related to the ones for Deputy Flanagan and the	
27	confidential reporter, isn't that right?	
28		
29	"I discovered that his road tax was not in order on 1st	

Т			october 2014 and directed that his outstanding payments	
2			be withheld until I investigated the matter.	
3			Outstanding claims for Garda Keogh could not be paid	
4			while his car tax was out of order. I do not recall	
5			what happened to these claims. However, I took ill on	15:17
6			3rd October"	
7				
8			And she goes on then to give that detail. Now, it's	
9			correct, I think, to say that the issue of car tax had	
10			not been raised with you by I think anyone at that	15:18
11			time, isn't that right?	
12		Α.	That's correct.	
13	458	Q.	She saw you on the 4th February, according to her	
14			statement and her notes. She said that you weren't	
15			engaging with welfare services. She said that Sergeant	15:18
16			Haran told her that you were back on the drink and	
17			talking about dark forces. This is in her statement to	
18			the Tribunal investigators, page 6244 and 6245. You	
19			were aware at that stage that she had checked your car	
20			in February, isn't that right?	15:18
21		Α.	That's correct. I don't need to be on the drink to	
22			talk about dark forces.	
23	459	Q.	I didn't so suggest. But you have noted in your diary	
24			car checks, Pulse checks on your car, isn't that right?	
25		Α.	Yes.	15:19
26	460	Q.	So she authorised that at that stage, do you accept	
27			that?	
28		Α.	Sorry? Just	
29	461	0 -	Superintendent McBrien, having earlier checked it in	

- 1 September and ascertaining your car tax situation,
- checked your car again on Pulse in the period we're
- 3 talking about, early February?
- 4 A. Yeah. I think she checks it, isn't it -- sorry, she
- 5 checks it I think the day after Gerry White checks it,
- 6 I think.
- 7 462 Q. She says in her statement that you asked her why she
- 8 checked your car and she said she told you and that she
- 9 decided not to bring up the car tax issue with you in
- the light of the condition she thought you might be in? 15:19
- 11 A. Yeah, yeah.
- 12 463 Q. Do you accept what she says?
- 13 A. Yeah, yes.
- 14 464 Q. So she was leaving and had handed over the issue to
- 15 Superintendent Murray. She had said she would brief

15:20

15:20

- him on it, she did so, isn't that right?
- 17 A. Obviously, yeah.
- 18 465 Q. So whatever Superintendent Murray had to deal with, I
- mean, it doesn't seem to be something of his own making
- in the sense that it was an issue, a legacy issue from
- the previous superintendent?
- 22 A. I understand that.
- 23 466 Q. He had this meeting, we have already seen the note from
- it, on the 26th March, that we looked at earlier, isn't
- 25 that correct? Do you remember looking at that note?
- 26 A. Em.
- 27 467 Q. It's at page 2187, Volume 8.
- 28 A. Yeah. Oh yes.
- 29 468 Q. You may recall it's the note where Superintendent

- 1 Murray has recorded that he summarised it and the three
- claims being the CMO, the sergeants and the car tax?
- 3 A. Yes.
- 4 469 Q. And the Regulation 10?
- 5 A. Which I disputed, the Regulation 10.
- 6 470 Q. I understand that?
- 7 A. Yes.
- 8 471 Q. He describes it in his statement as, you know, offering

15:21

15:22

15:23

- 9 you a solution to this issue, wrapping it all up,
- 10 putting it behind you essentially and you agreed with
- that, paying the car tax, the arrears?
- 12 A. Yes, yes. But to clarify, he also states in what I
- have read that he mentions he's going to discipline or
- something. There was no mention of that.
- 15 472 Q. Okay. So that's a point of dispute obviously?
- 16 A. Yes.
- 17 473 Q. In any event, in fact, you went off the next day and
- got the disk on the 27th March, isn't that correct?
- 19 A. Yes.
- 20 474 Q. That's in the papers. On your account, as I understand 15:22
- it, he simply whips out the Regulation 10 and you, in
- fact, sign it?
- 23 A. Yes.
- 24 475 Q. That's at Volume 31, 8766. That's the charge there.
- 25 If you go down the page, you say, he says he's dealing
- 26 with it by way of a caution. You produce to him all
- the documents requisite for it, isn't that right?
- 28 A. Yes.
- 29 476 Q. We know he took photocopies of them and he sent them on

1			to the chief super. But it's signed by him and if we	
2			scroll down further, that's your signature there?	
3		Α.	Yeah.	
4	477	Q.	Deputy Wallace raised this issue, apparently, on the	
5			1st, in the Dáil. Had you seen Deputy Wallace and	15:24
6			complained about the back tax and the issue?	
7		Α.	I'm sure I would have, I am sure I would have, yeah.	
8	478	Q.	Did he ask you have you ever been disciplined before?	
9		Α.	I think he may have, I think so.	
10	479	Q.	What were your entitlements at that point in time, if	15:24
11			you were being confronted with a notice that you had no	
12			notice of, if I can put it that way? Would you be	
13			entitled to say, no, I'm not agreeing to this informal	
14			resolution?	
15		Α.	You see, I hadn't been disciplined before, so I didn't	15:24
16			really know much about what is entailed in discipline.	
17			But, if Superintendent Murray had told me the previous	
18			day, or on the 26th, this is a discipline matter, I	
19			mean would have perhaps been able to have time to look	
20			into it or get advice on it or whatever. But it was	15:25
21			only when I was bringing back up the documents to him	
22			and when he ran over to the photocopier and then he	
23			said, I'm disciplining you. I think this was on is	
24			it on the twenty this is on the	
25	480	Q.	The 26th?	15:25
26		Α.	No, no. I think we're into the second meeting when	
27			this happened.	
28	481	Q.	Yes, sorry, this is the 3rd?	

A. The 3rd, correct.

1	482	Q.	The 3rd April, at this stage?	
2		Α.	You know, he said, I'm going to discipline you now with	
3			a section just my note is:	
4				
5			"Met Superintendent Murray re tax. Showed him tax disk	15:25
6			and receipt. He then gave me Section 10 discipline for	
7			same. I said I wrote a report months ago re this,	
8			asking was there a problem and pointed out it should	
9			have been dealt with then. He asked me again about	
10			transferri ng. "	15:26
11				
12			In relation to the tax, look, to go back in time, I	
13			would never have signed that Regulation 10, I would	
14			have contested it	
15	483	Q.	Okay. The note that Superintendent Murray has of the	15:26
16			meeting, it's on one page, 2194. It seems to give a	
17			picture of a slightly longer meeting than simply the	
18			presentation of the documents. It says:	
19				
20			"Garda Keogh approached me as I left the station to	15:27
21			show me his corrected car tax, returned to office,	
22			presented receipts of new tax. I copied same. Gave	
23			him Regulation 10 and completed same."	
24				
25			I am sorry, I am perhaps reading too fast. Just to	15:27
26			pause at that point. As a matter of fact you didn't	
27			protest one way or the other, even though you are taken	
28			by surprise. I am not criticising you, I am just	
29			trying to establish	

Τ		Α.	well, it's just the note was read out there, which I	
2			had forgot en about. Like I do say I wrote a report	
3			months ago in relation to, it was to do with the sub	
4			claims and what's their problem with the sub claims.	
5			Like if there was, as I stated, if I thought there was	15:27
6			an issue with the tax, I would have dealt with it	
7			months ago. I didn't even think of the tax, because it	
8			was a two seat thing, it can't be NCTed, I have to	
9			bring it into the commercial yeah, the DOE centre to	
10			have it taxed.	15:28
11	484	Q.	You talking about a letter that you wrote to Ms. Crowe,	
12			Cathriona Crowe, is it?	
13		Α.	Quirk.	
14	485	Q.	Quirk. I beg your pardon, Quirk.	
15		Α.	I think so, yes.	15:28
16	486	Q.	But Superintendent McBrien had drawn your attention to	
17			the tax issue, that this was the problem, had she not?	
18		Α.	I just don't recall that part. I don't recall. I	
19			don't think so, because I would have got it. If there	
20			was a problem with the tax, with everything that was	15:28
21			going on, I am damn sure I would have gone in and	
22			sorted the tax out, if there was a problem with it.	
23	487	Q.	I thought I had read out the portion there of her	
24			statement. Just bear with me. At page 843, she said	
25			she:	15:29
26				
27			"advised that Garda Keogh's outstanding claims be	
28			withheld until I investigated this matter."	
29				

Т			Then on a page that I did I think quote to you, 6244:	
2				
3			"Sergeant Haran told her that NK was back on the drink.	
4			NK was talking about dark forces. NK asked why she	
5			checked his car and she told him."	15:29
6				
7			Do you recollect Superintendent McBrien ever telling	
8			you an issue about the car tax?	
9		Α.	Yeah, but not the car tax, sub claims or some an	
10			audit I think is what she said, something to do with an	15:30
11			audit and that I wasn't the only one, there was a	
12			couple of others checked as well.	
13	488	Q.	Okay. But in any event, going back to the note that we	
14			had been looking at there, 2194, Superintendent Murray	
15			notes that the completion of the Regulation 10 in the	15:30
16			third line and then he says:	
17				
18			"He complained about delay in investigation of	
19			whistleblowers issue."	
20				15:30
21			Do you recollect doing that?	
22		Α.	I don't remember that.	
23	489	Q.		
24			"Told him he or I had no control of this and he should	
25			look to find within himself tospark of enjoyment	15:30
26			and intrinsic value he said he got from the Garda	
27			Síochána before coming to Athlone. I put conditions in	
28			place locally as far as I could to allow that happen.	
29			He said he had to continue going sick for the next	

Т			month of so and would let me know what he was doing	
2			then. "	
3				
4			Do you recollect that discussion?	
5		Α.	You see, parts of it, with Superintendent Murray's	15:31
6			notes, parts of it are true and there's other parts are	
7			just not. So I have difficulty with some of this	
8			stuff.	
9	490	Q.	Is that part inaccurate, do you think? A discussion	
10			about reigniting your career, finding yourself back the	15:31
11			way you used to feel about the guards, a discussion	
12			about you going sick, you said you would go sick for	
13			the next month?	
14		Α.	I just don't recall that part. That could have been	
15			said but I just don't recall it and I haven't a note of	15:31
16			it.	
17				
18	491	Q.	"I offered help if he wanted to make a fresh start	
19			anywhere el se. "	
20				15:31
21		Α.	Well, that would be getting me out of Athlone, of	
22			course, the transfer. So that would be	
23	492	Q.	That would be a choice for you to apply, if you wanted	
24			to, would you not think?	
25		Α.	Like I couldn't leave Athlone.	15:32
26	493	Q.	Pardon?	
27		Α.	I couldn't leave Athlone at the time, as I said.	
28			Unfortunately it was the other, the main investigation	
29			that was going on and unfortunately I had to	

Т			basically I was later to go and report to GSOC that I	
2			believe	
3	494	Q.	I'm sorry, you dropped your voice?	
4		Α.	Sorry. I was later to go to GSOC and report that there	
5			was a cover up, that's in 2015, I reported to GSOC that	15:32
6			effectively these are trying to cover this up. And	
7			again, it wasn't everyone on the investigation team, it	
8			was specifically officers at the top.	
9	495	Q.	Okay.	
10		Α.	Yeah.	15:32
11	496	Q.	The notes go on to say:	
12				
13			"Garda Keogh said he was feeling well at present and	
14			was in to work until 3am. I asked him in future to	
15			report properly and let me know how long he would be	15:33
16			out so I could plan resources."	
17				
18			Do you recall that?	
19		Α.	I think that rings a bell all right, yeah.	
20	497	Q.		15:33
21			"He agreed to that."	
22				
23			Is that right?	
24		Α.	Yes.	
25	498	Q.		15:33
26			"Told him I've referred him to CMO and advised him of	
27			GOHS advice re confidentiality and his medical records	
28			and reason for referral etc."	
29				

1		Α.	Again, my recollection is kind of knot that way, it	
2			wasn't, I think it was more him sending me to the CMO.	
3	499	Q.	Okay.	
4				
5			"Advised him of supports I put in place here re	15:33
6			Sergeant Martin."	
7				
8			Did you go back to that?	
9		Α.	Yeah. Again, it wasn't like that. Again it was, I'm	
10			putting Sergeant Martin appointing Sergeant Martin	15:33
11			to monitor, yeah.	
12	500	Q.		
13			"Advised him of Sergeants Moylan and Haran to supervise	
14			his work and to discuss case difficulties with them."	
15				15:33
16		Α.	I just don't dispute that.	
17	501	Q.	Okay.	
18		Α.	I don't.	
19	502	Q.		
20			"He agreed that it's within himself to try and reignite	15:34
21			his value from his career and said he would try and do	
22			that."	
23				
24		Α.	No. That wouldn't be, no.	
25	503	Q.	was there sort of similar sentiments said by you?	15:34
26		Α.	I don't think so. Because, I mean, I think as I have	
27			stated, I am under a lot of pressure of work there, but	
28			then, as I said, what's in the back of my mind or going	
29			on parallel to all of this is that other investigation	

			and what's happening with that at that time. And	
2			that's still cooking in 2015.	
3	504	Q.	Okay.	
4				
5			"He discussed completion of MC1 and MC2 forms and	15:34
6			advised re same. He thanked me."	
7				
8			Is that right?	
9		Α.	I'm not sure about the second time. One second. That	
10			may have	15:34
11	505	Q.	He signed off on your travel and subsistence claims,	
12			isn't that right?	
13		Α.	Yes, yes, that is right.	
14	506	Q.	They were processed?	
15		Α.	Yes.	15:35
16	507	Q.	I mean he came in very quickly and whatever way you	
17			might look at it, he actually dealt with these issues	
18			and brought them to finality of some sort?	
19		Α.	That's correct but again, you know, he has said that he	
20			told me on the first day that he was going to	15:35
21			discipline me, which he didn't say.	
22	508	Q.	Okay.	
23		Α.	It was only in the second meeting when he said, you	
24			know, did you get your car tax sorted, and I said yes	
25			and then, can I see the paperwork. That's when he ran	15:35
26			over to the photocopier.	
27	509	Q.	Okay.	
28				
29			"Had said earlier he realised tax issue was left for me	

1			but felt others were getting at him. I put the other	
2			side of the argument to him."	
3				
4		Α.	That's possibly, possibly true.	
5	510	Q.	I mean, you don't seem to be blaming him there for it	15:35
6			really, in the sense that he seems to be recognising	
7			that it was a legacy issue?	
8		Α.	I have read the documents. I mean, unfortunately it is	
9			appears that it was Detective Superintendent Mulcahy,	
10			who was part of the investigation team, that really	15:36
11			ignited that investigation into the tax. I think the	
12			sub forms and all that were just a smokescreen to give	
13			them an excuse kind of to go in to look at the car and	
14			that.	
15	511	Q.	Do you think Superintendent McBrien was unwittingly	15:36
16			used for that or wittingly used?	
17		Α.	I can't really I don't know.	
18	512	Q.	Could we go to the next page, 2195? This is the report	
19			Superintendent Murray sent up to the chief	
20			superintendent in Mullingar on the 7th April. If we go	15:37
21			down to the bottom of the page. The first bit relates	
22			to the claims. I mean, you could just note that I	
23			suppose in passing. In the final paragraph, second	
24			line, it says:	
25				15:37
26			"The claims were left for me when I arrived in Athlone	
27			as district officer on 9th March 2015. It was brought	
28			to my attention that Garda Keogh may not have had his	

car properly taxed. I made enquiries with the motor

1			tax office and provided with the documentary evidence	
2			indicating that Garda Keogh taxed his vehicle as goods	
3			class when it should have been taxed private. As a	
4			result a loss of revenue to the State of 377 resulted	
5			each year. I met Garda Keogh on 26th March 2015. He	15:37
6			admitted taxing his vehicle in the wrong class. I gave	
7			him an opportunity to correct his tax and pay any	
8			arrears. He did so on the 27th March and provided	
9			proof of same to me on 3rd April 2015. I then dealt	
10			with him by way of Regulation 10 disciplinary	15:37
11			regulations. Copy attached and approved his claim for	
12			payments. The matter is now closed."	
13				
14		Α.	Just the figure there, 377, just from recollection,	
15			maybe I have I have it as two hundred and something.	15:38
16			Not that it's a major difference.	
17	513	Q.	Yes.	
18		Α.	But I am not sure if that's	
19	514	Q.	He didn't make any issue about any other previous	
20			years, it was just to get the current one to update or	15:38
21			appropriately done for the current year, isn't that	
22			right?	
23		Α.	Yes. Again I see it was dealt with by way of caution	
24			and not advice.	
25	515	Q.	I'm sorry?	15:38
26		Α.	The discipline, it was dealt with by way of caution,	
27			not advice.	

28 516 Q. Not advice?

A. Yeah.

Т	51/	Q.	Is there a significant difference in your mind?	
2		Α.	I'm not certain, I'm not great on this, but I think	
3			certain of the categories can be held on your record as	
4			others aren't. But I'm not an expert on that.	
5	518	Q.	Okay. I think the notice said it wouldn't appear on	15:38
6			your personnel file?	
7			CHAIRMAN: It did.	
8		Α.	Okay.	
9	519	Q.	MR. McGUINNESS: Yes. Now, I think obviously a part of	
10			your complaint relates to what he did thereafter, isn't	15:39
11			that right, in terms of dealing with other members?	
12		Α.	Oh yeah. Yeah.	
13	520	Q.	He issued an instruction or a general letter to other	
14			members, isn't that correct?	
15		Α.	Yes.	15:39
16	521	Q.	Just to bring that up. Just bear with me, apologies.	
17			That was a letter of 22nd April 2015. That is at page	
18			184 of the documents. This appears to be a general	
19			instruction in relation to these four different issues	
20			and it's advising members that:	15:40
21				
22			"Commencing on 1st June 2015 I will have the necessary	
23			checks carried out as follows. "	
24				
25			It says:	15:40
26				
27			"All members will be asked to voluntarily present their	
28			vehicles and Driving Licences for inspection to their	
29			immediate supervisorssupervisors will in the same	

1		manner be asked to present their driving licence and	
2		vehicles for inspection to their immediate inspectors,	
3		who will certify all is correct. I will ask both	
4		inspectors to present to me. I will in turn present to	
5		divisional officer. In that way, I will be in a	15:4
6		position to confirm members' private vehicles are in	
7		order in the district."	
8			
9		I will just go down there then. It then links it with	
10		claims for vehicles, which I think is a requirement of	15:4
11		the regulations as well, isn't that correct, for garda	
12		payment.	
13			
14		"All members are reminded that any claims involving the	
15		use of a members private vehicle will only be approved	15:4
16		if the vehicle being used complies with all the road	
17		traffic legislation in force."	
18			
19		I think you characterise this as discriminatory or	
20		turning a blind eye to others.	15:4
21	Α.	Well this is more, this for me is just classic	
22		targeting. Everybody else is given a two month amnesty	
23		for far more serious things than what I have been	
24		disciplined for. Like, my discipline is not that I	
25		have no tax on the car, it's just that it was in the	15:4
26		wrong tax bracket. Like, there's people with no	
27		according to this, he's aware, is what he says,	

no drivers licences, no tax at all, no NCT and no

Superintendent Murray is aware that there's people with

- insurance. They all get two months of an amnesty and I don't.
- 3 522 Q. Well I am not sure that he is identifying any
- 4 particular number of persons who didn't have a licence
- or didn't have insurance or the right tax. You have
- 6 yourself made a general allegation to him and it would

15 · 43

15:43

15.44

- 7 appear that if this is related to it, he was acting on
- 8 it. I mean, you didn't report any particular other
- 9 members individually by reference to their cars or
- 10 identities?
- 11 A. No.
- 12 523 Q. But do you think it's improper -- I mean, should he
- have been -- I suppose the question is this: Should he
- have been impeded or prevented from doing this because
- he had disciplined you and given you a caution?
- 16 A. Equally should I not have got the same amnesty for the
- 17 less serious thing that was dealt with as everyone else
- 18 had received?
- 19 524 Q. He says that another, another guard was an individual
- who is dealt with, and it took sometime to conclude the 15:44
- 21 matter. Somebody was subject to a discipline.
- 22 A. That was months later. Months later.
- 23 525 Q. Well, does the issue of time matter if in fact he did
- follow-through on it?
- 25 A. Well it does, because that guard obviously had been
- 26 given the two month amnesty and didn't address it
- 27 and...
- 28 526 Q. Well, he names the guard at page 380 of his statement.
- We don't need to go to it. But he says that this guard

1 was in and out of work and his supervising sergeant 2 changed and it took some time to conclude the matter. 3 You can't comment on that? Well I know -- look, I know who the guard is in that. 4 Α. 5 And I know it was months later that that issue took 15:44 6 place. 7 527 Yes. Q. 8 what I am trying to say, it's not really relevant in Α. that, that guard would have got the same amnesty as 9 everybody else, and obviously didn't address or deal 10 15 · 45 11 with what they should have done. My point is of 12 course, I didn't get that opportunity. 13 Now obviously what Superintendent Murray says there is 528 0. 14 subject to evidence and proof, if necessary, but would 15 you be happy for an undertaking that we are looking 15:45 16 into it? 17 Sorry? Α. 18 529 would you be happy to hear our undertaking that we are Q. 19 looking into that obviously as part of our examination 20 of your complaint? 15:45 21 I'm just -- sorry? Α. 22 About whether that guard was in fact dealt with in the 530 Q. same way as you? 23 24 I understand. But months later that guard had got the Α. 25 amnesty, I understand, and just didn't deal with... 15 · 45 Okay. But you seem to know from the guard himself that 26 531 0.

he was disciplined, is that right?

27

28

29

532

Yes.

Okay.

Α.

Q.

- 1 And as I said, I understand it was a good while later. Α.
- 2 533 In relation to the issue of bullying and 0.
- 3 harassment and targeting and discrediting, what aspect
- of it, in your view, constitutes either the bullying 4
- 5 and harassment or the targeting?
- 6 The targeting -- first, when I was reading through the Α. 7 Tribunal documents --

15:46

15 · 46

15:47

15 · 47

- 8 534 Yes? Q.
- -- I see that Superintendent Murray is in contact with 9 Α.
- Chief Superintendent Scanlan from the Laois-Offaly 10
- 11 division in relation to my car tax, not through my own
- chief. He veers off to the chief of the Laois-Offaly 12
- 13 division in relation to my car tax. And then of course
- 14 as it transpires, I have explained the targeting,
- 15 everyone else is given an amnesty with the exception of 15:47
- They could have said look, get your car tax 16
- 17 sorted, end of story. The way everyone else -- like,
- 18 everyone else -- I should have got that as well is what
- 19 I am saying. That, you know, if they were to be fair
- they would have just said, look, there's problems with 20
- everybody's vehicles, including mine, and will you all
- 22 just get it sorted. And that would have been -- that
- 23 is what I would have said would be a fair way to have
- 24 dealt with it.
- 25 But I mean, Inspector Minnock was deputed to do the 535 Q.
- 26 inquiry with Offaly County Council, but what is your
- 27 certain about any contact with Chief Superintendent
- Scanlan? 28

21

29 Yeah, that, you see I don't -- he's in contact with Α.

- Chief Superintendent Scanlan in relation to the car tax. This is back in 2015.
- 3 536 Q. Yes.
- 4 A. Yeah.
- 5 537 Q. But what's troubling you about it in terms of targeting? What was done or said?
- A. Well, I don't know what was said, but it's only in the
 notes it caught my eye. But, you know, again, why
 would a superintendent from one division contact a
 chief superintendent from another division about where
 a guard, not that they had no tax, but just had it in a
 different tax bracket category. That is a really kind
 of minor thing.
- 14 538 Q. What document are you referring to particularly?
- 15 A. I think it's written down, if I can look for it, if you 15:48

 16 want.
- 17 539 Q. CHAIRMAN: If you have a note of it somewhere.
- 18 A. I do, yeah. It's in the --
- 19 540 CHAI RMAN: It's all right. Don't worry, if you have a Q. 20 note of it somewhere, at some stage overnight or the next day, at some point refer us to it so we can see 21 22 Okay. Your point is not really, as I understand 23 it, that anything particular came of it as far as the 24 records show, but that it seemed peculiar at least that 25 over a matter of the wrong rate of tax that the superintendent should be in contact with the chief 26

15:49

15 · 49

- 27 superintendent in a different division. That is really
- what you are saying.
- 29 A. Yes.

- 1 541 Q. CHAIRMAN: That just seems peculiar?
- 2 A. Yes.
- 3 542 Q. MR. McGUINNESS: I am sorry, just to pursue this issue
- 4 of the contact between the chief superintendent and the
- 5 superintendent. Have you some belief that it related

15:49

15:50

15:50

15:50

- 6 to the car tax issue?
- 7 A. Just from what I read. Like I read obviously all those
- and I don't remember every word that's in that.
- 9 543 Q. Of course.
- 10 A. But I took a note of -- it jumped off the page at me
- in, say, 2015.
- 12 CHAIRMAN: Garda Keogh thinks that it refers to the car
- tax issue, as best he can remember.
- 14 MR. McGUI NNESS: Yes.
- 15 CHAIRMAN: You are going to produce the note and it may 15:50
- 16 confirm what your memory is or it may not confirm it,
- but you are going to try to put your hand on it and
- 18 produce it.
- MR. McGUINNESS: we will leave that issue over then.
- 20 CHAIRMAN: Okay. I think that's the sensible thing.
- 21 That seems sensible, to leave that over.
- MR. McGUINNESS: Chairman, I was going to leave issue 6
- 23 at that.
- 24 CHAIRMAN: Yes, very good. Can I just ask, as we are
- 25 here, issue 6 and 14, are they the same issue? In
- other words, alleged delay in payment of his travel
- expenses on a number of days.
- 28 MR. McGUINNESS: They are interlinked. They are
- interlinked.

1	CHAIRMAN: But they are actually separate.	
2	MR. McGUINNESS: They are.	
3	CHAIRMAN: Thanks very much. If we get to them and it	
4	turns out that we have already covered them, well we	
5	can always pass over them very quickly.	15:51
6	WITNESS: Judge, I will be able to root that out very	
7	quickly.	
8	CHAIRMAN: which one:	
9	WITNESS: The one about the chief superintendent.	
10	CHAIRMAN: Don't worry, quickly or slowly, we won't	15:51
11	worry about it just for the moment, but in due course,	
12	when you get a chance. Okay. So that finishes issue 6	
13	and we are moving on to issue 7.	
14	MR. KELLY: Chairman, just before we do that.	
15	CHAIRMAN: Sorry.	15:51
16	MR. KELLY: I just want to raise one issue.	
17	CHAIRMAN: Certainly.	
18	MR. KELLY: So that everybody knows, so that Garda	
19	Keogh understands what he is being asked to do. As I	
20	understand it, he is saying, when I was going through	15:51
21	these Tribunal papers I saw something, I made a note of	
22	it, and you are saying to him, quite rightly, if you	
23	made that note, would you have a look overnight and see	
24	if you can find your note of it.	
25	CHAIRMAN: Precisely.	15:52
26	MR. KELLY: Thank you.	
27	CHAIRMAN: Which will enable us, Mr. Kelly, to put our	
28	finger presumably on the relevant document and it may	
29	turn out that Garda Keogh is right in his recollection,	

Τ	it may turn out he's wrong in his recollection.	
2	Whatever the significance of that, well and good, but	
3	we will just check it out, simply because he mentioned	
4	it.	
5	MR. KELLY: That's right, just for the sake of clarity. 1	5 : 52
6	CHAIRMAN: Thanks very much. You are clarifying that	
7	it's his own note that we are asking him to have a look	
8	at, rather than to identify the thing. Okay. Thank	
9	you very much. You're clear on that, I hope.	
10	WITNESS: It's a note of when I was reading those,	5 : 52
11	Judge.	
12	CHAIRMAN: Don't you worry, I think we know where we	
13	are going. Do you know what, it doesn't matter if	
14	well, I don't know whether it matters or not, we will	
15	have to work on that in the end. Mr. McGuinness,	5 : 52
16	should we call a halt then at that point.	
17	MR. McGUINNESS: I think so, it's a logical point.	
18	CHAIRMAN: It's a logical place to be.	
19	MR. McGUINNESS: The issue is a little longer.	
20	CHAIRMAN: I am sure you are happy enough with that as	5 : 53
21	well. Thank you very much. All right. 10:30 tomorrow	
22	morning. Very good, more tomorrow.	
23		
24	THE HEARING THEN ADJOURNED UNTIL WEDNESDAY, 16TH	
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