TRI BUNAL OF I NQU RY I NTO PROTECTED DI SCLOSURES MADE UNDER THE PROTECTED DI SCLOSURES ACT 2014 AND CERTAI N OTHER MATTERS FOLLOW NG RESOLUTI ONS PASSED BY DÁl LÉl REANN AND SEANAD Él REANN ON 16 FEBRUARY 2017

ESTABLI SHED BY I NSTRUMENT MADE BY THE M N STER FOR J USTI CE AND EQUALI TY UNDER THE TRI BUNALS OF I NQU RY (EV DENCE) ACT 1921, ON 17 FEBRUARY 2017, AS AMENDED ON 7 DECEMBER 2018

CHAI RMAN OF DI V SI ON (P): MR. J USTI CE SEAN RYAN, FORMER PRESI DENT OF THE COURT OF APPEAL

## HELD I N DUBLI N CASTLE

 ON MDNDAY, 15TH OCTOBER 2019 - DAY 100Guen Mal one Stenography Servi ces certify the fol lowing to be a verbatimtranscript of

100thei $r$ stenographi $c$ notes in the above- naned action.

GVEN MALONE ${ }^{-}$STENOGRAPRY SERM CES

## APPEARANCES



FOR GARDA N CHOLAS KEOGH:

I NSTRUCTED BY:
MR. MATTH AS KELLY SC
MR. PATRI CK R. $O$ BRI EN BL
MS. A SLI NG MLLI GAN BL
OHN GERARD CULLEN SOLI CI TORS MA N STREET
TOVFPARKS
CARR CK- ON SHANNON
CO. LEI TRI M

FOR SUPER NTENDENT NOREEN MEBRI EN:

I NSTRUCTED BY:
MR. PAL CARROLL SC
MR. J OHN FERRY BL
CARTHAGE CONLON
O MARA GERAGHIY MECOURT
SOLI CI TORS
51 NORTHUMBERLAND ROAD
DUBLI N 4

MR. PAL MEGARRY SC
MR. STEPHEN $O$ CONNOR BL
SEAN COSTELLO \& COMPANY
SOL CI TORS
HALI DAY HOUSE
32 ARRAN QUAY
SM THFI ELD
DUBLI N 7

FOR GARDA FERGAL GREENE,
GARDA STEPHAN E TREACY \& GARDA DAM D TURNER:

I NSTRUCTED BY:
MR. PATRI CK MEGRATH SC
MR. JANES KANE BL
MR. EO N LAVLOR BL
M5. ELI ZABETH, HUGES
MS. EABHALL N CHEALLACHÁ N HUGES MURPH SOLICI TORS 13 WELLI NGTON QUAY TEMPLE BAR
DUBLI N 2

FOR

1. COMM SSI ONER OF AN GARDA SÍ OCHÁNA
2. CH EF SUPER NTENDENT PATRI CK MRRAY
3. CH EF SUPER NTENDENT MARK CURRAN
4. DETECTI VE I NSPECTOR M CHAEL COPPI NGER
5. CH EF SUPER NTENDENT LORRA NE WFEATLEY
6. RETI RED DETECTI VE SUPERI NTENDENT DECLAN MLCAHY
7. ASSI STANT COMM SSI ONER M CHAEL FI NN
8. CH EF SUPERI NTENDENT ANTHONY MCLOUGLI N
9. RETI RED ASSI STANT COMM SSI ONER J ACK , NOLAN
10. RETI RED ACTI NG COMM SSI,ONER DONAL O CUALAI N
11. RETI RED COMM SSI ONER NÓ RÍ N O SULLI VAN
12. ASSI STANT COMM SSI ONER ANNE MARI E MCMAHON
13. CH EF SUPERI NTENDENT J OFN SCANLAN
14. SUPER NTENDENT ALAN MURAY
15. SUPER NTENDENT AI DAN M NOCK
16. I NSPECTOR EAMON CURLEY
17. GARDA M CHAEL QU NN
18. RETI RED GARDA GERRY WH TE
19. CH EF MED CAL OFFI CER DR. OGHVBU
20. GARDA OLI V A KELLY
21. RETI RED DETECTI VE SERGEANT TOM J UDGE
22. MR. ALAN MLLI GAN, ACTI NG EXECUTI VE DI RECTOR
23. RETI RED DETECTI VE CH EF SUPERI NTENDENT PETER KI RMAN
24. MR. JOE NUGENT, CH EF ADM N STRATI VE OFFI CER
25. CH EF SUPERI NTENDENT KEV N GRALTON
26. I NSPECTOR BRI AN DONEY
27. MDN CA CARR, HEAD OF DI RECTORATE, HUMAN RESOURCES AND

PEOPLE DEVELOPMENT
28. MR. BRI AN SAVAGE
29. CH EF SUPERI NTENDENT ANNE MARI E CAGNEY
30. DETECTI VE I NSPECTOR SEAN O REARDON
31. I NSPECTOR LI AM MORONEY
32. ASSI STANT COMM SSI ONER DAM D SHEAHAN
33. CH EF SUPERI NTENDENT MATT NYLAND
34. CH EF SUPERI NTENDENT M CHAEL FLYNN
35. SERGEANT K ERAN DONEY
36. ASSI STANT COMM SSI ONER ORLA MCPARTLI N
37. CH EF SUPER NTENDENT MARGARET NUGENT
38. GARDA A SLI NG SHANKEY- SM TH
39. I NSPECTOR TARA GOODE

I NSTRUCTED BY:


MS. SI NEAD GLEESON BL
I NSTRUCTED BY:

REDDY CHARLTON SOLI CI TORS 12 FI TZWLLI AM PLACE DUBLI N 2

## WTNESS <br> PAGE <br> GARDA N CHOLAS KEOGH,

QUESTIONED BY MR. MCGUINNESS

THE HEARI NG RESUMED, AS FOLLOVS, ON TUESDAY, 1எTH OCTOBER 2019:

CHA RMAN Good morning. Thank you. Yes, Mr. Kelly. MR. KELLY: Chairman, just before we begin, can I raise 10:32 an issue, it is about the press report.
CHA RMAN Make sure you are on sound, Mr. Kelly. Yes, sorry.
MR. KELLY: Can I raise an issue about press reporting yesterday? There was an article which appeared on line 10:32 on breakingnews.ie, which Paul Neilan, timed at 13:51, which reads, the relevant passage reads:
"He al so alleges a series of harassments that rel ate to car tax, sick leave, back pay, del ays in his case, mi cro-supervisi on of his work by three sergeants in At hl one, the changing of the stat us of his sick leave within An Garda Sí ochána after he turned up drunk for work - due to work-rel ated stress - general criticisns of his work and his "confinement" to the duty desk as "making an example" of him

That latter bit is obviously very clearly damaging, turned up drunk for work. It wasn't in the evidence at a11. A11 I am asking you, Chairman, at this stage to
do, is remind to the press that reporting must be not only be fair but also accurate
CHA RMAN Thank you. We11, Mr. McGuinness, have you anything to say about that?

MR. MtGI NNESS: Yes, Chairman. Mr. Kelly drew the article to my attention. I don't obviously want to take sides, as it were, for or against either the reporter or the complainant, as it were. Obviously it relates to an issue that was alluded to yesterday, Garda Keogh ringing in off sick at a time when he wasn't actually on duty in the station and wasn't as such drunk at work. Obviously the obligation is there in the most general terms to report fairly and accurately. I think, Chairman, that's really the only essence of the central point that should be made. CHN RMAN Okay. Yes, I must say, I sympathise with Mr. Kelly's point and with Garda Keogh's concern, I sympathise with that. Obviously we all agree that reporting should be fair and accurate. obviously we also accept that in the heat of the moment people will make mistakes, people wil1 misunderstand and so on. I am reluctant to get into a situation, and I am not suggesting, I am not imputing this to Mr. Kelly for a moment, but I don't want to be in a situation where I have to monitor, either at invitation of parties or of my own motion, where I have to monitor coverage.

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 website. So, there should really be little enough -while in other circumstances it may be more understandable that errors can creep in, it's possible
to check these things by looking at the transcript. That will usually be there by maybe about seven o'clock in the evening. Obviously if somebody is doing this on an ongoing, midday basis, that's not possible. But it does rather indicate or emphasise the obligation to be fair and accurate.

Other than those general comments, that's all I will say. I don't propose to deal with the accuracy of reporting because I think I have enough to do without taking that on. Although I do sympathise, I have to say, with the position of somebody who says, look, the situation may have been, I may have been apparently criticised by something somebody said, but at least get it right in the way that $I$ was being criticised.

So, I have some sympathy, but I am not going to enter into that particular fray. I am grateful to Mr. Kelly for raising the matter now so I can actually make that and say what my general view is.

A11 right. Thanks very much. Thanks, Mr. Kelly. Now, Mr. McGuinness.

MR. MEGI NNESS: Yes, if I can ask Garda Keogh to return to the witness box.

GARDA N CHOLAS KEOGH, CONTI NUED TO BE QUESTI ONED BY MR. MCGU NESS, AS FOLLOV:

1 Q. MR. MEGU NNESS: Garda Keogh, good morning.
A. Morning.

2 Q. Just to tidy up and finish the issue we were dealing with yesterday. I don't know if you became aware that some time after you put the entry on Pulse relating to Ms. B, Garda A became aware of it and raised concerns about it?
A. Yes.

3 Q. Could I just direct you to where he did that? He did that in writing on 27th July 2014, at volume 29, that's page 8307 of our documents.
A. I recall reading that, yeah.

4 Q. You do recall reading that. We will just bring that up on the screen there. It's there, it says:
"With reference to the above, I wi sh to report on the above intelligence record which is created by Garda Ni chol as Keogh on 18/5/14. I am obvi ousl y the seni or member of the drug squad referred to in this report as Garda Keogh has recently made a number of complaints agai nst me which I believe are a result of a personal gri evance whi ch Garda Keogh hol ds agai nst me. I
previ ousl y verbally reported my di ssatisfaction with this intelligence record to my superiors in Athlone. was told the matter would be deal thith. The matter has not been dealt with. The intelligence records
still in exi stence has not been revi ewed. I am aware thi s intel ligence record is wi del y vi ewed and di scussed by members on national scale and been the brunt of many a joke. I do not bel ieve that the Garda intelligence systemis the forumfor members to make scurrilous standards and unf ounded al legations agai nst ot her members in order to settle personal grievances. I wish to express my severe di sappoi nt ment that this matter has not been dealt with in a more timely fashion. If the situation is not resol ved, lill be forced to take 10:39 I egal advice on the matter, whi ch is causing me great upset."

Now that went to Sergeant Curley, who sent it up to Superintendent McBrien on the 30th. Superintendent 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. In 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 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
down to me in relation to all this stuff. All of that should have been handed over to the investigation team. I am complying fully with the investigation team at this period, I have handed everything over to them and all those letters really should have gone to the investigation team and they could have then dealt with them.

5 Q. Yes. I don't want to go over old ground, but you were informed by the investigation team that they were not concerned with the propriety or otherwise of inputting it onto Pulse?
A. Yeah.

6 Q. They were looking at the substance of it, isn't that right?
A. I understand that, yeah.

7 Q. That, according to Chief Superintendent Curran, stil1 1eft him with the problem of squaring up what he considered to be his obligations under CHIS, in relation to you handling an informant. You understand that?
A. Sorry, again, this person is not an informant as per se, as what we would call an informant.

8 Q. That's your view. Obviously I just should clarify, I suggested to you yesterday that Assistant Commissioner Ó Cualáin had phoned you on the 14 th, four days before you put it the entry on, in fact he appears to have phoned you on the 16th, do you recall that, the 16th May?
A. I know there was a number of brief phone calls in that
period.
9 Q. Just finally at this stage on this issue, the creation of the entry, did you consider that there might be any detrimental effect to any proposed investigation by, as it were, tipping off people that this was now going to be the subject-matter of an inquiry?
A. That issue didn't come up. This was public knowledge and had been public knowledge in the town for years. So there was no -- that wasn't an issue.
Well, in the sense that you made your protected disclosure, you knew there was going to be an investigation and then you put this on Pulse. Did you consider whether it could have any consequences within the investigation?
A. I didn't believe it would have had any consequences within the investigation.

11 Q. Okay. We11, 1et's pass from that then to the next issue, if we may, which is issue number 2 , which relates to your complaints concerning the investigation of the Pulse check that you carried out on Garda A. I think at Volume 1, page 122 of the book, you describe in your statement:
"I was asked why I checked the Pul se system on Garda A by letter dated 1st October 2014. It was evi dent to seni or management that an independent investigation was in train in respect of my compl ai nt rel ating to Garda A. I had checked Garda A on the Pul se on 18th May 2014, following specific intelligence recei ved from $X$
on 10th May 2014, whi ch was the subj ect of my forthcoming statement to the internal investigator. I was entitled to check the Pulse without such attempted i nterference by the sai d letter (whi ch demanded a report that conflicted with my obl igations to the internal investigation) and al so in the light of what l had been advi sed by the source."

The letter you're referring to there is at appendix 2 , which is page 160. Perhaps we will just look at the letter there. while we are looking at the letter there, it's fairly simple, it's from the superintendent to Sergeant Haran, directed to you. It just asks:
"Garda Ni chol as Keogh is to provide a report as to the reasons this enqui ry was made in rel ation to personal dat a. "

You received that?
A. Oh yes.

12 Q. Now, in the paragraph I have read out, you said that you were entitled to check the Pulse without such attempted interference by this said 1etter. Now, I am just wondering, is there a slight illogicality in that issue, in that the letter came to you on the 1st October, it's dated the 1st October, but you had made the Pulse check way back in May. So the letter had nothing to do with it, it didn't impede you making the check, isn't that right, logically?
A. Was the check not done before --
Q. Exactly. Yeah. So the letter, I suggest to you, am I not right, couldn't interfere with the check that you had already made, isn't that right?
A. Yeah. It couldn't have interfered with what was previously done, yeah.

14 Q. Yes. I wonder can you help me on this issue: The check was done on the 18th May, can you recollect what time you did that check?
A. I can't, it should be on -- it'11 be on the Pulse system, the exact time would be there. I can't recollect off hand.
15 Q. Was it perhaps 5:30 on the morning of the 18th?
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 Q. Okay. Well, I mean, you had the sighting of Ms. B and that appears, if the Pulse record is right, to be at, was it 3:39am?

CHA RMAN 3:09.
MR. MEGU NNESS: 3:09, thank you, Chairman.
Presumably the Pulse check was done after you sighted Ms. B at the petrol station?
A. Right.

18 Q. Is that right?
A. As I said, I can't recall the sequence on that night.
A. But I'm not disputing.

20 Q. Yes.
A. Yes.
A. Just to clarify one thing: This is criminality I am dealing with. That's the criminal intelligence. This is the criminal intelligence stuff. The colleague term 10:47
is not relevant in this case, because I am dealing with criminality here. Anybody, anybody else, again, we wil1 gave the example of Tesco or whatever yesterday, or any other profession, it could be the legal -- any 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.
Well, you see, that's what $I$ wasn't quite clear about in my own mind, as to how Pulse works.
A. Oh sorry.

24 Q. That's why I want you to help me on this?
A. I apologise, yeah.
Q. But can you confirm that it was done before you created 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. what can you check about a colleague on Pulse?
Q. Yes. I mean, let's call this guard Mr. X, let's call him Mr. X.
A. We were calling him Mr. A already.
Q. No, but I mean, in the sense that you seem to object to
my question, suggesting that you were checking a colleague. But you can check a colleague on Pulse, isn't that right?
A. Yes.

27 Q.
Is that how you went about doing the check that you did 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. So obviously I was annoyed over that.
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 could -- you know, a lot of the background work I had done since 2012 into this was on Pulse. So I just had never checked Garda A. I had done a lot of work on Ms. B and other persons involved. But at some point I would have to check Garda A, to see was there was something, another piece of the jigsaw there. There wasn't but...
29 Q. Garda Keogh, don't misunderstand me, I am not and I can't obviously make any judgment on why you did it, I am just trying to understand the mechanism of what you can do and what you were checking for?
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.

30 Q.
I think it's my failure to understand. what could you be looking for? I mean, what could you find if you 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.
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.
32 Q. That's what I am trying to get to. Are there files on Pulse relating to each guard so that $I$ could go in and say Garda Nicholas Keogh and can see what you reported and who you have arrested?
A. No. I checked him -- sorry, just to clarify, you can check Garda personne1, I didn't check Garda personne1,

I checked just under the normal persons check.
Q. As if he wasn't a guard?
A. Yeah, correct.

34 Q.
What would you expect to find, sightings of such a person or?
A. No. Well that could have cropped up, but it would be very unusual there. For example, now this is hypothetical, Garda A could have been, let's say, in a 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.
Q. Yes.
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.
Q. Okay. And you found nothing?
A. I found nothing. So asking you to confirm that you had found nothing couldn't interfere with the Ó Cualáin investigation then, I take it?
A. Well, you see, I checked that prior to meeting the investigation team.
Q. I understand, yes.
A. I wasn't going to go in to meet an investigation team without having checked out the likes of that on Pulse
myself.
39 Q.
But, you see, the other way you have characterised the request from Superintendent McBrien was that, you know, demanding the report conflicted with your obligations to the internal investigation. I am just struggling to understand how you perceived that request, particularly where you had found nothing, conflicted with your ob1igations?
A. Yeah. Once again, you see, this is coming from -where I am due to make my complaint about criminality 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. when I met the investigation team, I complied with everything. The chief in westmeath could have 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 wanted to see was there anything else, you know, there on Pulse.

40 Q. Okay. We11, 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 24 th September 2014. It seems to be a complaint relating to you and another guard performing a check on him. It says:
"On the 20th Septenber 2014, I noticed that the above named two gardaí checked my personnel details on the Garda system I can thi nk of no good reason as to why these guards have been checking me. Garda (BLANK) gi ves hi s reasons for checking as incident i nqui ry, and Garda Keogh offers no reason at all for his using the Pul se systemto check me. I believe both these Gardaí were using Pul se for personal reasons and these checks were in no way garda rel ated matters and that they may have breached the Data Protection Act while carrying out these checks.

Garda bl ank 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 si ni ster, that both are checking me on the Pul se system and am worried as to who they might be passing this information on to.

I would like this matter fully investi gated please."
A. Sorry, what is the date on that report?

41 Q. It's the 24th September. So it's the week before 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.

42 Q. 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 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...
43 Q. Yes. You did characterise Superintendent McBrien's request as an investigation into to you?
A. Again, I never accused superintendent -- I always -she just got caught up in the middle. It was never to do with Superintendent McBrien. It was the chief's office in westmeath. I am reporting criminality in relation to the westmeath division. Of all people, the $10: 58$ chief in westmeath should not have got involved. I accept he may have had obligations. A11 he has to do is send a letter, make a phone call to Assistant Commissioner Ó Cualáin and all that could be sorted out very quickly. There's no need to be firing this out
all this stuff to me. And I did address the investigation team.
44 Q. Yes. I mean, I can understand why you might we11 have told them that had you done it, but there was no fruit
to bear of your Pulse check. You had found nothing. I presume you must have told ó Cualáin that you found nothing?
A. Well, that's correct.

45 Q. Yes.
A. But when we go back to how we character Tutankhamen's tomb, he has to go and look, you know.
But was there a problem, and if so, what was the problem with responding to your superintendent, saying, I did make the check and, in fact, I found nothing, and 10:59 I reported that to...
A. I have no difficulty with replying to Superintendent McBrien, I knew it was going to the chief's office in mullingar. I also was under -- I was advised to just deal with the ó Cualáin investigation team. So at that ${ }^{00: 59}$ point it would have been Detective Superintendent Mulcahy that I was dealing with it. I recall he asked me that and, as I say, I answered the same way, that I had to just look to see was there anything there and that was it, you know. And for clarification, I don't 10:59 think there is a guard in the county that had ever conducted an investigation into anything without checking the subject of what they are to look at on Pulse. It's the very first step any guard would take.
47 Q. We11, I mean, Superintendent MCBrien has said in her 11:00 statement that her interaction with you as regards both matters cannot be considered instances of targeting. Chief Superintendent Curran in his statement, at page 1783, said:
"In the context of the intelligence report and the data protection issues that arose, Garda Keogh was asked by Superintendent MEBrien to explain why the checking another Garda menber on Pulse. I continue to consi der it reasonable for Garda management to query Garda Keogh on his rationale for checking Garda A on the Pul se systemand 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 di vi si onal officer and I reject Garda Keogh's assertions that such enqui ries were an attempt to target and discredit him

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

Now, is that not a reasonable position?
A. No. Sorry, can $I$ just get the date on that letter, please?
48 Q. This is the statement of Chief Superintendent Curran?
A. okay.

49 Q. Yes.
A. No, no. At this stage, at this stage it's a criminal investigation, okay? Everybody in An Garda Síochána
would know at this stage what's going on. So he really should have passed all that just over to the investigation team. It has actually nothing at this stage to do with him. I am dealing with Detective Superintendent Mulcahy, who is conducting the investigation under Assistant Commissioner ó Cualáin. Again, my point is, it's criminality that $I$ reported in the Westmeath division and here $I$ have the chief in the Westmeath division who is looking for names of sources, who is looking for why I checked this person. Nothing to do with him. It should have been the investigation team. They did ask me and I did answer and that was it. So all this stuff, you know it's just stuff, they kept firing down all this Mickey Mouse paperwork at me, when I was already fully complying with the investigation team.

50 Q. We11, I mean, this is an action that you took before you spoke to the investigation team, that's obvious7y clear?
A. Correct, and I have explained why.

51 Q. Yes. Pardon?
A. I have explained why.

52 Q. Yesterday I was asking you about the information that you did put on relating to Ms. B?
A. Correct.

53 Q. And so, that's on her, as it were, personal Pulse file?
A. Yes.

54 Q. You told me yesterday at question 222:
"Q. Did you intend it to rel ate to any other person, a menber of the guards and to go on file in rel ation to them?
A. Obvi ously it had crossed my mind because onl y ei ght days previ ous I had recei ved the information, the confidential information in Gal way. "

I then asked you:
"Q. Sorry, are you telling me you did contemplate putting it on somebody el se's Pulse record?
A. I mean, it probably went through my mind for a noment.
Q. Okay.
A. The fact is l didn't."
A. Yeah.
Q. Is it possible that you checked Garda A's Pulse record at the time you did, before you created the other record and contemplated putting the intelligence on relating to him?
A. No. Because, as I stated, if there was anything of relevance on Garda A, anything, look, I mean hypothetical, we're in hypothetical territory here again, I didn't know.
Q. Yes.
A. But there was nothing on Garda A's intelligence -sorry, on the persons tab. So, as I say, it would have
crossed my mind, I obviously had to look to see what there was.

57 Q. Yes.
A. There was nothing on it. Therefore, I didn't. What is on the intelligence is on the intelligence.

58 Q. Yes.
A. We can argue until the cows come home what I might or what I would have or could have, but what is done is done and it's there.
Yes. Now, just keeping the two issues separate, let's 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 you contemplated putting this intelligence entry on Pulse in relation to?
A. As I did say, I would be lying if I said it didn't cross my mind.

60 Q. Yes.
A. But the bottom line is I didn't do that.

61 Q. I understand that.
A. Yes.

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 regardless before $I$ went to the investigation team. I 11:05 had to check him at some stage.

63 Q. Yes.
A. I mean the iron is hot then.

64 Q. Yes. I suppose there's probably nothing stopping the
investigation team from doing it themselves?
A. That's correct, but I also was the person to go and provide all the information to the investigation team. I had a lot of other stuff. You see, unfortunately I knew a lot of stuff, there's so much of the actual investigation, circumstantial, it was all different strands of circumstantial evidence, I may have twigged something that other persons may not have twigged because if you're starting off into such a massive quagmire of an investigation as this, I would have had a good lot of it in my head. So if there was anyone who was going to spot it at that period of time. It's not until later on that persons in the investigation team really become -- get perhaps even more knowledgeable about it than me, because they are investigating it at the start. They have to work on what I give them. So I have to get the maximum amount of information, correct and as accurate as I can information to supply the investigation team. So I had to check Garda A at some stage. That was the date I did it. I would accept there was probably dead mist with Ms. B sticking her tongue out me in defiance, because obviously I put her on the next day, I was stewing over it all that day, that this individual is threatening more or less that she was untouchable, you know, and I was determined to prevent -- determined to -- I don't know what the terminology is.
65 Q. Yeah.
A. I think you understand what I mean.

66 Q. I do, I do.
A. Yeah.

67 Q. Now, you ultimately came to make a statement to Assistant Commissioner Finn, a statement of complaint, is that right?
A. Assistant Commissioner Finn appeared much later now.
Q. Yes.
A. That's much later.

69 Q. Yes. But I just wanted to ask you about what you said to him in that statement about this check?
A. I can't remember.
Q. It's at Volume 14, it's appendix 5, it's page 4145. It's down the page there. In the last sentence there you say:
"I was entitled to check the Pulse without such attempted interference by the sai d letter, whi ch demanded a report that conflicted with my obligations to the internal investigation and al so in the light of what I had been advi sed by the said source."

You refer to appendix 2, which is the letter from Superintendent McBrien. You are complaining that that letter was an example of bullying and harassment, isn't that correct?
A. Certainly that and all the documents. As I stated yesterday, when we're looking at these individually it's very hard to say, oh this is bullying, but when you put them all together, you know, I would say it is
harassment. And even looking at these individually, the chief in the place where I am complaining about criminality is writing down to me about this criminality that's going on in his division. I mean this should not have happened. It should have all been dealt with by the investigation team. Like, there was nothing to stop -- I think it was Chief Superintendent Curran and just for clarification, he was not the chief, the senior officer that is in any way involved in the criminality or anything like that, but still, he 11:10 should have passed this on: Look, we have problems here with Pulse and different things, to the investigation team, can you just deal with that. End of story, that's it.
71 Q. I'm not sure I understand that answer, in this sense: 1:10 They had nothing to pass on to the investigation team, because you hadn't given an explanation as to why you had done the check, isn't that right?
A. To them, correct.

72 Q. Yes.
A. But to the investigation team I did.

73 Q. In fact, you never responded to Superintendent McBrien's request for a report, isn't that correct?
A. As I said, at the time I was dealing with the investigation team and I was complying with them.
There was no -- the chief in the division where the criminality was going on, or at the time alleged criminality, has really nothing to do with the -- he should have just passed it on onto the investigation
team and said, here lads, ye deal with this.
74 Q. I am just trying to establish the facts for the benefit of the Chairman?
A. Absolutely, yes.

75 Q. I think it seems to be the case that you never replied to Superintendent McBrien?
A. That's no disrespect to Superintendent McBrien.
Q. Yes.
A. But I mean, I would have -- that was dealt -- as I said, I am pretty certain Detective Superintendent Mulcahy asked me about that, $I$ just told him straight out why I did it. That really -- that was it.

77 Q. Yes, but in terms of bullying and harassment, you included this was a separate item in your bullying and you did characterise it as one of five investigations that had taken place into to you, that you were complaining about.
A. Yeah.
A. Yeah. I mean, I would have carried out thousands of 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.
We11, I am not arguing about that one way or the anther?
A. Yes.

80 Q. But I am just trying to help establish the facts. 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?
A. I cannot recall, but I would have -- I do recall over 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 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 division or anything like that, to look at it. It was 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 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 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. But there's no real need for this.

81

82 CHA RMAK Sorry, that's what she says, why did you make the check?
A. Yeah, as I said, I am sure --

85 Q. CHA RMAN No, hold on.
A. Sorry.

86 Q. CHA RMAN How is that bullying?
A. I didn't say -- I said harassment. I didn't say bullying.
87 Q. CHA RMAN Okay. How is it targeting, discrediting, bullying, harassment, anything you like. why did you make the check, that is what she says?
A. Yes.

88 Q. CHAN RMAN That's really one of the things that we have 11:15 to look at?
A. Correct. Okay.

89 Q. CHA RMAN Do you know what I mean?
A. Yes, Judge.

90 Q. CHA RMAK Are you understanding me?
A. My answer is --

91 Q. CHA RMAN Hold on, are you understanding me?
A. Yes. Yes, Judge.

92 Q. CHA RMAN okay. So, the superintendent writes a

1etter, 1st October, she's got a protest from Garda A and she writes and says: why did you make the check? was she entitled to make that enquiry?
A. Yeah, I would accept she was, yeah.

93 Q. CHA RMAN 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. CHA RMAN who should she have written to? whom should she have written to with her query? what should she have done?
A. To the investigation team. She could have -CHA RMAN Superintendent MCBrien?
A. It's not Superintendent McBrien, Judge, this is coming from the chief's office in mullingar and Superintendent 11:16 McBrien obviously had to write this letter but from the chief's office in mullingar, they should have just wrote to Assistant Commissioner ó Cualáin and said, look, we have a couple of these things, they're all into what you are investigating.
96 Q. CHAL RMAN what would they have done?
A. Well, that's their call.

97 Q. CHAN RMAN Okay. You say, because it came from the chief superintendent, so you say Superintendent McBrien had nothing to do with this -- sorry, had little to do $11: 17$ with this, she was following orders. Rightly or wrongly, that's your understanding of it. What did the chief superintendent do that was wrong? He had a complaint from Garda A, we saw the letter. He says

Garda Keogh is checking me out on Pulse, that's not legitimate or proper, that's what he says. It doesn't mean he is right. And the chief superintendent says, write a letter to Garda Keogh and ask him why he made the query?
A. I would have --
Q. CHA RMAN What's wrong with that?
A. There's not a whole lot wrong with it, but it really should have been to the assistant commissioner, they could have brought the letter to the assistant commissioner.
Q. CHA RMAN But the assistant commissioner didn't make the query on Pulse?
A. Correct.

100 Q. CHA RMAN You were the person who made the query. I am not getting this.
A. Because the assistant commissioner at the time is dealing with this. I have already made the statement of criminality in relation to Garda A. This is a couple of months, it was done at the start....
101 Q. CHA RMAN Okay. So that was your state of mind anyway. You said, look, I have made my protected disclosure, $I$ have made a statement, we have been over al1 that, and you regarded this as sort of trivial?
A. Yeah.

102 Q. CHAI RMAN Bothersome stuff?
A. Correct.

CHA RMAN okay.
103 Q. MR. MEGU NESS: It would appear that Superintendent

McBrien forwarded the report relating Garda A's concern to the chief superintendent. On foot of that, she wrote this memo to you. But you were never pursued thereafter for a reply, factually, isn't that correct?
A. From what I can recall, yeah.

104 Q. There was no follow up in the sense that nobody wrote to you and said, look, you haven't replied to Superintendent McBrien. Chief Superintendent Curran didn't say, look, I need an answer to this. There was no further step taken beyond the request of 1 st October, isn't that correct?
A. Yeah. I think at that stage they did then hand it over to the investigation team, like with the intelligence stuff yesterday, eventually it goes there and it's dealt with very quick7y then.
105 Q. I just wanted to draw your attention to one part of a submission that your solicitor Mr. Cullen made in the course of the de Bruir inquiry. That's in volume 47, at page 1314546. while that's coming up, this in the course of the appeal that you lodged against Assistant Commissioner Finn's findings that this was not bullying and harassment. That was still being disputed on your part and Mr. de Bruir was an expert called in to give an independent sort of audit or review of the papers. This is an extract from a submission made by Mr. Cullen on your behalf and obviously pursuing it.

If we go down there to (d), you see:
"The findi ng says that Superintendent MEBrien was asking Garda Keogh to expl ai $n$ why he was checki ng another Garda on Pul se. The answer is that it was because Garda Keogh was an active guard carrying out i nvesti gati ons. "

Is that the reason why you were checking on Pulse; that you were in fact doing some investigations into the matter that Assistant Commissioner ó Cualáin had been tasked to do?
A. Since 2012 I was conducting my own, if you want to call it, investigation into this and I don't get to hand it over until, really around I think 7th June 2014, is when I get to hand everything over.
106 Q. No, I am not obviously concerned at this question about 11:22 what you had been doing, but this is a question directly related to the checking of Pulse. Did you do that because you were carrying out your own investigation?
A. That's a parallel question to what I've already earlier 11:22 answered, in that, I mean I have to check Pulse prior to meeting the investigation team. If, for example, I am investigating yourself, your good self, it's the first thing I would do, I would go on to Pulse and see what's on, what's there, you know. That's just standard policing, it's the first step any guard would take.

107 Q. okay. If we go down to page 13147, going on to 48. Just scroll up there. These were the people who were
nominated in your bullying and harassment claim, three particular persons. But he says:
"Garda Keogh did not specifically identified Superintendent McBrien as a person who allegedly bullied and harassed hi $m$ Yet it was Superintendent McBrien who on 1st October di rected Garda Keogh to expl ai n why he on 18th May 2014 had checked Garda A on Pul se system"

It then describes the background, which we don't need to go into. It goes into what Assistant Commissioner Finn had concluded there and it goes into the appeal submissions. It comes to a conclusion then, if we go down. Just go back up to the following -- back up the page. At 5.8 there, it says:

## "A comprehensi ve i nvestigation was carried out in

 rel ation to this matter. The findings of Assistant Commissioner Finn I eading to a deci sion of ACO Bri en arose froma fair and partial investigation."So, you apparently failed to convince Mr. de Bruir that there was anything improper in the request. Do you still want the Tribunal to regard the request that was made to you to be regarded as targeting and discrediting?
A. Sorry, there's two questions there?
Q. A11 right. Yes.
A. Firstly, I never got to meet Mr. de Bruir. Mr. de Bruir based his findings on Mick Finn, Assistant Commissioner Finn's investigation, which yesterday I think I should have clearly stated, I outright reject -
109 Q. I think you did?
A. - that whole investigation.

110 Q. CHA RMAN We will be coming to that in due course.
A. Yeah, sorry.

111 Q. CHA RMAN But you did undoubtedly make that clear, don't worry.
112 Q. MR. MEGUNESS: Another point of view is being put to you by someone who isn't an assistant commissioner really, that he saw nothing in the request being made?
A. If $I$ was to have conducted that investigation and presented Mr. de Bruir my report and findings, he might 11:25 have had a very different viewpoint of that.

113 Q. I think we will pass on from that, onto the third issue then. This is an issue relating to the visit of olivia O'Neill to Athlone Garda Station on 28th May. This commenced really with a report from Garda Treacy, which 11:26 is to be found at 8684, which is volume 30. You've probably seen Garda Stephanie Treacy's report before?
A. Yes.

114 Q. You're familiar with it. It states:
"In rel ation to the above, I wish to report Mb. Oivia O Neill attended at Athl one garda station with her daughter Cheyanne to report threats agai nst her family by a nei ghbour Ms. B. Cheyanne is 17, so her mother

Olivia accompani ed her to intervi ew roomto make a statement. Mb. O Neill went to the hat ch, reported the matter to the publ ic officer Garda Nick Keogh. Garda Keogh was unable to leave the office to take a statement so Ser geant Har an asked Garda Treacy to obl i ge.

At the begi nning of this statement O ivia $\mathrm{O}^{\prime}$ Neill told Garda Treacy that her and her daughter Cheyanne were advi sed that Ms. B was friendly with certain gardaí in Athl one Garda Station and that she is phoned prior to any search of her property so she can get rid of weapons or drugs. She al so alleged that Ms. B is told when anyone makes a compl ai nt or statement agai nst her that the Gardaí cover up offences for ME. B.
Mb. O Neill informed Garda Treacy that she was tol d to make sure that the above inf ormation goes into her and Cheyanne' s statement. Garda Treacy asked Mb. O' Neill who advi sed her of this and ME. O Neill she said Garda Ni ck just now at the counter downstairs."

It then goes on to say what Garda Treacy did. Now, it seems clear that Ms. O'Neill did present herself with her daughter in the station?
A. That's correct.

115 Q. And that she spoke to you.
A. Yes. Sorry, just one second. It wasn't that she presented herself, there was an incident occurred just moments previously, up in a particular estate in the
town. There was guards dealing with the incident and they sent her down to the Garda station. That's how it happened.
116 Q. okay. I am not sure there's anything material in that, but she had come from an incident, is that the point you are making?
A. Yes.

117 Q. Had you know Ms. O'Neill before, did you know of her?
A. I vaguely knew who she was. I had perhaps only one dealing with her and that was probably when I -- I wasn't even long in Athlone, perhaps 2007, I would say. Other than that, no, I had no nothing. To my knowledge and recollection I had no real dealings ever with her.
118 Q. okay. Now, this report on its face appears to be a contemporaneous record of what Garda Treacy said that Olivia O'Neill said to her?
A. Yes.

119 Q. Obviously you weren't there at the time yourself?
A. Correct.

120 Q. They had gone off to an interview room.
CHA RMAN Mr. McGuinness, can I ask you to scroll down. It doesn't sound like it is Garda Treacy's actual statement. It sounds like it's somebody else's statement as to what Garda Treacy did.
MR. MEGU NESS: It's written in the third person but as you over the page it's "for your attention". CHAN RMAN Sorry, that's my mistake, absolutely right. Sorry.
MR. MEGU NESS: Not at all.

MR. KELLY: Chairman, I wonder whether this would be a welcome break at this point for the Garda for a short period.
CHA RMAN Yes. Sure. what do you suggest, if we broke for 15 minutes, is that all right? Is that okay with you?

MR. KELLY: Yes.
CHA RMAN I understand. It's quite a session and so on. So, is everybody happy with that? A11 right.

Very good.
MR. KELLY: Thank you very much, Chairman.
CHA RMAN We wil1 take a break for 15 minutes. okay.

THE HEAR NG THEN AD OURNED BRI EFLY AND RESUMED, AS
FOLLOVS:

121 Q. MR. MEGU NESS: Garda Keogh we just looked at Garda Treacy's report there, I think you didn't become aware of that for time sometime, is that correct?
A. That's correct.

122 Q. Was it sometime later when Superintendent McBrien called you into her office, is that right?
A. I am not sure if the paper came down first and then I was called up to the office or whether I was called -I can't recall what the sequence of events was.
123 Q. We will perhaps go through it. Garda Treacy's report was sent by Inspector Farre11, I think in

Superintendent McBrien's absence at the end of May, to Chief Superintendent Curran?

124 Q. Chief Superintendent Curran, in a direction on the 29th May, it's at page 514, we don't need to get it, but it's perhaps appropriate to look at Inspector Farrell's report at page 8686, it's two pages on from where we have just been looking there. It refers to the events as outlined in Garda Treacy's report. It doesn't seem to deviate from it. On the second page, in the first paragraph, it says:
"Garda Treacy sought advi ce from Sergeant Sandra Keane and Inspector Farrell. I nspector Farrell instructed that a statement rel ating to the compl ai nt concerning ME. O Neill's daughter should be taken without ref erence to the advice gi ven. Inspect or Farrell then instructed Ms. O' Neill should be invited to make a statement outlining her concerns rel ating to the advice gi ven by Garda Keogh and she would al so have been made aware of the options made avail able to her in respect of bringing her concerns to the superintendent at At hl one and/ or the Garda Onbudsman Commi ssi on. Ms. O Nei II made a statement of compl ai nt in respect of her daughter but declined to make a statement or formal compl ai nt in respect of the advi ce recei ved. "

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

125 Q.
A. $\mathrm{Mm}-\mathrm{hmm}$.
"The advi ce allegedly gi ven by Garda Ni chol as Keogh was not appropriate in the circumstances and projects the i mage of An Garda in an unf avourable light. It al so leaves ME. B in a vul nerable position frompersons currently under investigation in the Athl one area. I attach report of Garda Treacy for your information. Forwarded for your attention."

So, I suppose two points to note there. I know this did feature as one of your complaints, obviously that's 11:49 why we are looking at it. Obviously it seemed to stem from Garda Treacy's account of what Olivia O'Neill told her, whether it was correct or otherwise.
A. Yeah.

126 Q. We will come to that.
A. Sure.

127 Q. We will come to that. It doesn't appear to stemmed from, as it were, senior management in the first place, you would agree with that, I would take it?
A. Yeah. It doesn't stem but it's not until senior
management get involved that we start now, that things -- this is the start of a more vindictive side of things. I agree, Garda Treacy in this did nothing wrong, I would have done exactly the same if I was in Garda Treacy's -- if I dealt with that position she was 11:50 in.

128 Q. Yes.
A. I have no issue there. But it's not until senior management then start getting involved in this that

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?
A. Okay.

133 Q. I mean, you wouldn't quarre1 with that obvious7y?
A. No, not with the word allegedly, that's fair enough.

134 Q. Chief Superintendent Curran, perhaps we should look at
it, page 514, gives a direction which seems very simple on its face, on the 29th May, in the middle there:
"Pl ease have D sergeant Curran meet with Ms. O Neill and obtain a statement in rel ation to the information di vul ged to Garda Treacy on 28th May 2014."

Sergeant Curley reports back at page 488. He says, in the middle of that paragraph:
"On 30/5/2015 I met with Olivia O' Neill, asked her to make a statement, outlined the details and give permissi on to di vul ge and she declined. I was aware what such information as di vul ged was, as per a copy of the report of Garda Treacy."

He refers to that. Then appendix 5 is the copy of the report that he sent back. That's at page 519, just to follow the trail there. The substance of it is:
"The whi stlebl ower met with Oivia O' Neill at 3: 50pm today, 30/5/2014. I inf ormed her I was conducting enqui ries into the inf ormation she had di vul ged to Gar da Stephani e Treacy recei ved by her from Garda Ni ck Keogh in Athl one Garda Station on the 28th. I
expl ai ned to her that I wi shed to record a witness statement fromher outlining what she was tol d by Garda Keogh. She replied she di dn't wi sh to make any statement at all and she now coul dn't really remember
what was said in the station that ni ght at all. Oivia O'Neill declined to consent to the recording a witness st at ement from her."

That went back obviously to the chief superintendent. In Volume 5, at page 1176, he says in the middle paragraph:
"In the light of the decision of Ms. O' Neill not to make any statement inthis matter owing to the contents 11:54 of the di scussi on she engaged in with Garda Treacy in whi ch she outlined that Garda Keogh made certain di sclosures to her while in the public of fice in At hl one Garda Station on 28th May 2014, you shoul d now request a report from Garda Keogh setting out the nat ure of the conversation engaged with Mb. O Neill, if any, on the occasi on of her visit to Athl one Garda Station on that date.

A report is required in this matter to establish the veracity of clains of M . O' Neill during her conversati on with Garda Treacy on 28th May 2014."

Again, that appears to be making no assumptions about what was said, would you agree with that?
A. Yes.

135 Q. That goes down to Superintendent McBrien, page 167, which is your appendix 4 to your statement. Again, Superintendent McBrien says there, at the end of the
first sentence:
"It is alleged that during this visit she had a conversation with Garda Keogh. A written report is now requested from Garda Keogh setting out the nature and content of the conversation he had with $\mathrm{O}_{\mathrm{i}} \mathrm{vi}$ a O Nei II."

Again, there's nothing untoward, I suggest, about any of those requests to date, would you agree with that?
A. Yes.

136 Q. Okay. Then, Sergeant Haran I think endorses that. At the next page I think you give an explanation. It's in handwriting. There is a typed version of your report too, I think, isn't that right? Perhaps we better read 11:56 that, at 1174 . This is what you report:
"I wi sh to report I was on duty as Menber in Charge an Athl one Garda Station between $4 \mathrm{pmto} \mathrm{9pm}$ At some point during this, ME. Oivia O Neill arrived at the 11:57 public counter to make a compl ai nt regarding ME. B and her daughters. As she outlined her allegations, she stated to me that ME. B did favours for guards. I advi sed ME. O Neill to put everything into her statement, I said, name names and name guards. 11:57 At no point during the conversation did either ME. O Neill or I mention the name of any particular guard. There were menbers of an An Garda Sí ochána in the public office behind me and menbers of the public
behi nd Mb. ÓNeill. I asked Sergeant Haran to desi gnate a garda to take a statement due to the fact that the public counter was busy."

That's what you reported up, is that right?
A. Yeah.

137 Q. Now, you were queried at a later stage, because in your statement, which is part of NK1, you say, you said you didn't take a statement because you were involved in the matters and conflicted?
A. Obviously when this lady arrived in to me and when she was complaining about Ms. B and what was going on, obviously I couldn't get involved in it. And I was busy anyway.
138 Q. Yes. But the matter wasn't taken further after that, 11:58 as regards you, isn't that correct?
A. I'm not sure. I think a good few correspondence came after that. No, I was called up to the super's office a number of times in relation to this incident and another even more sinister incident. This is
actually -- just to clarify, this is a very simple thing, instead of wasting the Tribunal's time on this.

139 Q. Yes.
A. If I could explain this.

140 Q. Yes.
A. Very simply.

141 Q. Please.
A. Can I mention this person's name, she's before the -the persons that we are the subject of the conversation
that came in to me.
CHA RMAN Olivia O'Neill?
A. Yes.

142 Q. CHA RMAN oh yes, she is going to be a witness.
A. Okay. When Olivia O'Neill came in to me at the counter, I was already aware of an incident from listening to the radio up in part of Athlone, but I didn't know who was involved or whatever because I just heard the radio in the background, I was obviously busy and I just vaguely would have known there was a patrol car up there dealing with something, end of story. Ms. O'Neill then came down to the station, was sent down to the station. I don't say that vindictively or anything, the guards at the scene say go down to the station and whatever, make a complaint, that would be a 11:59 common thing.

So, when she came and she started speaking about whatever assault or whatever was going on up there, I presume she may have known who I was, either way she
did say something about -- in relation to -- there was an assault, something to do with the kids or something on those lines. She said about Ms. B doing favours for guards. And I told her, name names and name guards, put everything into your statement. That was it. So 12:00 she went into the, obviously she named -- said whatever she said and named Garda A. Garda Treacy, from what I read, obviously said, who told you to say that and Ms. O'Neill obviously said Garda Nick Keogh or
whatever. which is in a sense correct, I did say go in and name names, but I didn't say name the name of the guard, which they're trying -- which Garda management are implying the whole way throughout this. That's really the thing there, it's sort of like a Chinese whisper in a way.
143 Q. Okay.
A. There was nothing -- that kind of emanates out of something fairly innocent. That's why I say Garda Treacy didn't do anything wrong, it was only just the way, who told you to say that. And it was me that said name names and put names of the guards. So when Garda Treacy said, who told you to do that, yes, in effect it was, of course it was me that said name names and name guards or name, you know -- sorry.
144 Q. It doesn't appear from Garda Treacy's report that Ms. B named Garda $A$, she just said a friend of the guards and certain gardaí?
A. Again, you've to go to the elephant in the room, which is -- I mean, I would have known who Ms. O'Neill was talking about and again it comes back to the matter, I wouldn't have had to have named a particular guard, I knew exactly also what was going on.
Q. But I mean, you appear to be putting forth a view of the evidence, which may well be right, I am not gainsaying you?
A. I asked for permission just to speed it up, to show that it was actually just a simple little kind of a thing.
Q. Yes.
A. That's all. I am just trying to be of assistance there.
147 Q. No, indeed. But as I understand it, you are suggesting that obviously you knew whom she might be talking about, but you didn't name them?
A. Yes.
Q. She probably knew who she was talking about, but she doesn't appear to have named them to Garda Treacy either?
A. I think I said yesterday, this was no secret back then. Like, I mean, in the town this was -- this was pretty much the talk of the town. So, there was no -- this was -- there was nothing in secret, kind of, this was a public knowledge thing.
149 Q. But when was the first time then that you were, as it were, called to account? I think Superintendent McBrien probably told you in early June that a report had been made relating to the conversation, is that right?
A. Yes.
Q. Have I got that right?
A. I wrote back and I mean...
Q. You noted in your diary, 8th Ju7y, 9pm:
"Met with superintendent to informme she is sending people out to try and get statements fromO O Neill." That's Olivia O'Neill?
A. Correct yes.

152 Q. You had earlier recorded in your diary some entries in relation to it, isn't that right, on the 28th and the 29th?
A. Yes. Yeah, I see the one on the 28th is written in the 12:03 side. Sorry, just a clarification, I may have had the date in that diary entry, I'm not a hundred percent certain about it, but the date of when Ms. O'Neill actually calls into the station, can you just clarify. The 28th May?
A. The 28th, yeah, that's correct. And I see I have it written -- I had other written in the 28th. So I obviously put that up on the next page, it runs up to 29th, my diary entry there should be for the 28th, which, also on the 28 th, $I$ have a side note about that, 12:04 yeah.

154 Q. Yes. It seems to read:
"O i vi a O Neill, I nspector Farrell directs statement
not to be taken. Pl us starts compl ai nt."

Is that right?
A. Well that would be the way I see it.
Q. I mean, I thought you hadn't known of the reports or the complaint, as you allege, at that time on the day. Was this entry written afterwards?
A. Oh, I would imagine, yes.
Q. Right.
A. Yeah.
Q. Okay. Then the entry on the 29th May 2014:
Q. You were on nights.
"I tell her put everything into a statement and name peopl e. "

Is that something then, you would have entered that at a later stage?
A. No. I would imagine, just from looking at it, I think I would have wrote -- oh yeah, it wouldn't have been of any relevance to me at the start, not until I am interviewed or paper comes around, then I have to put it back in in retrospective.
compl ai nt about M5. B. She states "I know she's done favours for a guard. Ni ghts."

## Is that right~?

A. That's just I was on night shift.

CHA RMAK And it stretches over a little beyond the actual date of the 28th.
A. Yeah.

161 Q. CHA RMAN Your account that you write in?
A. Yeah. When someone has come in, I am obviously not going to be taking a note of every person that comes to me over whatever --
CHA RMAN We11, when the issue arises, you go back in your diary and you note that on the relevant date --
A. Yes.

CHAN RMAN Okay, thanks.
MR. MEGI NESS: It's perhaps a smal1 point, but in your statement you say at one point:
"I was advi sed by O i vi a O Neill that the guards would not take her statement of assault unl ess she made a compl ai nt about re. "

Do you remember saying that?
A. Yeah. That was the impression I got, yeah.

164 Q. I mean in fairness, you've recorded it in your diary slightly differently, you don't use the word complaint. This is on the 26 th June in your diary, it's page 13262 in the volumes, and it reads, as I see it:
"I nf or med judge and D/ Super my notebook mi ssi ng."
A. Well that's clearly a different thing completely..

165 Q.
"5: 30. Oi ivia ÓNeill calls to station, asks to speak to me in private. Sated D Sergeant Curley and T Hi ggi ns called to her house, then to her in another house to try to get her to make statement about me but
ref used to take her statement of assault."
A. That is what I have noted.

166 Q. Yes. That seems to be a fairer reflection of what Sergeant Curley said he was doing. He was trying to get her to make a statement as to what had been the interaction between you when you came to the station. But you're interpreting as the making of a complaint, is that right?
A. Well that's the way, to take a statement is to take a statement of complaint.

167 Q. We11, it's a statement as to what happened, what events occurred, surely. You seem to have recorded it neutrally at the time and then in your statement of complaint to the Tribunal you are describing it as a statement of complaint?
A. Well, I do see that where I go back retrospectively on the 28 th, on the side note $I$ have written, and this is only just a note, a quick note, under olivia o'Neill:
"I nspector Farrell directs statement not to be taken and starts compl ai nt."

168 Q. You see, it seems to be an assumption on your part that when Olivia O'Neill came in with her daughter, the guards didn't take a statement from either of them about the assault because they were focused on you. Now, that's not correct, in fact, they did take a statement from Cheyanne?
A. I understand that now, yeah.

169 Q. Was that a misunderstanding on your part because you just didn't know it at the time.
A. You see, I didn't know what the assault was about.

170 Q. We11, a number of witnesses have said in their statement that Cheyanne did make a statement, and, in fact, Olivia O'Neill confirms that in her statement to the Tribunal investigators, you have probably seen that?
A. Yes.

171 Q. In fact, she goes on to say that Cheyanne actually then withdrew her statement a number of weeks later?
A. Right.

172 Q. Because they had sort of settled their differences?
A. That's right.

173 Q. That may have caused you to believe, not knowing that a statement had been taken, that may have caused you to believe that they weren't willing to take a statement about the assault or the threats and that they wanted to focus on you, is that the way you saw it?
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 what I said to her or allegedly said at the counter. Like, I have already replied, you see, to Superintendent McBrien in relation to this. It's a
very simple thing that this emanates from.
174 Q. Yes.
A. But they fairly get -- they get honed in on this and this becomes -- yeah.
A. Sure.

176 Q. when you say "they become honed in on this" who are you talking about?
A. When I say Garda management, I don't want to include everyone in Garda management, a certain core of persons 12:11 that I would have classed in diaries as I suppose a cabal within Garda management.

177 Q. It's just your statement that the guards weren't interested or wouldn't take a statement of her assault unless she made a complaint about you. Sergeant
Curley, in his statement, denies that was ever said or intimated to Ms. O'Neill. I don't know whether you want to comment on that?
A. I can't comment on that.

178 Q. Sergeant Curley, that's page 4088 of the documents, said no such action took place in refusing to take a statement from Ms. O'Neill when they went out to see her, on the basis that they on7y wanted a statement of complaint against you. He said that didn't happen?
A. I can't comment on that.

179 Q. It is true that the only reason he went out was to seek a statement relating to the conversation. That's obvious, isn't it?
A. Oh yeah.

180 Q. But when Ms. O'Neill was interviewed by the investigators, she doesn't make the case in her statement that the guards had refused to take a statement about the assault, at any stage?
A. That's fair enough.

181 Q. As far as Chief Superintendent Curran is concerned, he obviously seems to have had a role in directing that a statement taken from Ms. O'Neill, no such statement was provided. He then took the alternative course, which seems logical, to seek a statement from you, and he got 12:13 a report from you, isn't that right?
A. That's correct.

Is that not where it was left then, after the date that you provided that statement?
A. You see, unfortunately this, it's not as simple as even 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'Nei11, 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
of their investigation. It's again not the chief in mullingar that -- because at the end of the day, really that's what they're going at, is that I tried to persuade Ms. O'Neill to name Garda A, as I've explained, that there is just no point, because it was obviously the elephant in the room, as I've said, of course.
183 Q. I mean you did speak with Superintendent McBrien, she records in her statement, at page 6254, that you said:
"He had heard members were asking to make compl ai nts agai nst him l outlined to himthat asking someone if they wanted to make a statement was different to a person making a complaint."

She said that you accepted that. The mere fact that somebody was being asked to form a statement didn't mean that we were being encouraged or induced to make a statement of complaint against you, that you accepted that in that interview with her?
A. Perhaps, perhaps at the time, and you see, I'm not sure, I just can't remember.
184 Q. Yes.
A. But perhaps at the time. But this does become rolled into the next thing that we are going to visit and it
does become more sinister then, you know, and there's the two of these then rolled together in the same week. They happen in the same week. This was the first, it was just an innocent thing. I hope I clarified that at
the start.
185 Q. I think I understand.
A. Yeah.

186 Q. I mean, she does obviously acknowledge that in relation to this. You said you had brought this to the attention of Assistant Commissioner Ó Cualáin and you had done so?
A. Oh I would have, oh yeah, of course.

187 Q. But they confirmed on the 15th July that they weren't concerned to investigate allegations against you and wouldn't be investigating the Olivia O'Neill incident as part of their --
A. I do understand that.

188 Q. Yes.
A. My point, my problem there is, I mean, it is really part of their investigation if the allegations are that I am rounding al1 these people to make complaints about Garda A, who is the subject of my main complaint, which Assistant Commissioner Ó Cualáin is investigating, like if that is the case my argument is, they should have looked at that.

189 Q. I hear what you are saying and we will look at it very closely, $I$ am sure the Chairman will pay close attention to it, but in relation the Olivia O'Neill matter, $I$ just want to deal with this issue of getting
Assistant Commissioner Ó Cualáin involved in
investigating that. You know your report was made under the confidential reporting regulations?
A. Yeah.

190 Q. Isn't that right, of 2007?
A. Correct.

191 Q. You know that under regulation 8, when the Commissioner appoints someone to investigate a protected disclosure, they are investigating the allegations in the protected 12:18 disclosure, isn't that right?
A. Yes.

192 Q. I shudder to think what would happen if a judicial review were taken, if an officer appointed to investigate allegations in a protected disclosure made by a confidential reporter turned it into an investigation into allegations made against a confidential reporter. I mean, wouldn't that be clearly outside the powers?
A. Correct. I do understand where you're coming from.
A. My argument again, I did nothing wrong in this, and that's why I was saying, lads, this is what's going on, I didn't do anything wrong here, can you look at it.
194 Q. Yes. But in terms of your justification for seeking to 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...
A. It appears to be, yeah. And again, where is it
emanating from? It's emanating again from the chief's office in the Mullingar. Again, this is the same 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, behind this, in stirring this, getting this into motion.

I am wondering is that necessarily so, where it arises as a result of a citizen coming into the public office. I am not passing judgment as to whether or what sort of misunderstanding may have taken place, but certainly Garda Treacy appears to have written her report in complete good faith?
A. Oh yeah, absolutely. No issue. No issue whatsoever. Yeah. to get a statement from each side of the parties to the conversation. In the event, you're the on7y one who provided one and it went no further. Am I missing some piece?
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 simple. It rolled in with the next thing, which I will be arguing is very sinister. So I can't agree with you fully on that.

197 Q. okay. I think in fairness to Superintendent McBrien, you have referred to a number of meetings with her and
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 that right?
A. Yeah. Again, we're going on here to July here now, May, June, July, this is a couple of months now going on.
Q. Yes. commissioner on the 16th and you were told that he felt it wouldn't be appropriate to investigate the olivia O'Neill matter as part of his investigation?
A. Yes.

199 Q. So, I mean, consequently you did have no difficulty in providing the report and you stand over the report as to what happened at the counter, isn't that right?
A. Of course, yeah.

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...
A. You see, as I said, they roll in this to the next thing 12:22 we're going to come to. So the roll is where I am being asked -- I just see on that note there, where you mention on the 8th July.
201 Q. Yes?
A. Will I read this out?

202 Q. If you think it's relevant and it helps you, of course.
A. It's from the date previously.

203 Q. Yes.
A. It has "9pm met with superintendent", that would be

Superintendent McBrien,
"I nf ormed me she is sending people out again to try to get statements fromolivia O Neill."

And then there's the next character we will be coming to. So that's it, like. They rolled it into the next thing. It will become clearer when we get to the next thing I think.
Yes. They were rolled together in the sense that these 12:23 were issues that, if I can use the phrase, were bubbling along, that had come to the surface at different stages in the same period, isn't that right?
A. They arrived in the same week.

205 Q. Yes. I mean, don't take this the wrong way, the first 12:24 two issues were created by you in terms of the Pulse issue, the two. This third one was created by Ms. O'Neill walking in and whatever conversation?
A. $\mathrm{Mm}-\mathrm{hmm}$.

206 Q. The fourth one that we will come to was created by a 12:24 report from a guard?
A. Yeah.

207 Q. Isn't that right?
A. That's correct.

208 Q. But you did yourself segregate this out individually as 12:24 a ground of complaint of bullying and harassment against the members, the senior members concerned?
A. Yeah.

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 and stuff like that in relation to this. It would appear to me they tried to roll it in with the next thing. Because there, you would have strands in the same week of where it implies that I am trying to roundup persons to make complaints.
Q. Yes. But I mean, you characterised it as an attempt to interview and influence the independent investigation. How do you see that this requirement of you to make a report could have done that?
A. You see, what they are trying to do here is to discredit me in relation to the main investigation. Because if they can get off the ground that I was getting people in to make complaints against Garda A, it puts everything in the main investigation into question on credibility, you see.
211 Q. I don't want to go through all of the allegations that were in your protected disclosures?
A. Sure.
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?
A. Sorry, can you re phase that? I just don't understand. 12:26

213 Q. I mean, you're talking about an attempt perhaps to destroy your credibility in relation to the main investigation.
A. Yeah.
Q. But I mean, you had set the investigation train going but you weren't a crucial witness of credibility in relation to most of those allegations?
A. In the main investigation?

Yeah.
A. Oh yeah, I just passed on.
Q. Yeah.
A. Correct.

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 against Finn when it went to Mr. de Bruir about this, trying to substantiate that you were coaching the witness. He seems to have taken the view that it was appropriate to seek a report and it was reasonable for them to investigate what had occurred at the public counter in a Garda station?
A. Again we're going back to -- again, this is coming from the chief's office in Mullingar, in the place in westmeath where I reported this criminality and we have 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.
218 Q. You spoke to Detective Superintendent Mulcahy about it on the 26th June, do you remember that?

CHA RMAK Just help him as to what happened. He had given a statement, as I understand it, that was completed.

219 Q. MR. MEGU NESS: Detective Superintendent Mulcahy says
that you outlined that you had spoken to Olivia O'Neill in the station?
A. Sorry, I see here out of the corner, D super, yeah.

220 Q. What advice did he give you?
A. I can't, I just can't remember.

221 Q. Okay. He said he advised you not to get involved with those people?
A. Yes, I understand there is a reason he said that and I can explain that.
222 Q. Yes.
A. I went into work one day, and this is after -- we have had all this craic of me going up to the office and all the rest to Ms. O'Neill and I am aware and I have been told that they're sending guards out to take a statement, I think the first time. Again it comes from 12:29 the chief, a second time they are being sent out to take statements from Ms. O'Neill. A second time, okay. And then I went into work one day and I saw a message from Olivia O'Neill, it was actually to Garda Treacy. I thought all this Ms. O'Neill stuff was finished. And 12:29 then, when I saw the message, it just happened to be in the message book, I just saw it by accident. So I then went up to Ms. O'Neill's house and I said, are these looking for a third attempt to have a go, already had two attempts to have a go to try get a statement in relation to this. I have written on it. Very simple 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
why -- oh, out of that, something cropped up in relation to something in the main complaint, which $I$ reported to superintendent Mulcahy and from recollection, he obviously asked me where did you hear this and I told him and obviously he was aware it was the issue, the allegation about myself and Olivia O'Neill. He did say, you shouldn't be -- and I think I told him, that's how I ended up there. I thought they were looking for a third set of statements in relation to this. Two is bad enough.

223 Q. On your own account, she had already called back in to the station. She details calling to the station a number of times and speaking to you, is that right?
A. No, I can only remember twice at the station speaking to her.

224 Q. A11 right. We11, thanks for that, we will leave it at that on this issue. If we can turn to the next issue, if you wouldn't mind. This issue is the investigation into Liam McHugh's complaint to Garda Aidan Lyons on the 31st May. That was given a Pulse number that we don't need to go into. You saw events --
A. Sorry, that was given a Pulse number?
Q. Yes.
A. Right, okay.

226 Q. This arose out of a report written by Garda Lyons, isn't that correct?
A. Oh yeah.

227 Q. That was read out to you by Superintendent MCBrien sometime subsequent to her receiving it?
A. Again, that's --.
Q. We will come to that in due course.
A. They were writing down to me about my interactions with -- can I say this person's name.
229
Q. Mr. McHugh?
A. Yes.

230 Q. Indeed, yes.
A. They were writing down to me firstly about my interactions with Liam McHugh, I didn't know what they were talking about. Eventually, at some period through 12:32 the word of mouth in the station I heard obviously there was some allegation in the background and that's 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.

231 Q. We will come to it in due course,
A. Okay.

232 Q. We might just look at the Lyons report first.
A. Yes.
Q.

It's in Volume 5, 1029. It's there. It's dated 2nd June:
"With reference to the above, I wi sh to report that on the $31 / 5 / 15$ at approxi matel y $9 p m 1$ was approached by Li am MzHugh at Bastion Street Athlone. Mr. McHugh brought up a general topi $c$ of whi stlebl owers and we had a general conversation for a few minutes during whi ch he informed me as follows: "The bal d guard came over to me the other day and asked if I could remenber the
time l was searched by three guards and €800 stol en fromme l spent drinking in the castle, the pub, the booki es and the casi no."

He sai dif l wanted to make a compl ai nt about it, then 12:33 they would back me up. They asked Li am McHugh if he was alleging that this had actually happened and his answer was, "no, not at all, l'm not going to bring trouble on myself." I asked him was it referring to Garda Ni ck Keogh and he confirmed that it was. He then 12:33 went on to say he told me he was there himelf when it happened and would back me up if I wanted to make a st at ement."

So that was the report in writing put in by Garda Lyons. That went to Superintendent McBrien. Were you informed then by Superintendent McBrien on the 9th June that she was investigating an issue relating to you concerning Liam McHugh?
A. Yes.
Q. Yes.
A. Yeah, I have a note here of it.
"Meet with Superintendent McBrien. Conversation i nforns me that another complaint, Li am McHugh to be approached to take statements. I informed her l wasn't happy. "

Yeah, okay.
Q. Yes.
A. They start sending me down paper, just from recollection, first, before $I$ am even called up, they look for stuff in writing, from recollection, and couldn't I be incorrect on that. I think they start -it comes down in writing first about my communications or conversations or whatever. Oh, when did I last meet him, or something like that. At the time, of course, I 12:35 don't know what this is about, but, yeah. Superintendent McBrien, yeah.
237 Q. Ultimately Superintendent McBrien had, I think was it a telephone conversation with you on the 23rd, and she sent a report, a request for a report to you on the 23rd July. Perhaps we will look at page 8712 in Volume 13.
A. I have read Superintendent McBrien's notes and they are pretty accurate.
Q. Yes.
A. So I have no issue there.
Q. It says:
"Further to our tel ephone call, can you provi de me with a report outlining your contact with Mr. Li am McHugh as 12:36 to the nat ure of such interaction."

Then you have endorsed on that handwritten report.
"I wish to report I met Liam MEHugh at 21:50 19/7/14, Church Street Athl one while on the beat. Prior to that I had no contact or dealings with Liam McHugh over the past three months."

That meeting with Mr. McHugh, that was subsequent to your first interview with Superintendent MCBrien, isn't that right?
A. I have had a lot of meetings with Superintendent McBrien in relation to this and the previous matter. 12:37 240 Q. Yes.
A. They are rolled in around kind of the same thing.

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 him. She is asking for a report here. You put in that report, isn't that right?
A. Are we in June or July?

242 Q. Pardon? July.
A. July. Okay. This is the 16th.
Q. Yes.
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
Q. You sent her a text then I think the next day, was it?
A. Oh yeah. Yeah.
Q. That's at page 8713. If we just look at that.
A. Yeah.
Q. You say Mr. Mchugh came over to you?
A. Judge, I have already been explaining to Superintendent McBrien, I had nothing to do with Liam McHugh, I haven't seen him in ages, blah-blah-blah. I went on the beat -- just for from recollection, I went on the beat, walked out of the station and turned right, there 12:39 was only one person on the street, this was just outside the station and it was McHugh. Obviously I'm after telling the superintendent, you know, I've nothing to do with McHugh, and here I am outside the station talking to McHugh. He came over to me, you see. So obviously, which was interesting, he was asking me what was going on, that there was guards up to him to try and get a statement about me.
247 Q. Yes.
A. Obviously I asked him, what's this about. He didn't 12:39 know what it was about and I was asking him. But I had to text the super then, because as I said, I was already in saying I had nothing to do with -- I hadn't met this fella for ages and here $I$ am outside the station the next day or whatever talking to him.
248 Q. I did notice that there was an entry in your -- or is an entry in your diary for the 31st May, which is the date of the encounter or the alleged encounter?
A. Yeah.

249 Q. Contained in Garda Lyons's report?
A. Yeah.

250 Q. It seems to read:
"Li am McH meet guard 9pm Alleges section $23 . € 800$.

Three cops castle."

Presumably you put that entry in afterwards?
A. Yes.

251 Q. When you got the details?
A. Correct, because it's not until when Superintendent McBrien actually shows me Garda Aidan Lyons' report that I actually get to see for myself what they're looking for in relation to this Liam McHugh matter. Also, the name, the author of that report was withheld 12:40 from me, so I didn't know who wrote the report.
Q. Yes.
A. And what was interesting is, the night before that incident I was on nights, which would have been the patrol car with a different guard, another guard who himself under investigation for serious matters, separate to all this. They were driving, I was dealing
with a thing to do with a fella who jumped out in front of car or whatever. But anyway, they were driving up and down, driving. I remember, I clearly remember, they just kept driving up and down, it was on the main street of Athlone. Like McHugh could have been in the crowd when people had gathered around. This fella had to be pulled off the street and there was ambulances there and whatever. But I believe that's the night that that complaint was conceived. I don't even believe there was a meeting with Garda Aidan Lyons and Liam McHugh. I don't believe there was a -- maybe. I just personally don't believe there was even -- I believe that night, the night before was the night that whole thing was contrived. Because both the guards in the patrol car were under big investigations themselves, they couldn't commit to paper. Aidan Lyons at the time was a guard that would have been a clean pair of hands and they got him to write this nonsense.
255 Q. We11, I mean we are going to hear from Garda Lyons obviously, he has given a statement and we have seen his statement obviously. But can I just ask you about a couple of entries in your diary which relate to Mr. McHugh?
A. Right.

256 Q. You have an entry then on 20th July 2014, it says:
" 19/7/ 14 Church Street. On beat. Met LMH. I heard they ran you out of town."

Is that right?
A. That's what he said to me, I heard they ran you out of town.
Q.
okay.
"I asked about when I saw hi m"
A. Yeah.
Q.
"one to two years, informed me."

Is that what he said?
A. I can't remember if I asked, when's the last time I saw. Now, when I saw him is different to when I met him because this fella wanders around the town a lot. So seeing him and meeting him are two very different things.

259 Q. Yes.
A. So I made have said, whatever, so I wrote it down. Yeah. Oh, then he informs me that they approached him again, yeah, for a statement. I don't know where in the contacts, if that's the first or the second time or how many times they're after him for a statement there, but anyway.
260 Q. It would appear that quite a number of the guards in Athlone knew Mr. Mchugh?
A. Yeah.
Q. It was an initially --
A. Sorry.
Q. You had a discussion with Superintendent McBrien about suggesting Sergeant Curley would take a statement from him, isn't that right?
A. That I suggested?
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.
Q. It was decided that Garda Higgins would be asked or tasked to see if Mr. McHugh would make a statement, did you know that?
A. I know Superintendent McBrien did inform me that in both the Liam McHugh and Olivia O'Neill matters that she was sending people out to take statements. I think that was -- again that was a second -- there were already efforts, but one to get statements off the ground from these, and from recollection this is round two of trying to get statements in relation to this and the previous matter.
Q. Yes. But it was reported back that Mr. McHugh wasn't willing to make a statement, isn't that right?
A. I mean, make a statement about what?
Q. Yes.
A. Is my answer to that.
Q. Yes.
A. Yeah.
Q. I understand that.
A. Yeah, yeah, that's correct.
Q. You denied knowing anything about it?
A. As I said, I don't knowing anything -- to my knowledge, there was never such an incident, to my knowledge.
Q. Yes.
A. I certainly wasn't involved. If I was or if there was anything like that, $I$ would have put it in, I would 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.

272 Q. You made it clear that you had nothing to do with what was alleged in the report?
A. Oh yeah.

273 Q. Superintendent McBrien wrote a report then up to the 12:47 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 Li am MzHugh on the 19th July, had not met himin the last three mont hs. On the ni ght.... Garda Keogh sent me a text message stating he was out on the beat and MzHugh came over to
ne. "

Then, if we go down to the next page:
"In addition, I met with Garda Keogh by arrangement on this day. This was the earliest opportunity. I read out the allegation outlined in the report of Garda Ai dan Lyons's taken 2nd June 2014. He requested to vi ew the allegation. I allowed himto do so without di scl osing the identity of the member naking the compl ai nt. He was informed it was a member in At hl one 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 compl ai nt to the confidential reci pient. He said Li am MtHugh's name was not on the compl ai nt made to the confidential reci pi ent. Garda Keogh sai d he does not know anything about this alleged meeting with Li am MkHugh and if he had such inf ormati on he would have used it when making hi s compl ai nt. Garda Keogh said that apart fromhis meeting with Li am MkHugh on 19th July 2014 when he was on the beat, he had not spoken with Li am MkHugh for a I ong time. He said that this meeting was not arranged. I read my notes on meeting with Garda Keogh back to him He was invited to make any changes or alterations he consi dered necessary. He di d not with to do so. al so invited hi mto si gn the notes. He declined this. His assertion that he had not been in contact with Liam

McHugh is consistent with his conversation with me on the $9 t h$ June, whi ch is covered in my correspondence to you on the same date."

So, would you be satisfied that that's a perfectly reasonable report to make of what occurred there?
A. I accept it's accurate. I think have clarified the thing about where I meet him on the same date and how that happened. That was just -- that was just the way it was.

274 Q. Yes. In relation to Garda Curran, I am sorry, Chief Superintendent Curran, do you accept that it was reasonable for him to consider, as any other senior officer would be entitled to consider, whether the matter required some investigation?
A. Here we go, here we are back to the chief in Mullingar again. There's a pattern, a clear pattern occurs at this stage.
275 Q. Can we deal with this --
A. Sorry, sure, yeah.

276 Q. Can we deal with this in this way perhaps, Garda Keogh, on the level of principle. If a garda files a report which suggests that something untoward may have happened, in the sense of some sort of shake down, 1et's use the vernacular, would you not expect him, would the public not expect the police to consider and actually investigate it to see was there anything to it or could any light be thrown on what's alleged to have happened?
277 Q. Is there anything objectionable with that in principle?
A. You see, again I have to clarify.
Q. Yes.
A. There's the other investigation going on, okay, where there's numerous, let's say, allegations of criminality being investigated in relation to Garda A, okay. And here we have the chief in Mullingar trying to get this craic off the ground. This is the second one, this is back in May 2014, it's in the same week that --
A. He should have --
Q. CHA RMAN what should the chief have done?
A. Judge, I would suggest he should have passed this on to Ó Cualáin and the investigation for the purposes of the 12:51 fact there's now two --
Q. CHA RMAN okay?
A. In particular this one, Judge.
Q. CHA RMAN But I thought Ó Cualáin had said, we're not investigating complaints against you, we are investigating complaints made by you?
A. I understand.
A. Correct. I understand what he said, Judge, but the thing is --

284 Q. CHA RMAN So what should the chief superintendent have done with this?
A. He should have brought --
commissioner is dealing with complaints made by you, he should have insisted that the assistant commissioner take over this complaint, is that correct?
A. Well, he should at least have said, you have to look at this, because here's an allegation now that I'm rounding up in the same week, a second person -CHA RMAN Absolutely, sorry, there's no doubt about the seriousness of this, yes, there's no doubt about that. But Mr. McGuinness is asking you, if that report is made, doesn't it have to be investigated?
A. It does.

287 Q. CHAN RMAN And isn't the first way to do it, to send out somebody to say, let's get a statement from the person who allegedly made the original complaint?
A. Well.

288 Q. CHAL RMAN Isn't that the first thing to do?
A. No, Judge, I would say the first thing to do is -- I apologise if I'm --
289 Q. CHA RMAN No, I am asking the question for you to -and not to tell you, but you to ask you. We11, you disagree with that, what was the first thing to do?
A. The first thing I would do is, I would look for a statement off Garda Lyons, because the report involves criminality. My argument is, the first thing they should have done is --

290 Q. CHA RMAN I thought they had one. He had made a report?
A. I don't think he made one at that stage. If he has made one, $I$ 'm not sure about it. I don't know, I don't
know perhaps that can be clarified.
291 Q. CHA RMAN Sorry, isn't that what the superintendent showed you?
A. No. No, it was a report, Judge.

292 Q. CHA RMAN Okay. So here was a report and you say the 12:53 first thing was to get a statement from him. Okay.
A. Yes, Judge.

293 Q. CHA RMAN If the statement said the same thing as in the report, what would happen then?
A. We11 then, of course then they are obliged to go and do 12:54 an investigation, of course.
Q. CHAN RMAN okay.
A. Just to clarify, I would suggest that Garda management 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 we11. I don't know anything about a statement at that period of time. My understanding is they dealt with this by way of reports.

CHA RMAK okay.
295 Q. MR. MEGU NESS: 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 a11, it can't even be established whether a crime is committed?
A. But again -- we11, of course, but I mean, the guard who reported this is obliged to make a statement. Garda

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management were obliged to get a statement from him. I don't think they did that, Judge.
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Q. Can I turn it on its head in this way: Garda Lyons made a report. Now on one view that might be considered to be enough to trigger an inquiry as to what had happened?
A. $\mathrm{Mm}-\mathrm{hmm}$.
Q. The inquiry might lead to a formal establishment of an investigation, where the guard who made the report would have to make a statement, isn't that right?
A. That's --
Q. And you're complaining that there was no statement taken from Garda Lyons?
A. Sorry?
Q. You do seem to be complaining no statement was taken from Garda Lyons?
A. That is my understanding, I have never seen one and I have not seen one in those documents.
Q. But equally, you were the person supposedly identified in the report?
A. Just for clarification, $I$ am one of three persons.
Q. Yes.
A. And the other two, we don't know who they are.
Q. Indeed, we don't.
A. Two other guards.

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                                    don't think they did that, Judge.
                                    Lyons
                                    made a report. Now on one view that might be
                                    considered to be enough to trigger an inquiry as to

Garda Lyons filed a report, it triggered lines of inquiry, you made a report and it didn't go any further. Now, what further ought to have been done?
A. Sorry, which report are you referring to there?

304 Q. We11, your handwritten report, reporting back?
A. In reply to this, is it?
Q. Yes.
A. Okay.
should that have been disregarded and should you have been asked for a formal statement under caution or otherwise at that time? I mean, wouldn't that be worse from your point of view?
A. They had no statement.

307 Q. Pardon?
A. They didn't appear to have any statement from anybody.

308 Q. Well you didn't make a statement either?
A. A statement about what? There was nothing for me to make a statement about. As I have stated, I don't even believe this conversation happened. The incident certainly never happened.

MR. MEGU NESS: Chairman, I see it is just approaching one o'clock.
309 Q. CHA RMAN Thank you. You've said, I haven't met this chap for ages.
A. Yeah.

310 Q. CHAI RMAN Well beyond the three months and so on, I haven't met him. It then transpired, as it happened, the next thing that happened you did meet him, purely by chance, and you reported that?

311 Q. CHA RMAN I know, you reported that. But that was your response to it. okay.
A. Judge one, I apologise.

312 Q. CHA RMAN No, no.
A. Another thing is, Garda -- I read all the de Bruir reports and Mick Finn reports and everything, it has in every one of them that Garda Lyons received this 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. 313 Q. CHA RMAN 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 understand Ó Cualáin or the assistant commissioner to be saying what he said, I am difficulty with that one.
A. Yeah.

314 Q. CHA RMAN Mr. McGuinness is saying to you, look, they 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?
A. Approached a number of times.

315 Q. CHA RMAK Approached a number of times. whatever the
nature of the approach or the nature of the request, it didn't result in a statement from Mr. McHugh?
A. Yeah.

316 Q. CHA RMAN okay. So that's the factual situation at least we have there.
A. Yeah.

CHA RMAR You want to ask some more questions about that, Mr. McGuinness?

MR. MEGU NESS: Yes, I will be wrapping up that issue.
CHA RMAN Thanks very much. Very good. Thank you very much. We will leave it there until whatever it is, two o'clock. Thanks very much.

THE HEARI NG THEN AD OURNED FOR LUNCH AND RESUMED, AS FOLLOVG:

CHA RMAN Thank you very much.
317 Q. MR. MEGU NESS: Good afternoon, Garda Keogh. Just on the last point we were discussing, I won't go back over it but a failure to take a statement as such. You
probably will have seen that Inspector Minnock confirmed in his statement to the Tribunal, page 688, that:
"I bel i eve Garda Keogh was correct in stating that no
i nvesti gation took pl ace in rel ation to the alleged theft of moni es."
A. Mm-hmm, yes.

318 Q. I think that was a point you were anxious to make and you did make in different submissions that were put in, isn't that right?
A. 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 one. And there's no attempt made at a11, whatsoever, to identity who the other two members of An Garda Síochána were, because that's their allegation.
319 Q. On the other side of the coin, Chief Superintendent Curran said at page 1790 of the papers, you don't need to open it, but he said this:
"Given the serious nat ure of the inf ormation cont ai ned within the report, it was necessary and incumbent on me to cause enqui ries to be carried out in respect of the matter. I reject Garda Keogh's assertion this was an attempt to target himor di scredit him The absence of additional detail that was required in this instance in the formof a statement from Li am MLHugh to cause further investigative steps to be taken was negated by Mr. MEHugh's lack of engagement in this matter despite a request for same."

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 guards, to get
a statement from Garda Lyons, to set up an investigation team, perhaps?
A. That would be the obvious thing to do. They seem to just go down whether I would have got him to do that. Totally ignore -- they really do initially ignore the thing with the theft. And then, when I am interviewed by Superintendent McBrien in relation to it, I don't just say this is not true. I can't remember what way I worded it but I leave Superintendent McBrien, to my recollection, in no doubt that I was being set up here. 14:03
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 actually at that time and for months and months after 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 that report.

321 Q. But you suspected there was somebody behind it?
A. oh, of course.
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 targeting and discrediting?
A. Yeah.

323 Q. You're standing over that?
A. This is targeting as far as I'm concerned. They were certainly negligent as to whether the possibility. The fact this was Garda A's partner that authored this report and the fact that they don't go into the criminality, go after the alleged criminality. It's just whether I got Mr. McHugh to report whatever or that. So I definitely would stand by targeting on this one.

I mean, the point you were making before lunch, I mean it's obviously of importance to your case, that while we are looking at them separately, they do need to be taken together. You know, each different limbs of your case, but together they shouldn't be disarticulated, they form a whole body of --
A. I agree.
Q. That was the point you want to make?
A. Yes, certainly with Olivia O'Neill and Liam McHugh, they themselves rolled this into the one kind of -they're on the same documents, they are interviewed at the same time about both of these incidents, yeah.
Q. Your solicitor put it at one stage in correspondence, referring to the procrustean bed, that these things shouldn't be separated limb from limb; they should be looked at together. That's an important part of your view of how you were treated?

CHA RMAN You're a procrustean bed man, are you? I had to look it up myself the first time and then I was annoyed that I had to look it up.
A. Judge, they are certainly not my words.
Q. Yes. You may have seen Mr. de Bruir in his report on this allegation actually taking a sort of similar view, that it was appropriate to look at all of these issues interlinked, because looking at it from the response of 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 might be some interlinking pattern, but he concluded 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.
Q. I know, you said that already.
A. Look, I think is there -- correct me if I'm wrong, I'm not a legal expert, but I think former Minister Shatter 14:07 I think took a High Court case in a similar situation, I think they were the grounds that he -- the Guerin Report or some of them, that he should have been interviewed in relation to that. Am I right?
CHA RMAN We are pretty familiar with the case. WTNESS: Right.

CHA RMAK It came before the Court of Appeal.
331 Q. MR. MEGUNESS: The Chairman presided I think in that? CHA RMAN So we are pretty familiar with that.
MR. MEGI NNESS: 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? CHA RMAN which ones now are you talking about? MR. MEGU NESS: The enquiry made of...
A. I'm sorry.

333 Q. Was the enquiry made of you done to target and discredit you?
A. On this one?

334 Q. Yeah.
A. On this one, I believe so. I have no doubt whatsoever. The way it was done, where it's done by reports, not statements. There's an allegation of criminality and they deal with it just subtly with reports internally,
no statements.
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?
A. Unfortunately, Judge, that person, like that person obviously was a friend of mine. As I said, I thought it was -- I would have bet my house on it, there was someone else that made that report, but... Yeah. We11, I mean, I think in fairness I should ask you, have you any evidence to suggest that that member maliciously invented that?
A. I believe, but evidence, I mean, no statements in relation to it.

337 Q. I think I was going to pass on from that issue then and go on to the next issue. Before I do, I think one of the points you were making earlier, as I understand it, the effect of these on you at that time, would you like to describe that? I mean, they did all come in a sequence, albeit, I will acknowledge, the first two related to actions of yours, the third one related to a 14:10 civilian and the fourth one a report that you just related. But in the state of mind you were in at the 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
to -- so it was an extremely difficult time until I actually got to meet Detective Superintendent Mulcahy and actually just hand everything over to him. It was off my back kind of then, they were able to deal with it.

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

339 Q. In creating the Pulse entry, did you see these other subsequent events as a sort of a strike back?
A. In fairness, in the Olivia O'Neill matter, I think I have explained, that was kind of just a Chinese whisper thing. I think they sort of -- look, on that one, it was nearly springboard into the other one, the next one. The Liam McHugh thing I absolutely always have argued was completely vindictive, it was false. They 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 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.

340 Q. CHA RMAN You draw a distinction between the two, between the Olivia O'Neill and the Liam McHugh, if I understand it. You say the authorities lumped them together?
A. Yes.
Q.
A. Yes.

344 Q. CHA RMAN But you say there's no room for misunderstanding in the Liam McHugh case?
A. Yes.

345 Q. CHA RMAN 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 on distinction you make?
A. Yes.

346 Q. CHA RMAN The second point is, you say that the guard wrongly, let's just use as neutral a term as possible, mixed the two up together, brought the two together as that?
A. Yes, they do. The reports that are in the documents.

347 Q. CHA RMAN Yes, I understand?
A. Are there with both their names on these reports and when I am being interviewed in the super's office, I am asked about conversations with Ms. O'Neill and the craic with Liam McHugh.
CHA RMAN Okay. But I am understanding that correctly: You draw a distinction between the two, one is much more serious than the other?
A. Yes.

CHA RMAN One is possibly a misunderstanding, or there's room for a misunderstanding, and there is no doubt, you say, in number four. And also, that it's wrong to mix the two up together, because that sort of militates against you, makes it more difficult for you, is that right?
A. Judge, they both arrived, you see, in the same week.
Q. CHA RMAN I understand. So there is a time connection between them as well?
A. Also, yes, Judge.

CHA RMAN okay.
351 Q.
MR. MEGU NNESS: Can I ask you before we move on to the next episode: Had you developed a great suspicion of management then by this time now that we are talking about, September/October?
A. Yes. Yeah. Judge, I came out on the 8th May, I made my disclosure on 8th May 2014. So, on the 9th May 2014, the Commissioner made a statement, dissent is not disloyalty, whistleblowers will be supported. Now, like anyone else, I would always give the benefit, say fair enough and that, you know. I was Nóirín
o'Sullivan's first, let's say, whistleblower. All this stuff came within that timeframe, within that first month when she was in charge. You know, it all appeared to be emanating from the chief's office in mullingar. I would accept, fair enough, there's certain things he has to -- he has obligations, like this is Chief Superintendent Curran, would have obligations to do some things. But, you know, it starts to roll on fairly heavy. By the time we get to the Liam McHugh matter, I think as well where I say this is absolutely false, just nobody even looks at the possibility that this could have been made as a vindictive sort of complaint to discredit me in relation to what's being investigated by Assistant Commissioner ó Cualáin.
were your directly in line supervisors, the sergeants and inspector and Superintendent McBrien in particular, were they not in fact solicitous towards your support?
A. Yeah, I'm not saying anything about them, like you know.

353 Q. I mean, it is a fact that you haven't made a complaint, as it were, at any stage that you were unsupported or that you didn't get assistance from the force as a whole. You developed a very good relationship with your employment assistance man. It changed from one guard to another in that, isn't that right?
A. Yes.

354 Q. That has been of no doubt of great help to you over the years?
A. Oh yes. That's one thing, definitely I would compliment the Guards on, is that particular aspect. Yeah.

Moving on to issue number 5, the issue of alleged micro supervision and the appointment of sergeants, three sergeants to supervise you. You detail in your statement that on the 26th March Superintendent Murray, who had now come in, in place of Superintendent McBrien, said he was placing Sergeant Martin over you. You say in your statement:
"This would be the third sergeant now supervising me. He gave no reason."

You say you were subjected to implied criticism to oppressive levels of supervision. That's the essence of the complaint, is it?
A. Yes. That's to do with the report. I don't actually say that the sergeants did anything wrong. Yeah. That is relating to the sick report, is that what you are talking about?
A. It's the report where they appoint a third sergeant to monitor me, my work, they want my notebook checked, my pulse incidents checked, crime files checked. I never ever had that before in the guards, ever. Perhaps we will look at that at page 187 of the book. At this stage, as we mentioned, Superintendent McBrien has moved on, and so has Chief Superintendent Curran, isn't that right?
A. Yes.
Q. Didn't Chief Superintendent wheatley come in?
A. Yes.
Q. So you had sort of new management, as it were?
A. Yeah.
A. I just can't recall. week before this, of your work related stress, is that right?
A. Oh yeah.
Q. With Superintendent Murray?
A. At the time like \(I\) was going intermittently sick. There is, of course, another massive factor in this, like I'm during this, while all this investigation is going on, I'm working in the same station a lot of the time on the same shift as Garda A.
Q. Yes.
A. That is undescribable. Garda management would have known that. They could have not known that.
Q. We will come to that.
A. Sorry.
Q. 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?
A. Yeah.
Q. They weren't live and bubbling issues, you weren't being pursued by management over them from October to this time in April?
A. No. I think each of them ran I think a couple of months and then they died off or they either went into the Ó Cualáin investigation or whatever way, they did, yeah, they seemed to -- those ones seemed to -- they were, yeah.
Q. Yeah. Then you have the new personnel coming in. Here it says:
"I have allocated Sergeant Martin as a liai son person for Garda Keogh to allow hi mdi scuss any work rel ated issues he may having with a view to sol ving any issues that might arise. Both Sergeant Martin and Garda Keogh 14:22 have been informed of this workpl ace support.
2. Sergeant Mbyl an and in his absence Sergeant Har an supervi sed unit C, to whi ch Garda Keogh is attached. Both of these sergeants will continue to supervise the menber in the normal way in rel ati on to any work out put required of the mentor resulting fromincidents he attends or matters he's i nvesti gating. Sergeant Mbyl an should sit down with Garda Keogh to go through his notebook posts and crime file lists and ascertain if he 14:22 requi res hel \(p\) with any ongoing cases. As he mentioned, an harassment case may be in difficulty. Any issues arising should be i meedi atel y reported."
A. Just for clarification, I never said I was in
difficulty with the harassment case, with that case. I 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.
Obviously, you see, a bit like badger baiting, they changed the dogs, they put in fresh dogs.

370 Q. We11, who is they again?
A. Garda management.

371 Q. Well, who precisely now? We have to be clear about this?
A. Right. We11, I mean the persons at the top are the people that \(I\) hold responsible. Nóirín O'Sullivan is the Commissioner, and ultimately she is the person in charge of An Garda Síochána at the time and this is all going on. There's a change, a total change, everything changes after Superintendent Murray writes that. Like it was difficult enough to work, working alongside a guard that you have accused of what you have accused them of, but when Superintendent Murray arrives, things become much, much more difficult, just even going into work and that. Now like, again, I do turn to drink, I was drinking very heavily. I go into binges. I go sick quite a lot. The investigation, of course, is ongoing in the background. I am determined at the time and also I am suspicious with what's going on in the investigation as well. So I know I have to try and stay in work as long as possible to try and prevent any -- make sure any evidence that I get goes towards Detective Superintendent Mulcahy and it doesn't go missing or anything like that. So it's a difficult time.

372 Q. You referred there to Superintendent Murray, he seems to be a new broom and different broom. But he seems to 14:25 have been very vigorous in introducing or trying to introduce higher standards, greater visible accountability. His statement, you will have seen his statement in which he sets out in great detail how he
was intending to and did deal with his divisional responsibilities, district responsibilities?
A. But sure if \(I\) was to write a statement about myself, I'd put in that \(I\) am a great fella as well.
Well, it's really about the responsibilities that fell upon him and which he was trying undertake when he became superintendent?
A. Superintendent McBrien had all those, you know. It was a very difficult time there because there was numerous investigations going on in Athlone separate to this, this craic. There was other things as well going on. We11, I mean, it's no fault, but Superintendent McBrien had been out for some period towards the end of that year and then was moving on at this point in time. But Superintendent Murray took a note or kept notes throughout his tenure?
A. I have read a lot of them, a lot of those notes are not accurate.

Okay. Well, perhaps we will look at his note of the meeting that he had with you on 26th March 2015. It's at page 2187. The context for this is set out in his statement at page 4042, where he had a prior discussion with Sergeant Haran, who thought that he wasn't being supported enough in a particular role and he wanted to move on from supporting you and felt that it would be appropriate to assign a new sergeant for that purpose. In that context, he met you for the first time on the 26th March, isn't that correct?
A. That's correct.
"We are reticent to di scuss the ongoing investigation and his part. He expl ai ned that he was anxi ous re his in and out sick days since he came. Told himit wasn't satisfact ory re work, organi sation, his colleagues etc."

Do you agree with that?
A. Yeah, that part. Yeah.

377 Q. He goes on, reporting you saying:
"He said he di dn't like to be here when certain people were here."

Is that correct?
A. That would be me saying.
Q. Yes.
A. Yeah, yeah.
Q. And you didn't identify who that was as such?
A. Not at that stage, I do at another point in time, where he rings me to do with an incident that we will be getting to. Yeah.
"He said he went sick last Sunday evening after a certai \(n\) member who was of \(f\) came into the station. I asked who and he woul dn't say."

Is that right?
A. That's probably correct.

381 Q.
"I told himanyone working here can come in at any time and nothing can be done about that. I di scussed work rel ated issues in terms of coming to work today, if work rel ated stress was the issue. He said he had certs fromhis doctor. I asked himif he had been to the...he said no and...to assess his stress because the ins and outs appearances do not...support what he is sayi ng. "
A. That's incorrect. Sorry, excuse me.

382 Q. Go ahead.
A. He said to me the first day, and he said it twice, you're under no stress.
383 Q. A11 right. It goes on then:
"He declined answering questions re poi nts he was making and instead asked me to cont act the D Super Mul cahy and Superintendent McBrien. I said I won't contact anyone for anecdotal information but will ask hi \(m\) it was up to hi \(m\) whether to answer or not."
A. I'm sorry, I can't hear you.

384 Q. I am sorry, I beg your pardon.
A. Yeah.

385 Q. I am just reading the paragraph there in the middle. Do you see that:
"He declined answering questions re points he was making and instead asked me to contact the D Superintendent Mul cahy and Superintendent McBrien, I said I won't contact anyone for anecdotal information but would ask him it was up to hi \(m\) whether to answer or not. I asked himif he was doing any work. He sai d, what do you mean? I sai d, you're getting wages, are you doi ng garda work, enf or cement, investigations, community engagement etc? He said he was doi ng very little."

Is that right?
A. I mean...

386 Q.
"I said l coul dn't condone that and then asked him what was he doing, was he following up on inci dents bei ng reported to him He mentioned an assault harassment case he said he had been negl ecting. He agreed that wasn't fair to the victim"
A. Yeah, that's absolutely false, absolutely false. 387 Q.
"I asked if there was a sergeant available for himto I ink into. He di dn't really answer. I said I was asking Sergeant Yvonne Martin to link in with himin
rel ation to all workplace rel ated issues. He asked why her as he di dn't know her. I said for that very reason, that she was new here, likel am she would be a support himto allow hi mattend work regularly. I
advi sed he di scuss the shortfalls in the assault case, harassment case with her, she would put some
(I naudi ble) in place to ensure thoroughness in the i nvesti gation. He agreed to same and to use her."

Is that right?
A. From my recollection -- look, from my recollection, he just said he was putting Sergeant Martin there and that was it. I don't think there was any -- I just have to look at my -- if you can just give me one second, please.

388 Q. of course?
A. Yeah.

389 Q. Do you think there was no discussion about your role or her role with you, is that what you are...
A. Look, is it okay if I read out what I wrote down.
Q. Yes, do that.
A. Okay. "5pmi this is the 26th March.
" 5 pm met new Superintendent Pat Murray. Conversation re sick/stress. Told to do with the investigation. He asked me about I egal advi ce and I said l coul dn't -who is my solicitor and I said I couldn't di scuss that with him He said he' m have to send me to the CMD."
which is the chief medical officer.
"And that he was appointing Sergeant Yvonne Martin to liaise with me. He asked me who my solicitor was. I
tol d himthat's private. He then sai d there's a probl em with your car tax, it's commercial, you're using it private. I told himl paid it the same way over the last few years and wasn't the onl \(y\) one in the station. He then made a comment..."

Now, I misheard him on this. I took it up that he had been personally down to the motor tax office looking for declarations. I presume what he meant to say is, I had been on to the tax office looking for declarations or something. Yeah.
391 Q. Yes. The discussion goes into his travel claims and the car tax and he details then in his note. But at the bottom, towards the bottom of 2188 , he says:
"I went over three issues I brought himup to di scuss agai \(n\).
1. His ad hoc appearances at work and referral to CMD as I was skeptical re his excuse and felt the CMD could 14:33 put supports in place for him
2. Sergeant Martin to be his contact re work issues to support his renewed attendance at work.
3. The connection of his car tax and payment of his cl ai m a and I would deal with himmself re regul ation 10. "

Do you agree with those?
A. No, I don't. Three of two of those are correct. The middle one, 2 is correct. Can we go back up to the middle one, please.
392 Q. Yes.
A. On the first matter he says "as l was sceptical re his excuse". My excuse was work related stress. I have already said he said to me twice in that meeting, you're under no stress. Onto number 3 , if we can just go to number 3. Yeah,
"Correction of his car tax, the amount of his clains and I would deal with hi munder regul ation 10".

He brought up the issue of car tax, that's correct. He 14:34 said there's an issue with your car tax, go and get it sorted. He never once mentioned to me anything about discipline. The first time -- again, as I said, with anyone else, I'd be fair with them and all the rest. I shook hands with him when I went in to meet him at the start of that meeting and we left the room at that meeting I also shook hands with him going out the door. Then, of course, there's the next meeting I'm sure we will be getting onto.
393 Q. Yes.
A. So two out of those three I would say are false.

394 Q. We11, the paragraph we are looking at on the screen there, "He tried to say ot her members had issues with cars", did you raise that?
A. I did, yes. I did.

395 Q.
"I told himnot to worry, I was going to have everything checked. "

I think he did that?
A. It wasn't done in the same way that I --

396 Q. Not to your satisfaction?
A. Sorry, everyone else gets an amnesty for two months in relation to have their cars in order, I don't.
397 Q. okay. He then records you as saying:
"He withdrew his allegations, then saying he didn't want to as people would know about his tax and bl ame them I said I would make a deci si on, take his vi ews on board but l would treat everyone the same and fairly. We shook hands and he left."
A. That part is correct.

398 Q. Okay. We11, he did report up to the chief super on the 14:35 2nd April, following your meeting. That's the day of the allocation of the sergeants. His report to the chief superintendent is at page 2191. He refers to what he has recorded as the points of his discussion there. At the top of the next page, 2192, he refers to 14:36 your sick record and says:
"The menber has a total of 184 sick days in the last four years. 48 of those occurred si nce J anuary 2014,
and \(52 \%\) in early tours of duty. The member has had 34 days annual leave from 1st March 2014 to 31st March 2015, with \(92 \%\) of leave taken on early tours al one."

You've referred yourself to your drinking at one stage?
A. Yes.

399 Q. Presumably that was a factor of some degree --
A. Oh yeah, yes.

400 Q. -- in your attendance I suppose?
A. Yes.

401 Q. Maybe contributing to how you were feeling about everything?
A. Yes, that's correct, yeah.

402 Q. But the instruction, as it were, to the sergeants, in practical terms what did that give rise to, the micro supervision?
A. In fairness, the sergeants, they were okay. The three sergeants that were allocated to me didn't change. There was no difference as to the way they were treating me prior to that or anything. So there was no 14:37 -- if you look at the instructions, read the instructions at the bottom of that report, you will see, check his notebook, check his pulse entries, check everything. He can't obviously word it in a way where you have to find any mistake that this guy makes so we can hammer him. So he words it in a way, you know, see if he needs help or something like that. But that's -you know, why would a person say check all his pulse entries, files, his notebooks, you know, everything
like that. He is looking for microscopic management to try and find something.
403 Q. Yes.
A. In fairness, the sergeants don't, from recollection they never checked my notebook or anything like that, from recollection.
404 Q. Chief Superintendent Murray says in his statement to the Tribunal that Sergeant Moylan was your unit sergeant initially, but he was away frequently due to his role in the AGSI?
A. Yes.

405 Q. And that Sergeant Haran provided cover for Sergeant Moylan when he was away. He didn't change anything in relation to that, isn't that right?
A. oh yeah.

406 Q. He is responding here to your complaint and he says:
"What he says as criticism l would say is gui dance and advice. I fell he is completely exaggerating this situation. I outline in my statement, page 4, howl.
...a form of support for Garda Keogh. I think it's an exaggeration for himto say he had three sergeants supervising him To put it into context, the supervising situation that applied was in place before my arrival. Sergeant Mbylan and Sergeant Haran
provi ded support to Garda Keogh, as I have set out at page 5. I indi cated how Sergeant Haran and I di scussed supports for Garda Keogh. "

He refers to the assignment of Sergeant Martin, to which you didn't have any objection. But you wrote negatively, he points out that you wrote negatively about Sergeant Martin to the Minister for Justice in 2017, arising out of some suspicion.
A. That's correct. In hindsight I should not have -there was an incident to do with what was dealt with in the previous module of the Tribunal, where Sergeant Martin was -- there was an allegation there and I understand she was totally vindicated in that. I perhaps jumped -- I did jump the gun on that and I shouldn't have. But at the time it was handed around and I mean, look, I wasn't to know any different.
407 Q. Yes. No, I understand that, I understand that completely. But just factually on the ground, it led to you not interacting really with Sergeant Martin at a11?
A. In fairness to her, she didn't bother me kind of.

408 Q. okay.
A. She didn't...

409 Q. I mean, she wasn't micro managing you then?
A. No, she wasn't no. No, no. The sergeants, as I said, were okay. But Superintendent Murray was trying to get them to micromanage me.
410 Q. Sergeant Haran says in his statement to the Tribunal, at Volume 3, page 589, that he got this minute naming him as sergeant who would supervise in the absence of Sergeant Moylan and he said this wasn't unusual in his view as he would expect to be supervising the entire
unit in the absence of their primary sergeant.
A. That's correct, yeah. Just for clarification.

411 Q. Yes.
A. He was the sergeant in the community policing unit, which rested with unit \(C\), as we discussed at the very start of this. So, yeah, that's where he would -- he would have been on duty when we were on duty. So, if the regular -- Sergeant Moylan, as regular unit sergeant, wasn't around, Sergeant Haran would obviously step in there, yeah.

412 Q. At paragraph 3.15 of his statement, he says:
"In general terns I was glad to assist Garda Keogh in doing files or reports. He readily admitted it was a weakness on his part. On occasi on l had to sit with himand he would literally empty out his post box and bet ween us we would tidy it up, I put shape on his correspondence and advi sed hi mhow we might deal with some files in order to clear his desk."

Is that something you would agree with?
A. Yeah. I'm not saying I'm Einstein or anything, but I think he had a similar desk. I knew where everything was.

413 Q. Yes.
A. Paperwork would not be -- you know, look, I would have always been one of these guards that would have been mad to, let's say, cap someone or whatever, but when it came to doing the file, I was just going, oh God. But
look, on the other side of the coin, I am not too bad at gathering evidence.
414 Q. Yeah, okay. Sergeant Moylan then, in his statement to the Tribunal, at page 606 says:
"The correspondence from Superintendent Murray al so requested I sit down with Garda Keogh and go through his notebook, Pulse crime file and DPP list. I duly did go through Garda Keogh's Pul se crime file and DPP list. I do not recall going through his notebook. I 14:42 believe I was satisfied that all rel evant inci dents were recovered in rel ation to Garda Keogh. I renenber showi ng himprior to submitting, bef ore submitting same to ensure he was satisfied with the line being taken. I wish to state that I did not criticise or aggressi vel y supervi se Garda Keogh and have I no know edge of such practices."

Do you agree with that?
A. Just for clarification, I have not made an allocation of bullying and harassment against any of those three sergeants. Just for clarification.
415 Q. All right, okay. He goes on to say at page 607:
"I would regul arly question any member of the unit in respect of their work. The reality is that I was Garda Keogh's unit sergeant on and lreated himno differently than any ot her member under my supervision. I never subjected Garda Keogh to my penalisation as a
result of his making a protected di scl osure."
would you agree with that?
A. Yes.

416 Q. It would appear from the answers that you have given to me that you were quite unhappy at, I suppose, the fact of Superintendent Murray's instruction and what it conveyed to you, but that it didn't in fact affect you really, is that unfair?
A. You see --

417 Q. In practical terms?
A. In practical terms it mightn't have affected me, but I was aware of what he was up to. And also, the fact that he -- like, he did lie -- in a way lie to me the first time that he met me, when he said there was the issue with the car tax, that's fair enough, but he says, in what \(I\) have read, that he would deal with it by way of discipline. He never said that to me. It wasn't until \(I\) met him I think on the second time he said, did you get your car sorted, tax sorted and I said, yes, I did. He said, can you go and get me the documents. I remember going down, at that stage I was stil1 -- you know, I had given him -- I was still in -I was giving him the benefit of the doubt, you know. But I do remember walking down, out to the car to look for the tax disk, was it, and a couple of other -- a receipt from the thing to do with the --

418 Q. Tax?
A. Tax bracket thing.
Q. Yes.
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 taking my word, I got that thing sorted. He said, can I see them. The minute he had them, ran over to the photocopier, and that's when I knew this boy -- what he's up to.
Q.

We will come to that in a minute, because it is the 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 Minister, I think it got published in the Dáil by Deputy wallace as well, isn't that right?
A. Yeah.

421 Q. Did you complain to Deputy wallace about the car tax?
A. I am sure I did.

422 Q. Assistant Commissioner Finn concluded there was no evidence to suggest that the instruction or what happened to you resulted in bullying and harassment?
A. Yeah, even if -- this goes into Assistant Commissioner Finn's investigation, it's crystal clear I made no allegations against any of those three sergeants.
423 Q. Yes.
A. What Assistant Commissioner Finn does is an investigation, he pulls it all apart and blurs it, you 14:46 know, and then it's kind of like \(I\) have made the allegation against these three sergeants, which I didn't do. It was clearly Superintendent Murray I was pointing the finger at, not the three sergeants.

424 Q. Obviously when Mr. de Bruir was asked for his view and your solicitor made submissions to him, he took into account I think the fact that Superintendent McBrien had given Superintendent Murray her notes, he took into account the sick record and he expressed the view that it appeared to him to be a proper use of authority to put supports of these sergeants in place and that it didn't appear to him that there was bullying or harassment involved in that?
A. If he was genuine about that, that would have been okay. But he wasn't. If you look at the way that letter was carefully constructed, go through his notebook, go through his crime files, what he is looking for there is any sort of little Mickey Mouse thing that he can -- we will see that as we go on, the pattern where he starts sending out -- every possible piece of paper that \(I\) send up comes back down with questions all over it. I am sorry, I'm skipping, but yeah.
425 Q. It's okay. Right. So is it fair to say that you regard this as not improper on its face but because it 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 stil1 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 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 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'11 be grand. My problem was I had to stay in Ath1one. 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 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 convenient time to take a short break.
CHA RMAK 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.
A. Yes.
Q. CHAN RMAN A question I was wondering about was, did the sergeants micromanage you?
A. No.

CHA RMAN That allegation, to use as neutral a term, 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?
A. Yes.

429 Q. CHA RMAN That's the complaint you make. That 's in a 14:51 nutshe11?
A. Correct.

430 Q. CHA RMAN In fact, that's the complaint you make?
A. Judge, the thing with the sergeants, I think this is part, another part of the problem.

431 Q. CHA RMAK Take your time.
A. The Finn investigation.

432 Q. CHA RMAN We will get to the Finn investigation in due course?
A. Right.

433 Q. CHA RMAN 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
complaints about that. But I have that right; it's the order that was given and notwithstanding the words used, the true meaning you say was --
A. Yes.

CHAN RMAN Okay. Thank you very much.
MR. MEGU NESS: One question and then perhaps a break.
434 Q. I should have suggested, Sergeant Minnock, in a statement at page 695 rejected your proposition that you were subject to supervision by three sergeants or that it was in any way extraordinary. You don't disagree with that?
435 Q. CHAN RMN You agree with that, you say nothing changed. You have no complaint about the three sergeants. Nothing changed from what had gone before?
A. The three sergeants didn't do anything.

436 Q. CHA RMAN okay.
A. Like I never made any allegation. Yet in reading certain stuff, it's like I did make it.
437 Q. CHAN RMN That's okay.
A. It's not me that brought them into this.

MR. MEGU NESS: That's all.
CHAI RMAN Thanks very much. So we can reduce that issue to one question.
WTNESS: Yes.
CHA RMAN Okay, thank you very much. I mean, subject \({ }_{14: 53}\) to what anybody else says, you know what I mean, but for the moment we can do that. So, what do you think, Mr. Kelly, about 10 minutes?
MR. KELLY: Yes, I would have thought that is about
right.
CHA RMAN Okay, very we11. A11 right. Very good. Thank you very much.

\section*{THE HEARI NG AD ORNED BRI EFLY AND RESUMED, AS FOLLOVG:}

CHA RMAN Thanks very much. Off we go again. Just while you are settling in, \(I\) just want to say something about documents when they are put up on the screen, photographing those documents or scanning them is not permitted. That is prohibited, not allowed, verboten. So all present please note. Thank you very much. Yes, Mr. McGuinness.

438 Q. MR. MEGU NNESS: Garda Keogh, I am going to move on to issue number 6 , which you may recall is the disciplinary investigation in relation to the motor tax on your vehicle?
A. Yes.

439 Q. You deal with this in your statement at page 126. You draw attention to the Pulse enquiries that originally had been made the previous September from different sources. One entitled "caller to office", "caller to superintendent office" and then "caller". But just to start with the facts, you had a jeep, isn't that correct?
A. Yes.

440 Q. A land rover?
A. A free Lander, two seats.

441 Q. Two seats. You had, according to one of your other
earlier explanations, been taxing it at a commercial rate?
A. Yes.

442 Q. I know nothing about these matters, but what would entitle you to do that?
A. Just to clarify, the vehicle I had prior to that was the very same, two seats, and I had that one taxed commercially. It's a commercial vehicle. Now, look, when I would have bought -- we're talking about the second one, so when would I have bought that, I would have just renewed the tax on it.

443 Q. Yes.
A. Already, whoever had it before me had it taxed as commercial.
444 Q. okay, so you carried on taxing it as it had been taxed? 15:10
A. Yes.

445 Q. Nobody had ever raised an issue?
A. Oh never.

446 Q. Is that right?
A. Never.

447 Q. okay.
A. To clarify, when I became, let's say, made a disclosure or, if you want to call it, a whistleblower, I put new wheels onto the car and everything, because knowing policing, it would be police tactic to go into -- a car 15:10 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 an issue.

448 Q. Okay. I think, you've probably seen that it was Superintendent McBrien who first looked at the issue of your car tax or had it looked at?
A. Yes.

449 Q. 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 Ath1one. Did you see that in her statement?
A. I did, ye.

450 Q. He said something to the effect "you shoul d consi der havi ng a look at Ni ck Keogh's car tax". She asked was there something of concern and he replied "No, but it might be worth having a look at the time". She said she didn't receive any report from Detective
Superintendent Mulcahy, but it seems to have got entangled up in the issue of an audit of members' travelling expenses and what cars they were using for travelling expenses as well. Would you accept that?
A. I'm not sure, I'm not sure if I can accept it because 15:12 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 15:12 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 they went to is one matter. Again, I --
Q. Sorry, can I just stop you there?
A. Yeah.
Q. Are you talking about the claims for your visit to meet Deputy Flanagan and the confidential reporter?
A. It could be.
batch and I wrote "resubmissi on". They're the ones ultimately I got paid for.
455 Q. Yes. Now we will come to that.
A. okay.

456 Q. In terms of people going after you, I just want to see 15:14 whether you agree that the sequence described by Superintendent McBrien is correct, because what she goes on to say on page 842 , a little further down, she talks about attending a training seminar and then a few lines in, she says:
"I recall Detective Superintendent Mul cahy's comments about Garda Keogh' s car tax. I consi dered incl uding subsi stence and travel cl ai ms and all associ ated issues in my forthcoming audit in line with the training l had 15:15 recei ved. In the following days I di scussed this matter with my finance of ficer, Mb. Cathriona Quirk and requested that she prepare a sample list of nembers who had cl ai med travel and subsi stence cl ai n in i the preceding months. This was to incl ude Garda Keogh. She provided me with a list of menbers. As far as l can recall this was di scussed with ME. Quirk and Garda Gerry Wite, my di strict clerk."

If I can just pause there. He's one of the persons who 15:15 checked your car on Pulse at that time?
A. Yes.

457 Q. Isn't that right? We have a statement from him.
"I requested the vehi cles of the menbers' listed were checked. It was during this process l became aware there was an issue with the type of tax on Garda Keogh' s car. A copy of the checks of these members by re is contai ned in DC document N MLB 7."

She has provided those. She goes on to say on the next page then, page 843 of her statement, that:
"During these checks it was identified that there was an issue with Garda Keogh's cl ass of car tax. I advi sed that Garda Keogh' s outstanding clai ms be withhel d until I investigated the matter."

She describes then in the next paragraph, as it were, the handover where she left Superintendent Murray before she was leaving the district. She goes on in the next paragraph then to say:
"There was no management conspi racy to ref use Garda
Keogh his claims. He informed me on 16th July 2014 that he had yet to submit some clains so therefore he had not had his clai ns submitted by that date. Al so l had paid his clai m\$ for May 2014."

That related to the ones for Deputy Flanagan and the confidential reporter, isn't that right?
"I di scovered that his road tax was not in order on 1st

October 2014 and di rected that hi s outstanding payments be withhel d until I i nvestigated the matter.

Outstanding cl ains for Garda Keogh could not be pai d while his car tax was out of order. I do not recall what happened to these cl ai ns. However, I took ill on 15:17 3rd October..."

And she goes on then to give that detail. Now, it's correct, I think, to say that the issue of car tax had not been raised with you by I think anyone at that time, isn't that right?
A. That's correct.

458 Q. She saw you on the 4th February, according to her statement and her notes. She said that you weren't engaging with welfare services. She said that Sergeant 15:18 Haran told her that you were back on the drink and talking about dark forces. This is in her statement to the Tribunal investigators, page 6244 and 6245. You were aware at that stage that she had checked your car in February, isn't that right?
A. That's correct. I don't need to be on the drink to talk about dark forces.
459 Q. I didn't so suggest. But you have noted in your diary car checks, Pulse checks on your car, isn't that right?
A. Yes.

460 Q. So she authorised that at that stage, do you accept that?
A. Sorry? Just...

461 Q. Superintendent McBrien, having earlier checked it in

September and ascertaining your car tax situation, checked your car again on Pulse in the period we're talking about, early February?
A. Yeah. I think she checks it, isn't it -- sorry, she checks it I think the day after Gerry white checks it, I think. She says in her statement that you asked her why she checked your car and she said she told you and that she decided not to bring up the car tax issue with you in the light of the condition she thought you might be in?
A. Yeah, yeah.

463 Q. Do you accept what she says?
A. Yeah, yes.

464 Q. So she was leaving and had handed over the issue to Superintendent murray. She had said she would brief him on it, she did so, isn't that right?
A. Obviously, yeah.

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?
A. I understand that.

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 that correct? Do you remember looking at that note?
A. Em.

467 Q. It's at page 2187, Volume 8.
A. Yeah. Oh yes.

468 Q. You may recall it's the note where Superintendent

Murray has recorded that he summarised it and the three claims being the CMO, the sergeants and the car tax?
A. Yes.

469 Q. And the Regulation 10?
A. Which I disputed, the Regulation 10.

470 Q. I understand that?
A. Yes.
Q. He describes it in his statement as, you know, offering you a solution to this issue, wrapping it all up, putting it behind you essentially and you agreed with that, paying the car tax, the arrears?
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.
472 Q. okay. So that's a point of dispute obviously?
A. Yes.
Q. In any event, in fact, you went off the next day and got the disk on the 27th March, isn't that correct?
A. Yes.

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?
A. Yes.
Q. That's at Volume 31,8766 . That's the charge there. If you go down the page, you say, he says he's dealing with it by way of a caution. You produce to him all the documents requisite for it, isn't that right?
A. Yes.
Q. We know he took photocopies of them and he sent them on
to the chief super. But it's signed by him and if we scroll down further, that's your signature there?
A. Yeah.

477 Q. Deputy wallace raised this issue, apparently, on the 1st, in the Dáil. Had you seen Deputy wallace and complained about the back tax and the issue?
A. I'm sure I would have, I am sure I would have, yeah.

478 Q. Did he ask you have you ever been disciplined before?
A. I think he may have, I think so.
what were your entitlements at that point in time, if you were being confronted with a notice that you had no notice of, if I can put it that way? Would you be entitled to say, no, I'm not agreeing to this informal resolution?
A. You see, I hadn't been disciplined before, so I didn't really know much about what is entailed in discipline. But, if Superintendent Murray had told me the previous day, or on the 26th, this is a discipline matter, I mean would have perhaps been able to have time to look into it or get advice on it or whatever. But it was only when I was bringing back up the documents to him and when he ran over to the photocopier and then he said, I'm disciplining you. I think this was on -- is it on the twenty -- this is on the --
480 Q. The 26th?
A. No, no. I think we're into the second meeting when this happened.

481 Q. Yes, sorry, this is the 3rd?
A. The 3rd, correct.

482
Q. The 3rd April, at this stage?
A. You know, he said, I'm going to discipline you now with a section -- just my note is:
"Met Superintendent Murray re tax. Showed himtax di sk 15:25 and recei pt. He then gave me Section 10 di sci pline for same. I said l wrote a report months ago re this, asking was there a problemand poi nted out it should have been deal \(t\) with then. He asked me agai \(n\) about transferring. "

In relation to the tax, look, to go back in time, I would never have signed that Regulation 10 , I would have contested it
483 Q. Okay. The note that Superintendent Murray has of the meeting, it's on one page, 2194. It seems to give a picture of a slightly longer meeting than simply the presentation of the documents. It says:
"Garda Keogh approached me as I left the station to show me his corrected car tax, ret urned to of fice, presented recei pts of new tax. I copi ed same. Gave hi m Regul at i on 10 and compl et ed same. "

I am sorry, I am perhaps reading too fast. Just to protest one way or the other, even though you are taken by surprise. I am not criticising you, I am just trying to establish...
A. Well, it's just the note was read out there, which I had forgot en about. Like I do say I wrote a report months ago in relation to, it was to do with the sub claims and what's their problem with the sub claims. Like if there was, as I stated, if I thought there was an issue with the tax, I would have dealt with it months ago. I didn't even think of the tax, because it was a two seat thing, it can't be NCTed, I have to bring it into the commercial -- yeah, the DOE centre to have it taxed.

484 Q. You talking about a letter that you wrote to Ms. Crowe, Cathriona Crowe, is it?
A. Quirk.

485 Q. Quirk. I beg your pardon, Quirk.
A. I think so, yes.

486 Q. But Superintendent McBrien had drawn your attention to the tax issue, that this was the problem, had she not?
A. I just don't recal1 that part. I don't recal1. I don't think so, because \(I\) would have got it. If there was a problem with the tax, with everything that was going on, I am damn sure \(I\) would have gone in and sorted the tax out, if there was a problem with it.

487 Q. I thought I had read out the portion there of her statement. Just bear with me. At page 843 , she said she:
"... advi sed that Garda Keogh' s outstanding cl ai ms be withhel d until l investigated this matter."

Then on a page that I did I think quote to you, 6244:
"Sergeant Haran told her that NK was back on the drink. NK was tal king about dark forces. NK asked why she checked his car and she tol d him"

Do you recollect Superintendent McBrien ever telling you an issue about the car tax?
A. Yeah, but not the car tax, sub claims or some -- an audit I think is what she said, something to do with an 15:30 audit and that I wasn't the only one, there was a couple of others checked as wel1.
488 Q. Okay. But in any event, going back to the note that we had been looking at there, 2194, Superintendent Murray notes that the completion of the Regulation 10 in the third line and then he says:
"He compl ai ned about del ay in investi gation of whi stlebl owers issue."

Do you recollect doing that?
A. I don't remember that.

489 Q.
"Told himhe or l had no control of this and he should look to find within himelf to....spark of enjoyment and intrinsic val ue he said he got fromthe Garda Sí ochána bef ore coming to Athl one. I put conditions in pl ace locally as far as l could to allow that happen. He said he had to conti nue going si ck for the next
month or so and would let me know what he was doing then. "

Do you recollect that discussion?
A. You see, parts of it, with Superintendent Murray's notes, parts of it are true and there's other parts are just not. So I have difficulty with some of this stuff.
Is that part inaccurate, do you think? A discussion about reigniting your career, finding yourself back the 15:31 way you used to feel about the guards, a discussion about you going sick, you said you would go sick for the next month?
A. I just don't recall that part. That could have been said but I just don't recall it and I haven't a note of it.

491 Q. "I offered hel pif he wanted to make a fresh start anywhere el se. "
A. Well, that would be getting me out of Athlone, of course, the transfer. So that would be --
492 Q. That would be a choice for you to apply, if you wanted to, would you not think?
A. Like I couldn't leave Athlone.

493 Q. Pardon?
A. I couldn't leave Athlone at the time, as I said. Unfortunately it was the other, the main investigation that was going on and unfortunately I had to --
basically I was later to go and report to GSOC that I believe --
494 Q. I'm sorry, you dropped your voice?
A. Sorry. I was later to go to GSOC and report that there was a cover up, that's in 2015, I reported to GSOC that 15:32 effectively these are trying to cover this up. And again, it wasn't everyone on the investigation team, it was specifically officers at the top.
495 Q. Okay.
A. Yeah.

496 Q. The notes go on to say:
"Garda Keogh said he was feeling well at present and was in to work until 3am l asked himin future to report properly and let me know how long he would be out so l could plan resources."

Do you recall that?
A. I think that rings a bell all right, yeah.

497 Q.
"He agreed to that."

Is that right?
A. Yes.

498 Q.
"Tol d himl've referred himto CMD and advi sed himof GOHS advice re confidentiality and his medi cal records and reason for referral etc."
A. Again, my recollection is kind of knot that way, it wasn't, I think it was more him sending me to the CMO.
Q. okay.
"Advi sed hi mof supports 1 put in place here re Sergeant Martin."

Did you go back to that?
A. Yeah. Again, it wasn't like that. Again it was, I'm putting Sergeant Martin -- appointing Sergeant Martin to monitor, yeah.

500 Q.
"Advi sed hi mof Sergeants Mbyl an and Har an to supervi se his work and to di scuss case difficulties with them"
A. I just don't dispute that.

501
Q. okay.
A. I don't.

502 Q.
"He agreed that it's within hi nself to try and reignite his val ue fromhis career and said he would try and do that."
A. No. That wouldn't be, no.

503 Q. Was there sort of similar sentiments said by you?
A. I don't think so. Because, I mean, I think as I have stated, I am under a lot of pressure of work there, but then, as I said, what's in the back of my mind or going on paralle1 to all of this is that other investigation
and what's happening with that at that time. And that's still cooking in 2015.
504 Q. okay.
"He di scussed compl eti on of MC1 and MC2 forms and advi sed re same. He thanked re."

Is that right?
A. I'm not sure about the second time. One second. That may have --
505 Q. He signed off on your travel and subsistence claims, isn't that right?
A. Yes, yes, that is right.

506 Q. They were processed?
A. Yes.
Q. I mean he came in very quickly and whatever way you might look at it, he actually dealt with these issues and brought them to finality of some sort?
A. That's correct but again, you know, he has said that he told me on the first day that he was going to discipline me, which he didn't say.

508 Q. okay.
A. It was only in the second meeting when he said, you know, did you get your car tax sorted, and I said yes and then, can I see the paperwork. That's when he ran 15:35 over to the photocopier.
509 Q. okay.

\footnotetext{
"Had said earlier he realised tax issue was left for me
}
but felt others were getting at him I put the other side of the argument to him"
A. That's possibly, possibly true.

510 Q. I mean, you don't seem to be blaming him there for it really, in the sense that he seems to be recognising that it was a legacy issue?
A. I have read the documents. I mean, unfortunately it is appears that it was Detective Superintendent Mulcahy, who was part of the investigation team, that really ignited that investigation into the tax. I think the sub forms and all that were just a smokescreen to give them an excuse kind of to go in to look at the car and that.
511 Q. Do you think Superintendent McBrien was unwittingly used for that or wittingly used?
A. I can't really -- I don't know.

512 Q. Could we go to the next page, 2195? This is the report Superintendent Murray sent up to the chief superintendent in mullingar on the 7th April. If we go 15:37 down to the bottom of the page. The first bit relates to the claims. I mean, you could just note that I suppose in passing. In the final paragraph, second line, it says:
"The clai ms were left for me when I arrived in Athlone as district officer on 9th March 2015. It was brought to my attention that Garda Keogh may not have had his car properly taxed. I made enquiries with the motor
tax office and provi ded with the docurentary evi dence i ndi cating that Garda Keogh taxed his vehicle as goods cl ass when it should have been taxed private. As a result a loss of revenue to the State of 377 resulted each year. I met Garda Keogh on 26th March 2015. He admitted taxing his vehicle in the wrong class. I gave hi \(m\) an opportunity to correct his tax and pay any arrears. He did so on the 27 th March and provi ded proof of same to me on 3rd April 2015. I then dealt with himby way of Regulation 10 di sciplinary regul ations. Copy attached and approved his clai mfor payments. The matter is now cl osed."
A. Just the figure there, 377, just from recollection, maybe I have -- I have it as two hundred and something. 15:38 Not that it's a major difference.

513 Q. Yes.
A. But I am not sure if that's...

514 Q. He didn't make any issue about any other previous years, it was just to get the current one to update or appropriately done for the current year, isn't that right?
A. Yes. Again I see it was dealt with by way of caution and not advice.
515 Q. I'm sorry?
A. The discipline, it was dealt with by way of caution, not advice.

516 Q. Not advice?
A. Yeah. .

517

A. Oh yeah. Yeah.
Q. He issued an instruction or a general letter to other members, isn't that correct?
A. Yes.

521 Q. Just to bring that up. Just bear with me, apologies. That was a letter of 22nd April 2015. That is at page 184 of the documents. This appears to be a general instruction in relation to these four different issues and it's advising members that:
"Commencing on 1st June 2015 I will have the necessary checks carried out as follows.

It says:
"All members will be asked to vol untarily present their vehi cles and Driving Li cences for inspection to their i mmedi ate supervi sors...supervisors will in the same
manner be asked to present thei r driving licence and vehi cles for inspection to thei i mmedi ate inspectors, who will certify all is correct. I will ask both inspectors to present to me. I will in turn present to di visional officer. In that way, l will be in a position to confirmmenbers' private vehicles are in order in the district."

I will just go down there then. It then links it with claims for vehicles, which I think is a requirement of the regulations as well, isn't that correct, for garda payment.
"Al members are reminded that any claims invol ving the use of a nentbers private vehicle will only be approved if the vehicle being used complies with all the road traffic legi slation in force."

I think you characterise this as discriminatory or turning a blind eye to others.
A. Well this is more, this for me is just classic targeting. Everybody else is given a two month amnesty for far more serious things than what I have been disciplined for. Like, my discipline is not that I have no tax on the car, it's just that it was in the wrong tax bracket. Like, there's people with no -according to this, he's aware, is what he says, Superintendent Murray is aware that there's people with no drivers licences, no tax at all, no NCT and no
insurance. They all get two months of an amnesty and I don't.

We11 I am not sure that he is identifying any particular number of persons who didn't have a licence or didn't have insurance or the right tax. You have yourself made a general allegation to him and it would appear that if this is related to it, he was acting on it. I mean, you didn't report any particular other members individually by reference to their cars or identities?
A. No.
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?
A. Equally should I not have got the same amnesty for the less serious thing that was dealt with as everyone else had received?
524 Q. He says that another, another guard was an individual who is dealt with, and it took sometime to conclude the 15:44 matter. Somebody was subject to a discipline.
A. That was months later. Months later.

525 Q. Well, does the issue of time matter if in fact he did follow-through on it?
A. well it does, because that guard obviously had been given the two month amnesty and didn't address it and...

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
was in and out of work and his supervising sergeant changed and it took some time to conclude the matter. You can't comment on that?
A. Well I know -- look, I know who the guard is in that. And I know it was months later that that issue took place.
A. What I am trying to say, it's not really relevant in that, that guard would have got the same amnesty as everybody else, and obviously didn't address or deal with what they should have done. My point is of course, I didn't get that opportunity.
528 Q. Now obvious7y what Superintendent Murray says there is subject to evidence and proof, if necessary, but would you be happy for an undertaking that we are looking into it?
A. Sorry?

529 Q. Would you be happy to hear our undertaking that we are looking into that obviously as part of our examination of your complaint?
A. I'm just -- sorry?
Q. About whether that guard was in fact dealt with in the same way as you?
A. I understand. But months later that guard had got the amnesty, I understand, and just didn't deal with...
531 Q. Okay. But you seem to know from the guard himself that he was disciplined, is that right?
A. Yes.

532 Q. Okay.
A. And as I said, I understand it was a good while later. 533 Q. Yes. In relation to the issue of bullying and harassment and targeting and discrediting, what aspect of it, in your view, constitutes either the bullying and harassment or the targeting?
A. The targeting -- first, when I was reading through the Tribunal documents --

534 Q. Yes?
A. -- I see that Superintendent Murray is in contact with Chief Superintendent Scanlan from the Laois-Offaly division in relation to my car tax, not through my own chief. He veers off to the chief of the Laois-Offaly division in relation to my car tax. And then of course as it transpires, I have explained the targeting, everyone else is given an amnesty with the exception of 15:47 me. They could have said look, get your car tax sorted, end of story. The way everyone else -- like, everyone else -- I should have got that as well is what I am saying. That, you know, if they were to be fair they would have just said, look, there's problems with everybody's vehicles, including mine, and will you all just get it sorted. And that would have been -- that is what I would have said would be a fair way to have dealt with it.
But I mean, Inspector Minnock was deputed to do the inquiry with Offaly County Council, but what is your certain about any contact with chief Superintendent Scan1an?
A. Yeah, that, you see I don't -- he's in contact with

Chief Superintendent Scanlan in relation to the car tax. This is back in 2015.
Q. Yes.
A. Yeah.

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.
538 Q. What document are you referring to particularly?
A. I think it's written down, if I can look for it, if you 15:48 want.

539 Q. CHA RMAN If you have a note of it somewhere.
A. I do, yeah. It's in the --
Q. CHA RMAN It's all right. Don't worry, if you have a note of it somewhere, at some stage overnight or the next day, at some point refer us to it so we can see it. Okay. Your point is not really, as I understand it, that anything particular came of it as far as the records show, but that it seemed peculiar at least that over a matter of the wrong rate of tax that the superintendent should be in contact with the chief superintendent in a different division. That is really what you are saying.
A. Yes.

541 Q. CHAI RMAN That just seems peculiar?
A. Yes.

542 Q. MR. MEGU NESS: I am sorry, just to pursue this issue of the contact between the chief superintendent and the superintendent. Have you some belief that it related to the car tax issue?
A. Just from what I read. Like I read obviously all those and I don't remember every word that's in that.
543 Q. of course.
A. But I took a note of -- it jumped off the page at me in, say, 2015.

CHA RMAN Garda Keogh thinks that it refers to the car tax issue, as best he can remember.
MR. MEGU NNESS: Yes.
CHA RMAN You are going to produce the note and it may 15:50 confirm what your memory is or it may not confirm it, but you are going to try to put your hand on it and produce it.
MR. MEGUINESS: We will leave that issue over then.
CHA RMAN Okay. I think that's the sensible thing. That seems sensible, to leave that over.

MR. MEGI NNESS: Chairman, I was going to leave issue 6 at that.
CHAI RMAN Yes, very good. Can I just ask, as we are 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.

MR. MEGI NESS: They are interlinked. They are interlinked.

CHAN RMN But they are actually separate.
MR. MEGU NESS: They are.
CHA RMAN Thanks very much. If we get to them and it turns out that we have already covered them, well we can always pass over them very quickly.

WTNESS: Judge, I will be able to root that out very quickly.
CHAI RMAN which one:
WTNESS: The one about the chief superintendent.
CHAI RMAN Don't worry, quickly or slowly, we won't worry about it just for the moment, but in due course, when you get a chance. Okay. So that finishes issue 6 and we are moving on to issue 7.
MR. KELLY: Chairman, just before we do that.
CHAI RMAN Sorry.
MR. KELLY: I just want to raise one issue.
CHAN RMAN Certainly.
MR. KELLY: So that everybody knows, so that Garda Keogh understands what he is being asked to do. As I understand it, he is saying, when I was going through these Tribunal papers I saw something, I made a note of it, and you are saying to him, quite rightly, if you made that note, would you have a look overnight and see if you can find your note of it.
CHAD RMAN Precisely.
MR. KELLY: Thank you.
CHA RMAN which will enable us, Mr. Kelly, to put our finger presumably on the relevant document and it may turn out that Garda Keogh is right in his recollection,
it may turn out he's wrong in his recollection. whatever the significance of that, well and good, but we will just check it out, simply because he mentioned it.

MR. KELLY: That's right, just for the sake of clarity. \({ }^{15: 52}\) CHAD RNAN Thanks very much. You are clarifying that it's his own note that we are asking him to have a look at, rather than to identify the thing. okay. Thank you very much. You're clear on that, I hope. WTNESS: It's a note of when I was reading those,

Judge.
CHA RMAN Don't you worry, I think we know where we are going. Do you know what, it doesn't matter if -well, I don't know whether it matters or not, we will have to work on that in the end. Mr. McGuinness, should we call a halt then at that point.
MR MEGI NESS: I think so, it's a logical point.
CHA RMAN It's a logical place to be.
MR. MEGU NESS: The issue is a little longer.
CHA RMAN I am sure you are happy enough with that as wel1. Thank you very much. Al1 right. 10:30 tomorrow morning. Very good, more tomorrow.

THE HEARI NG THEN AD OURNED UNTI L YEDNESDAY, 16TH OCTOBER 2019 AT 10: 30AM

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