

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

ESTABLISHED BY INSTRUMENT MADE BY THE MINISTER FOR JUSTICE
AND EQUALITY UNDER THE TRIBUNALS OF INQUIRY (EVIDENCE) ACT
1921, ON 17 FEBRUARY 2017, AS AMENDED ON 7 DECEMBER 2018

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

HELD IN DUBLIN CASTLE
ON WEDNESDAY, 16TH OCTOBER 2019 - DAY 101

101

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

GWEN MALONE STENOGRAPHY
SERVICES

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I N D E X

W I T N E S S

P A G E

G A R D A N I C H O L A S K E O G H

Q U E S T I O N E D B Y M R . M C G U I N N E S S 6

1 THE HEARING RESUMED, AS FOLLOWS, ON WEDNESDAY, 16TH
2 OCTOBER 2019:

3
4 CHAIRMAN: Morning. Now, Mr. McGuinness.

5 MR. MCGUINNESS: Good morning, Chairman. Garda Keogh, 10:32
6 please.

7 CHAIRMAN: Thanks very much.
8

9 GARDA NICHOLAS KEOGH CONTINUED TO BE QUESTIONED BY
10 MR. MCGUINNESS, AS FOLLOWS: 10:32

11
12 CHAIRMAN: Morning.

13 1 Q. MR. MCGUINNESS: Good morning, Garda Keogh?

14 A. Good morning.

15 2 Q. Yesterday, when the Tribunal rose, you had made 10:32
16 reference to a document in the Tribunal papers that you
17 have noted?

18 A. Yes.

19 3 Q. I think you immediately found your note and you 10:32
20 immediately brought it to our attention?

21 A. Yes.

22 4 Q. It related to --

23 CHAIRMAN: Just a bit closer to the microphone I think,
24 Mr. McGuinness.

25 MR. MCGUINNESS: Me, is it? Sorry. 10:32

26 CHAIRMAN: No, it's all right. I am just checking that
27 people can hear what you say.

28 MR. MCGUINNESS: Sorry, Chairman.

29 5 Q. Yes, you immediately brought that to our attention and

1 that related to page 2185 of our papers, which was in
2 volume 8. In your evidence yesterday, at page 145 of
3 the transcript, you said:

4
5 "I see that Superintendent Murray is in contact with
6 Chief Superintendent Scanlan from the Laois-Offaly
7 division in relation to my car tax, not through my own
8 chief. He veers off to the chief of the Laois-Offaly
9 division in relation to my car tax. And then of course
10 as it transpires, I have explained the targeting."

11
12 You may recall I had just asked you about what you were
13 saying about that contact. And you say:

14
15 "He's in contact with Chief Superintendent Scanlan in
16 relation to car tax." 10:33

17
18 This is back in 2015. And you go on to say:

19
20 "Well, I don't know what was said, but it's only in the
21 notes it caught my eye. But, you know, again, why
22 would a superintendent from one division contact a
23 chief superintendent from another division about where
24 a guard, not that they had no tax, but just had it in a
25 different tax bracket category. That is a really kind
26 of minor thing."

27
28 I ask:

29

1 "Q. What document are you referring to particularly?
2 A. I think it's written down, if I can look for it, if
3 you want."
4
5 You said you had a note of it somewhere and then 10:34
6 provided us with that reference.
7 A. Yes.
8 6 Q. Just to inform you, that's at page 2185, which is on
9 the screen there. I think that's the note you are
10 referring to, in particular the middle entry? 10:34
11 A. Yes.
12 7 Q. We provided that note to your solicitor and counsel
13 just now. I have no objection if they want to hand
14 that?
15 MR. KELLY: Chairman, I thought before we raised this 10:35
16 issue that I would have a chance to look at it.
17 CHAIRMAN: Yes.
18 MR. KELLY: And an opportunity to speak to Garda Keogh
19 about it.
20 CHAIRMAN: Yes. 10:35
21 MR. KELLY: I would like to avail of that opportunity.
22 CHAIRMAN: That seems perfectly reasonable,
23 Mr. McGuinness, does it?
24 MR. MCGUINNESS: Yes. I don't want to take anyone
25 short. Perhaps we will take five minutes, Chairman. 10:35
26 CHAIRMAN: would you like five minutes at this point?
27 Is it convenient to have it at this point? You seem to
28 be indicating you would prefer to do it at this point,
29 Mr. Kelly, is that correct?

1 MR. KELLY: I would.

2 CHAIRMAN: Yes.

3 MR. KELLY: Since the matter has now been raised, I
4 want to deal with it now.

5 CHAIRMAN: This is on this particular issues, so that
6 it will give us an opportunity then of closing off this
7 particular issue by reference to this. That's really
8 the only remaining matter, is that right?

9 MR. MCGUINNESS: Yes.

10 CHAIRMAN: Okay, that seems very convenient. what will
11 I say? 10:50? Let's say not before 10:50, so 15
12 minutes, let me know if you need further.

13 Mr. McGuinness, keep in touch, let me know, let
14 Mr. Barnes know if you need longer.

15 MR. MCGUINNESS: Yes, Chairman. That's probably my 10:36
16 fault, I should have --

17 CHAIRMAN: No, no, sorry, there is no question of
18 fault, we will sort it out, that's not a problem for
19 anyone. Thanks very much.

20 10:36

21 THE HEARING THEN ADJOURNED BRIEFLY AND RESUMED, AS
22 FOLLOWS:

23

24 8 Q. MR. MCGUINNESS: Thank you, Garda Keogh. I think you
25 have seen the original of that document we were looking 10:51
26 at unredacted?

27 A. Yes, I did.

28 9 Q. I am not going to mention the name, because it seems to
29 be --

1 A. I understand. I suppose, I accept that point two is
2 not related to me. The reason it jumped off the page,
3 point 1 is in relation to me, point 3 is related to me
4 and point 2 is a conversation with a former
5 superintendent of mine, but I accept point two is not 10:51
6 relating to me.

7 10 Q. Yes. No, I can accept obviously that in the setting it
8 looked as if it might relate to you and it's
9 appropriate to enquire whether it did or not?

10 A. Yes. 10:52

11 11 Q. So, I think we will leave that issue. The Chairman
12 yesterday obviously mentioned that this issue of the
13 car tax was related, interrelated with the payment or
14 the delay in payment of your subsistence, travelling
15 expenses, which is Issue 14. That's one of the issues 10:52
16 that you complain about. So I was going to move on to
17 that, to finish off that, if that is convenient. I
18 have told my Friend I was going to do that.

19
20 I think this related to a complaint that you made in 10:52
21 relation to the delay of travel expenses related to
22 four particular dates; 18th June 2014, which was the
23 occasion I think of one of your appointments with
24 Detective Superintendent Mulcahy; 14th July of 2014, I
25 think that was a visit to Judge McMahon; 30th July 10:52
26 2014, which was I think an appointment with Deputy Daly
27 and wallace, I think you noted that in your diary as a
28 Section 62 issue?

29 A. Yes.

1 12 Q. The fourth one was I think an appointment I think with
2 Assistant Commissioner Ó Cualáin on 13th August 2014.
3 All of those claims are contained in volume 4, at pages
4 728 to 742. I don't need to look at them. You
5 submitted those in an original form. I think you 10:53
6 weren't able to recall who you had submitted them to at
7 the time?

8 A. I would have submitted them through the normal
9 channels, as I would have always done.

10 13 Q. Yes. 10:53

11 A. And as I said, it was never an issue ever before.

12 14 Q. Yes.

13 A. These appeared to go missing.

14 15 Q. Yes.

15 A. Then I had to, I think roughly a year later or some 10:54
16 months later, I have to resubmit them and I write
17 "resubmissions" on the second batch.

18 16 Q. Yes, that is obviously correct in that regard. In
19 terms of the procedure for processing them, Inspector
20 Minnock, I think Superintendent Minnock now, describes 10:54
21 the procedures at page 680 to 682 of this statement. I
22 don't intend to open it, but you have probably seen it.
23 He describes it, certainly up to a certain stage, as an
24 entirely manual process. Normally a guard seeks
25 approval if they are using a private car in advance. 10:54
26 The expenses incurred are then claimed for on a
27 prescribed claim form. It's submitted, verified,
28 checked and goes on up the system in a particular way,
29 arriving into the finance office. Then it's sent, if

1 it's found to be correct, put on the oracle system and
2 is scheduled for payment then in Killarney, isn't that
3 correct?

4 A. Yes, yes. Now in relation to the seeking for approval.

5 17 Q. Yes. 10:55

6 A. That's something that in general has become, let's say,
7 tighter in years. I would never normally over the
8 years, nor did anyone, it's just you would hand in,
9 send forward the sub claims and that was it. It would
10 usually be something like travelling to court or 10:55
11 something like that.

12 18 Q. Yes. But obviously reference has been made to a
13 Directive of 2009, to ensure that only travel that's
14 absolutely necessary be undertaken and that claims for
15 travelling expenses be closely monitored as well? 10:56

16 A. Yeah. As I said, it was more liberal, that's probably
17 correct.

18 19 Q. Yes.

19 A. Yeah.

20 20 Q. Superintendent McBrien, you will recall or heard of a 10:56
21 discussion yesterday, she refers to having discussed
22 the matter in September with Cathriona Quirke and she
23 requested the finance officer to produce a sample list
24 of members who claim travel and subsistence expenses
25 for the purpose of an audit, did you see that? 10:56

26 A. Yeah, I have read something there.

27 21 Q. Yes.

28 A. Yeah, I read it somewhere, yeah.

29 22 Q. Yes. She describes this at page 842 and 843 of her

1 statement and she said:

2

3 "During these checks it was identified there was an
4 issue with Garda Keogh's travel expenses. I advised
5 that Garda Keogh's outstanding claims be withheld until 10:57
6 I investigated this matter."

7

8 You accept her assertion that she was responsible for
9 that?

10 A. The difficulty just with this particular thing, because 10:57
11 I'm already aware that it was Detective Superintendent
12 Mulcahy instigated this, let's say, at the very start,
13 but unfortunately he would have been on the
14 investigation team, so investigating into my
15 complaints. I mean, look, I would also say that is 10:57
16 targeting from the very start. But having said that,
17 in time myself and Detective Superintendent Mulcahy at
18 the start don't -- there's mistrust there, but as
19 things move on we build up trust. But that is how I
20 understand it, the car tax emanates from that. I 10:58
21 think, and I could be corrected, that in order to veer
22 into my car tax, he used the sub claims as a
23 smokescreen, kind of as an excuse to go in to look at
24 the car tax.

25 23 Q. Well, Superintendent McBrien has sort of clearly 10:58
26 identified in her statement that she did direct this
27 audit, there was a list prepared. It's exhibited as
28 M MCB 7, at pages 1112 to 1128, which was the printouts
29 of all the checks done in relation to, not just yours

1 but other members?

2 A. There is a difference. My car was checked first. It
3 was checked by Garda Gerry white in the district
4 office. And in the explanation it had clearly "called
5 to super's office". He was the district clerk in the 10:59
6 superintendent's office. When Superintendent McBrien
7 made checks, my car again, with the other cars, it's to
8 do with audit in Athlone. So it's slightly different
9 to everyone else's.

10 24 Q. It would appear that whatever happened those original 10:59
11 claim forms, they were processed. You brought this to
12 I think Sergeant Minnock's attention at one particular
13 stage, but in the interim you have resubmitted the
14 claims, isn't that correct?

15 A. Yes. 10:59

16 25 Q. What Sergeant Minnock says was that in early 2015 you
17 received a minute from Garda Keogh querying a delay in
18 paying his claims. That's at page 722 of the papers.
19 You have seen this?

20 A. I am aware of that. 11:00

21 26 Q. Yes. He says, at page 681 and 682 of the Tribunal
22 papers, that:
23
24 "Having conducted enquiries into Garda Keogh's claims,
25 the finance officer reported to me that claims were not 11:00
26 with her for processing on the oracle system of making
27 payment. The finance officer prepared a minute for
28 him, a copy of which is appended at ANS3. The finance
29 officer advised that Garda Keogh submitted claims on

1 the 11th December 2014 and they were returned by
2 Inspector Farrell for further attention."

3
4 Is that correct?

5 A. I'm not sure, because I have submitted to the Tribunal 11:01
6 a handwritten document from Ms. Quirke, who, as I said,
7 deceased now and she in her note to me said she never
8 received -- handed in to the Tribunal, she never
9 received those subsistence claims.

10 27 Q. But did you not become aware that they had to be 11:01
11 reprocessed by you to include the cost of public
12 transport? Is that not a requirement to see whether
13 that was an alternative?

14 A. That part is true, but that's a general thing.

15 28 Q. Yes. 11:01

16 A. To compare which is the cheapest option.. private or
17 public.

18 29 Q. Yes.

19 A. Whichever is the cheapest. Generally that's the one
20 that will be paid. My point is, Ms. Quirke informed me 11:02
21 herself and has a written note that she didn't receive
22 any of this. So I think this is just a smokescreen in
23 relation to a reason to go in. I really never got to
24 the bottom as to who the person was who called the
25 superintendent's office on the day my car was checked 11:02
26 by Garda Gerry white.

27 30 Q. Yes. But the finance officer, Ms. Quirke, she was able
28 to tell you that the claims hadn't been submitted to
29 her?

1 A. Oh yeah.

2 31 Q. And had not been processed on the oracle payment
3 system?

4 A. From my recollection, she knew nothing about that.

5 32 Q. Yes. That was in December. Is that not the reason why 11:02
6 you resubmitted the claims at that point in time?

7 A. The fact that she was the finance officer, when I was
8 asking and writing to her about, you know, is there a
9 problem with these claims, is there a problem. She
10 said she knows something about them. As I said, I 11:03
11 never had an issue with issuing claims before, and my
12 car was taxed the same way and a previous car was
13 exactly the same. So that we're talking about a number
14 of years with a similar issue, and it was never an
15 issue like before with anything like this. 11:03

16 33 Q. But did you not learn that also Sergeant Haran had to
17 re-sign the claim forms as well?

18 A. Some sergeant would have to sign the claim forms.

19 34 Q. Yes.

20 A. So my claim forms, I would imagine, would have to be 11:04
21 signed twice, because the original ones I submitted
22 ones went missing and then there's the resubmitted
23 ones. So they would have both have to have been
24 countersigned.

25 35 Q. Superintendent McBrien returned them for signature and 11:04
26 certification by Sergeant Haran and also required
27 certification by you of the cost of public transport
28 expense?

29 A. Okay. I presume we're talking about -- are we talking

1 about this second set of sub forms?

2 36 Q. Yes.

3 A. Yes.

4 37 Q. The first set were never sent back to you with any
5 query, isn't that correct? 11:04

6 A. As I said, they just go missing.

7 38 Q. Yeah.

8 A. It's years later, when I am reading the Tribunal
9 documents, they just reappear.

10 39 Q. Yes. Superintendent McBrien says that she met 11:04
11 Superintendent Murray on the 4th March. She has her
12 notes of that at page 1731. That she informed him of
13 the situation regarding the car tax and she arranged
14 with him that she would forward the resubmitted claims
15 to Inspector Minnock and that Inspector Minnock would 11:05
16 discuss the claims with Superintendent Murray. Are you
17 aware that he did that?

18 A. I would accept that. But again, could someone, at this
19 point, if I'm driving around now for a year, where they
20 know there's an issue with the car tax, which I clearly 11:05
21 have said I didn't even contemplate the thing with the
22 commercial -- as I said, I knew the car would be the
23 first thing they'd look at, because I distinctly
24 remember having the tyres and everything correct on the
25 car. But -- sorry I have lost my -- 11:05

26 40 Q. Yes. well, perhaps we will just look at what
27 Superintendent Minnock, Inspector Minnock as he was at
28 the time, stated on page 682 of the papers. He says
29 there on the second paragraph:

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"On 4th March 2015 I received a file from Superintendent McBrien regarding claims submitted by Garda Keogh. Superintendent McBrien file stated that she had addressed the matter with the new incoming chief Superintendent Murray, that he would discuss the matter with me following his arrival. I attach the minute as AMS4."

11:06

That shows that the file claims re-signed by Sergeant Haran and the certification by you of the public expense, would you agree with that?

11:06

A. I would. But again, common sense here: They knew there is a problem with the car tax, I didn't about it, but I am writing in to Ms. Quirke, you know, is there a problem?

11:07

41 Q. Yes.

A. wouldn't the handiest thing -- and they let me drive around with the car in the incorrect tax bracket for about a year. wouldn't the handiest thing for someone to just say to me at the start, Nick, there's a problem with your car tax, will you just go and get it sorted?

11:07

42 Q. Yes.

A. That would have saved all this.

43 Q. Just going down that page, scrolling down a little bit. This is what Superintendent Minnock says he did:

11:07

"I relayed this information to Chief Superintendent Murray and discussed the matter with him briefly.

1 Chief Superintendent Murray appeared anxious to deal
2 appropriately, swiftly and fairly with the matter. The
3 following week I was going on a course, so I asked
4 Ms. McKenny to CC Superintendent Murray on the reply
5 e-mail. Superintendent Murray later advised me that 11:08
6 the Garda Keogh was asked to regularise the tax
7 classification of his vehicle. I am aware his claims
8 were paid and he received a Regulation 10 of Garda
9 Síochána from disciplinary regulation 2007, for using a
10 vehicle which was incorrectly taxed. This was 11:08
11 consistent with matters of this nature coming to the
12 attention of district management team and to my
13 attention."

14
15 we have already looked at Superintendent Murray note of 11:08
16 his discussion with you on the 26th February, where he
17 made it clear that he would deal with the claims once
18 the tax was dealt with and he did that, isn't that
19 correct?

20 A. He did that. But he did that after he had been on to 11:08
21 the motor tax office looking for declarations, and if
22 they got declarations there they would have done me for
23 fraud.

24 44 Q. well --

25 A. On something that they could have very easily cleared 11:08
26 up a long time ago.

27 45 Q. well, he directed Inspector Minnock to contact the
28 county council to get the details of the registration
29 and taxation position with regard to --

1 A. And get declarations. I am pretty sure, I think there
2 was something about declarations.

3 46 Q. Well, it came back from the county council with no
4 declaration made by you, isn't that correct?

5 A. That's just from what I remember, yeah. 11:09

6 47 Q. Yes.

7 A. That's my point, that they could have got -- this is
8 probably why they were holding on. You know, it was a
9 very simple thing, that they could have just said,
10 listen, sort it out, end of story. But, you know, they 11:09
11 go looking, digging for declarations here on this. Of
12 course, as I said, I am not the only person that had a
13 problem with, let's say, the car, my car in the
14 station. And mine was a very minute thing. It's not
15 that it wasn't taxed, it was just in a different 11:09
16 bracket.

17 48 Q. Yes. Well, perhaps we will look then at the notes of
18 Chief Murray at 2042 and 2043. This is the statement
19 here, where, towards the bottom of the page -- well,
20 perhaps we should start maybe in the middle of the top: 11:10
21

22 "The primary objectivity of the meeting insofar as I
23 was concerned was to discuss with Garda Keogh a file
24 left for me by my predecessor Superintendent Noreen
25 McBrien relating to financial claims Garda Keogh made 11:10
26 in 2014 for travelling expenses involving the use of
27 his personal jeep for travel to and from Galway. My
28 predecessor had explained to me that on 4th March 2015
29 she had been informed by Detective Superintendent

1 Mulcahy that Garda Keogh's private vehicle was not
2 correctly taxed. She felt his claims for travelling
3 expenses were in breach of financial code regulations
4 and could not therefore be paid in those circumstances.
5 She made me aware that Garda Keogh had been querying 11:11
6 the nonpayment of his claims in writing, but that no
7 one had spoken to him about the matter."

8
9 I think that is correct?

10 A. Yes. 11:11

11 49 Q.

12 "From my perspective, Garda Keogh and I had an amicable
13 conversation and he told me about his career and time
14 in Bray. He reminded that we met before in court when
15 he was a garda in Bray and I and inspector in Wicklow 11:11
16 but I unfortunately had no recollection of the meeting.

17
18 I discussed his sickness record with him and his ad hoc
19 appearances at work. He explained in a vague way the
20 investigation that he was part of and the fact that he 11:11
21 didn't like to be at work when certain people were
22 there. It's a cause of stress to him, resulting in his
23 sickness."

24
25 He goes on about that. Then he say: 11:12

26
27 "I spoke to him about his car tax, he got slightly
28 annoyed and he felt people were getting at him. I
29 showed him the results of enquiries I had Inspector

1 Minnock made at a tax office and told him they were in
2 relation to jeep, it showed it was taxed in wrong
3 category, commercial instead of private, resulting in a
4 loss of revenue to the State. I spoke about the effect
5 on his claims for travel expenses. 11:12

6
7 I offered a solution to deal with the matter, which was
8 that he would correct his tax, pay arrears to cover the
9 period of the travelling claims and when he showed me
10 proof of same, I would approve his travel claims... I 11:12
11 explained that would conclude the matter and it would
12 never be mentioned again. He agreed to that course of
13 action."

14
15 we discussed what you did then yesterday on foot of 11:12
16 that. He approved the claims on the same day or
17 thereabouts, isn't that right?

18 A. Yes.

19 50 Q. Once you produced the documents. And you were paid
20 those monies then; isn't that correct? 11:13

21 A. Yes.

22 51 Q. He then reported the matter to the chief
23 superintendent. If we look at page 2194 and 2195.
24 It's described there. He signed off on it. We have
25 seen the letter at 2195 of the 7th April. He describes 11:14
26 how he had approved the claims for payment on page 2
27 there, 2196. All of the documentation relating to the
28 claims then are in the papers up to page 2217. I don't
29 know whether you have looked at them there, but 2205,

1 which is the note left by Superintendent McBrien. It's
2 endorsed by Superintendent McBrien there. To the
3 finance officer:

4
5 "Attached forms are approved for payment. Do you mind 11:15
6 noting a copy of this file for me please."

7
8 Is that right? Page 2206 is the form that was sent
9 back to you, through Sergeant Baker and Sergeant Haran
10 and you submitted: 11:15

11
12 "Amended as requested."

13
14 In January, is that right?

15 A. Yes. 11:15

16 52 Q. 2207 is the direction earlier given by Superintendent
17 McBrien that that should be done and provide the cost
18 of public transport.

19
20 Insofar as Superintendent Murray's position is 11:15
21 concerned, wouldn't it be fair to say that he did deal
22 with the matter swiftly and fairly and ensured that
23 this issue was put to bed and you were paid the claims
24 that you were entitled?

25 A. The word swiftly is -- look, perhaps, a bit too 11:16
26 swiftly. Because, as I said, he says the first day I
27 meet him, there's an issue with your car tax, get it
28 sorted. And I did, the very next day. He never
29 mentioned anything about discipline. I, of course, had

1 never been disciplined before. It was the next day, or
2 the next day I meet him that he disciplines me. That's
3 on, if I am correct, the 3rd April 2015 he disciplines
4 me for the first time on the car tax. And
5 interestingly, that's the same date there's a series of 11:16
6 text messages between him to Chief Superintendent
7 Scanlan to Nóirín O'Sullivan and back from Nóirín
8 O'Sullivan to Chief Superintendent Scanlan to Pat
9 Murray. I have seen the contacts, it doesn't say what
10 was in the text messages of course, but on that 11:17
11 particular day.

12 53 Q. You don't know what being texted about?
13 A. Look, it could have been whether -- the fact that I
14 know Nóirín O'Sullivan (Inaudible), this is my first
15 discipline tax matter. There is a lot of stuff going 11:17
16 politically at the time to do with whistleblowers.
17 Forgive me for thinking that it was quite possible they
18 could have been texting in relation to me.

19 54 Q. That's obviously speculation on your part?
20 A. Unfortunately, I can't get to read text messages. 11:17

21 55 Q. Yes.
22 A. And just again for clarification, when the text
23 messages were handed in to the Tribunal, the gardaí
24 didn't twig that, they didn't spot it. It was spotted,
25 of course, ultimately in the end. But they're here, 11:18
26 they're somewhere in the Tribunal safe, I understand.

27 56 Q. Text messages?
28 A. No, not the text messages. As I said, the text
29 messages are -- it just shows that there was text

1 messages sent, received on two three -- between
2 Superintendent Murray, Chief Superintendent Scanlan and
3 then Chief Superintendent Scanlan to Commissioner
4 O'Sullivan and the very same back with Commissioner
5 O'Sullivan to Chief Superintendent Scanlan to Murray on 11:18
6 that day. What's interesting as well, in those, the
7 billing records that I got you, there's no other series
8 or pattern of text messages anywhere else between them
9 in the records that I viewed. It just happens to be on
10 that day, 3rd April 2015, the day I have to be 11:19
11 disciplined over this tax matter.

12 57 Q. Have you any evidence to suggest that anyone else was
13 consulted about your discipline?

14 A. Well, I don't know. In relation to that, as I said,
15 those records are here. 11:19

16 58 Q. In any event, the origin of it, in a sense, related to
17 your own car and the taxation regime that it was in. I
18 mean, you can't suggest that that was in any way
19 created by any of the officers concerned or that they
20 weren't entitled to have regard to it in considering 11:20
21 whether expenses payment should be claimed or certified
22 or actually be paid. These are all legitimate issues
23 within the scope of the expenses regime?

24 A. Like, if I had known I was going to be disciplined in
25 relation to that, I probably would have challenged it. 11:20

26 59 Q. Well, that's as may be. I was going to pass on from
27 that and go back to the sequence of events then of your
28 other complaints. It does relate to another
29 disciplinary investigation. This is Issue number 7,

1 the disciplinary investigation in relation to Garda
2 Keogh in July 2015. You recall what that relates to?

3 A. Yes.

4 60 Q. At pages 135 to 136 of your statement, your original
5 statement to the Tribunal, you say:

11:21

6
7 "There was an issue of a mix-up about my signing off
8 sick and then not reporting for duty."

9
10 You say:

11:21

11
12 "I had apparently rung in off sick. I was on the
13 contrary sick. It was at most a mistake. The medical
14 certificate materialised retrospectively to certify my
15 sickness during the period. In any case, this
16 medically certified absence was irrationally turned by
17 Superintendent Murray into a charge of being absent
18 without leave."

11:21

19
20 I think this commenced with a message or a call to your
21 unit sergeant at the time, a report made to Sergeant
22 Moylan, isn't that correct?

11:21

23 A. Yes.

24 61 Q. If we perhaps look at that, at page 607. He was your
25 unit sergeant at the time. If we just scroll down the
26 page. He says:

11:22

27
28 "I was Garda Keogh's unit sergeant at the time of his
29 sick report on 9th July 2015 and subsequent call to

1 report off sick on 10th July 2015. However, I was on
2 annual leave on the 10th and 11th July and rested the
3 12th July. I returned to work on Monday, the 13th
4 July, when I became aware that Garda Keogh had not
5 shown up for duty on the previous two days. I tried to 11:22
6 call him to no avail. I subsequently reported his
7 absence to the district officer, Athlone, and
8 Superintendent Murray by e-mail.

9
10 The e-mail was sent to the district office inbox at 11:23
11 3:15 on 14th July 2015 and was as follows:

12 "Superintendent, I'm not sure if you are aware that
13 Nick Keogh has not been in work all weekend. He went
14 sick last Thursday and Friday, reported fit for duty on
15 Friday night but has not attended yet. I was on leave 11:23
16 on Saturday and it appears he did not appear into work
17 on that night. He was not on leave on Sunday or Monday
18 night either and did not turn up for work. I have
19 tried calling him but he is not answering or returning
20 my calls. 11:23

21
22 Just said I'd let you know. I meant to say it earlier
23 as wasn't sure if you knew. It appears from others
24 that he has "broken out" and is drinking in Tullamore." 11:23

25
26 Then he details a Facebook message that he got from you
27 at 00:29:

28
29 "Sorry about this week, Cormac, I missed your call and

1 didn't have credit to call you back.
2
3 I did not acknowledge this message."
4
5 Just in terms of procedure, when you are off and sick, 11:24
6 is it normal procedure to ring in and say, I'm now
7 better, that is off sick and, I will be back in for
8 duty?
9 A. Yes.
10 62 Q. So it would appear then that you obviously knew you 11:24
11 were meant to be in duty then on the 9th -
12 A. Yes.
13 63 Q. - 10th, 11th, 12th. The four days or so that we're
14 talking about?
15 A. Yes. 11:24
16 64 Q. I think you noted that in your diary yourself, isn't
17 that right?
18 A. Yes.
19 65 Q. Perhaps we will just look at volume 47, page 13319.
20 13319, I beg your pardon. Just while we are waiting 11:25
21 for that to come up, to get to the consequence of it
22 for you. You were, indeed, disciplined and you were
23 find €300 I think?
24 A. Yes. They tried to discipline me on two breaches and
25 on one of them I pleaded not guilty and on the other 11:26
26 one I pleading guilty and I was find €300.
27 66 Q. Yes. You sought to review that by way of an appeal?
28 A. Correct.
29 67 Q. And it went --

1 A. Sorry, just for clarification, I was given a notice
2 from Chief Superintendent Wheatley that I was entitled
3 to appeal it if I so wished.

4 68 Q. Yes.

5 A. There was discrepancies in relation to certainly the 11:27
6 date of the phone call with Superintendent Murray and
7 in relation to that text message or the message that I
8 had sent to Cormac Moylan, there was an issue to do
9 with that date, which was wrong. It would have implied
10 I wasn't -- or wasn't, let's say, was deliberately not 11:27
11 answering my sergeant's phone calls or anything like
12 that. I would have good time for any of those
13 sergeants at work but wasn't like that. The date that
14 Superintendent Murray had on that was incorrect. He
15 has, in his own version of events, that then he brings 11:28
16 in I wouldn't answer the sergeants and that, which was
17 not the case. The date that he stated on what I am to
18 be disciplined for, was incorrect. It was actually the
19 next date. The next date, which I had it in my note,
20 which is the correct date that phone call was made. It 11:28
21 also then would have covered that I did actually text
22 the sergeant to say I am sorry about this week.

23 69 Q. We will tease that out in a minute. But in any event,
24 the entry there, just under the line on the left-hand
25 side, it actually seems to be for the 7th July, it 11:28
26 says:
27
28 "16: 15 ring Nick Quinn, told him was going drinking."
29

1 Then it says:
2
3 "Tuesday rest day."
4
5 Is RD rest day? 11:29
6 A. RD rest day.
7 70 Q. RD rest day?
8 A. Yeah.
9 71 Q. And then:
10
11 "Wednesday RD drink."
12
13 And then:
14
15 "Thursday drink sick." 11:29
16
17 And then:
18
19 "Fri day: Sick. Rang off sick while drinking."
20
21 Is that right? 11:29
22 A. That's correct. I rang off sick while I was drinking.
23 Obviously at the time it was a great idea and I
24 thought, oh I'll be fine in the morning. I didn't
25 remember the next morning. Like, I did put my hands up 11:29
26 to that. I just notice in these diary entries as well,
27 there's names of guards that are talking to me and
28 that, and a lot of them should be blacked out under the
29 circumstances of the Tribunal, I think.

1 72 Q. Well, we redacted those that we thought were obviously
2 appropriate, but we will hear representations. The
3 days we're concerned with, Saturday the 11th then, you
4 have put in:

11:30

5

6

"AWOL drink."

7

8

A. Yeah.

9

73 Q. Then Sunday 12th:

10

11:30

11

"AWOL drink."

12

13

Then down the next page, some trial starts over there.

14

And then:

15

11:30

16

"AWOL. Stop drinking."

17

18

A. Yeah.

19

74 Q. And then Tuesday 14th:

20

11:30

21

"AWOL."

22

23

Then there's reference to D/Superintendent Mulcahy.

24

Then the 15th it says:

25

11:30

26

"RD."

27

28

And then in the side it says:

29

1 "Rang off sick 11:45."
2
3 Is that right?
4 A. Yeah.
5 75 Q. And then 12:08, and there's phone numbers: 11:30
6
7 "Superintendent Pat Murray rang me re above, above
8 AWOL."
9
10 A. That's absent without leave. 11:30
11 76 Q. Yes.
12
13 "I told him I had been drinking. Didn't realise I rang
14 off sick. He said sending me to CMO and holding a case
15 conference to do with me." 11:31
16
17 A. The CMO is the chief medical officer.
18 77 Q. Yes. Then there is reference on the 16th:
19
20 "Got cert from doctor to cover me re AWOL but they 11:31
21 still will come after me."
22
23 Is that right?
24 A. Yes.
25 78 Q. The entries you made about you being AWOL, obviously 11:31
26 they're in your own handwriting?
27 A. Oh yeah.
28 79 Q. I mean, the first part of the complaint you made is
29 that Superintendent Murray turned your absence

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29

Now, I know your diary refers to a phone call, 12:08.
Could that have been 12:08 on the 14th?

A. No. No. My diary was correct here. Just, if you want
to look at Superintendent Murray's statement to the Tribunal, he has that the phone call was made on the 15th in his statement to the Tribunal. 11:34

84 Q. Just a curiosity is that you made the hadn't invoked
claim for the phone call on the basis that it did take
place on the 14th; isn't that correct? 11:34

A. Probably that was a heat of the moment thing, I would
imagine. I don't know did I read that, you see. If
you just give me a second.

85 Q. Yeah.

A. Sorry, the month again? 11:34

86 Q. CHAIRMAN: July 2015.

A. Yes, because I have the note made on the 14th, where I
had a conversation with Detective Superintendent
Mulcahy about obviously the main investigation, what's
going on with the main investigation. So my note was
on the 15th of July, 12:08, Superintendent Murray rang
me. I have recorded the number that he rang me from as
well. So I was in no doubt that my version is correct.
I accept there's certain parts, notes and all the rest. 11:35

87 Q. MR. McGUI NNESS: Yes. 11:35

A. But you see, it was also the side note as well, where I
rang off sick, because I rang off sick on the date that
he did -- he rang me at 12:08, about roughly, what, an
hour and a half or something after I had rang off sick.

1 So his note here of Tuesday 14th is not accurate.
2 and --

3 88 Q. Sorry if, you wanted to finish.
4 A. I'm okay.

5 89 Q. I think you told us in relation to the entries "AWOL" 11:36
6 that you would have put them in later. I think you've
7 told us some of the other entries we discussed earlier
8 in the week, you put them on days after they had
9 occurred, relating back to those days?

10 A. Yeah. I would have gone on a binge, Judge, so I 11:36
11 wouldn't -- straight out, I wouldn't have been
12 concentrating on my diary and AWOL at the time.

13 90 Q. But would you agree with me that you're using the diary
14 as record of things that have happened?

15 A. Yes. 11:37

16 91 Q. And you're putting events into days that you think they
17 happen on?

18 A. On this one I'm a hundred percent certain, there is no
19 think in this.

20 92 Q. well, that's my point? 11:37

21 A. I am then prosecuted internally for something on the
22 14th and I made an issue about this. Because the
23 reason it's important on the date is, if that 14th was
24 correct, it means then I deliberately made no effort to
25 contact any sergeant or anything like that, which 11:37
26 wasn't the case. I didn't have phone credit and I did
27 manage to be able to send a text to the sergeant.
28 That's the issue.

29 93 Q. well, I am not sure whether it is, that's what I am

1 trying to explore.

2 A. Sorry, yes.

3 94 Q. I am not quite clear, myself.

4 CHAIRMAN: Sorry, do you mind, would you just explain

5 that again? 11:37

6 A. Yes.

7 95 Q. CHAIRMAN: Sorry, would you mind explaining that again?

8 You say the date is important?

9 A. Yes.

10 96 Q. CHAIRMAN: Because? 11:38

11 A. Because Superintendent Murray is trying to say that I

12 did not respond to any sergeant's calls or anything

13 like that. I would not have done that deliberately. I

14 would have got on well with those sergeants. The

15 reality is, I was probably asleep or whatever when the 11:38

16 phone calls happened.

17 97 Q. CHAIRMAN: So you say you didn't deliberately refuse

18 to answer calls from sergeants?

19 A. Yes.

20 98 Q. CHAIRMAN: That's the basic point you're making. Is 11:38

21 that the point?

22 A. Yeah. But there's more to it because then, someone

23 from my unit contacts me and says, better get in

24 contact some way with Cormac, you know, there's going

25 to be an issue out of this. So I then got onto 11:38

26 Facebook, where I texted Sergeant Moylan and explained.

27 I never even thought of doing that prior to it, but I

28 texted him to say that, as I stated, I am sorry about

29 this week and that was it. But Superintendent Murray

1 tries to pursue this on the 14th and he includes in
2 part of the charge.

3 99 Q. CHAIRMAN: Just go slowly. Go on?
4 A. As part of the accusation that I am not answering the
5 phones to sergeants deliberately. Ironically, I do 11:39
6 answer superintendent --

7 100 Q. CHAIRMAN: No, don't get lost for a second?
8 A. Yes.

9 101 Q. CHAIRMAN: Don't mind ironically for a second?
10 A. Yes. 11:39

11 102 Q. CHAIRMAN: Now, you're saying the date is important
12 because?
13 A. The date is important in relation to I do contact the
14 sergeant and I do apologise. If his date was correct,
15 it would mean I didn't do that or I did it after, after 11:39
16 his phone call. He's saying he phoned me on the 15th.

17 103 Q. CHAIRMAN: Right. And if he is correct?
18 A. If he's correct, then I didn't make any effort to
19 contact the sergeant in that period of time.

20 104 Q. CHAIRMAN: Okay. whereas if he's not correct and if 11:40
21 your date is correct?
22 A. Then I did make an effort to contact the sergeant.

23 105 Q. CHAIRMAN: That is the Facebook contact?
24 A. Yes.

25 106 Q. CHAIRMAN: Okay. Are we clear on that? 11:40
26 MR. McGUI NNESS: I'm not quite sure, Chairman.

27 107 Q. CHAIRMAN: I think I am understanding. You say the
28 fact that you contacted your sergeant on Facebook on
29 the 14th --

1 A. It was actually very early, just after midnight on the
2 15th.

3 108 Q. CHAIRMAN: Okay, early hours, very early hours on the
4 15th, before Superintendent Murray, as you say,
5 describes -- if his date is correct, you only did that 11:40
6 after your conversation with Superintendent Murray?

7 A. Yes.

8 109 Q. CHAIRMAN: Is that right?

9 A. Yes.

10 110 Q. CHAIRMAN: If his date is correct? 11:41

11 A. If his date is correct, yes.

12 111 Q. CHAIRMAN: Whereas you say you are sure that your date
13 is correct and that shows that you did so before your
14 conversation on the phone with him?

15 A. Yes. 11:41

16 CHAIRMAN: Thank you very much. That's the point you
17 want to make. Okay, thank you. Now, I am sorry,
18 Mr. McGuinness.

19 112 Q. MR. MCGUINNESS: We were looking at the note and the
20 evidence is the evidence. We will see. So, he says 11:41
21 there on the second line:

22

23 "Phoned member at 12 noon. Spoke to him until 12:15.
24 Admitted being AWOL. Said reported off sick 10/7 in a
25 fit of drinking after a few days, said he forgot he had 11:41
26 reported off sick, didn't go to work. Admitted had a
27 drink problem and had stopped going to AA.

28

29 Said he gets it hard to sleep before earlies. Drinks

1 beer and wine, mostly cans of beer. Brought up his
2 whistleblower case and says is worried about Garda A
3 and (blank), that they will get him...one and half
4 years ago, done nothing since Garda A was informed and
5 questioned on all the allegations. Challenged him why 11:42
6 he didn't answer sergeant trying to contact him over
7 AWOL weekend. Said he had no credit. Agreed credit
8 not required to answer the call."

9
10 Do you remember saying that? 11:42

11 A. I wouldn't have said that. I mean, of course I would
12 have answered the sergeant. As I said, I would have
13 only seen -- when I stopped drinking, I would have seen
14 the missed call. I mean there would have been a lot of
15 missed calls from different people, but I did see -- 11:42
16 from recollection, I think there was only one missed
17 and that was from Sergeant Cormac Moylan. But there
18 was a missed call, I accept that. The phone could have
19 been on the table and I could be panned out on the
20 couch. It's not that I deliberately wouldn't answer 11:42
21 the sergeant. That's being honest about it.

22 113 Q. At a later stage, when Mr. de Bruir was considering as
23 part of the appeal, it seems to have been submitted
24 that your phone simply wasn't charged at the time and
25 had run out of charge? 11:43

26 A. Oh, that's quite possible also. But I know I certainly
27 didn't have credit on that thing. But that would be a
28 common thing too, you know.

29 114 Q. Okay.

1 A. Again, Mr. de Bruir's report, it's based on Mick Finn's
2 investigation, so...

3 115 Q. This is apparently based on your solicitor's submission
4 that the phone wasn't charged and that's the reason you
5 didn't answer it? 11:43

6 A. Right. Well look, my recollection is that I just
7 didn't have credit, you know.

8 116 Q. Okay.

9 A. It's quite possible the phone -- I just don't even
10 remember that part. 11:43

11 117 Q. Yes.

12 A. But I didn't have credit anyway.

13 118 Q. I am just exploring this issue of the date because you
14 made an issue of it in the appeal to chief
15 superintendent wheatley? 11:44

16 A. Yes.

17 119 Q. She tried to enquire about what the relevance of it
18 was. You were seen to try and persuade her that she
19 should get the superintendent's records and you didn't
20 produce any records of your own about a call or any of 11:44
21 that. But you had said that the call was on the 14th
22 in your application for the Haddington Road allowance?

23 A. Yes.

24 120 Q. If you look at page --

25 A. I accept that. They based on that on what obviously 11:44
26 Superintendent Murray had written. I do know my notes
27 are accurate on this.

28 121 Q. Okay. Well perhaps we will just look at those two
29 documents. 2247:

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"3 hours Haddington Road 14/7/15."

This was an application to get some payment, as it were, for taking the phone call.

11:45

A. I was sort of annoyed with -- I would have been annoyed with what Superintendent Murray was up to and that, and I'd say I wrote that in the station. So I wouldn't even have had my diary with me. I went off the -- used his version of it, so that is incorrect.

11:45

122 Q. Okay. Then that's supported by a document on 2248, again you specify the date and the time there, and it says:

"Received phone call from Superintendent Murray."

11:45

There's a query of what was the duration of it. The Haddington Road allowed members to receive payment for being contacted when they're off duty, isn't that right?

11:46

A. Yeah. I see here the time on that is incorrect. Obviously I saw something down from Superintendent Murray and I am fuming and I get a little bit bold, I suppose, and say right. I am using his date and time. I don't have access to my own diary. So the time is from between two and five. I can say here the time is at 12:08 on the 15th.

11:46

123 Q. Yes.

A. As I said, Superintendent Murray himself has changed

1 his version from what he has gone by, by way of, where
2 he is trying to get the disciplinary thing. The
3 statement that he has made to the Tribunal, he now puts
4 in that it was the 15th.

5 124 Q. Yes. 11:46

6 A. That he was in Dublin or something on the 14th and
7 couldn't have done it.

8 125 Q. Yes.

9 A. That's from recollection really.

10 126 Q. Yes. Then you switched yourself to the 15th, if we 11:47
11 look at page 2252, isn't that right?

12 A. Yes. I have obviously gone back, looked at -- I see
13 what's going on there in that period of time. I go
14 back to my notes.

15 11:47

16 "I believe Superintendent Pat Murray has made a mistake
17 regarding the date of said phone call. I believe this
18 call was made on the 15th July, not the 14th July
19 2015."

20 11:47

21 127 Q. You had previously requested the call log, on the next
22 page, on the 3rd October, for the call log for the
23 14th, isn't that right?

24 A. That's correct.

25 128 Q. In order to ascertain the length of time? 11:48

26 A. I don't if I connect it. Oh yeah, I did. No, you are
27 correct.

28 129 Q. Yes. If the application for Haddington Road related to
29 the 14th, you would be obviously seeking to claim an

1 allowance for duty performed on a day that you were in
2 fact AWOL, as it were. Now, I don't know whether that
3 could be done or not. But in any event, the claim, you
4 modified it to the 15th, isn't that right, because you
5 think the phone call happened on the 15th? 11:48

6 A. Well, I'm a hundred percent certain the phone call
7 happened on the 15th.

8 130 Q. You'd rung in off duty on the 15th then as well, is
9 that right? The side note on the page we were looking
10 at. 11:49

11 A. Oh yeah. I rang in off duty at 10:45. Like I
12 shouldn't have wrote that Haddington Road stuff. As I
13 said, I was annoyed over stuff that had gone down, the
14 way Superintendent Murray was approaching it with the
15 reporting and the thing, the other stuff obviously with 11:49
16 the sergeants and all the rest. I shouldn't have put
17 in that Haddington Road stuff. When I wrote that, I
18 obviously wrote it in the heat of the moment because I
19 am using his version, which is incorrect, of the date.
20 As I said, I hadn't my diaries in work with me? 11:49

21 131 Q. Yes. Originally we had been looking at the request for
22 Superintendent Murray to you to provide an explanation.
23 I think you provide an explanation, which is in your
24 papers at page 245, isn't that correct? If we just
25 look at that. Perhaps if we go to page 245 of the 11:50
26 Tribunal's documents.

27 A. Yeah. Oh yeah, that's correct. And it has:
28
29 "On Tuesday, the 14th December, contacted the member by

1 phone. He agreed he was absent without leave and
2 indicated he reported off sick on the 10/7 while he was
3 drunk but had forgotten he had done so. He no excuse
4 for not returning Sergeant Moylan's calls."

11:50

6 132 Q. That's the report that Superintendent Murray wrote,
7 that we will come to in a minute.

8 A. Again, the issue with that date, you know, it implies
9 that I was being -- that I just was ignoring my
10 sergeants, essentially. And that's not what happened.

11:51

11 133 Q. Yes.

12 A. No deliberate thing there.

13 134 Q. He includes tab D there. Perhaps we will just look at
14 that. Bear with me. If we look at page 2227. That's
15 the explanation you sent him at the time.

11:52

16
17 "With reference to overleaf, made mistake regarding
18 reporting unfit for duty. I was still on sick these
19 days. I apologise for same. Sick cert attached.
20 Forwarded for your information."

11:52

21
22 On the 10th August then, the chief superintendent
23 decided to appoint Superintendent Alan Murray, is that
24 correct?

25 A. Yes.

11:52

26 135 Q. Superintendent Murray conducted an investigation and
27 you met him?

28 A. Yeah.

29 136 Q. You pleaded guilty to the first charge and you were

1 acquitted of the second charge?

2 A. I pleaded not guilty to the second charge.

3 137 Q. Yes. I am sorry, did I misstate that, I beg your
4 pardon. You pleaded guilty to the first charge, you
5 not guilty to the second charge? 11:53

6 A. Yes.

7 138 Q. You were acquitted of that, as it were?

8 A. Yes.

9 139 Q. You didn't make an issue, I think, of the importance of
10 the phone call at the time? 11:53

11 A. Yeah, I didn't --

12 140 Q. Am I right or wrong?

13 A. I had so much going on at the time, all that's going on
14 with the investigation and everything else, I didn't.
15 But then, of course, when it becomes apparent to me 11:53
16 what Superintendent Murray is up to there with this,
17 you know, sticking the boot in to do with the thing
18 with the sergeants, that I'm not -- that annoys me. So
19 chief superintendent Wheatley then affords me the
20 entitlement of appeal, I then on, let's say, legal 11:54
21 grounds, request to appeal that. Firstly I looked for
22 a copy of my statement. They wouldn't give it to me.
23 And the second thing was the date of the phone call and
24 again, I was completely ignored with that.

25 141 Q. Well, you acknowledged receipt of the report from 11:54
26 Superintendent Alan Murray. You included a copy of
27 your statement in it, did you not?

28 A. No, I never got a copy of my -- I didn't get a copy of
29 that statement. I didn't actually read -- get a copy

1 of that statement until I seen it, I think it's in the
2 Tribunal documents there. I was writing to them
3 looking for a copy of that statement.

4 142 Q. Could we look at page 254. This is the report of the
5 appointing officer to the member concerned. If you
6 just scroll down there. Continue down the page.

11:55

7
8 "I acknowledge receipt of this notice."

9
10 If we continue down.

11:55

11 A. That pretty much just backs up what I just said, what I
12 am looking at on the screen.

13 143 Q. Yes, but in Superintendent Murray's report, which was
14 given to you, was your own statement not part of that
15 report?

11:56

16 A. No, I had never got a copy of the statement I made to
17 Superintendent Alan Murray. If I may read this out, as
18 to what I wrote to Chief Superintendent wheatley.

19 CHAIRMAN: I can see it there, yeah.

20 A.
21 "The decision is not justified having regard to the
22 information given by me.

11:56

23
24 Part of the sanction relates to a phone call which I
25 received from Superintendent Pat Murray, which he
26 states was on the 14/7. I believe this phone call was
27 made at 12:08 on the 15/7."

11:56

28
29 we're talking about 2015.

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"And it is relevant to my defence.

I would be obliged if a call log can be obtained regarding this and I request a copy of the statement I made to Superintendent Alan Murray for the purpose of legal advice." 11:57

Because I mean, I knew somewhere -- this is interesting, I knew somewhere I had in that statement it was work related stress or I was under a lot of stress, or something like that. And of course, at that period of time, they're marking me out with the flu. I did not get a copy of that statement. 11:57

144 Q. Chief superintendent Wheatley says in her statement at page 6112: 11:57

"Garda Keogh was provided with a copy of the statement when the report of interview was served on him. In relation to the phone records, nothing turned on them in relation to the core issues under consideration." 11:57

But a copy of your statement is included in volume 31, at page 8846.

A. Okay. I'm not agreeing with you, I'm just saying okay. 11:58

145 Q. CHAIRMAN: You are understanding what he's saying, yes.

A. Yes.

146 Q. MR. McGUINESS: Just to be clear about what we are referring to as your statement. This is the statement

1 of explanation and/or defence that you gave in
2 interview with Superintendent Murray?

3 A. With Superintendent Alan Murray.

4 147 Q. Alan Murray, yes.

5 A. That's the statement I am saying I never got a copy and 11:58
6 I was looking for a copy of that statement in order to
7 appeal it, and I never got a copy of that statement.

8 148 Q. Did I say 8846? This is the typewritten version of it.

9 A. My recollection is he had a hand -- he wrote it in
10 longhand. 11:59

11 149 Q. Yes.

12 A. As I said, I read this, I read this in the Tribunal
13 documents.

14 150 Q. Yes.

15 A. But I never got a copy of either longhand or a typed 11:59
16 version.

17 151 Q. Well, my understanding is that you signed an
18 acknowledgment of the receipt of the report of
19 Superintendent Murray's inquiry, which included this?

20 A. I got the report with the other documents, but not the 11:59
21 statement.

22 152 Q. Most likely the handwritten version, which, if we just
23 scroll down two pages?

24 A. I am under oath.

25 153 Q. Yes. 11:59

26 A. There was other documents there.

27 154 Q. Yes.

28 A. But not the statement, either longhand or typed.

29 155 Q. If we go to the top of that, of that page, scroll back

1 up to the top, and the top of the next page. This is
2 the handwritten record of Superintendent Murray's
3 interview with you. The typed version of which we have
4 seen in two pages previously. Is it your evidence that
5 you didn't get that or you have no recollection of ever 12:00
6 getting that?

7 A. I never got a copy, either typed or the longhand
8 version. Sorry, not version, the original. No, I
9 never. That's why I was writing looking for it, in
10 order to appeal the thing. The appeal then, of course, 12:00
11 just is upheld without me getting a copy of that. And
12 the other thing, the other thing, those are the two
13 issues, the statement and the phone call. When you
14 have a guard and a superintendent, let's say, have a
15 different version of events in this, the chief should 12:00
16 have been impartial and just checked the phone records,
17 very simple, sort out the date of the phone call.
18 That's one issue. I never got a copy of that statement
19 and I looked for it.

20 MR. McGUI NNESS: Chairman, I see it's just 12 o'clock. 12:01
21 I wonder would it be appropriate to take a very short
22 break.

23 CHAIRMAN: Yes. Have you much more on this topic? I
24 was wondering if we could conveniently -- we will adopt
25 Mr. Kelly's suggestion that we will take a break mid 12:01
26 morning and mid afternoon. I think that's a good idea,
27 Mr. Kelly. Is this a convenient time or have you some
28 significant --

29 MR. McGUI NNESS: I have some little time more, but I

1 think perhaps --

2 CHAIRMAN: You are right, if we don't take a break now,
3 we will be too close to lunchtime. So we will take a
4 little break now and we will come back in 15 minutes,
5 okay. Very good, thanks very much.

12:01

6

7 THE HEARING ADJOURNED BRIEFLY AND RESUMED AS FOLLOWS

8

9 156 Q. MR. MCGUINNESS: Garda Keogh, can I direct your
10 attention to a document, just it may clear up confusion 12:14
11 on my part. It's at 2258, which is in volume 31,
12 volume 8. This appears to be the report of the
13 appointing officer to the member concerned. So you are
14 meant to get it, as it were. Just on the line
15 underneath your name, it says:

12:15

16

17 "Please find attached a copy of the report of interview
18 pursuant to regulation 19(1)."

19

20 Now, if we just go down to the bottom. You appear to 12:15
21 have signed that, acknowledging receipt of that. If
22 the report of interview included your interview, I may
23 be wrong about that, it would appear that you were
24 perhaps meant to have got it, get it at that time. You
25 don't recollect getting it anyway?

12:15

26 A. I don't recollect reading that statement. I know I
27 looked for it and I don't recollect reading it until in
28 the Tribunal documents.

29 157 Q. Okay.

1 A. I can only go off memory on this, but I am sure I would
2 have spotted it in a document like this.

3 158 Q. Yes. In Superintendent Murray's statement --

4 CHAIRMAN: Sorry, can we go down a bit further? Can we
5 scroll down further? 12:16

6 MR. McGUINESS: That's a different, new --

7 CHAIRMAN: Yes, I'm sorry, you refer to that. Thanks
8 very much.

9 159 Q. MR. McGUINESS: In any event, could we look at page
10 2045? This is from Superintendent Murray's statement. 12:16
11 At the end of the first paragraph, four lines from the
12 end of that paragraph, he says:

13

14 "On the 4th August I reported the matter to chief
15 superintendent Westmeath, recommending the matter be 12:17
16 dealt with as a less serious breach of discipline. I
17 attach a copy of my notes relating to the matter and a
18 copy of my report to the chief superintendent marked
19 PM 35. "

20

12:17

21 He says then, further down that page, with reference to
22 the 30th, he said he met you on the 30th to serve on
23 behalf of superintendent Mullingar, that's
24 Superintendent Alan Murray:

25

12:17

26 "... who had been appointed by the chief superintendent
27 to inquiry into Garda Keogh's absence without leave
28 under Regulation 14 of the discipline regulations. "

29

1 You acknowledge receipt of that.

2

3

4

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10

"It was clear he was annoyed with me. I indicated to him I had explained this might happen. At his request I explained to him how Regulation 14 worked and that it was a way of dealing with less serious breaches of discipline."

12:17

Then he goes on to a discussion in relation to that. Is that accurate in your recollection?

12:18

11

A. On the 30th August. I am looking at point 14, apologies?

12

13 160

Q. I think you do have a note in your diary of him calling at 9pm.

14

15

A. Okay. Yeah, I have a note, 9pm, that's on a Sunday:

12:18

16

17

"9pm, superintendent arrives into the station and serves Regulation 15 papers on me."

18

19

20 161

Q. Yes.

12:19

21

A. Yeah.

22 162

Q. Do you recall what he recounts there in that paragraph?

23

A. I have a vague -- I don't particularly. I remember it was a Sunday night and it was unusual for a superintendent to arrive in on a Sunday night. I vaguely remember. I don't particularly remember -- just if you can clarify what exactly, what part?

12:20

24

25

26

27

28 163

Q. Well, it's just that he's describing it in a statement and his account of the meeting, recommending a less

29

1 serious breach of discipline being put against you
2 there?

3 A. Right. I don't think it was -- I think that was -- I
4 don't think it was a section -- that wasn't dealt with
5 by way of a section 10, that was a more serious breach. 12:20
6 Regulation 14, I see here.

7 164 Q. Yes. But in any event, what he recommended to the
8 chief superintendent, according to one report of the
9 4th August 2015, at page 2222. I think it starts:
10 12:20

11 "In this case I would consider the member's history of
12 absence and his blatant disregard to responsibilities
13 to the organisation, which appears to stem from his
14 over indulgence of alcohol. I respectfully recommend
15 that the member be dealt with by Regulation 14 of 12:21
16 discipline regulations for his absence without leave
17 amounting to four days."
18

19 That's the charge you pleaded guilty to?

20 A. Yeah. 12:21

21 165 Q. Do you follow what happened then? Chief superintendent
22 wheatley appointed Superintendent Alan Murray to
23 enquiry into that?

24 A. Oh yeah, I have no issue with Alan Murray's part at
25 all. 12:21

26 166 Q. That chief superintendent formulated two charges, do
27 you follow that?

28 A. Yes.

29 167 Q. And what I want to suggest to you is that your concern

1 about the date of the phone call and your concern about
2 when it happened was only really relevant to the second
3 charge and it had nothing to do with the first charge
4 of being AWOL. You were AWOL, you agreed you were
5 AWOL. You've noted your AWOL yourself? 12:22

6 A. Yeah.

7 168 Q. The issue that you have made about it date of the phone
8 call, chief superintendent wheatley teased that out in
9 correspondence with you, she enquired why you wanted
10 them and she made her decision that they were in large 12:22
11 part irrelevant to the appeal against the charge that
12 you pleaded guilty to?

13 A. You see, they tried to charge me with two different
14 things.

15 169 Q. CHAIRMAN: They did charge you with two different 12:22
16 thing.

17 A. They did, yeah.

18 170 Q. CHAIRMAN: Yes.

19 A. Sorry.

20 171 Q. MR. McGUI NNESS: Superintendent Alan Murray acquitted 12:22
21 you, Alan Murray acquitted you of the second one and
22 your appeal was only, therefore, against the first one,
23 isn't that right? And in relation to the penalty.

24 A. Just for clarification, can you just give me the two
25 charges again? Because one was neglect of duty, but I 12:23
26 can't remember which was one and which is --

27 172 Q. CHAIRMAN: One was AWOL.

28 A. Yeah, but that wasn't the actual charge, it had some
29 other wording on it.

1 173 Q. CHAIRMAN: Okay. The other concerned the medical
2 certificate.
3 A. Discreditable.

4 174 Q. CHAIRMAN: The other concerned the medical certificate
5 that retrospectively declared you to have been ill, to 12:23
6 have been sick, do you understand?
7 A. Yeah. The first one then is the --

8 175 Q. CHAIRMAN: Hold on, just so we know where we are going.
9 A. Yeah.

10 176 Q. CHAIRMAN: Mr. McGuinness is inviting you to comment, 12:23
11 he's inviting you to comment on this point: That the
12 question you raise about the 14th/15th is relevant only
13 to the second charge, of which you are found not
14 guilty. Do you understand? Do you know what I mean?
15 A. I understand. 12:24

16 177 Q. CHAIRMAN: It's a bit complicated, I understand, but we
17 have two charges. You were not guilty of number 2, you
18 were found guilty of number 1 because you pleaded
19 guilty to number 1. And he says this material about
20 the date, it relates only to question number 2. What 12:24
21 do you say to that? What's your position? He says it
22 appears that that's the case, and what do you say to
23 that?
24 A. As I said, I was given the opportunity to appeal it and
25 I went to appeal on just the two grounds. One was in 12:24
26 relation to the phone call, as I said, neglect of duty
27 I think is the first one, which I pleaded guilty to, I
28 think that that's right, and not guilty to the
29 discreditable.

1 178 Q. CHAIRMAN: Correct. The second one concerned the
2 medical certificate, if you know what I mean?
3 A. Yeah.

4 179 Q. CHAIRMAN: It was somewhat complicated language and
5 it's not entirely easy to understand exactly what it's 12:25
6 saying, but it concerned it. Now what do you say?
7 Don't mind about that, he says the point about the
8 dates only referred to the second charge that you were
9 found not guilty of?

10 A. I have a difficulty, a slight difficulty, in that in 12:25
11 neglect of duty, like part of Superintendent Pat
12 Murray's thing brings in the thing about the sergeants
13 and, it would appear, deliberately not answering the
14 sergeants and that. The fact that I was entitled to
15 the appeal, if they had done it fairly in the appeal, 12:26
16 they could have dealt with all that fairly, given me a
17 copy of the statement, checked out the phone records
18 and they could have then dealt with it.

19 180 Q. CHAIRMAN: Okay.

20 A. They didn't deal with the appeal, the mechanism they 12:26
21 didn't deal with.

22 181 Q. CHAIRMAN: Okay.

23 A. Is my argument.

24 182 Q. CHAIRMAN: You say, rightly or wrongly, relevantly or
25 irrelevantly, you raised it on the appeal and you 12:26
26 didn't get a satisfactory outcome. That's really what
27 it comes down to?

28 A. What I'm saying is, I didn't actually get -- I was
29 afforded the opportunity to appeal. Having said yes,

1 for my defence in the appeal I need these two things,
2 just the clarification on the phone call, a copy of my
3 statement, and I didn't get either of those.

4 CHAIRMAN: Very good. Okay. Now, Mr. McGuinness.

5 183 Q. MR. MCGUINNESS: Just in the context of later events, 12:26
6 Mr. de Bruir's observations seem to accord with what
7 Chief Superintendent Wheatley had -- her state of mind,
8 that the date of the call didn't change the fact that
9 you were AWOL, nor the fact that you had pleaded to the
10 charge. So he didn't see the date of the call to be 12:27
11 that relevant. Do you want to say anything else about
12 the relevance of it to the appeal?

13 A. Again, in relation to Mr. de Bruir's thing, it's based
14 on Assistant Commissioner Mick Finn's investigation. I
15 have huge problems with everything in that, a lot of 12:27
16 that investigation.

17 184 Q. CHAIRMAN: Mr. McGuinness is just putting the same
18 point to you essentially.

19 A. Yeah.

20 185 Q. CHAIRMAN: That Mr. de Bruir, again rightly or wrongly, 12:28
21 seems to have focused on the point about relevance or
22 relevancy, do you understand?

23 A. Yeah.

24 186 Q. CHAIRMAN: I think you have said what you said about
25 that? 12:28

26 A. Yeah.

27 CHAIRMAN: Okay, I think we will move on from,
28 Mr. McGuinness, because Garda Keogh says look, here is
29 my case on that.

1 187 Q. MR. MCGUINNESS: It's just that part of the bundle of
2 allegations in relation to Superintendent Murray was
3 that you say in your statement to the Tribunal, the
4 original statement:

5
6 "Pat Murray then vindictively requested an
7 acknowledgment of this finding to him, in circumstances
8 where it was a contest between my version and that of
9 Pat Murray, he had acted as formulator of the charge,
10 judge, witness, giving untrue testimony and now
11 enforcer of a cap in hand acknowledgment. "
12

13 You repeat that assertion a number of times in relation
14 to Superintendent Murray.

15 A. That's in the statement, isn't it, that I made prior -- 12:29
16 the statement I made to get it in before the deadline,
17 in to the Tribunal. I accept that statement was very a
18 rushed statement, in that I hadn't received all from
19 Tribunal, like everybody else, statements. I am not
20 sure, I know there's mistakes in that statement. I 12:29
21 think I have Superintendent Alan Murray and Pat Murray
22 mixed up in that. I do remember reading that and
23 seeing there's a mix-up in things there with the two
24 Superintendent Murrays. Just on the statement, that
25 particular statement that I made, the one that had to 12:29
26 be in for the deadline, which I think I just got in on
27 the deadline of the Tribunal, was an extremely rushed
28 statement. That statement, I think it was clarified in
29 the statement I made to the Tribunal, just that

1 statement, there were -- I didn't have the same -- I am
2 not even sure how much time I had, I don't think I even
3 got to read over that particular statement because it
4 had to be in by the deadline for the Tribunal.

5 188 Q. But the statement to the Tribunal is in large part a 12:30
6 repetition of -- it's not quite verbatim, there are
7 additions in your statement to the Tribunal, but it's
8 almost a verbatim repetition of your statement of
9 complaint to Assistant Commissioner Finn?

10 A. Yeah, it's similar, but there are -- I think there are 12:30
11 mistakes, some slight mistakes in the statement I put
12 in for the deadline, which I say -- and there was a
13 reason that was rushed, because that's to do with a
14 Tribunal order that wasn't served on me on --

15 189 Q. It's just that it seemed to remain in the appeal, even 12:30
16 up until the time that chief superintendent Finn had
17 dealt with it and when came to it Mr. de Bruir, because
18 even he pointed out that there was two different
19 Murrays and that Superintendent Murray wasn't the
20 assignor of the charge to you, it was Chief 12:31
21 Superintendent wheatley?

22 A. Yes. Yeah, I accept there's a mix-up in that statement
23 there that I sent and I am aware, I know what you are
24 trying to say, yeah.

25 190 Q. I am just wondering. Obviously you served under 12:31
26 Superintendent Murray and you have obviously complained
27 him in the way that we have heard about so far. But
28 you knew and you came face-to-face with Superintendent
29 Alan Murray?

1 A. Correct.

2 191 Q. Who conducted the discipline?

3 A. Yes.

4 192 Q. I am just wondering, how do you think you got it mixed
5 up between the two of them and that you accused 12:31
6 Superintendent Murray of being prosecutor, witness,
7 judge, jury, executioner?

8 A. Yeah.

9 193 Q. And that persisting over a number of years in the
10 documents, until it was corrected in the investigation 12:32
11 interview with our investigators in 2018?

12 A. Yes. As is stated, I didn't get the Tribunal order, I
13 didn't get the Tribunal order actually from
14 recollection until after the deadline. But luckily I
15 had heard that a statement needed to be in for the 12:32
16 Tribunal.

17 194 Q. Yes.

18 A. And I had to --

19 195 Q. CHAIRMAN: Garda Keogh, do you mind if I ask you,
20 we're going around in circles here. 12:32

21 A. Sorry.

22 196 Q. CHAIRMAN: This has nothing to do -- you have another
23 complaint, which we will get to in due course, about
24 not getting the Tribunal order?

25 A. Right, okay. 12:32

26 197 Q. CHAIRMAN: Look, Mr. McGuinness is saying, at some
27 point it became obvious that it was Superintendent Alan
28 Murray and not Superintendent Pat Murray who was the
29 relevant person for these charges?

1 A. Yes.

2 198 Q. CHAIRMAN: All right.

3 A. Yeah.

4 199 Q. CHAIRMAN: And he is saying, why didn't you drop the
5 allegations against Superintendent Pat Murray? Why 12:33
6 didn't you go to your solicitor and say, please write
7 to the Tribunal and say I was mistaken about those, I
8 was wrong, he wasn't the prosecutor, executioner,
9 everything else, I was wrong about that.

10 A. I think I clarified that, just from recollection. 12:33

11 200 Q. CHAIRMAN: No, listen, keep a simple conversation here.
12 Don't mind about clarifying anything, why didn't do you
13 that?

14 A. I think I did.

15 201 Q. CHAIRMAN: You think you did it? 12:33

16 A. In the statement to the Tribunal, when I sat down to
17 make my statement to the Tribunal. That's just from
18 recollection, Judge.

19 202 Q. CHAIRMAN: When you went to your solicitor to make your
20 statement to the Tribunal, is that correct? 12:33

21 A. No, this was here in Dublin Castle, when I met the
22 Tribunal.

23 203 Q. CHAIRMAN: You were interviewed. That's the very point
24 that Mr. McGuinness is asking you. When you were
25 interviewed -- I mean, I don't want to be difficult 12:33
26 about this, I just want to save us wasting time,
27 running around in circles about who clarified what on
28 the 25th. I just want to get it simple. Do you
29 understand me?

1 A. Yeah.

2 204 Q. CHAIRMAN: I mean, there is nothing sort of hostile
3 about this, I just want to get it clear?

4 A. I am a bit confused myself.

5 205 Q. CHAIRMAN: Okay. Let's go back to basics? 12:34

6 A. Mm-hmm.

7 206 Q. CHAIRMAN: Do you agree, I am not concerned whether you
8 say yes or no, do you agree that you seem to have got
9 it wrong and blamed Superintendent Pat Murray in this
10 particular instance, do you think you made a mistake 12:34
11 about that?

12 A. I'm sorry.

13 207 Q. CHAIRMAN: Okay.

14 A. In which particular?

15 208 Q. CHAIRMAN: Saying that he was the prosecutor, 12:34
16 executioner, charge hand, general investigator and he
17 was to have blame for all the things that happened?

18 A. No, he initiated, he wasn't the investigator.

19 209 Q. CHAIRMAN: Okay.

20 A. I accept he wasn't the investigator. 12:34

21 210 Q. CHAIRMAN: Now, now that we know what we are talking
22 about?

23 A. Yeah.

24 211 Q. CHAIRMAN: I'm sorry I started this?

25 MR. KELLY: Chairman, if I can help, I think at volume 12:35
26 1, page 73 you will find clarification.

27 CHAIRMAN: Thank you. Volume 1, page 63.

28 MR. KELLY: 73.

29 CHAIRMAN: 73. Thank you very much. What's in volume

1 1, page 73.
2 MR. KELLY:
3
4 "I wish to clarify that Superintendent Pat Murray was
5 not the prosecutor and enforcer in this matter and that 12:35
6 this is an error in my statement."
7
8 CHAIRMAN: Thank you very much.
9 MR. KELLY:
10
11 "Superintendent Alan Murray was the deciding officer."
12
13 CHAIRMAN: Okay, that's in the interview. Now what
14 Mr. McGuinness says to you is: why didn't do you that
15 earlier? why did it wait until -- that's the question 12:35
16 he's asking you. I am not saying it's a good question
17 or a bad question or an important question, but that's
18 a simple question, why didn't do you it earlier?
19 A. I just don't know, is the answer.
20 CHAIRMAN: Okay. All right. Now I think that was your 12:35
21 question.
22 MR. MCGUINNESS: well, that is part of it, Chairman.
23 CHAIRMAN: Oh, I'm sorry.
24 212 Q. MR. MCGUINNESS: The other half of it was, I am just
25 concerned to know how could you have made a mistake and 12:36
26 how could the mistake persist for so long? That's
27 really what I'm interested in.
28 A. When I had handed in the -- it was a lot of volumes and
29 it got it on the night of the deadline. As I said, I

1 don't think I got to read over it. But I was aware,
2 there's more than just one mistake in that particular
3 large statement that I had made. I was aware I was
4 going to be coming up to the Tribunal investigators at
5 some point and I kind of just said, right, we'll deal 12:36
6 with all that when -- the mistakes, we'll address them
7 as we go along.

8 213 Q. Okay.
9 A. I think I did as best I could.

10 214 Q. Can I ask you, was that the first time the mistake was 12:36
11 drawn to your attention, by the Tribunal investigators,
12 when they were interviewing you last summer in 2018?
13 A. I can't just recall.

14 215 Q. Okay, can you recollect anyone having brought it to
15 your attention prior to that? 12:37
16 A. I can't.

17 216 Q. All right.
18 A. I can't recall, because there was a lot of
19 investigations.

20 217 Q. Of course, I understand, yes. 12:37
21 MR. McGUI NNESS: Chairman, I think I am going to leave
22 that issue.

23 218 Q. CHAI RMAN: very good. Anything else you want to say
24 about that?
25 A. No, Judge, no. 12:37
26 CHAI RMAN: Thanks.
27 MR. McGUI NNESS: Chairman, the next issue is issue
28 number 8.
29 MR. MURPHY: Chairman, before we move on to that issue,

1 I wonder if I could renew the submission I made the
2 other day, which you very kindly indicated you would
3 adopt today.

4 CHAIRMAN: Yes.

5 MR. KELLY: Let me respond. I have made an arrangement 12:37
6 with the Tribunal, the documents are being looked at
7 now.

8 CHAIRMAN: Right.

9 MR. KELLY: I want to see the outcome of that.

10 CHAIRMAN: Should we pass over from this for the moment 12:37
11 and we will move to the next item, leaving this one so
12 your team can do whatever they want to do.

13 MR. KELLY: I would suggest, if it doesn't
14 inconvenience my Friend too much, that we leave it over
15 until tomorrow. 12:38

16 CHAIRMAN: Happy with that, Mr. Murphy?

17 MR. MURPHY: Yes, Chair. I just have a slight concern
18 that the issue is a very specific one, which is whether
19 former Commissioner O'Sullivan intervened by telephone
20 to Superintendent Patrick Murray in April -- 12:38

21 CHAIRMAN: I understand.

22 MR. MURPHY: It's a very specific allegation. It's not
23 clear exactly to me what exactly has taken place at
24 this stage, because, as I have indicated in my
25 submission, the complainant himself has indicated he 12:38
26 has no direct evidence.

27 CHAIRMAN: Okay. Mr. McGuinness.

28 MR. MCGUINNESS: I was only going to suggest, Chairman,
29 that via media, might be to take Garda Keogh on the

1 facts.

2 CHAIRMAN: Yes.

3 MR. McGUINESS: In the sense that that might be
4 relevant to a substratum of evidence upon which people
5 might be basing their submissions rather than 12:38
6 hypothetically hypothesise.

7 CHAIRMAN: what do you say to that, Mr. Murphy?

8 MR. MURPHY: Judge, I respectfully object to that
9 because that would undermine the entire basis of my
10 submission. 12:39

11 CHAIRMAN: That's all right, I just wanted to clarify.

12 MR. MURPHY: Can I just say, insofar as my concerns are
13 highlighted in the submission, just what has happened
14 in the last few minutes has indicated the wisdom of
15 conducting a witness with a need to withdraw 12:39
16 allegations on which there is no evidence.

17 CHAIRMAN: Hold on, Mr. Murphy, hold on, I would prefer
18 to deal with it when we are dealing with it.

19 MR. MURPHY: Yes.

20 CHAIRMAN: Okay. Mr. Murphy, it doesn't seem 12:39
21 unreasonable where Mr. Kelly's team wishes to look or
22 look again, whatever it is, I am sympathetic to the
23 idea that they should have that opportunity and then
24 reflect on the matter and come back. whatever it is
25 that's going to happen, we can discuss that at a 12:39
26 convenient time tomorrow.

27 MR. MURPHY: May it please you, Chairman.

28 CHAIRMAN: Obviously there is no question of anybody
29 having to make decisions or do anything until such

1 time. So, we will do that, Mr. Kelly and
2 Mr. McGuinness, we will leave that over until tomorrow.
3 MR. MCGUINNESS: Very good, Chairman.
4 MR. KELLY: Yes, Chairman.
5 CHAIRMAN: In light of that, we will see where we are 12:40
6 going.
7 MR. MURPHY: Thank you, Chairman.
8 CHAIRMAN: Thanks very much.
9 219 Q. MR. MCGUINNESS: Garda Keogh, I am going to skip that
10 issue and look at issue number 9, which relates to four 12:40
11 different investigation files that you were involved in
12 that were the subject of scrutiny and query and so
13 forth and about which you have made complaints. It's
14 issue number 9. I am going to go through them in
15 sequence obviously. The first one relates to a theft 12:40
16 at a Custom Place, Athlone, on 4th July 2015. You deal
17 with this in your statement, in Volume 1, at pages 129,
18 30 and 31 and the papers relating to it are in appendix
19 8, at page 189 onwards. But just looking at the first
20 one there, I'm afraid we will have to look at these in 12:41
21 some detail?
22 220 Q. CHAIRMAN: These are, you say, unreasonable criticisms
23 of your police work?
24 A. Yes.
25 CHAIRMAN: That's the heading under this. Okay. 12:41
26 221 Q. MR. MCGUINNESS: This related to a report by you. If
27 we look at page 190 of the documents. I don't know if
28 you want to take the paper copy or not. If you want to
29 look at it on screen there. There are various

1 different matters entered there. But you signed it,
2 your supervisor is Sergeant Moylan. There are remarks
3 of the supervisor in relation to:
4

5 "CCTV viewed but no evidential value as camera panning, 12:42
6 quickly passed premises."
7

8 Then there's:
9

10 "The identity of somebody collated at Custom Place at 12:42
11 the time of offence, possible suspect, statement of
12 injured party enclosed."
13

14 There's a second page on that about additional
15 enquiries conducted. Presumably they are subsequent to 12:42
16 the original report, is that right?

17 A. Yes.

18 222 Q. There's comments then under the heading "13":
19

20 "Blank in area around time of crime. No other 12:43
21 evidence."
22

23 Did you submit that file along with -- I think there's
24 a second file, this relates to two files, isn't that
25 correct? 12:43

26 A. Yeah. Sorry, just clarify, two files. If I can just
27 be of assistance here?

28 223 Q. Yes.

29 A. Two persons arriving at the same time to report an

1 incident of theft. The difficulty is, one, it was
2 obviously, I presume, the same suspect that took the
3 two items. One item was a phone I think belonging to
4 one person, the other was a wallet or a purse and
5 belonged to the other. Which meant they had two 12:44
6 different incidents recorded on Pulse. It wasn't just
7 dealing with one, there it was two, just the way it
8 happened.

9 224 Q. CHAIRMAN: Two injured parties?
10 A. Two injured parties, sorry, yes. 12:44

11 225 Q. CHAIRMAN: Who were the victims of thefts?
12 A. Yes.

13 226 Q. CHAIRMAN: It seems that the same suspect was
14 applicable to both, is that right?
15 A. Yes. I understand the wallet and the phone were beside 12:44
16 each other and the same, let's say, incident but the --

17 227 Q. CHAIRMAN: Oh, I see what you mean?
18 A. For recording the incident.

19 228 Q. CHAIRMAN: Yes.
20 A. Because there were two different parties. 12:44

21 229 Q. CHAIRMAN: So somebody left his or her wallet down and
22 somebody else left his or her phone down and the two
23 went missing?
24 A. Correct.

25 CHAIRMAN: Okay. Right, thank you very much. 12:44

26 230 Q. MR. MCGUINNESS: In relation to this, Superintendent
27 Murray raised a query, I don't think we need to look at
28 the second initial report, but if you go on to page
29 197, Superintendent Murray raised the query:

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"The attached two crime files are returned for further attention as follows.

The suspect has been identified in both cases. What efforts have been made to deal with them?" 12:45

And the second one is that:

"Why is it that both injured parties who are witnesses appear to have written out their own statements on form C8 rather than investigating member taking down the statement?" 12:45

Each and every reported crime must be brought to investigative conclusion so the injured parties and the public in general can have confidence in the police service we provide. 12:45

For report by 10/8/15." 12:45

Now, in this case you were the investigating member?

A. Yes.

231 Q. You didn't, as it were, and we will come to the whether or why of it, but you didn't take the statements of the witness in the form of an interview that might normally be done when you're taking a statement of complaint? 12:46

A. Not in the usual way, correct, yeah.

232 Q. All right. They were presumably then simply provided

1 with the relevant forms that we see the statements in
2 and they wrote them out themselves?

3 A. Yes, they wrote them out themselves, which I then read
4 over to them, read over to them and I wrote on the
5 bottom part, the relevant part, where "this statement 12:46
6 has been read over to me and is correct" and they
7 signed their statements and I witnessed their
8 signature.

9 233 Q. Yes.

10 A. Just for clarification, as I said, both of these 12:46
11 injured parties arrived in to me at the same time and I
12 was at the public office and I was busy. Just
13 procedurally, it's a thing I wouldn't normally do, but
14 I have often done it in the past. They are perfectly
15 balanced statements, legally, would be my argument, 12:47
16 legally balanced.

17 234 Q. Yes. In the sense that there's no doubt that they
18 would be regarded as having been made and signed in
19 your presence?

20 A. Yeah, it was done in accordance with law. 12:47

21 235 Q. Yes. But without you having, as it were, teased it out
22 by question and answer and maybe trying to develop
23 detail?

24 A. Oh, well I would have --

25 236 Q. Possible detail? 12:47

26 A. When we were doing that, I would have told them,
27 listen, you need the date, the time and the relevant
28 parts in, what was taken. I think I have the two
29 statement forms. I was present while they made their

1 statements in front of me, if you know what I mean,
2 while I was answering the phones. The relevant parts
3 to put into the statement.

4 237 Q. Are there desks in the public office that they can sit
5 at? 12:48

6 A. No, it's a hatch. But there is -- they could write,
7 they were able to write. There's two hatches, one,
8 let's say, would've where I was or just in front of me
9 at the desk, and the other one was just beside me, to
10 the left. 12:48

11 238 Q. Yes. Anyway, the documents I think sought a report for
12 the 10th August. I think Sergeant Monaghan sent that
13 down to you, it would appear. I don't think you made a
14 report by 10th August, but Sergeant Monaghan wrote to
15 you on the 11th August then, asking for a reply to 12:49
16 that, isn't that right?

17 A. A reply to Superintendent Murray's.

18 239 Q. Yes.

19 A. Yeah.

20 240 Q. At page 201, you wrote a reply there, which seems to 12:49
21 have been received or sent to the public office on the
22 28th. "This was the day of triathlon, hundreds of
23 people in the area. That's the suspect.

24

25 "There is no evidence to link (blank) to the crime. In 12:49
26 relation to why both statements were taken the way they
27 were, is because I was on my own in the public office
28 during the triathlon. It was very busy when the two
29 injured parties arrived in, so I did the best I could

1 under the circumstances. Forwarded for your
2 information."

3
4 That made it clear that although X was seen there,
5 there was, in your view, perhaps no reason to -- or 12:50
6 evidence to connect them to the crime

7 A. It was myself that nominated X. Because I actually
8 brought one of the injured parties in to view the CCTV
9 with me. I was going through the CCTV with the injured
10 party and X was in the area all right, but X didn't 12:50
11 actually go into the building on the cameras. That was
12 as far as I could go, he was in the area. He did not
13 go in or out on the camera into the building.
14 Therefore, I had no evidence then to put to X.

15 241 Q. Was that one of the additional enquiries you made? 12:50

16 A. Well, that would have been done when you watch the
17 CCTV. That's as far as I could go, let's say, X was in
18 the area, the problem was X didn't go in or out of the
19 building. It was an open house to do with the
20 triathlon, Judge, it would be like a St. Patrick's Day 12:51
21 event in Dublin, I'd say, it'd be a big event in
22 Athlone. There was an open house on this particular
23 occasion for something and I think these ladies were
24 working and that in the open house. There was a door,
25 there was loads of people going in and out of this 12:51
26 house, and on the camera X was around the area all
27 right, but he didn't go in or out of that house. That
28 was really as far as it progressed.

29 242 Q. Am I right in thinking that the viewing of the CCTV

1 didn't take place on that night?

2 A. I'm not sure. I just can't remember.

3 243 Q. It seems to be entered on the file as an additional
4 inquiry conducted?

5 A. AS I say, I know I was busy that particular night. 12:52

6 244 Q. Yes.

7 A. So that wouldn't have surprised me.

8 245 Q. Yes. In any event, Superintendent Murray, on page 302,
9 sent down a further memo, he said:

10 12:52

11 "The explanation given in this case for what I see is a
12 laissez faire attitude towards an investigation of
13 these two crimes is far from satisfactory. Garda Keogh
14 appears to need advice in relation to the purpose and
15 the scope of interviewing witnesses and in that regard 12:52
16 should be advised in relation..."

17

18 CHAIRMAN: Sorry we have 302.

19 MR. McGUINESS: I'm sorry, did I say --

20 CHAIRMAN: You said 302. 12:52

21 MR. McGUINESS: Sorry, I beg your pardon, 202.

22 CHAIRMAN: well, that explains that. Thank you. 202.
23 Yes. Have you got that on the screen?

24 A. Yeah.

25 CHAIRMAN: Okay. Now, Mr. McGuinness. 12:53

26 246 Q. MR. McGUINESS: You saw this at the time, isn't that
27 right?

28 A. Yeah.

29 247 Q.

1 "The explanation given in this case for what I see as a
2 laissez faire attitude towards the investigation of
3 this these two crimes is far from satisfactory. Garda
4 Keogh appears to need advice in relation to the purpose
5 and the scope of interviewing witnesses and in that 12:53
6 regard should be advised in relation to existing
7 instructions of chapter 3 of the crime instructions
8 manual. The manner in which these statements form of
9 an investigation is contrary to the training and ethos
10 of members of An Garda Síochána and does not allow for 12:53
11 this organisation to assure the victims in this case
12 that the best possible effort was put into
13 investigating the crimes reported."

14
15 Now, just on that point, that is the chapter that gives 12:53
16 sort of instructions and objectives about how it is
17 best for a guard to interview and what they should be
18 seeking to achieve when taking a statement?

19 A. Yes.

20 248 Q. As a matter of best practice, I suppose? 12:54

21 A. Yes. And now it calls for clarification. When I
22 received this document, from recollection, that
23 chapter, whatever, 3 of the crime investigations manual
24 is attached to the report. So obviously I read that
25 chapter 3 and at the very bottom part of it, it has: 12:54
26 On occasion a witness may wish to make -- something
27 like, a witness can make a statement themselves and the
28 guard then have to read it over to them, sign it and
29 that's it. So I was even covered under their own

1 investigation manual in relation to that.

2 249 Q. Yes. It says in the second paragraph:

3

4 "The basis of any investigation is the injured parties
5 statement and in these cases the injured parties 12:55

6 nominate a suspect. The issue must be explored in a
7 proper fashion with them. Garda Keogh has also
8 nominated the same suspect on the crime tacking file.
9 It is incumbent on us to ensure we explore the various
10 available options to assist in gathering evidence. The 12:55

11 case of DPP v. Ready indicates the low threshold in
12 relation to reasonable suspicion that exists in order
13 to assist investigations. The tools available to Garda
14 Keogh to assist him in his work are not used in this
15 case. In order to bring the matters to a acceptable 12:55
16 conclusion for the victims, please address the
17 following:

18

19 Garda Keogh should be given formal advice regarding the
20 investigation of crime and the importance of 12:55
21 interviewing witnesses.

22

23 What efforts have been made to include or exclude the
24 suspect identified? As two months have passed, this
25 matter needs urgent attention. 12:55

26

27 Sergeant Monaghan should ensure that Garda Keogh is
28 supervised in bringing this matter to a conclusion so
29 that the victims office can advised injured parties of

1 the efforts An Garda Síochána put into solving their
2 crimes. "

3
4 That would appear to be consistent perhaps with the
5 injured parties not having viewed the CCTV at that 12:56
6 point in time?

7 A. Oh, oh no, I would have had the injured parties in
8 earlier to view it, because the camera system I think
9 doesn't retain -- I am not sure how long it retains
10 footage, I am not sure if it's a month period or what 12:56
11 it is. But, no, I would have had them in fairly --
12 there was one lady that came in view, from
13 recollection, the CCTV. She was under no doubt that it
14 was being followed up because she was sitting beside
15 me, viewing the CCTV with me. 12:56

16 250 Q. Yes.

17 A. So there was no issue there either.

18 251 Q. It's just that it doesn't appear in their original
19 statements, so it would have seemed logical that it
20 must have been on some subsequent date. Have you any 12:57
21 note of the date on which they came in? Did you take a
22 statement from them on that date?

23 A. It could have been either that evening or the next day,
24 I'm not sure, but it would have been fairly lively. I
25 know I was busy when they came in to report the thing, 12:57
26 but it would have been -- it would have been -- it
27 would have been -- again, I'm working off memory, it
28 would have been very -- either that evening, I presume,
29 or the next day. But I do recall one of the witnesses

1 came in and we went through the whole thing. For
2 clarification as well, it was me that nominated the
3 suspect, because I don't think in the statements that
4 they wrote themselves, I don't think they actually
5 nominated a suspect themselves.

12:57

6 252 Q. Yes. Well, it's perhaps not clear who nominated them
7 in the original report. But this memo of the 3rd
8 September, I think that was sent down to you through
9 Sergeant Monaghan. Sergeant Monaghan seems to have
10 sent it to you on the 7th September, and then you, I
11 think, send the reply back up on the 22nd September and
12 that's to be seen at page 208. That says:

12:58

13
14 "Sergeant Monaghan. With reference to the above, I
15 have already written on this and explained verbally to
16 Superintendent Pat Murray regarding the statements
17 which are legally binding and valid made by the injured
18 parties on C8 forms, which were read over, both
19 witnesses have signed the same. When I got a chance, I
20 brought (somebody) into the CCTV room and viewed the
21 footage with her but it did not show the suspect enter
22 or leave the building. I also wish to point out that
23 neither of the witnesses named a suspect in the
24 statement."

12:58

12:59

25
26 So you clear that up. You nominated:

12:59

27
28 "... the suspect who was in the area at the time, along
29 with hundreds of other people for the triathlon. There

1 is no evidence to link him to this crime. Forwarded
2 for your information."

3
4 Then Sergeant Monaghan then sends that up to the
5 superintendent on the 5th, if we look at page 207. It 12:59
6 says:

7
8 "With reference to the above, please find attached
9 report from Garda Keogh. Chapter 3 of the crime
10 investigation manual has been brought to the attention 12:59
11 of Garda Keogh. Garda Keogh nominated (blank) for
12 these thefts but since then has been unable to link him
13 with the crimes. All CCTV was viewed and this gives no
14 leads in the investigation. This case cannot be
15 progressed at this time and any developments will be 13:00
16 reported to your office as they arise."

17
18 That seems to be endorsed by Superintendent Murray's
19 handwriting, do you recognise it as that?

20 A. Yeah. 13:00

21 253 Q. It says:

22
23 "I note your views. The crime file has been sent to
24 the victims office, who will inform the injured parties
25 of the efforts made and the result. I do not expect to 13:00
26 see a repeat of the situation by the member involved."

27
28 Can we take it that that relates to you?

29 A. Mm-hmm.

1 254 Q. okay. would you expect then to be required to take the
2 statements yourself in accordance with the
3 superintendent's wishes in that regard? Is that what
4 you took from that?

5 A. Is that the end? Is there not more in relation to 13:00
6 this?

7 255 Q. No, that's it, as I understand it?

8 256 Q. CHAIRMAN: Do you think there is more?

9 A. I am just not sure, you see.

10 257 Q. CHAIRMAN: Okay. 13:01

11 A. There's a couple of these investigations.

12 CHAIRMAN: That can be checked.

13 MR. McGUI NNESS: In relation to this one.

14 CHAIRMAN: That can be checked out.

15 MR. KELLY: I see that it's page 208. 13:01

16 CHAIRMAN: Just go to 208, Philip, thanks very much.

17 MR. McGUI NNESS: I think we've read page 208.

18 CHAIRMAN: They don't appear in chronological sequence.
19 we have had 208.

20 MR. McGUI NNESS: we have had 208. 13:01

21 CHAIRMAN: And then you went on to 202. well, we will
22 take a break here and we will return. Basically,
23 obviously Superintendent Murray was making criticism
24 very clear and presumably you will be asking Garda
25 Keogh for his response to those, is that right? So we 13:02
26 will take it up then at two o'clock. Thanks very much.

27
28
29 THE HEARING THEN ADJOURNED FOR LUNCH

1 THE HEARING RESUMED, AS FOLLOWS:

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258 Q. MR. McGUI NNESS: Garda Keogh, we saw there just before the break the report that went back up to Superintendent Murray and his handwritten note. He said, you know, when the file came back to him on the 6th October, he closed it off, realising there was nothing more that could be done with it?

14:02

A. Right.

259 Q. In a sense, you were able to provide that information to him, about what was done, that allowed him to close it off?

14:02

A. Yes.

260 Q. I am not adopting this as a criticism in any way of your investigation, he seems to have been approaching matters quite differently from when he came in as chief superintendent, or superintendent, in terms of organising matters. I referred to it yesterday, but maybe it's appropriate just to look at it. Page 2039.

14:02

CHAIRMAN: Do you mean when he came in as superintendent?

14:03

MR. McGUI NNESS: Yes.

CHAIRMAN: Yes. So he was the new superintendent, replacing Superintendent McBrien?

MR. McGUI NNESS: Yes.

14:03

CHAIRMAN: Yes. Thanks.

261 Q. MR. McGUI NNESS: Here, on this page, going into the next page, there's an A to V of initiatives. We will just start maybe at the top of 2039. He says he set

1 about evaluating things and introducing initiatives for
2 the purpose stated. He sets them out there. I am not
3 going to debate any of them with you. But down at I
4 was this instruction relating to the reporting of
5 critical serious incidents, on the 18th August. That 14:03
6 is his Exhibit PM 10. If we look at that on the
7 screen. Just down the screen to I. That's it there.
8 Just to continue on over the page, it shows all of the
9 other things he produced or was in charge of at the
10 time. L to V. Now I am not asking you to comment on 14:04
11 any of those. But he says in his statement to the
12 Tribunal, in relation to this: He didn't feel that
13 there was anything overly critical:
14
15 "...but I intended to allow people to see the standard 14:04
16 I was setting. It was not a personal criticism of
17 Garda Keogh in any way. I took the file as an example
18 of the new framework and how it could assist in upping
19 the game with that time of volume crime."
20 14:04
21 Now, you didn't see it that way?
22 A. No. I'm sorry, can we just look at the previous report
23 that he wrote in relation to that theft at Custom
24 Place.
25 262 Q. Yes. 14:05
26 A. It was on the screen earlier, I just wanted to just
27 have a quick glance at it.
28 263 Q. Yes, of course. It is at 202 to 203. He doesn't, in
29 fact, refer to the instruction in it, which is a

1 curiosity, maybe an omission on his part. This file
2 started on the 4th July, and he introduces the
3 instruction in the middle of August. It's there
4 obviously prior to him writing this memo to you of the
5 3rd September. But it seems to perhaps illustrate his 14:05
6 thinking, that he was trying to up the standard in
7 relation to what should be in a file. That this wasn't
8 directed at anyone personally, this is what he was
9 asking all people to strive towards.

10 A. You see, I'm not so sure about that. I think he has -- 14:06
11 is it okay if we can just go back to the report he
12 wrote in relation to the Custom Place.

13 264 Q. Yes. Let's go back to that, it's at page 202 to 203?
14 A. Yeah.

15 265 Q. This is the one you're talking about? This is the one 14:06
16 of the 3rd of --

17 A. Yeah. I mean, without even going into the contents of
18 the report, I mean it's a really long report on a very,
19 very -- on a non-issue essentially, in relation to the
20 taking of statements. It's a very lengthy report. It 14:06
21 took quite some time to do that report.

22 266 Q. Yes. Well, Inspector Minnock expressed a view in his
23 statement at page 691, asking parties, injured parties
24 or witness to write their own statement would not be
25 normal practice and in his view not best practice? 14:07

26 A. As I previously said, I have on numerous occasions over
27 my career not -- not, sorry, numerous, on occasions
28 over whatever, the last 20 years, in circumstances like
29 that, where it's just a difficulty and it's awkward, I

1 would have, the odd time, got persons to do the
2 statement, make their own statements in that fashion.
3 It was never questioned before. As I said, they are
4 perfectly legal and valid statements.

5 267 Q. Yes. 14:07

6 A. Was never ever questioned before by any previous
7 superintendent, ever.

8 268 Q. That is what I was going to ask you.

9 A. Oh yeah, sorry.

10 269 Q. Had any superintendent sent a file back to you in the 14:07
11 past?

12 A. Oh never, never. As I said, it would have been --
13 we're talking perhaps once a year an incident would
14 crop up, where one would be busy or there's an awkward
15 situation or something or if you have to take a lot of 14:08
16 statements, a number of statements together and you're
17 on your own, in circumstances that where it's just
18 awkward, the norm that I always would have done would
19 be take the statement, sit down with someone, write out
20 the statement, but in exceptional circumstances, and 14:08
21 this is one of them. But they were never ever
22 questioned before any anyone else. They were always
23 just accepted, fair enough, there's a statement there,
24 it's valid, legally valid and that's it.

25 270 Q. May I say, I have made my own statements in my own 14:08
26 words to the guards on occasions, so it can be done
27 obviously?

28 A. Yes.

29 271 Q. But in circumstances where it is acknowledged not to be

1 best practice, is there anything wrong in the
2 superintendent calling your attention to the fact that
3 it isn't best practice?

4 A. I completely -- I have to disagree with that.

5 272 Q. Okay.

14:09

6 A. I mean, how many -- over the years, in different court
7 cases there's always where people would say, I didn't
8 put that into my statement, the guard put that into my
9 statement and I didn't. It actually probably is best
10 practice, if one was to look at it. As I say, it's not 14:09
11 the norm in the Guards, but no one can accuse me of
12 saying, oh, this particular thing, oh, you got so and
13 so to -- or you put something in that wasn't -- they've
14 written their own statement, it's their statement, I
15 read it over to them, they signed it. 14:09

16 273 Q. I am not going to ask you any more about that. Can I
17 ask you to look at the instructions that had issued in
18 the sort of interim period, at page 198 of the
19 documents. It's dated 18th August, it's addressed to
20 each sergeant, each member in the Athlone district. It 14:09
21 relates to the document referred to earlier, obviously
22 it is the document.

23
24 "All incidents of a critical or serious nature must be
25 subject of a short, concise report in addition to any 14:10
26 entry made on Pulse. A report in addition to the Pulse
27 entry is necessary in order that local and divisional
28 management are aware of the background surrounding all
29 critical or serious incidents either reported or

1 discovered by members. There have been some excellent
2 detections recorded in the district which displays
3 outstanding police work by all members involved. It is
4 important that the outstanding police work displayed is
5 highlighted at a divisional and regional level to show 14:10
6 the commitment and dedication of the district force to
7 the communities we serve and the organisation's goals
8 and values."

9
10 Then he continues: 14:10

11
12 "To ensure the reporting system works swiftly, the
13 sergeant on duty at the time the incident is heard by
14 either being reported or discovered, or in the
15 sergeant's absence, the station orderly or Member in 14:10
16 Charge will prepare a short concise report, e-mail it
17 to the district office e-mail, CC it to myself,
18 Inspector Farrell, D/Sergeant Curley and Sergeant
19 Baker.

20 14:11
21 Reports are required for all...serious and likely to
22 generate the community...In addition, this reporting
23 system should be used to highlight excellent police
24 work carried out."

25 14:11
26 Then it continues on the next page

27
28 "The details that should be included are: Date, time,
29 place of occurrence, brief and concise narrative

1 outlining the occurrence, details of all victims,
2 including... details of any arrests made or planned to
3 include power of assist used, detention used, name, age
4 and gender of person, detail of investigative steps
5 taken and those planned or suggested. Any other 14:11
6 information deemed necessary to provide a complete
7 picture.
8
9 Please bring to the attention of each member for
10 immediate implementation and for strict compliance." 14:11
11
12 Now, I suppose you wouldn't quarrel with that, as it
13 seems to be focusing everyone's mind on getting and
14 recording, the details being available for all to see
15 in an audit or in the report if they pick up the 14:12
16 investigation file or whatever?
17 A. Yeah. I mean, I'm not disputing anything in that.
18 274 Q. Okay. Were you not really characterising it as a sort
19 of retrospective attempt to, as it were, call you to
20 account? 14:12
21 A. In relation to the taking of statements.
22 275 Q. Yes.
23 A. Yes, he makes an issue of pretty much a non-issue.
24 276 Q. Okay.
25 A. Like, he put a lot of time into that report over 14:12
26 statements that were perfectly legal. Now, correct me
27 if I'm wrong, I am not a legal expert.
28 277 Q. Yes.
29 A. But I don't think it would be an issue in any court if

1 there were to be a prosecution in relation to those
2 statements.

3 278 Q. Yes. I am not sure that he is addressing that in the
4 report to you, but he seems to be envisaging under this
5 and perhaps implicitly in his report, that the initial 14:13
6 investigation file should, as it were, contain as much
7 as possible in relation to the offence that's being
8 investigated. You couldn't disagree with that in
9 principle?

10 A. No, no. But just for clarification like, I would have 14:13
11 put those two incidents on Pulse as well. So I had two
12 separate incidents on Pulse.

13 279 Q. Yes.

14 A. Because there are two separate thefts, which I
15 previously explained. All that information in there 14:13
16 would have been recorded on Pulse. So I would have
17 complied with all those.

18 280 Q. No, I understand that. Perhaps the thing could have
19 been avoided if all the details in your final report
20 had been included in the initial investigation file, 14:13
21 would that be a fair comment or not?

22 A. Sorry, I am just not -- I am a little bit unclear on
23 that.

24 281 Q. You see, the matter closed off when you sent your final
25 reply to the superintendent? 14:14

26 A. Yeah.

27 282 Q. In September, isn't that right?

28 A. Yeah.

29 283 Q. We've already looked at that. I mean you were

1 furnishing the details then of how it was that the
2 person had become nominated as the suspect if possible
3 and then how they had been then ruled out?
4 A. Yes.
5 284 Q. That there was, in fact, nothing to connect the suspect 14:14
6 to the crime?
7 A. Yes.
8 285 Q. I mean, he seemed to think, it would seem, that there
9 could have been more detail in your investigation file
10 report at the beginning, that those might have been 14:14
11 included?
12 A. Like what?
13 286 Q. Well, the fact that you had nominated the suspect and
14 outlining any steps to try and connect him via the
15 injured parties? 14:15
16 A. Well, I think that's addressed in the crime file. I
17 think I say I looked at the CCTV, nominated this fella.
18 I think. I am just going from that, this is what,
19 2015. But I think I did address those on the crime
20 file. So there's two incidents on Pulse; there's a 14:15
21 crime file as well gone in also.
22 287 Q. Do you see this as Superintendent Murray getting at
23 you?
24 A. Oh absolutely. Like, that's a big long report on
25 something that really is a non-issue. That is my take 14:15
26 on it. I could be -- I'm in your hands there, but
27 that's the way I took at it.
28 288 Q. It's just, I am anxious obviously to give you every
29 opportunity to voice your criticisms?

1 A. Yes.

2 289 Q. Mr. Marrinan is going to be dealing with Superintendent
3 Murray, he will be making obviously the same sort of
4 enquiries of Superintendent Murray about what he did.
5 We want to be sure we have it chapter and verse from 14:16
6 you?

7 A. Yeah.

8 290 Q. You follow that?

9 A. Mmm

10 291 Q. Well, moving on to the second incident, this was a 14:16
11 theft at Dublin Road on the 7th/8th August, which was
12 given a Pulse ID. That's dealt with by you in your
13 statement, at page 131 to 133, and at documents from
14 213 on. Perhaps we will just look at the first page of
15 that. It says: 14:16
16
17 "Theft."
18
19 Page 213. It says there:
20
21 "CCTV viewed to no avail as it is poor quality."
22

23 A. Yeah.

24 292 Q. Is that "no ID for suspect"? Then, there was an 14:17
25 additional inquiry recorded on the next page at item
26 12, I think that's your handwriting?

27 A. Yeah, it is.

28 293 Q. So was that done later?

29 A. I just have to read it first, sorry.

1 294 Q. Yes. It says:
2
3 "Garda CCTV viewed, crime occurred 4:31-4:34 8/8. Poor
4 quality footage of car moving with stolen trailer
5 hitched. 14:18
6
7 Comments: Unable to make out registration number,
8 colour or type of car."
9
10 This is one of the crime files that Superintendent 14:18
11 Murray raised a query about. If we look at page 215,
12 on the 14th August:
13
14 "In relation to the stolen trailer, who supplied CCTV?
15 No statement from that person on file. Has any effort 14:18
16 been made to enhance the CCTV? Should it be circulated
17 anyway? Where is the CCTV now?"
18
19 So, it would seem obvious but I want to give you an
20 opportunity to comment on this -- 14:19
21 A. Just for clarification, the first line there:
22
23 "Who wrote the statements on attached C8s?"
24
25 295 Q. That relates to one of the other ones? 14:19
26 A. Yeah, I knew there was more when I said, is that all.
27 I wasn't trying to be smart.
28 296 Q. Yes.
29 A. Just from recollection, I thought -- you see, when the

1 paper starts coming down to me, it seems to go -- a
2 couple of these -- we will see in this one also,
3 connected with another one, where he is questioning me
4 on a couple of different investigations. Then he rolls
5 them all into -- like this. That first line is related 14:19
6 to the previous one.

7 297 Q. Yes, that's right.

8 A. Yeah, sorry.

9 298 Q. These are files that are all currently ongoing and
10 live. 14:19

11 A. Yes.

12 299 Q. And being dealt with at different levels at different
13 times, in different ways obviously. So, it would
14 appear that the additional enquiry hadn't occurred
15 before wrote this? 14:20

16 A. Sorry, just looking at this. Actually he's writing
17 down to me now, I think, on three separate incidents.

18 300 Q. Yes.

19 A. These are three separate incidents. The first one is
20 what we've already dealt with. The second one, 14:20
21 Mulligan's, I think it's some way in this, but he
22 writes down with this and the theft of the trailer, the
23 two of them in kind of the one correspondence. The
24 third one, yes, is the theft of the trailer, yes.

25 301 Q. Yes. So he has obviously got the file without the 14:20
26 additional enquiries recorded on it, they were done
27 later by you?

28 A. That incident occurred at 4 to 4:30am in the morning,
29 which we have just seen.

1 302 Q. Yes.

2 A. When that incident occurred, I went to Kilmartin's
3 petrol station. Sorry, I know I named the location,
4 but it's actually not relevant, Judge, for anything
5 here anyway. I went to a 24-hour petrol station that 14:21
6 night, and I asked to view the CCTV at the petrol
7 station.

8 303 Q. Yes.

9 A. The young lad at 4am, 4:30, 5, whatever, that night,
10 the early hours of the morning I called down to him, he 14:21
11 couldn't work -- he wasn't able to operate the CCTV.
12 So he had to wait for someone to -- basically about a
13 week later I get the CCTV footage in relation to that
14 incident. But I had requested it that night, but I
15 don't get it. So I can't really advance anything until 14:21
16 I get the CCTV from that petrol station.

17 304 Q. Yes.

18 A. So that's sort of out of my hands there.

19 305 Q. Yes. But the entry then wasn't put in on that night,
20
21 14:21
22 "CCTV viewed to no avail."
23
24 Is that right?

25 A. You see, I got a number of CCTV, I did a petrol
26 station, a pub. Oh yeah, I viewed -- I am able to see 14:22
27 a car from CCTV from some pub in relation to -- but I
28 can't make out the details. It's not until we get the
29 footage from the petrol station that I make out the
identification on the car, which is later.

1 306 Q. Yes.

2 CHAIRMAN: Take your time.

3 A. Sorry.

4 307 Q. CHAIRMAN: Don't get confused. No, no, no. There's a
5 number of different incidents and there's a number of 14:22
6 different CCTVs. Now, you were just talking, as I
7 understand, about Mulligan's filling station.

8 A. No, we haven't got to that one yet, Judge.

9 308 Q. CHAIRMAN: Okay, very good.

10 A. That's separate. 14:23

11 309 Q. CHAIRMAN: No, that's all right. This was the trailer
12 question?

13 A. Yes.

14 310 Q. CHAIRMAN: Okay. The trailer question was on 17th
15 August '15, is that correct? 14:23

16 A. I just --

17 311 Q. CHAIRMAN: I don't expect you to remember the date.
18 whenever it was, the trailer issue. The trailer
19 question, you obviously wanted to view the CCTV?

20 A. Yes. 14:23

21 312 Q. CHAIRMAN: In regard to the trailer question. And as I
22 understand, it wasn't sufficiently clear to --

23 A. On.

24 313 Q. CHAIRMAN: Go on, on?

25 A. The first CCTV I viewed we can make out, we can make 14:23
26 out, let's say, something passing by.

27 314 Q. CHAIRMAN: Okay.

28 A. The trailer. But can't --

29 315 Q. CHAIRMAN: Nice and slowly.

1 A. It's not clear.

2 316 Q. CHAIRMAN: Does that mean there's two CCTVs?

3 A. Yes.

4 317 Q. CHAIRMAN: No more than two?

5 A. There could have been even -- I'm not sure if there was 14:23

6 a third.

7 318 Q. CHAIRMAN: A number. More than one, there was more

8 than one?

9 A. From recollection, I don't think there was anything on

10 one. There was a blurry -- 14:24

11 319 Q. CHAIRMAN: Don't worry, you're going too far ahead of

12 me.

13 A. Sorry.

14 320 Q. CHAIRMAN: I just want to make sure, this is the

15 trailer theft that's reported to you? 14:24

16 A. Yes.

17 321 Q. CHAIRMAN: You go to the scene, is that right?

18 A. Yes.

19 322 Q. CHAIRMAN: You visit the scene?

20 A. I can't remember, the injured party, yes, he comes in, 14:24

21 I think he comes in and reports it, just from

22 recollection.

23 323 Q. CHAIRMAN: That's all right, as best you can. If it

24 turns out that that's wrong, that's okay, but you for

25 the moment you think he came in and he reported it? 14:24

26 A. Yes.

27 324 Q. CHAIRMAN: Does that mean that you went out?

28 A. I would have gone out, yes. The pub, from

29 recollection, I think was closed that night. I called

1 then to the 24-hour station, a different petrol station
2 from --

3 325 Q. CHAIRMAN: Because they had CCTV?
4 A. Yes, they had excellent CCTV but the guy couldn't work
5 the CCTV. 14:24

6 326 Q. CHAIRMAN: Okay.
7 A. I asked for whenever they could.

8 327 Q. CHAIRMAN: So it took some time?
9 A. It took about a week.

10 328 Q. CHAIRMAN: To get at least one of the CCTVs, is that 14:25
11 right?
12 A. To get the good CCTV, yes.

13 329 Q. CHAIRMAN: Okay. But you had seen the no so good
14 CCTVs?
15 A. Yes. 14:25

16 330 Q. CHAIRMAN: Possibly two of them, possibly two, one
17 certainly?
18 A. I don't think there was anything on it.

19 331 Q. CHAIRMAN: And it took you some time to get the good
20 one? 14:25
21 A. About a week.
22 CHAIRMAN: Okay, all right. Sorry, I am just trying to
23 get this clear in my head.

24 332 Q. MR. McGUINESS: Yes. The questions that he raised in
25 relation to the trailer there, on page 215: 14:25
26
27 "Who supplied the CCTV? No statement taken from that
28 person? Has any effort been made to enhance the CCTV?
29 Should it be circulated in any way? Where is the CCTV

1 now?"

2

3 That query must have arisen because it's the only
4 reference to CCTV. There is a tick at number 7, where
5 it says there is CCTV. The supervisor puts in on the 14:26
6 page later, is it later? Is that your writing?

7 A. Is this page 215.

8 333 Q. That's page 215. If we go back to page 213. Your name
9 is there, Nick Keogh?

10 A. Yes. 14:26

11 334 Q. And then the supervisor. Then whose writing is that?

12 A. That's sergeant -- I can't make out the signature.
13 It's one of the sergeants anyway.

14 335 Q. Yes.

15 CHAIRMAN: Sergeant Moylan? 14:26

16 A. I presume it's Sergeant Moylan.

17 336 Q. CHAIRMAN: That's to be clarified in due course, okay.
18 Anyway, yes.

19 337 Q. MR. McGUINESS: That entry was only put in obviously
20 after the CCTV had been viewed? 14:27

21 A. Yeah, this would be the first, this would be the poor
22 quality CCTV, CCTV given to no avail. I couldn't
23 progress the matter with the particular CCTV that I got
24 from that bar.

25 338 Q. I suppose two separate issues, just to be clear. You 14:27
26 didn't write this, this wasn't a CCTV that you viewed,
27 because I thought you told us you couldn't view it on
28 the night?

29 A. Correct. Yeah, I don't think I get the good quality

1 CCTV until someone can download, someone can work the
2 thing, download it. I think that's left in the
3 station. I just vaguely remember I arrived in to work
4 and it was left in an envelope for me and then I get, I
5 am able to -- what I do then is, I contact the 14:27
6 injured -- from recollection, contact the injured
7 party, he comes down and views the CCTV with me in the
8 station. Sorry, I am getting mixed up. That's the
9 poor quality one, is where I view it with the injured
10 party. We see a car with the trailer but we just can't 14:28
11 make out the car. We get then the same car later on at
12 the petrol station. But I don't know that at this
13 point.

14 339 Q. No, you don't. The point I am making here is that this
15 entry is unlikely to have been made on this file that 14:28
16 night. It was only made after the poor quality CCTV
17 DVD was viewed by you later?

18 A. I presume. I think, I am not sure if I am
19 understanding the question, that's all. But I think
20 the date that I wrote that should be on it, on the 14:29
21 report, I presume.

22 340 Q. There's a signature of --
23 CHAIRMAN: The sergeant.

24 341 Q. MR. McGUINESS: -- the sergeant there, on 11/8, which
25 is sort of four days later. I am trying to ask a 14:29
26 question which -- if you look at the next page, this
27 says?
28
29 "Additional inquiries conducted. Garda CCTV viewed.

1 Crime occurred at 4:31."
2
3 That is the CCTV referred to on the first page as being
4 of poor quality.
5 A. Correct, yes. 14:29
6 342 Q. So that was not on the form originally. All the
7 indication of the CCTV on the form originally was the
8 tick that you put in box number 7 on the next page,
9 further up that page, I beg your pardon.
10 A. Can we just go back to that? 14:30
11 343 Q. Do you want to take a paper copy in case it's easier?
12 A. Please, could I?
13 CHAIRMAN: Yes, that might be a good idea.
14 MR. McGUI NNESS: Volume 1, page 213. You may be able
15 to flick backward and forward. As I understand your 14:30
16 narrative --
17 CHAIRMAN: Just give him a chance to have a look,
18 Mr. McGuinness.
19 344 Q. MR. McGUI NNESS: Yes, of course.
20 A. Yeah, okay. 14:30
21 345 Q. As I understand it, you knew there was CCTV on the
22 night, isn't that right, of the incident, but you
23 weren't able to view it, that's what you told us?
24 A. No, sorry. I am sorry, I am working from recollection
25 from a number of years ago as well. So bear with me. 14:31
26 I mightn't explain it great.
27 346 Q. Take your time.
28 A. I may not explain it great, but I'll try and get it.
29 When the injured party reported this to me, with him I

1 view the poor quality CCTV. On the night of the theft
2 I had gone to Kilmartin's petrol station, where I had
3 asked -- where I have already said, I've asked, the
4 young lad couldn't work it. So I don't get the good --
5 we don't know there is CCTV on the Kilmartin's thing at 14:31
6 all.

7 347 Q. Yes.

8 A. I had left the details with the operator, with the
9 young lad to pass it on to whoever could monitor the
10 CCTV, look at the CCTV and he actually found a car with 14:31
11 a trailer pulling up to fill petrol in it. So we
12 didn't actually know there was anything, it was just I
13 had looked for CCTV, but we didn't know until --
14 luckily it turned out there was that car. The car,
15 after they swiped the trailer, pulled in for petrol 14:32
16 down the road into that petrol station. I get the CCTV
17 a week later, let's say, after I write this document.

18 348 Q. Well, you see, that doesn't help me, because I am
19 trying to find out what bits of the document you wrote
20 when. I think you have told us that the entry on the 14:32
21 first page wasn't written by you on the night, "CCTV
22 viewed", isn't that correct?

23 A. That's the sergeant.

24 349 Q. Yes.

25 A. The sergeant has dated this the 11/8/15. So I presume 14:32
26 that's -- I can only presume that's the date I sent it
27 to the sergeant. I am just presuming, obviously I
28 don't know.

29 350 Q. The entry that is yours on the next page, could I

1 suggest, if we stop there at 7, slightly up, did you
2 tick that box, marking CCTV on the night, because you
3 knew there was CCTV which you hadn't either seen or
4 downloaded on the night in question?

5 A. That's correct. But that CCTV, we didn't know if there 14:33
6 was anything on it.

7 351 Q. Indeed.

8 A. It was only poor chance -

9 352 Q. Indeed.

10 A. - that I had enquired. 14:33

11 353 Q. Indeed.

12 A. I wasn't even expecting that these criminals would
13 steal a trailer and then pull in to a petrol station
14 down the road with the trailer.

15 354 Q. Yes. 14:33

16 A. I just asked, is there a chance I could view the CCTV,
17 the car pulls in at such and such a time, and I get
18 that CCTV roughly a week later.

19 355 Q. Yes. But can we just then look at the next entry,
20 which I think is your handwriting, is it? Number 12? 14:34

21 A. Yeah.

22 356 Q. This says:
23
24 "Garda CCTV viewed, crime occurred at 4:31-4:34, 8/8,
25 poor quality footage of car moving with stolen trailer 14:34
26 hitched."
27

28 That is not the Kilmartin's one

29 A. Correct, actually, yeah. Garda CCTV, I knew there was

1 another CCTV. Yeah, on the Garda CCTV was the one
2 actually that I had the injured party in that we viewed
3 and again we couldn't, just couldn't -- he was able to
4 spot where he lived and that the car had pulled out.
5 We seen the car pulling out with the trailer but that 14:34
6 was -- and the direction of travel it went. That was
7 all we could ascertain at that point in time.

8 357 Q. The remarks then underneath, that's your remark:
9
10 "Unable to make out registration number, colour of 14:34
11 car."
12

13 A. Correct.

14 358 Q. You were only able to make those entries and put them
15 on here, as you say, perhaps a week later, after you 14:35
16 had viewed that CCTV?
17 A. Yes. Like I would have -- this is after I viewed the
18 CCTV, of course.

19 359 Q. Yes.
20 A. I would have had to have viewed the CCTV to write what 14:35
21 I wrote there.

22 360 Q. Yes. Superintendent Murray gets the investigation file
23 with whatever is recorded on it by the date he writes
24 his query of the 14th August, at page 215?
25 A. Yes. 14:35

26 361 Q. He is raising these questions:
27
28 "In relation to the stolen trailer, who supplied CCTV?
29 No statement from that person on file. Has any effort

1 been made to enhance the CCTV? Should it be circulated
2 in any way? Where is it now?"
3
4 So he is raising those issues. You reply to him, if we
5 look at 216, which appears to be the 28th August, to 14:36
6 Sergeant Monaghan. It's the third entry that we are
7 concerned with:
8
9 "It is Garda CCTV which is stored on computer. The
10 incident happened at night and the quality is poor." 14:36
11
12 So, perhaps the additional remarks didn't relate to the
13 trailer actually being towed away, is that possible?
14 A. I'm sorry, I'm lost.
15 362 Q. Well, here is a question, and I hope it's as clear as I 14:36
16 intend it to be: was it the Garda CCTV that showed the
17 trailer being towed away or was it Kilmartin's?
18 A. No, no, it was the Garda CCTV that showed the trailer
19 being towed away. Kilmartin's is approximately a week
20 later. I have already requested the CCTV from 14:37
21 Kilmartin's, but I don't get it till a week later. But
22 that's good quality.
23 363 Q. CHAIRMAN: That shows a vehicle, a car and trailer?
24 A. A car and trailer and the injured party --
25 364 Q. CHAIRMAN: Somewhat carelessly robbing a trailer and 14:37
26 then having to pull in for petrol?
27 A. Yes.
28 365 Q. CHAIRMAN: But there it is. Well, who knows.
29 A. Exactly.

1 366 Q. CHAIRMAN: what's to explain what people do. But it
2 does seem curious and somewhat inefficient. But that's
3 what it looks like.

4 A. Yes.

5 CHAIRMAN: Okay.

14:37

6 367 Q. MR. MCGUINNESS: Sergeant Monaghan sends that up,
7 saying that:

8

9 "The only CCTV footage available to cover the location
10 of the theft is Garda CCTV and on viewing it the
11 quality is poor, as it was nighttime. This CCTV is
12 stored on the hard drive in the station."

14:37

13

14 So he is able to tell the superintendent where that
15 CCTV is. Then it's recorded here for the first time
16 that:

14:38

17

18 "Garda Keogh has since obtained CCTV footage from
19 Kilmartin's N6 Centre, this shows two possible suspect
20 vehicles which has updated the incident with. Is that
21 on Pulse? Enquiries are ongoing in this case and any
22 progress will be reported."

14:38

23

24 Superintendent Murray then, on the 3rd September, sends
25 a memo back down to the sergeant in charge, it's at
26 page 219. He says as follows on the 3rd September:

14:38

27

28 "The incident regarding the theft of the trailer
29 requires further explanation in relation to the CCTV.

1 It appears the crime file was submitted prematurely,
2 indicating no evidence was available and now evidence
3 has come to light following a request for further
4 information.

14:39

5
6 The following issues have not been dealt with:

7
8 1. My question in relation to CCTV in correspondence
9 dated 14/8 has not been answered;

14:39

10
11 2. The car identified was involved in a burglary in
12 Ballinasloe on the 9th May. What liaison has occurred
13 with the investigating member of that incident?

14
15 3. How is it proposed to allow the CCTV harvested to
16 assist the investigation?

14:39

17
18 4. Where is the CCTV now from an evidential point of
19 view?

14:39

20
21 Sergeant Monaghan should supervise the proper
22 investigation of this crime so that we can show to the
23 victim we were thorough and professional in our
24 approach to solving the crime."

14:39

25
26 That had been then followed up by Sergeant Monaghan to
27 you on the 8th September, where you clarified, in
28 answer to the four points there:

29

1 "Sergeant Monaghan. Garda CCTV of poor quality saved,
2 Kilmartin CCTV downloaded. Statement regarding same
3 attached to file. Garda Keogh has spoken with Garda X
4 and supplied garda with as copy of the Kilmartin CCTV
5 of car and suspect. Both incidents connected on Pulse. 14:40
6 Warning attached to the car registration, which is
7 registered to a false address."

8
9 Under 3:

10
11 "CCTV forwarded with a request to be put on G Tube on
12 10/9. 14:40

13
14 Garda Keogh has original CCTV. Copies of same
15 forwarded to garda (blank) at Ballinasloe Garda station 14:40
16 and G Tube."

17
18 That's signed by you then on that date. That would
19 appear to answer the questions obviously

20 A. Mm-hmm. 14:41

21 368 Q. Now, that is sent up with a statement from Kilmartin's,
22 page 221. Then on page 222, Sergeant Monaghan sends
23 your report to the superintendent and says in the text
24 of it there, in the middle:

25
26 "All the CCTV saved. Originals in the possession of
27 Garda Keogh. A copy of CCTV has been forwarded to
28 Garda in Ballinasloe. Garda Keogh has been in contact
29 with this member in relation to possible suspects for

1 both case. Another copy has been forwarded to the
2 collator in Mullingar to be uploaded on G Tube. Garda
3 Keogh has put a warning on Pulse in relation to the
4 suspected offending vehicle, has made contact with
5 Gardaí in Kildare where the car is registered to. This 14:41
6 address is false. This crime is still under
7 investigation and any further progress will be reported
8 as it arises."

9
10 Superintendent Murray seemed to have noted there: 14:42

11
12 "Noted. I appreciate the additional enquiries carried
13 out, which ensure the organisation is achieving its
14 goals in relation to the investigation of crime.
15 Report on the efforts at identification by the 1st 14:42
16 November."

17
18 So he appears to be expressing appreciation of what you
19 had done there. Were you aware of that at the time?

20 A. I think there's more. 14:42

21 369 Q. It appears that you probably were, because there is a
22 document at page 223?

23 A. There's nothing really -- like again, there's nothing
24 for him to criticise really at this point. I thought
25 this was the one where at some point he implies that 14:43
26 it's only where he gets involved in the thing that
27 there's progress made. We skipped page 221, which is
28 the statement at Kilmartin's, which kind of is what I
29 said, where I go down the night of the crime and I look

1 for the CCTV.

2 370 Q. well?

3 A. Sorry.

4 371 Q. You're contacted on the 8th. But he views it on the
5 10th and he downloaded and handed it over then, it 14:43
6 would appear, isn't that right? But if we look at 223,
7 Sergeant Monaghan appears to send on the minute from
8 Superintendent Murray to you and then asking you to
9 report any developments as required by the 1st
10 November. Now you've included this as an aspect of 14:44
11 targeting, is that because of the initial request from
12 Superintendent Murray?

13 A. No. Again, I think, like the previous thing, I think
14 this is then rolled into -- is this not rolled into
15 more (Inaudible), like what we saw in that previous 14:44
16 page, where I am questioned about three different
17 investigations on one sheet. I think that this doesn't
18 just -- I could be wrong, but I think there is an end
19 there. I am not sure.

20 372 Q. Well, I mean, what Superintendent Murray says in his 14:44
21 statement, page 2049, is that:

22

23 "Queries generated in this case were not in any way
24 directed to Garda Keogh personally but were intended to
25 ensure the investigations were carried out to a high 14:44
26 standard to fulfil his obligations as district
27 officer."

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29 Inspector Minnock, in a sense, goes further and says at

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690:

"These further investigations undertaken by Garda Keogh resulted in good work and the successful identification of the suspect vehicle on CCTV footage. The good work was highlighted to me as part of the ongoing oversight of incidents on Pulse." 14:45

He also expresses the view that:

"It is clear to me that the queries kept the investigation open and there was a successful outcome to the investigation. It appears Chief Superintendent Murray was also complimentary in relation to the further work conducted by Garda Keogh in stating that he appreciated the additional inquiries." 14:45

They in fact identified suspects who were arrested for this, isn't that correct?

A. Yes. 14:46

373 Q. I think you made an application for overtime to attend I think for the purpose of the court proceedings in relation to that?

A. Yes.

374 Q. That was granted by Superintendent Murray? 14:46

A. Yes.

375 Q. I think you reported in on the basis of a relapse a couple of days before that?

A. Yes. I couldn't attend. I wasn't -- yeah.

1 376 Q. Okay. I think you certainly phoned at some stage on
2 the day of the arrest to say that you wouldn't be there
3 and told people where the file was?
4 A. Yeah, I did. I knew, I just couldn't -- but I did
5 leave it in a position that others were able to -- the 14:46
6 State wasn't at any disadvantage, another guard was
7 able to deal with it.
8 377 Q. I think there was a conviction actually secured in the
9 case then as well?
10 A. Yes. 14:47
11 378 Q. You became aware of that also. Do you regard yourself
12 as having been sort of prodded to make the enquiries
13 which led to the breakthrough, or is that something you
14 were doing yourself in relation to the investigation?
15 A. The breakthrough was made essentially by taking a 14:47
16 chance of going around to Kilmartin's petrol station
17 that night and asking them, can you just check your
18 CCTV to see did a car arrive in between such and such a
19 time and such a such a time with a trailer. Like
20 because the car had gone in that direction, pure 14:47
21 chance.
22 379 Q. Yes.
23 A. And as it happened, the car did pull in. And that's
24 how we got the footage.
25 380 Q. Yes. 14:48
26 A. In relation to the injured party in any doubt, the
27 injured party I was working with and, as I said, was in
28 the station, viewing the original Garda CCTV. I am
29 sure I would have had to have shown the other CCTV

1 obviously to say, is this your trailer and take a
2 statement or whatever way it went from there, I just
3 can't recall. But I was in regular touch with the
4 injured party myself in relation to that. So the
5 injured party knew that we were doing our bit. 14:48

6 381 Q. Yes. But in terms of the requirement made of you by
7 Superintendent Murray in his memo of the 14th August
8 that we have seen at page 215, do they not appear to be
9 sort of reasonable requests in relation to the
10 information that would have been available to him on 14:49
11 the investigation file?

12 A. This is page 219.

13 382 Q. 215, the third paragraph.

14 A. Sorry, what's your question in relation to that?

15 383 Q. The question was: Are those sort of enquiries or 14:49
16 queries not reasonable perhaps in the light of the
17 limited enough information that would have been
18 available to him on the investigation file as submitted
19 to him at that time?

20 A. That's fair enough, but again, on this document, you 14:49
21 see, he's rolling three separate investigations into
22 one on this document.

23 384 Q. Is that -- sorry go ahead?

24 A. Like, you know. There's the C&S, then there's the
25 Mulligan's, sorry then there's the -- yeah, Mulligan's 14:50
26 and then there is what we are dealing with now, the
27 stolen trailer. So these are all rolled in to one. I
28 am not sure, but I think that crops up again, where
29 there's more queries down the line, where they are

1 rolled in again together. So I'm not sure if this just
2 ends here or not.

3 385 Q. Well, I think I have opened all the documents. But do
4 you think there are other documents?

5 A. I'm not sure. But as I said previously, when I was 14:50
6 giving evidence before we broke, that, was that it? I
7 had a feeling that what he starts to do then is, he
8 rolls all these investigations, where -- on this single
9 sheet of paper, he is now writing down effectively on
10 three separate investigations, three totally different 14:51
11 investigations with different things.

12 386 Q. I mean, I know you won't be keen for me to mention
13 Assistant Commissioner Finn's investigation, but I mean
14 he seemed to have viewed it as not an inappropriate use
15 of his authority to ensure that all reasonable 14:51
16 enquiries were pursued and that you had in fact been
17 praised for following it through?

18 A. Yeah. No, this part, as it is now, it's fair enough.
19 But I mean, do we not -- perhaps, you see this might
20 crop up again in further sheets in relation to other 14:51
21 stuff. I'm not sure.

22 387 Q. All right. I know you have told us previously that no
23 other superintendent had sent down queries on sort of
24 investigation files, that you took as criticism?

25 A. Not on this level. Not on this level. 14:52

26 388 Q. But do you take this one as criticism? Do you take
27 this as targeting and discrediting?

28 A. Well I do, because here we have on the first one is
29 C8s, is on the very first line, which we've dealt with.

1 The second thing, Mulligan's thing, are we getting on
2 to that, because that's criticism there.

3 389 Q. We are dealing with all of them but we are dealing with
4 them one at a time.

5 A. Sorry. 14:52

6 390 Q. I am not trying to stop you making a general comment,
7 please do.

8 A. Yeah. I mean, in relation to that, I mean, there's no
9 issue there. The only issue I have is, somewhere, from
10 recollection, I think he writes something down which 14:52
11 implies that I only going to get the CCTV, the relevant
12 CCTV because he had written down to me. I recollect
13 reading something and it might be further on down in
14 another paper, which I am not sure of.

15 391 Q. Well, I mean, I am not criticising you at all, I am 14:53
16 just trying to establish what the facts are. There
17 doesn't appear to have been any mention or distinction
18 between the two types of CCTV that you were aware of on
19 the night and no information such that he raised
20 queries about what CCTV you were talking about. That's 14:53
21 what all those questions are relating to. But on its
22 own, I don't want to misinterpret it, but just looking
23 at that query, the third query on that page, do you see
24 that as targeting?

25 A. Just on those two lines, he's entitled to ask those 14:53
26 questions, on those.

27 392 Q. We will pass on to the next one and then we will come
28 back to the sort of combined effect, as it were, if you
29 want to on that. The next one is criminal damage,

1 Mulligan's filling station on the 7th and the 8th
2 August. This was one that was reported on by you also,
3 isn't that correct?

4 A. Yes.

5 393 Q. I will just get the page. This arose out of a report 14:54
6 put in by you. If we look at page 215, he has raised a
7 query in relation to your report, which had named a
8 particular family, isn't that correct? We don't need
9 to name them now here?

10 A. Well I won't be naming them but I know the family, 14:55
11 yeah.

12 394 Q. Yes.

13 A. Yeah. Sorry what page are you on now?

14 395 Q. Yes, just bear with me.

15 CHAIRMAN: Is that a convenient time to take a little 14:56
16 break?

17 MR. McGUI NNESS: Yes, Chairman. I have just lost my
18 place on this document.

19 CHAIRMAN: Anyway, we usually break mid afternoon. So
20 that's as convenient a time. I am sure you'd probably 14:56
21 appreciate a break. So we will do that and then we
22 clarify. So, if I said ten minutes, is that fair?

23 MR. McGUI NNESS: Thank you.

24 CHAIRMAN: Very good. Thank you very much.

25 14:56

26 THE HEARING THEN ADJOURNED BRIEFLY AND RESUMED AS
27 FOLLOWS:

28

29 MR. McGUI NNESS: Thank you, Chairman. The document was

1 not where I expected it to be.

2 CHAIRMAN: That's all right.

3 396 Q. MR. McGUI NNESS: In any event, the original file
4 investigation that we are concerned here with,
5 Mulligan's filling station, it doesn't appear to be in 15:09
6 your papers, but we have located that at page 8942,
7 which is in volume 31. For whatever reason it's a poor
8 copy, it says:

9

10 "Criminal damage Mulligan's filling station, Roscommon 15:09
11 Road, Sunday, 3rd August. Nick Keogh, supervi sor
12 Dermot Monaghan. No suspects to date."

13

14 Is that your handwriting there?

15 A. Not the "no suspects to date", the rest of it is mine. 15:09

16 397 Q. Okay, there is an entry on the next page:

17

18 "Addi tional in qui ri es, area searched for cul pri ts."

19

20 It would appear that that file went up to 15:10
21 Superintendent Murray and he considered it on the 14th.
22 If we go back to page 215 in volume 1, that we were
23 looking at there, he says there in the middle sentence:

24

25 "In relation to Mulligan's, it appears (blank) may be 15:10
26 suspect. Was this put to them in any way?"

27

28 You describe the queries in general from Superintendent
29 Murray as oppressive and irrational. You said that

1 this was oppressive in the sense of Superintendent
2 Murray, you put it, colourfully, is:

3
4 "Pie out of the sky nominating these suspects"."

5 15:10

6 And criticising you for not having nominating them
7 because they lived two miles away, you said, and had no
8 transport. The query is sent to you and you answer it
9 then on the 20th August, page 216. It's the second
10 query that you reply to on that page. It says:

11 15:11

12 "In relation to (blank) being suspect, there is no
13 evidence to suggest this and when I spoke to
14 (blank)..."

15 15:11

16 who is, I think, the owner?

17 A. The injured party and the owner.

18 398 Q.

19 "...he did not feel it could be as they could not
20 frequent this area."

21 15:11

22 Sergeant Monaghan reported that up later that day to
23 the superintendent and in the second paragraph there,
24 Sergeant Monaghan sort of conveyed that:

25 15:12

26 "In relation to that, Garda Keogh indicates there is no
27 evidence to suspect the (blanks) of this damage. On
28 speaking with the owner, he is happy it was not the
29 (blanks) as they do not frequent this area. Any

1 developments will be reported."

2
3 It goes to Superintendent Murray and on the 3rd
4 September, in the letter that we have already seen, but
5 the final paragraph of that: 15:12

6
7 "The crime file in relation to Mulligan's has been sent
8 to the victims office so they can inform the injured
9 party of our lack of progress due to the unavailability
10 of avenues of inquiry to progress the case." 15:12

11
12 I think that was the extent of any query that was
13 raised and your response that dealt with it. The
14 investigation file that we have looked at, I am not
15 sure there is any reference to speaking to the owner, 15:13
16 the injured party on it, but you hadn't identified any
17 suspects yourself?

18 A. No. Actually, just on that incident, we were actually
19 very close to the scene when we got the call.

20 399 Q. Right. 15:13

21 A. So we immediately went down, just from recollection, I
22 think it was a door they broke into, there was glass.
23 Again, I think it was cigarettes or whatever, but we
24 searched the scene immediately because we were so close
25 to the area. I do recall searching just the area, 15:13
26 looking to see if we could find anyone around. I think
27 the owner came that night, just from recollection. I'm
28 not certain, I think, perhaps, but I was talking to the
29 owner at some stage. Yeah.

1 400 Q. Superintendent Murray, in his statement to the
2 Tribunal, says at page 304/5 that his nomination of
3 this family group, as it were, as potential suspects
4 may have written at a PAF meeting. He sees no issue
5 with given their profile and said that the fact that 15:14
6 someone doesn't have access to transport wouldn't
7 preclude them from committing a crime a couple of miles
8 away.

9
10 So, he was happy, he says in his statement, with your 15:14
11 reply on this and he was happy to have it sent to the
12 victims office because it was clear that there didn't
13 seem to be any other available avenue of investigation.
14 Presumably you agreed with that; there was no other
15 avenue to go down? But do you regard it as 15:14
16 inappropriate that he should, as it were, sort of have
17 an overview as to whether that step that you then
18 reported to him had been taken and that he could then
19 be sure, in fact, that the owner had no reason to
20 suspect these people as well. 15:15

21 A. I mean, I said in my original statement, pie out in the
22 sky. I was going to say I couldn't put it better
23 myself. But like, the persons that are nominated by
24 Superintendent Murray live the other side of the town,
25 Athlone, the river Shannon goes through it. I mean, 15:15
26 there's plenty of other suspects on the Connaught side
27 of the town that could have been -- I don't see any
28 rationale for nominating those people as suspects for
29 this crime.

1 401 Q. But certainly your reply was able to give him the
2 reassurance that the matter had been discussed with the
3 owner and that was an additional, as it were, check on
4 the non-availability of actual suspects?
5 A. Yeah. 15:16

6 402 Q. CHAIRMAN: Did you go back to the owner, following the
7 query from the superintendent?
8 A. I think so.

9 403 Q. CHAIRMAN: And say, did you see the XYs and he said, ah
10 no, they don't frequent this area? 15:16
11 A. Yes, I did, because it was the owner that said they
12 don't frequent the area.

13 404 Q. CHAIRMAN: The logic says that you probably would have.
14 If I understand, on the night you did a sort of search
15 of the area generally, didn't see anything to lead you 15:16
16 to any conclusion, so you probably went back after this
17 and said, what about that and they said, no question?
18 A. I just can't recall.

19 405 Q. CHAIRMAN: No, but that's what it looks like.
20 A. Yes. 15:16
21 CHAIRMAN: Okay.

22 406 Q. MR. MCGUINNESS: So, I mean, in a sense his requirement
23 of you might have prompted you to conduct that inquiry
24 then? It probably did, I suppose.
25 A. But I mean, it was a needless inquiry. I can't really 15:17
26 comment on it.

27 407 Q. All right.

28 408 Q. CHAIRMAN: You didn't think there was any basis for it,
29 and on further investigation the owner also ruled it

1 out, to confirm that view?

2 A. Yeah.

3 CHAIRMAN: Okay.

4 409 Q. MR. MCGUINNESS: But did you regard that at the time
5 you got that query as targeting or bullying or 15:17
6 harassment?

7 A. Again, the previous page, is it 215, where he starts
8 writing down a number of these issues together and some
9 of them were rolled up in -- and again, with this, I'm
10 not sure does this crop up somewhere else in further 15:17
11 correspondence again. I'm not sure until we will get
12 to it.

13 410 Q. Well, he certainly appears to be, you know, reviewing
14 the files certainly and raising queries where he thinks
15 it's necessary. You think it is going further, is that 15:18
16 right?

17 A. I mean, I had said there was no suspects.

18 411 Q. Okay.

19 A. Superintendent Murray is then nominating suspects
20 himself, like, suspects are not from that area, they 15:18
21 are from a good bit away and there's plenty of, let's
22 say, local criminals until that area that are well
23 capable of carrying out that crime.

24 412 Q. Did you nominate any of those?

25 A. I didn't, I didn't, because, I'm not sure, I think -- I 15:18
26 am not sure even about the CCTV or whatever, but I
27 think if -- I am actually not sure but I think -- just
28 this is in my head and I could be totally wrong, I
29 think there were two individuals and they were well

1 covered up. But even at that, I can't stand over that
2 because I just think perhaps, but I'm not sure.

3 413 Q. Perhaps we will pass on to the last of the four files
4 that you raised concerns about. This was a robbery on
5 13th September 2015. It has got a particular Pulse 15:19
6 number. You wrote a report on it and it's at page 229
7 of our documents. It's a handwritten report.

8
9 "With reference to the above, robbery from the person
10 was reported 4am, 13/9, the injured party..." 15:19
11

12 The details are given.

13
14 "...was intoxicated and after pointing out the scene
15 was brought home by gardaí. Garda Keogh is going onto 15:20
16 rest days and has two days annual leave booked and is
17 not due to work until 19/9/15. This was a serious
18 incident and the injured party may have injuries.
19 Could this be forwarded to D/Branch for favour of
20 immediate investigation? Forwarded for your 15:20
21 information please."

22
23 Superintendent Murray, in his statement to the
24 Tribunal, at page 2049, says that this was discussed at
25 the PAF meeting, it would appear the next day, and that 15:20
26 Sergeant Baker brought it to his attention that the
27 report was far from satisfactory, that Inspector
28 Minnock felt the same and that D/Sergeant Curley
29 assigned a member to carry out enquiries. Following

1 enquiries, the matter was reviewed and that doubts
2 existed as to whether the incident occurred at all.
3 Were you aware of any of that at that time?

4 A. I'm not sure at the time. I have read, obviously, the
5 documents, so I am obviously aware of it now and I 15:21
6 would have been -- yeah, as Superintendent Murray was
7 writing out with all these queries in relation to this,
8 obviously I become aware of it because I have to
9 respond in writing to what he's sending me down on
10 paper, questions in relation to it. 15:21

11 414 Q. Yes. I mean, he did write a minute dated the 23rd
12 September, which is at page 230, relating to this
13 incident. That was endorsed over to you. But that
14 said, in the middle paragraph:

15 15:22
16 "In this case the incident on its face was serious.
17 The scant report submitted does not give any indication
18 of what investigative steps were taken at the initial
19 reporting stage regarding the scene, searches of it,
20 CCTV, injured parties, account of events, descriptions 15:22
21 of assailants, what was taken, what violence was used,
22 what injuries were received, whether photographs were
23 taken etc. These issues are the basic steps required
24 at a commencement of any investigation. The duties of
25 the first member at the scene are also set out clearly 15:22
26 in the CIT manual but are not recorded in this report.

27
28 I require an explanation, please, as to why this matter
29 was dealt with in the fashion chosen."

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Now, he is raising several different issues about components of what might have been done and what might be expected to be done. Your report is on a short page rather than being on a form. Is that a common way to report an offence? 15:22

A. If I can explain this.

415 Q. Yes.

A. When that incident occurred, I put the incident onto Pulse, where I detailed everything. I particularly remember even something about McKenzie clothing or something going into the report, into the Pulse report. At the very top line: 15:23

"Re robbery from person, Pulse incident number 12207121". 15:23

All those questions are answered in that Pulse detail. The purpose of the report that arose there, the scant report, was simply, I am not going to be around, this is serious, because I am going on leave this, this is a serious incident, can you get someone from D/Branch to deal with this? That was all. That was the purpose of that report. I am not going to be around to investigate this, I am gone for I think the next six days, it's a serious robbery from a person, can you get someone else please in the next few days to look at this? 15:23

416 Q. Yes.

1 A. The details of everything, virtually every question he
2 asks on page 230 are in Pulse, on the Pulse incident
3 report.

4 417 Q. Yes. So this wasn't intended to be the sort of detail 15:24
5 that would otherwise go in a report, if you are making
6 a report?

7 A. Oh no, this is just to say, look, I'm not going to be
8 around here, this is a serious incident, can you pass
9 it on to D/Branch, because it's a robbery from a
10 person, where a young man was mugged. You know, all 15:24
11 the details of the actual incident are in the Pulse
12 report on the computer, which I've referred to at the
13 very top line.

14 418 Q. Well, there's certainly a Pulse entry referred to.
15 Anyway, Superintendent Murray's request was sent to you 15:25
16 and you are asked to report by 15/10, isn't that right?
17 One can see at page 231, Sergeant Monaghan sends it
18 down to you. You reply then in a handwritten report at
19 page 232, isn't that correct?

20 A. 232, yeah. 15:25

21 419 Q. 232. You say:
22
23 "With reference to the attached report, the incident
24 was reported to the gardaí at 4am, 13/9/15. The
25 injured party was brought to the scene where it was 15:25
26 searched. The injured party was driven around the area
27 in an effort to identify the suspects. There is no
28 CCTV in the area the incident occurred. The injured
29 party was then brought home and placed in the care of

1 his mother. When I returned to work on 19/9, having
2 already written a report on the incident and put it on
3 Pulse, I rang the injured party, who informed me that
4 he had made a statement to a detective to the effect
5 that he did not want the matter pursued by gardaí. The 15:26
6 attached report from Superintendent Murray is nothing
7 short of a form of harassment towards myself.
8 Forwarded for your information please."
9

10 I mean, if it is the case that Sergeant Baker and 15:26
11 Inspector Minnock shared Superintendent Murray's view
12 that the report was far from satisfactory, it would
13 appear that they may not have checked the Pulse or if
14 they checked the Pulse, they also expected to have a
15 report with the same detail in it perhaps. would that 15:26
16 be common, to do that when you're sort of a guard who
17 is called to the scene, or bringing the facts of the
18 offence back to the station; that you put it on Pulse
19 but you also write a report

20 A. You see, I didn't have to write a report. The Pulse 15:27
21 report is on the system. So when they type in, log
22 into Pulse, whatever, every morning, to look at what
23 has happened and crimes and things like that, they
24 would see the purpose of the report is, this is
25 serious, I'm not going to be around the next few days 15:27
26 to deal with this. For clarification, is the actual
27 Pulse reported in this, that we can see what I inputted
28 into Pulse, which would've been available. If they
29 didn't look at Pulse, that's negligence on their

1 behalf.

2 420 Q. well, I am not suggesting that they didn't. But I am
3 just wondering, is what is required under
4 Superintendent Murray's system of reporting, is it goes
5 on Pulse and there's also a paper file, starting with a 15:27
6 report?

7 A. Sorry, I couldn't hear the last part.

8 421 Q. I am sorry, I beg your pardon. Is what's required
9 under Superintendent Murray's regime, is it that it
10 should be put on Pulse and that there should also be a 15:28
11 paper report? Am I misunderstanding it?

12 A. Well, no, there would be a crime file I assume with
13 this as well. The Pulse incident and a crime file were
14 what was required. What I did here, as I have already
15 said, I'm not going to be around, this is serious, can 15:28
16 you get a detective branch to -- it's a robbery from a
17 person, it is serious.

18 422 Q. I mean, all the Pulse entries seem to be there, from
19 page 225, 226, 227, 228.

20 A. 22... sorry? 15:28

21 423 Q. 225 is the first one.

22 A. If I may read this out and I won't read anything
23 identifiable.

24 424 Q. Yes.

25 A. Like this is the Pulse report, I report what was taken, 15:29
26 I put the location on it, the investigating garda,
27 supervisor, the assisting garda that's with me, the
28 occurred date and time and all the rest.
29

1 "Injured party walking home through (a certain area) to
2 (another certain area) and under a bridge was mugged by
3 two males, €20 stolen. Patrol of area. Injured party
4 pointed out scene with negative results. Suspects were
5 Irish, in their 20s. One wearing a white Air Max top 15:29
6 and black tracksuit bottoms. Two wearing Blue McKenzie
7 wing sheet top. Both fled towards waste ground behind
8 the location. No CCTV."
9
10 Of course, that ultimately then is updated on the 15:30
11 23rd of -- do you want me to go into that or do you
12 want to get on to something there?
13 425 Q. No, you have read out, haven't you, the entirety of the
14 narrative?
15 A. Of the narrative, yes. 15:30
16 426 Q. Yes.
17 A. It's updated then and there's another part of this
18 which we will have to get to. But that's -- so I have
19 everything in that Pulse report.
20 427 Q. Yes. Now, in your statement you sort of queried why, 15:30
21 when he seemed to regard it as serious, it got
22 reclassified?
23 A. That's correct.
24 428 Q. Have you seen the evidence as to -- the basis upon 15:30
25 which was reclassified and who reclassified it. That
26 it was done as a result of a conference?
27 A. And it's nonsense. I have seen it.
28 429 Q. Yes.
29 A. It's actually very wrong. That should never have been

1 reclassified.

2 430 Q. okay. Superintendent Murray says that:

3

4 "They all felt reclassification was the best course of

5 action." 15:31

6

7 A. Sorry, just for clarification again here, this is the

8 guards, one person will make the decision and everyone

9 else will agree.

10 431 Q. Well, I mean we will hear evidence from anyone else 15:31

11 involved, but the decision to reclassify was apparently

12 made at a PAF meeting, it was included in the Pulse

13 narrative and that the rationale for it was included

14 too?

15 A. I am going to dispute everything in relation to this. 15:31

16 432 Q. Pardon?

17 A. I am going to dispute everything in relation to this.

18 what was done here was wrong from start to finish.

19 There's a couple of correspondence in it, whichever way

20 you want to deal with it. 15:32

21 433 Q. Well, what do you want to say about the correspondence?

22 A. No, there's a lot of correspondence, I suppose, I was

23 just wondering, if we read through that and then we can

24 go --

25 434 Q. Inspector Minnock was present obviously at the first 15:32

26 PAF but he said that decision was made to recategorise

27 it in line with the Crime Counting Rules. That's what

28 he says at page 683.

29 CHAIRMAN: Can you see that? I am not sure I am seeing

1 it, Mr. McGuinness.

2 A. 683.

3 MR. MCGUINNESS: It's towards the bottom. It's the
4 last paragraph on that.

5 CHAIRMAN:

15:33

6

7 "At a later state the incident was again discussed."

8

9 MR. MCGUINNESS: Yes. As I understand it, it was
10 Sergeant Curley who wrote the letter recommending the
11 recategorisation on the 16th September. Were you aware
12 of that?

15:33

13 A. Just one moment, sorry. Okay.

14 435 Q. The history of the Pulse recategorisation is contained
15 in Inspector Curran, as he is now, in his appendix,
16 commencing at page 507. Because you will no doubt have
17 understood that when the detective went back to the
18 injured party, he wouldn't provide any more details, he
19 wouldn't make a statement about the matter, as I
20 understand it, and didn't want the matter to be pursued
21 in any way further by the Gardaí.

15:34

15:35

22 A. You're correct in the last part, but I don't think
23 you're correct in the rest. I read the injured party's
24 statement in this documents, and the injured party
25 confirms, to my recollection, I could be wrong, that he
26 was mugged but he doesn't want to pursue it. He
27 doesn't say that there was no...

15:35

28 436 Q. Be that as it may, it's is recorded that he didn't want
29 to pursue it and this says that he refused to cooperate

1 with Gardaí?

2 A. Correct. He refused to cooperate. This person had
3 made a statement confirming the incident happened. He
4 just says he doesn't want to make a statement. Theirs
5 is a big difference, I think. 15:36

6 437 Q. what else do you want to say about that?

7 A. well, I was going to say like --

8 438 Q. CHAIRMAN: You don't agree with the reclassification?

9 A. No.

10 439 Q. CHAIRMAN: Your position as I understand it is, 15:36
11 irrespective of whether the injured party wanted to
12 proceed or didn't want to proceed, the facts were the
13 facts, there was a crime?

14 A. There was, Judge. I won't go into the details, I will
15 just make it very quick. I was on in patrol car on 15:36
16 church street in Athlone, the main street, whatever
17 time of the night, this injured party was walking home,
18 let's say, that direction and the incident occurred
19 approximately half a mile away in that direction. The
20 injured party got into a taxi on his way to the Garda 15:36
21 station to report this crime. The taxi driver let the
22 injured party out when they saw the patrol car, took
23 details of the crime and obviously we went to the scene
24 with the injured party and that. If this crime never
25 occurred, I mean, the injured party was very close to 15:37
26 his house, why did he jump into a taxi to come back,
27 all the way back into the town.

28 440 Q. CHAIRMAN: The difference, if I understand, on this
29 issue, the difference is, you say the fact that he

1 didn't want to pursue it is not relevant to the level
2 of seriousness of the crime?

3 A. Yes.

4 441 Q. CHAIRMAN: So you disagree with the reclassification,
5 you say that should not have happened, that was wrong? 15:37

6 A. Yes.

7 442 Q. CHAIRMAN: Okay. I have that. That's what I
8 understood you to be saying?

9 A. Judge, I have no problem if they all want to line up
10 and say, oh, it should have been reclassified. I was 15:37
11 standing my ground on this one.

12 CHAIRMAN: I understand, yes.

13 443 Q. MR. MCGUINNESS: Sergeant Curley's recommendation made
14 to the superintendent, which was apparently all
15 discussed and agreed upon, dated 16/9, is at page 495, 15:37
16 volume 4. volume 3, sorry. There's a report Garda
17 Divilly attached:

18
19 "Incident cannot be investigated without the
20 cooperation of the victim. The credibility of the 15:38
21 victim has to be questioned as it is not normally a
22 victim would refuse to cooperate and pursue a robbery
23 complaint. Consequently, I recommend this incident be
24 recategorised to attention and complaints following the
25 outcome of the interview with the victim. 15:38

26

27 Forwarded for your information and attention please."

28

29 That is what he has written.

1 A. Would it help to look at the what the injured party
2 said in their short statement?

3 444 Q. I am not reviewing the crime, I am not even reviewing
4 the process?

5 A. Oh sorry. 15:38

6 445 Q. I am just bringing to your attention that the way this
7 was initiated was by the gardaí being sent out to
8 interview the victim, who apparently refused to
9 cooperate?

10 A. Declined. 15:39

11 446 Q. A report was made by Garda Divilly and it led to this
12 recommendation which was discussed. You may disagree
13 about the crime counting rules, you may disagree about
14 how and when something should be recategorised. Is
15 this regarded by you as a form of bullying and 15:39
16 harassment?

17 A. Yes.

18 447 Q. That they have downgraded this from serious to
19 attention and complaints?

20 A. Yes. On the day, the updated Pulse version is updated 15:39
21 at 23/9/2015. "Incident recategorised by" and it's
22 registration number as the member:
23
24 "...as per directions from district officer Athlone..."
25
26 That's the superintendent Athlone. 15:39
27
28 "Injured party refused to cooperate with investigation
29 and refused to make a statement of complaint. No

1 evi dence. "

2

3 MR. KELLY: Page 228, Judge.

4 A. 227 is what I read. Oh, 228, yes, as well, yes, that
5 has the Pulse narrative. 15:40

6 448 Q. CHAIRMAN: And?

7 A. Very quick to say how the injured party refused. The
8 injured party didn't refuse. If the injured party said
9 no, I am not making a statement whatsoever, fair
10 enough. The injured party makes a statement and says, 15:40
11 yes, this happened, but I just don't want to pursue it.
12 The injured party didn't refuse to cooperate. He said,
13 yes, it happened, I just don't want to pursue this.

14 449 Q. MR. McGUI NNESS: well, I am only going on the reports
15 to suggest that they certainly appeared to believe they 15:40
16 had a reason to do it and they did do it?

17 A. That's called --

18 450 Q. I want to understand how that reflects discredibly on
19 you in terms of either bullying or harassment or
20 targeting. That's where I am anxious to see where your 15:41
21 reputation etcetera comes in as a result of that?

22 A. Two things. One, in reclassifying it, essentially
23 they're fiddling with the crime figures there. That's
24 essentially what they're up to. In relation to the
25 second part of this, where we go through the to-ing and 15:41
26 fro-ing, the to-ing and fro-ing back in the
27 correspondence between, let's say, myself and
28 Superintendent Murray, if we can root that out, I think
29 that will answer all the questions.

1 451 Q. I am sorry, Garda Keogh, could I ask you to repeat
2 that?

3 CHAIRMAN: The to-ing and fro-ing in the correspondence
4 between you and Superintendent Murray.

5 A. Should clarify everything. 15:42

6 CHAIRMAN: That's all right, okay.

7 MR. McGUI NNESS: well, that's where we have come to.

8 CHAIRMAN: Right.

9 452 Q. MR. McGUI NNESS: Your handwritten report, we have
10 opened it there. That was enter up to the 15:42
11 superintendent by Sergeant Monaghan. Perhaps we will
12 look at that, at page 233, first. This is from
13 Sergeant Monaghan up to the superintendent. It's after
14 your report of the 2nd October, forwarding it.

15 15:43

16 "With reference to the above, please find attachment
17 from Garda Keogh in relation to your report on the
18 23/9/15. He reports that the injured party was brought
19 to the scene and that the area was searched. The
20 injured party was driven in the patrol car around town 15:43
21 in an attempt to identify any suspects. There was no
22 CCTV in the area where the incident took place. He was
23 then brought home and placed in the custody of his
24 mother. On returning to work on 19/9, he make contact
25 with the injured party to obtain a statement and the 15:43
26 injured party informed him that he had already made a
27 statement to the detective garda in Athlone,
28 withdrawing the complaint."
29

1 So, does that reflect what you did? You contacted the
2 injured party? Am I wrong in that?

3 A. When I come back to work, I think I contact the injured
4 party, yes.

5 453 Q. Yes. Okay. 15:44

6 CHAIRMAN: And is that correct?

7 454 Q. MR. McGUI NNESS: And is that correct?

8 A. Pardon?

9 455 Q. Is this sentence correct in terms of what the injured
10 party said to you? 15:44

11 A. That he made a statement to the guards, was it, and
12 didn't want to --

13 456 Q. CHAIRMAN: No withdrawing his complaint?

14 A. Oh, yes.

15 457 Q. MR. McGUI NNESS: Can I read it to you again? 15:44

16 A. Yes, please, sorry.

17 458 Q. Have you got a good view of that, sorry? It says:
18
19 "On returning to work on 19/9/15, he made contact with
20 the injured party..." 15:44

21
22 That's you he's talking about?

23 A. Yes, correct.

24 459 Q.
25 "...to obtain a statement and the injured party 15:44
26 informed him that he already made a statement to the
27 detective garda in Athlone, withdrawing his complaint."
28

29 A. That part is correct, yeah.

1 460 Q. So, I just want to be clear, are you telling me that
2 the injured party, in fact, did make a statement
3 outlining the robbery from his person on the night?
4 A. No. Not on the night.
5 461 Q. When did he make it? 15:45
6 A. I read his statement, I don't know what date, but it is
7 in there somewhere.
8 462 Q. Ms. McGrath is showing me a handwritten statement made
9 on the 14/9, is that the statement you're talking
10 about? 15:45
11 A. I think, Garda A takes his statement.
12 463 Q. Garda A, yes.
13 A. Yes, that's the statement, yes.
14 464 Q. What did you take from, "informed by the injured party
15 himself that he was withdrawing the complaint"? 15:45
16 A. He's entitled to, if he doesn't want to pursue the
17 matter. He has reported the complaint, he doesn't want
18 to pursue it. He is a young lad, I am not sure if he
19 was sitting exams or whatever at the time. I just
20 vaguely -- 15:46
21 465 Q. Yes.
22 A. I can't even remember, but I think it was just he
23 didn't need the hassle of court, let's say, or anything
24 like that.
25 466 Q. Okay. So you had put it on Pulse originally yourself? 15:46
26 A. Yes.
27 467 Q. Now, is putting something on Pulse something that
28 stands to your credit, such that if it's changed, does
29 that affect your position as an officer in any way?

1 A. Like all these incidents have to go on, that's just
2 standard, it has to go onto Pulse.

3 468 Q. Yes.

4 A. There's more stuff, I think there's more documents, is
5 there not, here, in relation to -- 15:46

6 469 Q. We are just stopping at this point in time, you had
7 been told on the 19th that the complainant wants to
8 withdraw his complaint?

9 A. Yes.

10 470 Q. In fact, for good or ill, you are the officer at the 15:47
11 scene on the night, with your colleague obviously, and
12 you did what you did on the night. Nobody is
13 criticising you for that at all. But you have now
14 learned what the injured party's attitude is. He
15 doesn't want to take it any further. 15:47

16 A. Yes.

17 471 Q. Whatever way you call it.

18 A. Yes.

19 472 Q. Does that affect in any way what you put on Pulse
20 yourself? How does it affect your credit in any way, 15:47
21 if it remains on Pulse or if it gets changed?

22 A. Well, at that point, you know, there's no issue, that
23 person doesn't want to make a statement. It doesn't
24 affect Pulse. It's reported as a robbery from a
25 person. I mean, that's fine. Again, I think as you go 15:47
26 further on into the thing, they are self explanatory.

27 473 Q. I am trying to understand, before we look at what
28 Superintendent Murray did in principle, whether some
29 entry that you make, if it's changed and changed

1 apparent, and I say apparent in accordance with the
2 regulations, how can that sort of inure to your
3 discredit or your reputation? Before we go on to look
4 at the document, is there anything you want to say in
5 answer? 15:48

6 A. I recall reading where there's a question mark whether
7 this crime occurred at all. Of course, I am the
8 investigating officer, so am I wasting time essentially
9 me investigating something that I should have had the
10 cop on to know never even occurred? That's the way I 15:48
11 perceived it. Then, of course, the day it's
12 reclassified -- or do you want to move on?

13 474 Q. CHAIRMAN: Tell us, go on, yes.

14 A. The date it's reclassified, I think on the 23/9, to
15 attention and complaints: 15:49

16

17 "As per directions from district officer Athlone."

18

19 Superintendent Murray continues to write down to me, he
20 had it reclassified to attention of complaints, and he 15:49
21 continues to write down to me for a number of, I can't
22 remember, let's say weeks.

23 475 Q. CHAIRMAN: Yes.

24 A. About this serious incident, a robbery from a person,
25 which he has already reclassified into something that 15:49
26 there is no investigation into. They're the two, the
27 documents that I am referring in the correspondence
28 between myself and Superintendent Murray.

29 476 Q. MR. MCGUINNESS: Let's look at them as separate issues

1 and then we can join them together, as it were?

2 A. Yes.

3 477 Q. You have written your handwritten report of the 2nd
4 October?

5 A. Yeah. 15:49

6 478 Q. Saying:

7

8 "It's nothing short of harassment."

9

10 Towards yourself, when you set out all details that 15:50
11 weren't in your first handwritten report?

12 A. Because they were on the Pulse.

13 479 Q. We know that. But what I am coming to is simply this,
14 he then gets this back, which accuses him of harassment
15 and he maintains the correspondence and he writes a 15:50
16 letter of the 13th October. That's at page 234 of our
17 book. I think this is the one you wanted to get to, is
18 it. Do you have that in front of you?

19 A. I was just going to say as well, like, this incident,
20 somewhere between 3 and 4am or so. 15:50

21 480 Q. Yes.

22 A. Whatever time, the early hours of the morning.

23 481 Q. Yes.

24 A. So after we conducted our search of the area, take
25 details, put it on Pulse, drop that young lad home, 15:50
26 it's nearly time to finish work as well. So, I mean, I
27 am just writing the report in addition to what's on the
28 Pulse. I just leave it I think on the sergeant's tray
29 and that's it like, as in, this is a serious thing, can

1 someone just look at this, I'll be gone for the next
2 few days. The details, it's all detailed on Pulse.
3 All they have to do is turn on the Pulse, which they
4 would be doing anyway.

5 482 Q. CHAIRMAN: Did you put that in your statement: Please 15:51
6 see all the details because I didn't have enough time.
7 A. I am not sure, I don't know if I put that in it, I just
8 don't know.

9 483 Q. CHAIRMAN: Okay. But you say it was there anyway to be
10 seen? 15:51
11 A. Yes.

12 484 Q. MR. McGUI NNESS: Garda Keogh, I am asking these
13 questions because I don't know what is meant to be
14 done. I mean, I appreciate these matters, everyone
15 working at night, coming off duty and they come from a 15:51
16 crime scene, attending to a victim, as you were
17 obviously, but what is the procedure? Are you meant to
18 write up a report in relation to that night, even if
19 you are going off duty?

20 A. Yeah. 15:51

21 485 Q. Or is it customary for members to stay on and do it?
22 Is there any rule or practice?

23 A. No. The report, everything has to go onto Pulse.
24 Pulse contains the report with all the information.
25 The so-called scant report that I wrote was just a 15:52
26 note, look, this is serious. At the very top line of
27 this, I refer to Pulse incident such and whatever
28 number, this is a serious incident, I won't be around,
29 can you get someone else, someone from the detective

1 branch to deal with this. This is serious. All the
2 details that Superintendent Murray is on about, are all
3 on the Pulse incident number. But again, of course, he
4 then reclassifies -- has it reclassified, sorry, to
5 attention and complaints and he continues to write down 15:52
6 to me for a period of time about, I think, we will be
7 getting on to them about the serious robbery from a
8 person, where he has already reclassified it to
9 non-crime.

10 486 Q. Now, he did write to you on this date, I invite you to 15:53
11 look at it, page 234, he says:

12
13 "I note Garda Keogh's response to date, which is far
14 from satisfactory. In order that I can be assured the
15 organisation's objectives regarding the investigation 15:53
16 of crime are met in this case, Garda Keogh would be
17 well advised to take careful note of his statutory
18 obligation to account, as set out in Section 39 of An
19 Garda Síochána Act 2005, which applies to every member
20 of An Garda Síochána equally and its inextricable link 15:53
21 to An Garda Síochána discipline regulations. If the
22 member feels he is in some way removed from his
23 statutory obligations, then there may be remedy open to
24 him under the policy document 'Working Together to
25 Create a Positive Working Environment'." 15:53
26

27 I think that is a reference to a bullying and
28 harassment procedures document. It has got a long
29 title like that, hasn't it?

1 A. Sorry, I just want to draw your attention to a line you
2 left out. I am not being critical of you or anything,
3 but the top line he has here:

4
5 "Robbery from the person." 15:54

6
7 The date is what, 13th October '15. Superintendent's
8 office. I mean, we are here on an update on the
9 23/9/2015:

10 15:54
11 "Incident recategorised, as per directions of district
12 officer Athlone."

13
14 It is reclassified to attention and complaints. There
15 is no crime. There is no crime. He has it to 15:54
16 attention and complaints, where it's closed off, it's
17 finished. But he continues to write down to me under
18 the heading "robbery from the person".

19 487 Q. I see. What do you take from that?

20 A. Here it is, if you reclassify the thing as case closed, 15:54
21 it's over, it's finished, there is no investigation.
22 He is writing down to me in relation to a robbery from
23 a person, which I originally had put on. He is the one
24 that had it closed down to attention and complaints.
25 Apart from the fact that it should never have been 15:55
26 closed off as attention and complaints, it is closed.
27 But he continues then to write down to me about robbery
28 from person.

29 488 Q. I see that. Everyone sees that, Garda Keogh. I am not

1 sure it's your best point. We will come to what may be
2 a stronger point, or maybe not. But he says in the
3 second paragraph:
4
5 "In the meantime, I await for a proper response..." 15:55
6
7 CHAIRMAN: I am not sure it's for you to say.
8 MR. McGUI NNESS: No, it's the heading.
9 CHAIRMAN: If you don't mind, a minor asterisk beside
10 that comment. 15:55
11 MR. KELLY: If you look at page 234, the very last
12 paragraph.
13 CHAIRMAN: Yes.
14 MR. KELLY: And linking that to the question which
15 Mr. McGuinness asked. 15:55
16 CHAIRMAN: Hold on a second, 234.
17 MR. McGUI NNESS: We have it, I was going to ask the
18 witness about it.
19 CHAIRMAN: Thanks very much, Mr. Kelly. No, no, I just
20 thought your commentary on the value of his point, I 15:56
21 thought --
22 MR. McGUI NNESS: It's the heading of document and we
23 understand --
24 CHAIRMAN: It's a minor matter.
25 489 Q. MR. McGUI NNESS: "In the meantime..." and this is 15:56
26 perhaps important to you, obviously:
27
28 "In the meantime, I await a proper response as to the
29 actions taken on the night this matter was reported."

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I take it that you regarded your entry on Pulse as a proper account of it. And also the letter, the handwritten letter report that we just looked at before as also a proper response?

15:56

A. That was just a note to let them know I'm not going to be around, this is serious, you know.

490 Q. He goes on:

"I also expect to see some written record as to what the injured party alleged, to include a description etcetera of his assailants and an answer as to why my instructions of the 18th August were not complied with."

15:56

Now what did you take from that?

15:57

A. You see, a lot of the time I don't think I even knows this is closed. I don't find this is closed off even until later on as we go down through the thing. So I am still replying to a thing I think is an open investigation to a robbery from a person. He keeps writing down to me and it's only at some stage when I have to go on to Pulse to look at the incident in order to reply to all these things, that I actually see I am replying to stuff that has been closed off I think nearly a month previously.

15:57

15:57

491 Q. Yes. But what he seems to be saying there is, you know, he wants to see a written record. From your point of view, the document at 232, would you regard

1 that as an appropriate written record of the incident
2 sent to the superintendent?

3 A. 232 was a reply to whatever he was looking for. All
4 that's on 232 is pretty much all on the Pulse report.

5 492 Q. Okay. Well, I mean, the other way of looking at it is 15:58
6 perhaps to ask this question: In terms of what you
7 have recorded in 232, was there anything else you could
8 have added to it?

9 A. I'm not sure. I think injuries I think or something
10 like that, perhaps something -- I think, perhaps 15:58
11 injury. I'm not sure. I mean, I can't remember. No,
12 I don't think there's any major -- there was no major
13 injury or if there was or whatever, I can't even
14 remember.

15 493 Q. On the medical side, what injuries had he got or what 15:58
16 had happened?

17 A. I don't know did he say his leg hurt or something. No,
18 I don't think there was any visible injuries or
19 anything like that.

20 494 Q. Yes. 15:59

21 A. It wasn't a robbery by way of force -- sorry, I think
22 there was a knife or something used.

23 495 Q. CHAIRMAN: Threats.

24 A. Threatened, there was a knife held.

25 496 Q. CHAIRMAN: He was threatened. 15:59

26 A. Pointed at him or something.

27 497 Q. MR. McGUI NNESS: It's just, I am wondering, would you
28 like to say or can you say, is there anything else that
29 you could have added apart from that?

1 A. I don't think so. I think I had everything in it.

2 CHAIRMAN: Okay.

3 498 Q. MR. McGUI NNESS: You then wrote back on the 29th
4 October, some 16 days later. We see that response at
5 page 235. You must have written this as a sort of back 15:59
6 sheet on the page.

7
8 "With reference to overleaf, I have complied in full
9 with Section 39 of the Garda Síochána Act 2005 I note
10 with the exception of how it was reported the 16:00
11 injuries."

12
13 A. "And injuries", sorry, that's my writing.

14 499 Q.
15 "Garda Mc[in audible] and I were in the patrol car at 16:00
16 Church Street at 4am when a taxi parked beside which
17 had come from the direction of... the injured party got
18 out of this taxi and reported the incident to me. The
19 injured party did not want medical treatment and stated
20 he would go to the doctor in the morning if his leg was 16:00
21 still at him. After pointing out the scene, he
22 requested to be brought home, which we duly obliged. I
23 also wish to point out that this incident was
24 recategorised by Superintendent Murray from robbery
25 from persons to attention and complaints on 23/9. 16:00
26 Forwarded for your information please."

27
28 That's the only extent to which you could add to
29 everything you had already said?

1 A. That's correct. Actually, as I say, it's only then
2 when I am replying to all this reams of stuff, like
3 this is going on months, roughly, where it had been
4 reclassified into a non-investigation. There is all
5 these reams of paper coming down with this sort of 16:01
6 stuff. It was in reply to the previous thing, it's
7 going to Pulse, and then I find out this is already
8 reclassified to attention and complaints, to
9 non-investigation. And, of course, what I'm replying
10 to in this, and this is on the 13th October, the letter 16:01
11 at page 234, which again Superintendent Murray, again
12 headed "robbery from the person". He has closed it
13 off. He has it closed off, it's officially attention
14 and complaints, but he's still writing that to me as
15 robbery from the person. 16:01

16 500 Q. Garda Keogh, I don't think the Chairman want to get
17 involved into an overview of the wisdom of rules about
18 categorisation or when they should be done or why they
19 should be done. We know it was done here and we have
20 drawn attention to it, particularly here, when it came 16:02
21 to your knowledge. But can you just help me in this
22 regard: How did the recategorisation in your mind
23 affect you or how do you say it constituted either
24 targeting or discrediting or do you say that?

25 A. It's targeting, it's discrediting. You've three in 16:02
26 this, you've targeting, discrediting and, of course, as
27 a result when I find this being reclassified, I then
28 look at some of the other incidents that I put on Pulse
29 and I realise they're reclassified.

1 501 Q. CHAIRMAN: Just sticking with this one for the moment?
2 A. Yes.

3 502 Q. CHAIRMAN: If I understand, correct me if I am wrong,
4 if I understand, your point is (a) it shouldn't have
5 been reclassified? 16:02
6 A. Yes.

7 503 Q. CHAIRMAN: You had given the information; (b) you
8 shouldn't be criticised for not giving sufficient
9 information because you had put everything on Pulse?
10 A. Yes. 16:02

11 504 Q. CHAIRMAN: (c) it is inconsistent irrational and wrong
12 for the superintendent to continue to challenge you
13 about your reporting of the incident when it has
14 already been reclassified as in effect a non-crime?
15 A. Correct. 16:03

16 505 Q. CHAIRMAN: Is that about the size of it?
17 A. Yes.

18 506 Q. CHAIRMAN: You say those are the complaints. It
19 doesn't mean that they are right, we have to hear
20 everybody else on it but essentially that's the case 16:03
21 you make?
22 A. That's my case, Judge.

23 507 Q. CHAIRMAN: Okay.
24 A. Just to have dates, like this is reclassified, I have
25 here, 23/9/2015. 16:03

26 508 Q. CHAIRMAN: Yes.
27 A. My last correspondence --

28 509 Q. CHAIRMAN: Is October?
29 A. It's months.

1 510 Q. CHAIRMAN: That's the very point I am inviting you to
2 agree with. I am trying to summarise what I understand
3 to be your real complaint in respect of this episode.
4 Is that right?

5 A. Correct.

16:03

6 CHAIRMAN: Thank you very much. Are we happy with
7 that, Mr. McGuinness? Have you much more to go?

8 MR. MCGUINNESS: Little enough on this.

9 511 Q. CHAIRMAN: Could you stick it out for a few more
10 minutes?

16:04

11 A. I will.

12 512 Q. CHAIRMAN: We will finish one this item. If you are
13 okay and you are comfortable with it, that would be
14 great assistance because we would then be able to tick
15 off another one for the moment. Okay.

16:04

16 513 Q. MR. MCGUINNESS: In relation to that reclassification,
17 what effect do you see that it has on you?

18 A. I mean, he's belittling my police work. You know, he
19 is going out of his way to belittle -- I mean when you
20 look at it with, when you go back to some of the
21 previous things, the thefts and whatever, there seems
22 to be a build up here of, and lengthy reports and a lot
23 of time and effort put into a lot of these reports, and
24 essentially none of them are going anywhere from, let's
25 say, his point of view. You know, he is discrediting,
26 he's discrediting my police work. Whereas, you know,
27 incidents now I am dealing with he is effectively
28 saying they never happened, obviously that has to
29 affect me as a policeman. What am I doing in work? Am

16:04

16:05

1 I am wasting police time, going around -- I mean it is
2 nearly as if I just brought the young lad home or
3 something. I don't know. But in fairness as well,
4 this is a very difficult period, because again this is
5 October 2015. October is a significant month as well 16:05
6 in what is going on, in the elephant in the room, with
7 the investigation. Because at some point in October
8 Garda A suspended. And that whole investigation is
9 cooking as well. And every day I am coming into work I
10 am met with all these reams of, you know, exclamations 16:05
11 into, you know, the taking of the statements, is
12 ridiculous, up to this robbery from a person where I
13 mean it really -- for me, I am aware, as well, that my
14 time in An Garda Síochána is coming to an end very
15 quickly, because I can't -- no matter what I deal with 16:06
16 at work I am going to be pinned in on, it is going to
17 be scrutinised to such an extent that, you know, it
18 simply won't be -- and then --

19 514 Q. Sorry, I didn't want to cut across you, but in terms of
20 the effect of the recategorisation, I mean I can 16:06
21 understand how perhaps a victim would be fairly sore if
22 they felt they were badly treated. But a
23 recategorisation of some entry that you put on Pulse,
24 it doesn't go on your record in any way.

25 A. No. 16:07

26 515 Q. Or, there is no procedure relating to either notifying
27 you of it or it having any effect on you in your
28 career, is that not right?

29 A. Well essentially what is being said here is that this

1 crime never happened. I mean, that's what's in the
2 official thing. And then I read in the Tribunal
3 documents that the injured party actually confirms,
4 that, you know, made a statement to say yes, look, I
5 was robbed but I just don't want to pursue it. And you 16:07
6 mentioned there about the injured party, and his
7 parents do not know that this is on Pulse, he
8 effectively is logged onto Pulse as effectively a liar,
9 that he falsely reported something as well. I mean...

10 516 Q. Again I don't want to cut across you. I am not sure 16:07
11 that whilst you're the investigating or the original
12 officer at the scene, I am not sure whether you can
13 stand in the shoes of a victim to claim to be affected
14 by a recategorisation. I mean, the recategorisation
15 isn't published within the force as something that you 16:08
16 have done wrong or were careless about. Nobody is
17 challenging you on this, are they, the fact that it was
18 properly categorisation initially as a robbery from the
19 person, is that not right?

20 A. It was a robbery from a person. It can't be classified 16:08
21 as anything other than a robbery from a person.

22 517 Q. Again, I don't know about these rules because we're not
23 inquiring into the rules. But you I think brought this
24 to the attention of Deputy Wallace, isn't that right?

25 A. Yes. 16:08

26 518 Q. And your views were aired in Dáil Éireann in relation
27 to this, according to Superintendent Murray's
28 statement, isn't that right?

29 A. It would have been in general, in general, this -- as

1 all this, I perceive is clear harassment at this point
2 and I would have -- yes, I did go to Deputy Wallace.
3 519 Q. And he raised the matter in the Dáil in December of
4 2015, airing effectively your views on it, is that
5 right? 16:09
6 A. He would have. I just can't be -- he aired a number of
7 things, so I can't remember exactly which one. But
8 yes.
9 520 Q. That's according to the chronology. You're obviously
10 correct to point out that as of the date of this 16:09
11 correspondence you had been confined to indoor duties.
12 A. You see, am I still out on outdoor duties? I am in the
13 patrol car when the incident is reported. You see,
14 some period in the first to the second week of October
15 I think Garda A is suspended so -- 16:09
16 521 Q. He is suspended on the 15th?
17 A. Okay.
18 522 Q. You are just put on indoor duties on the 22nd.
19 A. Yeah. There's about a week between.
20 CHAIRMAN: 22nd October. 16:10
21 A. Roughly a week. So yes.
22 523 Q. MR. McGUINNESS: So whatever about any of these events,
23 and I am not commenting on them, but certainly as of
24 the time --
25 A. Just for clarification -- 16:10
26 524 Q. -- Superintendent Murray is writing to you, you hadn't
27 yet been confined to indoor duties and Garda A had been
28 suspended. But that was the position when you were
29 replying to him on the 29th October?

1 A. Yeah.

2 CHAIRMAN: Yes.

3 A. Yeah. As I said, there's a lot going on.

4 CHAIRMAN: Yes.

5 A. At this stage, 18 months working alongside someone who 16:10
6 was accused of such serious things. So it is not an
7 easy place in work. Then when Superintendent Murray is
8 firing all this stuff. I am coming in every day to
9 have all these, everything I send up, everything is
10 coming back questioned. That never happened before and 16:11
11 certainly not on the scale of this.

12 525 Q. CHAIRMAN: Were you suggesting there was something
13 corrupt about changing the classification?

14 A. I don't think he's entitled to change the
15 classification. 16:11

16 526 Q. CHAIRMAN: No, I understand that. That's: You know,
17 you're wrong, and I don't agree with you.

18 A. Yeah. Corrupt, I don't know -- I don't think I could
19 say corrupt in relation to that.

20 527 Q. CHAIRMAN: Okay. 16:11

21 A. I would say just fiddling the crime figures.

22 528 Q. CHAIRMAN: I understand. But you think that was
23 fiddling with the crime figures?

24 A. Yeah, but again, I wouldn't go into corruption.

25 529 Q. CHAIRMAN: Sorry, forget that. That is what I was 16:11
26 understanding. And I don't want to use too extreme a
27 word, but you were saying that represented fiddling
28 with the crime figures. Okay?

29 A. Just a clarification. You see, it's when you spot that

1 I then go on to Pulse and see there's other stuff which
2 he has reclassified, and a lot of it is to do with me.
3 And then, that of course -- like, we are bringing this
4 to Deputy Wallace's attention, just to clarify the
5 question that I was asked previously. 16:12

6 530 Q. CHAIRMAN: I understand. Just let me explain. We're
7 pursuing these things, as we have to do, individually.
8 But Mr. McGuinness will ask you more generally about
9 the atmosphere, so you won't be -- You know what I
10 mean? The fact that we are concentrating discretely 16:12
11 because we have identified these and everybody has
12 agreed these are specific issues, okay?

13 MR. MCGUINNESS: One question.

14 CHAIRMAN: Yes.

15 531 Q. MR. MCGUINNESS: Just at this point in time it becomes 16:12
16 apparent from Superintendent Murray's statement that he
17 is being made aware of information relating to the
18 Ó Cualáin investigation concerning Garda A and he takes
19 steps to bring a number of matters to the attention of
20 Detective Superintendent Mulcahy to assist him in his 16:12
21 investigation into Garda A. Presumably you wouldn't
22 think that was aimed at discrediting you?

23 A. No, no, I read that in the documents. Of course not.
24 But again, it's another garda that actually brings that
25 to Superintendent Murray's attention and obviously 16:13
26 Superintendent Murray does what he has to do. There's
27 no great heroic thing in that. He passes it on to --
28 it's his job, yes.

29 532 Q. And brings a number of other matters to his attention

1 as we have seen in the statement. Does that change
2 your view as to Superintendent Murray's attention
3 towards you, that he was taking these other steps to
4 assist?

5 A. You see, again it reads like that when you read the 16:13
6 documents. But like, when that, I think there's a
7 disciplinary investigation or something in relation to
8 that, that is kept away again from my main, the
9 criminality that the investigation team -- for some
10 reason it's not included in it, it's kept a separate 16:13
11 thing away from all of that all, and there's missing
12 drugs allegations, they should all have gone into that
13 main investigation. And you see, they start dividing
14 all this stuff and it weakens the strand, in an attempt
15 to weaken -- instead, if they all went into the main 16:14
16 allegation it would have strengthened the evidence, all
17 the other evidence in strands, but they don't. They
18 keep it separate for some reason. Curiously as well, I
19 mentioned about another report --

20 CHAIRMAN: Can I bring you back for one second? 16:14

21 A. Oh, yeah. Sorry, Judge.

22 533 Q. CHAIRMAN: I understand and, as I said, in a general we
23 can understand and we may well like to know what it
24 felt like and so on, but Mr. McGuinness is just asking
25 you do any of these pieces of information affect your 16:14
26 view of Superintendent Murray or do you stick to the
27 fact that in all these respects he was gunning for you?

28 A. My view is still the same and it is very simple. He
29 was sent in there to get me out of Athlone, so

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Assistant Commissioner Ó Cualáin could investigate in -- let's say, do the investigation whatever way he wanted to investigate. That is my feeling.

534 Q. CHAIRMAN: Okay. And he carried out that instruction.

A. Yes.

16:15

CHAIRMAN: Okay. Very good. So that's the end of that item.

MR. MCGUINNESS: I will review it overnight but I wouldn't think there is anything else.

CHAIRMAN: Thank you very much. Thank you for holding on a little bit longer than normal. Okay. Thanks very much Philip. Right.

16:15

THE HEARING THEN ADJOURNED UNTIL THURSDAY, 17TH OCTOBER 2019 AT 10:30AM

16:16

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